

REGULAR COUNCIL MEETING – AGENDA #34

If you need these materials in an alternative format or need reasonable accommodations for a City Council meeting, please provide the City with 72-hours' notice by calling 763-424-8000 or emailing Josie Shardlow at josie.shardlow@brooklynpark.org.
Para asistencia, 763-424-8000; Yog xav tau kev pab, 763-424-8000.

Our Vision: Brooklyn Park, a thriving community inspiring pride where opportunities exist for all.

Our Brooklyn Park 2025 Goals:

• A united and welcoming community, strengthened by our diversity • Beautiful spaces and quality infrastructure make Brooklyn Park a unique destination • A balanced economic environment that empowers businesses and people to thrive • People of all ages have what they need to feel healthy and safe • Partnerships that increase racial and economic equity empower residents and neighborhoods to prosper • Effective and engaging government recognized as a leader

I. ORGANIZATIONAL BUSINESS

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

2. PUBLIC COMMENT AND RESPONSE 7:00 p.m. Provides an opportunity for the public to address the Council on items which are not on the agenda. Public Comment will be limited to 15 minutes (*if no one is in attendance for Public Comment, the regular meeting may begin*), and it may not be used to make personal attacks, to air personality grievances, to make political endorsements or for political campaign purposes. Individuals should limit their comments to three minutes. Council Members will not enter into a dialogue with citizens. Questions from the Council will be for clarification only. Public Comment will not be used as a time for problem solving or reacting to the comments made, but rather for hearing the citizen for informational purposes only.

2A. RESPONSE TO PRIOR PUBLIC COMMENT

2B. PUBLIC COMMENT

3A. APPROVAL OF AGENDA (Items specifically identified may be removed from Consent or added elsewhere on the agenda by request of any Council Member.)

3B. PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS

3B.1 BP 2025 Story Maps

II. STATUTORY BUSINESS AND/OR POLICY IMPLEMENTATION

4. CONSENT (All items listed under Consent, unless removed from Consent in agenda item 3A, shall be approved by one council motion.) Consent Agenda consists of items delegated to city management or a commission but requires council action by State law, City Charter or city code. These items must conform to a council approved policy, plan, capital improvement project, ordinance or contract. In addition, meeting minutes shall be included.

4.1 Approve a Temporary On-Sale Liquor License for Omni Brewing Company for their Omni Fair Food Truck Fest to be held September 12-13, 2020 at Zane Sports Park, 8700 Zane Avenue North

4.2 FIRST READING of an Ordinance to Change Legal Age From 18 to 21 Years to Purchase Tobacco and Electronic Delivery and Nicotine or Lobelia Delivery Devices Ordinance Amendment

A. ORDINANCE

4.3 Approve a Tobacco Sales License for Brooklyn Smokes, Inc. dba Brooklyn Smokes, Located at 8563 Edinburgh Centre Dr N, Brooklyn Park, MN 55444

4.4 Approve a Temporary On-Sale Liquor License for The Church of St. Vincent de Paul for their Harvest Festival to be held September 20, 2020 at 9100 93rd Avenue North

4.5 Accept Petition and Order Feasibility Report for the Extension of 94th Avenue N, East of Decatur Drive N

A. RESOLUTION

B. LOCATION MAP

- C.** PETITION
- 4.6** Approve Professional Service Agreement with LHB, Inc for Construction Administration Services for Park Building and Shelter Kitchen Additions in the Amount of \$50,922
 - A.** RESOLUTION
- 4.7** Approve Change Order for the Park Building and Shelter Kitchen Additions Project for American Liberty Construction
 - A.** RESOLUTION
- 4.8** Addition of Greenhaven Park (Zone 10) to 2020 Controlled Deer Hunt
 - A.** RESOLUTION
 - B.** GREENHAVEN PARK DEER HUNT ZONE
 - C.** RESOLUTION #2020-90

The following items relate to the City Council's long-range policy-making responsibilities and are handled individually for appropriate debate and deliberation. (Those persons wishing to speak to any of the items listed in this section should fill out a speaker's form and give it to the City Clerk. Staff will present each item, following in which audience input is invited. Discussion will then be closed to the public and directed to the council table for action.)

5. PUBLIC HEARINGS
None

6. LAND USE ACTIONS

- 6.1** David Kirchoff – Waiver of Platting to Subdivide the Lot Back to the Original Property Lines at 10472 and 10466 Toledo Drive N.
 - A.** RESOLUTION
 - B.** LOCATION MAP
 - C.** PLANNING AND ZONING INFORMATION
 - D.** LETTERS
 - E.** PLANNING COMMISSION MINUTES
 - F.** SURVEY
- 6.2** International Brotherhood of Electrical Workers (IBEW) Local #292 (Andy Snope) – Conditional Use Permit #20-115 to Allow Rental of the Building's Meeting Room for Events at 6700 West Broadway
 - A.** RESOLUTION
 - B.** LOCATION MAP
 - C.** PLANNING AND ZONING INFORMATION
 - D.** LETTERS FROM THE PUBLIC
 - E.** PLANNING COMMISSION MINUTES
 - F.** LETTER FROM THE APPLICANT
 - G.** PLANS
- 6.3** Todd Miller – Variance #20-116 to Residential Setback for a Concrete Slab within 5 Feet of the Property Line at 8819 Prestwick Parkway N.
 - A.** RESOLUTION
 - B.** LOCATION MAP
 - C.** PLANNING AND ZONING INFORMATION AND PHOTOS
 - D.** LETTER FROM NEIGHBORS
 - E.** PLANNING COMMISSION MINUTES
 - F.** LETTER FROM THE APPLICANT AND 2014 PLANS
- 6.4** Sale of City Property to Zachary and Kelsey Pierson 6341 Sumter Avenue N.
 - A.** ORDINANCE
 - B.** LOCATION MAP
 - C.** PURCHASE AGREEMENT

7. GENERAL ACTION ITEMS
None

III. DISCUSSION – These items will be discussion items but the City Council may act upon them during the course of the meeting.

8. DISCUSSION ITEMS

- 8.1** Update on Police Reform and Racial Justice Discussions

IV. VERBAL REPORTS AND ANNOUNCEMENTS

9A. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

9B. CITY MANAGER REPORTS AND ANNOUNCEMENTS

V. ADJOURNMENT

Since we do not have time to discuss every point presented, it may seem that decisions are preconceived. However, background information is provided for the City Council on each agenda item in advance from city staff and appointed commissions, and decisions are based on this information and past experiences. If you are aware of information that has not been discussed, please raise your hand to be recognized. Please speak from the podium. Comments that are pertinent are appreciated. Items requiring excessive time may be continued to another meeting.

City of Brooklyn Park

Request for Council Action

Agenda Item:	3B.1	Meeting Date:	August 31, 2020
Agenda Section:	Public Presentations/ Proclamations/Receipts of General Communications	Originating Department:	Administration
Resolution:	N/A		
Ordinance:	N/A		
Attachments:	N/A	Prepared By:	Chante Mitchell and John Nerge
		Presented By:	Chante Mitchell and John Nerge
Item:	BP 2025 Story Maps		

City Manager's Proposed Action:

City staff will give a brief presentation of the *Brooklyn Park 2025* story maps collections on the website. These story maps were created with the power of GIS and dashboards. Through these story maps, you can read and learn about our six community goals while also following the data that we are using to track the success of the goals.

Overview: N/A

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.1	Meeting Date:	August 31, 2020
Agenda Section:	Consent	Originating Department:	Community Development Rental and Business Licensing
Resolution:	N/A	Prepared By:	Megan Bookey, Program Assistant III
Ordinance:	N/A		
Attachments:	N/A	Presented By:	Keith Jullie, Rental and Business Licensing Manager
Item:	Approve a Temporary On-Sale Liquor License for Omni Brewing Company for their Omni Fair Food Truck Fest to be held September 12-13, 2020 at Zane Sports Park, 8700 Zane Avenue North		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE FOR OMNI BREWING COMPANY FOR THEIR OMNI FAIR FOOD TRUCK FEST TO BE HELD SEPTEMBER 12-13, 2020 AT ZANE SPORTS PARK, 8700 ZANE AVENUE NORTH.

Overview:

The special event permit and background check for this event is currently being reviewed and is anticipated to be approved. The special event permit must be approved for this event to happen. There are no known code or fire violations. The Police Department and the Community Development Department find no reason that would preclude the issuance of this Temporary On-Sale Liquor license. Their reports are on file in the Licensing Division and are available upon request.

The license must be approved by the State of Minnesota, Alcohol and Gambling Enforcement Division once the City of Brooklyn Park has approved the license. License is contingent on background approval.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.2	Meeting Date:	August 31, 2020
Agenda Section:	Consent	Originating Department:	Community Development
Resolution:	N/A	Prepared By:	Keith Jullie, Rental and Business Licensing Manager
Ordinance:	FIRST READING		
Attachments:	1	Presented By:	Keith Jullie
Item:	FIRST READING of an Ordinance to Change Legal Age From 18 to 21 Years to Purchase Tobacco and Electronic Delivery and Nicotine or Lobelia Delivery Devices Ordinance Amendment		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AMENDING CHAPTER 122 OF THE CITY CODE PERTAINING TO CHANGING THE LEGAL AGE FROM 18 TO 21 YEARS TO PURCHASE TOBACCO AND ELECTRONIC DELIVERY AND NICOTINE OR LOBELIA DELIVERY DEVICES.

Overview:

On May 16, 2020, Governor Tim Walz signed into law the change of the legal age to purchase tobacco and tobacco products in Minnesota from 18 to 21 years of age. The law took effect on August 1, 2020. In order to align City Code with the federal and State regulations, City Code Chapter 122 needs to be amended. This is merely a housekeeping code amendment and will allow tobacco compliance checks to continue as planned.

Additional discussions will be brought to the City Council later this year regarding other possible changes to the tobacco code including flavored tobacco, tobacco shop locations, and other issues.

Primary Issues/Alternatives to Consider:

- Approve the amendment as proposed
- Modify and approve the proposed amendment
- Make no change to the ordinance

Budgetary/Fiscal Issues: N/A

Attachments:

4.2A ORDINANCE

ORDINANCE #2020-

ORDINANCE AMENDING CHAPTER 122 OF THE CITY CODE
PERTAINING TO CHANGING THE LEGAL AGE FROM 18 TO 21 YEARS TO PURCHASE TOBACCO AND
ELECTRONIC DELIVERY AND NICOTINE OR LOBELIA DELIVERY DEVICES.

~~Text with strikeout is proposed for deletion~~
Underlined text is proposed for insertion

The City of Brooklyn Park Does Ordain:

Section 1. Sections 122.01 and 122.02 of the City Code are amended to read as follows:

§ 122.01 PURPOSE AND INTENT.

Because the city recognizes that many persons under the age of ~~18~~ 21 years purchase or otherwise obtain, possess and use tobacco, tobacco products, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery devices; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter is intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, electronic delivery devices and nicotine or lobelia delivery devices and to further the official public policy of the State of Minnesota as stated in M.S. § 144.391.

§ 122.02 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms are given their commonly accepted definitions. For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

MINOR. Any natural person who has not yet reached the age of ~~18~~ 21 years.

Section 2. Section 122.05, Paragraph (A) of the City Code is amended to read as follows:

§ 122.05 BASIS FOR DENIAL OF LICENSE.

(A) The applicant is under the age of ~~18~~ 21 years.

Section 3. Section 122.06, Paragraph (B) of the City Code is amended to read as follows:

§ 122.06 PROHIBITED SALES.

(B) To any person under the age of ~~18~~ 21 years.

Section 4. Section 122.08, Paragraph (B) of the City Code is amended to read as follows:

§ 122.08 SELF-SERVICE SALES.

(A) It is unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco-related device, electronic delivery devices, or nicotine or lobelia delivery device between the licensee or licensee's employee and the customer. All tobacco, tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices must either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices at the time this chapter is adopted must comply with this section within 30 days.

(B) This subdivision does not apply to retail stores which derive at least 90% of their revenue from tobacco, tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices and which cannot be entered at any time by persons younger than ~~18~~ 21 years of age.

Section 6. Section 122.12, of the City Code is amended to read as follows:

§ 122.12 EXCEPTIONS AND DEFENSES.

Nothing in this chapter prohibits a native Indian from furnishing tobacco, tobacco products or tobacco related devices to an Indian under the age of ~~18~~ 21 years if the tobacco is furnished as a part of a traditional Indian spiritual or cultural ceremony.

Section 7. Section 122.99 paragraph (F) of the City Code is amended to read as follows:

§ 122.99 VIOLATIONS AND PENALTY.

(f) It is an affirmative defense to the charge of selling tobacco to a person under the age of ~~18~~ 21 years in violation of this ordinance that the licensee or individual making the sale relied in good faith upon proof of age as follows:

Section 8. This ordinance shall become effective after adoption and upon thirty (30) days following its legal publication.

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.3	Meeting Date:	August 31, 2020
Agenda Section:	Consent	Originating Department:	Community Development
Resolution:	N/A	Prepared By:	Megan Bookey, Program Assistant III
Ordinance:	N/A		
Attachments:	N/A	Presented By:	Keith Jullie, Rental and Business Licensing Manager
Item:	Approve a Tobacco Sales License for Brooklyn Smokes, Inc. dba Brooklyn Smokes, Located at 8563 Edinburgh Centre Dr N, Brooklyn Park, MN 55444		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE A TOBACCO SALES LICENSE FOR BROOKLYN SMOKES, INC. DBA BROOKLYN SMOKES, LOCATED AT 8563 EDINBURGH CENTRE DR N, BROOKLYN PARK, MN 55444.

Overview:

This is a new location for an existing Tobacco Sales license for Brooklyn Smokes, Inc. dba Brooklyn Smokes, previously located at 8571 Edinburgh Centre Dr N moving to 8563 Edinburgh Centre Dr N in Brooklyn Park, MN.

The Police Department has completed their investigation of the owner. The Community Development Department approved the application on August 21, 2020. There are currently no known code violations at this property address. The Police and Community Development Departments find no reason that would preclude the issuance of the Tobacco Sales license. Their reports are on file in the Licensing Division and are available upon request.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.4	Meeting Date:	August 31, 2020
Agenda Section:	Consent	Originating Department:	Community Development Rental and Business Licensing
Resolution:	N/A	Prepared By:	Megan Bookey, Program Assistant III
Ordinance:	N/A		
Attachments:	N/A	Presented By:	Keith Jullie, Rental and Business Licensing Manager
Item:	Approve a Temporary On-Sale Liquor License for the Church of St. Vincent de Paul for their Harvest Festival to be held September 20, 2020 at 9100 93 rd Avenue North		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE FOR THE CHURCH OF ST. VINCENT DE PAUL FOR THEIR HARVEST FESTIVAL TO BE HELD SEPTEMBER 20, 2020 AT 9100 93RD AVENUE NORTH.

Overview:

A special event permit is not needed this year due to limited event activities. The Police Department has completed their investigation of the applicant. There are no known fire or code violations. The Police Department and the Community Development Department find no reason that would preclude the issuance of this Temporary On-Sale Liquor license. Their reports are on file in the Licensing Division and are available upon request.

The license must be approved by the State of Minnesota, Alcohol and Gambling Enforcement Division once the City of Brooklyn Park has approved the license.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.5	Meeting Date:	August 31, 2020
Agenda Section:	Consent	Originating Department:	Operations and Maintenance Engineering Services Division
Resolution:	X		
Ordinance:	N/A		
Attachments:	3	Prepared By:	Jesse Struve, City Engineer
		Presented By:	Jesse Struve
Item:	Accept Petition and Order Feasibility Report for the Extension of 94 th Avenue N, East of Decatur Drive N		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2020-____ DETERMINING VALIDITY AND SUFFICIENCY OF PETITION, ORDERING PREPARATION OF FEASIBILITY REPORT FOR THE EXTENSION OF 94TH AVENUE N, EAST OF DECATUR DRIVE N.

Overview:

On July 1, 2020, Reload Investments, LLC. submitted a petition for public improvements to extend 94th Avenue from Decatur Drive N. east about 970' to serve their property and to serve the property east of theirs. The development plan and final plat for "Six Ten Junction" was reviewed and approved by the City Council on February 24, 2020. The petition is to construct 94th Avenue N. from Decatur Avenue N., east approximately 970' to the eastern portion of their property. This roadway will also provide access to the property directly east of the development.

The feasibility report will outline potential assessments to benefitting properties and will follow the 429 process for special assessments.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues:

The entire cost of these improvements will be funded by the City and will be repaid through special assessments.

Attachments:

- 4.5A RESOLUTION
- 4.5B LOCATION MAP
- 4.5C PETITION

RESOLUTION #2020-

RESOLUTION DETERMINING VALIDITY AND SUFFICIENCY OF PETITION,
ORDERING PREPARATION OF FEASIBILITY REPORT FOR THE
EXTENSION OF 94TH AVENUE N, EAST OF DECATUR DRIVE N

WHEREAS, a petition was submitted to construct:

Roadway and utility improvements for a portion of the proposed 94th Avenue N., east of Decatur Drive N.

