



**New Brighton City Council
Business Meeting Agenda
New Brighton City Council Chambers
October 27, 2020 6:30 PM**

I. Call to Order and Roll Call

_____ Mayor Johnson
_____ Councilmember Allen
_____ Councilmember Nasreen Fynewever
_____ Councilmember Jacobsen
_____ Councilmember Dunsworth

II. Pledge of Allegiance

III. Public Comment Forum

IV. Approval of Agenda

V. Minutes

1. Approve City Council Minutes

- a. August 18, 2020 City Council Worksession Minutes
- b. September 22, 2020 City Council Worksession Minutes
- c. October 13, 2020 City Council Meeting Minutes

2. Accept Receipt of Commission Minutes

- a. August 18, 2020 Planning Commission Meeting Minutes

VI. Special Order of Business

VII. Consent Agenda

- 1. Consider Approval of Payments of Electronic Funds Transfer (EFT) 11842-11844, ACH Payments 11810-11841, & Vouchers 159312-159348 for a total of \$590,522.35.
- 2. Consider Resolution Approving a Site Plan Amendment for Bel Air Elementary School
- 3. Consider Resolution to Apply for 2021 Score Grant Funds and Establishment of the 2021 Recycling Service Charge
- 4. Consider Approval of a Certificate of Completion and Release of Forfeiture for 205 5th Avenue NW
- 5. Consider Approval of Settlement Agreement and Release in the Matter of *Chandler, et al. v. Q.T. Property Management, LLC, et. al.*, Case No. 62-CV-20-2646, Ramsey County District Court
- 6. Consider Approval of Step Increase for City Manager

VIII. Public Hearings:

- 1. City Project 19-1, 2019 Street Rehabilitation Assessment Hearing

IX. Council Business

1. Consider 3rd Quarter 2020 Interim Financial Statements
2. Consider a Resolution Approving a Special Use Permit for an accessory building exceeding 624 square feet for Paul and Sara Aplikowski at 1546 16th Terrace NW
3. Consider a Resolution Approving a Special Use Permit for Emmanuel Covenant Church to operate a satellite church at 1775 Old Highway 8
4. Ordinance No. 878 Amending Chapter 13 of the New Brighton City Code Regarding Tenant Notification and Notice of Potential Sale with Respect to Rental Housing Unit Buildings
 - a. Approve Authorizing Publication of Ordinance No. 878 by Title and Summary
5. Report on October 13th Review of City Manager

X. Commission Liaison Reports, Announcements, and Updates

City Manager Devin Massopust
Councilmember Graeme Allen
Councilmember Emily Dunsworth
Councilmember Nasreen Fynewever
Councilmember Paul Jacobsen
Mayor Val Johnson

XI. Adjournment



Council Worksession
August 18, 2020
5:00 pm

Present: Mayor Valerie Johnson
Councilmember Graeme Allen
Councilmember Emily Dunsworth
Councilmember Nasreen Fynewever
Councilmember Paul Jacobsen

Absent:

Staff in Attendance: Devin Massopust

Guests in Attendance: Sarah Sonsalla, City Attorney, and Monte Mills, Attorney

Due to the COVID-19 pandemic this meeting was held virtually.

Closed Litigation Discussion

The Mayor opened the meeting at 5:00 PM and closed it pursuant to Minnesota Statutes Section 13.05 to discuss pending litigation strategy with the City's attorneys in the case of Chandler et al v. the City of New Brighton, et. al., Ramsey County District Court File No. 62-CV-20-2646 pursuant to Minnesota Statutes Section 13D.05, subdivision 3 (b). The meeting was reopened at 6:20 PM and adjourned by unanimous consent.

Respectfully submitted,

Terri Spangrud
City Clerk



Council Worksession
September 22, 2020
5:00 pm

Present: Mayor Valerie Johnson
Councilmember Graeme Allen
Councilmember Emily Dunsworth
Councilmember Paul Jacobsen

Absent: Councilmember Nasreen Fynewever

Staff in Attendance: Devin Massopust

Guests in Attendance: Sarah Sonsalla, City Attorney, and Monte Mills, Attorney

Due to the COVID-19 pandemic this meeting was held virtually.

Closed Litigation Discussion

The Mayor opened the meeting at 5:00 PM and closed it pursuant to Minnesota Statutes Section 13.05 to discuss pending litigation strategy with the City's attorneys in the case of Chandler et al v. the City of New Brighton, et. al., Ramsey County District Court File No. 62-CV-20-2646 pursuant to Minnesota Statutes Section 13D.05, subdivision 3 (b). The meeting was reopened at 5:18 PM and adjourned by unanimous consent.

Respectfully submitted,

Terri Spangrud
City Clerk



COUNCIL PROCEEDINGS THE CITY OF NEW BRIGHTON

Pursuant to notice thereof, a regular meeting of the New Brighton City Council was held Tuesday, October 13, 2020 at 6:30 pm in the New Brighton Council Chambers. Due to the COVID-19 pandemic this hybrid meeting was held both virtually and in person.

Present: Mayor Johnson, Councilmembers Allen, Dunsworth, Fynewever, and Jacobsen
Absent:

Also Present: Devin Massopust-City Manager, Jenny Bolton-Kennedy & Graven, Gina Smith-Assistant Finance Director, Jennifer Fink-Parks and Recreation Director, Ben Gozola-Assistant Director of Community Assets and Development

Call to Order

Mayor Johnson called the meeting to order at 6:30 pm.

Pledge of Allegiance

Councilmember Jacobsen led the Council in the Pledge of Allegiance.

Public Comment Forum

Mayor Johnson opened the Public Forum for comments from the public.

Approval of Agenda

Approval of the October 13, 2020 Council Agenda.

Motion by Councilmember Jacobsen, seconded by Councilmember Dunsworth to approve the agenda as submitted.

A roll call vote was taken.

5 Ayes, 0 Nays-Motion Carried

Council Minutes

Approval of the Council minutes from May 26, 2020.

Approval of the Council minutes from September 22, 2020.

Councilmember Fynewever reported on May 26th minutes there was one vote she was marked absent where she was having technical difficulties. She explained she voted in the affirmative through the chat feature for this item. She requested the minutes reflect this change.

Motion by Councilmember Jacobsen, seconded by Councilmember Allen to approve the minutes from the May 26, 2020 meeting.

A roll call vote was taken.

Call to Order

Pledge of Allegiance

Public Comment Forum

Approval of Agenda

Approval of the
October 13, 2020
Agenda.

Council Minutes

Approval of Council
Minutes

5 Ayes, 0 Nays - Motion Carried

Motion by Councilmember Jacobsen, seconded by Councilmember Allen to approve the minutes from the September 22, 2020 meeting.

A roll call vote was taken.

5 Ayes, 0 Nays - Motion Carried

Commission Minutes

Mayor Johnson received the following minutes on behalf of the City:

- Planning Commission Minutes from May 19, 2020.
- PREC Minutes from August 5, 2020.
- EDC Minutes from July 1, 2020.
- EDC Minutes from August 5, 2020.
- Public Safety Commission Minutes from August 10, 2020.

Special Order of Business

None.

Consent Agenda

1. Consider Approval of Payments of Electronic Funds Transfer (EFT) 11606–11806, ACH Payments 11586-11803 & Vouchers 159217-159311 for a total of \$2,497,286.19.
2. Consider Agreement with City of St. Paul for Ramsey County Traffic Safety Initiative (RCTSI).
3. Consider Final Payment for City Project 17-13, Lions Park Stormwater Reuse.
4. Consider Change Order 1 and Final Payment, Partial Payment 9 for City Project 19-1, 2019 Street Rehabilitation Project.
5. Consider 2019 Special Assessment Resolution for City Project 19-1, 2019 Street Rehabilitation.
6. Consider Approval of Window Replacements at the New Brighton Community Center.
7. Consider Approval of Final Payment to Mickman Brothers, Inc. for the Replacement and Installation of Irrigation System at Brightwood Hills Golf Course.
8. Consider Approval of Resolution Appointing Election Judges for the November 3, 2020 Election.
9. Resolution accepting \$500 Ramsey County SHIP grant for City Hall Observation Garden.
10. Consider Approval of Technical Services Agreement with NSAC.

Commission Minutes

Special Order of Business

Consent Agenda

1. Consider Approval of Payments of EFT 11606–11806, ACH Payments 11586-11803 & Vouchers 159217-159311.
2. Consider Agr. with City of St. Paul for Ramsey County Traffic Safety Initiative (RCTSI).
3. Consider Final Payment for City Project 17-13.
4. Consider Change Order 1 and Final Payment, Partial Payment 9 for City Project 19-1.
5. Consider 2019 Special Assessment Res. for City Project 19-1.
6. Consider Approval of Window Replacements at the NBCC.
7. Consider Approval of Final Payment to Mickman Brothers, Inc. for the Replacement and Installation of Irrigation System at Brightwood Hills Golf Course.
8. Consider Approval of Resolution

Motion by Councilmember Jacobsen, seconded by Councilmember Fynewever to approve the Consent Agenda as presented.

Councilmember Jacobsen thanked all who would be serving as an election judge for the upcoming general election.

A roll call vote was taken.

5 Ayes, 0 Nays - Motion Carried

Public Hearing

1. Consider a Resolution:
 - A. Authorizing the Issuance, Sale and Delivery of its Multifamily Housing Revenue Note (Oaks Landing Project) Series 2020A;
 - B. Approving the Form of and Authorizing the Execution and Delivery of the Note and Related Documents;
 - C. Providing for the Security, Rights, and Remedies with Respect to the Note;
 - D. Granting Approval for Certain Other Actions with Respect Thereto.

Motion by Councilmember Jacobsen, seconded by Councilmember Dunsworth to adopt a Resolution Authorizing the Issuance, Sale and Delivery of its Multifamily Housing Revenue Note (Oaks Landing Project) Series 2020A; Approving the Form of and Authorizing the Execution and Delivery of the Note and Related Documents; Providing for the Security, Rights, and Remedies with Respect to the Note; and Granting Approval for Certain Other Actions with Respect Thereto.

City Manager Massopust discussed the City's conduit debt policy and indicated Jenny Bolton with Kennedy & Graven would be presenting this item to the Council.

Jenny Bolton, Kennedy & Graven, stated in accordance with the provisions of Minnesota State Statutes, the City is authorized to develop and administer a housing program to provide for the financing of new construction or the acquisition and rehabilitation of an existing building and site for providing a multifamily housing development. Furthermore, State Statutes also provides that such programs for multifamily housing developments may be financed by revenue bonds or obligations issued by the City. There is no obligation on part of the City regarding the requested conduit debt revenue bonds. Per the City's Conduit Debt Financing Policy, the City collected a nonrefundable \$2,500 processing fee. In addition, all costs associated with the issuance of the bonds (legal and fiscal consultants) will be reimbursed to the City. The policy also states that an administrative fee of .25% of the principal of the bonds will be collected upon issuance along with an annual maintenance fee of .10% of the outstanding principal until the bonds have been defeased. As previously recommended, New Brighton LHA II, LLLP has agreed to pay the present value of the City's ongoing maintenance fee as a lump sum payment upon the issue of the Bonds rather than making annual installments over the life of the Bonds. Thus reducing the risk of the bonds being refinanced by another local municipality and losing future revenue. The amount collected will represent the present value of the policy calculation out to the final term of the bond or 1% of the principal at the time of issuance. It was noted this bond issuance was for the Dominion project and the City would not be responsible for the debt payments.

Councilmember Jacobsen asked if developer could come back and ask for additional bonding. Mr. Bolton reported the plan was to not issue any additional bonds. She commented further on how the Dominion project was funded which included tax exempt bonds and TIF.

Councilmember Allen requested further information how these bonds would be administered by the City. Ms. Bolton reported the City would receive an issuance or service fee for these

9. Res. accepting \$500 Ramsey County SHIP grant for City Hall Observation Garden.

10. Consider Approval of Technical Services Agr. with NSAC.

Public Hearing

1. Consider a Res:
 - A. Authorizing the Issuance, Sale and Delivery of its Multifamily Housing Revenue Note (Oaks Landing Project) Series 2020A;
 - B. Approving the Form of and Authorizing the Execution and Delivery of the Note and Related Documents;
 - C. Providing for the Security, Rights, and Remedies with Respect to the Note;
 - D. Granting Approval for Certain Other Actions with Respect Thereto.

bonds. She noted the borrower would be responsible for making all bond payments. She reiterated City was assuming no risk by issuing these bonds.

Motion by Councilmember Jacobsen, seconded by Councilmember Dunsworth to open the Public Hearing.

A roll call vote was taken.

5 Ayes, 0 Nays - Motion Carried

The Public Hearing was opened at 6:45 p.m.

Mayor Johnson asked for comments, there were none.

Motion by Councilmember Jacobsen, seconded by Councilmember Dunsworth to close the Public Hearing.

A roll call vote was taken.

5 Ayes, 0 Nays - Motion Carried

The Public Hearing was closed at 6:46 p.m.

A roll call vote was taken.

5 Ayes, 0 Nays-Motion Carried

Council Business

1. Update on CARES Funding Programs.

City Manager Massopust provided an update on the current status of the CARES funding programs as well as proposed enhancements of the program to extend the grant opportunities to local non-profits. Staff has been in contact with the City's Attorney's. An extension of the grant program is allowed under the authorization granted on August 25, 2020. The maximum grant awards available are \$10,000 per eligible non-profit. In no case shall award amount exceed amount of eligible uses. If the number of applications received exceeds available funding, the Program will prioritize non-profits that have not received grant relief through Ramsey County or the State of Minnesota. He provided further comment on how the City was assisting small businesses and residents in the community. He requested the Council consider amending the existing program to allow CARES Act dollars to be provided to local non-profits. He noted the CARES Act Committee was in attendance for comments or questions.

Councilmember Jacobsen asked how many dollars had been spent on residential assistance. City Manager Massopust stated the City has received 11 applications to date for residential assistance. Councilmember Jacobsen questioned how much money should be set aside for local non-profits. City Manager Massopust commented this would be hard to tell but noted the City of New Brighton had 75 local non-profits.

Assistant Director of Community Assets and Development Gozola reported CAP had approved two grants on the residential side last Friday for a total of \$3,296.

Councilmember Allen requested further information on how the City was advertising these programs. City Manager Massopust reported the most effective route has been meeting one on one with apartment owners to let them know about the program. He stated leveraging partnerships with existing church groups, the community resource group and Ralph Reeder

Council Business

1. Update on CARES Funding Programs.

have all been effective. He was hopeful the upcoming newsletter would also reach additional people who may need assistance.

Councilmember Fynewever stated she appreciated the forward progress that has been made in these programs.

Mayor Johnson explained the City wanted to spend the CARES Act dollars here in the community. She encouraged local businesses or residents in need to apply for grants.

Councilmember Allen asked what the deadline was for these grants. City Manager Massopust stated the residential deadline was October 30th and the non-profit deadline was October 31st.

Councilmember Allen questioned if the City should have information regarding the CARES Act grants at polling locations on November 3rd.

Mayor Johnson stated she did not support this. City Manager Massopust explained he would have to speak with the City's legal staff regarding this matter.

Councilmember Jacobsen indicated he has spoken to a lot of people over the past few months and he understood people lived in New Brighton because of the low taxes and great Public Safety Department. In addition, New Brighton worked to take care of its people and its businesses. He thanked staff for striving to make residents and businesses whole.

Commission Liaison Reports, Announcements and Updates

Devin Massopust

City Manager Massopust reported the Park and Recreation Department was putting on a Pumpkin Walk on Saturday, October 24th at Veterans Park.

Graeme Allen

Councilmember Allen thanked everyone that has signed up to serve as an election judge or election judge trainee. He stated elections could not be held without these individuals. He discussed the virtual events that were held for National Night Out and thanked the public for donating 1,000 pounds of food to the Ralph Reeder Food Shelf. He reported the Public Safety Commission met on Monday, October 12th where the group discussed de-escalation training and techniques. He commented further on the crime statistics for the community and noted Part 1 crimes were on the rise.

Nasreen Fynewever

Councilmember Fynewever honored and recognized all indigenous people noting Indigenous People Day fell on the second Monday of October. She reported for over 80 years the State recognized Columbus Day but back in 2015 lawmakers in St. Paul declared this Indigenous People Day. She appreciated the fact that the wrong was being validated and corrected while also celebrating the people who were already living in American when Christopher Columbus arrived.

Emily Dunsworth

Councilmember Dunsworth reported PREC met on Wednesday, October 7th and discussed the Park and Recreation scholarship programs that were available to the public.

Mayor Johnson stated she provided the Parks and Recreation Department with a check for \$3,000 for scholarships from the New Brighton Lions.

Paul Jacobsen

Councilmember Jacobsen stated he appreciated New Brighton's non-profits and their contribution to the community. He reported the Planning Commission would meet next on Tuesday, October 20th at 6:30 p.m. He thanked the City's street sweepers for their great work this fall to keep the streets free and clear.

**Commission Liaison
Reports,
Announcements and
Updates**

Mayor Johnson

Mayor Johnson reported the last outdoor farmer's market would be held on Wednesday, October 14th from 3:00 p.m. to 6:00 p.m. She explained the first winters farmer's market would be held on Wednesday, November 18th. She stated she was excited to attend the Pumpkin Walk on Saturday, October 24th. She noted the City would not be taking a position regarding Halloween. She sent her condolences to the Dan Knuth family and thanked Dan Knuth for his tremendous service to the City of New Brighton.

Adjournment

Mayor Johnson adjourned the meeting at 7:25 p.m.

Adjournment

The meeting adjourned at 7:25 p.m.

Valerie Johnson, Mayor

ATTEST: _____
Terri Spangrud, City Clerk



**MINUTES
PLANNING COMMISSION
August 18, 2020 City Hall
Council Chambers 6:30 p.m.**

I. Call to Order

The meeting was called to order at 6:30 p.m. by Chairperson Nichols-Matkaiti. Due to the COVID-19 pandemic this meeting was held virtually.

II. Roll Call

Members PresentChairperson Erin Nichols-Matkaiti and Commissioners Liza Allen, Todd Biedenfeld, Youssef Enanaa, Jeanne Frischman, Tim McQuillan, and Eric Nelsen

Members Absentnone

Also PresentBen Gozola (Assistant Director of Community Assets and Development) and Councilmember Paul Jacobsen

III. Approval of Agenda

Motion by Commissioner Biedenfeld, seconded by Commissioner Enanaa, to approve the August 18, 2020 agenda as presented.

A roll call vote was taken. Approved 7-0.

IV. Approval of Minutes

Minutes from July 21, 2020

Motion by Commissioner Frischman, seconded by Commissioner McQuillan, to approve the July 21, 2020 meeting minutes as presented.

A roll call vote was taken. Approved 7-0.

V. Report from City Council Liaison

Councilmember Jacobsen provided the Commission with an update from the City Council. He noted the Council recently held a worksession meeting to discuss the 2021 preliminary budget. He discussed the recent Primary Election and noted there was a 2000% increase in absentee ballots. He commented on how the upcoming General Election would be impacted by COVID-19 and encouraged people to get out and vote. He reported the City received \$1.74 million in CARES Act dollars to cover COVID-19 expenditures. He discussed how the City would also be used to provide small business grants. He encouraged residents to continue to support local businesses.

Chair Nichols-Matkaiti asked if candidate bios or a candidate forum would be held prior to the General Election. Councilmember Jacobsen anticipated the local newspaper would print candidate bios. He noted CTV always does a candidate speak out. He indicated the League of Women's Voters may have a difficult time holding a forum.

VI. Public Hearing

1) Variance and Site Plan Review: Request from Capital Partners Management and their tenant, Wilson Wolf, for a full fifteen-foot variance from a required side yard setback in the I-1 zoning district to allow for the construction of a new employee patio which would include a permanent BBQ and pergola – 2100 Old Highway 8 – PID 17-30-23-41-0003.

Assistant Director of Community Assets and Development Gozola reported Wilson Wolf is a tenant of the Industrial building at 2100 Old Highway 8 which was constructed up against the property's northern side yard setback to maximize useable area on the south side of the lot. A service door on the north side of the building provides access to the WilsonWolf cafeteria & break room, and they would like to improve that amenity by adding an outdoor patio with a pergola and permanent BBQ station adjacent to the door. The patio would take up the entirety of the setback, and would be approximately 19 feet from the surface of the future roadway planned to serve the Murlowski property to the north. It was noted the site has space in front of the building for the proposed patio. Staff provided further comment on the request and recommended denial of the Variance and Site Plan Review, based on the following findings of fact:

1. Allowing a new improvement within the entirety of a required setback absent special circumstances is not in line with the intent of the zoning code.
2. As zoning is intended to implement the vision of the Comprehensive Plan, not following zoning provisions, as requested by this application, is in conflict with the Comprehensive Plan.
3. Seeking to build within the entirety of a required setback when other viable alternatives exist for a proposed improvement is not a reasonable request.
4. The plight of the landowner, a desire to build within a required setback, is created by the landowner.

5. There are no unique circumstances to support allowing an active patio area within 10 to 20 feet of an anticipated future roadway.

Assistant Director of Community Assets and Development Gozola explained the Commission could deny the requested patio but allow for a sidewalk on the side of the building, or a patio on the front of the building.

Commissioner Allen asked why the applicant wanted to build onto the side of the building versus the front. Assistant Director of Community Assets and Development Gozola explained the cafeteria was right off of the side door, which made the proposed location convenient.

Commissioner Biedenfeld asked what the variance would be if only the sidewalk were approved. Assistant Director of Community Assets and Development Gozola estimated this would require a five foot setback.

Commissioner Frischman requested clarification on how the City defines a permanent structure versus a temporary structure. She questioned if a seasonal tent could be considered to allow the applicant to have a patio space. Assistant Director of Community Assets and Development Gozola commented he could not speak to what code says regarding those features within this zoning district. He stated he has not explored this option with the applicant. He reported he could investigate code further with the applicant if the variance was denied.

Commissioner Nelsen requested further information regarding the Murlowski roadway. Assistant Director of Community Assets and Development Gozola discussed the Murlowski request, how the legal descriptions were addressed and how a future roadway would run along the applicant's property. He stated staff was not aware of when this roadway would be completed.

Chair Nichols-Matkaiti opened the Public Hearing at 7:07 p.m.

Tim Kraft, WilsonWolf representative, thanked the Commission for their consideration. He noted WilsonWolf has been in New Brighton for almost 20 years. He discussed how his company moved to a new state of the art facility with zoom rooms, clean rooms, etc. He explained the proposed patio would provide employees with a nice open area for dining. He indicated the future roadway was not on his radar when WilsonWolf purchased the site. He stated this would be the most convenient space for the patio. He commented he would be willing to consider a non-permanent structure. He stated the front of the building could not support a patio because this would not fit the company's professional manufacturing vision. He discussed the potential roadway and noted a buffer could be put in place to separate the patio from the asphalt. In addition, this roadway may never be completed. He requested WilsonWolf be allowed to install some sort of patio within reason.

Jeff Gears, BDH & Young, explained a patio on the front of the building would still be in conflict with city code. He stated the aesthetics of the building were still being addressed and the front façade could not support a patio. He reported the proposed location of the patio was adjacent to the breakroom/cafeteria. He indicated if the patio were to locate at the front of the building there would be privacy issues. He commented the side of the building would be a better location for the patio for safety and privacy purposes.

Commissioner Biedenfeld questioned if a barrier could be put in place to protect people using the patio if staff would support this option. Assistant Director of Community Assets and Development Gozola explained he did not have an engineering background to make this determination. Mr. Kraft stated he would be open to making modifications to the patio by installing bollards or whatever other recommendations the City may have to allow the patio to move forward on the side of the building. He explained the speeds along the future roadway would be 30 miles per hour and would not be 60 miles per hour.

Commissioner Biedenfeld questioned if safety measures were in place if staff would then support the variance moving forward. Assistant Director of Community Assets and Development Gozola stated he was uncertain of the dimensions of the patio had to change but rather the safety measures put in place were a concern for him.

Commissioner Enanaa commented the Murlowski road has already been approved and the Commission's decision has to be based on this fact.

Commissioner Frischman asked if the applicant had considered using temporary building materials. Mr. Kraft reported he had considered temporary structures, but noted he would rather make an attractive permanent amenity. He stated he could come up with other concepts if the City required the patio area to be temporary in nature.

Commissioner McQuillan inquired if the patio could be elongated and narrowed. Mr. Kraft explained he was open to adjusting the patio dimensions but stated he did not want the patio to become so long that it impacted the views of the adjacent offices.

Commissioner Nelsen asked if there was anything within City Code that would allow for a conditional variance so that if the roadway were constructed the patio would have to be modified or deconstructed. Assistant Director of Community Assets and Development Gozola stated an Interim Use Permit would be an appropriate tool, but this was not within City Code at this time. Mr. Kraft explained he would be willing to make adjustments to the patio in the future if the roadway were completed.

Commissioner Nelsen questioned when this tool would be available to the City. He asked if this matter should be tabled until an Interim Use Permit was available. Assistant Director of Community Assets and Development Gozola reported per State Statute the City had a timeline for considering and approving variance requests. He commented there was not an avenue, short of having the applicant withdraw the request and reapply once the Interim Use Permit language was in place. He stated he has written Interim Use Permit code in the past and would take the direction of the Planning Commission and City Council.

Mr. Gears reiterated that the applicant has presented a patio that was aesthetically pleasing for the City to consider. He indicated he was willing to be creative and would be willing to consider bollards or fencing to protect the area. In addition, the applicant would be willing to consider a less permanent structure. He commented the main concern for the applicant would be to make this location work.

Assistant Director of Community Assets and Development Gozola asked if there was a certain date by which the applicant must have this patio complete. Mr. Kraft stated he did not have a set deadline and indicated he could wait until next spring.

Motion by Commissioner Frischman, seconded by Commissioner McQuillan to close the Public Hearing.

A roll call vote was taken. Approved 7-0.

Chair Nichols-Matkaiti asked if the temporary outdoor seating ordinance could be utilized by the applicant. Assistant Director of Community Assets and Development Gozola stated those uses can be established by the City Council. He indicated this may not be the best solution given WilsonWolf would like to have the patio in place year after year. He suggested the Commission consider safety features or the Interim Use Permit process. He indicated the applicant would have to support the time it would take to put the Interim Use Permit process in place.

Chair Nichols-Matkaiti summarized the options available to the Commission and noted the location of the patio was very important to the applicant. She stated the applicant was willing to be flexible with the patio design. She explained the issue giving her the biggest pause at this time was the fact that the applicant was requesting a full 15 foot variance.

Commissioner Allen stated she was concerned about the full 15 foot setback as well, along with the safety of the patio. She anticipated big trucks would be using the future roadway.

Commissioner Biedenfeld indicated the applicants were proposing a beautiful patio and he understood this would be a nice asset for the building. However, he did have concerns with the fact the applicant was requesting a full 15 foot variance. He suggested the applicant consider safety measures that could be put in place to accommodate for the future roadway. He stated at this time he would support denial of the request or some sort of hybrid with modifications to address safety concerns.

Commissioner Enanaa explained he was leaning towards staff's suggestion, which was to have a sidewalk with a patio off the front of the building. He indicated this would be the safest option.

Commissioner Frischman commented the applicant was willing to work within the tough parameters and for this reason she would be willing to table action on the variance in order to allow the applicant to create new patio options.

Chair Nichols-Matkaiti asked if the Commission could table action on this item. Assistant Director of Community Assets and Development Gozola reported the City does have the legal right to extend the review period out an additional 60 days. He stated he would like to ask the applicant's permission regarding this extension. He commented his only fear was that the Commission would not have a quorum next month to consider this request.

Commissioner McQuillan reported he was concerned about safety but noted he would like to find a way to make this patio work for the applicant. He stated he supported Commissioner Frischman's suggestion to table action on this item to allow the applicant to work with staff on this matter further.

Commissioner Nelsen stated he could not support the approval as is, but understood the applicant was willing to make changes. He recommended the request be denied or tabled to allow the applicant to come back with a new plan.

Assistant Director of Community Assets and Development Gozola commented on the differences between a Variance and an Interim Use Permit.

Chair Nichols-Matkaiti stated at this time staff's recommendation would be to recommend denial of the variance and the Commission could encourage the applicant to pursue an Interim Use Permit. Assistant Director of Community Assets and Development Gozola commented the Commission could make this recommendation stating there was a whole in the zoning code and the Council should direct staff to begin the process of adding the Interim Use Tool into City Code, allowing improvements within Industrial area setbacks.

Commissioner McQuillan asked how the applicant felt this request being delayed. Mr. Kraft stated he does not want to wait a year and a half, but could support a code amendment in order to allow him to complete the patio next spring.

Commissioner Biedenfeld clarified there was no guarantee the applicant's request would be approved next spring.

Commissioner McQuillan believed the best option would be to deny the request at this time in order to encourage the Council to direct staff to pursue an Interim Use Permit code amendment.

Mr. Gears questioned what the next course of action would be if the City Council did not support the Interim Use Permit option. Assistant Director of Community Assets and Development Gozola explained he would recommend the City Council pass this matter back to the Planning Commission and an extension would be requested in order to further consider this request.

Motion by Commissioner McQuillan, seconded by Commissioner Biedenfeld, to recommend the City Council deny the requested 15-foot variance from the required 15' side yard setback, based on the findings of fact listed on page 10 of the staff report, recommending the City Council direct staff to pursue Interim Use Permit language within City Code.

Mr. Kraft asked that the language within the motion be amended slightly to ensure the City would continue to work with WilsonWolf to find a solution for the patio.

Commissioner Biedenfeld reported the final decision would remain with the City Council and noted the Planning Commission was a recommending body to the City Council. He explained the intent of the Commission was to support the request, but explained the applicant would have to go through the entire process again in order to receive approval for the project.

A roll call vote was taken. Approved 7-0.

- 2) Variance and Site Plan Review: Request from Lauris Valtinson for two variances to accommodate a replacement sign above the new MnDOT sound wall on I-35W for the business at 388 Cleveland Avenue SW. One variance seeks to exceed the 20' sign-height maximum by 12 feet, and the second variance seeks to exceed the 36 square foot size maximum by 27 square feet – PID 32-30-23-14-0016.**

Assistant Director of Community Assets and Development Gozola reported Lauris Valtinson acquired the property at 386 Cleveland Avenue in 2015 which included a legal nonconforming freeway sign facing I-35W. With the new sound wall now going up, Mr. Valtinson is seeking a way to keep the legal nonconforming sign visible once the wall is up. Staff reviewed several comments from the public noting their objections to the replacement sign. Staff provided further comment on the request and recommended denial of the Variance and Site Plan Review, based on the following findings of fact:

1. The request does not meet any of the three conditions outlined in Section 8-460(2) to qualify for a change to a legal nonconforming use.
2. The request is not in line with the intent of the zoning code as B-1 signage is not intended to face the freeway, and is not intended to be sized for anything more than a local street.
3. B-1 signs, even 20-feet in the air, are not allowed to exceed 36 square feet, and the proposed additional 12 feet of height does not justify a near doubling of the sign size.
4. The plight of the landowner is not unique as they are subject to the same restriction that all other properties with legal nonconformities face: the inability to expand the nonconformity.

Commissioner Biedenfeld asked how neighboring communities were addressing visibility to businesses along the I-35W corridor. He understood that one community had worked with MnDOT to get a clear portion of sound wall for visibility purposes. Assistant Director of Community Assets and Development Gozola commented he was not aware of any precedent being set by neighboring communities. He explained the City Attorney reported there was no Minnesota Case Law that comes into play regarding this request.

Commissioner Frischman offered historical perspective from this neighborhood and explained the neighbors have been very vocal and passionate. She indicated this neighborhood included a residential and business area. Her hope would be that the neighbor's concerns would be considered with this request. She stated this residential neighborhood had been dramatically impacted by I-35W and surrounding businesses.

Chair Nichols-Matkaiti questioned if the request had special considerations given the fact it was adjacent to the R-1 zoning district. Assistant Director of Community Assets and Development Gozola reported this did not impact the sign request. He noted the sign would have light coming off of it, but would not be pointing at the adjacent residential neighborhood.

Chair Nichols-Matkaiti opened the Public Hearing at 8:28 p.m.

Daniel Mattson, Albrecht Sign Company, discussed the requested sign with the Planning Commission. He described how the new sound wall would impact the applicant's business. He noted the sign height was being requested in order to keep the business visible. He indicated this sign would have a photo-eye that would drop down its brightness in the evening hours, which would meet City Code requirements. He explained the requested height was due to the sound wall and not for any other advantage.

Commissioner Biedenfeld discussed the current sign visibility versus a revised scaled down sign that met City Code requirements and how visibility could be improved. Mr. Mattson stated compared to the wall sign, there would be greater visibility, but noted a wall sign was not an option.

Lauris Valtinson, the applicant, explained his understanding when talking to the sign company was that the exact dimension of these signs at this height was being proposed for visibility purposes. It was noted the sign had to be 15 feet from the sound wall. He commented further on the proposed sign height and size. He reported he was not trying to get a bigger sign, but rather was requesting an equivalent sign given the fact it had to be 15 feet further from the freeway. Further discussion ensued regarding the ideal viewing distance for the proposed sign. He indicated he spoke with the neighbors regarding the light that would be coming from the sign and he explained to the neighbors that there would be no light wash going onto adjacent properties.

Commissioner Nelsen inquired if dynamic display signs were allowed in the B-1 zoning district. Assistant Director of Community Assets and Development Gozola reported dynamic display signs were allowed as long as certain conditions were being met.

Commissioner Frischman questioned what the current readability was of the existing sign. Mr. Mattson explained he had not completed the calculations on the current sign. He noted the current sign was a wall sign and did not compare to the proposed sign.

Commissioner Frischman stated she was struggling with the fact that the conversation was focused on the readability and the need for a bigger sign when in fact the current sign did not have good readability from the freeway.

Commissioner Biedenfeld agreed he too was struggling with the need to go with a larger sign for readability purposes when the current sign could not be read from the freeway.

Mr. Valtinson commented on if it was necessary to go between the 36' and 53'. He stated if he was going to spend money on the sign, he wanted people to be able to see it. He explained when he spoke to the sign company readability was discussed along with sign height and sign placement. He reported his business has been in New Brighton since 1986 and he would like to remain visible after the sound wall was installed. He questioned if it would be better for him to have the sign one foot lower and 36 square feet in size. Mr. Mattson stated if the sign were lowered one foot it would still be 10 feet higher than the sound wall. He explained a 36 square foot sign would only allow for one line of copy that was readable. He did not believe this would be the best way to move forward with the sign.

Mr. Valtinson stated this was his dilemma. Mr. Mattson reiterated the fact that the sound wall would cover Mr. Valtinson's current sign.

Motion by Commissioner Frischman, seconded by Commissioner Enanaa to close the Public Hearing.

A roll call vote was taken. Approved 7-0.

Chair Nichols-Matkaiti discussed the expansion of the non-conforming sign and questioned how the Planning Commission wanted to proceed.

Commissioner Biedenfeld believed the applicant was proposing to expand the non-conformity. He commented on the difference between a wall sign and a sign installed on a pole. He indicated the proposed sign would more greatly impact the neighbors. He explained he would have a difficult time breaking away from City Code for this request.

Commissioner Enanaa stated this was an expanded non-conformity.

Commissioner Frischman explained she agreed with Commissioner Biedenfeld.

Commissioner McQuillan discussed the concerns of the neighborhood and stated he was not in favor of expanding the non-conformity.

Commissioner Nelsen stated he sympathized with the plight of the business owner, but he agreed with the Commissioners that this would be an expansion of a non-conformity. For that reason, he would not be able to support the variance request.

Chair Nichols-Matkaiti agreed. She asked if the Commission wanted to recommend approval of the height variance if the applicant were interested in amending the size of the sign to 36 square feet.

Mr. Valtinson indicated he could support the variance moving forward in this manner.

Chair Nichols-Matkaiti asked if the variance would have a sunset period. Assistant Director of Community Assets and Development Gozola reported the variance would expire in one year of the Resolution being approved if it is not acted on. He commented if a sign were installed, the sign would not conform with code because of the special approval. He reviewed the motion the Commission should make to the City Council. Further discussion ensued regarding the procedure that was followed for motions and voting.

Commissioner Biedenfeld stated the current sign was put in place in error and construction of anything other than a wall sign expands the current non-conformity. He recommended the sign be denied versus offering a hybrid solution. Assistant Director of Community Assets and Development Gozola commented on the discussion she had with the City Attorney and noted the existing language gave the Planning Commission and City Council broad latitude for these situations.

Commissioner Frischman indicated the current sign was only visible from northbound traffic on I-35W. She anticipated traffic traveling southbound could not see the sign. Assistant Director of Community Assets and Development Gozola reported this was the case. He understood why the sign company was proposing a 63 square foot sign for vehicles that were traveling at 70+ miles per hour. He indicated the solution of a conforming sign would be better than the sign on the building today. He reported the applicant would then have to determine if the conforming sign was worth the investment.

Chair Nichols-Matkaiti stated she understood the concerns of Commission Biedenfeld but also understood the sound wall was out of the applicant's control. For this reason, she could support the minimum height variance as a compromise.

Commissioner Allen agreed with Chair Nichols-Matkaiti noting the sound wall was out of the applicant's control.

Commissioner Frischman stated she was leaning towards full denial of the request.

Commissioner McQuillan explained he understood the applicant has been put in a situation that was out of his control but he was leaning to support full denial.

Commissioner Nelsen agreed because the modification of the sign from a static sign to a two-sided dynamic display sign was a large expansion of the legal non-conformity.

Motion by Commissioner McQuillan, seconded by Commissioner Biedenfeld, to recommend the City Council deny the requested 12-foot variance from the 20' height maximum, and the 27-square foot variance to the 36- square foot maximum, based on the findings of fact.

A roll call vote was taken. Approved 5-2 (Chair Nichols-Matkaiti and Commissioner Allen opposed).

VII. Business Items

1) Zoning Code Update Status Report

Assistant Director of Community Assets and Development Gozola provided the Commission with a progress report on the on the Zoning Code update stating the project had been delayed due to the City Manager transition and the COVID-19 pandemic. It is staff's hope that the project will begin once again in the coming weeks.

VIII. Adjournment

Motion by Commissioner Frischman, seconded by Commissioner Biedenfeld, to adjourn the meeting.

A roll call vote was taken. Approved 7-0.

Meeting adjourned at 9:15 PM

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ben Gozola". The signature is stylized with a large, looped "B" and a cursive "G".

Ben Gozola

Assistant Director of Community Assets and Development

VII_1 APPROVAL OF PAYMENTS

CHECK DISBURSEMENT REPORT FOR CITY OF NEW BRIGHTON

| Check Date | Check # | Payee | Description | Amount |
|-----------------------------------|----------|-------------------------------------|----------------------|-----------|
| CHECK NUMBER 11842 - 11844 | | | | |
| 10/05/2020 | 11842(E) | AMERICAN EXPRESS - EFT | CREDIT CARD FEES | 36.50 |
| 10/05/2020 | 11842(E) | AMERICAN EXPRESS - EFT | CREDIT CARD FEES | 26.45 |
| 10/05/2020 | 11842(E) | AMERICAN EXPRESS - EFT | CREDIT CARD FEES | 26.45 |
| 10/05/2020 | 11842(E) | AMERICAN EXPRESS - EFT | CREDIT CARD FEES | 13.23 |
| | | | | 102.63 |
| 10/06/2020 | 11843(E) | INVOICE CLOUD INC. | CREDIT CARD FEES | 1.50 |
| 10/06/2020 | 11843(E) | INVOICE CLOUD INC. | CREDIT CARD FEES | 154.55 |
| 10/06/2020 | 11843(E) | INVOICE CLOUD INC. | CREDIT CARD FEES | 230.80 |
| 10/06/2020 | 11843(E) | INVOICE CLOUD INC. | CREDIT CARD FEES | 230.80 |
| 10/06/2020 | 11843(E) | INVOICE CLOUD INC. | CREDIT CARD FEES | 115.40 |
| | | | | 733.05 |
| 10/06/2020 | 11844(E) | VANTIV INTEGRATED PAYMENTS SOLUTION | CREDIT CARD FEES | 518.61 |
| 10/06/2020 | 11844(E) | VANTIV INTEGRATED PAYMENTS SOLUTION | CREDIT CARD FEES | 777.92 |
| 10/06/2020 | 11844(E) | VANTIV INTEGRATED PAYMENTS SOLUTION | CREDIT CARD FEES | 844.03 |
| | | | | 2,140.56 |
| TOTAL - ALL FUNDS | | | TOTAL OF 3 CHECKS | 2,976.24 |
| CHECK NUMBER 11810 - 11841 | | | | |
| 10/09/2020 | 11810(A) | AEM FINANCIAL SOLUTIONS, LLC | Professional Service | 12,000.00 |
| 10/09/2020 | 11811(A) | COVERALL OF THE TWIN CITIES | CLEANING | 405.00 |
| 10/09/2020 | 11812(A) | EMERGENCY RESPONSE SOLUTIONS | Professional Service | 2,788.00 |
| 10/09/2020 | 11813(A) | ESS BROTHERS & SONS INC. | Misc Mat & Sup | 835.00 |
| 10/09/2020 | 11814(A) | FACTORY MOTOR PARTS CO | Misc Mat & Sup | 227.93 |
| 10/09/2020 | 11815(A) | FREDRIKSON & BYRON | LEGAL COSTS | 72,386.75 |
| 10/09/2020 | 11816(A) | GDO LAW | LEGAL COSTS | 6,879.00 |
| 10/09/2020 | 11817(A) | GOPHER STATE ONE-CALL | Other Services | 196.65 |
| 10/09/2020 | 11817(A) | GOPHER STATE ONE-CALL | Other Services | 196.65 |
| 10/09/2020 | 11817(A) | GOPHER STATE ONE-CALL | Other Services | 196.65 |
| | | | | 589.95 |
| 10/09/2020 | 11818(A) | HAWKINS, INC. | CHEMICALS | 5,819.89 |
| 10/09/2020 | 11818(A) | HAWKINS, INC. | Misc Mat & Sup | 979.98 |
| 10/09/2020 | 11818(A) | HAWKINS, INC. | CHEMICALS | 1,834.09 |
| | | | | 8,633.96 |
| 10/09/2020 | 11819(A) | KILLMER ELECTRIC CO, INC | Misc Mat & Sup | 368.40 |
| 10/09/2020 | 11819(A) | KILLMER ELECTRIC CO, INC | MAINT BLDG, EQUIP | 105.00 |
| | | | | 473.40 |
| 10/09/2020 | 11820(A) | KODET ARCHITECTURAL GROUP, LTD | Engineering | 1,850.98 |
| 10/09/2020 | 11821(A) | L.E.L.S | POLICE UNION DUES | 1,302.00 |
| 10/09/2020 | 11821(A) | L.E.L.S | SERGEANT UNION DUES | 310.00 |
| | | | | 1,612.00 |

VII_1 APPROVAL OF PAYMENTS

CHECK DISBURSEMENT REPORT FOR CITY OF NEW BRIGHTON

| Check Date | Check # | Payee | Description | Amount |
|------------|----------|-------------------------------------|----------------------|--------------|
| 10/09/2020 | 11822(A) | MN TEAMSTERS #320 | MAIN UNION DUES | 1,301.00 |
| 10/09/2020 | 11823(A) | MURLOWSKI PROPERTIES INC | Misc Mat & Sup | ** VOIDED ** |
| 10/09/2020 | 11823(A) | MURLOWSKI PROPERTIES INC | Misc Mat & Sup | ** VOIDED ** |
| 10/09/2020 | 11824(A) | NCPERS GROUP LIFE INS | PERA LIFE INSURANCE | 368.00 |
| 10/09/2020 | 11825(A) | NEW BRIGHTON FIRE RELIEF ASSOC. | PENSION PAYMENTS FRA | 141,753.13 |
| 10/09/2020 | 11826(A) | NUSS TRUCK & EQUIPMENT | Misc Mat & Sup | 234.76 |
| 10/09/2020 | 11827(A) | PLANT AND FLANGED EQUIPMENT, LLC | MAINT BLDG, EQUIP | 2,807.00 |
| 10/09/2020 | 11828(A) | SPRINGER, GEORGE | Communications/Telep | 55.74 |
| 10/09/2020 | 11829(A) | WATER CONSERVATION SERVICE, INC. | Professional Service | 3,760.00 |
| 10/09/2020 | 11830(A) | WSN CONSTRUCTION SERVICES LLC | MAINT BLDG, EQUIP | 9,766.00 |
| 10/09/2020 | 11831(A) | ZIEGLER INC | Professional Service | 12,990.00 |
| 10/16/2020 | 11832(A) | A.E.M ELECTRICAL SERVICES INC | MAINT BLDG, EQUIP | 1,730.00 |
| 10/16/2020 | 11832(A) | A.E.M ELECTRICAL SERVICES INC | MAINT BLDG, EQUIP | 130.39 |
| | | | | 1,860.39 |
| 10/16/2020 | 11833(A) | CALGON CARBON CORPORATION | Construction Costs | 162,239.70 |
| 10/16/2020 | 11834(A) | COVERALL OF THE TWIN CITIES | CLEANING | 2,616.00 |
| 10/16/2020 | 11835(A) | ESS BROTHERS & SONS INC. | MAINT BLDG, EQUIP | 23,970.00 |
| 10/16/2020 | 11835(A) | ESS BROTHERS & SONS INC. | MAINT BLDG, EQUIP | 24,290.00 |
| | | | | 48,260.00 |
| 10/16/2020 | 11836(A) | IN CONTROL, INC | Professional Service | 1,125.50 |
| 10/16/2020 | 11837(A) | MADISON NATIONAL LIFE INSUR. CO,INC | Life Ins Withholding | 1,250.00 |
| 10/16/2020 | 11837(A) | MADISON NATIONAL LIFE INSUR. CO,INC | Disability Insurance | 1,828.66 |
| 10/16/2020 | 11837(A) | MADISON NATIONAL LIFE INSUR. CO,INC | COBRA W/h | 4.28 |
| 10/16/2020 | 11837(A) | MADISON NATIONAL LIFE INSUR. CO,INC | Insurance Contrib | 143.40 |
| | | | | 3,226.34 |
| 10/16/2020 | 11838(A) | METROPOLITAN COUNCIL | SAC SURCHARGE ADM F | (198.80) |
| 10/16/2020 | 11838(A) | METROPOLITAN COUNCIL | SAC Payable | 19,880.00 |
| | | | | 19,681.20 |
| 10/16/2020 | 11839(A) | MURLOWSKI PROPERTIES INC | Misc Mat & Sup | 650.00 |
| 10/16/2020 | 11840(A) | RBC GLOBAL ASSET MANAGEMENT, INC. | Interest | 20,013.25 |
| 10/16/2020 | 11841(A) | TOKLE INSPECTIONS INC | Electrical Inspect | 5,103.63 |

VII_1 APPROVAL OF PAYMENTS

CHECK DISBURSEMENT REPORT FOR CITY OF NEW BRIGHTON

| Check Date | Check # | Payee | Description | Amount |
|------------|---------|-------------------|-------------------------------|------------|
| | | TOTAL - ALL FUNDS | TOTAL OF 32 CHECKS (1 voided) | 546,493.61 |

CHECK NUMBER 159312 - 159348

| | | | | |
|------------|--------|---------------------------------|-----------------------|----------|
| 10/08/2020 | 159312 | 4 SEASONS TREE CARE | MAINT BLDG, EQUIP | 3,000.00 |
| 10/08/2020 | 159313 | BARTON SAND & GRAVEL CO | Misc Mat & Sup | 130.00 |
| 10/08/2020 | 159314 | BCA | Professional Service | 720.00 |
| 10/08/2020 | 159315 | BERNESE MOUNTAIN DOG CLUB - GTC | ACCTS PAYABLE- NBCC | 304.00 |
| 10/08/2020 | 159316 | COMMERCIAL ASPHALT CO | Misc Mat & Sup | 208.04 |
| 10/08/2020 | 159317 | EARL F. ANDERSEN, INC. | Misc Mat & Sup | 182.95 |
| 10/08/2020 | 159318 | GOLDEN, MIKE | ACCTS PAYABLE- NBCC | 100.00 |
| 10/08/2020 | 159319 | LUCARELLI, MICHELLE | ACCTS PAYABLE- NBCC | 268.44 |
| 10/08/2020 | 159320 | MN DEPT OF HEALTH | Subscrip/Member/Dues | 23.00 |
| 10/08/2020 | 159321 | RYDER VEHICLE SALES | LB REFUND | 18.60 |
| 10/08/2020 | 159322 | SIKKOO MANDOO COMMUNITY MN | ACCTS PAYABLE- NBCC | 300.00 |
| 10/08/2020 | 159323 | SMIT, JENNIFER | ACCTS PAYABLE- NBCC | 268.44 |
| 10/08/2020 | 159324 | TRUCK COUNTRY | LB REFUND | 56.75 |
| 10/15/2020 | 159325 | ALMSTED, JARED | Misc Mat & Sup | 35.00 |
| 10/15/2020 | 159326 | AMERICAN CONTRACT BRIDGE LEAGUE | ACCTS PAYABLE- NBCC | 752.00 |
| 10/15/2020 | 159327 | BRIGGS, TERRI | SEWER | 110.00 |
| 10/15/2020 | 159328 | CARVER, DAN | Construction Costs | 2,049.75 |
| 10/15/2020 | 159329 | CONCHA, CARLOS OR MARGARITA | SEWER | 70.00 |
| 10/15/2020 | 159330 | GERRITSEN, JIM | Construction Costs | 2,189.13 |
| 10/15/2020 | 159331 | HASLING, BRIAN | Misc Mat & Sup | 220.00 |
| 10/15/2020 | 159332 | LMCIT | WRK COMP INS DEDUCT | 179.84 |
| 10/15/2020 | 159333 | MN DRIVER AND VEHICLE SERVICES | REP/MAINT-FLEET-OUTSR | 2,392.96 |

VII_1 APPROVAL OF PAYMENTS

CHECK DISBURSEMENT REPORT FOR CITY OF NEW BRIGHTON

| Check Date | Check # | Payee | Description | Amount |
|------------|---------|---------------------------------|-----------------------------------|----------------------|
| 10/15/2020 | 159334 | NORD CONCRETE | CURB CUT ESCROW | 650.00 |
| 10/15/2020 | 159335 | POZOS, JULIAN | ACCTS PAYABLE- NBCC | 300.00 |
| 10/15/2020 | 159336 | RAMSEY COUNTY ECOM | Professional Service | 12,870.25 |
| 10/15/2020 | 159336 | RAMSEY COUNTY ECOM | MAINT BLDG, EQUIP | 486.72 |
| | | | | 13,356.97 |
| 10/15/2020 | 159337 | RENEWAL BY ANDERSEN LLC | State Surcharge (Valuation Based) | 2.15 |
| 10/15/2020 | 159337 | RENEWAL BY ANDERSEN LLC | Building Valuation Fee | 113.60 |
| | | | | 115.75 |
| 10/15/2020 | 159338 | ROEMER, JAMES | Construction Costs | 950.04 |
| 10/15/2020 | 159339 | SCHERGER, SUSAN | Construction Costs | 813.88 |
| 10/15/2020 | 159340 | SEIM, DAN | Construction Costs | 4,509.45 |
| 10/15/2020 | 159341 | THE SNELLING CO | State Surcharge Fee | 1.00 |
| 10/15/2020 | 159341 | THE SNELLING CO | Res - Furnace | 47.50 |
| 10/15/2020 | 159341 | THE SNELLING CO | Administrative Fee | 17.00 |
| | | | | 65.50 |
| 10/15/2020 | 159342 | VENTIMIGLIA, NICHOLAS | Construction Costs | 952.05 |
| 10/15/2020 | 159343 | WALCHESKI, JEREMY | Misc Mat & Sup | 260.00 |
| 10/15/2020 | 159344 | WERNER, DEBORAH | LB REFUND | 20.00 |
| 10/15/2020 | 159345 | WILS | ACCTS PAYABLE- NBCC | 150.33 |
| 10/15/2020 | 159346 | WOJTOWICZ, STAN | Construction Costs | 1,912.83 |
| 10/15/2020 | 159347 | XO COMMUNICATIONS SERVICES, LLC | Use Tax Payable | (3.87) |
| 10/15/2020 | 159347 | XO COMMUNICATIONS SERVICES, LLC | Communications/Telep | 58.22 |
| 10/15/2020 | 159347 | XO COMMUNICATIONS SERVICES, LLC | Communications/Telep | 97.94 |
| 10/15/2020 | 159347 | XO COMMUNICATIONS SERVICES, LLC | Communications/Telep | 2,653.52 |
| | | | | 2,805.81 |
| 10/15/2020 | 159348 | YOUNGBERG, DON | Construction Costs | 610.99 |
| | | TOTAL - ALL FUNDS | TOTAL OF 37 CHECKS | 41,052.50 |
| | | TOTAL PAYMENTS | | \$ 590,522.35 |



| | |
|-----------------------|----------|
| Agenda Section: | VII |
| Item: | 2 |
| Report Date: | 10/21/20 |
| Council Meeting Date: | 10/27/20 |

REQUEST FOR COUNCIL CONSIDERATION

| |
|--|
| ITEM DESCRIPTION: Consider Resolution Approving a Site Plan Amendment for Bel Air Elementary School |
| DEPARTMENT HEAD'S APPROVAL: Craig Schlichting, DCAD <i>CS</i> |
| CITY MANAGER'S APPROVAL: |
| No comments to supplement this report <i>DM</i> Comments attached <u> </u> |

15.99 Deadline: 11/16/20

Recommendations: ▪ The Planning Commission and staff are recommending approval of the site plan review to authorize construction of a new storage shed.