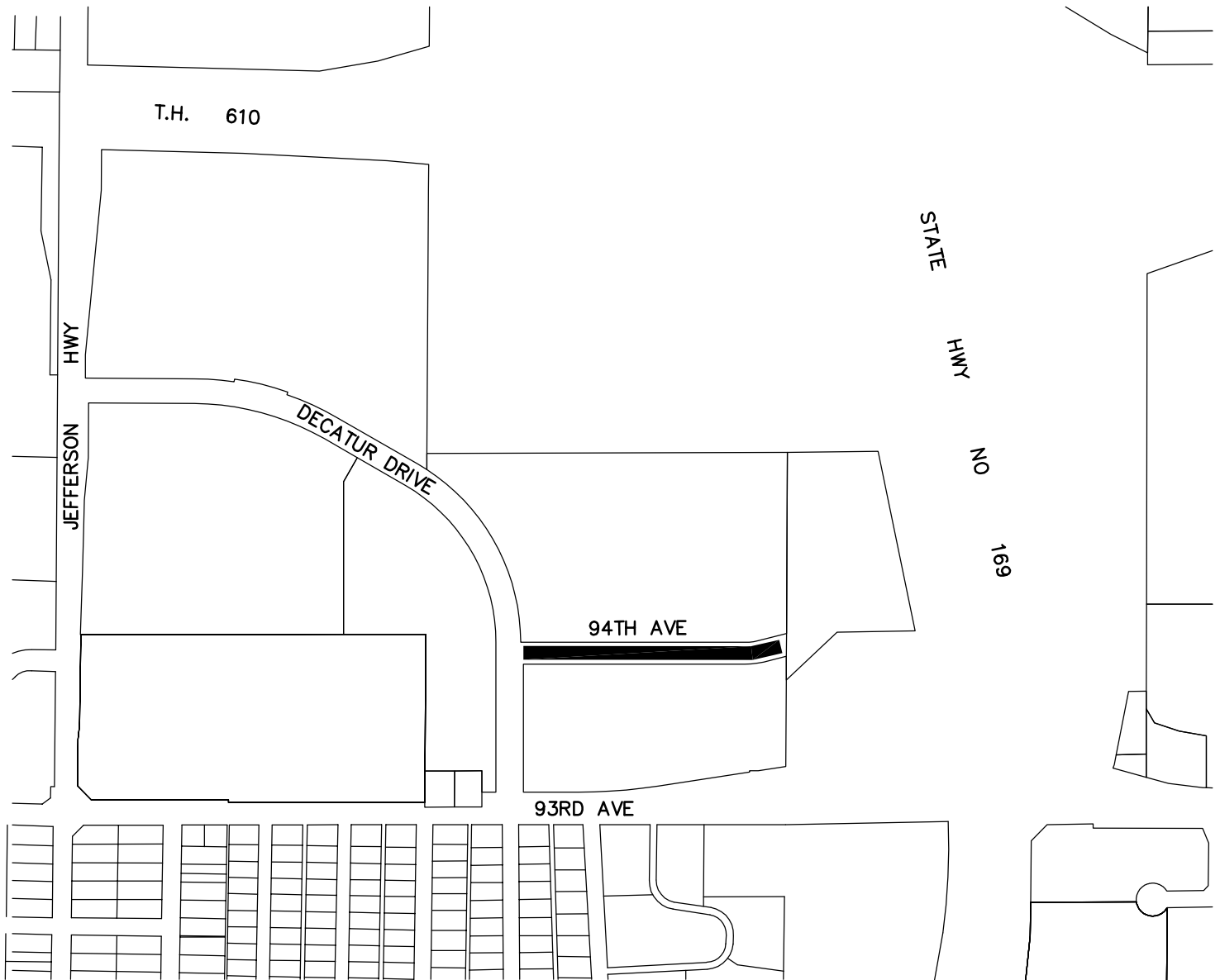
WHEREAS, said petition is signed by 35% or more of all property owners in accordance with requirements of M.S.A 429.031, sub. 3.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park.

1. The petition attached to this resolution has been presented to the City Council and it has been determined that the petition was signed by 35% or more of the property owners proposed to be assessed for the improvements.
2. This resolution is adopted in accordance with provisions of M.S.A 429.035.
3. The petition is hereby referred to the City Engineer who is instructed to report to the City Council with all convenient speed in a preliminary way as to whether the improvements are feasible and whether they are best made as proposed or in connection with some other improvement, and the estimated cost thereof.
4. The City Clerk shall cause a copy of this resolution to be published in the official newspaper in accordance with M.S.A. 429.036.

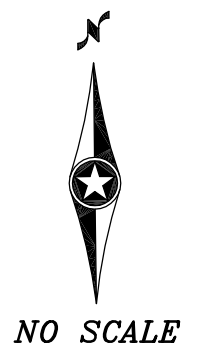
LOCATION MAP

CIP 4018-21



PROJECT AREA

Brooklyn Park



DATE: June 17, 2020

PETITION FOR LOCAL IMPROVEMENT
(of at least 35 percent of property owners)

TO: THE CITY COUNCIL OF BROOKLYN PARK, MINNESOTA

We the undersigned, owners of not less than 35 percent in frontage of the real property abutting the 94th Avenue North right of way, located to the east of Decatur Drive North, with to-be-installed improvements described as follows:

Asphalt surfacing and installation of curbs and gutters on 94th Avenue North, located east of Decatur Drive North in the location shown on the plat of GATEWAY 4TH ADDITION, HENNEPIN COUNTY, MINNESOTA and terminating in a temporary cul-de-sac near the northeast corner of Outlot D, GATEWAY 3RD ADDITION, HENNEPIN COUNTY, MINNESOTA.

Hereby petition that the aforementioned improvement be authorized and approved by the City Council, in accordance with Minnesota Statutes, Sections 429.011 to 429.111.

We further understand and agree to, as for petitioners, waive a hearing in this improvement and authorize the Council to order the improvement in accordance with Section 429.031, Subdivision 3, provided that it is required by the undersigned Property Owners that any resulting special assessment be allocated between the properties as follows:

- An equitable portion of the special assessment be allocated to the property to the east served by the road (PID: 0711921430006)**
- Any remaining portion of the special assessment be allocated between the property owned by the undersigned in the following proportions:**

25% - Outlot D, GATEWAY 3RD ADDITION, HENNEPIN COUNTY, MINNESOTA

50% - Lot 2, GATEWAY 4TH ADDITION, HENNEPIN COUNTY MINNESOTA

25% - Outlot A, GATEWAY 4TH ADDITION, HENNEPIN COUNTY MINNESOTA

DESCRIPTION OF ABUTTING PROPERTY OWNED BY PETITIONERS

Outlot D, GATEWAY 3RD ADDITION, HENNEPIN COUNTY, MINNESOTA; Lot 2 and Outlot A, GATEWAY 4TH ADDITION, HENNEPIN COUNTY MINNESOTA.

SIGNATURE OF OWNER:

Re-Load Investments, LLC
 By: [Signature]
 Name: Michael J. Gresser
 Its: Chief Manager

United Properties Development LLC,
a Minnesota limited liability company
 By: [Signature]
 Name: Brandon Champeau
 Its: Senior Vice President

United Properties Development LLC,
a Minnesota limited liability company
 By: [Signature]
 Name: William P. Katter
 Its: President and Chief Investment Officer

For City Use:

RECEIVED

DATE: _____
 TIME: _____
 SIGNATURE: _____

City of Brooklyn Park Request for Council Action

Agenda Item:	4.6	Meeting Date:	August 31, 2020
Agenda Section:	Consent	Originating Department:	Recreation and Parks
Resolution:	X	Prepared By:	Brad Tullberg, Parks and Facilities Manager Jody Yungers, Director of Recreation and Parks
Ordinance:	N/A		
Attachments:	1	Presented By:	Brad Tullberg
Item:	Approve Professional Service Agreement with LHB, Inc for Construction Administration Services for Park Building and Shelter Kitchen Additions in the Amount of \$50,922		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2020-_____ TO APPROVE PROFESSIONAL SERVICE AGREEMENT WITH LHB, INC FOR CONSTRUCTION ADMINISTRATION SERVICES FOR PARK BUILDING AND SHELTER KITCHEN ADDITIONS IN THE AMOUNT OF \$50,922.

Overview:

On October 14, 2019, the City Council approved a Professional Services Agreement with LHB, Inc to provide the master planning, design development, and preparation of bid documents for the following Park Bond Reinvestment Projects:

- Master Plan and Redevelopment of three parks
- Additions to park buildings
- Addition of kitchen facilities at two shelters

During the Clarification Phase, LHB, Inc. provided a proposal for construction administration services for the redevelopment of three parks and the park building and kitchen shelter additions in the amount of \$124,000. The Park Building and Shelter Kitchen Additions were bid separately from the Park Redevelopment projects so LHB was asked to separate the construction administration costs for each portion of the projects. LHB Inc. has identified the cost for construction administration services of only the Park Building and Shelter Kitchen additions to be \$50,922. The cost for the construction administration services for the Park Redevelopment projects will be brought forward with the bid to be awarded in early 2021.

Construction Administration is important to oversee a contractor's work to ensure proper construction techniques, materials, equipment, and personnel are employed throughout the duration of the project and monitor the contractor's progress and compliance with the Contract Documents and design.

Budgetary/Fiscal Issues:

- Funding for Park Building and Shelter Kitchens Additions are included in the \$26,000,000 of Park Bond Reinvestment Projects that were included in the Park Bond Referendum passed in November 2018.

- The Park Building and Shelter Kitchen Additions were included in the \$7.7M worth of projects to sell bonds for during the June 8, 2020 discussion with City Council.
- The cost of the Construction Administration was included in the budget for the Park Bond Reinvestment Project costs.

Attachments:

4.6A RESOLUTION

RESOLUTION #2020-

RESOLUTION TO APPROVE PROFESSIONAL SERVICE AGREEMENT WITH LHB, INC FOR
CONSTRUCTION ADMINISTRATION SERVICES FOR PARK BUILDING AND SHELTER KITCHEN
ADDITIONS IN THE AMOUNT OF \$50,922

WHEREAS, on October 14, 2019, the City Council approved a Professional Services Agreement with LHB, Inc to provide the master planning, design development, and preparation of bid documents for 1) Master Plan and Redevelopment of three parks (Norwood, Lakeland, and Hartkopf), 2) additions to park buildings, and 3) addition of kitchen facilities at two shelters; and

WHEREAS, during the Clarification Phase, LHB, Inc. provided a proposal for construction administration services for the redevelopment of three parks and the park building and kitchen shelter additions in the amount of \$124,000; and

WHEREAS, the Park Building and Shelter Kitchen Additions were bid separately from the Park Redevelopment projects; and

WHEREAS, LHB Inc. has identified the cost for construction administration services of only the Park Building and Shelter Kitchen additions to be \$50,922; and

WHEREAS, funding for Group 1 Projects – Park Building and Kitchen Shelter Additions of the Park Bond Reinvestment Projects is included in the \$26,000,000 Park Bond Referendum that passed in November 2018; and

WHEREAS, the Park Building and Kitchen Shelters Additions were included in the \$7.7M worth of projects to sell bonds for during the June 8, 2020 discussion with City Council; and

WHEREAS, the cost of the Construction Administration was included in the budget for the Park Bond Reinvestment Project costs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to approve Professional Service Agreement with LHB, Inc for Construction Administration Services for Park Building and Shelter Kitchen Additions in the amount of \$50,922.

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.7	Meeting Date:	August 31, 2020
Agenda Section:	Consent	Originating Department:	Recreation and Parks
Resolution:	X	Prepared By:	Brad Tullberg, Parks and Facilities Manager Jody Yungers, Director of Recreation and Parks
Ordinance:	N/A		
Attachments:	1	Presented By:	Brad Tullberg
Item:	Approve Change Order for the Park Building and Shelter Kitchen Additions Project for American Liberty Construction		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2020-_____ TO APPROVE CHANGE ORDER FOR THE PARK BUILDING AND SHELTER KITCHEN ADDITIONS PROJECT FOR AMERICAN LIBERTY CONSTRUCTION.

Overview:

On August 17, 2020, the City Council awarded the contract for Construction Services for Park Bond Group 1 Projects, Park Building and Shelter Kitchen Additions, to American Liberty Construction in the amount of \$1,254,000. The project includes:

- Construction of additions to existing park buildings at Willowstone Park and Northwoods Park; and
- Provide site work and installation of prefabricated kitchens at the Central Park and River Park shelters.

During the bid process, the addition of planting bed irrigation systems at Willowstone and Northwoods were identified as a bid alternate. Staff evaluated the ability to install by City Operations and Maintenance staff or have the contractor do the installation. It was determined it was more cost effective for the contractor to do this work. Staff is recommending accepting Alternate #1 for \$4,400.00 as identified in their bid.

A performance bond was not included in the original RFP for the Group 1 projects. Projects of this magnitude typically have a performance bond to guarantee the contractor will complete the project as agreed upon in the contract. This cost was identified as an additional expense during the clarification phase in the amount of \$14,556.00. Staff recommends a performance bond for this project.

Staff does expect to bring forward an additional change order for the fire suppression system at Northwoods Park after the need for a sprinkler system was identified in plan review. The cost of the sprinkler system is currently being determined by the contractor and architect.

Budgetary/Fiscal Issues:

- Funding Group 1 Projects: Park Building Additions and Shelter Kitchens of the Park Bond Reinvestment Projects is included in the \$26,000,000 Park Bond Referendum that passed in November 2018.

- The Park Building and Kitchen Shelters Additions were included in the \$7.7M worth of projects identified to sell bonds for during the June 8, 2020 discussion with City Council.
- The estimated budget for the Park Building and Shelter Kitchen Addition projects was \$1,300,000. The initial contract amount was \$1,254,000. The change order totals \$18,956.00 for a new project total of \$1,272,956.

Attachments:

4.7A RESOLUTION

RESOLUTION #2020-

RESOLUTION TO APPROVE CHANGE ORDER FOR THE PARK BUILDING AND SHELTER KITCHEN
ADDITIONS PROJECT FOR AMERICAN LIBERTY CONSTRUCTION

WHEREAS, on August 17, 2020, the City Council awarded the contract for Construction Services for Park Bond Group 1 Projects, Park Building and Shelter Kitchen Additions, to American Liberty Construction in the amount of \$1,254,000 to 1) construct additions to existing park buildings at Willowstone Park and Northwoods Park, and 2) provide site work to accommodate prefabricated kitchens at the Central Park and River Park shelters; and

WHEREAS, as part of their bid, American Liberty Construction provided a cost for Alternate #1 to install irrigation at Northwoods and Willowstone park building additions in the amount of \$4,400.00; and

WHEREAS, a performance bond was not included in the RFP for the project but is recommended to guarantee the contractor will complete the project as agreed upon in the contract; and

WHEREAS, the cost of the performance bond was identified to be \$14,556.00 during the clarification phase; and

WHEREAS, funding for Group 1 Projects, Park Building and Kitchen Shelter Additions, of the Park Bond Reinvestment Projects is included in the \$26,000,000 Park Bond Referendum that passed in November 2018; and

WHEREAS, the Park Building and Kitchen Shelters Additions were included in the \$7.7M worth of projects to sell bonds for during the June 8, 2020 discussion with City Council; and

WHEREAS, the estimated project budget for these projects was \$1,300,000 and the total order change request is \$18,956.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to approve Change Order for the Park Building and Shelter Kitchen Additions Project for American Liberty Construction in the amount of \$18,956.

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.8	Meeting Date:	August 31, 2020
Agenda Section:	Consent	Originating Department:	Recreation and Parks
Resolution:	X	Prepared By:	Jody Yungers, Director of Recreation and Parks
Ordinance:	N/A		
Attachments:	3	Presented By:	Jody Yungers
Item:	Addition of Greenhaven Park (Zone 10) to 2020 Controlled Deer Hunt		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2020-_____ TO APPROVE THE ADDITION OF GREENHAVEN PARK (ZONE 10) AS AN ADDITIONAL LOCATION TO THE 2020 CONTROLLED DEER HUNT.

Overview:

On June 22, 2020, the City Council approved the 2020 Controlled Deer Hunt for the following locations and dates:

Hunt locations to include:

- Zone #1 – Northwoods Park
- Zone #2 – Rush Creek Regional Trail and Regent
- Zone #3 – Environmental Nature Area
- Zone #4 – Mississippi Gateway Regional Park (formerly Coon Rapids Dam Regional Park [CRDRP])
- Zone #5 – Palmer Lake
- Zone #8 – Bayfill Island (Izaak Walton League)
- Zone #11 – Brookdale Park Open Space

Hunt dates:

- September 28, 29, 30 – all locations
- October 26, 27, 28 – all locations
- November 9, 10, 11 – all locations other than Mississippi Gateway Regional Park

The Greenhaven location was not included on the original approved dates and location for the controlled deer hunt. Based on the flyover results, staff is recommending that we add this location to the 2020 fall controlled deer hunt. Additionally, in consultation with Three Rivers Park District, it has been determined that there will not be a hunt at Mississippi Gateway Regional Park in the month of November.

Primary Issues/Alternatives to Consider:

Greenhaven Park (Zone 10) was included within the 2019 controlled hunt and staff is recommending it be added to the 2020 Controlled Deer Hunt locations.

Budgetary/Fiscal Issues: N/A

Attachments:

- 4.8A RESOLUTION
- 4.8B GREENHAVEN PARK DEER HUNT ZONE
- 4.8C RESOLUTION #2020-90

RESOLUTION #2020-

RESOLUTION TO APPROVE THE ADDITION OF GREENHAVEN PARK
(ZONE 10) AS AN ADDITIONAL LOCATION TO THE
2020 CONTROLLED DEER HUNT

WHEREAS, on June 22, 2020, the City Council approved the 2020 Controlled Deer Hunt. The hunts included the following locations and dates:

Hunt locations to include:

- Zone #1 – Northwoods Park
- Zone #2 – Rush Creek Regional Trail and Regent
- Zone #3 – Environmental Nature Area
- Zone #4 – Mississippi Gateway Regional Park (formerly Coon Rapids Dam Regional Park [CRDRP])
- Zone #5 – Palmer Lake
- Zone #8 – Bayfill Island (Izaak Walton League)
- Zone #11 – Brookdale Park Open Space

Hunt dates:

- September 28, 29, 30 – all locations
- October 26, 27, 28 – all locations
- November 9, 10, 11 – all locations other than Mississippi Gateway Regional Park

WHEREAS, the Greenhaven location was not included in the approved list, and based on the deer inventory results, staff is recommending that we add this location to the 2020 fall controlled deer hunt; and


WHEREAS, the dates for the controlled deer hunt at Mississippi Gateway Regional Park have been reduced to not include the month of November.


NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to approve the addition of Greenhaven Park (Zone 10) as an additional location to the 2020 Controlled Deer Hunt.

Greenhaven Park

Zone 10

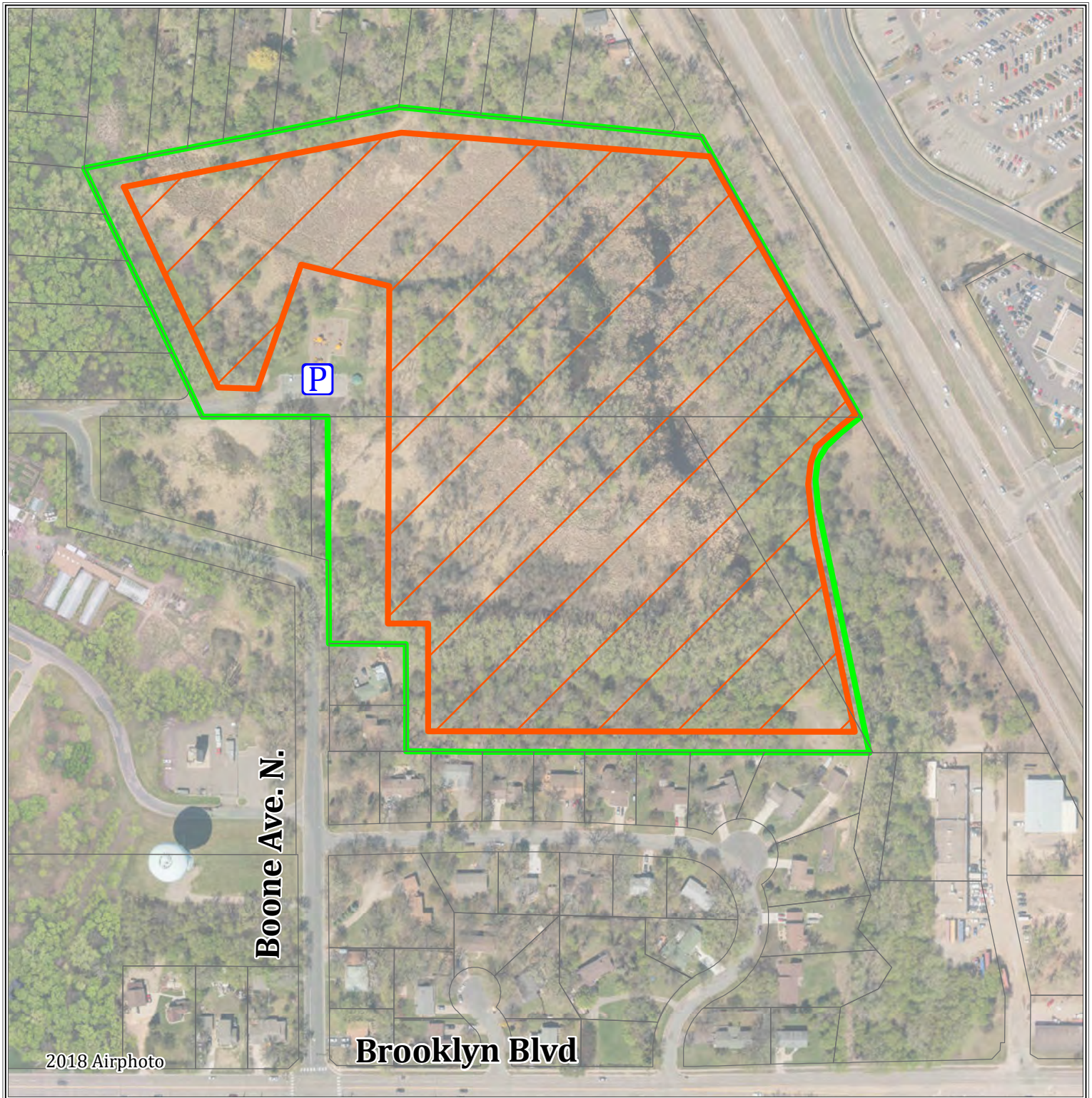
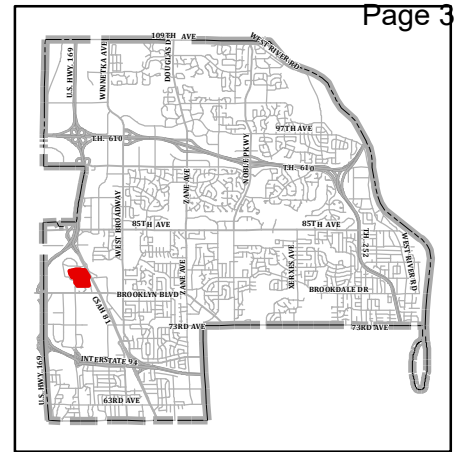


 Designated Parking

 Hunting Zones

 Park Boundary

0 165 330 660 Feet



RESOLUTION #2020-90

RESOLUTION TO ACCEPT THE 2019 DEER HUNT RESULTS, AUTHORIZE
THE CONTINUATION OF THE 2020 DEER MANAGEMENT PROGRAM,
AND AUTHORIZE THE DIRECTOR OF RECREATION AND PARKS TO ENTER INTO AN
AGREEMENT WITH THE METRO BOWHUNTERS RESOURCE BASE TO CONDUCT THE
2020 HUNT

WHEREAS, the City Council approved a Deer Management Plan in 2011, which identifies the number of deer within a range that the natural habitat can support effectively in the Brooklyn Park community; and

WHEREAS, the Recreation and Parks Department works in partnership with Three Rivers Park District and a consortium of seven suburban communities to conduct an annual aerial survey to determine the approximate deer population within the Brooklyn Park community; and

WHEREAS, the Deer Management Plan recommends 15 to 20 deer per square mile, which translates to 45 to 60 deer in the northern portion of the city, 15 to 20 deer along the Mississippi River south of Highway 610, and 15 to 20 in the Palmer Lake Nature Area; and

WHEREAS, in February 2020, the aerial survey found that the herd in Brooklyn Park had increased with a total of 172 total deer, which is slightly more than in the winter of 2019 with a count of 171; and

WHEREAS, the 2019 hunt resulted in a total of 23 deer, due to poor hunting conditions; and

WHEREAS, one public safety benefit to controlling the deer population in an urban/suburban area is the reduction of deer related car accidents; and

WHEREAS, in 2019, the number of deer related incidents decreased to 34 from the reported 48 incidents in 2018, and there has been a gradual decline in deer related accidents since implementation of the deer management program in 2011 with 105 deer related accidents; and

WHEREAS, the Metro Bowhunters Resource Base (MBRB) does not charge for their services to conduct the hunt.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to accept the 2019 Deer Hunt Results, authorize the continuation of the 2020 Deer Management Program, and authorize the Director of Recreation and Parks to enter into an agreement with the Metro Bowhunters Resource Base to conduct the 2020 Deer Hunt.

The foregoing resolution was introduced by Mayor Lunde and duly seconded by Council Member Parks.

The following voted in favor of the resolution: Mata, Pha, West-Hafner, Jacobson, Parks, and Lunde.

The following voted against: None.

The following was absent: Russell.

Where upon the resolution was adopted.

ADOPTED: June 22, 2020

JEFFREY JONEAL LUNDE, MAYOR

CERTIFICATE

STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF BROOKLYN PARK

I, the undersigned, being the duly qualified City Clerk of the City of Brooklyn Park, Minnesota, hereby certify that the above resolution is a true and correct copy of the resolution as adopted by the City Council of the City of Brooklyn Park on June 22, 2020.

WITNESS my hand officially as such Clerk and the corporate seal of the City this 23rd day of June 2020.

DEVIN MONTERO, CITY CLERK

(SEAL)

City of Brooklyn Park Request for Council Action			
Agenda Item:	6.1	Meeting Date:	August 31, 2020
Agenda Section:	Land Use Actions	Originating Department:	Community Development
Resolution:	X		
Ordinance:	N/A		
Attachments:	6	Prepared By:	Todd A. Larson, Senior Planner
		Presented By:	Cindy Sherman, Planning Director
Item:	David Kirchoff – Waiver of Platting to Subdivide the Lot Back to the Original Property Lines at 10472 and 10466 Toledo Drive N.		

City Manager’s Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2020-____ APPROVING A WAIVER OF PLATTING TO SUBDIVIDE 10472 TOLEDO DRIVE NORTH INTO TWO SINGLE-FAMILY PARCELS.

Planning Commission Recommendation:

At its meeting on August 12, 2020, the Planning Commission unanimously (5-0) recommended approval of the waiver of platting subject to the conditions listed in the attached resolution.

Overview:

The Kirchoff house was constructed in 2005 on a single lot in the Oxbow Creek subdivision. Sometime after construction, the Kirchoffs bought the vacant lot next door and then combined the two lots for tax purposes.

The applicant is requesting the subdivision along the originally platted property lines. City Code requires a public hearing for any subdivision, although a new plat is not necessary in this case. The process to subdivide land in this manner is called a *waiver of platting*. The originally-platted lots meet all of the current R2B zoning requirements.

There is an existing shed on the vacant lot that will be moved off the property before the lot split is finalized.

Budgetary/Fiscal Issues:

None. Park dedication was satisfied with the original plat.

Alternatives to consider:

1. Approve the waiver of platting as recommended by the Planning Commission.
2. Approve the waiver of platting with modifications.
3. Deny the waiver of platting based on certain findings.

Attachments:

- 6.1A RESOLUTION
- 6.1B LOCATION MAP
- 6.1C PLANNING AND ZONING INFORMATION
- 6.1D LETTERS
- 6.1E PLANNING COMMISSION MINUTES
- 6.1F SURVEY

RESOLUTION #2020-

RESOLUTION APPROVING A WAIVER OF PLATTING TO SUBDIVIDE
10472 TOLEDO DRIVE NORTH INTO TWO SINGLE-FAMILY PARCELS

Planning Commission File #20-114

WHEREAS, David R. Kirchoff and G. Fritz Trustees owns the following property within the City of Brooklyn Park:

Lots 8 and 9, Block 2, Oxbow Creek 9th Addition, Hennepin County, Minnesota

WHEREAS, the property is two platted lots that were combined for tax purposes; and

WHEREAS, the property owner would like to subdivide the parcel along the originally-platted lines to sell each lot individually; and

WHEREAS, the granting of this waiver will not be detrimental to the public welfare nor injurious to the other property in the neighborhood, and

WHEREAS, the granting of this waiver will not have an adverse effect upon traffic and traffic safety or pedestrians and pedestrian safety, and

WHEREAS, the proposed subdivision is consistent with the other parcels in the neighborhood.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park:

That the requirements of the Brooklyn Park City Code, Section 151.010(B), relating to conveyance of parcels of land are hereby waived to permit the conveyance as follows:

Parcel A (10472 Toledo Drive North):

Lot 8, Block 2, Oxbow Creek 9th Addition, Hennepin County, Minnesota

Parcel B (10466 Toledo Drive North):

Lot 9, Block 2, Oxbow Creek 9th Addition, Hennepin County, Minnesota

Subject to the following conditions:

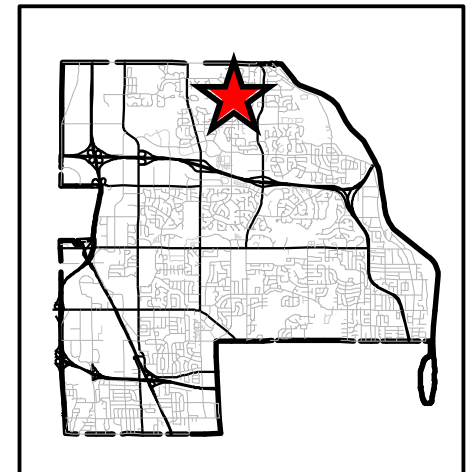
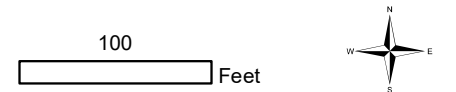
1. The petitioner shall be required to record a copy of this resolution with the Hennepin County Recorder and to pay all fees for said recording and shall file proof of said recording with the City. The subdivision shall not be effective unless this recording is made within one year from the date of this approval.
2. If an applicant needs additional time to satisfy the requirements listed in this resolution in order to get it released for recording, a one-year time extension must be requested. Time extension requests are subject to the conditions found in Subdivision Ordinance Section 151.007, Procedures for Time Extensions.

Failure on the part of the petitioner to record this resolution within one year from the date of this approval shall deem the resolution approval to be null and void.

Waiver of Platting #20-114
David Kirchoff 10472 & 10466 Toledo Dr. N.



Spring 2018 Air Photo.



Map Date July 9, 2020

Land Use Plan	Low Density Residential
Current Zoning	Detached Single-Family Residential District (R2B)
Surrounding Zoning	All Sides – Detached Single-Family Residential District (R2B)
Neighborhood	Orchard Trail
Lot Area	0.58 Acres (combined)
Conforms to:	
Land Use Plan – Yes	
Zoning Code – Yes	
Subdivision Code – Yes	
Variances Needed – None	
Public Notification	65 Mailed Notices Sun-Post Legal Notices – July 30, 2020 Neighborhood Update Email – Orchard Trail



Photo 1. Looking east at the existing home at 10472 Toledo Drive (07-15-2020).



Photo 2. The vacant lot to the right (south) of the existing home (07-15-2020).

From: slthomas
Sent: Monday, August 3, 2020 6:03 PM
To: Todd Larson
Subject: Waiver of Planning to subdivide lot back to original property

Todd Larson

With respect to David Kirchoff and subdividing lots 10472 and 10466 (case 20-114)

We are neighbors at 10473 Toledo Drive North (across the street). We are fine with this action. Note that we will not attend the hearing.

If you have further questions, please let us know.

Thank you

Steven and Lynne Thomas

* * *

From the Oxbow Creek Association management:

Hello Dave,

Thank you for speaking to me this afternoon. As we had discussed in the eyes of the Association the lots were never split, as you have paid the assessments for both lots since you purchased them. The board does not have a problem or an issue with you splitting the lots as long as the lot is properly recorded with the City of Brooklyn Park.

Thank you,

Jesse Boyer

Community Association Group, Inc.

1672 Slater Road

Eagan, MN 55122

www.cagmn.com

o: 651-882-0400 x114

: 651-882-0405

From: Randall Warren
Sent: Friday, August 7, 2020 10:45 AM
To: Todd Larson
Subject: Case #20-114

Good morning. I received notice of the Brooklyn Park Planning Commission Hearing on Case #20-114, Kirchoff Lot Split, scheduled for Wednesday, August 12, 2020 at 7:00 PM. I understand that I am allowed to participate because my property is within 500 feet of the Kirchoff property, and that I may participate by this email.

I want to register that I have no objections or concerns to the proposed sub-dividing of the property back to the original property lines.

Randall Warren
10463 Scott Ave N
Brooklyn Park, MN 55443

UNAPPROVED MINUTES**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION****Regular Meeting – August 12, 2020****1. CALL TO ORDER**

The meeting was called to order at 7:04 PM.

2. ROLL CALL/PLEDGE OF ALLEGIANCE

Those present were: Commissioners Herbers, Husain, Kiekow, Kisch, and Muvundamina; Planning Director Sherman; Senior Planner Larson.

Those not present were: Commissioners Aarestad, Mohamed, Morton-Spears and Vosberg; Council Liaison Russell.

6. PUBLIC HEARING

- A. David Kirchoff** – Waiver of Platting to subdivide the lot back to the original property lines at 10472 and 10466 Toledo Dr N.

Senior Planner Larson introduced the application for a large residential lot that was previously combined for tax purposes. The owners are looking to sell, and they would now like to divide the lot back into two. The proposal is a waiver of platting to subdivide the combined lot back to the original property lines and previous legal descriptions. The lots would meet the existing standards for the R2B zoning district, and the existing house would meet the required setbacks. Staff recommends approval and noted that Mr. Kirchoff is in the audience.

Commissioner Chair Kisch opened the public hearing.

Seeing no one approach the podium, Commission Chair Kisch closed the public hearing.

MOTION HUSAIN, SECOND HERBERS TO RECOMMEND APPROVAL OF WAIVER OF PLATTING #20-114 TO SUBDIVIDE 10472 TOLEDO DRIVE NORTH INTO TWO SINGLE-FAMILY PARCELS, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.

MOTION CARRIED UNANIMOUSLY.

Planning Director Sherman stated all public hearing applications are scheduled to be reviewed at the City Council meeting on August 31, 2020.