Legislative History: ▪ Complete application received on 9/17/20
▪ Planning Commission business item review (no public hearing) held on 10/20/20; Council review scheduled for 10/27/20

Financial Impact: None

Summary: Bel Air Elementary is nearing completion of all site improvements authorized in late 2019, and has identified the need for a 12' x 20' storage shed to store some new maintenance equipment required for the upgraded facility. The new shed will conform to all zoning requirements, and no conflicts with this site or surrounding sites were identified.

Attachments: 1) *Staff Report*
2) *Resolution*
3) *City Maps*
4) *Applicant's supporting documentation*

Ben Gozola, AICP

Assistant Director of Community Assets and Development

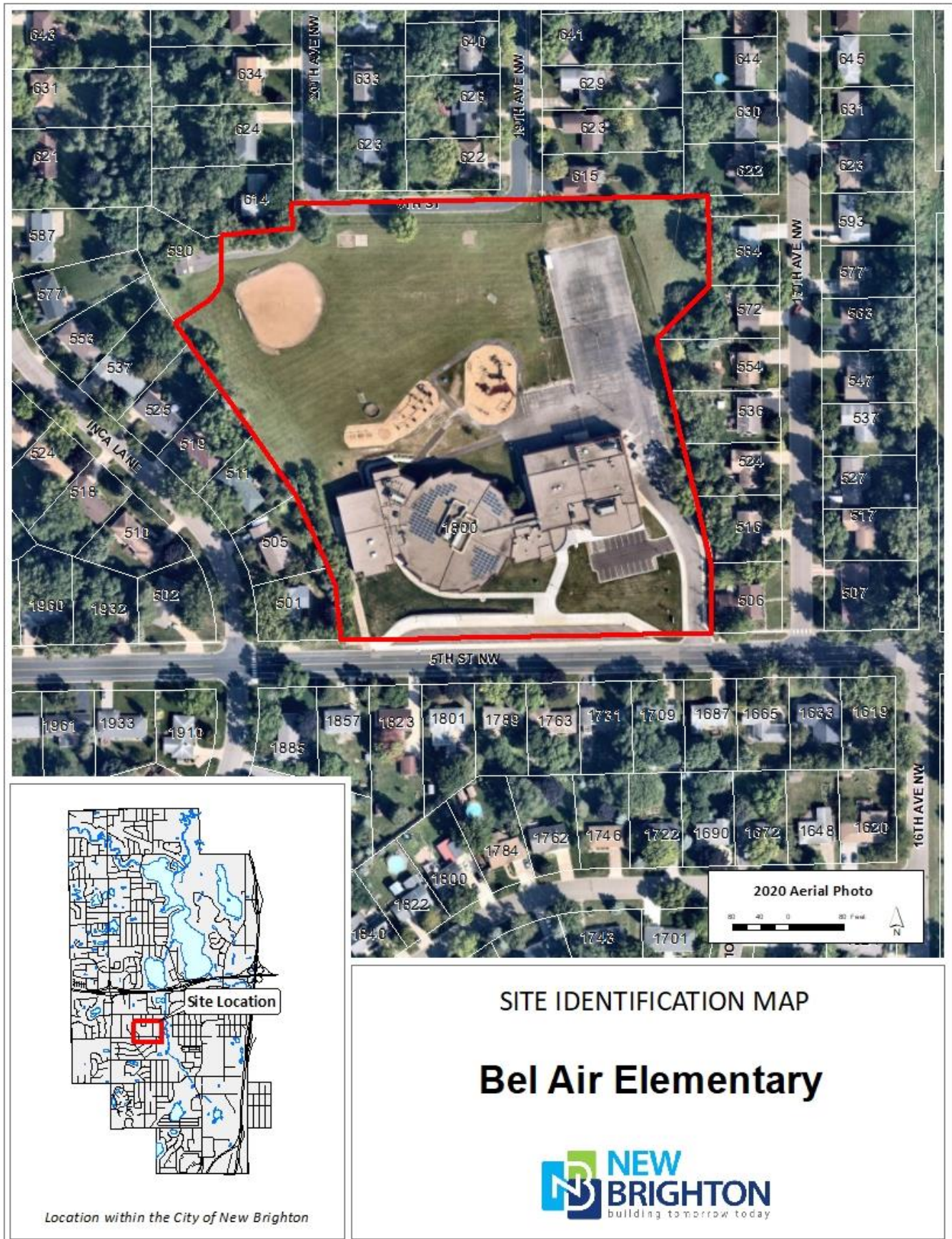
To: **City Council**
From: Ben Gozola, *Assistant Director of Community Assets & Development*
Meeting Date: **10-27-20**
Applicants: **ISD 621**
Main Contact: Wold Architects
Location: 1800 5th St NW
Zoning: **R-1**

Introductory Information

| | |
|---------------------------|--|
| <i>Project:</i> | Bel Air Elementary is nearing completion of all improvements authorized in late 2019, and has identified the need for a 12' x 20' storage shed to store some new maintenance equipment required for the upgraded facility. |
| <i>History:</i> | <ul style="list-style-type: none"> ▪ Complete application received on 9/17/20 ▪ Planning Commission reviewed the proposed shed location on 10/20/20 and identified no issues. ▪ Council review scheduled for 10/27/20 |
| <i>Request(s):</i> | <ul style="list-style-type: none"> ▪ Site Plan Review for a new shed at 1800 5th St NW |

General Findings

| | |
|-----------------------------------|---|
| <i>Site Data:</i> | <ul style="list-style-type: none"> ▪ Existing Lot Size \approx 0.87 acres (37,897 sq ft) ▪ Existing Use – Elementary School ▪ Existing Zoning – R-1 ▪ Property Identification Number (PID): 30-30-23-14-0087 |
| <i>Comp Plan Guidance:</i> | The comprehensive plan guides this property for Public/Quasi-Public use (P-QP). The proposed special use under the R-1 zoning classification is therefore appropriate. |



Notable Code Definitions: ▪ **SCHOOL.** An institution for learning, specifically grammar and high schools, which provide elementary and preparatory instruction.

Applicable Codes: ▪ **Chapter 8, Article 1, Section 8-010 Site Plan Approval.** Identifies the process by which site plans are to be reviewed and authorized.

Applicant's Narrative: *During construction, the Owner realized that some new maintenance equipment would be required for the facility and determined that an outdoor storage shed was needed. Therefore, this will not appear on any construction drawings that were previously approved and needs site plan approval. The updated plan set shows the proposed shed location along with its dimensions (12'-0" x 20'-0").*

Site Review

In General: ▪ Per Zoning Code Section 8-010, new building construction (other than double and single family residences) shall be referred to the City Council for review. The following is an overview of important findings in relation to code requirements.

Existing Conditions: ▪ Existing conditions are in conformance to the plans approved in late 2019. The desired shed location is currently a grassy area adjacent to the existing parking lot.

Proposed Site Plan Updates: ▪ The proposed shed location will conforming to all setbacks.

| R-1 | Required | Proposed Shed |
|-------------------------------|----------|---------------|
| Front (5 th St NW) | 30 | ≈ 567' |
| Side (east) | 5 | ≈ 131' |
| Side (west) | 5 | ≈ 437' |
| Rear (north) | 5 | ≈ 43' |

Building Materials: ▪ The building will use face brick and shingles to complement the existing buildings on the site.

Building Height: ▪ The proposed building will be well below 2.5 stories, and will conform to the 30-foot height maximum allowed within the R-1 district.

Landscaping: ▪ The proposed expansion of square footage (240 sq ft) does not trigger the need for additional landscaping.

Lot Access: | ▪ The access point to the property will not change from existing conditions.

Engineering: | ▪ Engineering reviewed the plans and had no comment.

Signage | ▪ The applicant is not proposing any new signs on the shed.

Fire/Safety: | ▪ Public Safety reviewed the plans and had no comment.

Parking & Traffic: | ▪ The new shed will have no impact on needed parking or site traffic.

Sidewalks & Trails: | ▪ The new shed does not trigger the need for new sidewalks or trails.

Supplementary Review & Public Comment

Additional Information: | ▪ none

Engineering Review: | ▪ Engineering reviewed the proposed plans for the addition and had no comments or concerns.

Public Safety Review: | ▪ No comments or concerns.

Planning Commission Review: | ▪ The Planning Commission reviewed the proposal and found no issues of concern. **The commission unanimously recommended approval, and staff concurs with this recommendation.**

Conclusion:

The application is requesting site plan review approval to authorize the construction of a conforming new shed at 1800 5th St NW.

Council Options:

The City Council has the following options:

- A) APPROVE THE REQUEST based on the applicant's submittals and findings of fact.
- B) DENY THE REQUEST based on the applicant's submittals and findings of fact.
- C) TABLE THE ITEM and request additional information.

Based on an application date of 9/17/20, the 60-day review period for this application expires on 11/16/2020. This deadline can be extended an additional 60 days if more time is necessary.

**Initial Motion
for Debate:**

- "Consider Resolution Approving a Site Plan Amendment for Bel Air Elementary School."

**Resolution
Findings of Fact:**

1. The proposed shed will be conforming to all code requirements.
2. Proposed building materials are allowed by code and will match/complement the existing principal structure.
3. The proposed building height will be less than the 2.5 stories or 30' permitted by code.
4. No additional landscaping is required for the new shed.
5. Improvements do not pose a parking, traffic, or safety risk.

**Recommended
Conditions:**

1. none

cc: Wold Architects, Applicant

RESOLUTION No. _____
STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF NEW BRIGHTON

RESOLUTION MAKING FINDINGS OF FACT AND APPROVING A SITE PLAN TO
AUTHORIZE CONSTRUCTION OF A SMALL UTILITY SHED TO THE SERVE BEL AIR
ELEMENTARY SCHOOL AT 1800 5TH STREET NW

WHEREAS, the City of New Brighton is a municipal corporation, organized and existing under the laws of the State of Minnesota; and,

WHEREAS, the City Council of the City of the New Brighton has adopted a comprehensive plan and corresponding zoning regulations to promote orderly development and utilization of land within the city; and,

WHEREAS, Bel Air Elementary school, located at 1800 5th Street NW with the property identification number of 30-30-23-14-0087, has existed at that address for decades and has not caused any known problems with the surrounding area; and

WHEREAS, the storage buildings are a permitted accessory use in the R-1 district, but require site plan approval in this case as the principal use (a school) is non-residential; and

WHEREAS, the Applicant made application to the City for an updated site plan review on 9/17/20 to proposed a new storage shed, and supplied all necessary plans to support staff's review; and

WHEREAS, staff fully reviewed the request and prepared a report for consideration by the Planning Commission at their meeting on October 20, 2020; and

WHEREAS, the Planning Commission recommended approval of the request on October 20, 2020, based on the applicant's submittals and findings of fact; and

WHEREAS, the City Council considered on October 27, 2020, the recommendations of the Planning Commission, Staff, the Applicant's submissions, the contents of the staff report, and other evidence available to the Council.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of New Brighton hereby approves the proposed site plan based on the following findings of fact:

- 1. The proposed shed will be conforming to all code requirements.*
- 2. Proposed building materials are allowed by code and will match/complement the existing principal structure.*
- 3. The proposed building height will be less than the 2.5 stories or 30' permitted by code.*

4. *No additional landscaping is required for the new shed.*
5. *Improvements do not pose a parking, traffic, or safety risk..*

ADOPTED this 27th day of October, 2020 by the New Brighton City Council with a vote of ___ ayes and ___ nays.

Valerie Johnson, Mayor

Devin Massopust, City Manager

ATTEST:

Terri Spangrud, City Clerk

The undersigned Applicants have read, understand and hereby agree to the terms of this resolution and on behalf of himself/herself, his/her heirs, successors and assigns, hereby agree to the conditions set forth above, and to the recording of this resolution and attachments in the chain of title of the property.

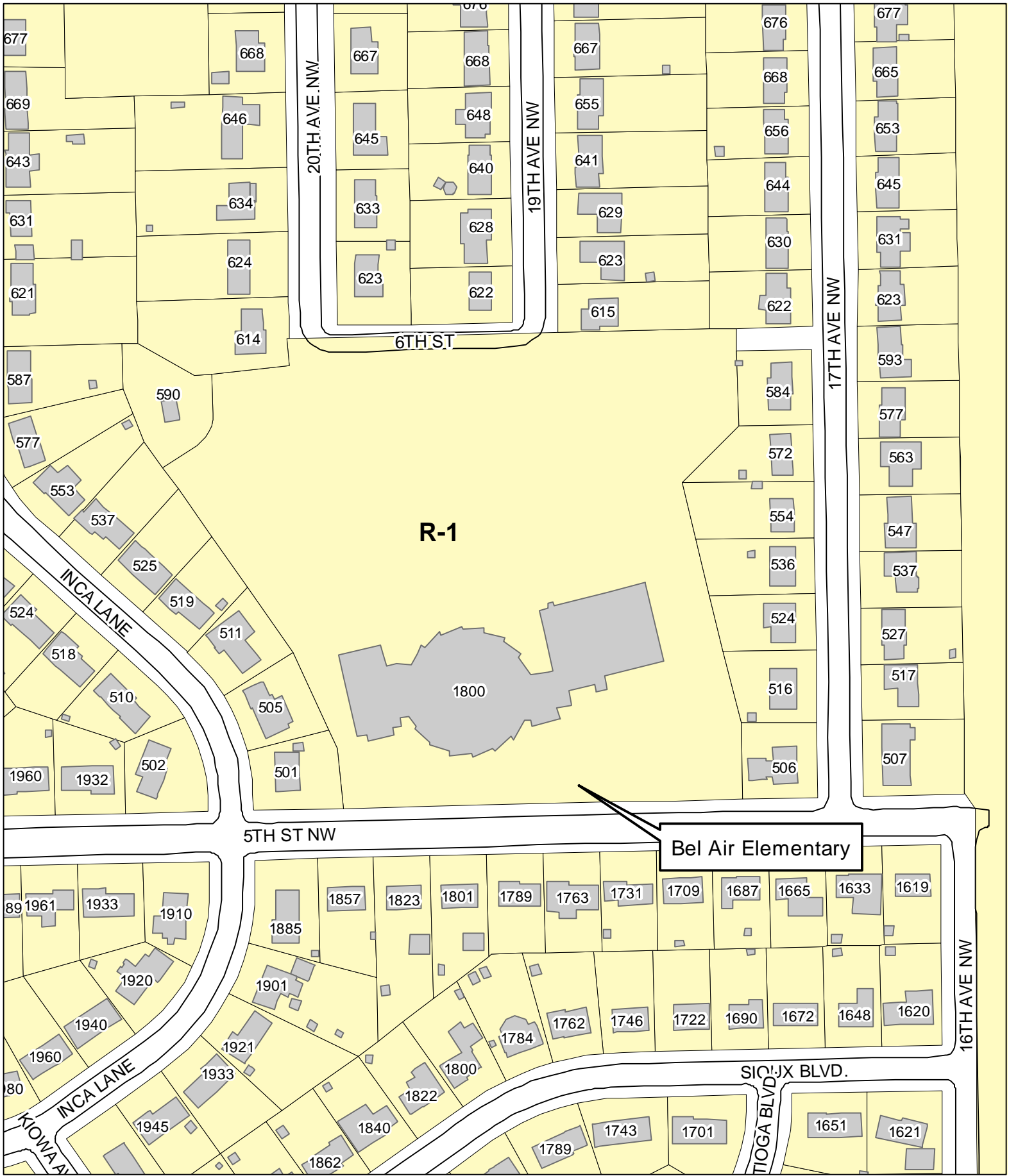
Dated _____

<Authorized Representative Signature>

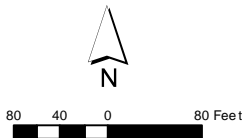
<printed name>

Subscribed and sworn to before me this _____ day of _____, 2020.

Notary Public



R-1, Single Family Residential



Current Zoning

Bel Air Elementary
R-1, Single Family Residential



City of New Brighton Application Form

(Land use applications, Subdivision applications, and vacation requests will not be considered complete and will not be accepted until all property owners have signed)

I. Property Owner #1

Independent School District #621, 4570 Victoria St. N, Shoreview MN 55126

(name)

(mailing address)

(st)

(zip)

651-621-6000

(phone #)

(fax #)

(email)

Schools.or

Signature:

Chris. Pagnette@mountsview
Chris Pagnette

II. Property Owner #2 *For more than two owners, please provide their information and signature(s) on a separate sheet.*

(name)

(mailing address)

(st)

(zip)

(phone #)

(fax #)

(email)

Signature:

III. Please identify the request(s) for which you are applying:

☐ LAND USE APPLICATION (subject to MN State Statute 15.99 timelines)

☐ Variance

☐ Special Use Permit

☒ Site Plan Review

☐ Zoning Code Amendment / Rezoning

☐ Comprehensive Plan Amendment

☐ Non-conforming Use Permit

☐ Grading Permit

☐ Moving/Relocating Structures Permit

☐ Sign Permit

☐ Other:

FEES

Fees for individual application types are established on a yearly basis by the City Council.

☐ SUBDIVISION APPLICATION (subject to MN State Statute 462.358, subd. 3b timelines)

☐ Administrative Lot Split

☐ PUD or PRD

☐ Preliminary Plat

☐ Final Plat

Please see the attached fee schedule for the applicable costs (and possibly escrow requirements) for your request(s)

☐ GENERAL APPLICATION (not subject to any state mandated timelines)

☐ Right of Way Vacation

☐ Easement / Utility Vacation

☐ Administrative Appeal

☐ Deadline Extension Request

☐ Municipal Site Work Authorization

☐ Zoning Letter

☐ Temporary Use Permit

☐ Other:

Briefly describe your request below *(If additional space is needed, please attach a narrative to this application)*

Construction of a 12'-0" x 20'-0" outdoor storage shed

IV. Property & Contractor Information:Street Location/Address of Property: 1800 5th St. NW, New Brighton, MN 55112Property Identification Number (PID): 303023140087

Zoning District: _____

Legal Description (From Deed or Certificate of Title): ☐ Please see attached

A of Registered land survey 543

Lot: _____ Block: _____ Addition: Sec 30, Twp 030 Reg 023Property described is by: ☐ Abstract ☒ Torrens – Certificate #: _____

Location of Certificate: _____

Architect (if applicable): Wold Architects and EngineersPhone: 651-227-7773

Surveyor/Engineer (if applicable): _____

Phone: _____

Builder (if applicable): Kraus Anderson ConstructionPhone: 612-332-7281**V. Main Contact Person**☐ Property Owners☒ Other (if other, please fill out the information below)Title (Position or relation to property owners): Nick MarcucciWold Architects and Engineers, 332 Minnesota St., Suite W2000, St. Paul, MN 55101

(name)

(address)

(st)

(zip)

651-227-7773

(phone #)

(fax #)

nmarcucci@woldae.com

(email)

VI. Notice of Fees

As set forth in the City Fee Schedule and pursuant to applicable law, the property owner shall be responsible to reimburse the city for all related miscellaneous costs incurred pursuant to the processing of this application. Note that these reimbursements may exceed the amount of the original land use application fee. Such expenses may include, but are not limited to, direct city payroll and overhead costs, fees paid to consultants and other professionals, and the cost of printing, mailing, and supplies. These miscellaneous fees are due immediately upon notification by the City. The City shall provide, upon request, an itemized statement of the various expenses incurred by the City. The City may withhold final action on a land use application and/or rescind prior action until all miscellaneous fees are paid. The City may require additional deposits, if deemed necessary. The property owner agrees to allow city staff and commission members to access the property per this application for inspection.

I acknowledge that I have read the above statement and fully understand that I am responsible for all costs incurred by the City in the processing and reviewing of this application.

Property Owners Signature: _____

Date: _____

ADMINISTRATIVE USE ONLY:

Date Application Received: _____

PC Date: _____

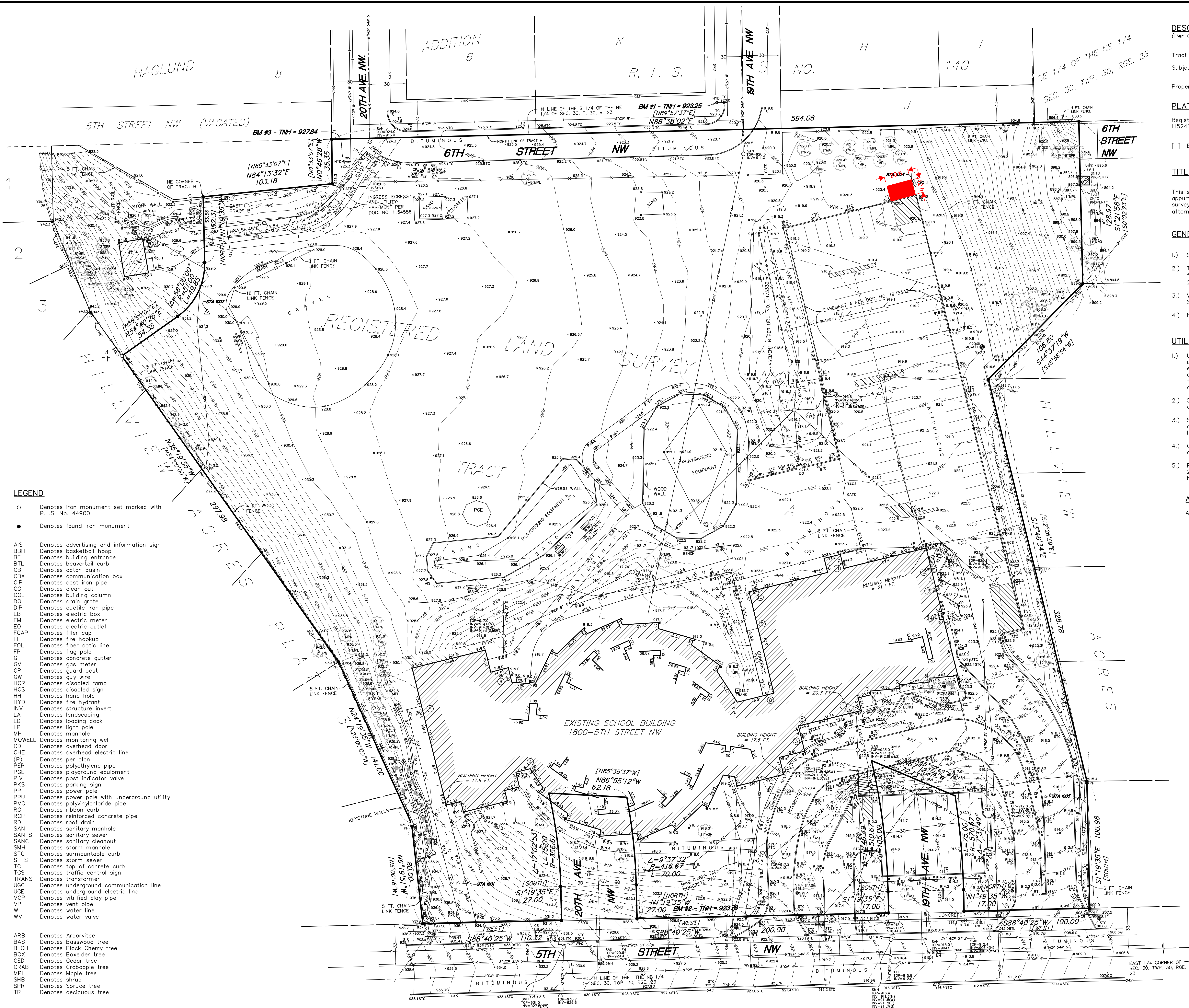
Fee Paid: _____

CC Date: _____

Escrow Paid: _____

Receipt Number: _____

Form Last Updated 08.28.20



LEGEND

- Denotes iron monument set marked with P.L.S. No. 44900
- Denotes found iron monument
- AIS Denotes advertising and information sign
- BBH Denotes basketball hoop
- BE Denotes building entrance
- BTL Denotes beaverall curb
- CB Denotes catch basin
- CBX Denotes communication box
- CIP Denotes cast iron pipe
- CO Denotes clean out
- COL Denotes building column
- DC Denotes drain grate
- DIP Denotes ductile iron pipe
- EB Denotes electric box
- EM Denotes electric meter
- EO Denotes electric outlet
- FCAP Denotes filler cap
- FH Denotes fire hookup
- FOL Denotes fiber optic line
- FP Denotes flag pole
- G Denotes concrete gutter
- GM Denotes gas meter
- GP Denotes guard post
- GW Denotes guy wire
- HCR Denotes disabled ramp
- HCS Denotes disabled sign
- HH Denotes hand hole
- HYD Denotes fire hydrant
- INV Denotes structure invert
- LA Denotes landscaping
- LD Denotes loading dock
- LP Denotes light pole
- MH Denotes manhole
- MOWELL Denotes monitoring well
- OD Denotes overhead door
- OHE Denotes overhead electric line
- (P) Denotes per plan
- PEP Denotes polyethylene pipe
- PGE Denotes playground equipment
- PIV Denotes post indicator valve
- PKS Denotes parking sign
- PP Denotes power pole
- PPU Denotes power pole with underground utility
- PVC Denotes polyvinylchloride pipe
- RC Denotes ribbon curb
- RCP Denotes reinforced concrete pipe
- RD Denotes roof drain
- SAN Denotes sanitary manhole
- SAN S Denotes sanitary sewer
- SANC Denotes sanitary cleanout
- SMH Denotes storm manhole
- STC Denotes surmountable curb
- ST S Denotes storm sewer
- TC Denotes top of concrete curb
- TCS Denotes traffic control sign
- TRANS Denotes transformer
- UGC Denotes underground communication line
- USE Denotes underground electric line
- VCP Denotes vitrified clay pipe
- VP Denotes vent pipe
- W Denotes water line
- WV Denotes water valve

- ARB Denotes Arborvitae
- BAS Denotes Basswood tree
- BLCH Denotes Black Cherry tree
- BOX Denotes Boxelder tree
- CED Denotes Cedar tree
- CRAB Denotes Crabapple tree
- MPL Denotes Maple tree
- SHB Denotes shrub
- SPR Denotes Spruce tree
- TR Denotes deciduous tree

DESCRIPTION OF PROPERTY SURVEYED

(Per Certificate of Title No. 385993)
Tract A, Registered Land Survey No. 543.
Subject to easement for roads and highways.
Property is located in Ramsey County, Minnesota.

PLAT RECORDING INFORMATION

Registered Land Survey No. 543 was filed of record on April 22, 1997, as Document No. 1152438.

[] Bearings and/or dimensions listed within brackets are per plat or record documents.

TITLE COMMITMENT

This survey was prepared without the benefit of current title work. Easements, appurtenances, and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a current title insurance commitment or attorney's title opinion.

GENERAL NOTES

- Survey coordinate basis: Ramsey County Coordinate System
- There were no wetland delineation markers observed in the process of conducting the fieldwork. (No Wetland Report per report prepared by Pinnacle Engineering, dated April 21, 2018.)
- We were unable to find vacation documents for 19th and 20th Avenue NW at 5th Street NW.
- No easement was found for 6th Street NW along north property line.

UTILITY NOTES

- Utility information from plans and markings was combined with observed evidence of utilities to develop a view of the underground utilities shown hereon. However, lacking excavation, the exact location of underground features cannot be accurately, completely and reliably depicted. In addition, Gopher State One Call locate requests from surveyors may be ignored or result in an incomplete response. Where additional or more detailed information is required, excavation may be necessary.
- Other underground utilities of which we are unaware may exist. Verify all utilities critical to construction or design.
- Some underground utility locations are shown as marked onsite by those utility companies whose locators responded to our Gopher State One Call, ticket number 181030195.
- Contact GOPHER STATE ONE CALL at 651-454-0002 (800-252-1166) for precise onsite location of utilities prior to any excavation.
- Private utilities are shown as marked by Hance Locating Services, Inc. on April 23, 2018. Private utilities are those utilities installed for the use of their owner, typically by someone other than a Gopher State One Call registered utility operator.

AREA

Area = 371,471 square feet or 8.528 acres

FLOOR ELEVATIONS

- ① Denotes door number
- Door 1 = 924.26 feet - Top of concrete outside door
 - Door 2 = 924.32 feet - Top of concrete outside door
 - Door 3 = 924.30 feet - Top of concrete outside door
 - Door 4 = 919.04 feet - Top of concrete outside door
 - Door 5 = 931.75 feet - Top of concrete outside door
 - Door 6 = 919.08 feet - Top of concrete outside door
 - Door 7 = 919.08 feet - Top of concrete outside door
 - Door 8 = 924.44 feet - Top of concrete outside door
 - Door 9 = 924.39 feet - Top of concrete outside door
 - Door 10 = 924.36 feet - Top of concrete outside door
 - Door 11 = 924.32 feet - Top of concrete outside door
 - Door 12 = 926.34 feet - Top of concrete outside door
 - Door 13 = 926.37 feet - Top of concrete outside door
 - Door 14 = 926.34 feet - Top of concrete outside door

CONTROL POINTS

| STATION | NORTHING | EASTING | ELEVATION |
|---------|-----------|-----------|-----------|
| 1001 | 197191.03 | 544468.96 | 932.28 |
| 1002 | 197643.53 | 544263.57 | 930.40 |
| 1004 | 197746.23 | 544825.21 | 919.76 |
| 1005 | 197256.53 | 544956.99 | 915.23 |

BENCHMARKS (BM)

- Top of top nut of fire hydrant in the northwest corner of 19th Avenue NW and 6th Street NW.
Elevation = 923.25 feet
- Top of top nut of fire hydrant on the west side of the entrance to the school.
Elevation = 923.78 feet
- Top of top nut of fire hydrant in the southwest corner of 20th Avenue NW and 6th Street NW.
Elevation = 927.84 feet

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 2nd day of May, 2018

SUNDE LAND SURVEYING, LLC.

By: *Arlee J. Carlson*
Arlee J. Carlson, P.L.S. Minn. Lic. No. 44900

Revision

By

Date

Drawing Title:

BOUNDARY, LOCATION, TOPOGRAPHIC and UTILITY SURVEY FOR:
ISD 621 - BEL AIR ELEMENTARY SCHOOL
1800 5TH STREET NW, NEW BRIGHTON, MN

SUNDE LAND SURVEYING
www.sunde.com

Main Office:

9001 East Bloomington Freeway (35W) • Suite 118
Bloomington, Minnesota 55420-3435
952-881-2450 (Fax: 952-888-9526)

Project: 99-235-B

By: Pkg: 1072/05

Date:

Township: 30

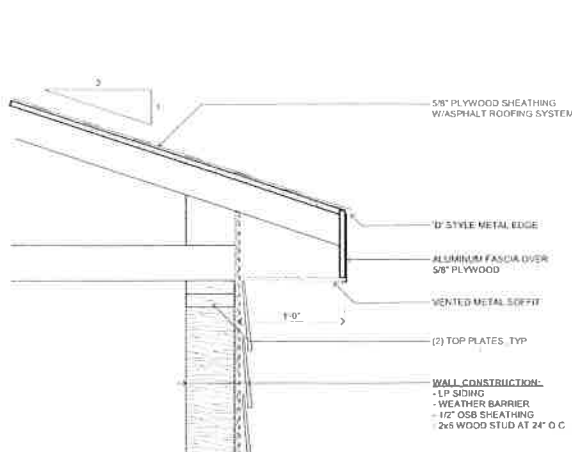
Range: 23

Section: 30

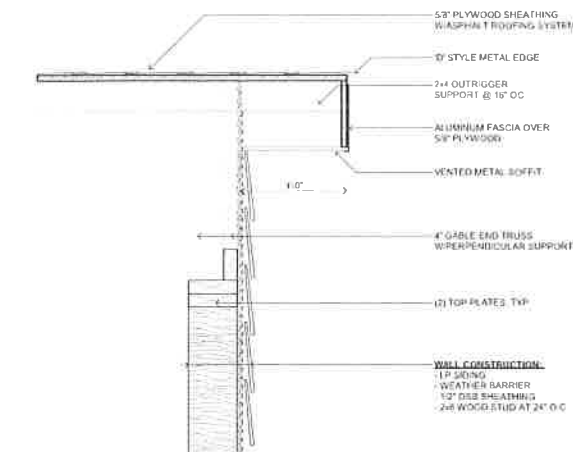
File: 99235B001.dwg

Sheet: 1 of 1

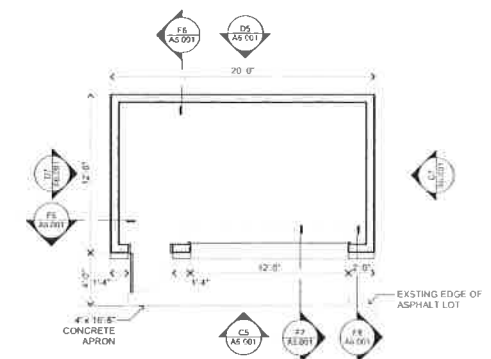
MN



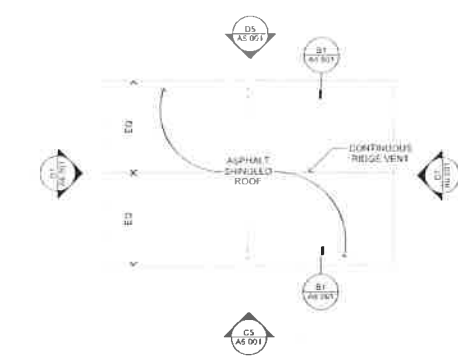
B1 SECTION AT SOFFIT
1 1/2" = 1'-0"



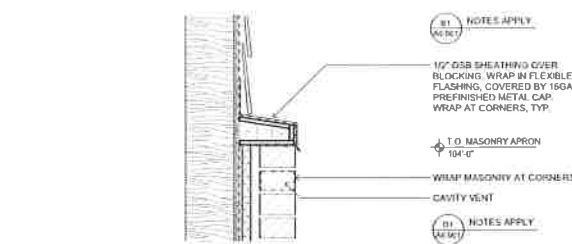
B2 SECTION AT GABLE SOFFIT
1 1/2" = 1'-0"



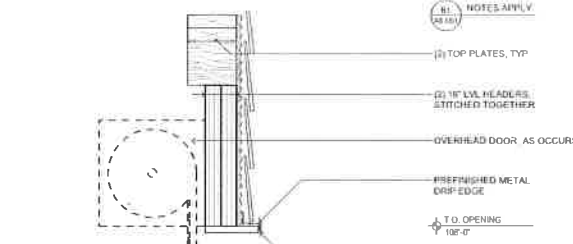
B5 FLOOR PLAN - STORAGE SHED
3/16" = 1'-0"



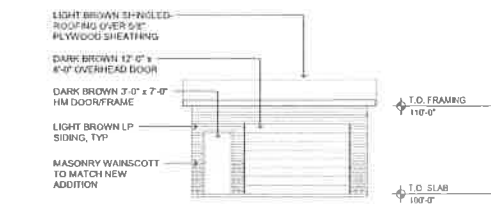
B7 ROOF PLAN - STORAGE SHED
3/16" = 1'-0"



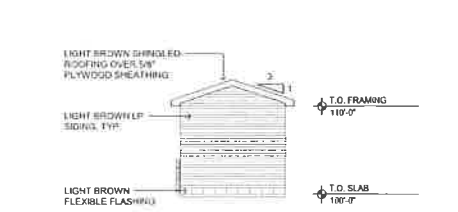
C1 SECTION AT MASONRY WAINSCOTT SILL
1 1/2" = 1'-0"



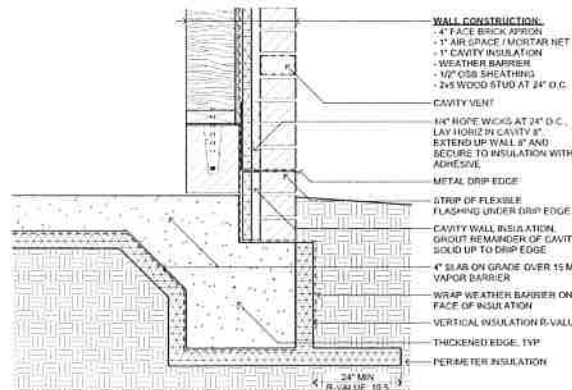
C2 SECTION AT OVERHEAD DOOR
1 1/2" = 1'-0"



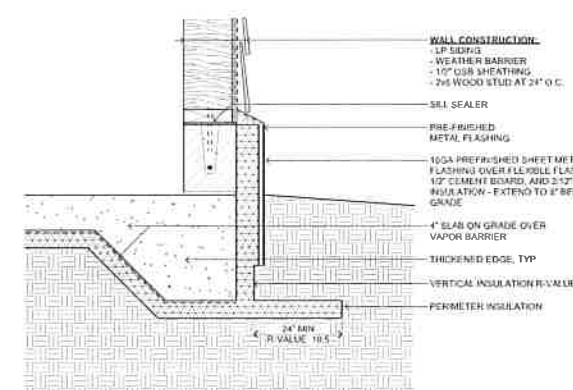
C5 SOUTH ELEVATION - STORAGE SHED
1/8" = 1'-0"



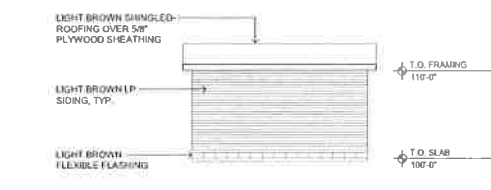
C7 EAST ELEVATION - STORAGE SHED
1/8" = 1'-0"



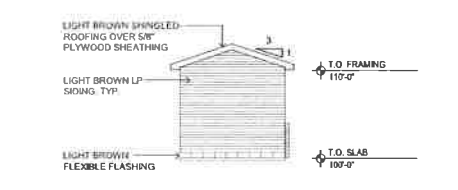
D1 SECTION AT MASONRY BASE
1 1/2" = 1'-0"



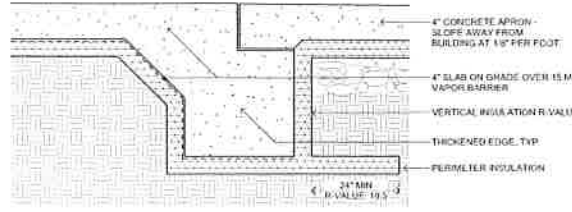
D2 SECTION AT GRADE
1 1/2" = 1'-0"



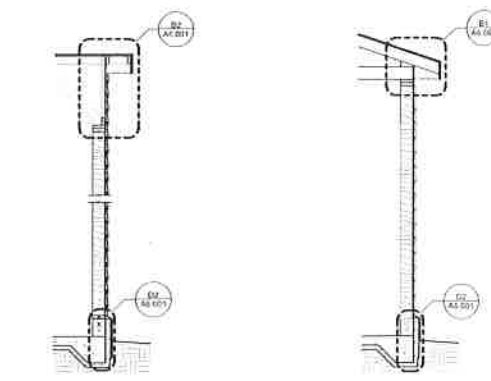
D5 NORTH ELEVATION - STORAGE SHED
1/8" = 1'-0"



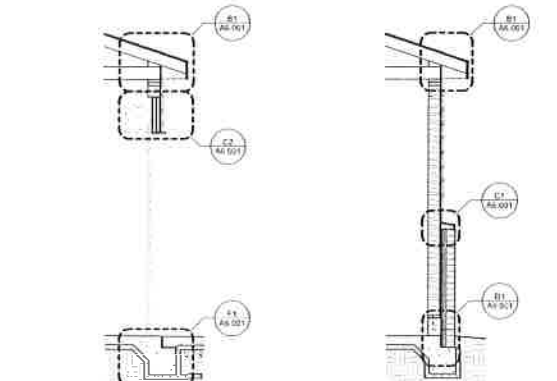
D7 WEST ELEVATION - STORAGE SHED
1/8" = 1'-0"



F1 SECTION AT CONCRETE APRON
1 1/2" = 1'-0"



F5 SECTION AT GABLE
3/8" = 1'-0"



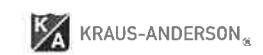
F6 SECTION AT SIDING
3/8" = 1'-0"

**BEL AIR
ELEMENTARY
SCHOOL 2018
ADDITIONS &
RENOVATIONS**
1800 5th St. NW,
New Brighton, MN 55112
**ISD #621: MOUNDS
VIEW PUBLIC SCHOOLS**
4570 Victoria Street N
Shoreview, MN 55126



**WOLD ARCHITECTS
AND ENGINEERS**
333 Minnesota Street, Suite W 2000
Saint Paul, MN 55101

woldae.com | 651.221.7173



KRAUS-ANDERSON
501 South Eighth Street
Minneapolis, MN 55404
kraus-anderson.com | 612.332.7281

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed ARCHITECT.

Paul Apikowicki
License Number: Paul Apikowicki 42737 Date: 01/04/2019

| Revisions | Date | By |
|-----------|------|----|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Conc: 172255
Date: 01/04/2019
Drawn: MD
Check: NM

**STORAGE SHED
PLANS /
SECTIONS /
DETAILS**

Scale: As indicated

A6.001



| | |
|------------------------------|-----------------|
| Agenda Section: | VII |
| Item: | 3 |
| Report Date: | 10/21/20 |
| Council Meeting Date: | 10/27/20 |

REQUEST FOR COUNCIL CONSIDERATION

| | |
|--|---|
| ITEM DESCRIPTION: | Consider Resolution to Apply for 2021 Score Grant Funds and Establishment of the 2021 Recycling Service Charge. |
| DEPARTMENT HEAD'S APPROVAL: | Craig Schlichting, DCAD <i>CS</i> |
| CITY MANAGER'S APPROVAL: | |
| No comments to supplement this report | <i>DM</i> Comments attached <u> </u> |

15.99 Deadline: none

Recommendations: ▪ **Adopt the attached resolution authorizing staff to apply for 2021 SCORE grant funding and establishment of the 2021 recycling service charge.**

Legislative History: ▪ Every October the Council is presented with a resolution authorizing of the SCORE grant application to Ramsey County and establishing recycling rates for the following year

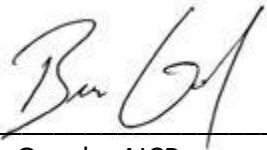
Financial Impact: Discussed below.

Summary: Every year, Ramsey County administers grants to municipalities in support of recycling services. These grants have been termed SCORE grants, as money is allocated from the State via the Select Committee on Recycling & the Environment (SCORE). Under the terms of the application process, New Brighton must submit a resolution from its governing body requesting the SCORE funding allocation. SCORE grant money partially funds New Brighton's curbside recycling program. Recycling expenses for 2021 are projected to be approximately \$273,000. Staff anticipates the City will receive approximately \$55,739.00 in SCORE funds, which is approximately \$1,594.00 more from the 2020 SCORE funds. The remaining recycling funds of (\$217,261) are raised through the City's Recycling Service Charge, which is collected by Ramsey County through the property tax system.

In 2021 the City continues to contract with Republic Services. Under the contract, rates are slated to increase to \$3.13 per month or \$37.56 per year per household. Currently residents pay \$36.48 per year for this service. With SCORE grant funds somewhat subsidizing program expenses for 2021, staff recommends a yearly increase of \$1 to cover additional expenses. Thus, staff

recommends the recycling service for 2021 be increased to \$37 per household.

- Attachments:**
- 1) *Resolution*
 - 2) *2021 Recycling Performance Work Plan*
 - 3) *Rate Increase Chart*
 - 4) *2021 Proposed Recycling Budget*

A handwritten signature in black ink, appearing to read "Ben Gozola", written over a horizontal line.

Ben Gozola, AICP

Assistant Director of Community Assets and Development

RESOLUTION No. _____
STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF NEW BRIGHTON

**RESOLUTION AUTHORIZING APPLICATION FOR A 2021 SCORE GRANT
THROUGH RAMSEY COUNTY**

WHEREAS, the City of New Brighton ("City") is a municipal corporation and subdivision of the State of Minnesota organized and operating under Minnesota law; and

WHEREAS, the City Council is the official governing body of the City; and

WHEREAS, the City operates a municipal recycling program; and

WHEREAS, state law requires counties to manage the waste produced by citizens and businesses by waste reduction, reuse, and recycling in preference to land-filling; and

WHEREAS, the Legislature has enacted legislation, referred to as the SCORE program, which authorizes grants to counties for waste reduction, reuse, and recycling activities; and

WHEREAS, the State of Minnesota has provided SCORE program money to Ramsey County for recycling activities; and

WHEREAS, Ramsey County provides annual grants to cities located within its boundaries; and

WHEREAS, the City of New Brighton has been encouraged to apply for 2021 SCORE grant funding through Ramsey County.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of New Brighton that City staff is authorized to apply for 2021 SCORE grant funding through Ramsey County.

ADOPTED this 27th day of October by the New Brighton City Council with a vote of _____ ayes and _____ nays.

Valerie Johnson, Mayor

ATTEST:

Devin Massopust, City Manager

Terri Spangrud, City Clerk

2021 Recycling Performance Work Plan - Minimum Requirements

- 1.** Complete all 2021 SCORE requirements, including reporting on time and submitting a mid-year status report.
- 2.** Provide outreach to all residents about the municipality's recycling program and submit copies of materials to Ramsey County.
- 3.** Use Ramsey County materials and information when and where appropriate to promote increased recycling, reuse and repair (e.g., Fix-it Clinics), medicine collection, household hazardous waste, organic waste and yard waste participation.
 - a)** Send materials to Ramsey County for review prior to distribution.
 - b)** Include county contact information on materials:
 - i.** 24/7 Recycling & Disposal Hotline: 651-633-EASY (3279)
 - ii.** RamseyRecycles.com
 - c)** Provide links to the Ramsey County web pages on municipality website.
- 4.** Use hauler data to identify those not recycling and target educational materials
- 5.** Ensure all multi-unit properties are meeting State law requirements to recycle and are receiving free Ramsey County resources. Verify through county database property information.
- 6.** Increase opportunities for recycling in public spaces.
 - a)** All recycling bins must be paired with a trash bin and in good condition.
 - b)** Labels must be readable.
 - c)** Promote Ramsey County's event container lending program and green event planning tips.
- 7.** Implement a "Green" purchasing procurement policy for city functions and facilities to use reusable, recyclable or compostable packaging.
- 8.** Ensure the collection of textiles is available to all residents through special collection or drop-off opportunities.
- 9.** Enforce recycling contracts, including the assessment of penalties for non-compliance.
 - a)** Audit reporting by obtaining hauler weight tickets.
 - b)** Have labels replaced if not readable.
- 10.** Attend County Recycling Coordinator meetings and attend a yearly composition study.



4-22-16

City of New Brighton

Agreement Extension Proposal for Curbside Recycling Services with Republic Services

Proposed by Republic Services:

5 Year Agreement

Now \$2.78

2017 \$2.86

2018 \$2.95

2019 \$3.04

2020 \$3.13

2021 \$3.22

2022 n/a

2023 n/a

(OR)

7 Year Agreement

Now \$2.78

2017 \$2.78 *(no increase)*

2018 \$2.86

2019 \$2.95

2020 \$3.04

2021 \$3.13

2022 \$3.22

2023 \$3.31

A Comparison of Local-Area, 2016 Prices for Recycling Services

| <u>City</u> | <u>Households</u> | <u>Monthly Rate</u> |
|--------------------|--------------------------|----------------------------|
| Shoreview | 10,400 | \$2.91 |
| Arden Hills | 3,000 | \$3.03 |
| White Bear Twnshp | 4,000 | \$5.00 |
| Little Canada | 2,000 | \$4.00 |
| St. Anthony | 2,200 | \$3.62 |
| Vadnais Heights | 4,200 | \$5.55 |
| Maple Grove | 23,000 | \$2.94 |
| Plymouth | 22,000 | \$2.73 |
| Champlin | 6,300 | \$3.95 |

08/03/2020

BUDGET REPORT FOR CITY OF NEW BRIGHTON

| GL NUMBER | DESCRIPTION | 2018 | 2019 | 2020 | 2020 | 2020 | 2021 | 2020 | 2021 |
|---|-----------------------------|----------|----------|---------|---------------|-----------|------------|-------------|-------------|
| | | ACTIVITY | ACTIVITY | ADOPTED | ACTIVITY | PROJECTED | DEPARTMENT | CITY MGR | CITY MGR |
| | | BUDGET | | BUDGET | THRU 06/30/20 | ACTIVITY | REQUESTED | RECOMMENDED | RECOMMENDED |
| | | | | | | | BUDGET | BUDGET | % CHANGE |
| FUND 101 - RECYCLING | | | | | | | | | |
| ESTIMATED REVENUES | | | | | | | | | |
| INTERGOVERNMENTAL | | | | | | | | | |
| 101-5152-35439 | Recycling Grant | 54,100 | 59,300 | 54,100 | 0 | 54,100 | 54,100 | 54,100 | 0.00 |
| INTERGOVERNMENTAL | | 54,100 | 59,300 | 54,100 | 0 | 54,100 | 54,100 | 54,100 | 0.00 |
| CHARGES FOR SERVICE - LATE CHARGES | | | | | | | | | |
| 101-5152-36603 | Late Charges | 0 | 0 | 0 | 100 | 0 | 0 | 0 | 0.00 |
| CHARGES FOR SERVICE - LATE CHARGES | | 0 | 0 | 0 | 100 | 0 | 0 | 0 | 0.00 |
| CHARGES FOR SERVICE | | | | | | | | | |
| 101-5152-36640 | Recycling Fee | 212,100 | 218,600 | 220,100 | 78,400 | 220,100 | 226,600 | 220,100 | 2.95 |
| CHARGES FOR SERVICE | | 212,100 | 218,600 | 220,100 | 78,400 | 220,100 | 226,600 | 220,100 | 2.95 |
| TOTAL ESTIMATED REVENUES | | 266,200 | 277,900 | 274,200 | 78,500 | 274,200 | 280,700 | 274,200 | 2.37 |
| EXPENDITURES | | | | | | | | | |
| PERSONNEL SVCS | | | | | | | | | |
| 101-5152-41100 | REGULAR FT & PERM PART-TIME | 17,900 | 19,300 | 20,300 | 9,200 | 0 | 20,700 | 20,300 | 1.97 |
| 101-5152-41300 | PERFORMANCE PAY | 200 | 600 | 0 | 0 | 0 | 0 | 0 | 0.00 |
| 101-5152-41640 | FICA/MEDICARE | 1,400 | 1,500 | 1,600 | 700 | 0 | 1,600 | 1,600 | 0.00 |
| 101-5152-41645 | PERA | 1,400 | 1,500 | 1,500 | 700 | 0 | 1,600 | 1,500 | 6.67 |
| 101-5152-41650 | Insurance Contrib | 3,100 | 3,000 | 3,200 | 2,900 | 0 | 5,000 | 3,200 | 56.25 |
| 101-5152-41660 | Workers' Comp | 100 | 100 | 100 | 0 | 0 | 100 | 100 | 0.00 |
| PERSONNEL SVCS | | 24,100 | 26,000 | 26,700 | 13,500 | 0 | 29,000 | 26,700 | 8.61 |
| MATERIAL & SUPPLIES | | | | | | | | | |
| 101-5152-42170 | Misc Mat & Sup | 100 | 0 | 300 | 0 | 0 | 300 | 300 | 0.00 |
| MATERIAL & SUPPLIES | | 100 | 0 | 300 | 0 | 0 | 300 | 300 | 0.00 |
| CONTRACTUAL SVCS | | | | | | | | | |
| 101-5152-43330 | Postage | 0 | 0 | 3,100 | 0 | 0 | 3,100 | 3,100 | 0.00 |
| 101-5152-43340 | Printing/Publishing | 1,500 | 0 | 4,000 | 0 | 0 | 4,000 | 4,000 | 0.00 |
| 101-5152-43351 | WASTE REMOVAL | 210,100 | 217,400 | 220,100 | 73,500 | 220,100 | 226,600 | 220,100 | 2.95 |
| 2018 RATE IS \$2.86 PER UNIT PER YEAR | | | | | | | | | |
| 2019 RATE IS \$2.95 PER UNIT PER YEAR | | | | | | | | | |
| 2020 RATE IS \$3.04 PER UNIT PER YEAR | | | | | | | | | |
| 2021 RATE IS \$3.13 PER UNIT PER YEAR | | | | | | | | | |
| 2022 RATE IS \$3.22 PER UNIT PER YEAR | | | | | | | | | |
| 2023 RATE IS \$3.31 PER UNIT PER YEAR | | | | | | | | | |
| GL # FOOTNOTE TOTAL: | | | | | | | | | |
| | | 220,100 | | | | 220,100 | 226,600 | 220,100 | |
| 101-5152-43352 | CLEAN-UP DAY EXP. | 11,900 | 8,600 | 9,000 | 1,000 | 9,000 | 10,000 | 9,000 | 11.11 |
| CONTRACTUAL SVCS | | 223,500 | 226,000 | 236,200 | 74,500 | 229,100 | 243,700 | 236,200 | 3.18 |
| TOTAL EXPENDITURES | | 247,700 | 252,000 | 263,200 | 88,000 | 229,100 | 273,000 | 263,200 | 3.72 |
| NET OF REVENUES/EXPENDITURES - FUND 101 | | 18,500 | 25,900 | 11,000 | (9,500) | 45,100 | 7,700 | 11,000 | (30.00) |



| | |
|------------------------------|-----------------|
| Agenda Section: | VII |
| Item: | 4 |
| Report Date: | 10/22/20 |
| Council Meeting Date: | 10/27/20 |

REQUEST FOR COUNCIL CONSIDERATION

| | |
|--|--|
| ITEM DESCRIPTION: | Consider Approval of a Certificate of Completion and Release of Forfeiture for 205 5th Avenue NW |
| DEPARTMENT HEAD'S APPROVAL: | Craig Schlichting, DCAD <i>CS</i> |
| CITY MANAGER'S APPROVAL: | <i>DM</i> |
| No comments to supplement this report | Comments attached |

15.99 Deadline: n/a

Recommendations: ▪ **Approval of the Certificate of Completion**

Legislative History: ▪ October 1993: Contract for Private Redevelopment entered into by the City of New Brighton and LRT, Inc to redevelop 205 5th Avenue NW

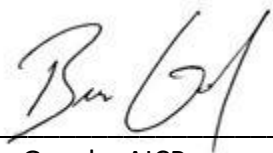
▪ July 1994: property becomes subject to an Assessment Agreement and Assessor's Certification which was to terminate ten years after issuance of a Certificate of Completion.

▪ November 1994: Certificate of Occupancy issued for the property indicating all improvements were completed, but no Certificate of Completion was ever issued.

Financial Impact: None

Summary: The property owner at 205 5th Avenue NW is seeking to complete a sale of the property, but a review of the title work shows that a "Certificate of Completion" relating to redevelopment in 1994 was never issued by the City. Successful operation of the site for the last quarter-century, issuance of a Certificate of Occupancy in 1994, and no indication of issues in the record compel staff to conclude the missing Certificate of Completion was due to oversight of the technical requirements of the redevelopment agreement. Adoption of the proposed Certificate of Completion would be retroactive to the date the Certificate of Occupancy was issued, thereby cleaning up the title and allowing the present sale to continue.

Attachments: 1) *Certificate of Completion and Release of Forfeiture for work previously completed at 205 5th Ave NW*

A handwritten signature in black ink, appearing to read 'Ben Gozola', positioned above a horizontal line.

Ben Gozola, AICP

Assistant Director of Community Assets and Development

CERTIFICATE OF COMPLETION AND RELEASE OF FORFEITURE

WHEREAS, the City of New Brighton, a Minnesota municipal corporation (the “City”), by a Quit Claim Deed dated May 3, 1994 and recorded on May 5, 1994 in the Office of County Recorder in and for the County of Ramsey, State of Minnesota, as Document Number 2804233 (the “Deed”), conveyed to LRT, Inc., a Minnesota corporation (the “Grantee”), the following described property (the “Property”):

Lot 1, Block 1, Brighton Corporate Park, Ramsey County, Minnesota, together with an appurtenant driveway easement as contained in Document Number 2564609;

WHEREAS, said Deed contained a covenant that Grantee would construct certain improvements on the Property in accordance with a Contract for Private Redevelopment by and between the City and Grantee dated October 26, 1993 (the “Redevelopment Agreement”);

WHEREAS, said Deed also contained a covenant that the City would issue and record a Certificate of Completion and Release of Forfeiture (“Certificate of Completion”) upon Grantee’s completion of the required improvements on the Property;

WHEREAS, the City and Grantee were parties to that certain Assessment Agreement and Assessor's Certification by and among the City, the Grantee and the County Assessor of the County of Ramsey, which document was recorded on July 29, 1994 in the Office of the County Recorder in and for the County of Ramsey, State of Minnesota, as Document Number 2821342 (the “Assessment Agreement”);

WHEREAS, Paragraph 2 of said Assessment Agreement stated that it would terminate ten (10) years after the issuance of the Certificate of Completion by the City in accordance with Section 4.4 of the Redevelopment Contract;

WHEREAS, it is assumed that Grantee constructed the requirement improvements on the Property because it received a Certificate of Occupancy for the Property from the City on November 1, 1994;

WHEREAS, the City should have issued the Certificate of Completion upon issuance of the Certificate of Occupancy, but due to an oversight, the Certificate of Completion was not formally issued or recorded;

WHEREAS, Grantee has requested that the City issue the required Certificate of Completion retroactively effective as of the date the Certificate of Occupancy was issued, and the City has agreed to provide said Certificate of Completion effective as of November 1, 1994;

NOW THEREFORE, BE IT RESOLVED, this document serves to certify that all building construction and other physical improvements specified to be done and made by the Grantee has been completed, the above covenants and conditions in said Deed have been performed by the Grantee, and that the provisions for forfeiture of title and right to re-entry are hereby released absolutely and forever, and the County Recorder in and for the County of Ramsey, State of Minnesota, is hereby authorized to accept for recording and to record this instrument, and the filing of this instrument shall be a conclusive determination of the satisfactory termination of the covenants and conditions referred to in said Deed, the breach of which would result in a forfeiture and right of re-entry.

FURTHER RESOLVED, that this Certificate of Completion is issued effective as of November 1, 1994 and is provided to terminate that certain Assessment Agreement and Assessor's Certification by and among the City of New Brighton, LRT, Inc. and the County Assessor of the County of Ramsey, which document was recorded on July 29, 1994 in the Office of County Recorder in and for the County of Ramsey, State of Minnesota, as Document Number 2821342.

[Signature page to follow]

IN WITNESS WHEREOF, the undersigned have signed this Certificate of Completion and Release of Forfeiture as of _____, 2020.

CITY OF NEW BRIGHTON

By: _____

Valerie Johnson

Its: Mayor

By: _____

Devin Massopust

Its: City Manager

State of Minnesota)
) ss
County of Ramsey)

On this ____ day of _____, 2020, before me, a notary public within and for Ramsey County, personally appeared Valerie Johnson and Devin Massopust to me personally known, who, being by me duly sworn, did say that they are the Mayor and the City Manager, respectively of the City of New Brighton named in the foregoing instrument; that said instrument was signed on behalf of said City by authority of its Council; and said Mayor and City Manager acknowledged said instrument to be the free act and deed of said City.

Notary Public

This instrument was drafted by:
Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402



| | |
|-----------------------|------------|
| Report Number: | V |
| Agenda Section: | VII |
| Report Date: | 10/22/2020 |
| Council Meeting Date: | 10/27/2020 |

REQUEST FOR COUNCIL CONSIDERATION

| | |
|--|-------------------------|
| ITEM DESCRIPTION: Consider Approval of Settlement Agreement and Release in the Matter of <i>Chandler, et al. v. Q.T. Property Management, LLC, et. al.</i> , Case No. 62-CV-20-2646, Ramsey County District Court | |
| DEPARTMENT HEAD'S APPROVAL: | |
| CITY MANAGER'S APPROVAL: | |
| No comments to supplement this report <u>DM</u> | Comments attached _____ |

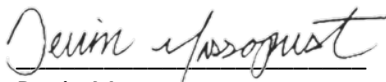
Recommendation: Approve Settlement Agreement and Release in the matter of *Chandler, et al. v. Q.T. Property Management, LLC, et. al.*, Case No. 62-CV-20-2646, Ramsey County District Court

Explanation:

As set forth in the Settlement Agreement, the Plaintiffs and City of New Brighton wish to avoid the time, expense, inconvenience, and uncertainties of litigation. Legal counsel for the parties have had an equal opportunity to participate in the drafting, review, and revision of this Settlement Agreement. By approving this Settlement Agreement, the parties do not admit any liability or validity of any claim in this matter. Please review the Settlement Agreement for more details.

The Plaintiffs have approved and signed this Settlement Agreement.

City staff recommend that the Council approve this Settlement Agreement.


Devin Massopust
City Manager

Attachments:

- Settlement Agreement and Release with Plaintiffs' Signatures

SETTLEMENT AGREEMENT AND RELEASE

Calondra Chandler, Brian Grieger, Arianna Jackson, and Arcadio Vega, and HOME Line (“Plaintiffs”), and the City of New Brighton (“City”), hereby agree and covenant as follows:

1. The parties to this Settlement Agreement and Release (“this Agreement”) wish to avoid the time, expense, inconvenience, and uncertainties of litigation. Accordingly, without any of the parties admitting any liability or admitting the validity of any claim, counterclaim, cause of action, or defense asserted, the parties wish to resolve and settle all disputes, claims, counterclaims, cause of actions, and defenses arising from the events that were the subject matter of the Action described in Paragraph 2 of this Agreement.
2. The parties to this Agreement desire to resolve all disputes raised between Plaintiffs and the City in *Chandler, et al. v. Q.T. Property Management, LLC, et al.*, Case No. 62-CV-20-2646, in the Ramsey County District Court, State of Minnesota (“the Action”).

THEREFORE, in consideration of the foregoing, and the mutual covenants and conditions contained in this Agreement, the parties agree as follows:

- A. This Agreement is entered into in good faith for the purpose of settling completely those disputes of the parties to this Agreement regarding the matters involved in the Action, including but not limited to the claims for damages and claims for attorney fees and costs.
- B. The City shall adopt an ordinance amending the city code regarding tenant notifications following the transfer of ownership for rental housing units and notice of potential sale of affordable rental housing buildings that is substantially similar to the draft proposed ordinance attached as Addendum A to this Agreement. The City also shall adopt a Rental License Application form that is substantially similar to the draft form attached as Addendum B to this Agreement.
- C. Except only for the representations or obligations of the parties under this Agreement, Plaintiffs and the City, and any and all of their beneficiaries, employees, agents, representatives, successors, assignees, transferees, joint ventures, attorneys, and insurers, hereby release and discharge the other and their past and present officers, directors, partners, elected officials, board members, employees, agents, representatives, affiliates, divisions, successors, stockholders, assignees, transferees, joint ventures, attorneys, insurers, and risk pools (including the League of Minnesota

Cities Insurance Trust) from all manner of claims, demands, actions, causes of actions, suits, debts, dues, sums of money, accounts, bills, covenants, contracts, rights, obligations, controversies, agreements, promises, and demands whatsoever, whether in law or equity, they ever had, or now have, whether known or unknown, against each other involving the matters at issue in the Action. This release and res judicata / collateral estoppel doctrines related to this settlement do not apply to the remaining Defendants in this Action.

- D. Plaintiffs agree to hold the City harmless, and specifically agree to indemnify the City for any claims, demands, or causes of action by any person or entity for contribution, indemnity, or similar doctrine, whether such is alleged to arise by reason of judgment, settlement, reallocation of fault in the event of insolvency or uncollectability of any award related to matters at issue in the Action. By this agreement, the City is discharged from its liability, if any, for contribution or indemnity with respect to Plaintiffs' claims for damages, and the claims of Plaintiffs are satisfied to the extent of the percentage of their total claims for damages arising out of the matters at issue in the Action that, by trial or other disposition, is determined to be the percentage of fault or negligence, if any, attributable to the City for claims, demands, or causes of action at issue in this Action. It is the intention of the parties that this release be construed in accord with the principles set forth in *Pierringer v. Hoyer*, 21 Wis. 2d 182, 124 N.W.2d 106 (1963), and *Frey v. Snelgrove*, 269 N.W.2d 918 (Minn. 1978), and their progeny.
- E. Plaintiffs brought the Action on behalf of themselves and all similarly situated tenants at Pike Lake Apartments in New Brighton. Plaintiffs allege in the Action that they will fairly and adequately protect the interests of class members. Plaintiffs' counsel is capable of vigorous representation of class members. The court has not certified a class. Plaintiffs agree that their release of claims against the City in this Agreement applies to all similarly situated tenants at Pike Lake Apartments in New Brighton.
- F. Each party will bear its own costs, expenses, and attorney fees that it has incurred in connection with or arising out of the Action.
- G. This Agreement shall be binding upon the successors and assigns of the parties, whether by way of merger, consolidation, operation of law, assignment, purchase, or other acquisition.
- H. All questions with respect to the construction of this Agreement and the rights and liabilities of the parties to this Agreement shall be governed by the laws of the State of Minnesota.

- I. This Agreement effects the settlement and release of claims and defenses, which are denied and contested by the parties, and nothing contained in this Agreement shall be construed as an admission of liability by either party.
- J. After full execution of this Agreement and after the City completes its obligation under Paragraph B, the attorneys for the parties shall arrange to file with the Court—within 10 business days from when the City completes its obligation under Paragraph B—a Stipulation to Dismiss the City of New Brighton With Prejudice in *Chandler, et al. v. Q.T. Property Management, LLC, et al.*, Case No. 62-CV-20-2646, in the Ramsey County District Court, State of Minnesota.
- K. Each party represents and warrants that it has not assigned or transferred, or purported to assign or transfer, any of the claims released pursuant to this Agreement to any other person and that it is fully entitled to compromise and settle such claims. Each party shall indemnify the other against all costs, expenses, and judgments, including all attorney fees incurred, in the event that any third party shall assert any of the claims released pursuant to this Agreement based on a purported assignment or transfer of rights by a party to this Agreement.
- L. This Agreement and any attachments represent the entire agreement between the parties with respect to the subject matter of the Agreement and supersedes all prior and contemporaneous oral and written agreements and discussions. Each of the parties covenants that it has not entered into this Agreement as a result of any representation, agreement, inducement, or coercion, except to the extent specifically provided in this Agreement. Each party further covenants that the consideration recited in this Agreement is the only consideration for entering into this Agreement, and that no promises or representations of other or further consideration have been made by any person. This Agreement may be amended only by a written agreement executed by all parties.
- M. This Agreement is the result of arms-length negotiations among the parties. All parties have participated in the negotiations, have had an equal opportunity to participate in the drafting and revision of this Agreement, and have had the opportunity to review this Agreement with their counsel. No ambiguity shall be construed against any party based upon a claim that the party in question drafted ambiguous language.
- N. This Agreement may be executed by the parties by facsimile and in identical counterparts, each of which shall constitute an original for all purposes.

- O. Plaintiffs, by executing this Agreement, agree that the City Council shall have until November 17, 2020, at 11:59 p.m. to meet and consider approval or rejection of this Agreement. From the time of execution hereof until such time, this Agreement and the offer of Plaintiffs as evidenced by the execution hereof, shall be irrevocable by Plaintiffs. If the City Council does not approve this Agreement by the above date and time, and if no extension is negotiated, then this Agreement shall be null and void.

WHEREFORE, the parties have executed this Settlement Agreement and Release effective as of the date first written.

Plaintiffs

Dated: _____

By: _____

Calondra Chandler

Dated: _____

By: _____

Brian Grieger

Dated: _____

By: _____

Arianna Jackson

Dated: _____

By: _____

Arcadio Vega

Dated: 10/20/20

By: 

HOME Line

Dated: _____

By: _____

Counsel for Plaintiffs

Plaintiffs

Dated: 10-16-2020

By: Calondra Chandler
Calondra Chandler

Dated: _____

By: Brian Grieger
Brian Grieger

Dated: 10-20-2020

By: Arianna Jackson
Arianna Jackson

Dated: 10-16-2020

By: Arcadio Vega
Arcadio Vega

Dated: _____

By: _____
HOME Line

Dated: _____

By: _____
Counsel for Plaintiffs

Plaintiffs

Dated: _____

By: _____

Calondra Chandler

Dated: October 20, 2020

By: _____

Brian Grieger
Brian Grieger

Dated: _____

By: _____

Arianna Jackson

Dated: _____

By: _____

Arcadio Vega

Dated: _____

By: _____

HOME Line

Dated: _____

By: _____

Counsel for Plaintiffs

The City of New Brighton

Dated:_____

By: _____
Mayor Val Johnson

Dated:_____

By: _____
City Clerk Terri Spangrud

ORDINANCE #2020-DRAFT

ORDINANCE AMENDING CITY CODE REGARDING TENANT NOTIFICATIONS FOLLOWING THE TRANSFER
OF OWNERSHIP FOR RENTAL HOUSING UNITS

The City of New Brighton does ordain:

§ TENANT NOTIFICATION AND NOTICE OF POTENTIAL SALE

(A) Purpose. The purpose of this Section is to provide housing stability, protection and notification to tenants in rental housing during an ownership transition. This Section requires notice to tenants and to the City whenever title to property containing three or more rental housing units is conveyed or otherwise transferred. Under the ordinance the owner would be required to pay resident relocation benefits if they take certain actions during the three-month tenant notification period and the resident needs to move as a result of that action. In addition, this section provides that when rental properties affordable to lower income households become available for sale, the City will receive notice so that it can make such information available to parties interested in purchasing the property with a goal of keeping rents affordable for lower income households.

(B) Definitions. The following definitions apply in this section. Defined terms remain defined terms, whether or not capitalized.

(1) Cause. The tenant or a member of the tenant's household materially violated a term of the lease or rental agreement, or violated an applicable federal, state, or local law or regulation.

(2) Housing building. A building with three or more rental units.

(3) Housing unit. A rental unit within a housing building.

(4) Material change. A change in the terms of a lease that significantly limits or restricts the tenants' use and enjoyment of a housing unit or the housing building.

(5) Tenant notification period. The period that commences on the date when a written notice of the transfer of ownership of a Housing Building is sent to each housing unit tenant pursuant to Section(C) and ends on the last day of the third full calendar month following the date on which the notice was sent. In no case shall the tenant notification period be less than 90 days.

(6) Available for Sale. The earliest implementation of any of the following actions: negotiating to enter into a purchase agreement that includes an Affordable Housing Building, advertising the sale of an Affordable Housing Building, entering into a listing agreement to sell an Affordable Housing Building, or posting a sign that an Affordable Housing Building is for sale.

(7) Transfer of Ownership. Any conveyance of title to an Affordable Housing Building , whether legal or equitable, voluntary or involuntary, resulting in a transfer of control of the building, effective as of the earlier of the date of delivery of the instrument of conveyance or the date the new owner takes possession.

(8) Affordable Housing Building. A multiple-family rental housing building having five (5) or more dwelling units where at least twenty (20) percent of the units rent for an amount that is affordable at no more than thirty (30) percent of income to households at or below eighty (80)

percent of area median income, as most recently determined by the United States Department of Housing and Urban Development for Low Income Housing Tax Credit (LIHTC) purposes, as adjusted for household size and number of bedrooms.

(C) Post Sale Notice

(1) Notice to tenants. Whenever title to property containing a housing building is conveyed or otherwise transferred, as a condition of receipt of a rental license, the new owner must within thirty (30) days after the real estate closing deliver written notice to each housing unit tenant that the housing building is under new ownership. The notice must include, at a minimum, the following information:

(a) The name, mailing address, and telephone number of the new owner.

(b) The following statement: "New Brighton City Code Section XXX provides for a three month tenant notification period for housing unit tenants. Under this Section, a housing unit tenant may be entitled to relocation assistance from the new owner if, during the three month tenant notification period, the new owner:

(i) terminates or does not renew the tenant's rental agreement without cause;

(ii) raises the rent and the tenant terminates his or her rental agreement due to the rent increase;

(iii) requires existing tenants to be rescreened or comply with new screening criteria and the owner or tenant terminates the tenant's lease based on that rescreening or failure to meet those new screening criteria;

(iv) imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease because of those material changes; or

(v) engages in construction activity at the property that would trigger federal, state, or local law regarding lead paint or asbestos safety."

(c) Whether there will be any rent increase within the three month tenant notification period and, if so, the amount of the rent increase and the date the rent increase will take effect.

(d) Whether the new owner will require existing housing unit tenants to be rescreened or comply with new screening criteria during the three month tenant notification period and, if so, a copy of the applicable screening criteria.

(e) Whether the new owner will, without the tenant's consent, impose a material change in the terms of the lease during the three month tenant notification period and, if so, the language of the material change and explanation of its effect.

(f) Whether the new owner will terminate or not renew rental agreements without cause during the three month tenant notification period and, if so, notice to the

affected housing unit tenants whose rental agreements will terminate and the date the rental agreements will terminate.

(g) Whether the new owner intends to increase rent, require existing tenants to be rescreened to determine compliance with existing or modified residency screening criteria, terminate or not renew housing unit rental agreements, or impose a material change in the terms of the lease without cause within thirty (30) days immediately following the tenant notification period.

(g) Whether the new owner intends to engage in construction activity at the property that would trigger federal, state, or local law regarding lead paint or asbestos safety.

(i) The date that the tenant notification period will expire.

(2) Language requirement. Each notice required by this Section shall contain an advisory that reads as follows: "This is important information about your housing. If you do not understand it, have someone translate it for you now, or request a translation from your landlord." This advisory must be stated in the notice in the following languages: English, Spanish, Somali, Karen, and Hmong. Upon written request by a tenant that identifies the tenant's native language, the owner must provide a written translation of the notice in that language.

(3) Notice to the City. The new owner must deliver a copy of the notice required by clause (C1) to the City of New Brighton Community Assets and Development Department at the same time that the notice is delivered to tenants.

(4) Required tenant notification period. The new owner of a housing building must not terminate or not renew a tenant's rental agreement without cause, raise rent, rescreen existing tenants, or impose a material change to the terms of the lease during the tenant notification period without providing the notices required by clause (C) of this Section.

(D) Relocation Assistance

(1) When Required. A new owner of a housing building must pay relocation assistance to housing unit tenants if, during the three month tenant notification period, the new owner:

- (a) terminates or does not renew the tenant's rental agreement without cause;
- (b) raises the rent and the tenant terminates his or her rental agreement due to the rent increase;
- (c) requires existing tenants to be rescreened or comply with new screening criteria and the owner or tenant terminates the tenant's lease; or
- (d) imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease.

(2) Amount. Relocation assistance is an amount equal to three months of the current monthly lease rent.

(3) When Paid. The new owner shall, when required, pay relocation assistance to the tenant of a housing unit within thirty (30) days after receiving tenant's written notice of termination of the

lease or within thirty (30) days after the owner notifies the tenant that the lease will be terminated or not renewed.

(E) Tenant Complaints

(1) A tenant of a housing unit who believes the new owner has not provided the tenant the notifications required under this Section may submit a notice of violation to the City. The purpose of the notice is to inform the City of an alleged violation of this Section to assist the City in determining whether to impose an administrative penalty provided for in this Section. The City is not required to take any particular action in response to a notice of violation and any enforcement action it does take shall be on behalf of the City, not the tenant. Filing a notice of violation does not prohibit the tenant from pursuing any remedy available to the tenant under law.

(F) Notice to the City of proposed sale.

(1) Notice to the City. Any owner or representative of the owner who intends to make Available for Sale any Affordable Housing Building shall notify the Director of the Department of Community Assets and Development. The notice shall be on a form prescribed by the City stating the owner's intent to make Available for Sale the Affordable Housing Building and which may include, at the City's sole discretion, some or all of the following information:

- (a) Owner's name, phone number, and mailing address;
- (b) Address of the Affordable Housing Building that will be made Available for Sale;
- (c) Total number of dwelling units in the building; and
- (d) Number and type (e.g., efficiency, one bedroom, two bedrooms, etc.) of affordable housing dwelling units in the building and the contract rent for every dwelling unit in the building.

(2) Manner and timing of notice. The notice shall be mailed, or hand delivered to the Director of the Department of Community Assets and Development no later than ninety (90) days prior to the Affordable Housing Building being made Available for Sale. The notice shall also be delivered directly to all affected tenants and include the following language requirement: "This is important information about your housing. If you do not understand it, have someone translate it for you now, or request a translation from your landlord." This advisory must be stated in the notice in the following languages: English, Spanish, Somali, Karen, and Hmong. This notice shall be delivered to all affected tenants no later than ninety (90) days prior to the Affordable Housing Building being made Available for Sale. Upon request by the tenant, the owner must provide a written translation of the notice into the tenant's preferred language of ones listed above.

(3) Exclusions. This Notice of Potential Sale requirement shall not apply to the sale or transfer of title of an Affordable Housing Building already subject to federal, state, or local rent or income restrictions that continue to remain in effect after the sale or transfer or with respect to the sale or transfer of a residential rental building in which the buyer contracts with the City to maintain

the property in compliance with the definition of "Affordable Housing building" set out at section B 8 above, for a period of no less than ten years.

(G) Penalty

(1) A violation of this Section is an administrative offense that may be subject to an administrative citation and civil penalties as provided in City Code Section XXX. Notwithstanding any provision of City Code Section XXX, the penalty for a violation of clauses (C) and/or (D) shall be the sum of the applicable amount of relocation assistance plus \$500.

(2) A violation of this ordinance shall constitute a separate offense for each dwelling unit affected.

(3) Within thirty (30) days after a person pays the penalty in clause (G)(1) to the City, the City shall pay to the displaced tenant of the housing unit in which the violation occurred an amount equal to the relocation assistance amount specified in Section D.

(4) In addition, any tenant aggrieved by a landlord's noncompliance with this Chapter may seek redress in any court of competent jurisdiction to the extent permitted by law.



RENTAL LICENSE APPLICATION

License Type: ☐ NEW ☐ RENEWAL

Total Number of Buildings: _____ **Total Number of Units:** _____

I. Building/Complex Information

Address of Property: _____

Name of Complex (if applicable): _____

Contracted Recycling Company (required): _____

II. Owner Information

(name & maiden name if applicable) (mailing address) (st) (zip)

(office phone #) (cell phone #) (email)

Drivers License / State ID: _____

III. Property Manager Information (if different from above)

(name & maiden name if applicable) (mailing address) (st) (zip)

(office phone #) (cell phone #) (email)

Drivers License / State ID: _____

IV. Smoke Detector Inspection (check all items that are true)

☐ *I have personally inspected and tested the smoke detectors on this property, and all were found to be in place and in working order.*

☐ *I affirm that I have explained to an occupant of each dwelling the location and operation of each smoke detector, instructions describing the action to be taken when an alarm sounds, procedure for period testing, and contacting the owner when a low-battery tone occurs, power light failure, or the inoperative condition of, or defective smoke detector*

V. Applicant Agreements (check all items that are true)

- ☐ I have read and understand Articles 3 through 5 of the City of New Brighton Ordinance regarding rental licensing, and understand that I am subject to all of the requirements listed in addition to other City ordinances.
- ☐ I understand that all rental properties requiring a license must undergo housing inspections.
- ☐ I understand that all tenants must be included on a written lease
- ☐ I understand that all rental licenses must be renewed annually and prior to the established renewal deadline, and that **the City is not required to notify me of such renewal date**. I also understand that failure to submit a renewal application prior to the designated renewal deadline may result in late fees and/or administrative or criminal citations.
- ☐ I understand that it is the owner/manager's responsibility to pursue the necessary actions to renew said license in a timely manner, including but not limited to:
- Submission of an application
 - Scheduling and passing any necessary inspections
 - Payment of fees
- ☐ I understand that rental licenses are not transferable, and that new owner(s) must apply for a new license.
- ☐ I understand that the City must be notified, in writing, of any change of information on this application.

VI. Affirmation of Obligations

I understand and affirm that I will operate and maintain the subject premises identified herein according to the requirements of New Brighton City Code, Chapter 13, and agree to allow inspections as required by the City Code. I hereby affirm that I am the owner or authorized agent of the owner, and the answers contained herein are true and accurate in all respects to the best of my knowledge and belief.

Applicant's Signature: _____ **Date:** _____

Print Name: _____

If you have any questions about the City of New Brighton's Rental Licensing Program, please contact our code compliance officer at (651) 638-2061, or send an email to: Scott.Gigrich@newbrightonmn.gov

ADMINISTRATIVE USE ONLY:

Date Application Received: _____ Date Approved: _____

Fee Paid: _____ Expires on: _____



| | |
|-----------------------|------------|
| Report Number: | 6 |
| Agenda Section: | Consent |
| Report Date: | 10/22/2020 |
| Council Meeting Date: | 10/27/2020 |

REQUEST FOR COUNCIL CONSIDERATION

| | |
|--|--|
| ITEM DESCRIPTION: | Approve Step Increase for City Manager |
| DEPARTMENT HEAD'S APPROVAL: | GMS |
| CITY MANAGER'S APPROVAL: | DM |
| No comments to supplement this report | Comments attached ____ |

Recommendation: Approve Step Increase for City Manager

Legislative History: 3/24/20 – Approve City Manager Employment Contract
10/13/20 – Hold City Manager Six-Month Performance Review

Explanation:

The current City Manager Employment contract that was approved on March 24th, 2020 indicated that the City Manager must receive a six-month performance review. This review was conducted by the City Council on October 13th, 2020. The contract also notes that the City Council “agrees to consider, but is not obligated to grant an increase in compensation” depending on the result of the six-month performance review. The City Manager salary and related step increases have been budgeted for in the 2020 budget which will continue to see cost savings due to the transition to a new City Manager. If approved, the City Manager would move from Grade 16 – Step 5 to Grade 16 – Step 6. City Manager Devin Massopust has asked for formal council approval on this item.

Gina Smith
Interim Finance Director

Attachments: None



| |
|---------------------------------------|
| AGENDA SECTION: Public Hearing |
|---------------------------------------|

| |
|--------------------------------------|
| REPORT DATE: October 23, 2020 |
|--------------------------------------|

| |
|---------------------------------------|
| MEETING DATE: October 27, 2020 |
|---------------------------------------|

REQUEST FOR CITY COUNCIL CONSIDERATION

| |
|---|
| ITEM DESCRIPTION: 2020 SPECIAL ASSESSMENT REPORT AND PUBLIC HEARING FOR PROJECT 19-1, 2019 STREET REHABILITATION |
| DEPARTMENT HEAD'S APPROVAL: Craig Schlichting – Director of Community Assets and Development <u>CS</u> |
| CITY MANAGER APPROVAL: |
| No comments to supplement this report <u>DM</u> Comments attached _____ |

Recommendation: To hold a Public Hearing and adopt the assessment resolution contained in the attached 2020 Special Assessment Report, Project 19-1, 2019 Street Rehabilitation.

Legislative History:

| | |
|-------------------|---|
| January 22, 2019 | City Council adopted a resolution ordering staff to prepare a Feasibility Study for City Project 19-1, 2019 Street Rehabilitation. |
| January 31, 2019 | A neighborhood informational meeting was held with residents who are affected by the project. |
| February 26, 2019 | City Council accepted the Feasibility Study for Project 19-1, 2019 Street Rehabilitation and set the Public Improvement Hearing for March 26, 2019. |
| March 6, 2019 | Staff met with the Parks, Recreation, and Environmental Committee. |
| March 26, 2019 | Public Improvement Hearing held and City Council ordered project 19-1, 2019 Street Rehabilitation. |
| April 23, 2019 | City Council approved Plans and Specifications and Authorized Advertisement for Bids. |
| May 22, 2019 | Bids opened by Staff |
| May 28, 2019 | Bids accepted by Council and contract awarded to Northdale Construction Company, Inc. |

Financial Impact: Project 19-1 is proposed to be funded from special assessments, utility improvement funds, City taxes, and grant funding received from the Metropolitan Council (MCES).

Explanation: City Project 19-1, 2019 Street Rehabilitation consisted of the reconstruction of approximately 2.81 miles of residential streets by the removal of the existing bituminous surfacing, removal and replacement of sections of concrete curb and gutter, storm sewer construction, watermain and hydrant replacement, sanitary sewer replacement, pond dredging,

street excavation and grading, aggregate base, bituminous surfacing, and boulevard repair on the following streets:

| | | |
|----------------------------|---|---|
| Continental Drive | - | County Road D to Imperial Lane |
| 7 th Street SW | - | Continental Drive to McCallum Drive |
| Riviera Drive | - | 7 th Street SW to Imperial Lane |
| Riviera Court | - | Riviera Drive to cul-de-sac |
| McCallum Drive | - | County Road D to Continental Drive |
| 15 th Avenue SW | - | Foss Road to cul-de-sac |
| Cord Circle | - | 15 th Avenue SW to cul-de-sac |
| Rolls Road | - | 15 th Avenue SW to Continental Drive |
| Benz Road | - | Rolls Road to Imperial Lane |
| Imperial Lane | - | Foss Road to cul-de-sac |
| 9 th Avenue SW | - | Foss Road to cul-de-sac |
| 5 th Street SW | - | 9 th Avenue SW to 10 th Avenue SW |
| 10 th Avenue SW | - | 5 th Street SW to 6 th Street SW |
| 6 th Street SW | - | 10 th Avenue SW to Old Highway 8 SW |
| Sunset Lane | - | 10 th Avenue SW to Riviera Drive |

Attached is the 2020 Assessment Report, which contains the project costs, assessment rates, project location map, and the resolution necessary for the adoption of the assessments.



Craig Schlichting, P.E.

Director of Community Assets and Development

Attachments:

- 2020 Special Assessment Report and Resolution



2020 SPECIAL ASSESSMENT REPORT

- PROJECT 19-1, 2019 STREET REHABILITATION
-

City of New Brighton
Department of Community Assets and Development

PROJECT 19-1, 2019 STREET REHABILITATION

SPECIAL ASSESSMENT REPORT

INDEX

| ITEM | PAGE |
|--|-------------|
| 2020 Special Assessment Report Introduction | 1 |
| Project 19-1, Remarks | 2 |
| Project 19-1, Project Costs..... | 5 |
| Project 19-1, Project Funding | 5 |
| Project 19-1, Proposed Assessment Procedure | 9 |
| Project 19-1, Resolution Adopting Assessments | 10 |
| Project 19-1, Street Rehabilitation Assessment Breakdown Map | 11 |
| Project 19-1, Watermain Replacement Map..... | 12 |
| Project 19-1, Storm Sewer Improvements Map..... | 13 |
| Project 19-1, Sanitary Sewer Repairs Map | 14 |

APPENDIX

- A. Project 19-1 Resolution Declaring Costs and Setting Public Hearing
 - Project 19-1 Public Hearing Notice
 - Project 19-1 Public Hearing Information Letter
- B. Project 19-1 Project Cost Breakdown & Assessment Rate Computations
 - Project 19-1 First Year Interest Computations
 - Project 19-1 Example Assessment Payoff Schedule
- C. New Brighton City Code Senior Citizen Assessment Deferral Procedure

2020 SPECIAL ASSESSMENT REPORT

INTRODUCTION

This report contains the final project cost figures and special assessment information for Project 19-1, 2019 Street Rehabilitation to be assessed on October 27, 2020.

The final project costs, project area maps, assessment rate computations, and the resolutions for adoption of the assessments are contained in the following sections of this report. A copy of the hearing notices and informational letters mailed to the residents concerning the special assessing of these projects are included in Appendix A of this report.

The procedure for payment of special assessments is as follows:

After the City Council orders the special assessments, residents will have 30 days to pay the assessment without interest. The City will accept payments at the office of the City Clerk during this period. Payments will be accepted in the utility payment drop box or by mail. If residents choose not to pay off the assessment, it is certified to the County Auditor for collection with real estate taxes. The first installment of the special assessment will appear on the 2021 tax statement bearing approximately 14 months' interest for the period October 28, 2020 through December 31, 2021.

We are recommending an interest rate of 3.00 percent per year on the unpaid balance of the assessment be charged. We are recommending the assessments be spread over a 10-year collection period, which would be similar to past projects. Permanent financing for these projects will be provided for by City taxes, and special assessments.

The City has an ordinance for the deferment of special assessments for elderly residents. A copy of the Senior Citizen Assessment Deferral Procedure, Section 2-3 thru 2-7 of the New Brighton City Code is included in Appendix C of this report. To qualify for a deferment, residents must be more than 65 years old and the annual average amount of their assessment must exceed 1.00 percent of their adjusted annual gross income.



Craig Schlichting, P.E.

Director of Community Assets & Development

PROJECT 19-1, 2019 STREET REHABILITATION

REMARKS

Project 19-1, 2019 Street Rehabilitation, consisted of the rehabilitation of the following streets between the summer of 2019 and summer of 2020:

| | |
|----------------------------------|---|
| Continental Drive | County Road D to Imperial Lane |
| 7th Street SW | Continental Drive to McCallum Drive |
| Riviera Drive | 7 th Street SW to Imperial Lane |
| Riviera Court | Riviera Drive to cul-de-sac |
| McCallum Drive | County Road D to Continental Drive |
| 15th Avenue SW | Foss Road to cul-de-sac |
| Cord Circle | 15 th Avenue SW to cul-de-sac |
| Rolls Road | 15 th Avenue SW to Continental Drive |
| Benz Road | Rolls Road to Imperial Lane |
| Imperial Lane | Foss Road to cul-de-sac |
| 9th Avenue SW | Foss Road to cul-de-sac |
| 5th Street SW | 9 th Avenue SW to 10 th Avenue SW |
| 10th Avenue SW | 5 th Street SW to 6 th Street SW |
| 6th Street SW | 10 th Avenue SW to Old Highway 8 SW |
| Sunset Lane | 10 th Avenue SW to Riviera Drive |

The location of these streets is shown on the Street Rehabilitation Assessment Breakdown Map on page 11.

The total length of all the streets included in this project is approximately 2.81 miles. Each street in the project corridor is a low-speed, low-volume, 32-foot wide residential street. All streets in this project area have either existing S412, or B618 curb and gutter.

The City Council ordered this project at a Public Improvement Hearing on March 26, 2019. A contract was awarded to Northdale Construction Company, Inc. who substantially completed the project in the August of 2020. Prior to issuing the final payment, the contractor provided IC-134 documents indicating that all of the subcontractors have been paid. The contract quantities were agreed to by the contractor and the final payment amount was approved at the October 13, 2020 City Council Meeting.

CONSTRUCTION

STREET REHABILITATION

All construction activities under this improvement project were done under contract with Northdale Construction Company, Inc. The Department of Community Assets and Development

2020 SPECIAL ASSESSMENT REPORT
PROJECT 19-1, 2019 STREET REHABILITATION

administered the contract and provided the engineering services with the exception of the preliminary soil engineering, construction testing, and construction surveying.

The contract work consisted of the removal and replacement of the existing street surfacing and aggregate base, removal and replacement of specified areas of curb and gutter, and pedestrian ramp upgrades. All streets were rehabilitated to their existing width and a standard 7-ton bituminous pavement design thickness. During construction, several areas of unsuitable material were encountered within the street corridor. To address this and to achieve adequate strength and ensure pavement longevity, the material was removed and replaced with additional class 5 aggregate base and where required, geotextile fabric.

Boulevards were restored with topsoil and sod where disturbed.

WATER SYSTEM IMPROVEMENTS

The watermain along 15th Avenue SW, Cord Circle, Rolls Road, Benz Road, Continental Drive, 7th Street SW, Riviera Drive, Riviera Court, McCallum Drive, and Imperial Lane was replaced with 6" ductile iron pipe. The previous sections of watermain were 6-inch cast iron pipe, which were constructed in the early 1960's and had experienced numerous breaks throughout the years.

Water system improvements also included the replacement of valves, hydrants, and water services from the main to the property line.

A majority of the existing watermain that was replaced was located in close proximity to the curb line, which required the removal and replacement of the curb, driveway ends, and boulevard areas.