PIONEERengineering

Coon Rapids Office
201 85th Avenue N.W.
Coon Rapids, MN 55433
(763) 783-1880 Fax: 783-1883

CIVIL ENGINEERS LAND PLANNERS LAND SURVEYORS LANDSCAPE ARCHITECTS

Coon Rapids Office

Mendota Heights Office
2422 Enterprise Drive
Mendota Heights, MN 55120
(651) 681-1914 Fax: 681-9488

Certificate of Survey for: ANDREEN CONSTRUCTION

House Address: 10472 Toledo Drive North

House Model: #24049

RECEIVED

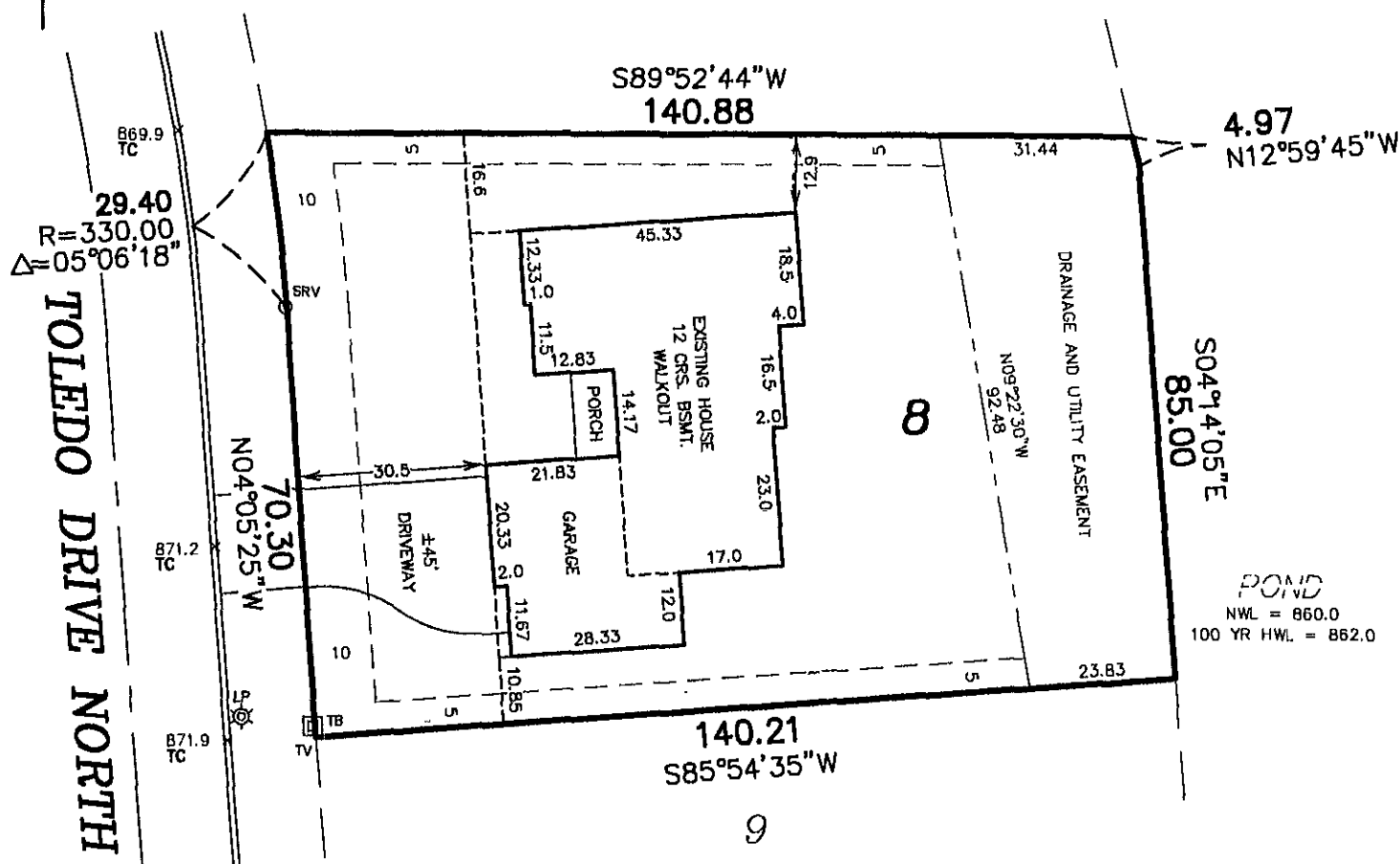
JUN 14 2005

Brooklyn Park, MN
BUILDING DEPT

FOUNDATION AS-BUILT

6-9-05

7



AS-BUILT FOR FOUNDATION
APPROVED Jam DATE 6/15/05

- E.O.F. 000.0 Denotes Emergency Overflow
x 000.0 Denotes Existing Elevation
x (000.0) Denotes Proposed Elevation
— Denotes Drainage Flow Direction
— Denotes Drainage & Utility Easement (per recorded plat)
— Denotes Offset Iron

Bearings shown are assumed

EXISTING BUILDING ELEVATIONS

Lowest Floor Elevation: 866.34

Top of Foundation Elevation: 874.45

Garage Slab Elevation: 874.0 (at door)

NOTE: Proposed building site grading is in accordance with the grading plans approved by the city engineer.

NOTE: Contractor must verify all dimensions & driveway design.

NOTE: Driveways are shown for graphic purposes only, final driveway design and location will be determined by contractor.

LOT 8, BLOCK 2, OXBOW CREEK 9TH ADD.

HENNEPIN COUNTY, MINNESOTA

I hereby certify to ANDREEN CONSTRUCTION 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 A.D., 2005.

Scale: 1 inch = 30 feet

Signed: PIONEER ENGINEERING, P.A.

By: Terrence E. Rothenbacher

Terrence E. Rothenbacher, L.S. Reg. No. 20595

Thomas R. Balluff, L.S. Reg. No. 40361

City of Brooklyn Park

Request for Council Action

Agenda Item:	6.2	Meeting Date:	August 31, 2020
Agenda Section:	Land Use Actions	Originating Department:	Community Development
Resolution:	X	Prepared By:	Todd A. Larson, Senior Planner
Ordinance:	N/A		
Attachments:	7	Presented By:	Cindy Sherman, Planning Director
Item:	International Brotherhood of Electrical Workers (IBEW) Local #292 (Andy Snope) – Conditional Use Permit #20-115 to Allow Rental of the Building’s Meeting Room for Events at 6700 West Broadway		

City Manager’s Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2020-____ APPROVING CONDITIONAL USE PERMIT FOR AN ASSEMBLY, BANQUET, CONVENTION HALL, OR CONFERENCE CENTER AT 6700 WEST BROADWAY.

Planning Commission Recommendation:

At its meeting on August 12, 2020, the Planning Commission unanimously (5-0) recommended approval of the conditional use permit with the conditions that are listed in the attached resolution.

Overview:

In the summer of 2019, the International Brotherhood of Electrical Workers (IBEW) Local 292 received approvals necessary to construct a new office building with a large meeting room to accommodate the organization’s membership meetings. It was discussed during the planning process about opening the room for outside organizations or events. It was determined by the owner that this request would come forward once the building was constructed. The building was completed in spring 2020, and now representatives of the IBEW Local 292 are seeking a conditional use permit (CUP) for an “assembly, banquet, convention hall, or conference center” (the terminology for this type of use in the Zoning Code). Though the COVID-19 pandemic has put limits on the size of gatherings, the applicant is preparing for the future assuming restrictions will eventually be lifted.

Budgetary/Fiscal Issues: N/A

Alternatives to consider:

1. Approve the CUP as recommended by the Planning Commission.
2. Approve the CUP with modifications.
3. Deny the CUP based on certain findings.

Attachments:

- 6.2A RESOLUTION
- 6.2B LOCATION MAP
- 6.2C PLANNING AND ZONING INFORMATION
- 6.2D LETTERS FROM THE PUBLIC
- 6.2E PLANNING COMMISSION MINUTES
- 6.2F LETTER FROM THE APPLICANT
- 6.2G PLANS

RESOLUTION #2020-

RESOLUTION APPROVING CONDITIONAL USE PERMIT
FOR AN ASSEMBLY, BANQUET, CONVENTION HALL, OR CONFERENCE CENTER AT
6700 WEST BROADWAY

Planning Commission File #20-115

WHEREAS, Mr. Andy Snope on behalf of International Brotherhood of Electrical Workers Local #292 made an application for a Conditional Use Permit for an assembly, banquet, convention hall, or conference center facility on property legally described as:

Lot 1, Block 1, IBEW Acres, Hennepin County, Minnesota

WHEREAS, the site received Site Plan Review on July 8, 2019, through Resolution #2019-115 where a conditional use permit was required for such a use to occur in the building's large meeting rooms; and

WHEREAS, the matter has been referred to the Planning Commission who have given their advice and recommendation to the City Council; and

WHEREAS, the effect of the proposed use upon the health, safety and welfare of surrounding lands, existing and anticipated traffic conditions and its effect on other properties in the neighborhood have been considered.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that a Conditional Use Permit is granted for an assembly, banquet, convention hall, or conference center, subject to the following conditions:

1. This Conditional Use Permit is for an event center for the following types of events:
 - a. Wedding ceremonies, receptions, dinners, and dances
 - b. Marriage Celebrations/Anniversaries
 - c. Galas
 - d. Fundraisers
 - e. Holiday Parties
 - f. Mother's and Father's Day Celebration
 - g. Graduations
 - h. Life Celebrations
 - i. City and Governmental Meetings
 - j. Business Meetings
 - k. Baby Showers
 - l. Wedding Showers
 - m. Groom's/Bride's Dinner
 - n. Birthday
 - o. Ethnic Celebrations
 - p. Sweet 16 Parties
 - q. Quinceanera
 - r. Bar/Bat Mitzvahs
 - s. Trade Show/Wedding Fair
 - t. Family Reunions
 - u. Banquets
 - v. Nonprofit/Fundraising
 - w. Membership groups
 - x. Political Rallies

2. The property must not be used for general parties or public events that charge an admission fee. Charity fundraising events may charge an admission fee.
3. All events must cease by midnight.
4. Alcohol may only be served at events in conjunction with food through a licensed caterer.
5. Food service must follow state and local rules regarding preparation and service. The kitchen may be upgraded to expand on-site preparation options with proper permits/licenses.
6. Event capacity is limited to the number of guests and staff that can reasonably park in the building's parking lot, not exceeding the Fire Code capacity. Parking is not allowed to spill over onto area streets or onto unpaved surfaces. In the event on-site parking is not sufficient, additional parking must be constructed according to the 2019 approvals in areas shown as proof of parking.
7. The applicant will work with the Brooklyn Park Police Department to create a security plan.

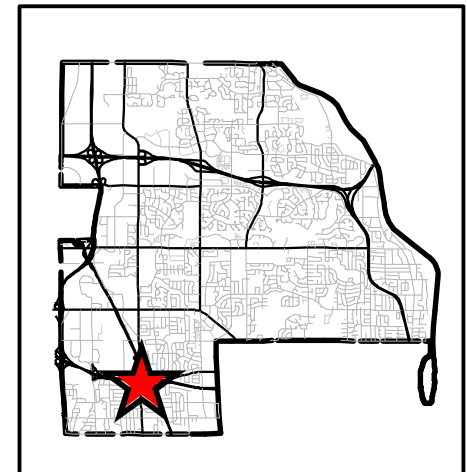
This resolution expires one year from the date of approval unless all conditions are met. This resolution must be recorded with the Hennepin County Recorder's office. The approvals can be revoked if not in compliance with the conditions stated above.

Conditional Use Permit #20-115
IBEW 292 6700 West Broadway N



Spring 2018 Air Photo
(prior to building and
site construction)

100
Feet



Map Date July 9, 2020

Land Use Plan	Business Park
Current Zoning	Neighborhood Retail Business District (B2)
Surrounding Zoning	West – Detached Single-Family Residential District (R3) South – Neighborhood Retail Business District (B2) East – Bottineau Blvd (County Road 81) North – Interstate 94/694
Neighborhood	Sunny Lane
Lot Area	4.35 acres
Building Area	26,800 ft ²
Conforms to:	
	Land Use Plan – Yes
	Zoning Code – Yes
	Variances Needed – None
Public Notification	33 Mailed Notices Sun-Post Legal Notices – July 30, 2020 1 Proposed Development Sign Neighborhood Update Email – Sunny Lane

Meeting Space and Building Design

The building was constructed with a large divisible meeting room to accommodate the IBEW's membership meetings under the IBC (Building Code) assembly space rules. Opening the space to outside organizations or events will not impact the design of the building. The meeting rooms are separated from the building's office space so that events can occur without infringement and have their own entryway, lobby, and restrooms.

The most intense use of the space will be when used for meetings set up classroom style with rows of chairs. Other events using tables will have a smaller occupancy.

There is a serving kitchen capable of accommodating a licensed caterer who brings prepared food from an off-site licensed kitchen. The serving kitchen is not set up for cooking food or cleaning dishes, though it could be upgraded in the future.

Staff used the 2014 Mississippi Gardens conditional use permit as a template for the draft CUP resolution attached to this report as it is a similar use. The conditions, such as events ceasing at midnight and the type of events, are essentially the same as Mississippi Gardens. The applicant has indicated that they are not likely to have some of these event types at the facility though.

Parking

The site was designed to accommodate the parking of the organization's members for membership meetings, the most intensive use, with 221 spaces. There should be enough parking on site to accommodate any other type of event anticipated for the site.

If it is determined that events are creating a parking problem, then additional parking will need to be constructed. In 2019, the site plan showed an area at the northwest corner as future parking. Additionally, the IBEW owns the adjacent outlot to the south reserved for possible future development where parking could be added. Overflow parking onto West Broadway is prohibited and signed accordingly and will not be acceptable on residential streets to the west.

Public Safety

The applicant has been advised to work with the Police Department to prepare a security plan. This is a condition of approval.



Photo 1. The large meeting room (July 17, 2020).



Photo 2. The north entrance to the meeting area lobby (July 17, 2020).



The east side of the building and the secondary entrance to the meeting room lobby and the main parking area (July 17, 2020).

From: Cory Funk
Sent: Monday, August 3, 2020 11:24 PM
To: Todd Larson
Subject: Case #20-115 IBEW 292 Event Hall

Planning Commission Members,

The purpose of this email is to speak against the issuing of a conditional use permit for meeting room space being rented as event space for case #20-115 because Brooklyn Park already has enough such choices for this purpose: the BP Community Activity Center (CAC), City owned Edinburgh USA managed by D'Amico Catering, as well as venues like the Minneapolis Marriott Northwest Hotel and conference center, Leopold's Mississippi Gardens, and even the Palmer Lake VFW, not including other small meeting spaces also available in the City. No need to add more competition to these already established venues. Some of which are only a couple miles apart from each other.

Thank you for your consideration.

{please confirm receipt}

Cory Funk
9313 Newton Ave North
Brooklyn Park MN 55444

* * *

From: Karen -Mars
Sent: Sunday, August 23, 2020 1:08 PM
To: Todd Larson
Subject: International Brotherhood of Electrical Workers (IBEW) Local 292

(IBEW) Local 292 - wants to hold banquets, receptions etc.

I feel that having more than 200 people attending events every weekend or more would make a lot more traffic in the area... we have enough already... This was not part of the plans when they first applied, they said they were going to hold their Union meetings etc..... but not Wedding receptions and other public events...

My thoughts:

- * I like the idea that the events need to be done by Midnight.
- * Must have at least one Hired- City Of BP Policeman or women attend to watch over event.
- * Need them to Keep limit of 200 people... (for events, not their union meetings)

All the Traffic will increase on Modern, 62nd, 63rd, West Broadway... they said they have enough parking for 221 spaces. We are the ones that will have to put up with the traffic and also fixing the roads again. Plus people will park on the side streets in the area, even thou it says they wont..... We will need to add stop signs in the area to slow traffic down...

Thank you Karen Inzerello 8117 Modern Rd

From: Jon Avery
Sent: Monday, August 24, 2020 9:46 AM
To: Todd Larson
Subject: Case #20-115 IBEW 292 Event Hall

Thank you again for taking the time to speak with me today. The proposal to do events from the neighborhood perspective feels like a "bait and switch" where we were told they would be quiet neighbors and now want to hold large loud events.

We are requesting the following:

1. Late night events past 10 pm can only be on Friday and Saturday night. (our kids go to bed early for school - heavy traffic keeps them awake)
2. Events on Sunday - Thursday night must end by 10pm.
3. Requiring a traffic management plan for large events (all traffic must exit the parking lot north on Broadway towards 81 to avoid going through our neighborhood).
4. Add a stop sign on the corner of Modern and Broadway.
5. Required security officer present if alcohol is being served.
6. Strict enforcement of noise ordinances for events (wedding dance music late at night).

Thanks again Todd.

~Jon Stephen Avery
6516 West Broadway

UNAPPROVED MINUTES**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION****Regular Meeting – August 12, 2020****1. CALL TO ORDER**

The meeting was called to order at 7:04 PM.

2. ROLL CALL/PLEDGE OF ALLEGIANCE

Those present were: Commissioners Herbers, Husain, Kiekow, Kisch, and Muvundamina; Planning Director Sherman; Senior Planner Larson.

Those not present were: Commissioners Aarestad, Mohamed, Morton-Spears and Vosberg; Council Liaison Russell.

6. PUBLIC HEARING**A. International Brotherhood of Electrical Workers 292 Event Hall (Andy Snope) – Conditional Use Permit #20-115 to allow rental of the building's meeting room for events at 6700 West Broadway.**

Senior Planner Larson introduced the application for the International Brotherhood of Electrical Workers Local 292 (IBEW 292) to allow for event rental of their large meeting space within their brand-new building. When the building was approved last year, the meeting space was primarily intended for use of member meetings, but there was some discussion about the possibility of renting the meeting space to outside groups in the future. Now that the building is constructed, they would like to move forward with this idea although the main purposes of the building are still office space for employee and union meetings. While they do not anticipate large meetings at this time, they do anticipate there will be a need in the future.

The larger meeting space in the northwestern portion of the building can be divided into three smaller rooms. The rooms can be set up in various ways to accommodate different capacities, such as classroom seating with an occupancy of 180 people, lecture seating at 414 people, or a banquet style at around 300 people. Available on-site parking was designed to match the occupancy of the office building and the meeting room under any of the capacity configurations. If parking proves insufficient, IBEW 292 will need to construct the areas designated for potential future parking expansions since parking is not allowed on West Broadway and staff does not believe event hall parking in the neighborhood across West Broadway is acceptable.

The proposed Conditional Use Permit is similar to Mississippi Garden's Conditional Use Permit with a few adjustments. A few conditions include that events stop at midnight, all food and alcohol must be provided by a licensed caterer, and events need to be primarily invite-only instead of open house parties though there are a few exceptions to this condition.

Andy Snope, representative of IBEW 292, assured the Commission that IBEW 292 has no intention of entering the hospitality business. However, they have an available space that could benefit the community, and they want to be proactive with obtaining a Conditional Use Permit before such a request arises. He reiterated there are no immediate plans to host events, but they foresee future events such as fundraisers and community organization events. They are not interested in hosting weddings or other hospitality event. He added that if the space were to be used as a campaign fundraiser, campaign finance standards require the space to be rented out to the candidate. He stated he will be happy to answer any questions from the public or the Commission.

Commissioner Chair Kisch opened the public hearing.

Brenda Clisso, 7600 67th Ave, commented that the new building is a beautiful addition to the community. She is concerned with the potential for overflow parking and added traffic on their street in addition to the potential for drunk driving as people are leaving the parking lot which exits on to 67th Ave. She stressed she isn't opposed to the request, but she asked for more clarity around these concerns.

Seeing no one approach the podium, Commissioner Chair Kisch closed the public hearing.

Commissioner Kiekow asked who will be monitoring the facility to ensure the conditions about catering, alcohol service, and parking will be followed.

Senior Planner Larson explained most Conditional Use Permits are enforced if staff spots a problem as well as if complaints or 911 calls from neighbors are received. Staff will take it very seriously if there are reports of an event going past midnight or violating any of the other conditions of approval.

Commissioner Kiekow asked for an example of the ramifications of breaking the rules.

Senior Planner Larson stated the first ramification is a warning letter and a second violation may be a revocation hearing in front of the Planning Commission and City Council.

Commissioner Chair Kisch asked if the Conditional Use Permit is only needed because the facility will be rented to outside organizations.

Senior Planner Larson confirmed that is correct. The facility was built for meetings for their members and gathering of employees. However, renting the space to outside organizations or unofficial functions of the business (such as a member utilizing the space for a wedding) is not allowed to happen without a Conditional Use Permit approving the use as a rental hall. While the applicant doesn't intend on entering the hospitality business, the Conditional Use Permit provides flexibility that would allow such events in addition to the foreseen day time events, such as political meetings or speakers, as all types of events fall in to the same use category.

Commissioner Chair Kisch asked for the rationale of listing specific allowable events in Item 1 with a caveat in Item 2 that prohibits general parties or public events.

Senior Planner Larson reiterated the conditions are almost identical to the conditions provided in the Mississippi Gardens Conditional Use Permit with political rallies being added to the list of approved events for IBEW 292. The rationale for Item 2 is to preemptively address concerns with other event halls that used the space to test run a night club. This caused problems for the Police Department and local neighborhood, so that type of event is specifically prohibited.

Commissioner Chair Kisch contemplated if the language in Item 1 is overly restrictive and thought Item 2 better captured the intent of Item 1. He asked the applicant if they were comfortable with the conditions as proposed in the resolution.

Andy Snope stated the long list of approved events covers the typical events they foresee being held at that union hall. He doesn't foresee the space being used for events not listed in the resolution, such as a child's birthday party. He added that they don't anticipate encountering half the events listed as approved.

Commissioner Kisch commented that the resolution does have a condition to prevent off-site parking within the neighborhood which he hopes addresses the concerns of Ms. Clisso.

MOTION MUVUNDAMINA, SECOND HERBERS TO RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT #20-115 FOR AN ASSEMBLY, BANQUET, CONVENTION HALL, OR CONFERENCE CENTER AT 6700 WEST BROADWAY, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.

MOTION CARRIED UNANIMOUSLY.



Jeffrey J. Heimerl, Business Manager

July 20, 2020

City of Brooklyn Park
Community Development
Planning Division
Planning Committee
City Council
5200 85th Ave N
Brooklyn Park, MN 55443

Dear Community Members and Planning Division Staff:

The Members of IBEW Local 292 are requesting a Conditional Use Permit as per zoning code section 152.342 condition 1 (Assembly, banquet, convention halls, or conference centers) for use in a B-2 zoned retail and neighborhood business zoning district.

IBEW Local 292 recently completed construction of our offices and meeting rooms at 6700 W. Broadway Ave. In the future we will be hosting some hospitality events for our members, which we understand that we would not need a CUP for. We are also considering opening the use of our meeting halls for outside groups for other community events as well. Therefore, we believe that applying for a conditional use permit would be appropriate at this time.

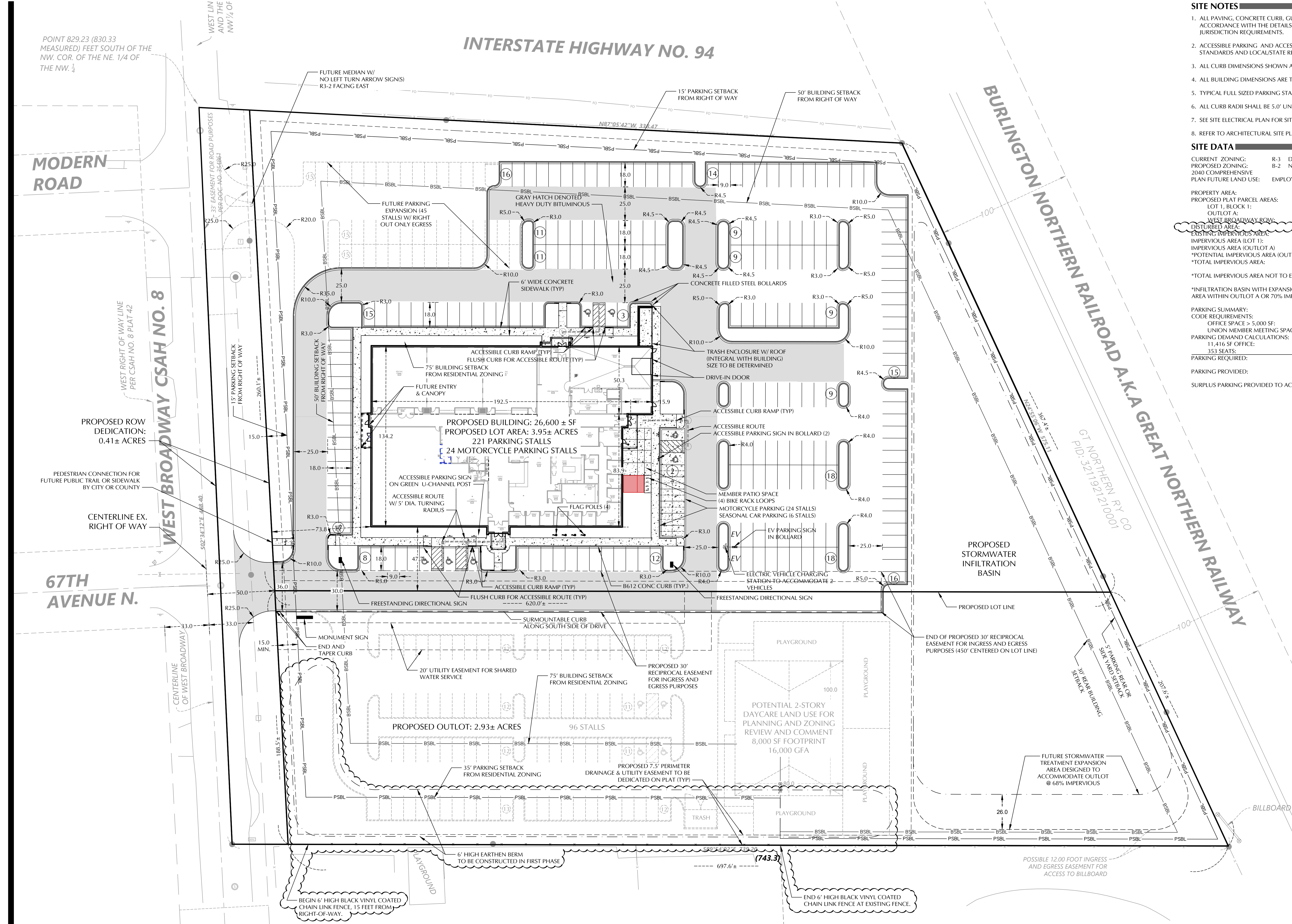
Please feel free to reach out to Business Representative Andy Snope for further questions. Andy Snope; 612-617-4238, asnape@ibew292.org.

On behalf of IBEW Local 292 Members, thank you for your consideration.

A handwritten signature in blue ink, appearing to read 'Jeffrey J. Heimerl'.

Jeffery J. Heimerl
Business Manager
IBEW Local 292

JJH:jg
opeiu #12, afl-cio



- GENERAL NOTES**
- MINNESOTA STATE STATUTE REQUIRES NOTIFICATION PER "GOPHER STATE ONE CALL" PRIOR TO COMMENCING ANY GRADING, EXCAVATION OR UNDERGROUND WORK.
 - THE CONTRACTOR SHALL FIELD VERIFY LOCATIONS AND ELEVATIONS OF EXISTING UTILITIES AND TOPOGRAPHIC FEATURES PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY. THE CONTRACTOR SHALL NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR VARIATIONS FROM THE PLANS.
 - THE CONTRACTOR SHALL TAKE ALL PRECAUTIONS NECESSARY TO AVOID PROPERTY DAMAGE TO ADJACENT PROPERTIES DURING THE CONSTRUCTION PHASE OF THIS PROJECT. THE CONTRACTOR WILL BE HELD RESPONSIBLE FOR ANY DAMAGES TO ADJACENT PROPERTIES OCCURRING DURING THE CONSTRUCTION PHASE OF THIS PROJECT.
 - THE CONTRACTOR WILL BE RESPONSIBLE FOR PROVIDING AND MAINTAINING TRAFFIC CONTROL DEVICES SUCH AS BARRICADES, WARNING SIGNS, DIRECTIONAL SIGNS, FLAGMEN AND LIGHTS TO CONTROL THE MOVEMENT OF TRAFFIC WHERE NECESSARY. PLACEMENT OF THESE DEVICES SHALL BE APPROVED BY THE ENGINEER PRIOR TO PLACEMENT. TRAFFIC CONTROL DEVICES SHALL CONFORM TO THE APPROPRIATE MINNESOTA DEPARTMENT OF TRANSPORTATION STANDARDS.
 - IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, THE CONTRACTOR WILL BE SOLELY AND COMPLETELY RESPONSIBLE FOR CONDITIONS ON THE JOB SITE, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY DURING THE PERFORMANCE OF THE WORK. THIS REQUIREMENT WILL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS.
 - THE DUTY OF THE ENGINEER OR THE DEVELOPER TO CONDUCT CONSTRUCTION REVIEW OF THE CONTRACTORS PERFORMANCE IS NOT INTENDED TO INCLUDE REVIEW OF THE ADEQUACY OF THE CONTRACTORS SAFETY MEASURES IN, OR NEAR THE CONSTRUCTION SITE.
 - BEFORE BEGINNING CONSTRUCTION THE CONTRACTOR SHALL INSTALL EROSION AND SEDIMENTATION CONTROL MEASURES IN ACCORDANCE WITH NPDES PERMIT REQUIREMENTS, BEST MANAGEMENT PRACTICES, STATE AND LOCAL REQUIREMENTS AND THE DETAILS SHOWN ON THE DETAIL SHEETS OF THE PROJECT PLANS.
 - ALL CONSTRUCTION PERMITS, APPLICATIONS AND FEES ARE THE RESPONSIBILITY OF THE CONTRACTOR.
 - ALL ENTRANCES AND CONNECTIONS TO CITY STREETS SHALL BE CONSTRUCTED PER THE REQUIREMENTS OF THE STATE AND LOCAL JURISDICTIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL PERMITS AND NOTIFICATIONS AS REQUIRED.
 - ALL STREET REPAIRS AND PATCHING SHALL BE PERFORMED PER THE REQUIREMENTS OF THE CITY. ALL TRAFFIC CONTROL SHALL BE PROVIDED BY THE CONTRACTOR AND SHALL BE ESTABLISHED PER THE REQUIREMENTS OF THE MINNESOTA MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) AND THE CITY. THIS SHALL INCLUDE ALL SIGNAGE, BARRICADES, FLASHERS AND FLAGGERS AS NEEDED. ALL PUBLIC STREETS SHALL BE OPEN TO TRAFFIC AT ALL TIMES.
 - ADJUST ALL EXISTING STRUCTURES, BOTH PUBLIC AND PRIVATE TO THE PROPOSED GRADES WHERE DISTURBED AND COMPLY WITH ALL REQUIREMENTS OF THE UTILITY

- OWNERS, STRUCTURES BEING RESET TO PAVED AREAS MUST MEET OWNERS REQUIREMENTS FOR TRAFFIC LOADING.
- EXISTING CONDITIONS AND TOPOGRAPHIC SURVEY WERE PREPARED BY WESTWOOD PROFESSIONAL SERVICES. LOUCKS DOES NOT GUARANTEE THE ADEQUACY OR ACCURACY OF WORK PREPARED BY OTHERS. THE CONTRACTOR SHALL NOTIFY THE PROJECT ENGINEER OF ANY ERRORS OR OMISSIONS RELATED TO EXISTING SITE CONDITIONS IMMEDIATELY.
 - SUBGRADE PREPARATION SHALL BE PERFORMED IN ACCORDANCE WITH MNDOT 2112. THE TOP 3 FEET SHALL BE COMPACTED TO 100% OF THE STANDARD PROCTOR DENSITY.
 - AGGREGATE BASE SHALL BE MNDOT 2211 CLASS 5. COMPACTION SHALL BE BY THE QUALITY COMPACTION METHOD.
 - PLANT MIXED BITUMINOUS PAVEMENT SHALL BE PERFORMED IN ACCORDANCE WITH MNDOT 2360 WITH MIX DESIGN AS SHOWN ON THE DETAILS. COMPACTION SHALL BE BY THE ORDINARY COMPACTION METHOD.
 - CONCRETE CURB & GUTTER SHALL BE PERFORMED IN ACCORDANCE WITH MNDOT 2531. CURING SHALL BE BY THE MEMBRANE CURING METHOD. EXPANSION JOINTS EVERY 200 FEET AT ALL FIXED OBJECTS. CONTRACTIONS JOINTS EVERY 10 FEET.
 - CONCRETE WALK SHALL BE PERFORMED IN ACCORDANCE WITH MNDOT 2521. CURING SHALL BE BY THE MEMBRANE CURING METHOD. EXPANSION JOINTS AT ALL FIVES OBJECTS. CONTRACTION JINTS EVERY 5 FEET.
 - A CITY RIGHT-OF-WAY PERMIT IS REQUIRED TO WORKING WITHIN CITY ROW.

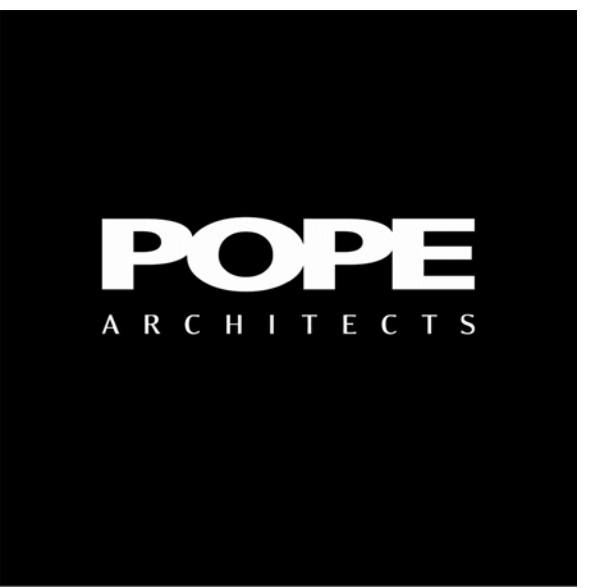
- SITE NOTES**
- ALL PAVING, CONCRETE CURB, GUTTER AND SIDEWALK SHALL BE FURNISHED AND INSTALLED IN ACCORDANCE WITH THE DETAILS SHOWN PER THE DETAIL SHEETS AND STATE/LOCAL JURISDICTION REQUIREMENTS.
 - ACCESSIBLE PARKING AND ACCESSIBLE ROUTES SHALL BE PROVIDED PER CURRENT ADA STANDARDS AND LOCAL/STATE REQUIREMENTS.
 - ALL CURB DIMENSIONS SHOWN ARE TO THE FACE OF CURB UNLESS OTHERWISE NOTED.
 - ALL BUILDING DIMENSIONS ARE TO THE OUTSIDE FACE OF WALL UNLESS OTHERWISE NOTED.
 - TYPICAL FULL SIZED PARKING STALL IS 9' X 18' UNLESS OTHERWISE NOTED.
 - ALL CURB RADII SHALL BE 5.0' UNLESS OTHERWISE NOTED.
 - SEE SITE ELECTRICAL PLAN FOR SITE LIGHTING.
 - REFER TO ARCHITECTURAL SITE PLAN FOR BUILDING SETBACKS.