Refer to the Watermain Replacement Map on Page 12.

STORM SEWER SYSTEM IMPROVEMENTS

As a result of the flooding that occurred in July of 2011, the City added additional catch basins and storm sewer to critical areas located along Imperial Lane and Riviera Drive in 2013. During the design phase of project 19-1, staff completed an updated storm water analysis and recognized the need for additional storm sewer to further capture highly concentrated flows during large rain events. This was addressed by installing additional storm sewer and catch basins along Riviera Drive to Sunset Lane.

Several existing storm sewer catch basins which were constructed of block were also replaced with modern precast concrete structures and high capacity, bicycle safe grates. Additionally, all structures located within the roadway or curb line received an internal ring-sealing compound to prevent infiltration and loss of the underlying road surface. This work was coordinated directly by the City and paid for by the Utility Enterprise Fund.

During the winter months, 1,900 cubic yards of accumulated sediment within Imperial Pond (located adjacent to Foss Road and Imperial Lane) was also removed. The removal of this

2020 SPECIAL ASSESSMENT REPORT
PROJECT 19-1, 2019 STREET REHABILITATION

sediment will ensure proper functionality of the pond and will be documented with the City's MS4 permit.

Refer to the Storm Sewer Improvement Map on Page 13.

SANITARY SEWER SYSTEM IMPROVEMENTS

Approximately 1,700 feet of sanitary sewer main located along Riviera Drive, Riviera Court, 7th Street SW, and McCallum Drive was replaced with new 8" PVC sewer main. The previous verified clay pipe (VCP) sewer mains were found to have extensive cracking and fractures which required replacement. Additionally, two areas were identified during annual televising as needing spot repairs. These repairs included replacing smaller lengths of pipe due to sags and offset joints in the existing sewer main.

Similar to the storm sewer structures, all sanitary manholes received an internal ring-sealing compound to prevent infiltration and loss of the underlying road surface. This work was coordinated directly by the City and paid for by the Utility Enterprise Fund.

Refer to the Sanitary Sewer Repairs Map on Page 14.

SIDEWALK/STRIPING IMPROVEMENTS

All existing pedestrian curb ramps in the project corridor were removed and replaced to meet current ADA requirements.

FINAL PROJECT COSTS

The total project costs for Project 19-1 are as follows:

| | Project Item | Item Total |
|-----|----------------------------|-----------------------|
| | Construction Costs | \$6,617,156.97 |
| | In-house Engineering | \$200,000 |
| | Materials/Permits | \$3,378.92 |
| (1) | Professional Services | \$204,236.17 |
| | Printing & Publishing | \$884.74 |
| (2) | Bond Issuance Costs | \$43,125.00 |
| | Total Project Costs | \$7,068,781.80 |

(1) Includes testing, geotechnical services, residential irrigation repair reimbursements, and residential driveway replacement credits.

(2) Internal carrying cost incurred by the City

PROJECT COST BREAKDOWN

This project is funded from a combination of City of New Brighton general taxes, special assessments, Water Improvement Funds, Sanitary Sewer Improvement Funds, and Storm Water

2020 SPECIAL ASSESSMENT REPORT
PROJECT 19-1, 2019 STREET REHABILITATION

Improvement Funds. The City also received a total of \$50,717.19 in grant funding from the Metropolitan Council (MCES) for sanitary sewer repairs completed with the project. A breakdown of the project cost is as follows:

| | PROJECT TOTAL | CITY COSTS | SPECIAL ASSESSMENT COSTS |
|-----------------------------|-----------------------|-----------------------|-----------------------------|
| Street Rehabilitation | \$3,357,086.74 | (1) \$2,517,815.06 | (2) \$839,271.69 |
| Watermain Replacement | \$2,104,213.03 | \$2,104,213.03 | - |
| Sanitary Sewer Repairs | \$298,858.61 | \$298,858.61 | - |
| Storm Sewer Improvements | \$1,308,623.42 | \$1,308,623.42 | - |
| TOTALS | \$7,068,781.80 | \$6,229,510.12 | \$839,271.69 |

- (1) 75 percent of Street Rehabilitation costs.
(2) 25 percent of Street Rehabilitation costs.

PROPOSED STREET RECONSTRUCTION FUNDING

In accordance with the assessment policies of New Brighton's Comprehensive Street Plan for streets reconstructed to City standards with existing concrete curb and gutter, 25 percent of the street surfacing repair costs are special assessed against the benefiting properties in the project. The remaining costs are to be paid from City of New Brighton general taxes.

STREETS

The assessment area of this project includes a mixture of single family lots and multi-family use properties. To address this, each benefitting parcel will be assessed on a per lot basis with property use and density taken into account. A description of the assessment methodology for each property use is provided below.

Single-Family Lots – Each single-family lot will be assessed equally on a per lot basis. This method has historically been the most common and equitable type of special assessment where lots are generally the same size, same use, and receive the same benefit from the project.

Multi-Family Lots – Each multi-family lot will be expressed in terms of equivalent lots based on their use and density. To do this, each multi-family lot will be converted to equivalent lots according to the number of addresses or dwelling units attached to each property identification number (PIN). Historically, this method has been used to assess properties of the same classification where property use and density are taken into account and each unit receives the same benefit from the project.

2020 SPECIAL ASSESSMENT REPORT
PROJECT 19-1, 2019 STREET REHABILITATION

The breakdown of the areas to be specially assessed is as follows:

TYPICAL NEW BRIGHTON SINGLE FAMILY LOT

75 FEET X 135 FEET = 10,125 SQUARE FEET

Single Family

| | |
|----------------------------|---------|
| CONTINENTAL DRIVE | 55 LOTS |
| 7 TH STREET SW | 19 LOTS |
| RIVIERA DRIVE | 50 LOTS |
| RIVIERA COURT | 5 LOTS |
| MCCALLUM DRIVE | 25 LOTS |
| 15 TH AVENUE SW | 13 LOTS |
| CORD CIRCLE | 7 LOTS |
| ROLLS ROAD | 20 LOTS |
| BENZ ROAD | 8 LOTS |
| IMPERIAL LANE | 29 LOTS |
| 9 TH AVENUE SW | 17 LOTS |
| 5 TH STREET SW | 4 LOTS |
| 10 TH AVENUE SW | 14 LOTS |
| 6 TH STREET SW | 14 LOTS |
| SUNSET LANE | 3 LOTS |

Multi-Family

| | |
|------------------------------|-----------------|
| 6 th Street SW | 14 LOTS |
| TOTAL ASSESSABLE LOTS | 297 LOTS |

2020 SPECIAL ASSESSMENT REPORT
PROJECT 19-1, 2019 STREET REHABILITATION

The assessable properties are shown on the Street Rehabilitation Assessment Breakdown Map on page 11.

Dividing the cost to be assessed of \$839,271.69 by 297 lots equals an assessment rate of:
\$2,825.83 PER LOT
(was \$3,065 in Feasibility Study)

CALCULATION DETAILS

| | | |
|-----------------------------|---------------------|--------------|
| TOTAL ASSESSABLE COST | \$839,271.69 | |
| NUMBER OF LOTS | 297 | |
| ASSESSMENT RATE PER LOT | \$2,825.83 | |
| <u>SINGLE-FAMILY</u> | | |
| CONTINENTAL DRIVE | 55 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$155,420.65 | TOTAL |
| 7 TH STREET SW | 19 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$53,690.77 | TOTAL |
| RIVIERA DRIVE | 50 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$141,291.50 | TOTAL |
| RIVIERA COURT | 5 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$14,129.15 | TOTAL |
| MCCALLUM DRIVE | 25 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$70,645.75 | TOTAL |
| 15 TH AVENUE SW | 13 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$36,735.79 | TOTAL |
| CORD CIRCLE | 7 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$19,780.81 | TOTAL |
| ROLLS ROAD | 20 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$56,516.60 | TOTAL |
| BENZ ROAD | 8 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$22,606.64 | TOTAL |
| IMPERIAL LANE | 29 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$81,949.07 | TOTAL |

**2020 SPECIAL ASSESSMENT REPORT
PROJECT 19-1, 2019 STREET REHABILITATION**

| | | |
|---|--------------------|--------------|
| 9TH AVENUE SW | 17 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$48,039.11 | TOTAL |
| 5TH STREET SW | 4 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$11,303.32 | TOTAL |
| 10TH AVENUE SW | 14 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$39,561.62 | TOTAL |
| 6TH STREET SW | 14 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$39,561.62 | TOTAL |
| SUNSET LANE | 3 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$8,477.49 | TOTAL |
| MULTI-FAMILY LOTS (6TH STREET SW) | 14 | LOTS |
| | \$2,825.83 | PER LOT |
| | \$39,561.62 | TOTAL |

(Assessment Rate Calculations can be found in Appendix B)

ASSESSMENT PROCEDURE

A special assessment hearing is required to levy assessments. At the special assessment hearing, the Council will determine the method of assessment to be used, the amounts of the assessment based on actual costs, the interest rate to be charged, and the period of years over which the assessment is to be spread. Property owners who are assessed are provided with a 30-day period to pay off their assessment without interest charges once the Council approves the assessment. Assessments that are not paid off during this 30-day period are certified to Ramsey County to be collected with real estate taxes under the terms set by Council at the assessment hearing. The first payment of the levied assessment would appear on the 2021 year's tax statement and would include about 14 months' interest from the date of the assessment hearing through the end of 2021. Assessment rate calculations and an example special assessment payment schedule of the estimated assessment for this project appears in Appendix B.

The City has adopted an ordinance for the deferment of special assessments for elderly residents; see a copy of Section 2 of the New Brighton City Code in Appendix B. To qualify for a deferment, residents must be 65 years of age or older and the average annual amount of all their assessments must exceed one percent of their Federal adjusted gross income.

WATERMAIN REPLACEMENT FUNDING – The total cost of the water system improvements, \$2,104,213.03 is to be paid from the Water System Improvement Fund.

**2020 SPECIAL ASSESSMENT REPORT
PROJECT 19-1, 2019 STREET REHABILITATION**

SANITARY SEWER REPAIR FUNDING - The total cost of the sanitary sewer system improvements, \$298,858.61 and \$23,970.00 for flex sealing is to be paid from the Sanitary Sewer Improvement Fund. The \$50,717.19 in grant funding received from the MCES will also be applied to fund the sanitary sewer repairs.

STORM SEWER IMPROVEMENTS FUNDING – The total cost of the storm sewer system improvements, \$1,308,623.42 and \$24,290.00 for flex sealing is to be paid from the Storm Sewer Improvement Fund.

RECOMMENDATION

To **APPROVE THE RESOLUTION ADOPTING THE SPECIAL ASSESSMENTS FOR PROJECT 19-1, 2019 STREET REHABILITATION**, found on page10.

This resolution includes a 3.00 percent interest rate and a 10-year collection period.

**2020 SPECIAL ASSESSMENT REPORT
PROJECT 19-1, 2019 STREET REHABILITATION**

SANITARY SEWER REPAIR FUNDING - The total cost of the sanitary sewer system improvements, \$298,858.61 is to be paid from the Sanitary Sewer Improvement Fund. The \$50,717.19 in grant funding received from the MCES will also be applied to fund the sanitary sewer repairs.

STORM SEWER IMPROVEMENTS FUNDING – The total cost of the storm sewer system improvements, \$1,308,623.42 is to be paid from the Storm Sewer Improvement Fund.

RECOMMENDATION

To **APPROVE THE RESOLUTION ADOPTING THE SPECIAL ASSESSMENTS FOR PROJECT 19-1, 2019 STREET REHABILITATION**, found on page10.

This resolution includes a 3.00 percent interest rate and a 10-year collection period.

RESOLUTION NO. 20-

STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF NEW BRIGHTON

RESOLUTION ADOPTING ASSESSMENTS ON PROJECT 19-1, 2019 STREET REHABILITATION

BE IT RESOLVED by the City Council of the City of New Brighton, Minnesota as follows:

WHEREAS, pursuant to proper notice duly given as required by law, the City Council has met and heard and passed the proposed assessment of the benefited lots in the area.

BY: The construction of storm sewer, watermain improvements, sanitary sewer improvements, and street rehabilitation.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of New Brighton, Minnesota:

1. The total amount to be assessed is \$839,271.69.
2. Such proposed assessment, referred to as Special Assessment Number 63191000 is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the improvement in the amount of the assessment levied against it.
3. Such assessment shall be payable in equal annual installments extending over a period of ten (10) years, the first installment to be payable on or after the first Monday in January 2021 and shall bear interest at the rate of 3.00 percent per annum from the adoption of this assessment resolution.
4. The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor pay the whole of the assessment on such property with interest accrued to the date of payment, to the City Treasurer, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this resolution and he may, at any time thereafter, pay the County Treasurer, the balance of assessments remaining unpaid with interest accrued in accordance with the statutes such in case made and provided.
5. The Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax list of the County and such assessments shall be collected and paid over the same manner as other municipal taxes.

ADOPTED this 27th day of October, 2020, by the New Brighton City Council with a vote of _____ ayes and _____ nays.

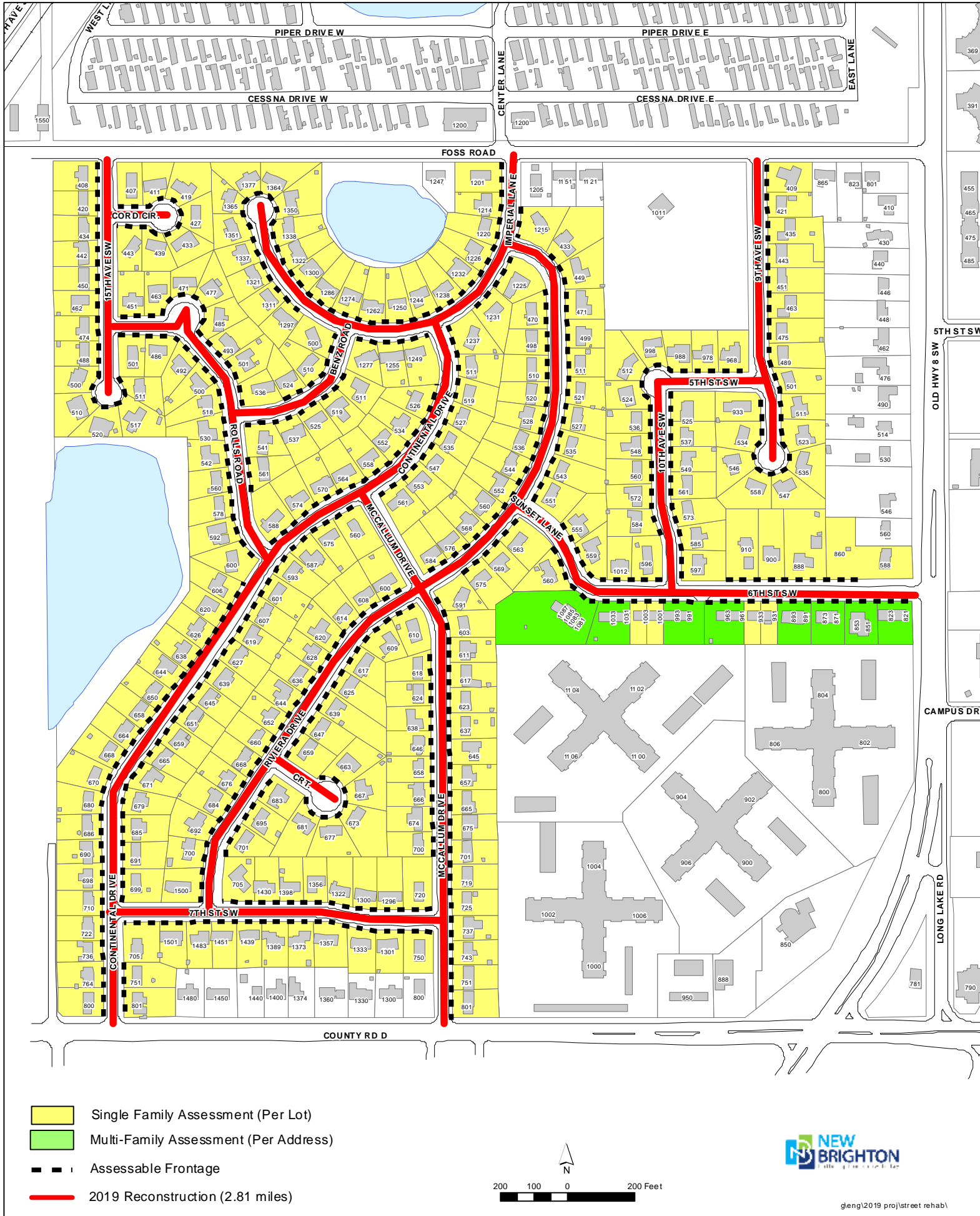
Valerie Johnson, Mayor

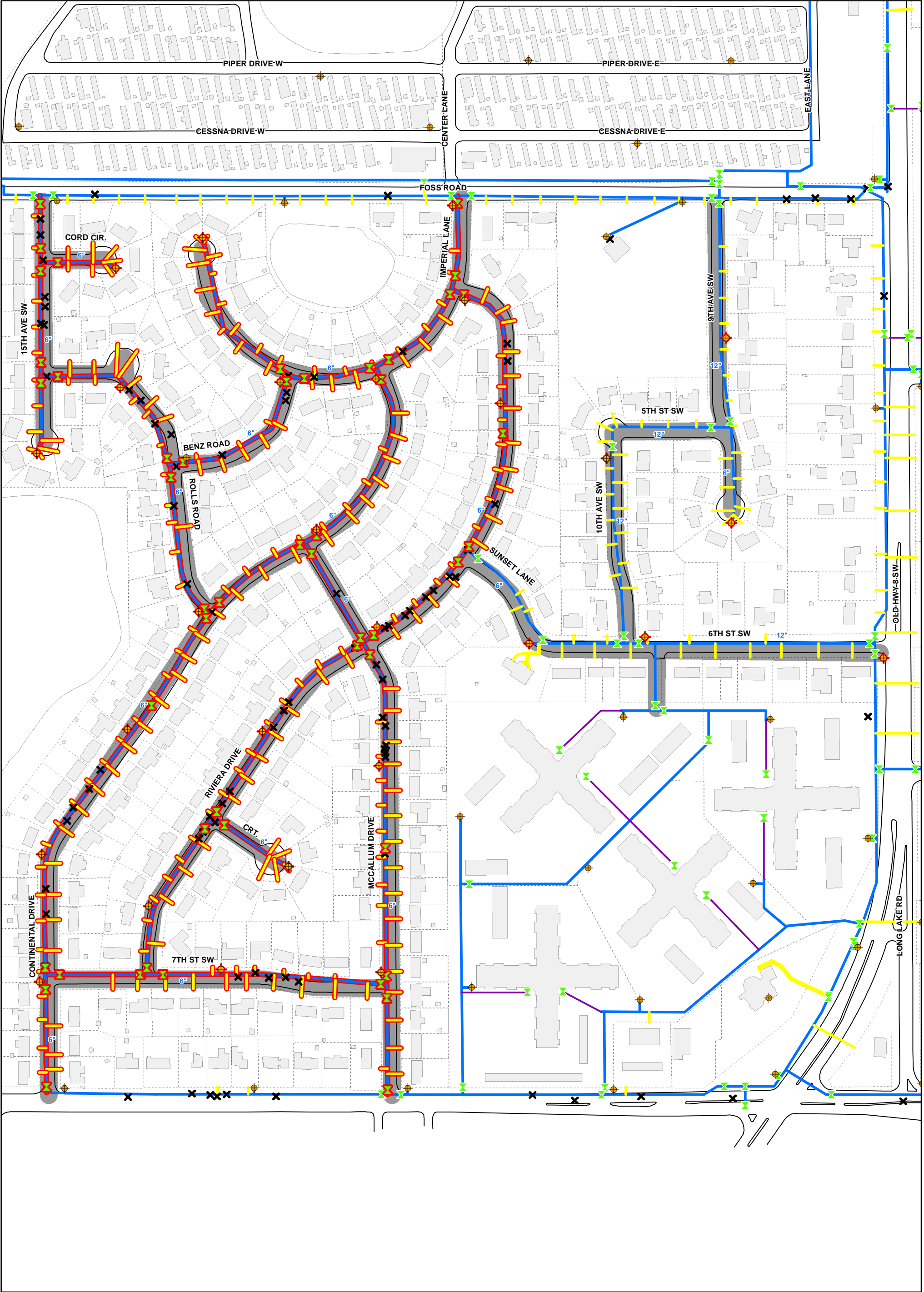
ATTEST:

Devin Massopust, City Manager

Terri Spangrud, City Clerk

2019 Street Reconstruction - Assessment Breakdown





- ✕ Break Location
- ⦿ Hydrant
- ✕ Valve
- Private Water Line
- Water Service
- Watermain
- 2019 Street Reconstruction

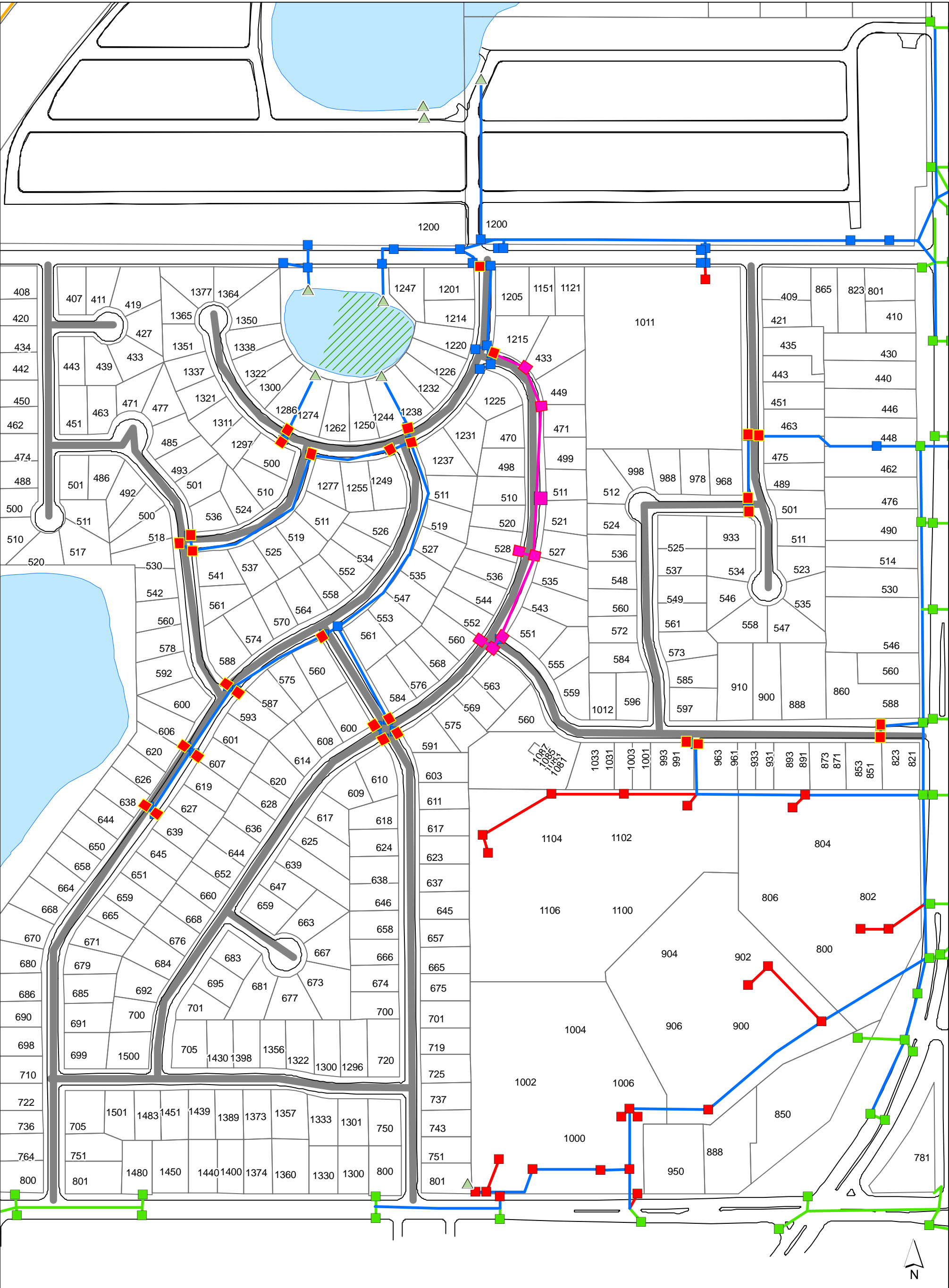
✕ Features to be replaced are highlighted in red.

| All Utilities For 2019 | |
|------------------------|-----------------|
| Hydrants | 28 |
| Valves | 6" - 50 |
| Water Services | 230 |
| Watermains | 6" - 11,812 ft. |

Water System Replacement For 2019 Street Reconstruction

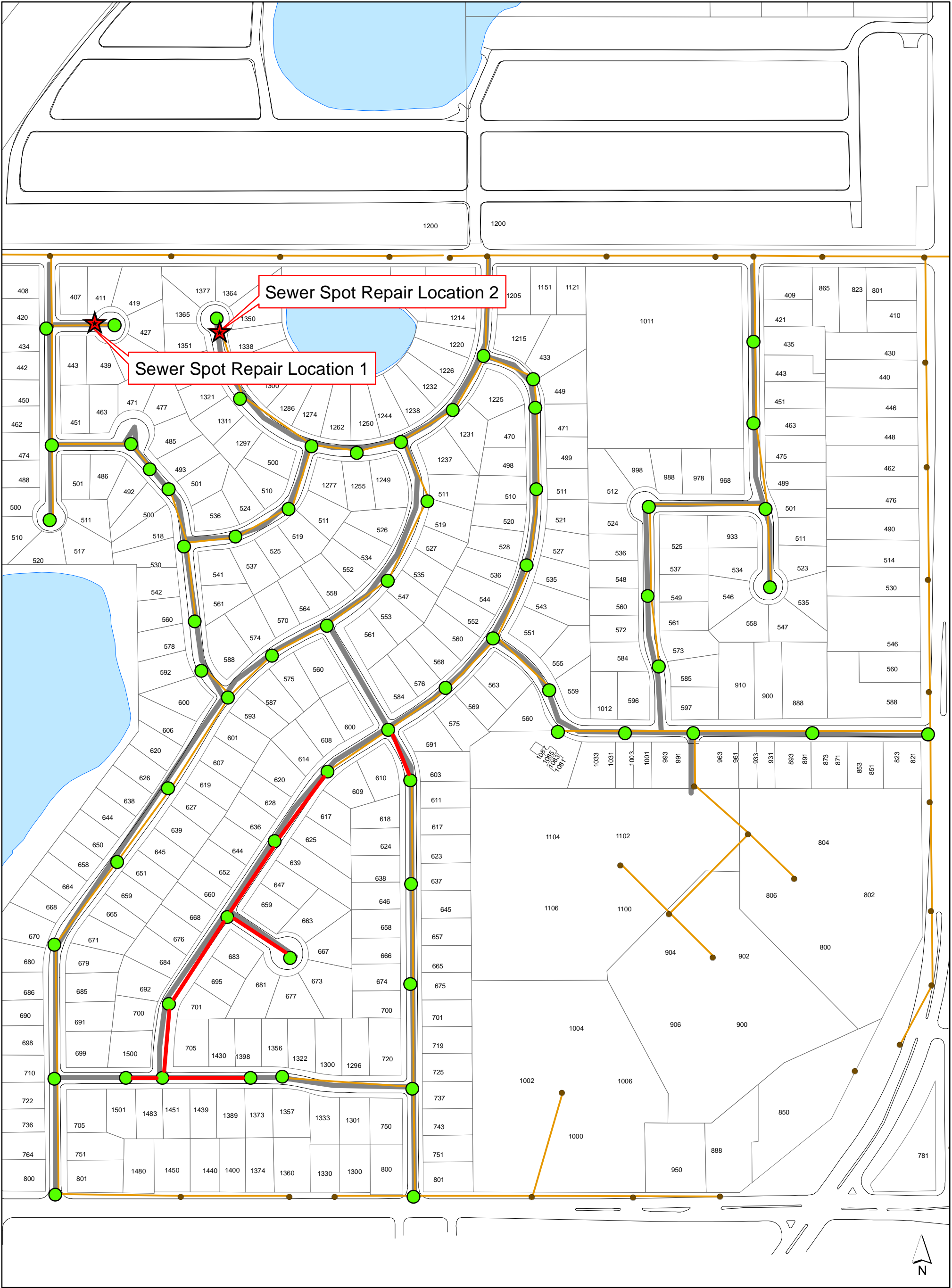
180 90 0 180 Feet





| Storm Sewer Totals | |
|-------------------------|----|
| Existing CB Replacement | 30 |
| New CB Installation | 8 |
| Flex Seal Structure | 42 |

Storm Sewer Replacement
2019 Street Rehabilitation



- Flex Seal Manhole
- Sewer Repair Location
- Sewer Main Replacement
- Existing Sewer Main
- 2019 Street Reconstruction

| Sanitary Sewer Totals | |
|----------------------------|---------|
| Sewer Spot Repairs | 2 |
| Mainline Sewer Replacement | 1700 LF |
| Flex Seal MH | 63 |

Sanitary Sewer Replacement 2019 Street Rehabilitation

Appendix A

Resolution Ordering 2020 Assessment Hearing
Public Hearing Notice
Project 19-1 Informational Letter

Resolution No. 20-

State of Minnesota
County of Ramsey
City of New Brighton

RESOLUTION DECLARING COSTS TO BE ASSESSED, ORDERING PREPARATION OF PROPOSED ASSESSMENTS, AND SETTING DATE FOR ASSESSMENT HEARING ON CITY PROJECT 19-1, 2019 STREET REHABILITATION.

WHEREAS, Public Improvement Project 19-1, 2019 Street Rehabilitation, was ordered by the City Council of the City of New Brighton at a Public Improvement Hearing, noticed, and held as required by law;

WHEREAS, the total final project costs is \$7,068,781.80.

WHEREAS, said improvement project is now completed so that the cost thereof can be special assessed.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of New Brighton, Minnesota that:

1. The cost of such improvement to be specially assessed is hereby declared to be \$839,271.69.
2. The City Clerk, with the assistance of the Director of Community Assets and Development (City Engineer), shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, place, or parcel of land within the district affected, without regard to cash valuation, as provided by law and shall file a copy of such proposed assessments in his office for public inspection.
3. The Clerk shall, upon completion of such proposed assessment, notify the Council thereof.
4. That a public hearing on the proposed assessment be set for October 27, 2020, at 6:30 p.m. in the City of New Brighton City Council Chambers at 803 Old Highway 8 NW, New Brighton, Minnesota.
5. The mailed notices of this hearing are sent to each benefited property owner as required by law.

Adopted this 13th day of October, 2020, by the New Brighton City Council with a vote of _____ ayes and _____ nays.

Valerie Johnson, Mayor

ATTEST:

Devin Massopust, City Manager

Terri Spangrud, City Clerk

**NOTICE OF HEARING ON PROPOSED ASSESSMENTS
IMPROVEMENT PROJECT 19-1, 2019 STREET REHABILITATION**

Notice is hereby given that the City Council of the City of New Brighton will meet at 6:30 p.m. on October 27, 2020, in the Council Chambers of the New Brighton City Hall, 803 Old Highway 8 NW, to conduct a public hearing to consider, and possibly adopt, the proposed assessments for the following improvement:

Project 19-1, 2019 Street Rehabilitation — the rehabilitation of the following streets in the City of New Brighton;

| | | |
|-------------------|---|-------------------------------------|
| Continental Drive | - | County Road D to Imperial Lane |
| 7th Street SW | - | Continental Drive to McCallum Drive |
| Riviera Drive | - | 7th Street SW to Imperial Lane |
| Riviera Court | - | Riviera Drive to cul-de-sac |
| McCallum Drive | - | County Road D to Continental Drive |
| 15th Avenue SW | - | Foss Road to cul-de-sac |
| Cord Circle | - | 15th Avenue SW to cul-de-sac |
| Rolls Road | - | 15th Avenue SW to Continental Drive |
| Benz Road | - | Rolls Road to Imperial Lane |
| Imperial Lane | - | Foss Road to cul-de-sac |
| 9th Avenue SW | - | Foss Road to cul-de-sac |
| 5th Street SW | - | 9th Avenue SW to 10th Avenue SW |
| 10th Avenue SW | - | 5th Street SW to 6th Street SW |
| 6th Street SW | - | 10th Avenue SW to Old Highway 8 SW |
| Sunset Lane | - | 10th Avenue SW to Riviera Drive |

The total amount proposed to be assessed for Project 19-1 is \$839,271.69.

The proposed area to be assessed for Project 19-1 generally includes properties fronting or abutting the streets reconstructed in the project area on the streets listed above and as shown on the assessment area map on file with the City Engineer.

The proposed assessments are on file for public inspection and can be procured by contacting the City Clerk.

Adoption by the council of the proposed assessment may occur at the hearing.

PLEASE NOTE, due to COVID-19 and the continued closure of City facilities to the general public, oral objections will only be considered by accessing the Council Meeting via the link provided below.

<https://us02web.zoom.us/j/87595221020>

Meeting ID: 875 9522 1020

Passcode: 803

Written objections will also be considered at the hearing. No appeal may be taken as to the amount of any assessment unless a written objection is signed by the affected property owner and is filed with the City Clerk prior to the assessment hearing. The owner may appeal an

assessment to District Court pursuant to Minnesota Statutes, Section 429.081 by serving notice of the appeal upon the Mayor or City Clerk within 30 days after adoption of the assessment and filing such notice with the District Court ten days after service upon Mayor or Clerk.

Under Minn. Stat. 435.193 to 435.195 and City Ordinance 27.5-11 to 27.5-15 entitled “Senior Citizen Assessment Deferral Procedure”, the City Council may, in it’s discretion, defer the payment of this special assessment for any homestead property owned by a person 65 years of age or older or retired by virtue of a permanent and total disability for whom it would be a hardship to make the payment. Eligible senior citizens seeking deferral of special assessments may make application for same on a form prescribed by the Ramsey County Department of Taxation. Each application will be considered and acted upon by the City Council.



October 9, 2020

Re: Notice of Assessment Hearing

Dear New Brighton Property Owner:

The New Brighton City Council will hold a Public Hearing to levy the assessments for Project 19-1, 2019 Street Rehabilitation. Legal notification of the public hearing is included with this mailing. The public hearing will be held at the New Brighton City Hall Council Chambers, 803 Old Highway 8 NW in New Brighton, on October 27, 2020, at 6:30 p.m.

Due to COVID-19 and the continued closure of City facilities, public comment and oral objections will only be considered by accessing the Council Meeting via the link provided below.

<https://us02web.zoom.us/j/87595221020>

Meeting ID: 875 9522 1020

Passcode: 803

The amount of the proposed assessment on your property is shown on the enclosed sheet titled 'Notice of Assessment Hearing' and will be the actual final amount due unless you are re-notified. The total amount of all assessments is \$839,271.69.

We are recommending the special assessments be spread over a **10-year period** with interest charged at a rate of **3.00 percent** per year on the unpaid balance. The first installment will appear on the 2021 tax statement and will include approximately 14 months interest. This 14 month period includes all of 2021 and the last two months of 2020.

You may prepay the **full** amount of the proposed special assessment; interest free, by placing payment and a copy of the attached 'Notice of Assessment Hearing' in the utility payment drop box located in the lower level parking at City Hall, or by mail to:

City of New Brighton
Finance Department
803 Old Highway 8 NW
New Brighton, MN 55112

Prepayment will only be accepted for a period of 30 days from the adoption of the assessments by the City Council. **Payment in full is required; no partial payments will be accepted.** The prepayment period will be from October 28, 2020 to November 26, 2020. Assessments not prepaid

on or before November 26, 2020 will be certified to Ramsey County, to be collected with the real estate taxes. After the assessments are certified to Ramsey County, payments are to be made directly to Ramsey County and will include accrued interest.

Eligible senior citizens may apply for deferral of these special assessments. Each application will be considered and acted upon by the City Council.

If you have any questions regarding these special assessments, please call the Department of Community Assets and Development at 651-638-2050.

NEW BRIGHTON DEPARTMENT OF COMMUNITY ASSETS AND DEVELOPMENT

Appendix B

Project 19-1 Cost Breakdown & Assessment Rate Calculations

First Year Interest Computations

Project 19-1 Example Assessment Payoff Schedule

STREET RECONSTRUCTION
PROJECT COST BREAKDOWN & ASSESSMENT RATE COMPUTATIONS
PROJECT 19-1, 2019 STREET REHABILITATION

| | TOTALS | STORM SEWER | WATERMAIN | SANITARY SEWER | STREETS |
|----------------------------|-----------------------|-----------------------|-----------------------|---------------------|-----------------------|
| CONSTRUCTION COSTS | \$6,617,156.97 | \$1,272,214.04 | \$1,971,384.67 | \$280,118.50 | \$3,093,439.76 |
| IN-HOUSE ENGINEERING | \$200,000.00 | \$0.00 | \$0.00 | \$0.00 | \$200,000.00 |
| MATERIALS/PERMITS | \$3,378.92 | \$438.64 | \$2,862.99 | \$38.65 | \$38.64 |
| PROFESSIONAL SERVICES | \$204,236.17 | \$35,849.55 | \$129,844.19 | \$18,580.27 | \$19,962.16 |
| PRINTING & PUBLISHING | \$884.74 | \$121.19 | \$121.18 | \$121.19 | \$521.18 |
| BOND ISSUANCE COSTS | \$43,125.00 | | | | \$43,125.00 |
| TOTAL PROJECT COSTS | \$7,068,781.80 | \$1,308,623.42 | \$2,104,213.03 | \$298,858.61 | \$3,357,086.74 |

| | TOTAL | CITY COSTS | ASSESS COSTS |
|--|---------------------------|---------------------------|-------------------------|
| STREET COSTS | | | |
| STREET COSTS TO BE ASSESSED (25%) * | \$839,271.69 | \$0.00 | \$839,271.69 |
| STREET COSTS FROM TAX (75%) ** | \$2,517,815.06 | \$2,517,815.06 | \$0.00 |
| TOTAL STREET PROJECT COST | \$3,357,086.74 | \$2,517,815.06 | \$839,271.69 |
| TOTAL STORM SEWER COSTS | \$1,308,623.42 | \$1,308,623.42 | \$0.00 |
| TOTAL WATERMAIN REPLACEMENT COSTS | \$2,104,213.03 | \$2,104,213.03 | \$0.00 |
| TOTAL SANITARY SEWER COSTS | \$298,858.61 | \$298,858.61 | \$0.00 |
| TOTAL PROJECT COSTS | \$7,068,781.80 | \$6,229,510.12 | \$839,271.69 |

* 25% OF TOTAL STREET COSTS

** 75% OF TOTAL STREET COSTS LESS ASSESSABLE COSTS

| 2020 ASSESSMENT RATE CALCULATIONS | | | |
|-----------------------------------|---------------------|------------|----------------------|
| | PROJECT 19-1 | | |
| TOTAL STREET PROJECT COSTS | \$3,357,086.74 | | |
| CITY SHARE | \$2,517,815.06 | | |
| ASSESSABLE SHARE (25%) | \$839,271.69 | | |
| | \$3,357,086.74 | | |
| SINGLE FAMILY LOTS | 283.00 | | |
| MULTI-FAMILY LOTS | 14.00 | | |
| TOTAL ASSESSABLE LOTS | 297.00 | | |
| TOTAL STREET ASSESSABLE COST | \$2,825.83 | | |
| | PER LOT | | |
| | | \$3,065.00 | ESTIMATED ASSESSMENT |

| | |
|---|--|
| ANNUAL ASSESSMENT INTEREST RATE: | 10 YEAR COLLECTION PERIOD STARTING IN 2021 |
| | TOTAL ANNUAL INTEREST RATE = 3.00% |



**CITY OF NEW BRIGHTON
2020 SPECIAL ASSESSMENTS
PROJECT 19-1, 2019 STREET REHABILITATION
ASSESSMENT NO. 63191000**

1ST YEARS INTEREST COMPUTATIONS

ASSESSMENT ADOPTED OCTOBER 27, 2020

REGULAR ANNUAL ASSESSMENT RATE = 3.00%

DATE OF ASSESSMENT HEARING October 27, 2020

| | | | | |
|-----------------------------|-------|---|--------|----------|
| NUMBER OF DAYS LEFT IN 2020 | 65 | | | |
| | ----- | X | 0.0300 | = 0.0053 |
| NUMBER OF DAYS IN YEAR | 365 | | | |

| | |
|---------------|-----------------------------|
| 0.0053 | INTEREST FOR DAYS LEFT |
| <u>0.0300</u> | REGULAR INTEREST RATE |
| 0.0353 | FIRST YEARS INTEREST |

FIRST YEAR INTEREST BASED ON : 14.14 MONTHS

CITY OF NEW BRIGHTON
2020 SPECIAL ASSESSMENT REPORT

PROJECT 19-1
2019 STREET REHABILITATION
EXAMPLE ASSESSMENT PAYOFF SCHEDULE

AMOUNT OF PROPOSED ASSESSMENT = **\$2,825.83**

| | | |
|------------|-----------|--------|
| PRINCIPAL: | INTEREST: | YEARS: |
| \$2,825.83 | 3.00% | 10 |

| YEARS | | PRINCIPAL | | INTEREST | TOTAL | BALANCE |
|---------------|------|-------------------|---|-----------------|-------------------|------------|
| 1 | 2021 | \$282.58 | * | \$99.75 | \$382.33 | \$2,543.25 |
| 2 | 2022 | \$282.58 | | \$76.30 | \$358.88 | \$2,260.66 |
| 3 | 2023 | \$282.58 | | \$67.82 | \$350.40 | \$1,978.08 |
| 4 | 2024 | \$282.58 | | \$59.34 | \$341.93 | \$1,695.50 |
| 5 | 2025 | \$282.58 | | \$50.86 | \$333.45 | \$1,412.92 |
| 6 | 2026 | \$282.58 | | \$42.39 | \$324.97 | \$1,130.33 |
| 7 | 2027 | \$282.58 | | \$33.91 | \$316.49 | \$847.75 |
| 8 | 2028 | \$282.58 | | \$25.43 | \$308.02 | \$565.17 |
| 9 | 2029 | \$282.58 | | \$16.95 | \$299.54 | \$282.58 |
| 10 | 2030 | \$282.58 | | \$8.48 | \$291.06 | (\$0.00) |
| TOTALS | | \$2,825.83 | | \$481.24 | \$3,307.07 | |

| | | | |
|------------|--|---|---------------------------------|
| \$3,307.07 | | = | |
| ----- | | | |
| 10 | | | \$330.71 AVERAGE ANNUAL PAYMENT |

| | | | |
|----------|--|---|---------------------------------|
| \$330.71 | | = | |
| ----- | | | |
| 12 | | | \$27.56 AVERAGE MONTHLY PAYMENT |

* INCLUDES APPROXIMATELY 14.14 MONTHS OF INTEREST (3.53%)

Appendix C

Senior Citizen Assessment Deferral Procedures

NEW BRIGHTON CITY CODE
SECTION 2
ADMINISTRATION
DEFERMENT OF SPECIAL ASSESSMENTS

Sec. 2-3. Deferment of Special Assessments.

At its discretion, the City Council may defer the payment of a special assessment adopted by the City when it determines by a 3/5 vote of all Council members that each of the following conditions are present:

- (1) The property upon which the assessment has been or is to be levied is homestead property.
- (2) One or more of the property owners is 65 years of age or older.
- (3) Payment of the assessment would be a hardship for the property owner. (Ord. No. 381, 1-11-77; Code of 1988; Code of 2001)

Sec. 2-4. Hardship Defined.

A hardship shall be deemed to prima facie exist when the average annual payment for all assessments levied against the subject property exceeds 1% of the adjusted gross income of the applicant as evidenced by the applicant's most recent Federal income tax return.

The average annual payment of an assessment shall be the total cost of the assessment, excluding interest, divided by the number of years over which it is spread.

The City Council may consider assessment deferral for other eligible applicants not meeting the prima facie test of this Section. (Ord. No. 381, 1-11-77; Code of 1988; Code of 2001)

Sec. 2-5. Determination of Interest Rate.

Deferred assessments shall carry an interest rate equal to the interest rate imposed on all other assessments for the same public improvement. (Ord. No. 381, 1-11-77; Code of 1988; Code of 2001)

Sec. 2-6. Application.

Application for a deferral shall be made on a form as prescribed by the City. (Ord. No. 381, 1-11-77; Code of 1988; Code of 2001)

Sec. 2-7. Termination of Deferment.

The deferment of payment of a special assessment shall cease and all amounts accruing plus interest shall become due and payable upon the occurrence of any of the events specified in this Section. At its discretion, the City Council may, at the time of termination of the deferral, provide for payment of the deferred sum in accordance with the terms of the original assessment.

- (1) The death of the property owner provided that the spouse is unable to qualify for deferment.
- (2) The sale, transfer, or subdivision of the property or any part thereof.
- (3) The homestead status of the property is lost.
- (4) The City Council determines that immediate or partial payment of the assessment would no longer be a hardship. (Ord. No. 381, 1-11-77; Code of 1988; Code of 2001)

**APPLICATION AND AUTHORIZATION FOR DELAYED PAYMENT OF SPECIAL ASSESSMENTS
FOR SENIOR CITIZENS' HOMESTEAD
LAWS 1974, CHAPTER 206**

I, the undersigned, declare under penalties of perjury:

That I reside at _____

That I am not less than 65 years of age and that the date of my birth is _____

That I am the owner of the property legally described as: _____

Property Identification No. _____

That my interest in the ownership of the above property was acquired on _____ and is as follows:

1. Sole ownership (Enter yes, if applicable) _____
2. Joint tenancy, held with _____
3. Other undivided interest (Specify) _____

That on January 2, 2020, I owned and occupied the above property as my homestead and such occupancy began on _____.

That the installments for improvements on the special assessments duly adopted in ordinance by the City of New Brighton as of _____ which have been allocated against the subject property would create undue personal hardship on my behalf and I respectfully request that payment be delayed and that such installments be so deferred.

Signed _____

Date _____

I, _____, Clerk of the City of New Brighton in Ramsey County, State of Minnesota, do hereby certify that the application of _____ above named, has been duly reviewed and that in accordance with the minutes of official record in said chambers was duly _____ APPROVED or _____ DENIED as of _____, 2020.

That in accordance with approval granted, the special assessments listed below on the affiants subject property levied for annual collection in the amounts and for the years shown be so deferred with interest at the annual rate shown until such time as it is deemed the applicant no longer qualifies or the property loses its eligibility.

| <u>Name of Assessment</u> | <u>Auditors Number</u> | <u>D/P No.</u> | <u>Total Amount</u> | <u>Years of Collection (Inclusive)</u> | <u>Interest Rate</u> |
|---------------------------|------------------------|----------------|---------------------|--|----------------------|
|---------------------------|------------------------|----------------|---------------------|--|----------------------|

| | | | | | |
|--|--|--|--|--|--|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Dated _____, 2020

(Clerk or Authorized Deputy)

REQUEST FOR COUNCIL CONSIDERATION

| | |
|--|---|
| ITEM DESCRIPTION: | ACCEPTANCE OF INTERIM FINANCIAL STATEMENTS FOR THE THIRD QUARTER 2020 |
| INTERIM DEPARTMENT HEAD'S APPROVAL: | Gina Smith <i>GMS</i> |
| CITY MANAGER'S APPROVAL: | <i>DM</i> |
| No comments to supplement this report | Comments attached <u> </u> |

Recommendation: To accept the Third Quarter 2020 Interim Financial Statements

Explanation: In an effort to keep the Council informed on the City's fiscal condition, a comparison of the 2020 revenues and expenditures for the period ending September 30, 2020 (unaudited) is shown below.

The comparison shown includes those programs and services that constitute the City's core functions for which changes in financial trends can have a near-term impact on the ability to maintain current service levels. Programs such as debt service and tax increment financing which are governed by pre-existing obligations and restricted revenues are not shown. In addition, expenditures in the City's Fleet and Non-Fleet programs are not shown as these expenditures are specifically tied to pre-funded asset replacement funds. These replacement funds are not susceptible to year-to-year fluctuations and therefore annual reviews are considered sufficient.

The information is presented on a modified cash basis accounting method, which measures only the actual revenues that become available and measurable, and expenditures are recognized in the period the liability is incurred.