SITE DATA

CURRENT ZONING:	R-3	DETACHED SINGLE-FAMILY RESIDENTIAL
PROPOSED ZONING:	B-2	NEIGHBORHOOD RETAIL BUSINESS DISTRICT
2040 COMPREHENSIVE PLAN FUTURE LAND USE:	EMPLOYMENT CENTER	

PROPERTY AREA: 334,840 SF OR 7.69 +/- AC
PROPOSED PLAT PARCEL AREAS:
LOT 1, BLOCK 1: 189,298 SF OR 4.35 AC
OUTLOT A: 123,981 SF OR 2.84 AC
WEST BROADWAY ROW: 21,561 SF OR 0.50 AC
DISTURBED AREA: 7.14 AC (PHASE 1)
DISTURBED IMPERVIOUS AREA: 0.43 AC (0.05%)
IMPERVIOUS AREA (LOT 1): 3.04 AC (70.0% OF LOT 1)
IMPERVIOUS AREA (OUTLOT A): 0.16 AC (5.63%)
*POTENTIAL IMPERVIOUS AREA (OUTLOT A): 1.38 AC (48.6% OF OUTLOT A)
*TOTAL IMPERVIOUS AREA: 4.42 AC (61.5% OF PLAT)
*TOTAL IMPERVIOUS AREA NOT TO EXCEED 70% PER CODE)
*INFILTRATION BASIN WITH EXPANSION AREA DESIGNED TO ACCOMMODATE 1.99 ACRES IMPERVIOUS AREA WITHIN OUTLOT A OR 70% IMPERVIOUS AREA FOR THE ENTIRE DEVELOPMENT

PARKING SUMMARY:
CODE REQUIREMENTS:
OFFICE SPACE > 5,000 SF: MAX 5.5 PARKING STALLS / 1,000 SF
UNION MEMBER MEETING SPACE: 1 STALL / 2.5 SEATS
PARKING DEMAND CALCULATIONS:
11,416 SF OFFICE: (13,279/1000) x 5.5 = 63 STALLS
353 SEATS: 353/2.5 = 142 STALLS
PARKING REQUIRED: 205 STALLS
PARKING PROVIDED: 211 STALLS
SURPLUS PARKING PROVIDED TO ACCOMMODATE ANNUAL SPECIAL EVENT DEMAND



POPE ARCHITECTS, INC.
1295 BANDANA BLVD N, SUITE 200
ST. PAUL, MN 55108-2735
(651) 642-9200 | FAX (651) 642-1101
www.popearch.com



IBEW Local Union 292
Corporate Office
Building
6700 W Broadway Ave
Brooklyn Park, MN 55428

LOUCKS
PLANNING
CIVIL ENGINEERING
LAND SURVEYING
LANDSCAPE ARCHITECTURE
ENVIRONMENTAL
7200 Hemlock Lane, Suite 300
Maple Grove, MN 55369
763.424.5505
www.loucksinc.com
LOUCKS PROJECT NO. 19150.00

SITE PLAN

Issues and Revisions:	
04/23/2019	PRE-APPLICATION MEETING
04/29/2019	IBEW REVIEW SET
05/01/2019	SITE PLAN REVIEW
05/29/2019	REVISED PER CITY COMMENTS
06/07/2019	DD PLAN SET
06/14/2019	WATERSHED PERMIT APPLICATION
07/10/2019	CD PLAN SET
07/25/2019	WATERSHED RESUBMITTAL
07/26/2019	REVISED SHEET NOTES C3
08/29/2019	REVISED OUTLOT GRADING

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 Professional Engineer under the laws of the State of Minnesota.

Michael J. St. Martin - PE
License No. 24440
Date: 07/10/19

Commission No: 68151-19079
Drawn by: CDL
Checked by: MJS

SHEET

C2-1

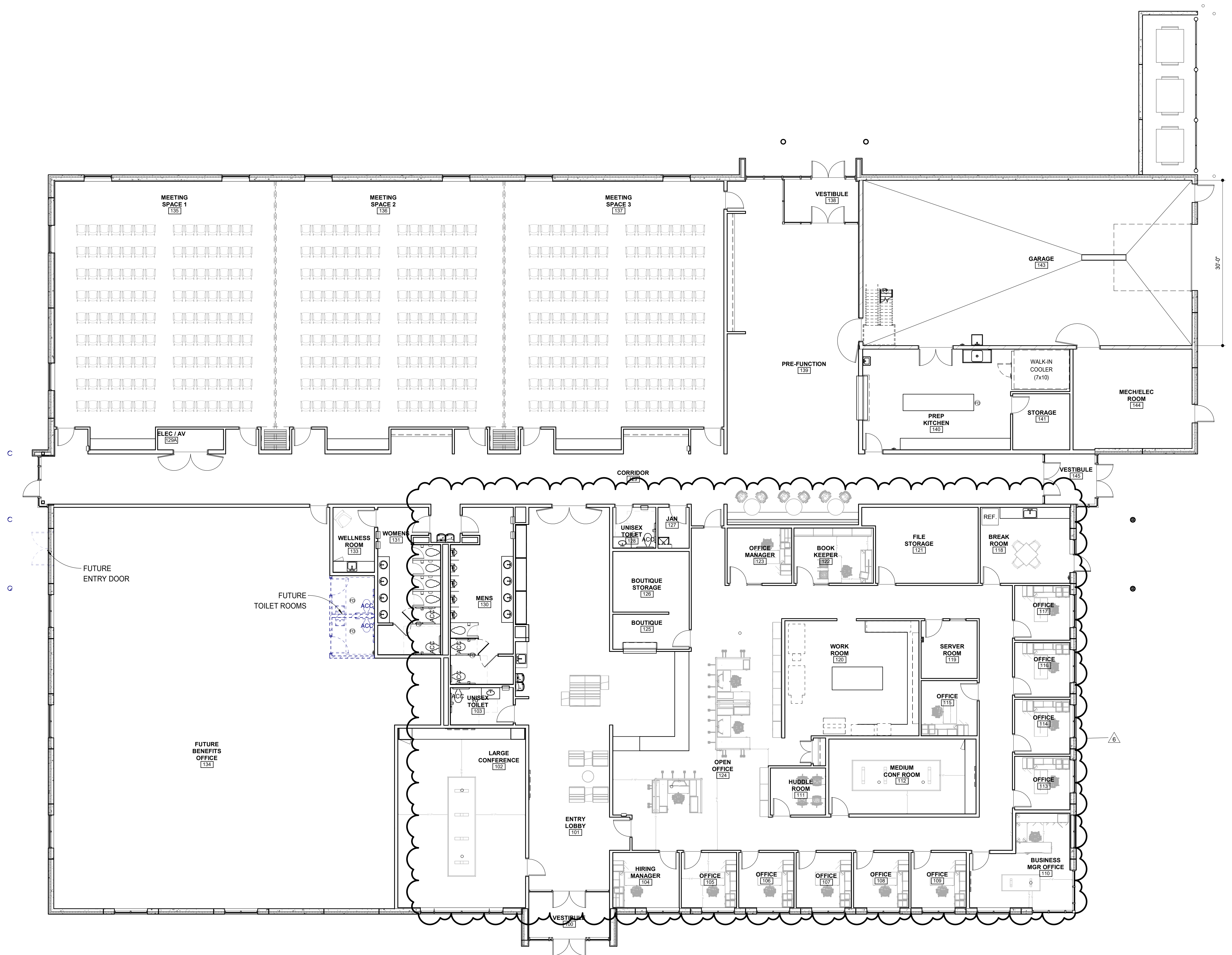


CALL BEFORE YOU DIG!
Gopher State One Call
TWIN CITY AREA: 651-454-0002
TOLL FREE: 1-800-252-1166

WARNING:
THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING FOR LOCATIONS OF ALL EXISTING UTILITIES. THEY SHALL COOPERATE WITH ALL UTILITY COMPANIES IN MAINTAINING THEIR SERVICE AND/OR RELOCATION OF LINES.
THE CONTRACTOR SHALL CONTACT GOPHER STATE ONE CALL AT 651-454-0002 AT LEAST 48 HOURS IN ADVANCE FOR THE LOCATIONS OF ALL UNDERGROUND WIRES, CABLES, CONDUITS, PIPES, MANHOLES, VALVES OR OTHER BURIED STRUCTURES BEFORE DIGGING. THE CONTRACTOR SHALL REPAIR OR REPLACE THE ABOVE WHEN DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.



0 30 60
SCALE IN FEET



1 FURNITURE PLAN
A11.1 1/8" = 1'-0"



POPE
ARCHITECTS

POPE ARCHITECTS, INC.
1295 BANDANA BLVD N, SUITE 200
ST. PAUL, MN 55108-2735
(651) 642-9200 | FAX (651) 642-1101
www.popearch.com

RYAN
BUILDING LASTING RELATIONSHIPS



IBEW LOCAL UNION
292 CORPORATE
OFFICE BUILDING
6700 W. BROADWAY
AVENUE
BROOKLYN PARK, MN
55428

FURNITURE PLAN -
FOR REFERENCE
ONLY

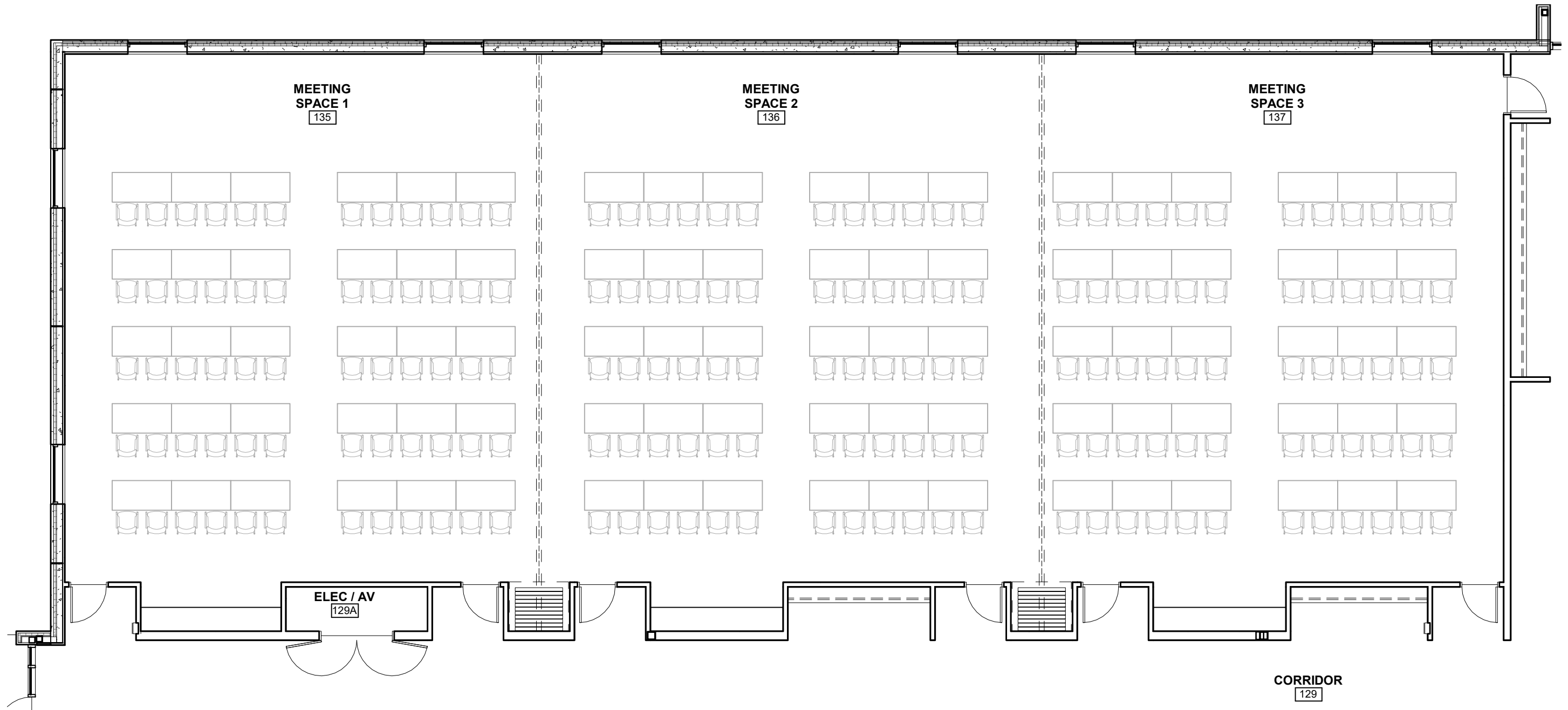
DD ISSUE SET	06-07-19
OWNER REVIEW	07-03-19
PERMIT ISSUE	07-09-19
6 PR #04	01-22-20

Commission No.	68151-19079
Drawn by	LM
Checked by	GV

SHEET

A11.1

1" = 12'-0" SCALE
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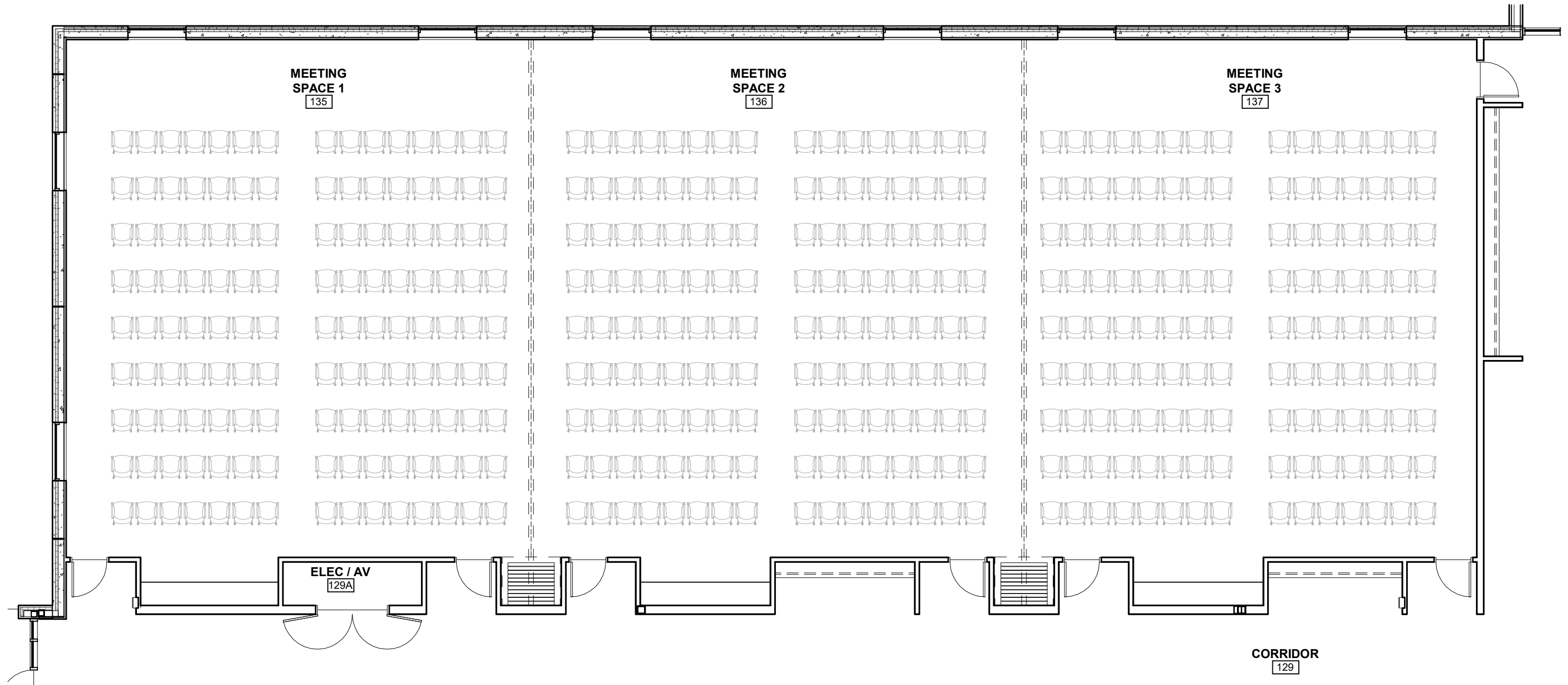


CLASSROOM SEATING - 180



IBEW LOCAL 292
 BROOKLYN PARK, MN
 8/7/2020 | 68151-19079



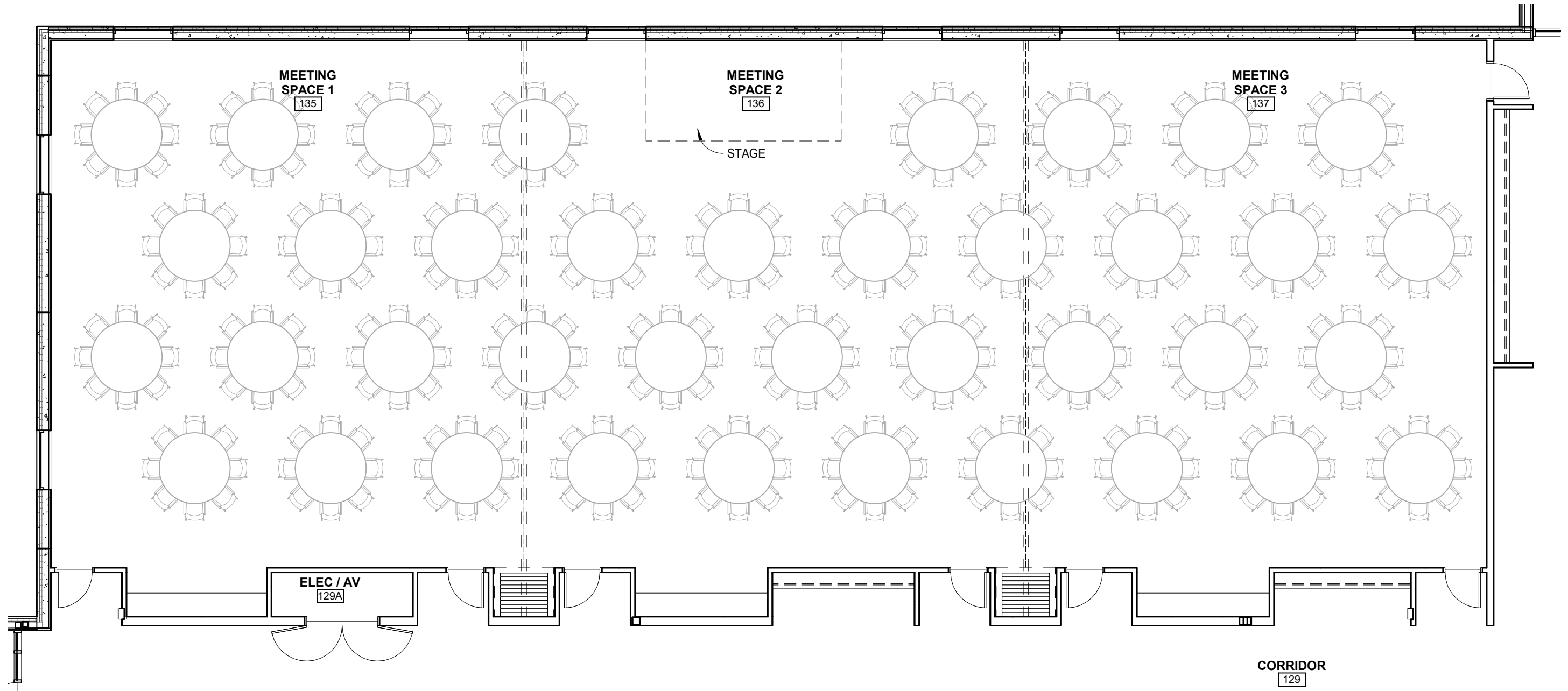


LECTURE SEATING - 414



IBEW LOCAL 292
BROOKLYN PARK, MN
8/7/2020 | 68151-19079





BANQUETTE SEATING - 304



IBEW LOCAL 292

BROOKLYN PARK, MN

8/7/2020 | 68151-19079



City of Brooklyn Park Request for Council Action

Agenda Item:	6.3	Meeting Date:	August 31, 2020
Agenda Section:	Land Use Actions	Originating Department:	Community Development
Resolution:	X		
Ordinance:	N/A		
Attachments:	6		
Item:	Todd Miller – Variance #20-116 to Residential Setback for a Concrete Slab within 5 Feet of the Property Line at 8819 Prestwick Parkway N.		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2020-_____ DENYING A SETBACK VARIANCE FOR A CONCRETE SLAB AT 8819 PRESTWICK PARKWAY NORTH.

Planning Commission Recommendation:

At its meeting on August 12, 2020, the Planning Commission unanimously (5-0) recommended denial of the variance finding that there are no supporting justifications for the variance based on the criteria provided. The Planning Commission reviewed a plan from 2014 that the applicant stated he discussed with the building inspector showing a shed with a concrete slab that met City Code requirements. This plan, however, did not show the concrete to the property lines. The attached resolution includes findings that were discussed during the commission meeting.

Overview:

Mr. Miller is requesting a variance to keep an existing concrete slab that extends to within inches of his side and rear property line. Zoning rules require concrete slabs and patios be setback 5 feet from side and rear property lines. Additionally, they cannot be constructed within any drainage and utility easement—in this case, 5 feet along the side and 10 feet along the rear property lines. According to the applicant, the slab was poured in 2014 in two pours. The first pour met the setback and easement requirements because the long-term plan was to use this slab as the foundation of a future shed. The applicant stated that a week later, he poured more concrete to fill in the area between the first pour and the two property lines.

Slabs for patios or other uses do not require a building permit. The applicant stated that he worked with input from building staff in 2014 to pour the slab in anticipation of a future shed and initially poured it to meet setbacks. Staff recently became aware that the concrete was poured when a building permit application for a new shed came in July noting the slab. Mr. Miller's intent is to build the shed to meet setbacks and leave the concrete slab in place. In order for the slab to remain, variances to the side and rear setbacks are required as is an encroachment agreement for locating within the easement. If a variance is approved by the Council, an encroachment agreement will need be approved at a future meeting.

The following section from City Code discusses variances and criteria, known as practical difficulties, used to approve them:

§ 152.034 VARIANCE.

(A) *Purpose.* The purpose of a variance is to provide for deviations from the requirements of this chapter including restrictions placed on non-conformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the variances are consistent with the comprehensive plan. Variances may be granted when the

applicant for the variance establishes that there are practical difficulties in complying with the requirements of this chapter.

*(B) Review Standards. **PRACTICAL DIFFICULTIES**, as used in connection with the granting of a variance, means:*

(1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance

(2) The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

(3) Granting of the variance will not alter the essential character of the area or neighborhood where the property is located.

(4) Economic considerations alone do not constitute practical difficulties.

(5) There is inadequate access to direct sunlight for a solar energy system.

(C) Procedure. The procedures for application and public hearing of a variance request is described in § 152.031.

(D) Conditions. The Board of Appeals and Adjustments or the City Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No building permit may be issued except in compliance with the conditions of the variance.

The applicant's letter states that the slab will not be out of character with other properties in the neighborhood based on #3 above though it does not state how. Based on air photos of the neighborhood, staff was unable to find other slabs or patios constructed to the property lines. In addition, the applicant states that he knew what the setbacks were for a shed but expanded the slab beyond the allowed setbacks. Since the slab was constructed with two pours, the joint lines are clearly visible and removal along those lines should be possible.

Budgetary/Fiscal Issues: N/A

Alternatives to consider:

1. Deny the variance based on findings as recommended by the Planning Commission.
2. Approve the variance as requested by the applicant.
3. Approve the variance with modifications.

Attachments:

- 6.3A RESOLUTION
- 6.3B LOCATION MAP
- 6.3C PLANNING AND ZONING INFORMATION AND PHOTOS
- 6.3D LETTER FROM NEIGHBORS
- 6.3E PLANNING COMMISSION MINUTES
- 6.3F LETTER FROM THE APPLICANT AND 2014 PLANS

RESOLUTION #2020-

RESOLUTION DENYING A SETBACK VARIANCE FOR A CONCRETE SLAB
AT 8819 PRESTWICK PARKWAY NORTH

Planning Commission File #20-116

WHEREAS, Mr. Todd Miller applied for a variance to the Zoning Code for rear and side setbacks of a concrete slab on his property legally described as:

Lot 4, Block 1, Edinburgh Park 5th Addition, Hennepin County, Minnesota

WHEREAS, the concrete slab was constructed in 2014 in two pours within inches of the property lines; and

WHEREAS, the property owner constructed a portion of the slab with footings suitable for adding a shed atop it that met the setback and platted easement requirements (initial pour); and

WHEREAS, the property owner stated that he poured additional concrete between the initial pour and the side and rear property lines the following week (second pour); and

WHEREAS, the second pour does not meet setback or platted easement requirements; and

WHEREAS, the property owner stated that he discussed plans for the shed with City staff in 2014 and also stated that he did not discuss the area encompassed by the second pour; and

WHEREAS, the property owner stated the practical difficulty for the slab's location as it "will not alter the character of the area or neighborhood where the property is located"; and

WHEREAS, the Planning Commission held a public hearing on Wednesday, August 12, 2020, to review the request; and

WHEREAS, the Planning Commission unanimously recommended the City Council deny the variance based on the following findings:

- A. The second pour location was never discussed with City staff;
- B. The request for a variance is being done as a matter of convenience to avoid the effort and expense of removing the slab; and
- C. There are no similar concrete slabs legally constructed within the neighborhood to justify the property owner's claim.

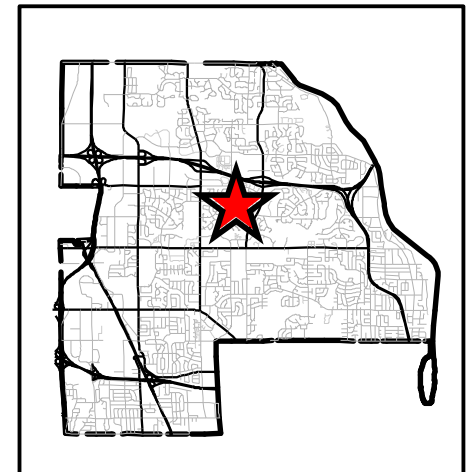
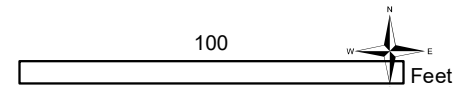
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that the variance request for a concrete slab constructed within inches of the side and rear property line is hereby denied based on the Planning Commission's findings listed above.

BE IT FURTHER RESOLVED that the concrete slab constructed in the second pour must be removed by October 31, 2020.



Site Location

Spring 2018 Air Photo



Map Date July 9, 2020

Land Use Plan	Low Density Residential
Current Zoning	Planned Community Development District (PCDD)
Surrounding Zoning	All Sides – Planned Community Development District (PCDD)
Neighborhood	Trinity Gardens
Lot Area	10,395 ft ²
Conforms to:	
Land Use Plan – Yes	
Zoning Code – No	
Variances Needed – To side and rear setbacks	
Public Notification	13 Mailed Notices Sun-Post Legal Notices – July 30, 2020 Neighborhood Update Email – Trinity Gardens

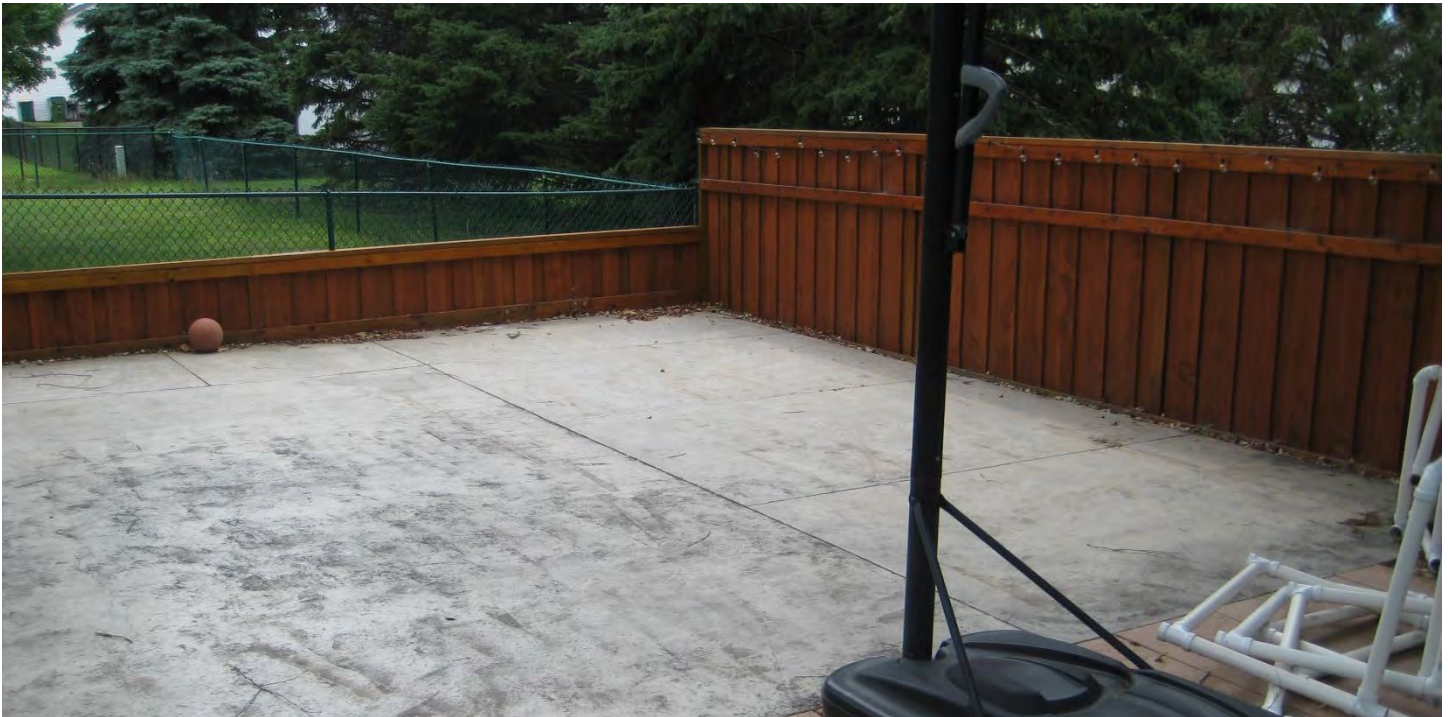


Photo 1. Looking toward the southwest corner of the lot. The short fence is the side property line and the tall fence is the rear property line (July 22, 2020).



Photo 2. Looking northeast from the back corner of the slab (July 22, 2020).

From: Ibrahim Mohamed
Sent: Sunday, August 2, 2020 3:50 PM
To: Todd Larson
Subject: Residential setback

Hello sir. I'm Abdihakim Aden. I'm the neighbor of (8819 prestwick pkwy N)
Just wanted to let you know that we're okay with our neighbor's (Todd Miller) concrete to stay where it is.
We have been neighbors for 2 years and we've had no problems with it being the place where it is now. They don't have to move 5'. If you have any questions can you please call me at 7632672510.

Thank you.
8813 Prestwick Pkwy

* * *

From: ken/julie
Sent: Thursday, July 30, 2020 3:32 PM
To: Todd Larson
Subject: Public hearing

Good Afternoon

I am sending this Email inregards to the public hearing of Todd Miller, 8819 Prestwick Parkway, case # 20-116, Variance to residential setback to allow concrete slab within 5 feet of the property line.

As a direct neighbor of Todd I am ok with allowing him the concrete slab.

Kenneth and Julie Carraux
8825 Prestwick Parkway
Brooklyn Park 55443

* * *

From: Montgomery, Meisha L
Sent: Monday, August 10, 2020 9:17 AM
To: Todd Larson
Cc: Isiah Montgomery
Subject: Case #20-116 project name Miller variance

Hello Todd,
Our names are Meisha and Isiah Montgomery at 4925 89th Crescent. Unfortunately, we are unable to attend the Wednesday August 12, 2020 hearing, however, we wanted to reach out and respond to the letter we received regarding a public hearing notice for location 8819 Prestwick Pkwy. After reviewing the letter and what it entails, we have been neighbors with the Miller's ever since we moved into our home 14 years ago. We have no concerns in reference to the concrete slab within 5' of the property line, it has never affected us.

I appreciate your time and please let us know if you have any questions

Thanks.

UNAPPROVED MINUTES**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION****Regular Meeting – August 12, 2020****1. CALL TO ORDER**

The meeting was called to order at 7:04 PM.

2. ROLL CALL/PLEDGE OF ALLEGIANCE

Those present were: Commissioners Herbers, Husain, Kiekow, Kisch, and Muvundamina; Planning Director Sherman; Senior Planner Larson.

Those not present were: Commissioners Aarestad, Mohamed, Morton-Spears and Vosberg; Council Liaison Russell.

6. PUBLIC HEARING

C. Todd Miller – Variance #20-116 to residential setback to allow concrete slab within 5 feet of the property line at 8819 Prestwick Pkwy N.

Senior Planner Larson introduced the request for a residential variance to allow a concrete slab within the setbacks from the side and rear property lines. He explained 5-foot setbacks from the side and rear property lines are required for built structures. This applies to decks, patios, sheds, and other built structures excluding landscape materials and fences which can be placed up to the property line. This property has the usual 5-foot side setback but has a 10-foot setback from the property line due to a draining and utility easement as structures can't be placed in such an easement if they will prohibit the flow of water. The concrete slab in question has been in existence for a few years, but didn't come to the City's attention until recently when Todd Miller applied for a building permit for a shed that would be located on the portion of the slab that does meet the required setbacks. It was always intended that this portion of the slab would accommodate building a shed at some point and was constructed with the needed footings for the structure. The applicant submitted a letter with the request explaining the slab would not be out of character with other properties in the neighborhood, but staff was not able to locate similar patios or slabs in the neighborhood.

Staff recommends denial of the variances as there are no practical difficulties that justify the location of the slab. However, a resolution of denial was not prepared as staff felt the Commission could make their own recommendation as they see fit factoring in public input. Senior Planner Larson noted there were several letters from neighbors supporting the variance request. Staff will use the Commission recommendation to draft a resolution for City Council.

Todd Miller, the applicant, provided a more detailed history of the concrete slab/patio. His son wanted a basketball court back in 2014, but Mr. Miller didn't want to have to remove the concrete for a basketball court when his son went to college. He decided to construct the concrete slab so that it could later be used for a shed. At this time, he understood the setbacks of 5 feet and 10 feet from the side and rear property lines respectively. The fence as pictured is 1 foot from the side property line and the rear fence is roughly 20 inches from the property line. To be safe, he planned to keep the shed 5 feet from the side fence and 10 feet from the back fence. He decided a 24 x 24-foot slab would provide enough room for a 19 x 14-foot shed. He spoke with an inspector on June 18, 2014 who told him a building permit was not needed until he was ready to start construction of the shed, but the inspector instructed him to take plenty of photos. He proceeded with pouring the slab in July of 2014. He commented that the slab looked out of place so over the next couple of years he put in a retaining wall, moved all his irrigation lines, and put up a privacy fence. He said the slab is not visible from ground level unless you are directly next to his yard.

Mr. Miller submitted shed plans for a building permit on June 22, 2020. He spoke with Todd Larson for the first time on July 1, 2020 about how he could keep the slab as is through a zoning variance and an encroachment agreement. He also spoke with City Engineer Jesse Struve who confirmed there are no utilities or drainage issues in Mr. Miller's backyard. Jesse Struve didn't foresee that there would be a need to dig, but he informed Mr. Miller that if the City ever need to dig it would be Mr. Miller's responsibility to remove the slab at that time. Jesse Struve was willing to draft an encroachment agreement for Mr. Miller. After moving forward with the application for a variance request, he received a letter from Todd Larson that City Staff would not recommend approval of the request. During this time, he spoke with both Cindy Sherman and the inspector he spoke with in 2014. The inspector was not able to recall the conversation but told Mr. Miller he wouldn't have approved him to pour the concrete within the setbacks, so they had to agree there was some type of a misunderstanding. While most misunderstanding can be forgiven, Mr. Miller stated it will cost him hundreds of hours in labor and thousands of dollars in materials to remove the concrete slab. He added he works in public works, so he knew about the setbacks for the shed, but could not find anything in relation to concrete. He stressed he respects the rules in all areas of his life, and he would not have proceeded as he did if it were clear in the zoning language that the setbacks applied to the concrete as well. He asked not to be penalized for the miscommunication.