It should be noted that many of the City's revenue streams such as property taxes, are non-recurring or are received intermittently throughout the year. This can result in wide revenue fluctuations from month to month. In addition, some of the City's expenditures such as new capital purchases are also non-recurring and subject to wide fluctuations. To accommodate these differences, a comparison is made to historical results to identify whether any new trends exist.

General Fund Summary

The General Fund is the primary operating fund of the City. It accounts for the financial activities of most of the City's core functions. Its primary funding source is the property tax levy.

The following table depicts the 2020 financial activity for the General Fund for the fiscal period ending September 2020 (unaudited).

Table Comments:

- "% Actual" column depicts the percentage spent compared to the budget
- "% Expect" column depicts the percentage of revenues or expenditures we normally incur during this period as measured over the previous 3 years.
- "Diff" column depicts the difference between the percentage actually spent and the percentage we typically incur. A percentage difference of 10% or more in this column would be considered significant.

General Fund

*Rounded nearest 100

| | 2020 Amended Budget | 2020 Actual | % YTD Actual | % Expect | Diff | Amount |
|--|---------------------------|----------------------|-----------------|--------------|--------------|-----------------------|
| Revenues | | | | | | |
| Taxes | \$ 10,384,400 | \$ 5,630,587 | 54.2% | 52.0% | 2.2% | \$ 230,700 |
| Franchise Taxes | 1,257,600 | 669,435 | 53.2% | 54.2% | -1.0% | (12,200) |
| Licenses | 153,900 | 149,974 | 97.4% | 103.7% | -6.3% | (9,600) |
| Permits | 500,000 | 594,444 | 118.9% | 102.9% | 16.0% | 79,900 |
| Fines & Forfeitures | 55,000 | 28,709 | 52.2% | 60.0% | -7.8% | (4,300) |
| Intergovernmental | 946,700 | 485,242 | 51.3% | 65.0% | -13.7% | (130,100) |
| Charges for Service | 3,872,800 | 1,849,547 | 47.8% | 73.2% | -25.4% | (985,300) |
| Rents/Leases | 393,700 | 387,902 | 98.5% | 101.1% | -2.6% | (10,100) |
| Miscellaneous | 53,600 | 65,442 | 122.1% | 100.0% | 22.1% | 11,800 |
| Investment Income | 90,000 | 60,113 | 66.8% | 53.4% | 13.4% | 12,100 |
| Transfers In | 685,800 | 514,341 | 75.0% | 75.0% | 0.0% | 0 |
| Total Revenues | \$ 18,393,500 | \$ 10,435,736 | 56.7% | 61.2% | -4.4% | \$ (817,100) |
| Expenditures | | | | | | |
| Administration: | | | | | | |
| Council | \$ 55,200 | \$ 40,148 | 72.7% | 72.8% | -0.1% | \$ - |
| Administration | 1,069,300 | 660,663 | 61.8% | 79.3% | -17.5% | (187,300) |
| Elections | 146,700 | 57,886 | 39.5% | 51.7% | -12.2% | (18,000) |
| Legal | 120,000 | 73,621 | 61.4% | 55.7% | 5.7% | 6,800 |
| Central Services | 198,100 | 145,304 | 73.3% | 60.0% | 13.4% | 26,500 |
| Finance: | | | | | | |
| Finance | 674,100 | 474,401 | 70.4% | 72.5% | -2.1% | (14,300) |
| License Bureau | 591,400 | 380,725 | 64.4% | 60.9% | 3.5% | 20,600 |
| Passports | 189,600 | 101,831 | 53.7% | 53.7% | 0.0% | - |
| Public Works: | | | | | | |
| Engineering | 457,000 | 319,806 | 70.0% | 59.2% | 10.8% | 49,300 |
| Streets | 345,400 | 194,947 | 56.4% | 59.9% | -3.5% | (11,900) |
| Garage | 597,700 | 365,527 | 61.2% | 66.5% | -5.3% | (31,900) |
| Community Development: | | | | | | |
| Community Development | 892,100 | 628,500 | 70.5% | 68.8% | 1.7% | 14,700 |
| Recycling | 263,200 | 152,051 | 57.8% | 61.9% | -4.1% | (10,900) |
| Park and Recreation: | | | | | | |
| Parks | 1,471,500 | 941,013 | 63.9% | 73.9% | -10.0% | (146,400) |
| Forestry | 250,700 | 124,354 | 49.6% | 58.6% | -9.0% | (22,600) |
| Recreation Programs | 885,100 | 448,887 | 50.7% | 65.1% | -14.4% | (127,300) |
| Community Center | 1,889,400 | 996,744 | 52.8% | 67.0% | -14.2% | (269,200) |
| Golf Course | 341,500 | 168,202 | 49.3% | 70.3% | -21.0% | (71,900) |
| Public Safety: | | | | | | |
| Police | 5,605,800 | 3,786,213 | 67.5% | 70.5% | -3.0% | (165,900) |
| Fire | 1,127,300 | 663,200 | 58.8% | 60.3% | -1.5% | (16,600) |
| Turnover Ratio | (168,200) | - | 0.0% | 0.0% | 0.0% | - |
| Transfers Out | 1,495,800 | - | 0.0% | 3.1% | -3.1% | (46,400) |
| Total Expenditures | \$ 18,498,700 | \$ 10,724,023 | 58.0% | 63.5% | -5.5% | \$ (1,022,700) |
| Net Revenues Over/ (Under) Expenditures | \$ (105,200) | \$ (288,287) | | | | |

General Fund (Continued)

Comments

Total General Fund revenues and expenditures are near expected levels.

Significant differences in revenue line items are explained below:

- Permit revenue continues to report higher than expected due to the work being done in Midtown Village.
- Intergovernmental revenue is reporting lower than expected due to the timing of the PERA State Aid. In previous years it was received during the last few days of September, but has recently been received in early October. Saint Anthony Inspection revenue is also down this year due to COVID-19 precautions. This revenue will increase in the fourth quarter as large commercial plan reviews are completed.
- Charges for Services are lower than expected due to the changes in operations in response to COVID-19. Recreation programs, fitness courses and facility rentals were not offered through most of the second and third quarters and the Eagles Nest remains closed.
- Miscellaneous revenue is reporting higher than expected due to an Xcel Energy rebate received for a lighting project at the Public Safety Center.
- Investment Income is reporting higher than expected due to delayed billings from our investment managers that were received after the end of the third quarter. Investment management fees are netted against investment income.

Significant differences in expenditures are explained below:

- Administration expenditures are lower than expected due to the turnover of the City Manager position as well as the Assistant City Manager position remaining vacant. Personnel-related expenditures such as training, subsistence and travel have also decreased as many departments cut planned spending with unplanned COVID-19 budget impacts in mind.
- Elections expenditures are reporting lower than expected due to Ramsey County conducting early voting for us at the NBCC this year. New Brighton previously conducted its own early voting.
- Central Services expenditures are higher than expected due to improvements and repairs made to City Hall in early 2020, including interior repainting of offices, new ceiling tiles, new signage and HVAC and boiler room repairs.
- Engineering expenditures are reporting higher than expected due to budgeted positions remaining vacant in previous years. It is also due to an unbudgeted increase in insurance contributions for employee benefit coverage.
- Park and Recreation expenditures are lower than expected because very few temporary seasonal staff have been hired in 2020 compared to previous years, due to operational changes in response to COVID-19.

At the end of the third quarter, the General Fund currently has \$7.48 million in available reserves or 44% of the current annual operating budget. This is compliant with the fund balance policy.

Water Utility Fund Summary

The Water Utility Fund includes the activities associated with the City's water distribution system. Its primary funding source are fees charged to water customers based on consumption.

The following table depicts the 2020 financial activity for the Water Utility Fund for the fiscal period ending September 30, 2020 (unaudited).

| | 2020 | 2020 | % | % | <i>*Rounded nearest 100</i> | |
|----------------------------------|----------------------|----------------------|--------------------------|----------------------|-----------------------------|----------------------|
| | <u>Budget</u> | <u>Actual</u> | <u>YTD Actual</u> | <u>Expect</u> | <u>Diff</u> | <u>Amount</u> |
| Revenues | | | | | | |
| Intergovernmental | \$ - | \$ - | 0.0% | 0.0% | 0.0% | \$ - |
| Charges for Service | 3,407,200 | 2,194,316 | 64.4% | 63.2% | 1.2% | 41,000 |
| Miscellaneous | 11,500 | 25,491 | 221.7% | 122.5% | 99.2% | 11,400 |
| Total Revenues | \$ 3,418,700 | \$ 2,219,807 | 64.9% | 63.4% | 1.5% | \$ 52,400 |
| Expenditures | | | | | | |
| Personnel | \$ 986,300 | \$ 695,855 | 70.6% | 73.2% | -2.6% | \$ (25,700) |
| Materials | 164,000 | 47,938 | 29.2% | 46.1% | -16.9% | (27,700) |
| Contractual Service | 675,800 | 442,920 | 65.5% | 70.0% | -4.5% | (30,100) |
| Miscellaneous Exp | 72,900 | 37,801 | 51.9% | 51.9% | 0.0% | - |
| Transfers Out | 337,000 | 254,145 | 75.4% | 75.0% | 0.4% | 1,400 |
| Total Operations | 2,236,000 | 1,478,659 | 66.1% | 69.8% | -3.7% | (82,100) |
| Capital | 1,524,900 | 80,193 | | | | |
| Total Expenditures | \$ 3,760,900 | \$ 1,558,852 | | | | |
| Net Revenues Over/(Under) | | | | | | |
| Expenditures | \$ (342,200) | \$ 660,955 | | | | |

Comments

Total revenues and expenditures in the Water Utility Fund are reporting within expected levels. Miscellaneous revenue is reporting higher than expected due to investment income exceeding the annual budgeted amount. Investment income is allocated to individual funds based on month-end cash balances. The delay in the 2019 and 2020 street projects caused the cash balance to remain higher than expected through the first 3 quarters of the year. The final payment on the 2019 street project was just approved at the October 13th Council meeting and most of the 2020 street project payments should be made before the end of the year.

As of September 30, the water fund has a positive cash balance of \$2,327,986.

Sewer Utility Fund Summary

The Sewer Utility Fund includes the activities associated with the City's sewer collection system. Its primary funding source are fees charged to sewer customers based on consumption.

The following table depicts the 2020 financial activity for the Sewer Utility Fund for the fiscal period ending September 30, 2020 (unaudited).

| | 2020 Budget | 2020 Actual | % YTD Actual | % Expect | Diff | <i>*Rounded nearest 100</i> Amount |
|----------------------------------|------------------------|------------------------|-------------------------|---------------------|--------------|--|
| Revenues | | | | | | |
| Charges for Service | 3,654,600 | 2,195,494 | 60.1% | 57.7% | 2.4% | 87,800 |
| Miscellaneous | 5,400 | 8,798 | 162.9% | 76.5% | 86.4% | 4,700 |
| Total Revenues | \$ 3,660,000 | \$ 2,204,292 | 60.2% | 57.7% | 2.5% | 92,500 |
| Expenditures | | | | | | |
| Personnel | \$ 545,400 | \$ 366,403 | 67.2% | 70.4% | -3.2% | \$ (17,600) |
| Materials | 20,000 | 5,471 | 27.4% | 26.9% | 0.5% | 100 |
| Contractual Service | 2,553,300 | 1,803,111 | 70.6% | 74.5% | -3.8% | (98,100) |
| Transfers Out | 221,200 | 165,897 | 75.0% | 75.0% | 0.0% | - |
| Total Operations | 3,339,900 | 2,340,882 | 70.1% | 73.6% | -3.5% | (115,600) |
| Capital | 450,000 | 1,855 | | | | |
| Total Expenditures | \$ 3,789,900 | \$ 2,342,737 | | | | |
| Net Revenues Over/(Under) | | | | | | |
| Expenditures | \$ (129,900) | \$ (138,445) | | | | |

Comments

The Sewer Utility Fund revenues and expenditures are near expected levels. Miscellaneous revenue is slightly higher than expected due to interest and penalties on special assessments that were coded to the closed bond fund in previous years. They are now being coded to the Sewer fund where the assessment receivables are being held.

As of September 30, the sewer fund has a positive cash balance of \$828,258.

Stormwater Management Fund Summary

The Stormwater Management Fund includes activities associated with the City's storm sewer collection system. Its primary funding source are fixed based fees charged to storm sewer customers.

The following table depicts the 2020 financial activity for the Stormwater Management Fund for the fiscal period ending September 30, 2020 (unaudited).

| | 2020 Budget | 2020 Actual | % YTD Actual | % Expect | Diff | <i>*Rounded nearest 100</i> Amount |
|---|------------------------|------------------------|-------------------------|---------------------|--------------|--|
| Revenues | | | | | | |
| Intergovernmental | \$ 222,500 | \$ - | 0.0% | 50.0% | -50.0% | \$ (111,300) |
| Charges for Service | 1,003,500 | 576,275 | 57.4% | 57.6% | -0.2% | (1,500) |
| Miscellaneous | 3,300 | 10,329 | 313.0% | 91.0% | 222.0% | 7,300 |
| Total Revenues | \$ 1,229,300 | \$ 586,604 | 47.7% | 56.3% | -8.6% | \$ (105,500) |
| Expenditures | | | | | | |
| Personnel | \$ 180,000 | \$ 94,032 | 52.2% | 61.3% | -9.1% | \$ (16,300) |
| Materials | 18,000 | 5,504 | 30.6% | 84.4% | -53.8% | (9,700) |
| Contractual Service | 249,800 | 155,059 | 62.1% | 67.7% | -5.6% | (14,100) |
| Miscellaneous | 39,700 | 20,440 | 51.5% | 41.1% | 10.4% | 4,100 |
| Transfers Out | 97,900 | 73,900 | 75.5% | 75.0% | 0.5% | 500 |
| Total Operations | 585,400 | 348,935 | 59.6% | 62.8% | -3.2% | \$ (18,700) |
| Capital | 914,000 | (12,335) | | | | |
| Total Expenditures | \$ 1,499,400 | \$ 336,600 | | | | |
| Net Revenues Over/(Under) Expenditures | \$ (270,100) | \$ 250,004 | | | | |

Comments

Total revenues and expenditures in the Stormwater Management Fund are within expected levels.

Intergovernmental revenue is reporting lower than expected. The grant revenue that was budgeted to be received in 2020 for the Lions Park Stormwater Reuse project was received earlier than expected in 2019.

Miscellaneous revenue is reporting higher than expected due to investment income exceeding the annual budgeted amount. Investment income is allocated to individual funds based on month-end cash balances. The delay in capital and other projects caused the cash balance to remain higher than expected through the first 3 quarters of the year. The final payment on the 2019 street project was just approved at the October 13th Council meeting and most of the 2020 street project payments should be made before the end of the year.

Materials and supplies expenditures are reporting lower than expected due to catch basin flex seal projects that were completed in the first half of previous years. As a result of the delayed street projects this year, this work was completed and paid for in the beginning of the fourth quarter.

As of September 30, the Stormwater Management fund has a positive cash balance of \$974,265.

Street Light System Fund Summary

The Street Light System Fund includes activities associated with the City's streets light system. Its primary funding source are fixed based fees charged to all City property owners.

The following table depicts the 2020 financial activity for the Street Light System Fund for the fiscal period ending September 30, 2020 (unaudited).

| | 2020 | 2020 | % | % | | <i>*Rounded nearest 100</i> |
|----------------------------------|----------------------------|-------------------------|--------------------------|----------------------|--------------------|-----------------------------|
| | <u>Budget</u> | <u>Actual</u> | <u>YTD Actual</u> | <u>Expect</u> | <u>Diff</u> | <u>Amount</u> |
| Revenues | | | | | | |
| Charges for Service | \$ 305,200 | \$ 180,404 | 59.1% | 59.5% | -0.4% | \$ (1,200) |
| Miscellaneous | <u>1,700</u> | <u>2,617</u> | <u>153.9%</u> | <u>220.0%</u> | <u>-66.1%</u> | <u>(1,100)</u> |
| Total Revenues | \$ 306,900 | \$ 183,021 | 59.6% | 60.4% | -0.8% | \$ (2,300) |
| Expenditures | | | | | | |
| Materials | \$ 9,000 | \$ - | 0.0% | 0.0% | 0.0% | \$ - |
| Contractual Service | 187,200 | 112,299 | 60.0% | 56.4% | 3.6% | 6,700 |
| Miscellaneous | 0 | 3,395 | 100.0% | 100.0% | 0.0% | - |
| Transfers Out | <u>31,600</u> | <u>23,697</u> | <u>75.0%</u> | <u>75.0%</u> | <u>0.0%</u> | <u>-</u> |
| Total Operations | 227,800 | 139,391 | 61.2% | 58.3% | 2.9% | \$ 6,700 |
| Capital | <u>708,000</u> | <u>-</u> | | | | |
| Total Expenditures | \$ 935,800 | \$ 139,391 | | | | |
| Net Revenues Over/(Under) | | | | | | |
| Expenditures | <u>\$ (628,900)</u> | <u>\$ 43,630</u> | | | | |

Comments

The Street Light System Fund revenues and expenditures are within expected levels.

As of September 30, the street light system fund has a positive cash balance of \$254,681.



Gina Smith
Interim Finance Director



| | |
|-----------------------|----------|
| Agenda Section: | IX |
| Item: | 2 |
| Report Date: | 10/21/20 |
| Council Meeting Date: | 10/27/20 |

REQUEST FOR COUNCIL CONSIDERATION

| | |
|---------------------------------------|---|
| ITEM DESCRIPTION: | Consider a Resolution Approving a Special Use Permit for an accessory building exceeding 624 square feet for Paul and Sara Aplikowski at 1546 16th Terrace NW |
| DEPARTMENT HEAD'S APPROVAL: | Craig Schlichting, DCAD <i>C6S</i> |
| CITY MANAGER'S APPROVAL: | <i>DM</i> |
| No comments to supplement this report | Comments attached |

15.99 Deadline: 11/13/20

Recommendations: ▪ Both the Planning Commission and staff believe the SUP can be approved with conditions.

Legislative History: ▪ Application Received on 9/14/20
▪ Planning Commission Public Hearing held on 10/20/20

Financial Impact: None

Summary: Paul & Sara Aplikowski are seeking to construct an 840 square foot storage and workshop building in their backyard at 1546 16th Terrace NW. Any accessory structure over 624 square feet requires review under the special use permit criteria of code.

Attachments: 1) Staff Report
2) Neighbor Letters of support and opposition
3) Resolution
4) City Maps
5) Applicant's supporting documentation

Ben Gozola, AICP

Assistant Director of Community Assets and Development

To: **City Council**

From: Ben Gozola, Assistant Director DCAD

Meeting Date: **10-27-20**

Applicants: **Paul Aplikowski**

Main Contacts: (same)

Location: 1546 16th Terrace NW

Zoning: **R-1**

Introductory Information

Project: Paul & Sara Aplikowski are seeking to construct an 840 square foot storage and workshop building in their backyard at 1546 16th Terrace NW.

History:

- The application for an SUP was received on 9/14/20.
- Planning Commission public hearing scheduled for 10/20/20, and City Council review tentatively set for 10/27/20.

Request(s):

- **The applicant is requesting a special use permit to authorize an accessory structure (detached garage) in excess of 624 square feet.**

General Findings

Site Data:

- Existing Lot Size \approx 0.67 acres (21,933 sq ft)
- Existing Use – Single Family Home
- Existing Zoning – R-1
- Property Identification Number (PID): 20-30-23-22-0025

Comp Plan Guidance:

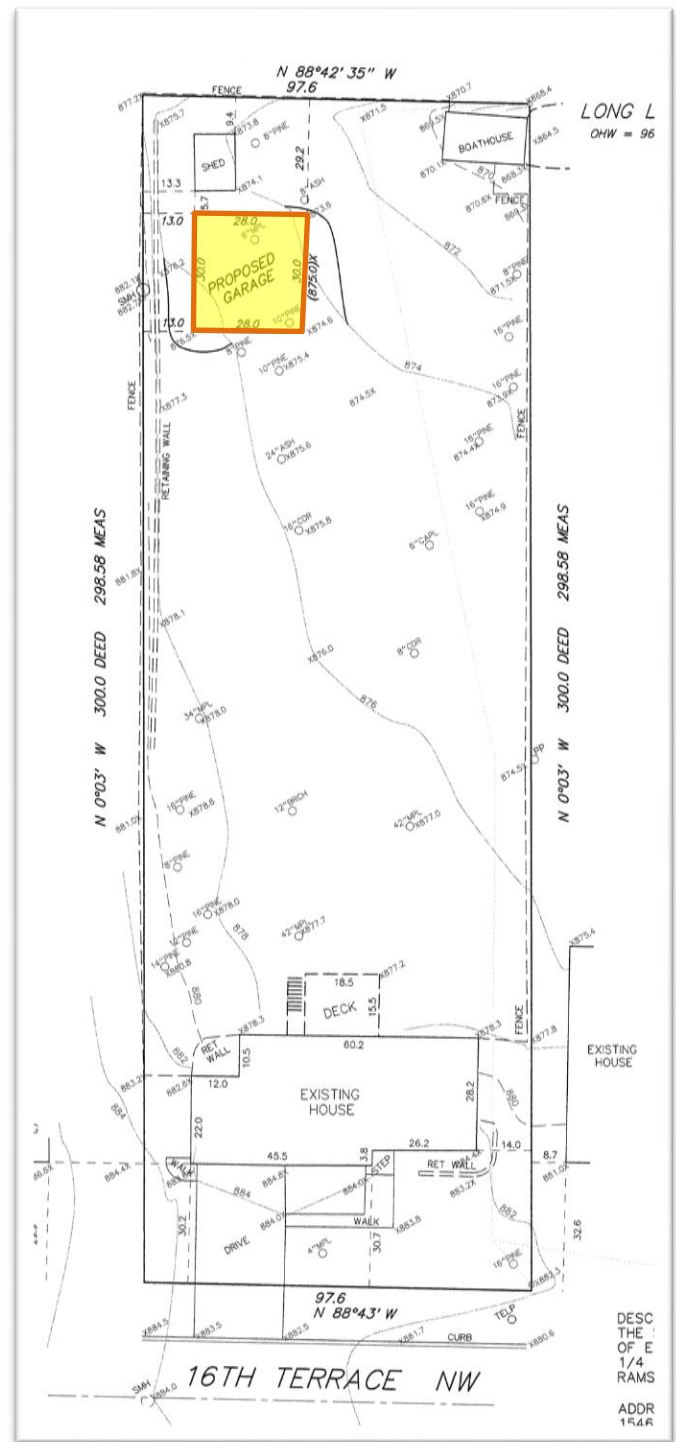
- The comprehensive plan guides this property for Single Family Residential use. The proposed accessory building is an appropriate use under this zoning classification.



The proposed workroom/storage building would be located in the NW corner of the property in an effort to minimize visual impacts to Long Lake from neighboring properties.

Notable Code Definitions:

- **Accessory Building.** A subordinate building, excluding a private garage, the use of which is incidental to that of the main building or to the use of the premises.
- **Floor Area, Gross.** The sum of the gross horizontal areas of the several floors of all buildings on the lot as measured from the exterior faces of exterior walls or from the center line of walls separating two buildings.
- **Ground Floor Area.** The lot area covered by a building or buildings measured from the exterior faces of exterior walls but excluding porches, terraces, and garages which do not exceed twelve feet in height.
- **Intensive Vegetation Clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- **Ordinary High Water Level of Long Lake:** 864.93



- (cont.)
- **Regulatory Flood Protection Elevation.** *The Regulatory Flood Protection Elevation (RFPE) shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway*
 - **Shoreland.** *Land located within 1000 feet from the normal high water level of a lake, pond, or flowage and land within 300 feet of a river or stream.*

**Applicant's Project
Narrative:**

We propose to build a 840 square foot storage and workshop building in our back yard. The building will utilize similar materials and matching colors to the main house structure. The roofline will utilize the same shingle type and slopes as the main house. The building will have an upper storage area the same size as the lower shop/storage area.

We have tried to site the building in a way that minimizes the visual impact to the neighbors. The Special Use Permit Criteria Worksheet explains how we have done this. Given the size of our lot, the distance from the street, and the hills and tree cover around this area, we believe it will have minimal impact on our neighbors.

On September 13, 2020 I knocked on neighbors doors and left a letter and site plan explaining my project. I was able to speak with 4 of the six neighbors most impacted by the project. (1532 16th Terrace, and 1663 1671, and 1701 Long Lake Road. All expressed no concerns about the project and indicated they supported me building the building. I left the letter and site plan at 1550 16th Terrace and 1677 Long Lake Road. I also mailed a copy of the letter and site plan to the owners of 1687 Long Lake Road. I will be happy to report to the City planner any further comments I receive from my neighbors.

In order to comply with the zoning ordinance, I propose to tear down one existing shed on my property. The roof of this structure is in good shape, and I am requesting permission to utilize this roof as an outdoor storage area. My proposal would leave the concrete slab and install posts to hold the existing roof. Since this would not be a building and not have a floor area, it should not count toward the total square footage of accessory buildings.

We hope that the Planning Commission and City Council will support this improvement to our property. Please don't hesitate to reach out if you have any questions or concerns about our project.

Sincerely,
Sara and Paul Aplikowski

1546 16th Terrace NW, New Brighton

**Primary
Applicable
Codes:**

- **Chapter 5, Article 7, Section 4-530 Accessory Buildings in Residential Districts.**
 - Sub (1)(B): Requires accessory buildings to complement the existing primary structure in height and materials, and conform to all setback requirements.
 - Sub (1)(C): Limits total combined size of any attached and detached accessory structures or garages to 1,664 sq ft.
 - Sub (1)(D & E): Limits detached garages to 1,064 square feet, and requires an SUP for garages larger than 624 sq ft.
 - Sub (1)(F): Establishes special SUP criteria for garages in excess of 624 sq ft.
- **Chapter 8, Article 2, Special Use Permit and Variance.**
 - Identifies the process by which a special use request is to be reviewed and decided.

**Existing &
Proposed
Setbacks:**

| R-1 | Required | Proposed Addition |
|--|-----------------|--------------------------|
| <i>Front (16th Terrace)</i> | 30 | ≈ 243' |
| <i>Side (west)</i> | 5 | ≈ 13' |
| <i>Side (east)</i> | 5 | ≈ 30' |
| <i>Rear (north)</i> | 5 | ≈ 57' |
| <i>Long Lake</i> | 50 | ≈ 61' |

- The proposed workshop/storage building will meet all required setbacks.

**Coverage /
Hardcover
Analysis:**

- Building coverage is not an issue (15.8% after the proposed workshop addition – 30% max).
- Impervious surface coverage is also not an issue (12.9% out of a maximum 50%).
- The combined square footage of accessory structures in the R-1 district is not allowed to exceed 1,664 sq ft.

| <u>Structure</u> | <u>Bldg Sq Ft</u> | <u>Total Sq Ft.</u> |
|--|---------------------------|----------------------------|
| ○ Attached garage | 561 ft ² | 561 ft ² |
| ○ Boat house..... | 248 ft ² | 809 ft ² |
| ○ Existing shed (to be converted*) | 145 ft ² | 809 ft ² |
| ○ Proposed building | 840 ft ² | 1649 ft ² |

(cont.)

* The applicant is proposing to remove all walls from the existing shed and preserve the roof to create a covered outdoor storage space. Code is unclear as to whether this should or should not be allowed, so the Planning Commission was asked to weigh in on whether this solution to building square footage was acceptable, or whether the shed must be removed in its entirety.

The Planning Commission felt that covered outdoor storage and lean-to's on the side of a garage (i.e. structures with no walls should not be counted towards overall building coverage, and instead should be treated as hardcover. Based on that interpretation, the old shed roof could remain provided all walls are removed and the roof is only supported by posts at all four corners.

FAR Analysis:

- There is no FAR requirement in the R-1 zoning district.

Flood Plain Analysis:

- The current RCWD Regulatory Floodplain elevation for Long Lake is 872.1 (NAVD 88). The RFPE is therefore 873.1. The proposed building will have a low floor at 875, so it will be compliant to floodplain elevation requirements.
- The RCWD reviewed the proposal and their comments are attached to this report. It is anticipated that no permit will be required.

Shoreland Issues:

- The proposed building will meet required setbacks from Long Lake. There was public feedback provided during the hearing that the small bay serving this property and the neighboring property with lake access may not be considered as part of the lake by the DNR and Watershed District. Staff has not confirmed whether this is accurate or not, but we have confirmed the proposed building will meet setbacks from the OHW elevation of the lake.
- Tree removal shall be limited to the 4 – 5 trees in the immediate vicinity of the proposed structure (10" pine, 10" pine, 8" pine, 8" maple, and 8" ash).

Building Height:

- The maximum height of structures in the R-1 district is 2.5 stories or 30 feet, whichever is less. From grade to the midpoint of the highest gable, the structure will be approximately 20' tall.
- The building materials (siding and roofing) will be required to match or complement the existing primary residential structure.

Special Use Permit Review:

In General:

- The need for a Special Use Permit is triggered by the size of the accessory structure. All accessory structures in a residential zone in excess of 624 square feet require approval of a special use permit.

**Criteria
Analysis:**

Zoning Code Section 8-130 contains five standards the City must review prior to making a decision on any specially permitted use. The applicant and staff analysis of these standards is shown below:

- 1. That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.**

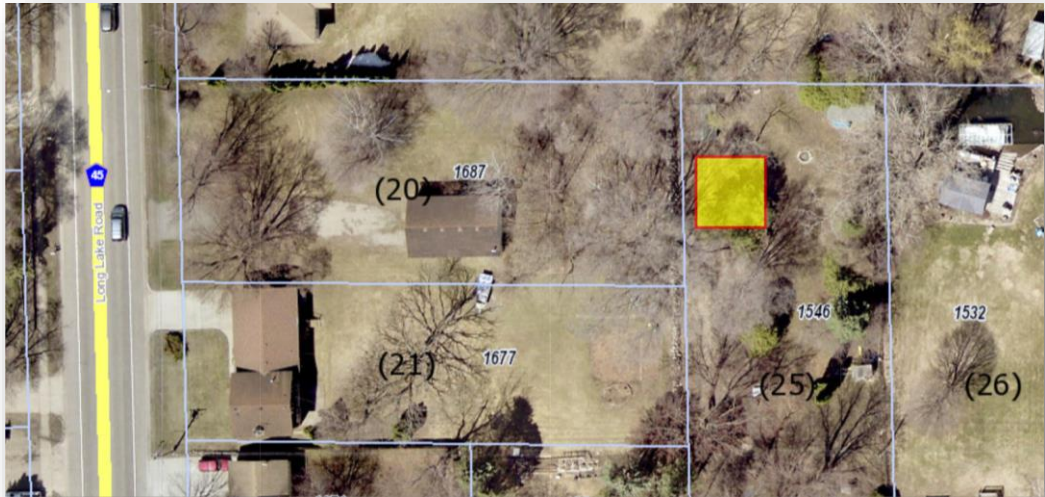
APPLICANT COMMENTS: *The proposed accessory structure meets all applicable building and zoning codes. A special use permit is required only because of the square footage of the structure. Per section 4-530, structures between 624 and 1064 feet shall be subject to approval of a Special Use Permit. The proposed building will meet all zoning heights and setbacks and comply with the Building Code..*

Staff Analysis: The location of the proposed accessory structure conforms to all code requirements for setbacks, and is out-of-sight to most surrounding properties given existing vegetation. **Criteria met.**

- 2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.**

APPLICANT COMMENTS: *We have attempted to site the building to minimize impact to adjacent properties. The building will be in a similar style and with similar materials to the main house. The location will minimize visibility from currently occupied parcels. The most immediately adjacent lot is heavily wooded and has not had a house on it for approximately 20 years (1687 Long Lake Road). Lake site lines may be a consideration. Again, the location will eliminate any impairment of lake views from occupied parcels. The unoccupied parcel is heavily wooded currently and contains a storage garage within the site line to lake view. Views from 1687 Long Lake Road to the lake affected by this structure are impeded by trees located on the 1701 Long Lake Road property.*

(cont.)



Staff Analysis: The adjacent “unoccupied” parcel referred to by the applicant is 1687 Long Lake Road owned by Kenneth & Ruth Schultz. Kenneth and Ruth Schultz provided comments in opposition to the proposed building on 10/20/20 (see attached or view the summary of public comments on pages 10 & 11).

While it is possible this proposed accessory structure may be partially visible from a future home at 1687 Long Lake Road, neither staff nor the Planning Commission view the proposed building as something rising to the level of being injurious or substantially diminishing adjacent property values. New Brighton code does not contain any specific provisions to protect lakeshore views anywhere within the community (regardless of whether lots are riparian or not), so there should be no expectation by any resident of view shed protection. Furthermore, shoreland standards prevent clearing of existing tree coverage in this area which would be needed to create an unobstructed view to the lake for 1687 Long Lake Road. **Criteria met.**

3. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

APPLICANT COMMENTS: *The accessory building will comply with all zoning setback and height requirements. The improvement will not affect any buildable area or otherwise impede on the improvement of surrounding property. The proposed building falls within the approved accessory building size requirements for my lot. It will not affect the overall fabric of the neighborhood adversely. We propose to restore the slopes and grass upon completion of the building project. Given the abundance of trees on my property and the neighboring property we are not proposing any special landscaping to screen the new building.*

The property at 1687 Long Lake Road does not currently have lake views. What lake views are possible, assuming they cut down the many existing trees, are primarily to the end of the bay. The current storage building on 1687 Long Lake Road already obscures that view from

(cont.)

most house locations on the site. This lot has not been altered or maintained adjacent to my property since I moved in in 2002. I do not believe our proposed building would adversely affect property values.

Staff Analysis: The garage will have no impact on the ability of surrounding property owners to fully use their properties. **Criteria met.**

4. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

APPLICANT COMMENTS: *The proposed building will have no plumbing. The building will have electricity provided from a buried wire from the main house electrical panel. A seasonal water line for a hose bib may be provided if budget allows. No driveway is being constructed for the structure. The use will be primarily lawn equipment and light use by trailers/carts for materials, etc. This is consistent with other "back yard garages" on adjacent properties. A gravel driveway may be constructed at some future date.*

Drainage will be onto grade. The building will be located approximately 48 feet away from the channel into the lake and in excess of 6 feet above the normal lake level. The lakeshore proper will be approximately 140 feet from the closest edge of the building. The finished floor elevation will be approximately 3' above the flood plain elevation. (All dimensions and heights are being verified by our surveyor and will be submitted prior to the planning commission meeting.) Surface runoff from the roof will have the opportunity to filter and infiltrate on all four sides as it crosses my yard.

Staff Analysis: Public Works/Engineering has reviewed the plans and offered no comments or concerns. No driveways or walkways to/from the proposed accessory structure are being authorized by this review. If the landowner wishes to make such improvements in the future, the City shall be consulted prior to any such improvements being installed. Currently the "gravel driveway" mentioned by the applicant would not be acceptable, but staff will fully analyze such a proposal in the future should it come forward. **Criteria currently met.**

5. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.

APPLICANT COMMENTS: *The proposed structure will meet all City Zoning Codes, the Building Code, and all applicable Municipal Ordinances. The total amount of accessory structures on the property will comply with the maximum of 1,664 square feet of building footprint as required by the ordinance. The total square footage between the attached garage, boat house, and the proposed building is calculated at 1,649 square feet. The proposed building has a footprint of 840 square feet thus complies with the maximum accessory building size of 1,064 square feet.*

The building is for private and hobby use only. There will be no commercial operations from the proposed building.

| | |
|---------|--|
| (cont.) | <p><u>Staff Analysis:</u> The proposed garage will not bring the property out of conformity in any way. Criteria met.</p> <p>In addition to the standard SUP criteria, Section 4-530(1)(E) establishes the following three additional requirements for this type of request:</p> <p>6. Roof and exterior color and material must be consistent and complimentary with the principal structure.</p> <p><u>Staff Analysis:</u> The applicants have indicated the building materials will “...be in a similar style and with similar materials to the main house” Criteria met.</p> <p>7. If deemed necessary by the City Council, landscape screening shall be provided to lessen visual impact from adjacent properties.</p> <p><u>Staff Analysis:</u> Staff sees no reason to recommend additional landscaping for this proposed building given the existing vegetation in the area. The Planning Commission or City Council can certainly recommend otherwise if deemed necessary. Criteria met.</p> <p>8. No commercial or home occupation activity shall be conducted within the accessory building.</p> <p><u>Staff Analysis:</u> As a condition of approval, staff is recommending prohibiting commercial and home occupation activities from the new building.</p> |
|---------|--|

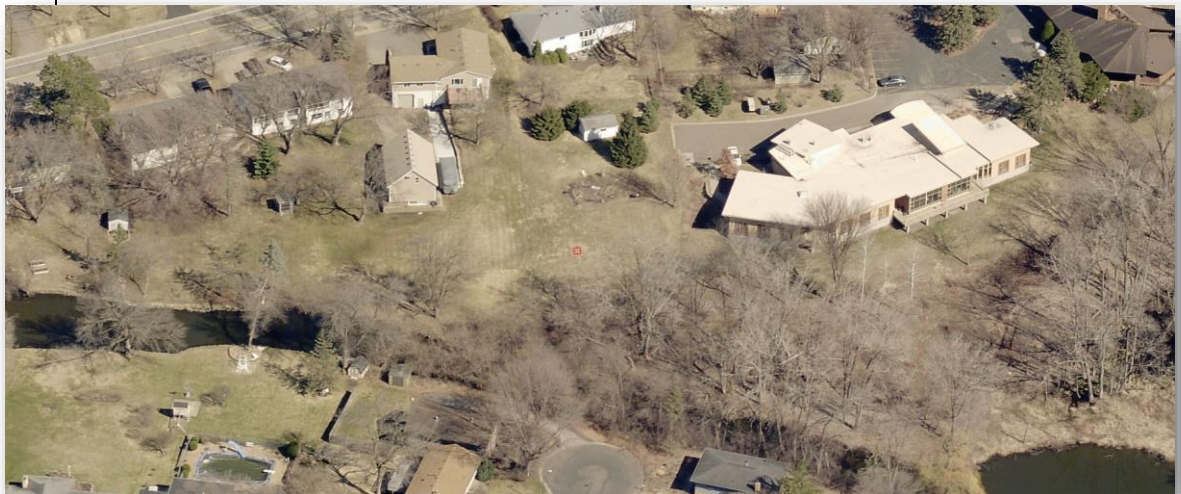
Supplementary Review & Public Comment

| | |
|--------------------------------|---|
| Additional Information: | <ul style="list-style-type: none"> ▪ none |
| Engineering Review: | <ul style="list-style-type: none"> ▪ Engineering reviewed the proposed plans for the addition and had no comments or concerns. |
| Public Safety Review: | <ul style="list-style-type: none"> ▪ No comments or concerns |
| Public Comment: | <ul style="list-style-type: none"> ▪ Timothy Foyo, 1677 Long Lake Road, wrote a letter (attached) in support of the proposal urging Planning Commission support of the proposal. ▪ The Rice Creek Watershed District (RCWD) also provided comments (previously discussed and attached following this report). |

- (cont.)
- Kenneth & Ruth Schultz provided an email in opposition to the proposed building via email which was read into the record as part of the public hearing. The email is attached to the report for review. In summary, the Schultz family intends to build a home on their vacant property at 1687 Long Lake Road within the next few years, and they believe the proposed structure will at least partially block their view of the lake to the east. They are not opposed to the building, but are opposed to it being as tall as proposed and would like it to be limited to one story.
 - Steve and Joyce Danger (1532 16th Terrace NW) participated in the public hearing before the Planning Commission, and voiced opposition to the proposed building. They would like to see the exterior of the building be more compatible with their small building down near the lakeshore (i.e. a small cottage looking structure as opposed to an accessory building matching the materials on the main home as required by code). They would like to see landscaping added to the plan to provide some vegetative cover of the building when viewed from their property. They also do not like that it is as tall as proposed, and feel any changes on the lakeshore side of their home will impact their property value. They would like to see the structure moved further south.

**Planning
Commission
Review:**

- The Planning Commission reviewed the applicant's submittals and considered the input of staff and the public during their meeting on 10/20/20. While the commission did understand the concerns about views raised by surrounding property owners, the commission also recognized that code does not contain any regulations meant to protect the views of concern. The Commission also recognized that a very similar application came before the City in 2018 which raised the exact same concerns (1244 Long Lake Road), and ultimately both the Commission and Council found in that case that code did not restrict the location of conforming accessory structures based solely on impact to lake views on adjacent property. An aerial of that case (below) shows the visual impact is far more substantial than the alleged impact(s) that'd may be created by this application.



(cont.)

Given past precedent and given no identified conflicts with zoning or the SUP review criteria outlined by code, **the Planning Commission voted unanimously to recommend approval of the SUP with conditions. Staff concurs with this recommendation.**

Conclusion:

The applicant is requesting a Special Use Permit to authorize construction of an accessory structure in excess of 624 square feet.

Council Options:

The City Council has the following options:

- A) APPROVE THE REQUEST based on the applicant’s submittals and findings of fact.
- B) DENY THE REQUEST based on the applicant’s submittals and findings of fact.
- C) TABLE THE ITEM and request additional information.

Based on an application date of 9/14/20, the 60-day review period for this application expires on 11/13/20. This deadline can be extended an additional 60 days if more time is necessary.

Initial Motion for Debate:

- “Consider a Resolution Approving a Special Use Permit for an accessory building exceeding 624 square feet for Paul and Sara Aplikowski at 1546 16th Terrace NW”

Resolution Findings of Fact:

1. The subject property is guided for residential use by the comprehensive plan, and a detached garage in excess of 624 square feet can be permitted via a special use permit in the corresponding R-1 zoning district.
2. Construction of the proposed building will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
3. The new building will not be detrimental to uses on the subject property or on surrounding lands.
4. Construction of the proposed building will not have a detrimental impact on area property values.
5. The subject site is adequately served by public utilities, roads, and drainage facilities to accommodate the proposed addition.

- (cont.)
6. The special use will be in conformance with all underlying zoning district requirements.

**Resolution
Conditions:**

1. The Special Use Permit shall authorize the location and size of accessory structure as shown on the Certificate of Survey for 1546 16th Terrace NW dated October 5, 2020; any significant changes to the location or size of the building shall require an amendment to this permit.
2. Roof and exterior color and material(s) must be consistent and complimentary with the principal structure.
3. No commercial or home occupation activity shall be conducted within the detached garage.
4. Tree removal shall be limited to the 4 – 5 trees in the immediate vicinity of the proposed structure (10” pine, 10” pine, 8” pine, 8” maple, and 8” ash).
5. Walls of the existing shed shall be removed to create an outdoor covered storage area, or the shed shall be removed in its entirety.
6. Failure to adhere to conditions of approval shall be grounds for revocation of the special use permit by the City Council.

cc: Paul Aplikowski , Applicant/Main contact

From: [Karen Feyo](#)
To: [Benjamin Gozola](#); paul@aplikowski.com
Subject: Special Use Permit for Paul & Sara Aplikowski at 1546 16th Terrace NW
Date: Thursday, October 8, 2020 1:42:13 PM

Dear Ben Gozola & New Brighton Planning Commission,

My name is Timothy A. Feyo, my wife and I own the lot, west side, in the middle, adjacent to Paul & Sara property. My property I.D. #20.30.23.22.0021. After reviewing the plan's for the storage and workshop accessory structure provide by Paul & Sara Aplikowshi and the New Brighton Planning Commission, we find **NO PROBLEM** with this endeavor and urge to Planning Commission to grant **APPROVAL**.

I thank you for the informative notification and feel my presents at the commission is not necessary with all the COVID-19 pandemic concerns. You may render this E-Mail into your official records. Again, I Thank You

Timothy A. Feyo
1677 Long Lake Rd.
New Brighton, MN 55112

From: [Cookie Schultz](#)
To: [Benjamin Gozola](#)
Subject: Re: Public Hearing Feedback
Date: Tuesday, October 20, 2020 10:39:25 AM

October 20, 2020

To: Ben Gozola

New Brighton City Council

Re: Special use permit for Paul and Sara Aplikowski

As the property owners of 1687 Long Lake Road, New Brighton, we are writing to ask the city council to deny the special use permit that would allow a two-story structure to be built on the property next door to our property. Please note that we are not opposed to a single story structure.

As indicated in the New Brighton zoning code, one of the Planning Commission goals is "The City recognizes the various aesthetic, economic and environment benefits..." of the community. Allowing the proposed two-story structure will block the view of the lake for properties next door, for properties across the street, and for citizens enjoying a walk or bike ride and would be a disservice to all in the community.

It will most definitely depreciate the value of our property. Our intention is to build a home in the next year or two and we have been looking forward to building a waterfront home with a lake view. Having our lake view blocked by the proposed structure will be disheartening as we are retired and have been looking forward to enjoying the beauty and tranquility of the lake.

Blocking the lake view will depreciate the value of our property. Assessing the value of a home always takes into consideration other home values within a neighborhood/community/city. This means that not only will the value of our property be lower if this request is allowed to move forward, it also means that other home owners within the city will also be impacted by a lower assessed home value. Not to mention the loss of property tax revenues to the city since they are based on home value.

The City of New Brighton Planning Commission specifically states in their zoning code their goal is to "Safeguard and enhance property values." (Sec. 8-010, (2), 8), therefore we are requesting the City Council take this into consideration when deciding whether or not allowing a two story structure that blocks the lake view for those around it is aligning with their goal for the community.

Thank you for giving us the opportunity to "speak" on this matter.

Sincerely,
Kenneth and Ruth Schultz

On Tuesday 20/10/2020 at 8:55 am, Benjamin Gozola wrote:

Please send me your thoughts, and I'll read them to the Planning Commission tonight.

Thank you!

 **Ben Gozola, AICP**

Assistant Director of Community Assets and Development | City of New Brighton

From: [Kratz, David \(DOT\)](#)
To: [Benjamin Gozola](#)
Cc: [Sherman, Tod \(DOT\)](#); [Muhic, P Cameron \(DOT\)](#)
Subject: RE: NB October Land Use Applications
Date: Friday, September 25, 2020 4:35:40 PM

Hi Ben,

Thank you for sending these, especially the pertinent information! No comment for these applications.

Best,

David

David Kratz | 651-234-7792
Senior Planner | MnDOT Metro District

From: Benjamin Gozola [mailto:Ben.Gozola@newbrightonmn.gov]
Sent: Friday, September 25, 2020 11:25 AM
To: Bradley Estochen (Bradley.Estochen@CO.RAMSEY.MN.US)
<Bradley.Estochen@CO.RAMSEY.MN.US>; Wojchik, Eric <Eric.Wojchik@metc.state.mn.us>;
Gleason, John (DNR) <john.gleason@state.mn.us>; Spiegel, Jason (DNR)
<jason.spiegel@state.mn.us>; Kelsey White (kwhite@ricecreek.org) <kwhite@ricecreek.org>;
MN_DOT_MetroDevReviews <metrodevreviews.dot@state.mn.us>
Subject: NB October Land Use Applications

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Partnering Agencies,

Three (3) New Brighton Land Use applications for the month of October. My gut says there'll be little interest (if any) in these, but as always, it's ultimately up to you.

Here they are:

1. **Special Use Permit:** Request from Paul and Sara Aplikowski to construct a storage and workshop accessory structure which will result in the overall square footage of accessory buildings on the site exceeding 624 square feet – 20-30-23-22-0025.

Link: <https://www.dropbox.com/sh/rfztw4zow1yiyqm/AACD7O9GhkP41xDEzJld-DZAa?dl=0>

Presumed Interested Parties: MnDOT, Ramsey County Hwy Dept, RCWD?, DNR?, Met Council

From: [Anna Grace](#)
To: [Benjamin Gozola](#)
Subject: RCWD Response to Oct Land Use Applications
Date: Monday, October 12, 2020 11:23:51 AM
Attachments: [image001.png](#)

Good Morning Ben,

Thank you for sharing the City of New Brighton's October Land Use Applications. Please find my response to each application below.

- 1. Special Use Permit:** Request from Paul and Sara Aplikowski to construct a storage and workshop accessory structure which will result in the overall square footage of accessory buildings on the site exceeding 624 square feet – 20-30-23-22-0025.

Link: <https://www.dropbox.com/sh/rfztw4zow1yiyqm/AACD7O9GhkP41xDEzJld-DZAa?dl=0>

Presumed Interested Parties: ~~MnDOT, Ramsey County Hwy Dept, RCWD?, DNR?, Met Council~~

RCWD Comment:

The current RCWD Regulatory Floodplain elevation for Long Lake is 872.1 NAVD 88. RCWD will need to confirm no floodplain fill is proposed and the structure is compliant with Rule E, Floodplain Alteration Section 3, (g) Structures to be built within the 100-year floodplain will have two feet of freeboard between the lowest floor and the 100-year flood profile.

It appears the homeowner is working with a surveyor, as stated in the, "Aplikowski Application Materials 9-25-20 document," Section 4, "...the finished floor elevation will be 3' above the floodplain elevation. (All dimensions and heights are being verified by our surveyor and will be submitted prior to the planning commission meeting.)"

To confirm no floodplain fill is proposed and the structure is compliant with two feet of freeboard, RCWD will need to review the final plan set. To confirm, I can reach out to the homeowners Paul and Sara directly. If no RCWD permit is required, I will provide the homeowners with a no permit required waiver.

- 2. Special Use Permit:** Request from Emmanuel Covenant Church to operate a satellite church within an existing industrial office building located at 1775 Old Highway 8 – PID 21-30-23-22-0017.

Link: <https://www.dropbox.com/sh/skin1iqpbr631jc/AAClmvv4klyENTpCfgebXUrwa?dl=0>

Presumed Interested Parties: ~~MnDOT, Ramsey County Hwy Dept, RCWD, DNR, Met Council~~

RCWD no comments – no permit required.

- 3. Site Plan Review:** Request from ISD 621 to construct a conforming accessory structure (shed) at Bel Air Elementary – PID 30-30-23-14-0089.

Link: <https://www.dropbox.com/sh/41ksaq0vr1yy7c2/AACcLTL82H5Aie0BZmwdBLdoa?dl=0>

Presumed Interested Parties: ~~MnDOT, Ramsey County Hwy Dept, RCWD, DNR, Met Council~~

-

RCWD no comments – no permit required.

Thank you,

Anna Grace

Regulatory Technician
Rice Creek Watershed District
4325 Pheasant Ridge Dr. NE, #611
Blaine, MN 55449-4539
Direct: (763) 398-3071
agrace@ricecreek.org



RESOLUTION No. _____
STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF NEW BRIGHTON

RESOLUTION MAKING FINDINGS OF FACT AND APPROVING A SPECIAL USE PERMIT
FOR 1546 16TH TERRACE NW TO AUTHORIZE CONSTRUCTION OF AN ACCESSORY
BUILDING IN EXCESS OF 624 SQUARE FEET

WHEREAS, the City of New Brighton is a municipal corporation, organized and existing under the laws of the State of Minnesota; and,

WHEREAS, the City Council of the City of the New Brighton has adopted a comprehensive plan and corresponding zoning regulations to promote orderly development and utilization of land within the city; and,

WHEREAS, Paul and Sara Aplikowski (the “Applicants”) made application to the City on 9/14/20 for a special use permit to authorize construction of an accessory structure in excess of 624 square feet for the property at 1546 16th Terrace NW which is legally describe as:

*THE SOUTH 300 FT OF NORTH 959.3 FT OF EAST 97.6 FT WEST 361.6 FT OF NW ¼
SEC 20, T.30, R.23, SUBJ TO ROAD, RAMSEY COUNTY, MN.*

and

WHEREAS, the new accessory structure will meet all required setbacks and will be conforming to codes in every way; and

WHEREAS, staff fully reviewed the request and prepared a report for consideration by the Planning Commission on October 20th, 2020; and

WHEREAS, the Planning Commission held a public hearing on the request at the October 20th meeting and considered input from residents; and

WHEREAS, the Planning Commission recommended approval of the request based on the applicant’s submittals and findings of fact; and

WHEREAS, the City Council considered on October 27th, 2020, the recommendations of the Planning Commission, staff, the Applicant's submissions, the contents of the staff report, and other evidence available to the Council.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of New Brighton hereby approves the requested special use permit based on the following findings of fact:

1. *The subject property is guided for residential use by the comprehensive plan, and a detached garage in excess of 624 square feet can be permitted via a special use permit in the corresponding R-1 zoning district.*

2. *Construction of the proposed building will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.*
3. *The new building will not be detrimental to uses on the subject property or on surrounding lands.*
4. *Construction of the proposed building will not have a detrimental impact on area property values.*
5. *The subject site is adequately served by public utilities, roads, and drainage facilities to accommodate the proposed addition.*
6. *The special use will be in conformance with all underlying zoning district requirements*

BE IT FURTHER RESOLVED, that approval of the special use permit shall be subject to the following conditions:

1. *The Special Use Permit shall authorize the location and size of accessory structure as shown on the Certificate of Survey for 1546 16th Terrace NW dated October 5, 2020; any significant changes to the location or size of the building shall require an amendment to this permit.*
2. *Roof and exterior color and material(s) must be consistent and complimentary with the principal structure.*
3. *No commercial or home occupation activity shall be conducted within the detached garage.*
4. *Tree removal shall be limited to the 4 – 5 trees in the immediate vicinity of the proposed structure (10" pine, 10" pine, 8" pine, 8" maple, and 8" ash).*
5. *Walls of the existing shed shall be removed to create an outdoor covered storage area, or the shed shall be removed in its entirety*
6. *Failure to adhere to conditions of approval shall be grounds for revocation of the special use permit by the City Council*

ADOPTED this 27th day of October, 2020 by the New Brighton City Council with a vote of __ ayes and __ nays.

Valerie Johnson, Mayor

Devin Massopust, City Manager

ATTEST:

Terri Spangrud, City Clerk

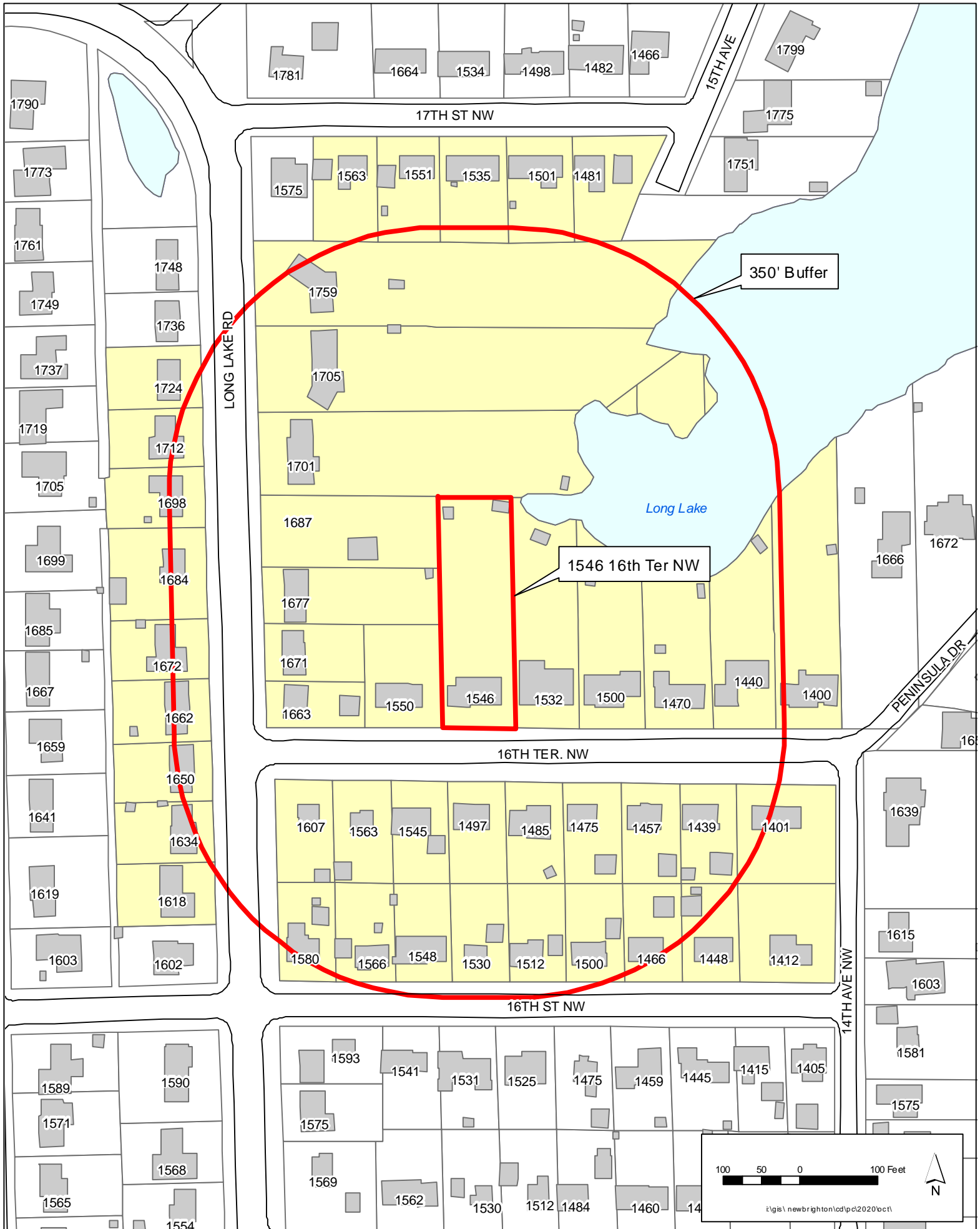
The undersigned Applicants have read, understand and hereby agree to the terms of this resolution and on behalf of himself/herself, his/her heirs, successors and assigns, hereby agree to the conditions set forth above, and to the recording of this resolution and attachments in the chain of title of the property.

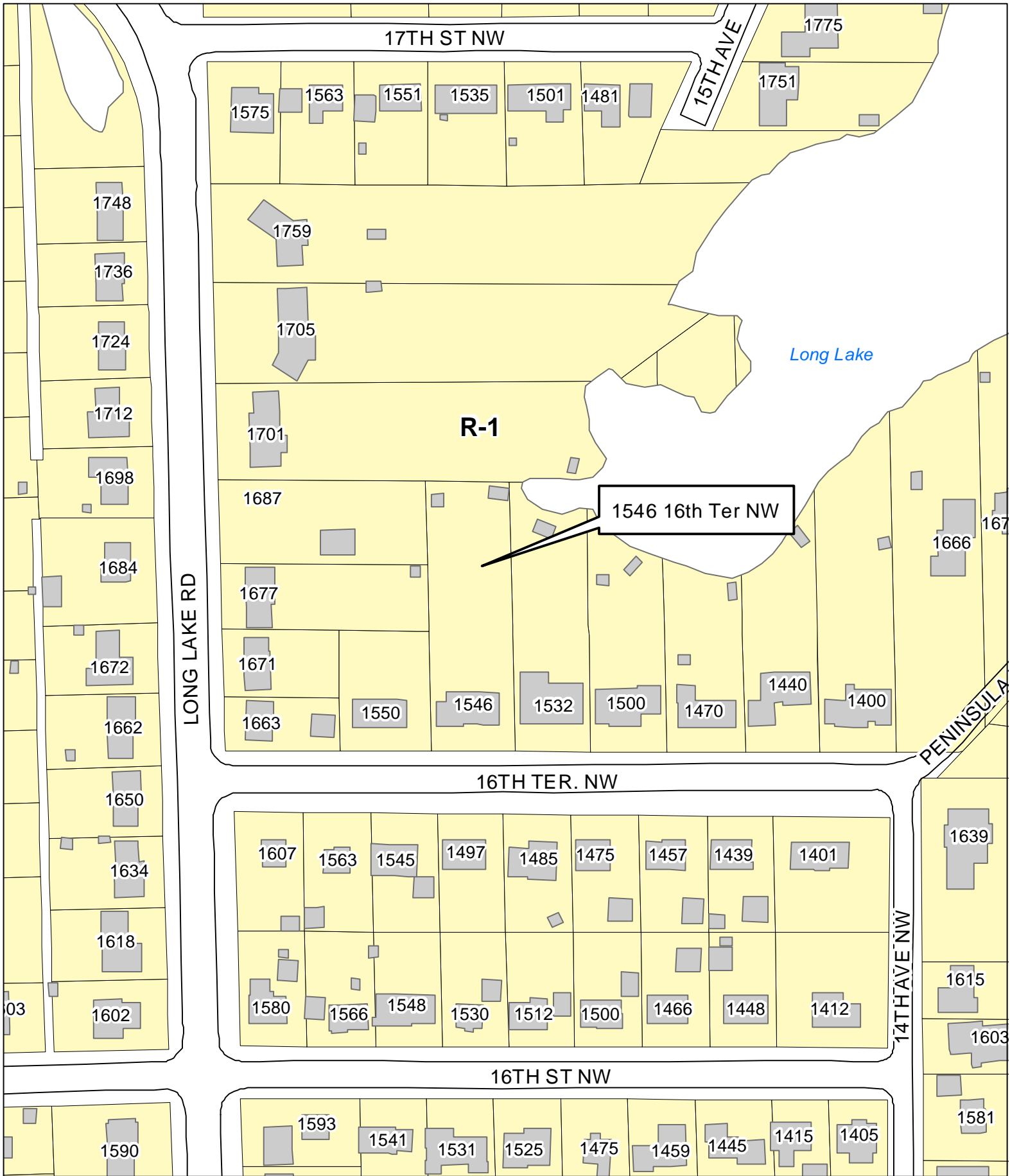
Dated _____
Paul or Sara Aplikowski <or authorized representative>

Subscribed and sworn to before me this _____ day of _____, 2020.

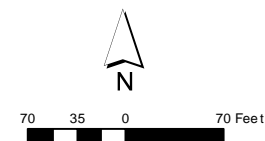
Notary Public

1546 16th Ter NW - 350' Mailing Buffer





R-1, Single Family Residential



Current Zoning

1546 16th Ter. NW
R-1, Single Family Residential

Special Use Permit Application Additional Information

Property Description

Address: 1546 16th Terrace NW

PID: 203023220025

Legal Description

The East 97.6 feet of the West 361.6 feet of the South 300 feet of the North 959.3 feet of the Northwest Quarter (NW ¼) of Section Twenty (20), Township Thirty (30), Range Twenty-three (23) as measured along the North and West lines of said Northwest Quarter (NW ¼)

Narrative:

We propose to build a 840 square foot storage and workshop building in our back yard. The building will utilize similar materials and matching colors to the main house structure. The roofline will utilize the same shingle type and slopes as the main house. The building will have an upper storage area the same size as the lower shop/storage area.

We have tried to site the building in a way that minimizes the visual impact to the neighbors. The Special Use Permit Criteria Worksheet explains how we have done this. Given the size of our lot, the distance from the street, and the hills and tree cover around this area, we believe it will have minimal impact on our neighbors.

On September 13, 2020 I knocked on neighbors doors and left a letter and site plan explaining my project. I was able to speak with 4 of the six neighbors most impacted by the project. (1532 16th Terrace, and 1663 1671, and 1701 Long Lake Road. All expressed no concerns about the project and indicated they supported me building the building. I left the letter and site plan at 1550 16th Terrace and 1677 Long Lake Road. I also mailed a copy of the letter and site plan to the owners of 1687 Long Lake Road. I will be happy to report to the City planner any further comments I receive from my neighbors.

In order to comply with the zoning ordinance, I propose to tear down one existing shed on my property. The roof of this structure is in good shape, and I am requesting permission to utilize this roof as an outdoor storage area. My proposal would leave the concrete slab and install posts to hold the existing roof. Since this would not be a building and not have a floor area, it should not count toward the total square footage of accessory buildings.

We hope that the Planning Commission and City Council will support this improvement to our property. Please don't hesitate to reach out if you have any questions or concerns about our project.

Sincerely,

Sara and Paul Aplikowski

1546 16th Terrace NW, New Brighton

Attachments to Special Use Permit Criteria Worksheet Information

1) That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

Response: The proposed accessory structure meets all applicable building and zoning codes. A special use permit is required only because of the square footage of the structure. Per section 4-530, structures between 624 and 1064 feet shall be subject to approval of a Special Use Permit. The proposed building will meet all zoning heights and setbacks and comply with the Building Code.

2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

Response: We have attempted to site the building to minimize impact to adjacent properties. The building will be in a similar style and with similar materials to the main house. The location will minimize visibility from currently occupied parcels. The most immediately adjacent lot is heavily wooded and has not had a house on it for approximately 20 years (1687 Long Lake Road). Lake site lines may be a consideration. Again, the location will eliminate any impairment of lake views from occupied parcels. The unoccupied parcel is heavily wooded currently and contains a storage garage within the site line to lake view. Views from 1687 Long Lake Road to the lake affected by this structure are impeded by trees located on the 1701 Long Lake Road property.

3) That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Response: The accessory building will comply with all zoning setback and height requirements. The improvement will not affect any buildable area or otherwise impede on the improvement of surrounding property. The proposed building falls within the approved accessory building size requirements for my lot. It will not affect the overall fabric of the neighborhood adversely. We propose to restore the slopes and grass upon completion of the building project. Given the abundance of trees on my property and the neighboring property we are not proposing any special landscaping to screen the new building.

The property at 1687 Long Lake Road does not currently have lake views. What lake views are possible, assuming they cut down the many existing trees, are primarily to the end of the bay. The current storage building on 1687 Long Lake Road already obscures that view from most house locations on the site. This lot has not been altered or maintained adjacent to my property

since I moved in in 2002. I do not believe our proposed building would adversely affect property values.

4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

Response: The proposed building will have no plumbing. The building will have electricity provided from a buried wire from the main house electrical panel. A seasonal water line for a hose bib may be provided if budget allows. No driveway is being constructed for the structure. The use will be primarily lawn equipment and light use by trailers/carts for materials, etc. This is consistent with other "back yard garages" on adjacent properties. A gravel driveway may be constructed at some future date.

Drainage will be onto grade. The building will be located approximately 48 feet away from the channel into the lake and in excess of 6 feet above the normal lake level. The lakeshore proper will be approximately 140 feet from the closest edge of the building. The finished floor elevation will be approximately 3' above the flood plain elevation. (All dimensions and heights are being verified by our surveyor and will be submitted prior to the planning commission meeting.) Surface runoff from the roof will have the opportunity to filter and infiltrate on all four sides as it crosses my yard.

5) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.

Response: The proposed structure will meet all City Zoning Codes, the Building Code, and all applicable Municipal Ordinances. The total amount of accessory structures on the property will comply with the maximum of 1,664 square feet of building footprint as required by the ordinance. The total square footage between the attached garage, boat house, and the proposed building is calculated at 1,649 square feet. The proposed building has a footprint of 840 square feet thus complies with the maximum accessory building size of 1,064 square feet.

The building is for private and hobby use only. There will be no commercial operations from the proposed building.

September 13, 2020

Neighbors of 1546 16th Terrace NW

Dear Neighbors,

We live at 1546 16th Terrace NW. We are submitting a proposal to the City to construct an accessory garage on our property. As part of the City's process we will have a public hearing at the Planning Commission and City Council and require City Council approval for our project. You will receive a notice from the City about that public hearing in the coming weeks. It is your right to come and speak about our project with the Planning Commission and City Council. We are reaching out to you now to get your feedback and input about our proposal and to try to address any concerns you might have about the project before those hearings.

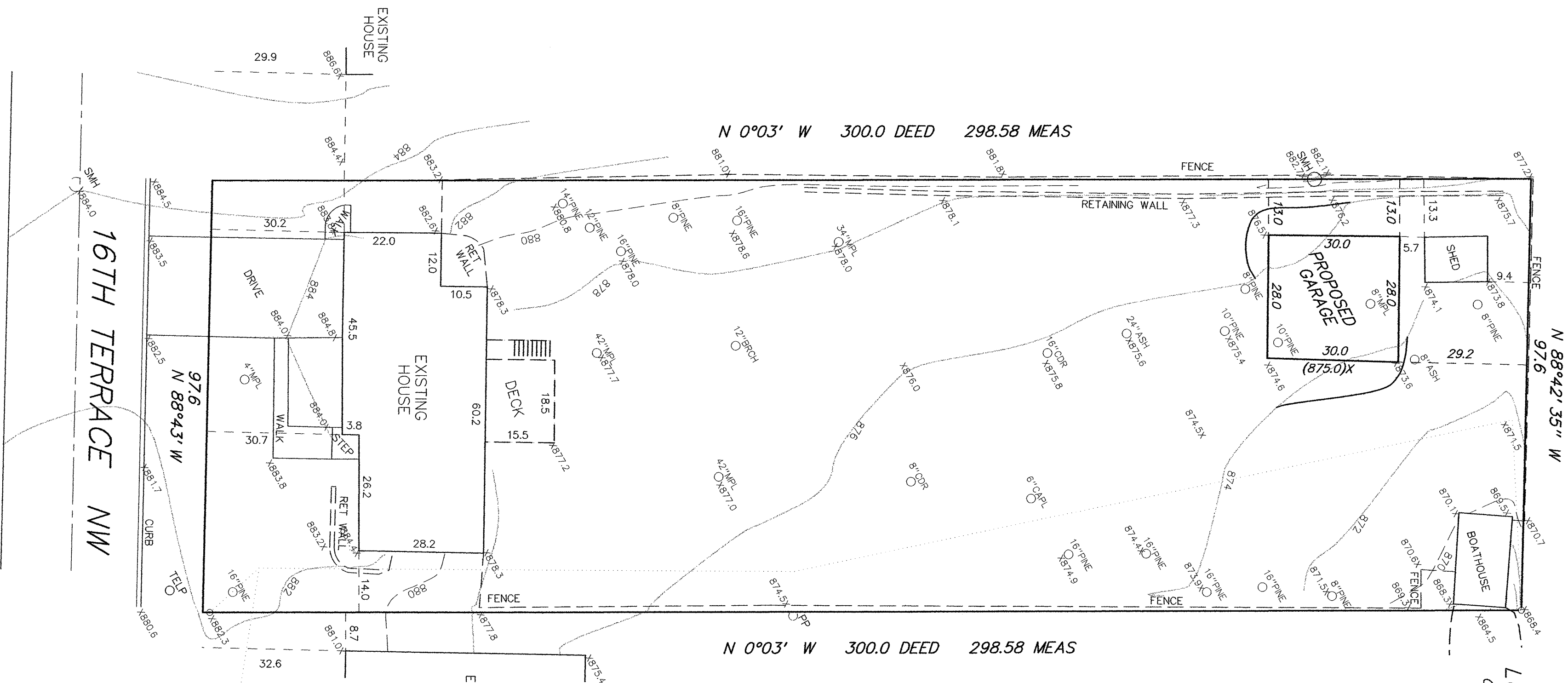
The proposed building will be a detached garage located toward the back (Northwest corner) of our property. It will have a footprint of 840 square feet with a storage area above. We have tried to locate the building to minimize the impact to views of all neighbors. We feel this is the best location on our property for this building primarily because it will cause the least visual change for neighbors. I have included a simple plan of the area showing the proposed building footprint. Per the City requirements the building will match our house in color, materials, and the general style of the house.

If you have any concerns or wish to share your thoughts please reach out to us to discuss them. If you are not comfortable knocking on our door with the pandemic going on, please feel free to email us or give us a call.

Email: paul@aplikowski.com

Phone: 651-636-4267

Sincerely,
Sara and Paul Aplikowski
1546 16th Terrace NW



BENCHMARK
TR SAN MH
ELEV = 884.0

16TH TERRACE NW

LONG LAKE
OHW = 964.93

N 0°03' W 300.0 DEED 298.58 MEAS

N 0°03' W 300.0 DEED 298.58 MEAS

0 20 40 60
SCALE IN FEET
X(998.0) = EXISTING SPOT ELEVATION.
X(998.0) = PROPOSED SPOT ELEVATION.
= DIRECTION SURFACE DRAINAGE
COH = CANTILEVERED OVERHANG
OHL = OVERHEAD UTILITY LINE
GFE = GARAGE FLOOR ELEVATION
TFE = TOP OF FOUNDATION ELEVATION
LFE = LOWEST FLOOR ELEVATION

HARDCOVER
EXISTING
HOUSE = 2108 SF
DECK = 352 SF
BOATHO = 248 SF
SHED = 145 SF
DRIVE = 670 SF
WLKSTPS = 233 SF
TOTAL = 3756 SF/12.9%

PROPOSED
GARAGE = 844 SF/2.9%
TOTAL EXISTING TO REMAIN
AND PROPOSED = 4600 SF/15.8%

DESCRIPTION:
THE SOUTH 300 FT OF NORTH 959.3 FT
OF EAST 97.6 FT WEST 361.6 FT OF NW
1/4 SEC 20, T.30, R.23, SUBJ TO ROAD,
RAMSEY COUNTY, MN.


ADDRESS-
1546 16TH TERRACE NW
NEW BRIGHTON MN, 55112
PID# 203023220025

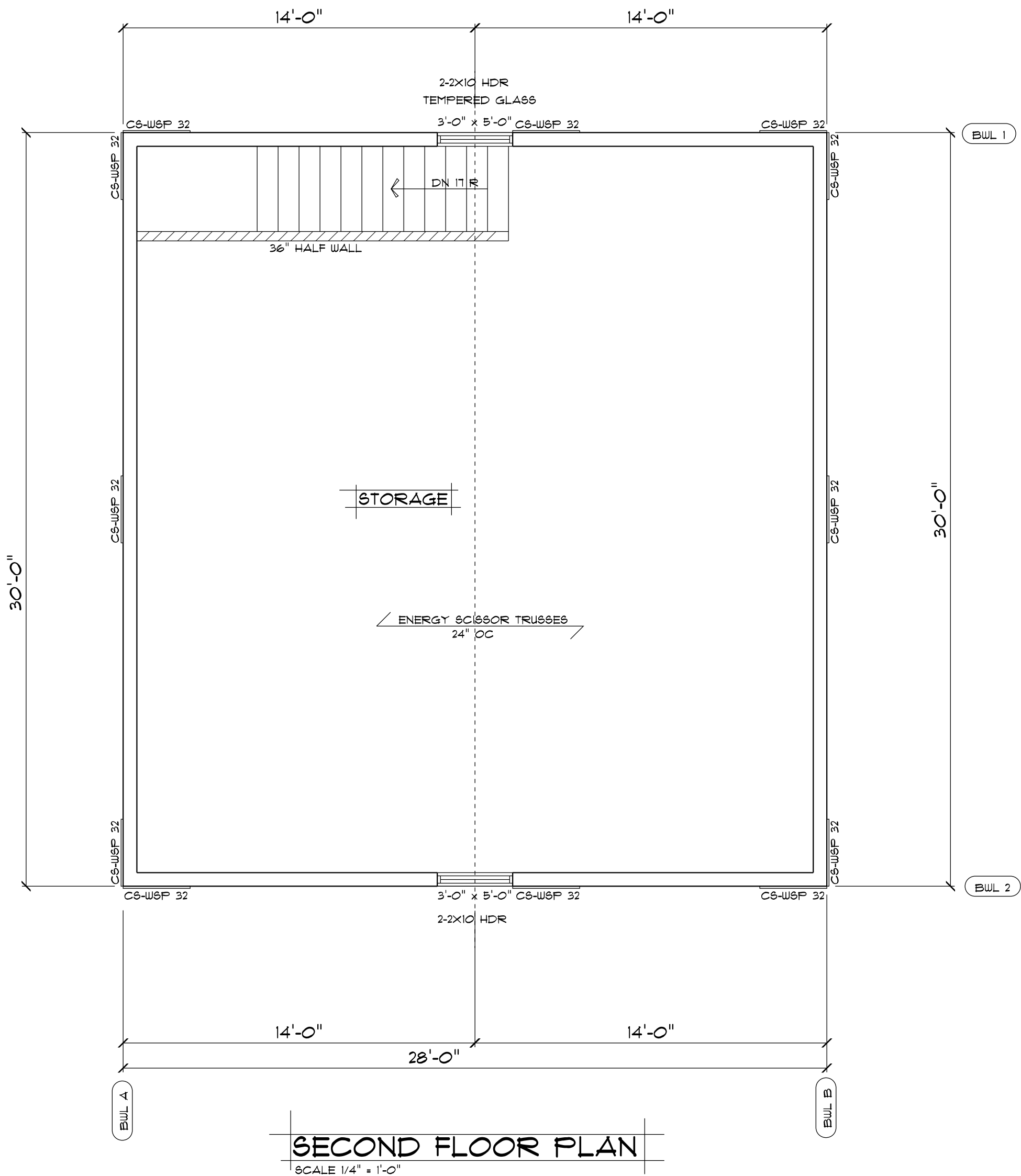
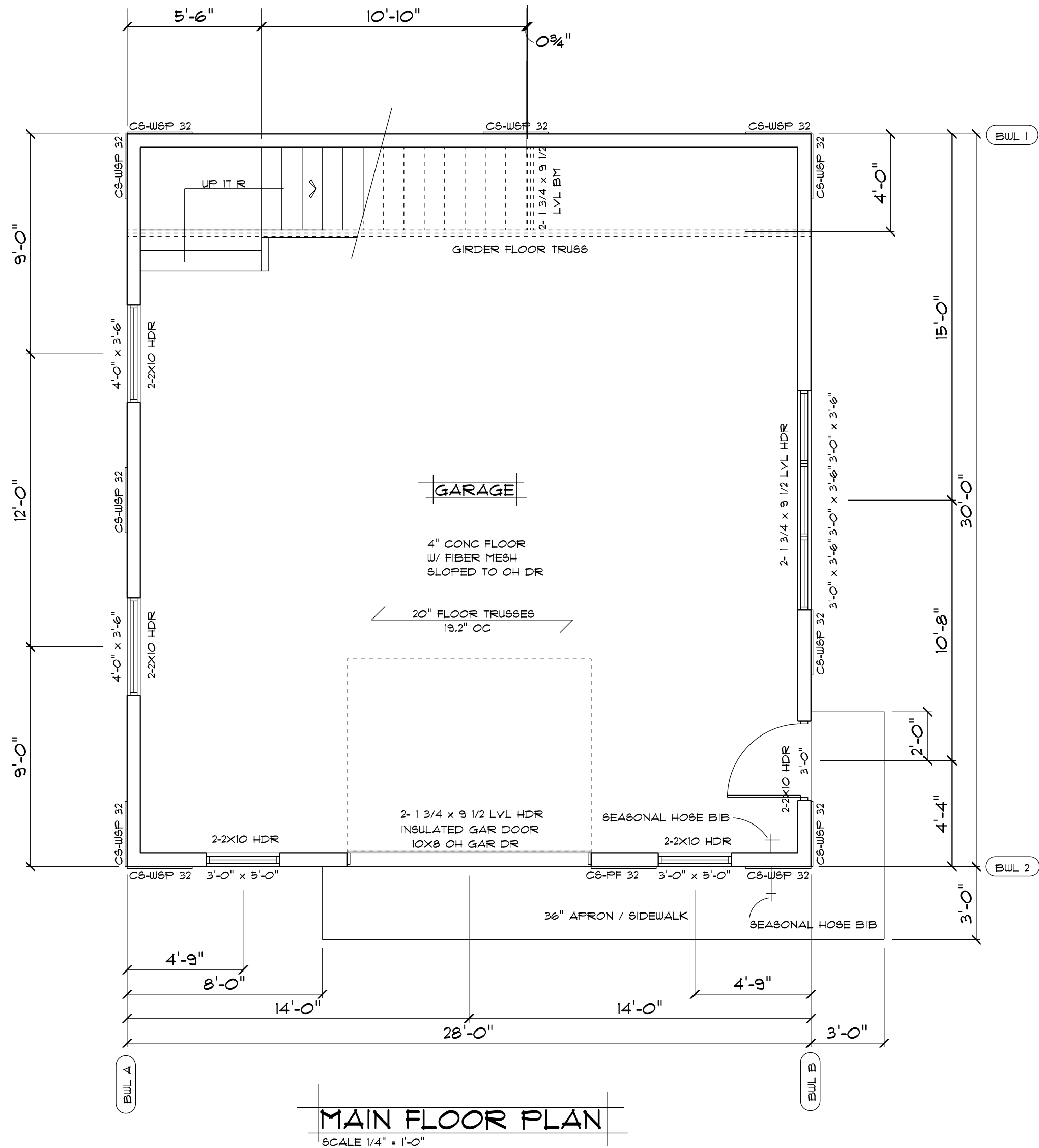
LOT AREA = 21933 SF / 0.67 AC

SURVEY IS SUBJECT TO CHANGE PER
TITLE OR EASEMENT INFORMATION

VERIFY ALL DIMENSIONS AND
ELEVATIONS WITH HOUSE PLANS

VERIFY ALL SETBACKS WITH CITY

| | | | | |
|--|------|-----------------------------------|---|---|
| PROJECT NO. | BOOK | BUILDING PERMIT SURVEY |  | Land Surveyor Frank R. Cardarelle 6440 FLYING CLOUD DRIVE EDEN PRAIRIE, MN 55344 952-941-3031 |
| DATE OCT 5, 2020 | PAGE | | | |
| REVISIONS | | | | |
| I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA. | | | for APLIKOWSKI RESIDENCE 1546 16TH TERRACE | |
| FRANK R. CARDARELLE REG. NO. 6508 | | | | |



| PRESCRIPTIVE BRACED WALL LINE CALCULATION FOR: MAIN FLOOR | | | | | | | | | | | |
|---|---------------------------------|--------------------------|---|------------------------------|--------------------------|---------------------------------|---------------------------------|---------------|----------------------|-------------------------|---------------------|
| BRACED WALL LINE | BRACING METHOD TBL R602.10.4 | BRACED WALL LINE SPACING | BRACING REQ'D IN FEET TBL R602.10.3(1) | EXPOSURE ADJUST FOR: B | EAVE TO RIDGE HT. 10' | WALL HEIGHT ADJUST FOR 9' | NUMBER OF BRACED WALL LINES = 2 | END CONDITION | REQ'D BRACING LENGTH | PROVIDED BRACING LENGTH | CONNECTION CRITERIA |
| 1 | CS-WSP | 30'-0" | 5.0' | 1.0 | 1.0 | .95 | 1.0 | 1 | 4.75' | 8.0' | PER TABLE R602.10.4 |
| 2 | CS-WSP CS-PF | 30'-0" | 5.0' | 1.0 | 1.0 | .95 | 1.0 | 1 | 4.75' | 8.0' | PER TABLE R602.10.4 |
| A | CS-WSP | 28'-0" | 4.61' | 1.0 | 1.0 | .95 | 1.0 | 1 | 4.203' | 8.0' | PER TABLE R602.10.4 |
| B | CS-WSP | 28'-0" | 4.61' | 1.0 | 1.0 | .95 | 1.0 | 1 | 4.203' | 8.0' | PER TABLE R602.10.4 |

END CONDITION 1 REQUIRES A BRACED WALL PANEL AT THE END OF A BRACED WALL LINE AND A RETURN PANEL WITH A MINIMUM OF 24" (CONTINUOUSLY SHEATHED BRACED WALL LINES)

| PRESCRIPTIVE BRACED WALL LINE CALCULATION FOR: SECOND FLOOR | | | | | | | | | | | |
|---|---------------------------------|--------------------------|---|------------------------------|--------------------------|---------------------------------|---------------------------------|---------------|----------------------|-------------------------|---------------------|
| BRACED WALL LINE | BRACING METHOD TBL R602.10.4 | BRACED WALL LINE SPACING | BRACING REQ'D IN FEET TBL R602.10.3(1) | EXPOSURE ADJUST FOR: B | EAVE TO RIDGE HT. 10' | WALL HEIGHT ADJUST FOR 6' | NUMBER OF BRACED WALL LINES = 2 | END CONDITION | REQ'D BRACING LENGTH | PROVIDED BRACING LENGTH | CONNECTION CRITERIA |
| A | CS-WSP | 28'-0" | 4.61' | 1.0 | 1.0 | .90 | 1.0 | 1 | 4.203' | 8.0' | PER TABLE R602.10.4 |
| B | CS-WSP | 28'-0" | 4.61' | 1.0 | 1.0 | .90 | 1.0 | 1 | 4.203' | 8.0' | PER TABLE R602.10.4 |
| 1 | CS-WSP | 30'-0" | 5.0' | 1.0 | 1.0 | .90 | 1.0 | 1 | 4.75' | 8.0' | PER TABLE R602.10.4 |
| 2 | CS-WSP | 30'-0" | 5.0' | 1.0 | 1.0 | .90 | 1.0 | 1 | 4.75' | 8.0' | PER TABLE R602.10.4 |

END CONDITION 1 REQUIRES A BRACED WALL PANEL AT THE END OF A BRACED WALL LINE AND A RETURN PANEL WITH A MINIMUM OF 24" (CONTINUOUSLY SHEATHED BRACED WALL LINES)

| BRACED WALL KEY | |
|---|---|
| CS-WSP CONTINUOUSLY SHEATHED WOOD STRUCTURAL PANEL CONST. METHOD PANEL LENGTH IN INCHES (SEE PLAN) CS-WSP 21 | CONNECTION CRITERIA PER TABLE R602.3(3) AS FOLLOWS: PAGE 205 FASTENERS = 8d COMMON SPACING = 6" EDGES 12" FIELD MINIMUM BRACED WALL PANEL LENGTH PG 229 TABLE R602.10.5 8' WALL HEIGHT W/ 84" HIGH ADJACENT OPENING EQUALS 32" MIN |
| CS-PF CONTINUOUSLY SHEATHED PORTAL FRAME CONST. METHOD PANEL LENGTH IN INCHES (SEE PLAN) CS-PF 22 | CONNECTION CRITERIA PER TABLE R602.3(3) AS FOLLOWS: PAGE 205 FASTENERS = 8d COMMON SPACING = 6" EDGES 12" FIELD ALSO SEE FIGURE R602.10.6.2 (PAGE 231) MINIMUM BRACED WALL PANEL LENGTH PG 229 TABLE R602.10.5 9' WALL HEIGHT EQUALS 18" MIN |

| 2012 IRC PRESCRIPTIVE WALL BRACING CRITERIA R602.10 | |
|---|--|
| GENERAL NOTES | |
| 1) BWL = BRACED WALL LINE BWP = BRACED WALL PANEL 2) 50 MPH OR LESS WIND SPEED 3) WIND EXPOSURE B 4) 60' MAX BRACED WALL LINE SPACING 5) 20' MAX BETWEEN BRACED WALL PANELS 6) BRACED WALL PANELS SHALL BE WITHIN 10' OF EACH END OF A BRACED WALL LINE | |

1546 16TH TERRACE NW NEW BRIGHTON MN

APLIKOWSKI GARAGE

J&J REMODELERS

LARSEN DESIGN & CONSTRUCTION LLC

4120 SUNFLOWER CIRCLE VADNAIS HEIGHTS MN 55127

651-957-2421 BRUCE@COMCAST.NET

REVISED:

6/22/20

7/31/20

8/21/20

DRAWN BY:

BRUCE LARSEN

DATE:

6/8/20

SCALE:

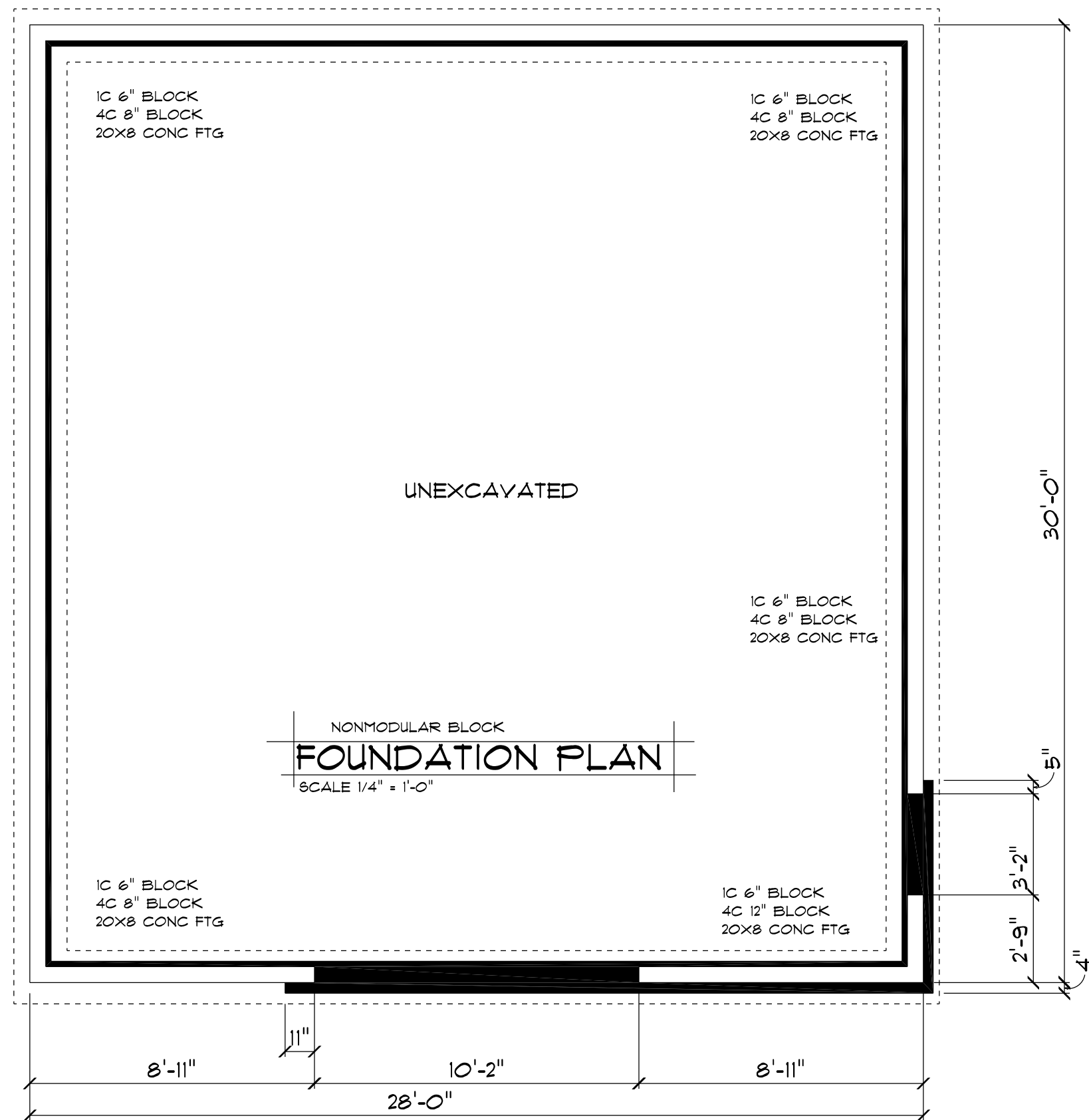
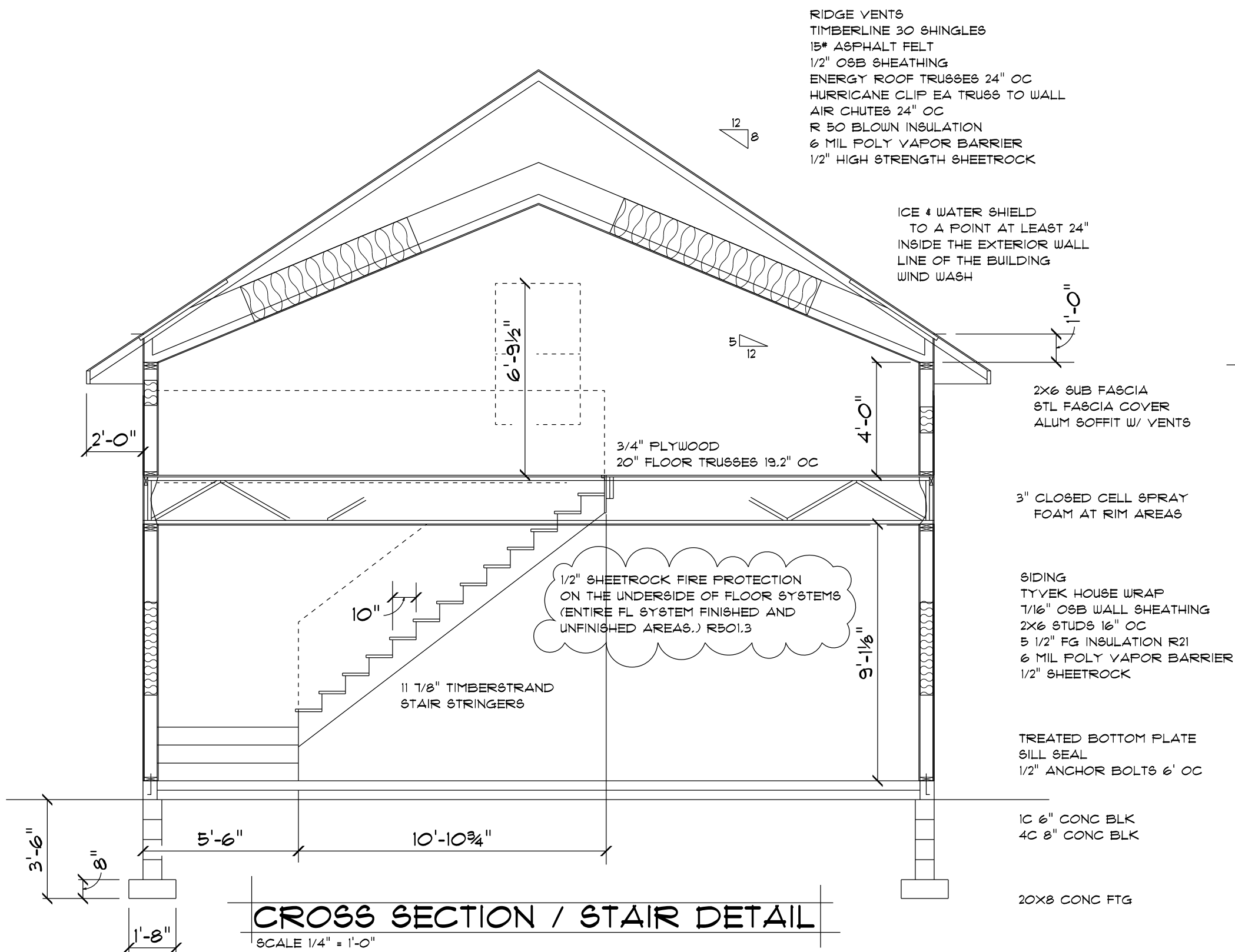
1/4" = 1'-0"

SHEET:

2 OF 2

18X24

ALTHOUGH EVERY EFFORT HAS BEEN MADE IN PREPARING THESE PLANS AND CHECKING THEM FOR ACCURACY, THE CONTRACTOR / HOMEOWNER MUST VERIFY GRADES, FOOTING SIZES, ELEVATIONS, ROUGH OPENINGS, HEADER AND BEAM SIZES, ALL OTHER DIMENSIONS AND SPECS, AND BE RESPONSIBLE FOR THE SAME.





| | |
|-----------------------|----------|
| Agenda Section: | IX |
| Item: | 3 |
| Report Date: | 10/21/20 |
| Council Meeting Date: | 10/27/20 |

REQUEST FOR COUNCIL CONSIDERATION

| |
|---|
| ITEM DESCRIPTION: Consider a Resolution Approving a Special Use Permit for Emmanuel Covenant Church to operate a satellite church at 1775 Old Highway 8. |
| DEPARTMENT HEAD'S APPROVAL: Craig Schlichting, DCAD <i>C6S</i> |
| CITY MANAGER'S APPROVAL: |
| No comments to supplement this report <i>DM</i> Comments attached <u> </u> |

15.99 Deadline: 11/19/20

Recommendations: ▪ Both the Planning Commission and Staff believe the SUP can be approved with conditions.

Legislative History: ▪ Application Received on 9/20/20
▪ Planning Commission Public Hearing held on 10/20/20

Financial Impact: None

Summary: Emmanuel Covenant Church is seeking authorization to operate a satellite church within rented industrial space at 1775 Old Highway 8. Initial activities would focus on recording music and sermons remotely in advance for broadcast via their website. Small audiences resulting in occupancy of 50 or less people is desired. Eventually, Emmanuel Covenant Church would also like to host youth groups and auxiliary Sunday morning services catering to no more than 85 people.

Attachments: A) Staff Report
B) Draft Resolution
C) City Maps
D) Applicant Narrative
E) Applicant's supporting documentation

Ben Gozola, AICP
Assistant Director of Community Assets and Development

To: **City Council**

From: Ben Gozola, Assistant Director DCAD

Meeting Date: **10-27-20**

Applicants: **Emmanuel Covenant Church**

Main Contacts: Pastor Jason Peterson

Location: 1775 Old Highway 8, Suite 111

Zoning: **I-1**

Introductory Information

Project: Emmanuel Covenant Church is seeking authorization to operate a satellite church within rented industrial space at 1775 Old Highway 8. Initial activities would focus on recording music and sermons remotely in advance for broadcast via their website. Small audiences resulting in occupancy of 50 or less people is desired. Eventually, Emmanuel Covenant Church would also like to host youth groups and auxiliary Sunday morning services catering to no more than 85 people.

History:

- None (initial request)
- Application received on 09/20/20

Request(s):

- **Special Use Permit to authorize Emmanuel Covenant Church to utilize ≈6200 square feet of office and warehouse space at 1775 Old Highway 8.**

General Findings

Site Data:

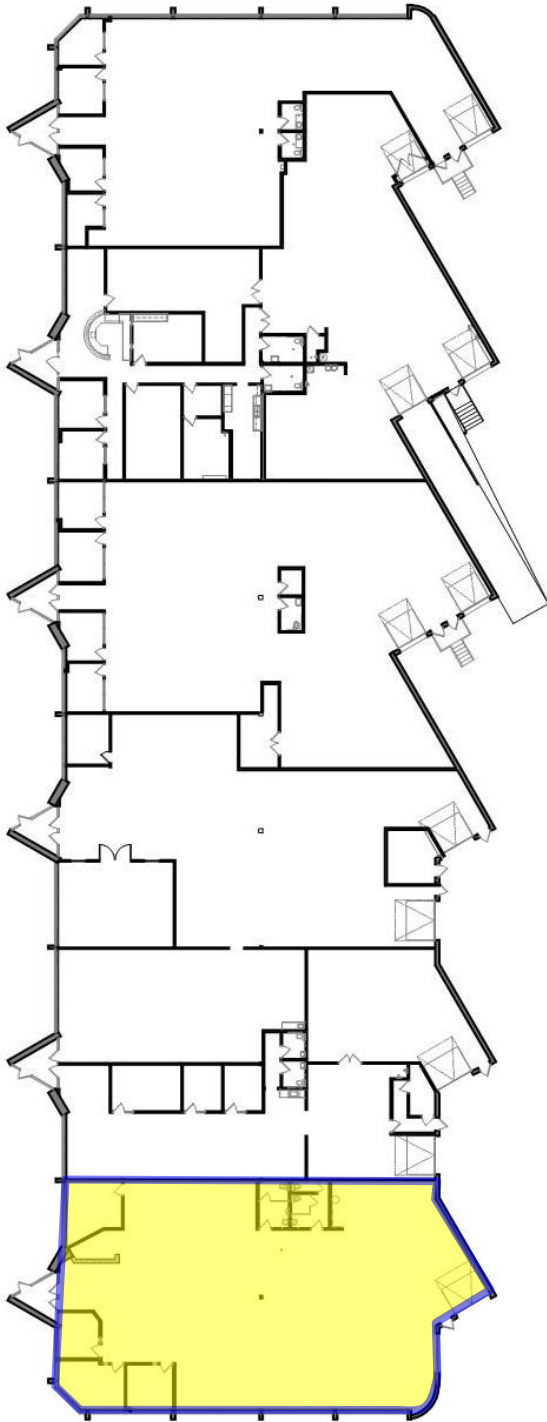
- Existing Lot Size ≈ 2.4 acres
- Existing Use – Multi-tenant office building
- Existing Zoning – I-1
- Property Identification Number (PID): 21-30-23-22-0017

Comp Plan Guidance:

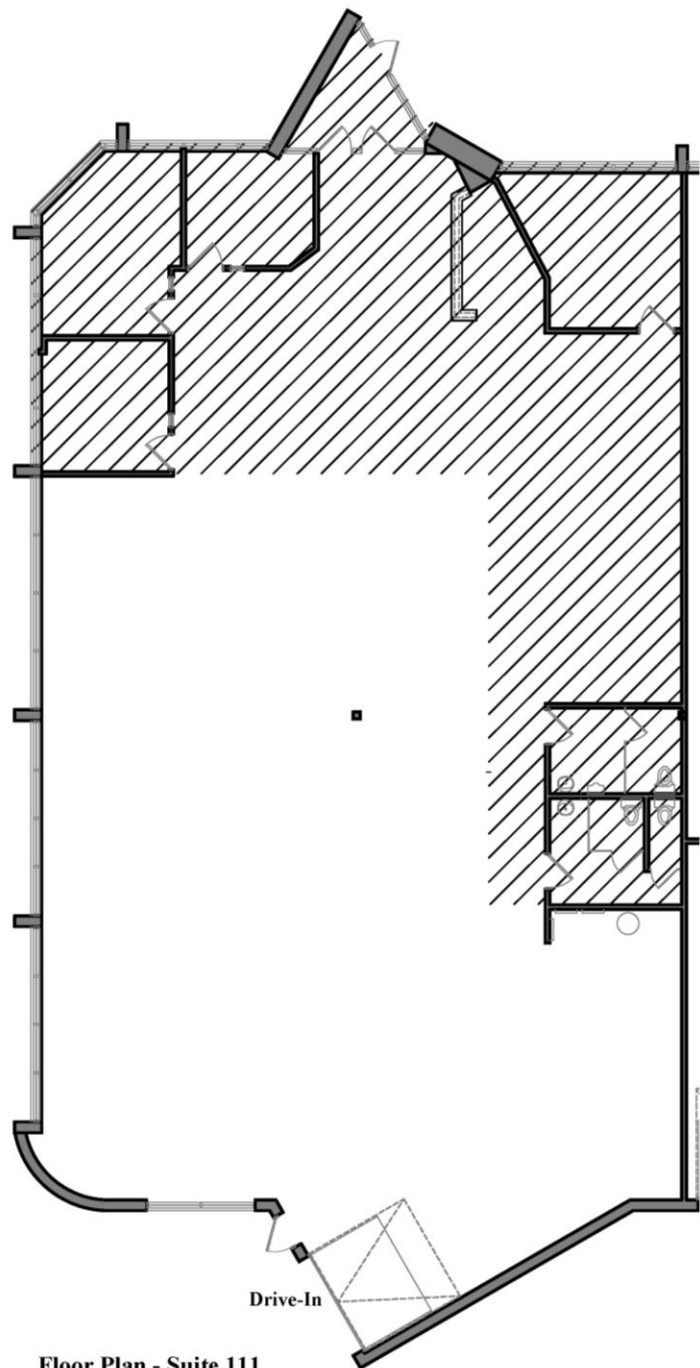
- The comprehensive plan guides this property for Light Industrial (LI). The proposed special use under the I-1 zoning classification is appropriate with an SUP.



Office/Warehouse Space Location



Floorplan



Floor Plan - Suite 111

**Notable Code
Definitions:**

- none

**Applicable
Codes:**

- **Chapter 6, Article 1, I-1 District.**
Allows any use except residential and I-2 permitted uses in the I-1 district via special use permit.
- **Chapter 8, Article 2, Special Use Permit and Variance.**
Identifies the process by which a special use request is to be reviewed and decided.

**Applicant's
Narrative:**

Proposed Special Use Permit for Emmanuel Covenant Church
Rush Lake Business Center
Suite 111
1775 Old Highway 8
New Brighton, MN 55112

Emmanuel Covenant Church was founded in 2007 and has offices at 513 Tanglewood Dr. in Shoreview, MN. We meet for Sunday morning worship and Wednesday night youth group at the Shoreview Community Center and have been meeting there for about 10 years. We have a great relationship with the city and Community Center and plan to continue utilizing that space for our primary worship services indefinitely.

Beginning in March of 2020, the Covid 19 pandemic closed churches forcing us to film our worship music and sermons remotely in advance for broadcast via our website. This process involved only a small band, a teaching pastor, and a few technicians for sounds and video. No audience or congregation. For a while we were able to borrow space from other churches. We have currently been filming in one of our member's workshops for the past few months. Surprisingly, attendance at our church has actually grown over the past months and we plan to continue filming our services in advance beyond the pandemic as this has become a new and effective delivery system for our services.

We are seeking a more "permanent" home for filming by utilizing the end cap unit of the property at 1775 Old Highway 8 in the Rush Lake Business complex. There we can film our music (the band and a few techs) and our sermons (the preacher and a few techs) starting as soon as possible. We believe that this use would all fall into current Class C flex code for the space.

Additionally, we want to consider other possible future uses for the space including staff offices, conference rooms, and small classroom space for classes such as small group Bible studies, a Membership Class on a Saturday morning or a parenting workshop. A portion of our youth could meet there on Wednesday nights as an example of use. Virtually all use of the space would be for smaller-sized groups and would occur outside of regular business hours. It's a great space but it's limited in capacity and we would use it accordingly as an auxiliary space for offices, filming, and

| | |
|---------|---|
| (cont.) | <p>small group meeting. For any large group meetings, we will utilize our primary space at the Shoreview Community Center.</p> <p>We would also like to explore the possibility of filming our worship services with a very small “live audience” so that it feels more “real.” We anticipate this live audience filming would take place in the evening, mid-week and would have under 50 people total occupancy (with band, staff and techs). At some point, we would also consider holding live services on Sunday mornings but these would be auxiliary to our main services at the Shoreview Community Center and would be less than 85 people.</p> <p>Currently, our most pressing need is to establish a location for filming services and other interviews but we want to make sure we’ve done the groundwork for any other possible small group use in the future.</p> <p>Use: General office space, storage of church materials and equipment, recording studio for purpose of worship music, sermons, teaching and other recorded interviews, gathering space for church activities including but not limited to youth groups, marriage groups, small group and larger group worship activities. All gathering of more than 50 people will occur after normal business hours and will adhere to any zoning requirement.</p> |
|---------|---|

Special Use Permit Review

| | |
|-------------------------|--|
| In General: | <ul style="list-style-type: none"> ▪ The need for a Special Use Permit is triggered by the request to locate in an I-1 zoning district. |
| Criteria Review: | <p>Zoning Code Section 8-130 contains five standards the City must review prior to making a decision on any specially permitted use. The applicant’s response to each criteria can be found in their narrative above, and staff analysis of each standard is shown below:</p> <p>1. <i>That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.</i></p> <p><u>APPLICANT COMMENTS:</u></p> <p>A. <i>Our use of the space for recording and small meetings will not be detrimental and in fact provides valuable resources such as training, teaching, youth support, and marriage/parenting resources to our community.</i></p> <p>B. <i>Additionally, by entering into this lease, we are providing a New Brighton business owner with steady income in a building that is currently mostly vacant (four of six units are unrented).</i></p> <p><u>Staff Analysis:</u> The location of the proposed use does not appear to be a threat to the general welfare of the community. Criteria met.</p> |

- (cont.) 2. ***That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.***

APPLICANT COMMENTS:

- A. *Majority of our use will be after-hours in a business park that does not have high after-hours needs.*
- B. *While we don't anticipate any problems with other tenants in the building due to our hours of operation, any sound issues will be mitigated through sound proofing.*

Staff Analysis: Staff finds this **criterion can be met with conditions**. While we acknowledge Emmanuel Covenant Church intends to operate this location during non-business hours for other building tenants, that does not mean the other tenants do not have the right to their places of business during those timeframes. Assuming there may be occasions when existing tenants wish to utilize their offices during the recording of a Church service or prayer session, it is possible that either noise (singing) or parking could potentially be an issue. Staff would suggest that building management take the leading role in ensuring neither are a problem for existing tenants, but the City must also play a role via the SUP to protect existing tenants and (to a lesser extent given this location) surrounding properties from potential problems. To that end, staff would suggest the following two conditions be added to any approval:

- a) Prior to larger events being held (i.e. more than 20 people), the applicant or building owner shall provide evidence that the Church is authorized to use a minimum of at least one parking space per three people proposed to attend the largest proposed gatherings (*i.e. max 85 people proposed / average of 3 people per parking space = 29 parking spaces needed*). The applicant has provided detailed information on the overall number of parking spaces and available handicapped parking on-site (see the full attached narrative), so staff is not concerned that parking will be an issue given current occupancy of the building.
- b) The applicant or building owner shall successfully address any complaints regarding noise made by a tenant who was actively renting space at the time of SUP issuance, or complaints made by surrounding property owners.

(staff is proposing to exclude future tenants as future tenants will be able to take into consideration that a church will be operating at certain points during the week, and factor that into their decision to rent. Current tenants were not able to make that determination, and hence the proposed protections).

The proposed use should have no impact on area property values.

Criteria met.

- (cont.) 3. ***That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.***

APPLICANT COMMENTS:

- A. *The majority of our use of the space would be limited to afterhours and should not, in any way, impede the other businesses in the park from development and improvement.*
- B. *Having the building more fully occupied and in use will actually improve the visibility of the other tenants within the building.*
- C. *Traffic flows are limited to few cars during after hours and the parking lot is currently striped and more than adequate for the current and proposed day time use. Any larger group is after hours when there are very few additional cars and we are happy to lease spaces in*

Staff Analysis: With the conditions already suggested, Emmanuel Covenant Church should have no impact on the other tenants in the building, and should not impact the uses on adjacent property. Leasing of the space to the church will have no more impact than any other lease within the building on future development of the site.

Staff finds this criterion to be met.

4. ***That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.***

APPLICANT COMMENTS: *This does not apply to our use.*

Staff Analysis: Public Works/Engineering has reviewed the plans and offered no comments or concerns. The site plan shows there should be little to no issues accessing the unit by their staff or visitors. We find this criterion to be met.

5. ***That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.***

APPLICANT COMMENTS: *Agreed.*

Staff Analysis: Staff has not identified any non-conformities on the site or ways in which the proposal will not meet zoning requirements. Should this special use permit be approved, the applicants shall work with local building officials to ensure the space adheres to all aspects of the building code for their use. Updates to the space, as may be required, shall be implemented as required. **Criteria met.**

Supplementary Review & Public Comment

| | |
|------------------------------------|--|
| Additional Information: | <ul style="list-style-type: none"> ▪ none |
| Engineering Review: | <ul style="list-style-type: none"> ▪ Engineering reviewed the proposed plan for a new church at this location and had no comments or concerns. |
| Public Safety Review: | <ul style="list-style-type: none"> ▪ No concerns were identified. |
| Public Comment: | <ul style="list-style-type: none"> ▪ Staff has not received any feedback from surrounding property owners as of 10/21/20, and there were no speakers for or against the proposal at the public hearing. ▪ |
| Planning Commission Review: | <ul style="list-style-type: none"> ▪ The Planning Commission reviewed the applicant's submittals and considered the input of staff during their meeting on 10/20/20. Finding no issues of concern that could not be address by the suggested conditions, the Planning Commission voted unanimously to recommend approval of the SUP with conditions. Staff concurs with this recommendation. |

Conclusion:

The application is requesting a Special Use Permit to authorize a Church within a 6,212 square foot suite of the existing warehouse/office building at 1775 Old Highway 8.

| | |
|-------------------------|---|
| Council Options: | <p>The City Council has the following options:</p> <ul style="list-style-type: none"> A) APPROVE THE REQUEST based on the applicant's submittals and findings of fact. B) DENY THE REQUEST based on the applicant's submittals and findings of fact. C) TABLE THE ITEM and request additional information. <p>Based on an application date of 9/20/20, the 60-day review period for this application expires on 11/19/20. This deadline can be extended an additional 60 days if more time is necessary.</p> |
|-------------------------|---|

***Initial Motion
for Debate:***

- “Consider a Resolution Approving a Special Use Permit for Emmanuel Covenant Church to operate a satellite church at 1775 Old Highway 8.”

***Resolution
Findings of Fact:***

1. The subject property is guided for light industrial use by the comprehensive plan, and churches can be permitted via a Special Use Permit (SUP) per zoning.
2. Establishment, maintenance, and operation of a satellite church at the proposed location will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
3. The existing building and associated parking can accommodate the use without impacting other on-site businesses or surrounding lands provided proper agreements are in place.
4. The proposed church will not impact the use and enjoyment of the subject and surrounding properties provided management agrees to successfully address any noise complaints should they arise.
5. Filling vacant space with the proposed church will not have detrimental impact on area property values.
6. The subject site is adequately served by public utilities, roads, and drainage facilities to accommodate the proposed use.
7. The special use will be in conformance with all underlying zoning district requirements.

***Resolution
Conditions:***

1. The Special Use Permit shall authorize the use of suite 111 at 1775 Old Highway 8 as a satellite church; expansion to other portions of the building would require an amendment of the SUP.
2. Prior to events hosting more than 20 people, the applicant or building owner shall provide evidence that the Church and landlord have reached a formal parking agreement covering the following:
 - a. The Church has at least one parking space per three people proposed to attend the largest proposed gatherings.
 - b. Maximum occupancy at any given time shall be limited by the parking agreement reached between Emanuel Covenant Church and the landlord. Said agreement must be structured to accommodate future parking needs of unoccupied suites which may ultimately restrict the total allowed occupancy of Suite 111.

- | | |
|----------------|---|
| <i>(cont.)</i> | <ul style="list-style-type: none">c. Parking for all church services must be served by an off-street parking lot.3. The applicant or building owner shall successfully address any complaints regarding noise made by a tenant who was actively renting space at the time of SUP issuance, or complaints made by surrounding property owners.4. The applicants shall work with local building officials to ensure the space adheres to all aspects of the building code for the use prior to occupancy.5. Failure to adhere to these conditions of approval shall be grounds for revocation of the special use permit by the City Council. |
|----------------|---|

cc: Pastor Jason Peterson, *Applicant/Main contact*

RESOLUTION NO. _____
STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF NEW BRIGHTON

RESOLUTION MAKING FINDINGS OF FACT AND APPROVING A SPECIAL USE PERMIT
TO AUTHORIZE A SATELLITE CHURCH TO OPERATE WITHIN SUITE 111 OF THE
EXISTING OFFICE/WAREHOUSE BUILDING AT 1775 OLD HIGHWAY 8

WHEREAS, the City of New Brighton is a municipal corporation, organized and existing under the laws of the State of Minnesota; and,

WHEREAS, the City Council of the City of the New Brighton has adopted a comprehensive plan and corresponding zoning regulations to promote orderly development and utilization of land within the city; and,

WHEREAS, Pastor Jason Peterson (the “Applicant”) made application to the City on 9/20/20 for a special use permit to authorize a satellite church to operate within Suite 111 the existing building at 1775 Old Highway 8, which has the property identification number of 21-30-23-22-0017; and

WHEREAS, the proposed activities on the site would be limited to no more than 85 people for even the largest of events, and would primarily occur during off-hour times for other tenants of the building; and

WHEREAS, staff fully reviewed the request and prepared a report for consideration by the Planning Commission at their meeting on October 20, 2020; and

WHEREAS, the Planning Commission held a public hearing on the request at the October 20th meeting and considered input from residents; and

WHEREAS, the Planning Commission recommended approval of the request on October 20th based on the applicant’s submittals and findings of fact; and

WHEREAS, the City Council considered on October 27th, 2020, the recommendations of the Planning Commission, Staff, the Applicant's submissions, the contents of the staff report, and other evidence available to the Council.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of New Brighton hereby approves the requested special use permit based on the following findings of fact:

- 1. The subject property is guided for light industrial use by the comprehensive plan, and churches can be permitted via a Special Use Permit (SUP) per zoning.*

2. *Establishment, maintenance, and operation of a satellite church at the proposed location will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.*
3. *The existing building and associated parking can accommodate the use without impacting other on-site businesses or surrounding lands provided proper agreements are in place.*
4. *The proposed church will not impact the use and enjoyment of the subject and surrounding properties provided management agrees to successfully address any noise complaints should they arise.*
5. *Filling vacant space with the proposed church will not have detrimental impact on area property values.*
6. *The subject site is adequately served by public utilities, roads, and drainage facilities to accommodate the proposed use.*
7. *The special use will be in conformance with all underlying zoning district requirements.*

BE IT FURTHER RESOLVED, that approval of the special use permit shall be subject to the following conditions:

1. *The Special Use Permit shall authorize the use of suite 111 at 1775 Old Highway 8 as a satellite church; expansion to other portions of the building would require an amendment of the SUP.*
2. *Prior to events hosting more than 20 people, the applicant or building owner shall provide evidence that the Church and landlord have reached a formal parking agreement covering the following:*
 - a. *The Church has at least one parking space per three people proposed to attend the largest proposed gatherings.*
 - b. *Maximum occupancy at any given time shall be limited by the parking agreement reached between Emanuel Covenant Church and the landlord. Said agreement must be structured to accommodate future parking needs of unoccupied suites which may ultimately restrict the total allowed occupancy of Suite 111.*
 - c. *Parking for all church services must be served by an off-street parking lot.*
3. *The applicant or building owner shall successfully address any complaints regarding noise made by a tenant who was actively renting space at the time of SUP issuance, or complaints made by surrounding property owners.*
4. *The applicants shall work with local building officials to ensure the space adheres to all aspects of the building code for the use prior to occupancy.*
5. *Failure to adhere to these conditions of approval shall be grounds for revocation of the special use permit by the City Council.*

ADOPTED this 27th day of October, 2020 by the New Brighton City Council with a vote of ___ ayes and ___ nays.

Valerie Johnson, Mayor

Devin Massopust, City Manager

ATTEST:

Terri Spangrud, City Clerk

The undersigned Applicants have read, understand and hereby agree to the terms of this resolution and on behalf of himself/herself, his/her heirs, successors and assigns, hereby agree to the conditions set forth above, and to the recording of this resolution and attachments in the chain of title of the property.

Dated _____

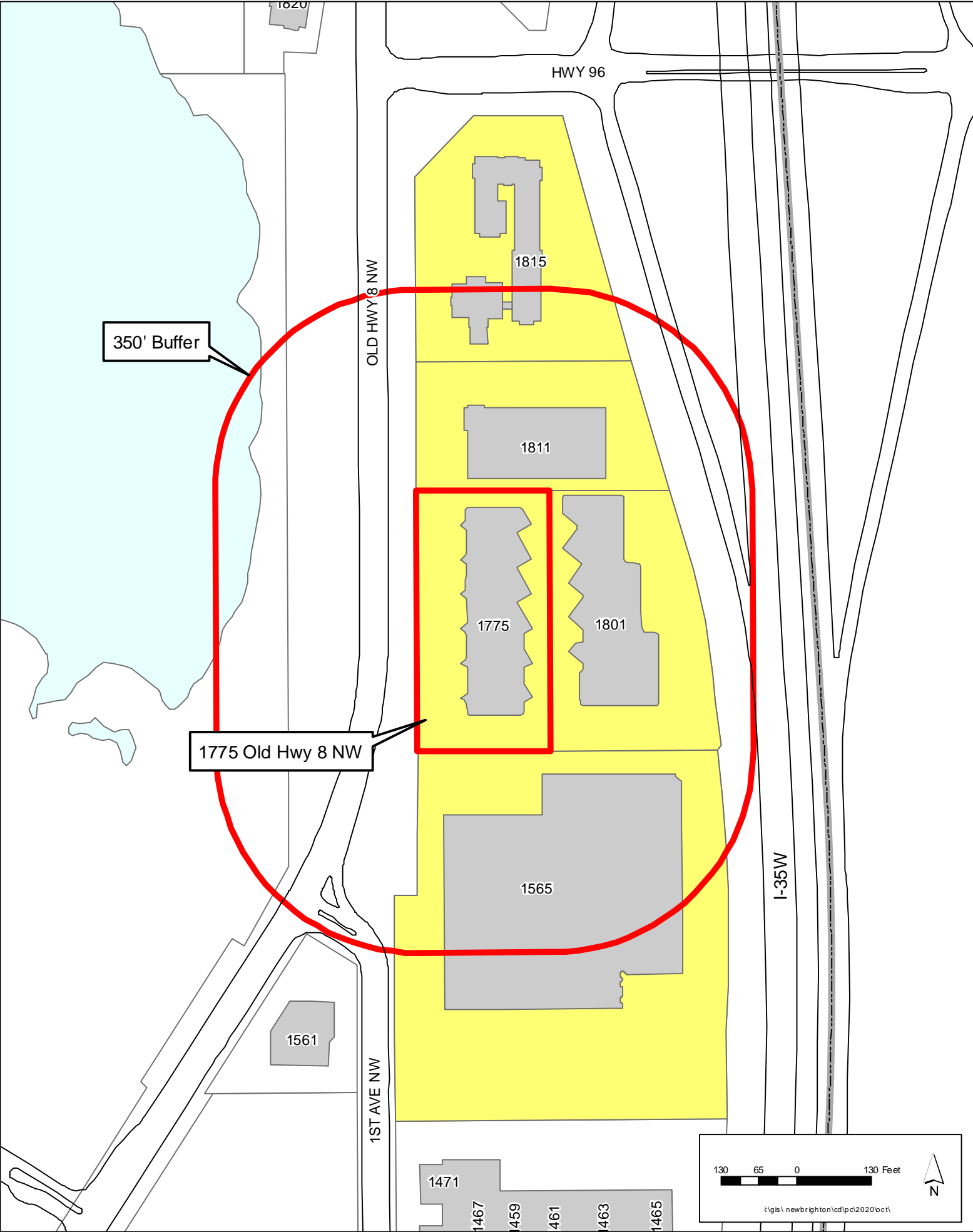
<Authorized Representative Signature>

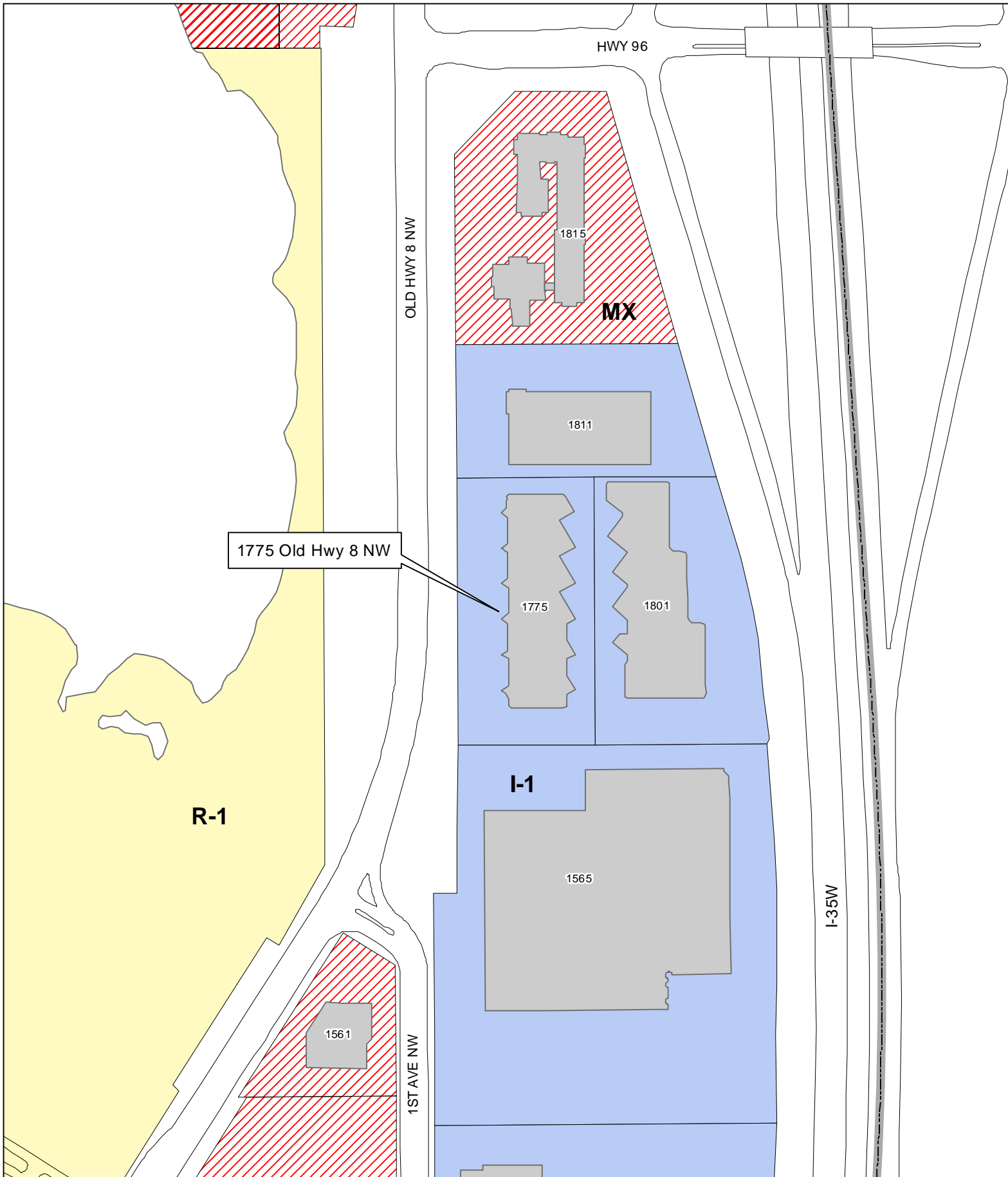
<printed name>




Subscribed and sworn to before me this _____ day of _____, 2020.

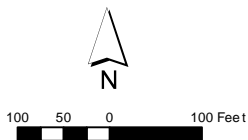
Notary Public

1775 Old Hwy 8 NW - 350' Mailing Buffer





-  MX, Mixed Use
-  I-1, Light Industrial
-  R-1, Single Family Residential



Current Zoning

1775 Old Hwy 8 NW
I-1, Light Industrial

Proposed Special Use Permit for Emmanuel Covenant Church

Rush Lake Business Center
Suite 111
1775 Old Highway 8
New Brighton, MN 55112

Emmanuel Covenant Church was founded in 2007 and has offices at 513 Tanglewood Dr. in Shoreview, MN. We meet for Sunday morning worship and Wednesday night youth group at the Shoreview Community Center and have been meeting there for about 10 years. We have a great relationship with the city and Community Center and plan to continue utilizing that space for our primary worship services indefinitely.

Beginning in March of 2020, the Covid 19 pandemic closed churches forcing us to film our worship music and sermons remotely in advance for broadcast via our website. This process involved only a small band, a teaching pastor, and a few technicians for sounds and video. No audience or congregation. For a while we were able to borrow space from other churches. We have currently been filming in one of our member's workshops for the past few months. Surprisingly, attendance at our church has actually grown over the past months and we plan to continue filming our services in advance beyond the pandemic as this has become a new and effective delivery system for our services.

We are seeking a more "permanent" home for filming by utilizing the end cap unit of the property at 1775 Old Highway 8 in the Rush Lake Business complex. There we can film our music (the band and a few techs) and our sermons (the preacher and a few techs) starting as soon as possible. We believe that this use would all fall into current Class C flex code for the space.

Additionally, we want to consider other possible future uses for the space including staff offices, conference rooms, and small classroom space for classes such as small group Bible studies, a Membership Class on a Saturday morning or a parenting workshop. A portion of our youth could meet there on Wednesday nights as an example of use. Virtually all use of the space would be for smaller-sized groups and would occur outside of regular business hours. It's a great space but it's limited in capacity and we would use it accordingly as an auxiliary space for offices, filming, and small group meeting. For any large group meetings, we will utilize our primary space at the Shoreview Community Center.

We would also like to explore the possibility of filming our worship services with a very small "live audience" so that it feels more "real." We anticipate this live audience filming would take place in the evening, mid-week and would have under 50 people total occupancy (with band, staff and techs). At some point, we would also consider holding live services on Sunday mornings but these would be auxiliary to our main services at the Shoreview Community Center and would be less than 85 people.

Currently, our most pressing need is to establish a location for filming services and other interviews but we want to make sure we've done the groundwork for any other possible small group use in the future.

Use: General office space, storage of church materials and equipment, recording studio for purpose of worship music, sermons, teaching and other recorded interviews, gathering space for church activities including but not limited to youth groups, marriage groups, small group and larger group worship activities. All gathering of more than 50 people will occur after normal business hours and will adhere to any zoning requirement.

1. Pen a written narrative demonstrating that the criteria for a special use permit have been met.

- a. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
 - A. Our use of the space for recording and small meetings will not be detrimental and in fact provides valuable resources such as training, teaching, youth support, and marriage/parenting resources to our community.
 - B. Additionally, by entering into this lease, we are providing a New Brighton business owner with steady income in a building that is currently mostly vacant (four of six units are unrented).
- b. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
 - A. Majority of our use will be afterhours in a business park that does not have high after-hours needs.
 - B. While we don't anticipate any problems with other tenants in the building due to our hours of operation, any sound issues will be mitigated through sound proofing.
- c. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
 - A. The majority of our use of the space would be limited to afterhours and should not, in any way, impede the other businesses in the park from development and improvement.
 - B. Having the building more fully occupied and in use will actually improve the visibility of the other tenants within the building.
 - C. Traffic flows are limited to few cars during after hours and the parking lot is currently striped and more than adequate for the current and proposed day time use. Any larger group is after hours when there are very few additional cars and we are happy to lease spaces in
- d. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided; and
 - A. This does not apply to our usage.
- e. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.
 - A. Agreed.

2. Provide an up-to-date survey or site plan of the property showing all information necessary to allow the City to determine whether the proposed special use conforms to all zoning provisions. For this case, I would be most interested in answers to the following:

a. Please see attached legal description of property and site plan.

3. What other tenants are in the building, what square footage is taken up by those tenants, and how much square footage is proposed to be used by the Church? This plays into how many parking spaces are required for existing tenants, and how many spaces will be available for the church? Are there adequate on-site spaces to accommodate your proposed use?

a. The total building square footage is approximately 38,625 SF comprised of six suites. Suite 111 is the southern-most end cap of the building, with only one neighbor who may be impacted, a security firm (Lloyd Security). The square footage of that tenant is approximately 4,000sf. The other tenant in the building is a medical supply company at the other end of the building in non-contiguous space which occupies approximately 7,000 sf. The contiguous neighbor has recently signed a 5-year lease and there will be no additional contiguous neighbors due to this space being the end-cap so the church use should not impact future use for contiguous neighbors.

b. The church will lease 6,212sf. This space will generally be utilized after normal business hours, minimizing the effect on neighboring tenants and parking. Should any noise become an issue, church will take mitigating actions. There are currently 80 spaces available to entire building. Each of the six suites in the building has one handicap space currently, with the exception of the medical supply suite which has added an additional five handicapped spaces bringing the total to:

A. 1 designated for suite 111 and

B. 10 additional handicapped spaces.

c. Should additional handicap parking be required, the church will work with the owner of the building to designate temporary spaces based upon number of people gathering. We do not anticipate a large enough group to require this.

d. There are 80 parking spaces on site. The estimated number of stalls the church would use on average would be 12-15 as most of our attendees are families and will ride together. Our use of the spaces will be almost exclusively after normal business hours when the majority of the 80 spaces are available and not in use. There is no formal parking agreement in place between the tenants for non-business hours use on the part of the church but no shortage of parking capabilities is expected.

e. The church plans to utilize other parking locations in the immediate area should the parking lot not be able to accommodate the parking needs; this will depend on when the pandemic subsides and how many people they actually have in the building. There is abundant additional parking within walking distance that could be rented on a per-space basis for after-hours use.

4. Identify which portion of the building would be used by the church, which entrance people would use (if there is more than one entrance), how people would be dropped off, etc. Show us how the site will operate on an average day of worship.

- a. There is a main direct entrance dedicated to Suite 111. Additionally, there is a back service entrance and garage door which would be used by staff but not by attendees. Attendees to filming sessions would enter through the main door and access the large room space or offices.
- b. The current layout of the parking lot enables any drop offs needed. If, for instance, a youth group was meeting parents could easily pull into the lot and drop students directly at the front door and exit through the other entrance/exit to the property. The property has two entrance/exit options enabling easy access and traffic flow.
- c. Any equipment would utilize the back drive-in door, but large equipment is not anticipated to be required.

5. Verify the location and number of handicapped parking spaces in the parking lot.

- a. Each of the six suites in the building has one handicap space directly outside of their main entrance currently, with the exception of the medical supply suite which has added an additional five handicapped spaces bringing the total to:
 - A. 1 designated for suite 111 and
 - B. 10 additional handicapped spaces.

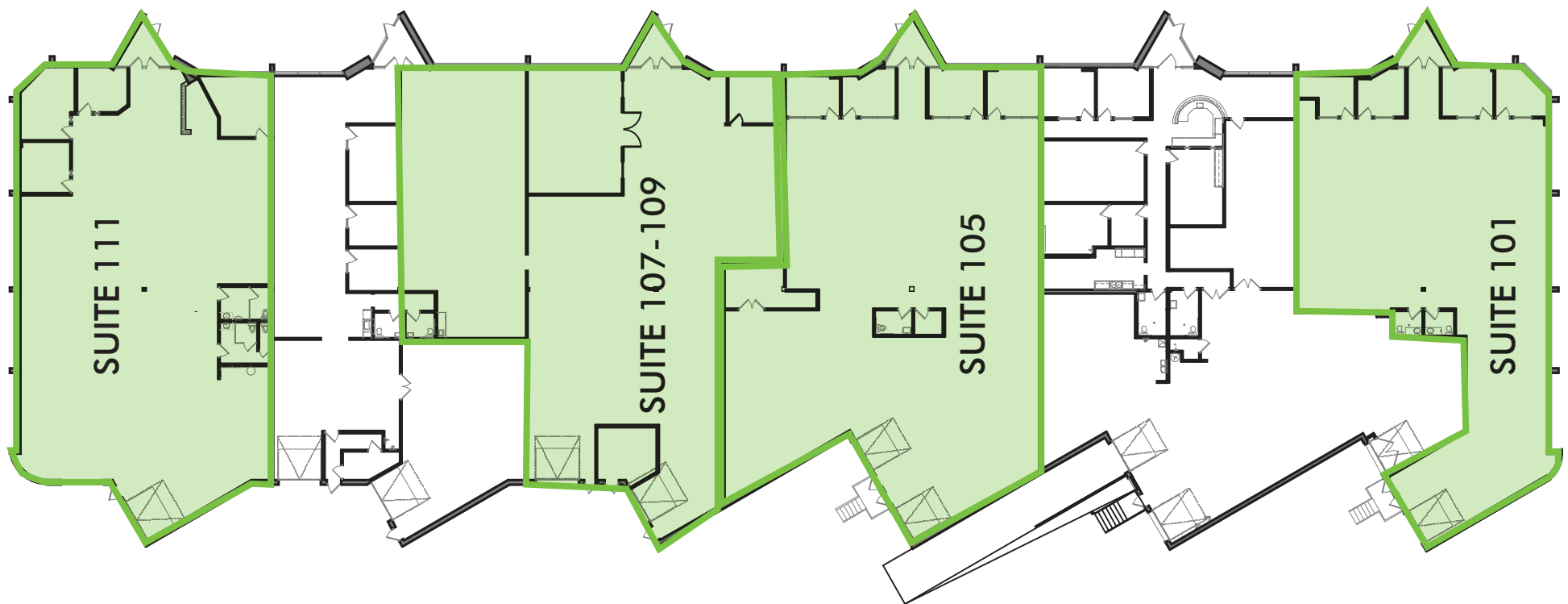
6. Provide electronic copies of your narrative and plans; and

7. Pay the Special Use Permit fee for non-residential uses (\$650).

FOR LEASE
RUSH LAKE BUSINESS PARK

1775-1801
OLD HWY 8
NEW BRIGHTON, MN

4,884 - 14,276 SF AVAILABLE





FOR LEASE

RUSH LAKE BUSINESS PARK

1775-1801 OLD HWY 8 • NEW BRIGHTON, MN

CBRE

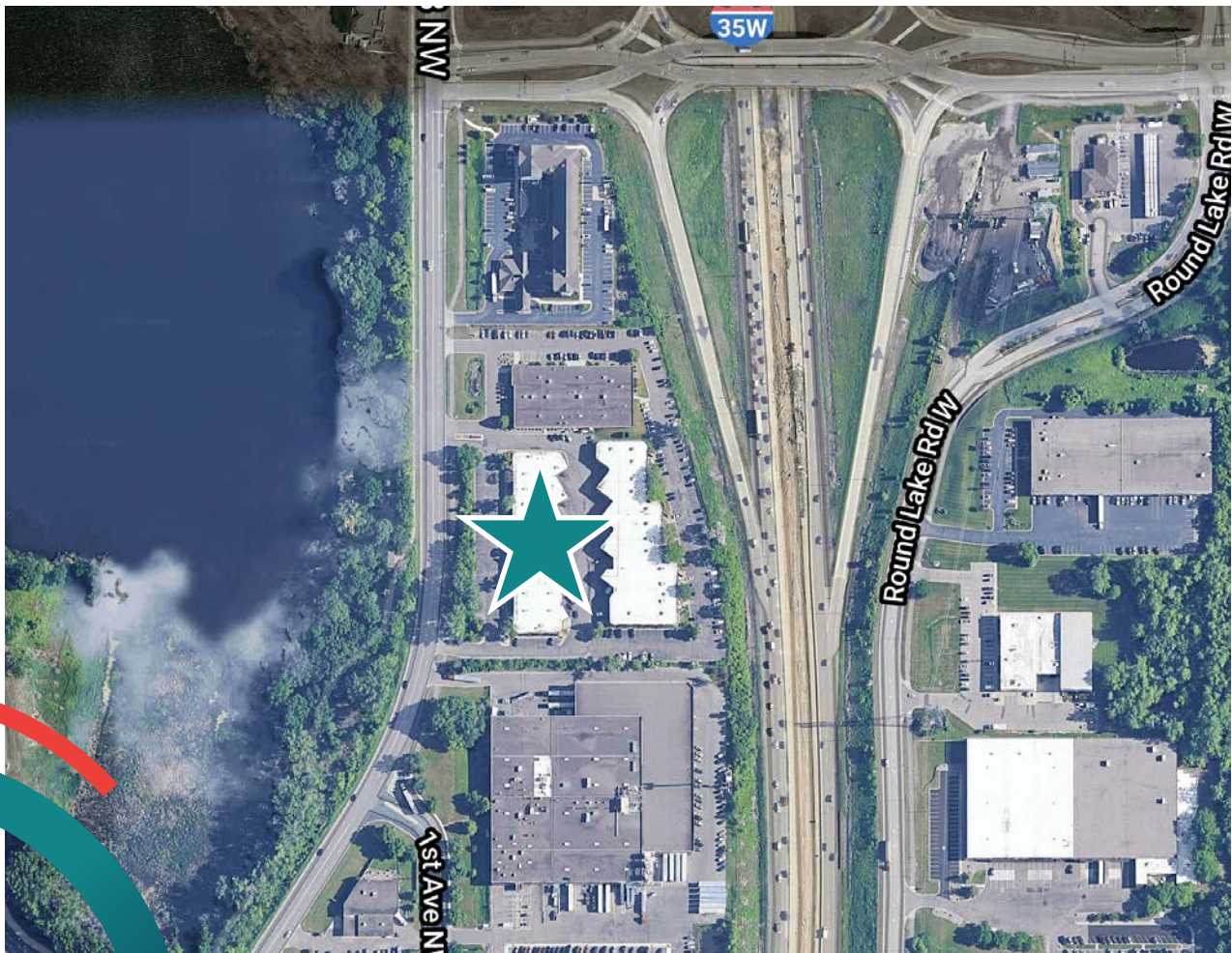
FOR LEASE

RUSH LAKE BUSINESS PARK

1775-1801 OLD HWY 8 • NEW BRIGHTON, MN

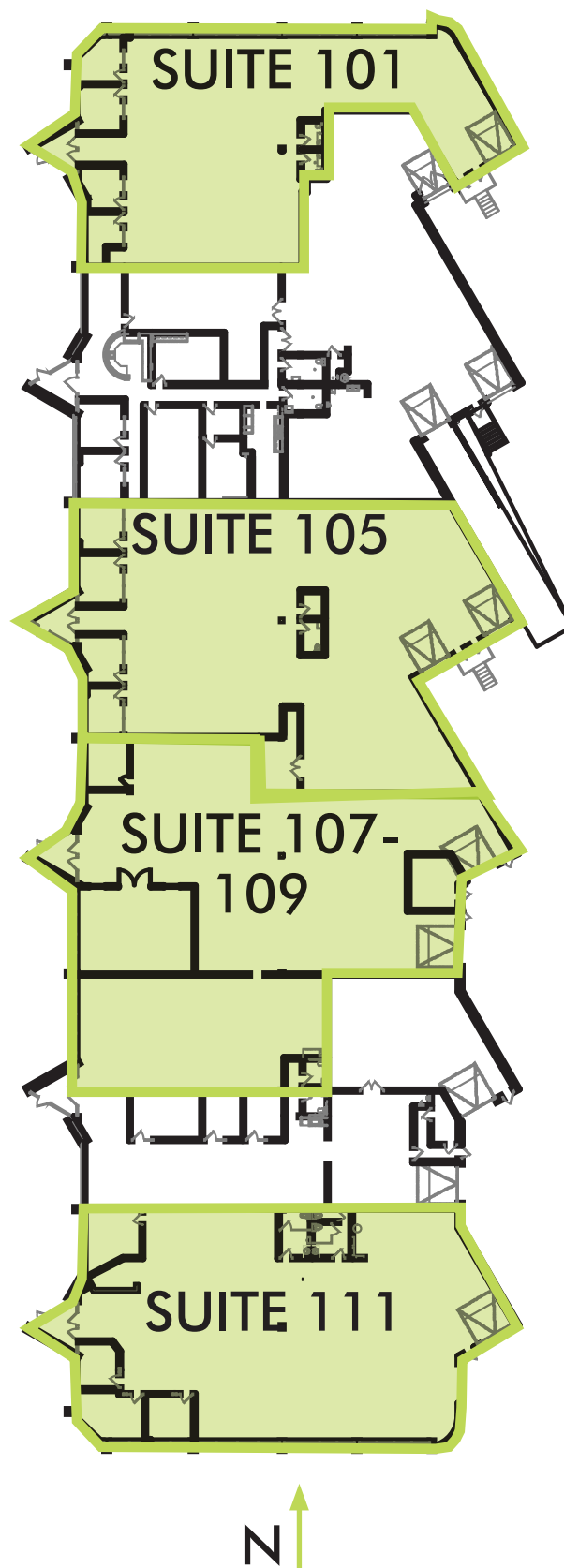
FEATURES

- Distinctive separate entrances and signage available
- Abundant free parking surrounds the buildings
- Professionally landscaped to enhance the scenic setting of the adjoining Rush Lake Park
- Continuous windows provide natural light and view of the park
- Convenient to nearby hotels, restaurants, retail shopping and services
- High visibility from I-35W with access to one of the most heavily traveled freeway zones in the Twin Cities
- Nearby public transportation services available
- Close proximity to corporate facilities of Medtronic, Cardiovascular Systems, Boston Scientific and API Supply

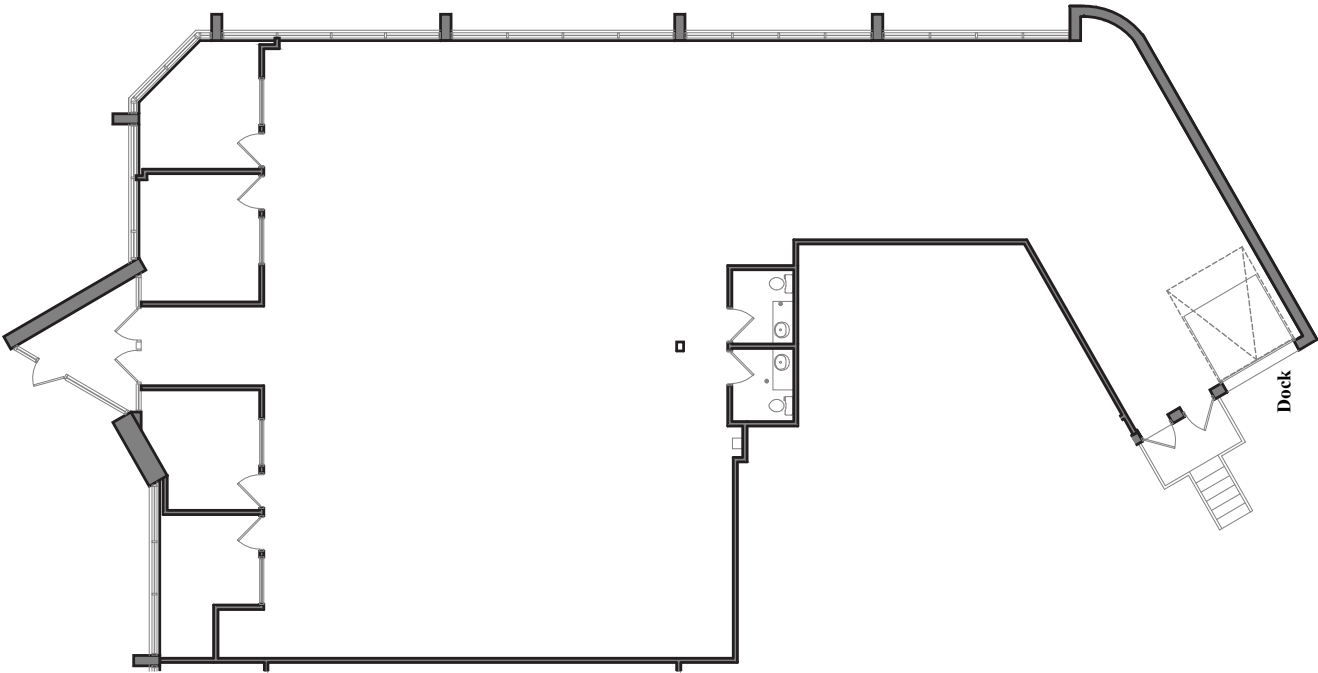


| TOTAL BUILDINGS SF 79,027 | |
|------------------------------|--|
| Year Built | 1987 |
| Clear Height | 14' |
| Power | 200A, 480V, 3PH |
| Sprinklered | Yes |
| Parking | 80 (2.25/1000) |
| Freeway Access | I-35W @ Hwy 96 |
| Lease Rates | \$4.50/\$9.50 PSF NNN |
| 2020 Est. Expenses | <div> <div>\$2.42 Tax</div> <div>\$2.18 CAM</div> <div>\$4.60 PSF Total</div> </div> |

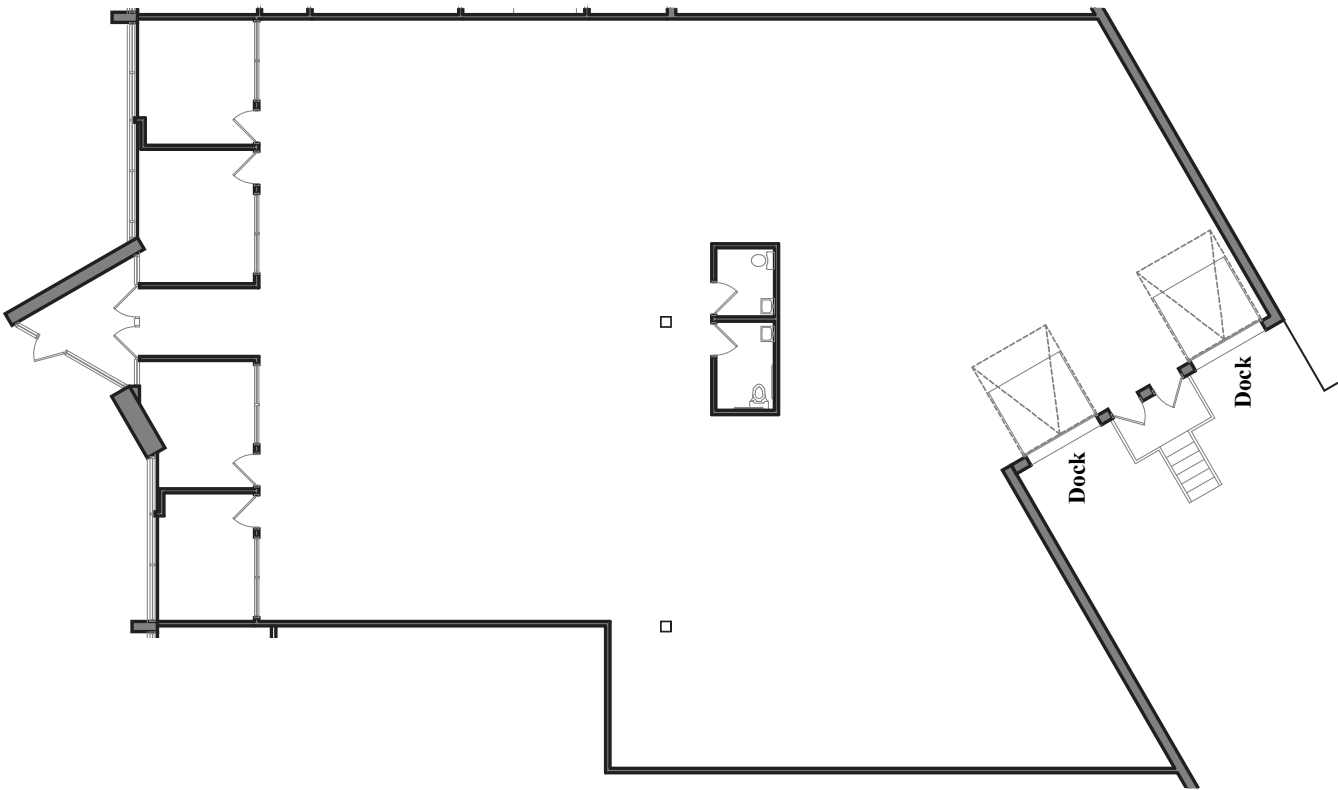
| AVAILABILITIES | 1775 Building |
|----------------------|--|
| Total Building SF | 36,895 SF |
| Total Available | 25,372 SF |
| <u>Suite 101</u> | <div>4,884 SF End-Cap</div> <div>784 SF Office</div> <div>4,100 SF Warehouse</div> <div>1 Dock door</div> |
| <u>Suite 105</u> | <div>6,892 SF Total</div> <div>812 SF Office</div> <div>6,080 SF Tech/Whse</div> <div>2 Dock doors</div> |
| <u>Suite 107-109</u> | <div>7,384 SF Total</div> <div>2,686 SF Office</div> <div>4,698 SF Warehouse</div> <div>2 Drive-ins</div> |
| <u>Suite 111</u> | <div>6,212 SF End-Cap</div> <div>2,578 SF Office</div> <div>3,634 SF Warehouse</div> <div>1 Drive-in</div> |



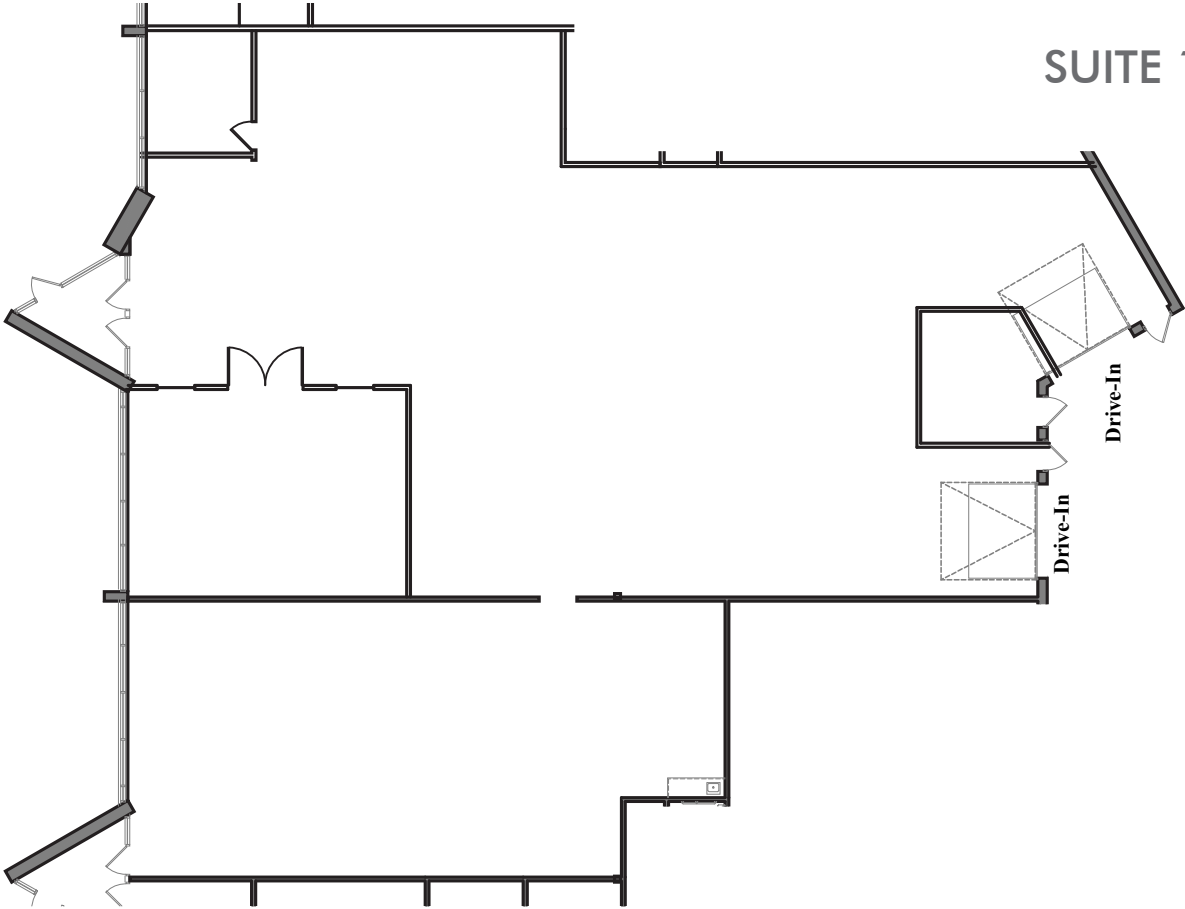
SUITE 101



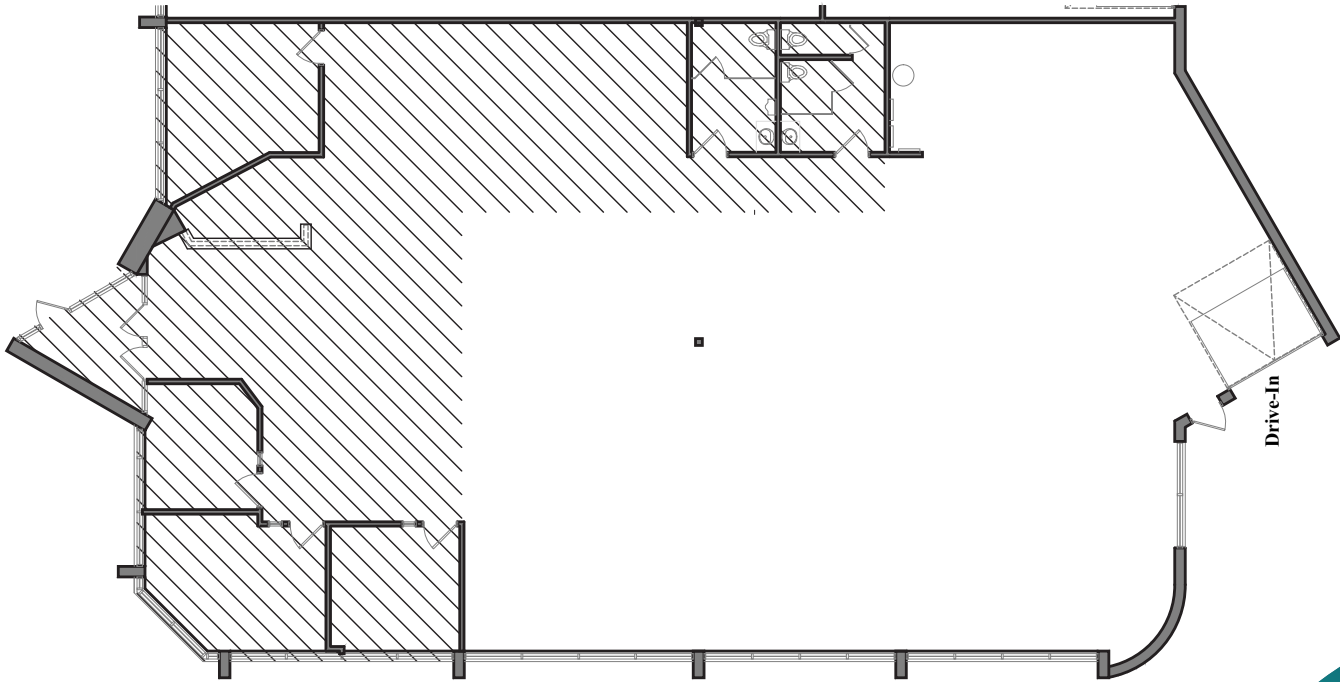
SUITE 105

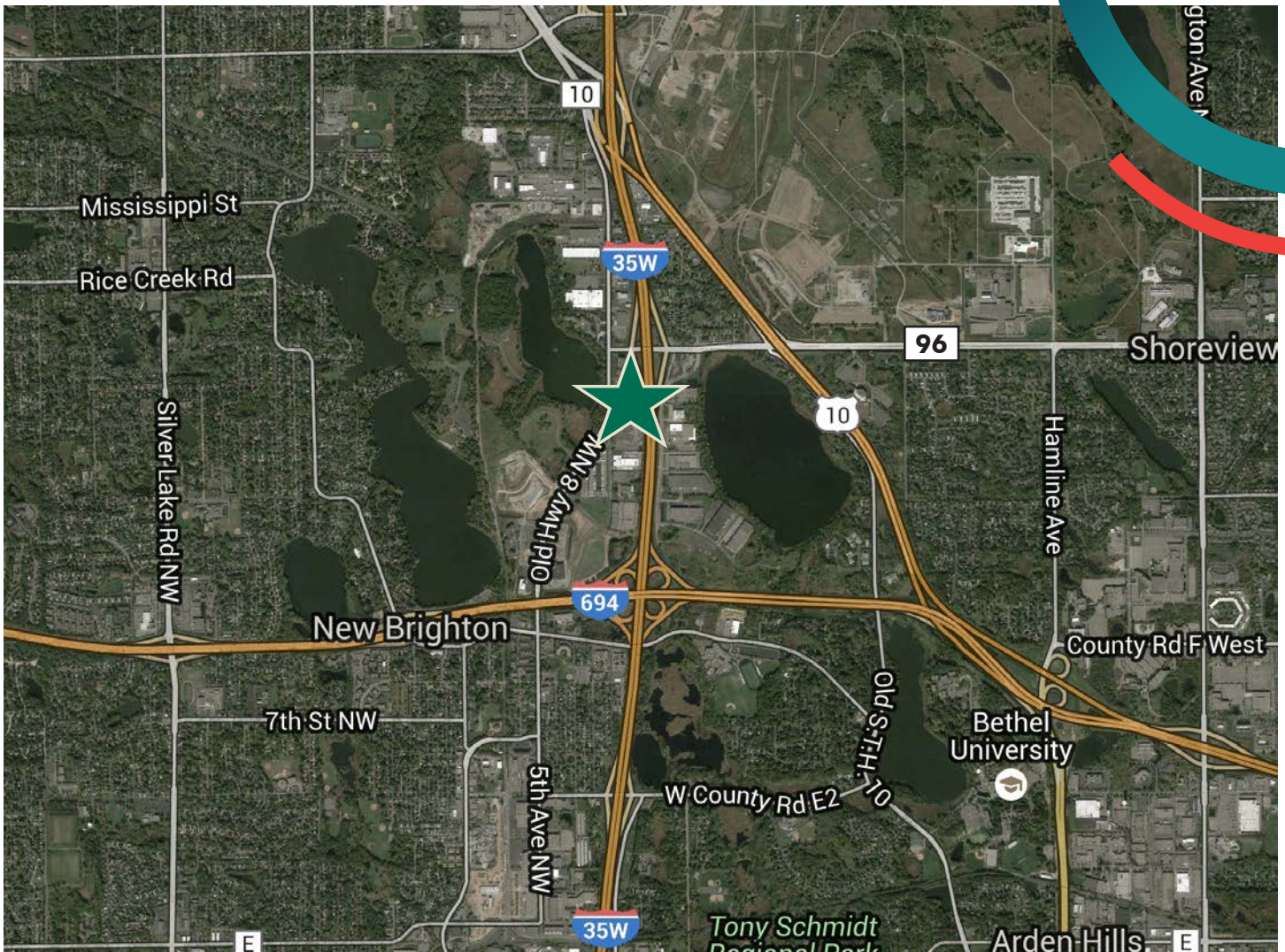


SUITE 107-109



SUITE 111





CONTACT US

MATT OELSCHLAGER

Senior Vice President
+1 952 924 4848
matt.oelschlager@cbre.com

JOHN RYDEN

Senior Vice President
+1 952 924 4641
john.ryden@cbre.com

MIKE BOWEN

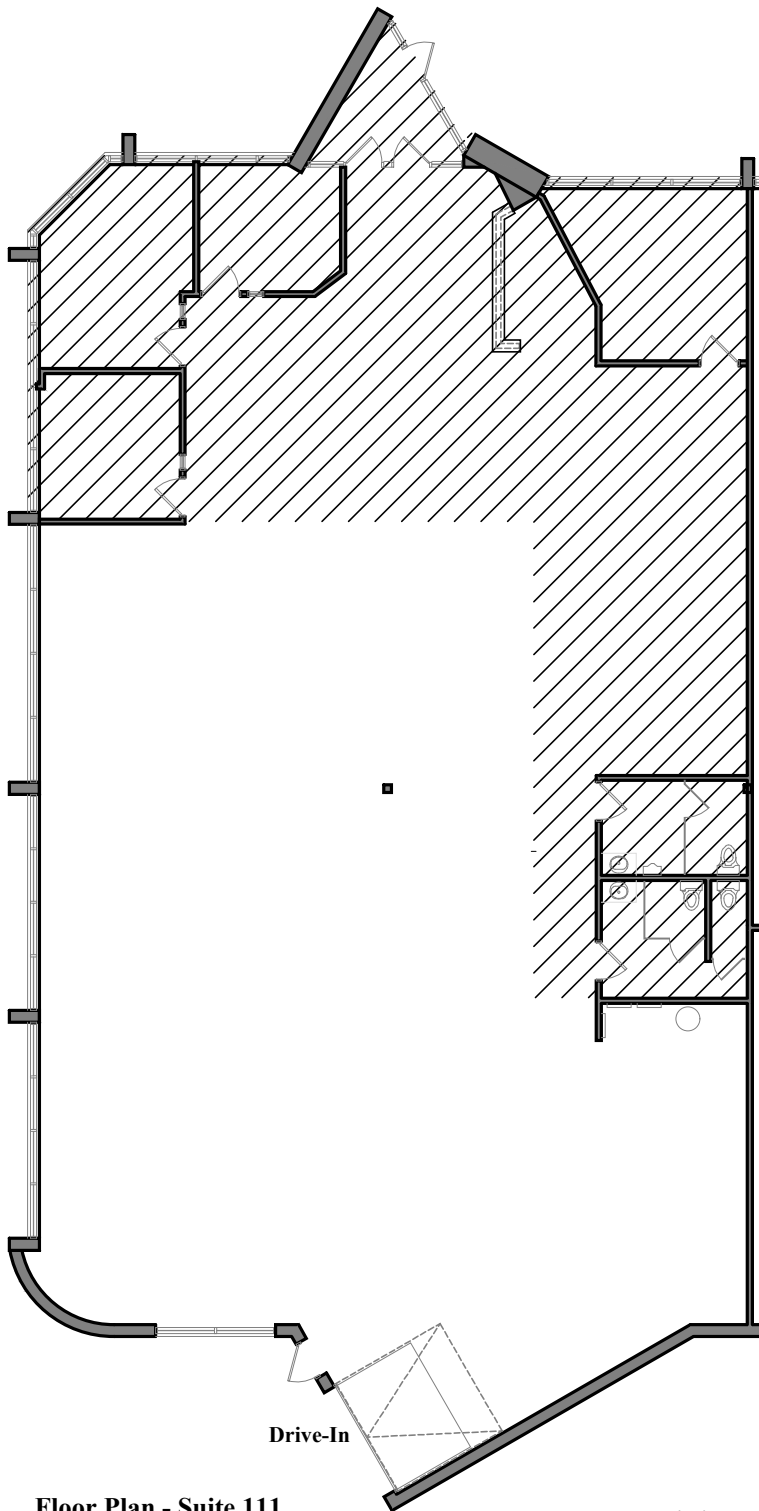
Vice President
+1 952 924 4885
mike.bowen@cbre.com

JP MALONEY

Associate
+1 612 336 4288
jp.maloney@cbre.com

CBRE

© 2019 CBRE, Inc. All rights reserved. This information has been obtained from sources believed reliable, but has not been verified for accuracy or completeness. You should conduct a careful, independent investigation of the property and verify all information. Any reliance on this information is solely at your own risk. CBRE and the CBRE logo are service marks of CBRE, Inc. All other marks displayed on this document are the property of their respective owners, and the use of such logos does not imply any affiliation with or endorsement of CBRE. Photos herein are the property of their respective owners. Use of these images without the express written consent of the owner is prohibited.



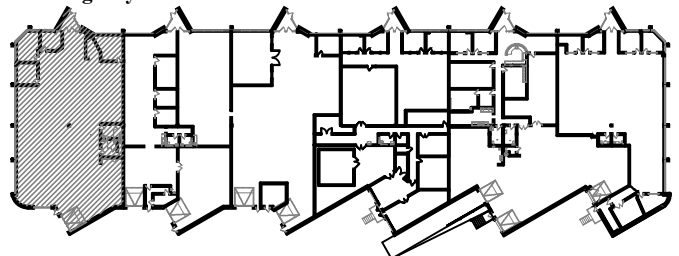
Floor Plan - Suite 111

Scale 1/16"=1'-0"

Square Footage:

Office = 2,578 sq. ft. (Crosshatched)
 Whse. = 3,634 sq. ft.
 Total = 6,212 sq. ft.

Building Key:



222 South Ninth Street,
 Ste. 2870
 Minneapolis, MN 55402
 Tel. 612.877.8024

GENESIS
 ARCHITECTURE

4350 Baker Road, Suite 400
 Minnetonka, MN 55343
 Tel. 952.897.7874 Fax: 952.897.7740

Rush Lake Business Center

1775 Old Highway 8 N.W.
 New Brighton, MN 55112-1831

Leased By:

CBRE

1900 LaSalle Plaza, 800 LaSalle Ave.
 Minneapolis, MN 55402

Leasing Contacts:
 John Ryden: 952.924.4641
 Matt Oelschlager: 952.924.4848
 Mike Bowen: 952.924.4885



| | |
|-----------------------|----------|
| Agenda Section: | IX |
| Item: | 4 |
| Report Date: | 10/23/20 |
| Council Meeting Date: | 10/27/20 |

REQUEST FOR COUNCIL CONSIDERATION

| | |
|---------------------------------------|---|
| ITEM DESCRIPTION: | Consider Ordinance 878: An Ordinance Amending Chapter 13 of the New Brighton City Code Regarding Tenant Notification and Notice of Potential Sale with Respect to Rental Housing Unit Buildings |
| DEPARTMENT HEAD'S APPROVAL: | Craig Schlichting, Director Community Assets & Development <i>C65</i> |
| CITY MANAGER'S APPROVAL: | <i>DM</i> |
| No comments to supplement this report | <input checked="" type="checkbox"/> Comments attached <input type="checkbox"/> |

15.99 Deadline: n/a

Recommendations: ▪ Approval of Ordinance 878

Legislative History: ▪ none

Financial Impact: Potentially critical for low-income residents living in buildings undergoing an ownership change.

Summary: The recent sale of the Pike Lake Plaza Apartments within the City demonstrated the need to adopt tenant protections for low income tenants residing in NOAH properties being sold to a new owner. Ordinance 878 would apply to properties containing three or more rental housing units at the time of sale, and would require a new owner to pay relocation benefits if the owner takes certain actions which force resident re-location(s) during a required three-month notification period. The ordinance also requires advance notice to the City that an affordable rental property will be going up for sale so that parties interested in maintaining affordable rents can be notified of the opportunity to invest in New Brighton.

Attachments: 1) Staff Report
2) Ordinance 878
3) Summary Publication Resolutio

Ben Gozola, AICP

Assistant Director of Community Assets and Development

To: **City Council**From: Ben Gozola, *Assistant Director DCAD*Meeting Date: **10-27-20**

INTRODUCTION

As part of the new 2040 Comprehensive Plan, the City of New Brighton acknowledged that a wide variety of housing types are needed to meet the needs of our diverse community at all stages of life. One of the most sought-after and needed segments within the City's housing spectrum are naturally occurring affordable housing (NOAH) units. Such units are attractive as they provide avenues for first-time home buyers to enter the housing market, and offer attainable rental housing options for low-income residents. Unfortunately, NOAH units are the most likely to be lost over time as properties change hands and as redevelopment occurs.

The recent sale of the Pike Lake Plaza Apartments within the City demonstrated the need to adopt tenant protections for low income tenants residing in NOAH properties being sold to a new owner. Ordinance 878 would establish such protections, and provide clear guidance to investors on necessary steps to take when entering the local housing market.

ORDINANCE 878 OVERVIEW

Ordinance 878 would only apply to properties containing three or more rental housing units at the time of sale, and would require a new owner to pay relocation benefits if the owner takes certain actions which force resident relocation(s) during a required three-month notification period. The ordinance also requires advance notice to the City that an *affordable* rental property will be going up for sale so that parties interested in maintaining affordable rents can be notified of the opportunity to invest in New Brighton.

- **Lines 11 - 15. Organizational updates to Chapter 13.** Makes organizational changes City Code Chapter 13 to create a new space for the proposed Tenant Notification and Notice of Potential Sale language. No existing language is changed, Sections 13-173 through 199 are marked as "reserved" for future ordinance changes, and a new Article 5 is created (starting with Section 13-200) to house the new ordinance language.
- **Lines 16 – 25. Ordinance Purpose.** These lines establish the purpose and intent of adopting tenant notification and notice of potential sale requirements.

- **Lines 26 – 50. Definitions.** These lines adopt eight (8) new definitions that will apply specifically to this new Article within Chapter 13. Terms defined include *Affordable Housing Building*, *Available for Sale*, *Cause*, *Housing Building*, *Housing Unit*, *Material Change*, *Tenant Notification Period*, and *Transfer of Ownership*. While all of these new definitions are important, an important distinction to take note of is the difference between “affordable housing building” and “housing building.”
 - An **Affordable Housing Building** is a multiple-family rental housing building having five or more dwelling units where at least 20 percent of the units rent for an amount that is affordable.
 - A **Housing Building** is simply a building with three or more rental units.

This is an important distinction to call out as certain regulations only pertain to affordable housing buildings.

- **Lines 51 – 70. Notice to the City of a Proposed Sale.** These lines specifically lay out a new requirement that the Department of Community Assets & Development and building tenants be made aware of the intent to “make available for sale” an affordable housing building within the City.

At least 90 days before the building becomes available for sale as defined by the ordinance, a building owner must provide notice to the City that the building is being made available for purchase (regardless of whether the building will be on the open market or through private sale). The City notice is required to contain specific information that will allow the City to inform organizations interested in maintaining affordable rents that an opportunity to fulfill their goals exists in New Brighton. Concurrent with the City notice, residents of the applicable building(s) must also be informed of the possible ownership change. Specific requirements for translation of the notice are built into the ordinance to ensure all residents understand what is being communicated.

- **Lines 71 – 75. Exclusion to the Notice Requirement.** These lines provide for two (2) exceptions to the notice of sale requirement:
 - 1) If an affordable housing building is already subject to federal, state, or local rent income restrictions that will continue to be in effect following a proposed sale, no notice is required;
 - OR
 - 2) If the buyer contracts with the City to maintain the property in compliance with the definition of “affordable housing building” for at least 10 years, no notice is required.
- **Lines 76 – 112. Post-sale Notice Required.** Per these lines, upon taking ownership of any “housing building” (note that this is more inclusive than the definition of “affordable housing building”), a new owner has 30 days to provide notification to each tenant of an acquired building that the building is under new ownership. The Department of Community Assets and Development must also receive a copy of this notice within the allowed 30-day window.

The ordinance lists a series of very detailed pieces of information that must be relayed to the tenants and DCAD including answers to specific questions focusing on how the ownership change may impact everything from rent, re-screening, lease changes, building updates, and renewals. Again, specific requirements for translation of the notice are built into the ordinance to ensure all residents understand what is being communicated.

Lines 122 – 125 specifically prohibits a new owner from terminating or not renewing a tenant’s rental agreement without cause, raising rent, re-screen existing tenants, or imposing material change(s) to the terms of the lease during the tenant notification period unless the required notice has been issued.

- **Lines 126 – 139. Relocation Assistance.** These lines require that a new owner of a housing building must pay relocation assistance to tenants if they take certain actions within the 90-day notice period. Mandatory relocation assistance is to be equal to three months’ rent pursuant to the current lease. Requirements as to when relocation assistance must be paid are outlined on lines 137 – 139.
- **Lines 140 – 147. Tenant Complaints.** These lines outline what must happen when a tenant believes a new owner has not provided one of the required notifications outlined in Ordinance 878. In such a case, a tenant may file a “notice of violation” to the City so the City can determine whether an administrative penalty is warranted. In such an event, all actions by the City will be on behalf of the City and not the tenant. The tenant is free to pursue any separate remedy available to the tenant under law.
- **Lines 148 – 159. Penalties.** By not following the requirements of Ordinance 878, an owner will be subject to all required relocation costs for residents PLUS \$500 per resident. Penalties would be paid to the City, and the City would disperse said funds to its impacted residents. The ordinance also makes clear that tenants receiving penalties may still seek additional redress in court to the extent permitted by law.

FREQUENTLY ASKED QUESTIONS

If adopted, it will be important for the City to educate both property owners and residents of these new requirements. To that end, the following Q&A is proposed to be used on the City’s website and social media:

What is the Tenant Notification Ordinance?

- Properties containing three or more rental housing units at the time of sale must provide notice to all tenants and the City that a transfer of ownership has occurred. Once notice is provided, a three-month “tenant notification period” begins. During the 90-day period, the new owner may be required to pay relocation benefits to a tenant if the owner issues a non-renewal without cause or non-renewal due to rescreening. The new owner could also be subject to paying relocation assistance if they increase the rent, re-screen existing residents, or implement a material change to the lease resulting in a tenant giving notice to terminate their lease.

What does this mean for renters?

- Upon sale of a property, tenants in New Brighton are no longer subject to immediate changes to their rental terms that could impact their housing. Renters will be given a minimum of 90 days grace time before changes can be made by a new owner. If the required grace time is not provided by the new owner, a tenant may be entitled to relocation assistance in the amount of three months' rent.

Why was this ordinance adopted?

- The city is concerned about the displacement of tenants residing in properties that have been sold to a new owner. The ordinance creates a 90-day period of time in which residents can work with housing support resources and seek alternative housing if they are facing lease non-renewals without cause, unaffordable rent increases, new screening criteria requirements, or other material changes to their rental agreement that force a move.

When does the ordinance apply?

- The ordinance applies when a rental housing property with three or more rental units transfers ownership.

Who needs to be notified?

- The new owner must notify all tenants and the City of New Brighton. The 90-day grace period begins upon receipt of the notice.

Where can I find the required relocation assistance amount?

- Relocation assistance is an amount equal to three months' rent per the current lease.

Are there income restrictions that apply?

- No, the ordinance applies to all housing buildings with three or more rental units regardless of the amount of rent charged or the tenant's income.

When does the new owner have to provide relocation benefits?

- A new owner would be required to pay relocation assistance if during the three-month tenant notification period the new owner:
 - Raises the rent and the tenant terminates his or her rental agreement due to the rent increase;
 - Requires existing tenants to be re-screened or comply with new screening criteria and the owner or tenant terminates the tenant's lease;
 - Does not renew the tenant's rental agreement without cause; or

- Imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease.
- Relocation assistance may also be required if material changes to lease terms are implemented by new ownership in the first 30 days immediately following the end of three-month tenant notification period IF such changes were not disclosed in the notice.

Does a tenant need to move out during the three-month tenant notification period to qualify for relocation assistance?

- No. Provided the qualifying event triggering relocation assistance occurs within the 90-day notice period, relocation fees must be paid in accordance with the ordinance.

Does the ordinance apply if the management changes in the building?

- No, the ordinance only applies if the ownership of the property transfers.

Does a transfer of sale include an ownership transfer to an immediate family member? Or as the result of inheritance?

- If it is an actual transfer of ownership title that was not previously in place, it would be considered a sale and the ordinance would apply.

Would the policy apply to bank-owned or foreclosed properties?

- Yes, all housing properties with three or more rental units transferring ownership through the sale of the property would be required to comply with the ordinance. In the case of a foreclosed property, the three month notification period will begin when the redemption period has expired and the new owner has taken possession of the property.

What is my responsibility as a seller?

- Sellers should make sure that potential buyers are aware of the ordinance either directly or through their broker.
- If you are planning on selling a multiple-family rental housing building having five or more dwelling units where at least 20 percent of the units rent for an amount that qualifies as "affordable" in Ramsey County, additional requirements will apply. Please contact the Department of Community Assets and Development for more details.

I'm buying a housing building – what is my responsibility?

- If the property has three or more rental units, a new owner is required to comply with the requirements of the New Brighton Tenant Notification Ordinance. If you need any help understanding the ordinance, please contact the Department of Community Assets and Development. City staff wants to ensure all of your questions are answered well in advance of any sale.

Can I raise rents, facilitate non-renewals without cause, make a material change to the lease, or re-screen existing residents during the three-month tenant notification period following the transfer in ownership?

- This ordinance does not prohibit a new owner from taking the actions listed above. However, the owner would be required to pay resident relocation benefits if they issue lease non-renewals (without cause or due to re-screening), or take any of these actions during the 90-day tenant notification period and the resident gives notice to move as a result.

Are there any restrictions after the 90-day tenant notification period expires?

- If the new owner intends to increase rent, require existing tenants to be rescreened, terminate or not renew housing unit rental agreements, or impose a material change in the terms of the lease within the 30 days immediately following the end of three-month tenant notification period, the owner must disclose this information to tenants within the required notice. Failure to do so may subject the owner to penalties as outlined in the Ordinance. After that time, the City of New Brighton Tenant Notification Ordinance would no longer apply and owners can manage the property in accordance with their preferred management practices.

If a lease expires during the three-month notification period, can I raise the rent?

- You can renew the lease, but any rent increases must be effective following the expiration of the 90-day tenant notification period or the owner may be subject to paying relocation benefits.

How can I learn more or file a complaint?

- If you have any questions related to the implementation of this ordinance or wish to file a complaint, please contact the Department of Community Assets and Development.

RECOMMENDATION

Staff is recommending approval of Ordinance 878 based on the following:

- It is in the best interest of the community to protect the most vulnerable of residents from immediate housing disruption due to circumstances beyond their control.
- In the event of immediate housing disruption, mandatory relocation fees will ensure our residents can transition to new housing without a period of homelessness.

- The regulations offered for adoption are becoming common-place within the industry, and will not place New Brighton at a competitive disadvantage in attracting investment dollars for the rehabilitation of aging properties.

ADDITIONAL MOTION REQUIRED FOR ORDINANCE 878

Summary Publication Resolution.....“Move to approve the resolution of summary publication for Ordinance 878”

ATTACHMENTS:

1. *Ordinance 878*
2. *Draft summary publication resolution for Ordinance 878*

ORDINANCE NO. 878

STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF NEW BRIGHTON

**AN ORDINANCE AMENDING CHAPTER 13 OF THE NEW BRIGHTON CITY CODE
REGARDING TENANT NOTIFICATION AND NOTICE OF POTENTIAL SALE
WITH RESPECT TO RENTAL HOUSING UNIT BUILDINGS**

THE CITY OF NEW BRIGHTON ORDAINS:

SECTION 1. Chapter 13 of the Code of Ordinances of the City of New Brighton, Minnesota, is hereby amended as follows:

Existing Articles 1 through 3 are hereby restated and incorporated herein unchanged.

Existing Article 4, Division 1, Sections 13-170 through 13-172 are restated and incorporated herein unchanged.

Sec. 13-173—199 Reserved

Article 5. Tenant Notification and Notice of Potential Sale

Sec. 13-200. Purpose.

The purpose of this Article is to provide housing stability, protection, and notification to tenants in rental housing during an ownership transition. This Article requires notice to both tenants and the City whenever title to property containing three or more rental housing units is conveyed or otherwise transferred. Under this Article, an owner of a housing building is required to pay resident relocation benefits if the owner takes certain actions during a required three-month tenant notification period, and the resident of the building needs to move as a result of the owner's action(s). In addition, this Article requires that when rental properties affordable to lower income households become available for sale, the City must receive notice of the potential sale so that it can make such information available to parties interested in purchasing the property with a goal of keeping rents affordable for lower income households.

Sec. 13-205. Definitions.

The following definitions in this Section apply in Article 5. Defined terms remain defined terms, whether or not capitalized.

(1) Affordable Housing Building. A multiple-family rental housing building having five or more dwelling units where at least 20 percent of the units rent for an amount that is affordable. Affordable shall mean no more than 30 percent of income to households at or below 80 percent of area median income, as most recently determined by the United States Department of Housing and Urban Development for Low Income Housing Tax Credit (LIHTC) purposes, as adjusted for household size and number of bedrooms.

(2) Available for Sale. The earliest implementation of any of the following actions: negotiating to enter into a purchase agreement that includes an affordable housing building, advertising the sale of an affordable housing building, entering into a listing agreement to sell an affordable housing building, or posting a sign that an affordable housing building is for sale.

(3) Cause. The tenant or a member of the tenant's household materially violated a term of the lease or rental agreement, or violated an applicable federal, state, or local law or regulation.

(4) Housing Building. A building with three or more rental units.

(5) Housing Unit. A rental unit within a housing building.

(6) Material Change. A change in the terms of a lease that significantly limits or restricts the tenants' use and enjoyment of a housing unit or the housing building.

(7) Tenant Notification Period. The period that commences on the date when a written notice of the transfer of ownership of a housing building is sent to each housing unit tenant pursuant to Section 13-215 and ends on the last day of the third full calendar month following the date on which the notice was sent. In no case shall the tenant notification period be less than 90 days.

(8) Transfer of Ownership. Any conveyance of title to an affordable housing building, whether legal or equitable, voluntary or involuntary, resulting in a transfer of control of the building, effective as of the earlier of the date of delivery of the instrument of conveyance or the date the new owner takes possession.

Sec. 13-210. Notice to the City of Proposed Sale.

(1) Notice to the City. Any owner or representative of the owner who intends to make available for sale any affordable housing building shall notify the Director of the Department of Community Assets and Development of the proposed sale by providing the notice required in this Section. The notice shall be on a form prescribed by the City stating the owner's intent to make available for sale the affordable housing building and which may include, at the City's sole discretion, some or all of the following information:

(A) Owner's name, phone number, and mailing address;

(B) Address of the affordable housing building that will be made available for sale;

(C) Total number of dwelling units in the building; and

(D) Number and type (e.g., efficiency, one bedroom, two bedrooms, etc.) of each of the affordable housing dwelling units in the building and the contract rent for every dwelling unit in the building.

(2) *Manner and Timing of Notice.* The notice shall be mailed or hand delivered to the Director of the Department of Community Assets and Development no later than 90 days prior to the affordable housing building being made available for sale. The notice shall also be delivered directly to all affected tenants and include the following language requirement: “This is important information about your housing. If you do not understand it, have someone translate it for you now, or request a translation from your landlord.” This advisory must be stated in the notice in the following languages: English, Spanish, Somali, Karen, and Hmong. This notice shall be delivered to all affected tenants no later than 90 days prior to the affordable housing building being made available for sale. Upon request by the tenant, the owner must provide a written translation of the notice into the tenant’s preferred language if the language is listed above.

(3) *Exclusions.* This notice of potential sale requirement shall not apply to the sale or transfer of title of an affordable housing building already subject to federal, state, or local rent or income restrictions that continue to remain in effect after the sale or transfer; or with respect to the sale or transfer of a residential rental building in which the buyer contracts with the City to maintain the property in compliance with the definition of an “affordable housing building” as defined in this Article, for a period of no less than 10 years.

Sec. 13-215. Post Sale Notice.

(1) *Notice to Tenants.* Whenever title to property containing a housing building is conveyed or otherwise transferred, as a condition of receipt of a rental license, the new owner must within 30 days after the real estate closing, deliver written notice to each housing unit tenant that the housing building is under new ownership. The notice must include, at a minimum, the following information:

(A) The name, mailing address, and telephone number of the new owner.

(B) The following statement: “New Brighton City Code Section 13-215 provides for a three month tenant notification period to housing unit tenants when new ownership takes control of a property. A tenant may be entitled to relocation assistance from the new owner if, during the three month tenant notification period, the new owner:

1. Terminates or does not renew the tenant’s rental agreement without cause;
2. Raises the rent and the tenant terminates his or her rental agreement due to the rent increase;
3. Requires existing tenants to be re-screened or comply with new screening criteria, and the owner or tenant terminates the tenant’s lease based on that re-screening or failure to meet those new screening criteria;
4. Imposes a material change in the terms of the lease, and the owner or tenant terminates or does not renew the tenant’s lease because of those material changes; or
5. Engages in construction activity at the property that would trigger federal, state, or local law regarding lead paint or asbestos safety.”

(C) Whether there will be any rent increase within the three month tenant notification period and, if so, the amount of the rent increase and the date the rent increase will take effect.

(D) Whether the new owner will require existing housing unit tenants to be re-screened or comply with new screening criteria during the three month tenant notification period and, if so, a copy of the applicable screening criteria.

(E) Whether the new owner will, without the tenant's consent, impose a material change in the terms of the lease during the three month tenant notification period and, if so, the language of the material change and explanation of its effect.

(F) Whether the new owner will terminate or not renew rental agreements without cause during the three month tenant notification period and, if so, notice to the affected housing unit tenants whose rental agreements will terminate and the date the rental agreements will terminate.

(G) Whether the new owner intends to increase rent, require existing tenants to be rescreened to determine compliance with existing or modified residency screening criteria, terminate or not renew housing unit rental agreements, or impose a material change in the terms of the lease without cause within 30 days immediately following the tenant notification period.

(H) Whether the new owner intends to engage in construction activity at the property that would trigger federal, state, or local law regarding lead paint or asbestos safety.

(I) The date that the tenant notification period will expire.

(2) Language requirement. Each notice required by this Section shall contain an advisory that reads as follows: "This is important information about your housing. If you do not understand it, have someone translate it for you now, or request a translation from your landlord." This advisory must be stated in the notice in the following languages: English, Spanish, Somali, Karen, and Hmong. Upon written request by a tenant that identifies the tenant's native language, the owner must provide a written translation of the notice in that language.

(3) Notice to the City. The new owner must deliver a copy of the notice required by this Section to the City of New Brighton Community Assets and Development Department at the same time that the notice is delivered to tenants.

(4) Required tenant notification period. The new owner of a housing building must not terminate or not renew a tenant's rental agreement without cause, raise rent, re-screen existing tenants, or impose a material change to the terms of the lease during the tenant notification period without providing the notices required by this Section.

Sec. 13-220 Relocation Assistance.

(1) When Required. A new owner of a housing building must pay relocation assistance to housing unit tenants if, during the three month tenant notification period, the new owner:

(A) terminates or does not renew the tenant's rental agreement without cause;

(B) raises the rent and the tenant terminates his or her rental agreement due to the rent increase;

(C) requires existing tenants to be re-screened or comply with new screening criteria and the owner or tenant terminates the tenant's lease; or

(D) imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease.

(2) Amount. Relocation assistance shall be in an amount equal to three months of the monthly rent pursuant to the current lease.

(3) When Paid. The new owner shall, when required, pay relocation assistance to the tenant of a housing unit within 30 days after receiving tenant's written notice of termination of the lease or within 30 days after the owner notifies the tenant that the lease will be terminated or not renewed.

Sec. 13-225 Tenant Complaints.

A tenant of a housing unit who believes the new owner has not provided the tenant the notifications required under this Article may submit a notice of violation to the City. The purpose of the notice is to inform the City of an alleged violation of this Article to assist the City in determining whether to impose an administrative penalty provided for in this Section. The City is not required to take any particular action in response to a notice of violation, and any enforcement action it does take shall be on behalf of the City, not the tenant. Filing a notice of violation does not prohibit the tenant from pursuing any remedy available to the tenant under law.

Sec. 13-230 Penalty.

(1) Violations. A violation of this Article is an administrative offense that may be subject to an administrative citation and civil penalties as provided in Article 5 of the City Code. Notwithstanding any provision of Article 5 of the City Code, the penalty for a violation of Sections 13-215 or 13-220 shall be the sum of the applicable amount of relocation assistance plus \$500.

(2) Number of Offenses. A violation of this Article shall constitute a separate offense for each dwelling unit affected.

(3) Transfer of Funds. Within 30 days after a person pays the penalty in Section 13-230 (1) to the City, the City shall pay to the displaced tenant of the housing unit in which the violation occurred an amount equal to the relocation assistance amount specified in Section 13-220 (2).

(4) Additional Redress. In addition, any tenant aggrieved by a landlord's noncompliance with this Chapter may seek redress in any court of competent jurisdiction to the extent permitted by law.

Sec. 13-231—249 Reserved

SECTION 2. Effective Date

This ordinance shall take effect upon its adoption by the City Council, its publication in the City's official newspaper.

ADOPTED this 27th day of October 2020, by the New Brighton City Council with a vote of ____ ayes and ____ nays.

Valerie Johnson, Mayor

Devin Massopust, City Manager

ATTEST:

Terri Spangrud, City Clerk

RESOLUTION ____
CITY COUNCIL
CITY OF NEW BRIGHTON

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 878 BY TITLE AND SUMMARY**

WHEREAS, the city council of the City of New Brighton has adopted Ordinance No. 878, an ordinance amending Chapter 13 of the New Brighton city code regarding tenant notification and notice of potential sale with respect to rental housing unit buildings; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of New Brighton, that the City Clerk shall cause the following summary of Ordinance No. 878 be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of New Brighton has adopted Ordinance No. 878 which will require notifications to tenants and the City of New Brighton when property containing three or more rental units is changing ownership. The purpose of these new requirements is to provide housing stability, protection, and notification to tenants in rental housing during an ownership transition. Under these new rules, the owner of a housing building is required to pay resident relocation benefits if the owner takes certain actions during a required three-month tenant notification period, and the resident of the building needs to move as a result of the owner's action(s). In addition, this ordinance requires that when rental properties affordable to lower income households become available for sale, the City must receive notice of the potential sale so that it can make such information available to parties interested in purchasing the property with a goal of keeping rents affordable for lower income households. The full ordinance text is available for inspection at City Hall during regular business hours, and will be emailed or sent to any party upon request.

Mayor Valerie Johnson

BE IT FURTHER RESOLVED by the City Council of the City of New Brighton that the City Clerk keep a copy of the ordinance at city hall for public inspection, and that a full copy of the ordinance be posted in a public place within the city.

Adopted this 27th day of October, 2020 by the City of New Brighton City Council with voting as follows:

Mayor Valerie Johnson: _____

Paul Jacobsen: _____

Emily Dunsworth: _____

Graeme Allen: _____

Nasreen Fynewever: _____

Valerie Johnson, Mayor

Devin Massopust, City Manager

ATTEST:

Terri Spangrud, City Clerk



| | |
|-----------------------|------------|
| Report Number: | 5 |
| Agenda Section: | IX |
| Report Date: | 10/22/2020 |
| Council Meeting Date: | 10/27/2020 |

REQUEST FOR COUNCIL CONSIDERATION

| | |
|--|---|
| ITEM DESCRIPTION: | Update on City Manager Performance Review |
| DEPARTMENT HEAD'S APPROVAL: | GMS |
| CITY MANAGER'S APPROVAL: | DM |
| No comments to supplement this report | Comments attached ____ |

Recommendation: There is no formal action needed.

Legislative History: 3/24/20 – Approval of City Manager Employment Contract
10/13/20 – Six-Month Performance Review of City Manager

Explanation:

On October 13, 2020 the City Council held a closed work session pursuant to Minnesota Statutes Section 13D.05, subdivision 3 (a) to conduct a performance review of the City Manager. The City Council must summarize its conclusions for the public during a public meeting. A statement of the Council as recorded by City Attorney Sonsalla can be found below regarding City Manager Devin Massopust's review:

"The City Council conducted the City Manger's performance review on October 13th with the Mayor, Council, City Manager, and City Attorney present. The results of the performance review were positive with special recognition towards COVID response efforts, communications, a smooth transition, and organizational leadership. Goals set forth for the next six months include [but are not limited to]: relationship building with intergovernmental agencies; diversity, equity, and inclusion work; and new council onboarding and transition. The Council is pleased with Devin's performance and is looking forward to his future success."

There is no specific action needed for this item other than a verbal reading of the above statement.

Gina Smith
Interim Finance Director

Attachments: None