Commissioner Chair Kisch opened the public hearing.

Seeing no one approach the podium, Commissioner Chair Kisch closed the public hearing.

Commissioner Kiekow asked City Staff why they were recommending denial of the setback variance.

Senior Planner Larson explained City Code requires variances to be justified by practical difficulties. He stated zoning rules are established with the intent for land within a specified zoning district to be developed equally with the application of the same set of rules. He noted that land, by its very nature, is unique so lots will vary within a zoning district and some lots will have features that other lots do not have. At the same time, applying the rules uniformly can sometimes create an unbuildable lot. Variances are allowed under certain conditions. The first condition is if the zoning regulations prevent someone from using their property in a way that is consistent with similar properties. The second condition is that the plight of the landowner is due to circumstances unique to the property not created by the landowner. The third condition is that granting the variance will not alter the essential character of the area or neighborhood where the property is located which prevents properties from sticking out like a sore thumb. The fourth condition clarifies that economic considerations alone do not constitute practical difficulties. In other words, just because a certain way may be cheaper or easier doesn't justify a departure from following the zoning regulations. The last condition is if there is inadequate access to direct solar light for a solar energy system because Minnesotans have a constitutional right to the sun. The applicant requested the variance be granted using the third condition as justification without explaining how the setback variance wouldn't change the essential character of the area, and City Staff was unable to locate anything similar within the neighborhood. Without an explanation of how the concrete slab fit with the essential character of the neighborhood, City Staff recommends denial of the request. However, if the Planning Commission disagrees, City Staff will draft a resolution of approval as part of the findings for the variance.

Commissioner Kiekow asked if the concrete impacts the draining and utility easement other than a potential need in the future.

Senior Planner Larson explained this particular neighborhood is newer and was developed so that most of the utilities are located out front in the boulevard just behind the curb. In this instance, the easement is primarily for drainage purposes to allow drainage flow from yards and rooftops to feed into a storm drain or storm basin that ultimately feeds into the river.

Commissioner Kiekow asked if the concrete slab restricts, redirects, or alters drainage in a way that impacts a neighboring property.

Senior Planner Larson stated there have been no reported concerns, and the applicant indicated he has never seen a water backup due to the concrete slab.

Commissioner Kiekow asked the homeowner what he plans to do with the concrete portion of the slab that would not be directly underneath the shed.

Mr. Miller said it would be used as a walkway or a spot for woodworking. There are no plans for further development on top of the remaining concrete. He also thinks the concrete will provide easier access to get his snow blower from the back yard to the front yard.

Commissioner Kiekow asked for confirmation that the entire concrete slab has been around for about as long as the original portion of the slab was poured.

Mr. Miller said the entire slab has been in this location of his yard since July of 2014 after completing two weekends of pouring.

Commissioner Herbers stated his past record of strictly applying the rules of variances. The only true difficulties are time and money since the concrete slab has already been constructed, and according to the rules of variances that is not an adequate reason to grant a variance. He does not want to tell a resident to tear up their backyard and a concrete slab they installed themselves. At the same time, he stated his inclination to recommend denial of the variance request.

Commissioner Muvundamina asked the applicant to discuss his research process prior to pouring the original slab.

Mr. Miller explained he looked up information online and spoke with the City. He noted his findings for a shed included a 5-foot side setback, a 10-foot rear setback, and that a shed must be placed on a pad that is 12 inches deep and 12 inches wide with a half-inch rebar every 4 feet. He went into the city in 2014 with his plans asking for an inspector to go out to his property to take a look. He thinks this dilemma could have been avoided if the inspector had told him to move forward with the building permit in 2014 and went out to inspect his property upon approval of the permit.

Commissioner Muvundamina asked for clarification from the applicant that he poured the concrete slab based on the assumption the inspector granted him permission even without a permit.

Mr. Miller reiterated he moved forward with pouring the concrete slab because the inspector told him that all he needed to do was take pictures as he was doing the work. He was not aware concrete could not be within the setbacks and easement. His understanding based on his research was that if anything was within the setback the City could take it out if needed.

Planning Director Sherman clarified that permits are not issued for concrete slabs. In 2014, Mr. Miller wanted to build a slab but did not want to build a shed at that time. As a result, he was informed he didn't need a building permit, and that he should take pictures if he wants to build a shed on the slab at a later date.

Todd Miller added that there is a requirement that site and footing inspections need to be approved for accessory structures and footings prior to the placement of concrete. He intended for and required this inspection to be completed prior to pouring the concrete.

Commissioner Husain asked what the next steps would be in the event of a denial or approval.

Senior Planner Larson explained the next step will be for Planning Commission to make a recommendation and provide rationale behind the decision which are then considered findings which will be drafted in the resolution that will go to City Council for further review.

Commissioner Husain asked for clarification that the applicant would need to tear out the concrete if the request is denied.

Senior Planner Larson stated that if the variance is denied, the Environmental Health division will issue a correction order that will set a deadline for the slab to be removed. He explained only the portions of the slab within the setbacks and easement would be removed. The first pour, the portion of the slab that was designated for the shed, meets the setbacks and would not need to be removed. Most likely the correction order will give the property owner 30 – 60 days to complete the work.

Commissioner Husain asked if an easement agreement would be required in the event the variance is approved.

Senior Planner Larson explained that if the Planning Commission and City Council approve the request, then the engineering department will prepare an encroachment agreement. This document specifies that the City has a right to remove or request the removal of the slab at the homeowner's expense in order to complete whatever work that needs to be done without obligating the City to replace the structure. He added there are a few encroachment agreements around town, and it is something that is recorded against the property for new buyers to be aware of the agreement.

Commissioner Chair Kisch stated his agreement with Commissioner Herbers. He has concerns with the request containing two encroachments, one being the easement and the other being the side yard setback which both have different impacts to consider. He asked the applicant if he tied the slabs together or if the slabs are independent from each other.

Todd Miller explained the slabs are tied together with rebar. He added it is over a foot thick by the fence. He agreed removal is not impossible. He stressed the removal will be difficult and will alter his landscaping.

Commissioner Chair Kisch asked if stone pavers or a small wood platform be allowed within the setback area after removal of the slab.

Senior Planner Larson explained an occasional steppingstone or sporadic wood planks as a way to get around landscaping from the front yard to the back yard or segmenting off landscaping. However, when it starts to look and act like a deck or patio, then the setbacks apply. There are a number of sport courts in town in the back corner of residential yards that utilize landscaping materials such as rock, mulch, grass, and shrubbery.

Commissioner Chair Kisch explained he is trying to determine the character of the neighborhood. He explained the portion of the slab that falls within the setback never needed to be 1 foot thick since it was never intended for a structure, so he differentiates this portion of the slab from the portion intended as the foundation for a shed. While he sees how an encroachment agreement may solve some concerns, he is hesitant to approve an instance of asking forgiveness after the fact. He stated his inclination to deny the request. He added he thinks rocks and gravel will provide attractive landscaping that fits within the character of the area while meeting the intent of the zoning code, and there will still be the structural slab for the shed as originally intended.

Todd Miller reiterated that this could have been avoided if an inspector would have went out to his property when the framing was up prior to pouring the concrete as he requested to meet the requirements of a building permit. He doesn't intend to build upon the concrete portion that won't be under the shed, he intends to use this portion of the concrete to complete small projects and move his snowblower from the front and back yards. He doesn't think rock will provide the same type of access for his snowblower.

Commissioner Muvundamina asked the applicant for the size of the original slab.

Todd Miller stated the framing was for a 24x24-foot slab with the 19x14-foot portion constructed to meet the requirements for a shed foundation.

Commissioner Muvundamina asked for the dimensions of the first pour.

Todd Miller clarified the first pour was 19x14-feet.

Commissioner Muvundamina asked to clarify that the original pour met the requirements, but it was the second pour that did not meet the requirements.

Todd Miller confirmed that was correct, but the whole slab was framed prior to the original pour.

Commissioner Muvundamina confirmed his understanding and pointed out that it appears the issue is with the second pour that is putting the applicant in this position.

Todd Miller agreed but reiterated his question as to why an inspection wasn't completed by the City to avoid this complication in the first place.

Commissioner Kisch asked the applicant to see the original drawing that was provided to the City when it was determined a building permit and inspection wasn't required for the concrete slab. He explained his belief that some of the disconnect is that there is nothing in writing as to what was shown or submitted other than the photos that show the framing that was in place.

Mr. Miller provided the original plan shown to the inspector in 2014 which was passed around to the Commissioners.

Commissioner Kisch noted that the plan provided by the applicant does not show the concrete slab within the 5' side setback nor the 10' rear setback for his property. He said considering the conversations with the City Inspector were based on the plan with the setbacks identified, the portion of the slab that was poured within the setbacks was in violation of the Zoning Code.

Mr. Miller asked the Commission if they agreed he should have been denied a building permit request when he brought this plan into the City.

Commissioner Kisch explained that if he was acting as the inspector and this was the plan that was brought in for review, he would have assumed that the slab would meet the intent of the Zoning Code since the setbacks were clearly identified. If the plan had indicated a 24x24 slab that went right up to the property line, it would have been a different conversation. He understands the applicant's perspective, but at the same time there are ordinances in place. Now that he sees what the intent was, and that it doesn't match up with the work that was completed, he can't recommend support of the variance.

Commissioner Herbers asked if there is rebar in the second portion of the slab or just where the two pads connect. He additionally asked at what point did the applicant decide on completing the second pour.

Mr. Miller confirmed there is continuous rebar around the outside diameter of the second pour. He decided on the second pour when he first framed up the location of the slab.

Commissioner Herbers explained that seeing the sketch provided to the City Inspector has provided him with more conviction to deny the variance. He explained he interprets the sketch as showing a rectangle slab meant for a structure, but then somewhere along the way a decision was made to add-on to the slab. He doesn't agree there is a practical difficulty that applies in this situation. He added the best bet for the applicant is to plead with City Council.

Commissioner Muvundamina said it appears that the applicant decided to expand the slab at some point after the June 2014 discussion with a City Inspector. He does not think it is feasible to expect that a City Inspector will be able to go out to a property within a day or so of submitting plans. He explained his agreement with the other Commissioners to deny the variance request.

Commissioner Kisch explained the Commission will only make a recommendation, and the applicant will have another chance to plead his case to the City Council for the final decision. He added he wants the original plan dated June 18, 2020 to be part of the record that goes to the City Council since it was entered into the Planning Commission's deliberation.

MOTION KISCH, SECOND HERBERS TO RECOMMEND DENIAL OF SETBACK VARIANCES FOR A CONCRETE SLAB AT 8819 PRESTWICK PARKWAY NORTH.

MOTION CARRIED UNANIMOUSLY.

To whom it may concern:

Thank you for taking the time to consider my request for a variance to a section of the southwest corner of my property located at 8819 Prestwick Parkway North in Brooklyn Park. We built our house in 1996 and enjoy being a part of this community.

In 2014, I collaborated with a city inspector and drew up plans for the future foundation of a shed. I was advised that I didn't need a permit to pour the foundation, but I should take pictures of the actual construction of the concrete work so I had documentation when it came time to construct a shed.

It was my understanding that the shed needed to be at least 10' from the rear and 5' from the side property lines for the city to access the area if needed. Therefore, my plans for the shed structure called for it to be offset this distance from the property lines.



I have recently been advised that the concrete is too close to the property line. I am requesting a variance as this concrete slab will not alter the character of the area or neighborhood where the property is located. I have been told there are no utilities in this corner of my property. The drainage is located on the opposite side of the yard and runs through the cul de sac located in the northwest corner behind us. There has not been a drainage issue in the past 24 years.

In retrospect, had I known the concrete could potentially interfere with the city access, I would have used a different type of material, rock or woodchips, to finish off the area.

Thank you for your consideration.

Respectfully,

Todd Miller

From: Todd Miller
Date: August 26, 2020 at 5:18:21 AM CDT
To: Cindy Sherman <Cindy.Sherman@brooklynpark.org>
Subject: Re: 8819 Prestwick Pkwy

Concern for Consideration:

Placement of concrete slab at 8819 Prestwick Parkway. Attributing factor was the denial of a permit in 2014 when the structure was going to be greater than 200 square feet with the end result of concrete being poured incorrectly.

HISTORY

Spring 2014

- Son wanted a basketball court and I had planned to build a utility/tool shed in the future
- Researched guidelines and located setback 5' and 10' off of property lines for shed placement.
- Plans for shed to set back off of property lines per recommended guidelines
- No guidelines were listed for slab placement on the Accessory Structures handout
- Existing fence is 1'-1 ½ ' off of property lines

Measurements

- 24'x24' concrete slab in SW corner of property for 19x14' shed on the inner corner of the slab

Hand Prep

- 24'x24' structured framed. Interior frame of 19'x14' containing footings and rebar to meet shed specs.

***See picture of prep work

June 18, 2014

- Spoke with city inspector, Steve, about specs and showed plans for the shed and asked for a permit.
- Inspector was helpful in answering questions and gave me ideas on how I could make my shed larger if I wanted to.
- Request for footing/concrete permit was denied and was told to "...take a lot of pictures and get it when you start on the shed. Pictures will be good enough."
- Total square footage of the shed will be 266sq ft as seen on the plans submitted.
- **Guidelines stated a permit was required for a structure >200 square feet.**

***See picture of Original Foundation/Structure Location Plan

July 5, 2014

- Friends and family helped us pour the interior of the slab. All concrete was wheeled by hand to the backyard.

***See Cemstone Receipt

July 12, 2014

- Friends and family returned to help with the final pour.

***See Cemstone Receipt

June 22, 2020

- Applied for shed permit and submitted plan for a shed

July 1, 2020

- Spoke with Todd Larson about the existing slab. He explained the zoning codes, encroachment agreement along with a variance.
- We talked about the steps I would need to take in order to keep the entire slab

July 6, 2020

- Spoke with Jesse Strove who researched my property address and found no buried utilities, no drainage issues, and no need to dig in that area of the property as everything is near the street. He said he would write an encroachment agreement if needed.

July 7/8, 2020

- Dropped off Application for Planning Consideration and a check for \$200
- Sometime this week I spoke with the inspector from 2014 who could not recall our conversation and plans from that many years ago and was told, "...there is no way you could pour concrete that close to the property lines. It must have been a misunderstanding."

July 9, 2020

- Received a letter stating the staff had met and reviewed the application with the decision they would not recommend keeping the slab of concrete

July 13, 2020

- Spoke with Cindy Sherman inform her of the issue with the concrete slab

August 12, 2020 Planning Commission Meeting

- Submitted original plans for the shed stating the measurement of the shed with the square footage listed at 266'
- The Planning Commission stated that the initial plans did not include the 24x24 framed slab.
- The total square footage of the shed, 266 square feet, is clearly identified on the original plans.
- Request was denied for several reasons of which stating there were no other slabs like it in the neighborhood.

August 24, 2020 Addresses of Properties with Slabs

- 5105 Kings Circle
- 8957 Regent Parkway
- 5039 Kings Terrace

Conclusion:

I researched the specs on building a shed, requested a permit for my footings/site/accessory structure and was denied back in 2014. If you look at my original plans, the total square footage of the shed is in the middle of the plan stating it was 266 sq ft. According to the codes in place in 2014, anything >200 sq ft. required a permit and inspection. Had I actually been issued a permit, the inspector would have seen my 24x24' framework and told me the concrete slab was going to be too close to the property lines. This did not happen and that is why we are here today.

It has been implied by city representatives that I poured the actual shed footings and then came back at a later date to extend the concrete after the fact. However, due to the amount of manual labor involved, it was intentionally poured on back to back weekends when I had help to wheelbarrow the concrete to the backyard. The whole area was framed up before the first pour event happened as indicated on the pictures submitted.

Had this area been inspected when it should have, concrete would not have been poured that close to the property lines. I am now being asked to cut out approximately 6 yards of concrete, over 24,000 pounds, and will have to haul it out of my back yard by hand.

Please consider reevaluating this decision to leave the cement slab intact.

Guidelines Followed



Accessory Structures

Community Development Department

Building Inspections Division

5200 85th Avenue North / Brooklyn Park, MN 55443

Phone: (763) 488-6379 / Fax: (763) 493-8171

4/15 www.brooklynpark.org

This handout is a **guide** only and does not contain all of the requirements of the Minnesota State Building Code or city ordinances.

PERMITS:

A building permit is required for accessory structures. One story detached accessory structures used as tool and storage sheds, playhouses and similar uses are exempt from permits, **provided the floor area does not exceed 200 square feet**

INSPECTIONS:

When a building permit is required for an accessory structure, the following inspection must be requested:

- **Site/Footing Inspection** - to approve accessory structure location and footings (if required, prior to placement of concrete).
- **Framing** - after completion of structural frame, sheathing and roof to the building frame, and prior to covering the structural frame.
- **Final** - upon completion of the accessory structure.

Please call (763) 488-6379 for inspection, call three days prior, and have your permit number available.

LOCATIONS:

Accessory structures are permitted uses in the residential zoning districts. Site and building plan review and approval by the Planning Commission and City Council may be required with regard to other zoning districts. Pole sheds and pole barns are not permitted as accessory structures. Accessory structures must not be constructed over property easements. **Accessory structures on residential properties must be setback from property lines at least:**

- 20 or 30 feet from any public right-of-way depending on zoning district. Note: the curb is not the right-of way.
- 5 or 7.5 feet from any interior property line depending on zoning district.
- Zero setback from utility/drainage easements, but in no case on or over an easement.
- Accessory structures may not be located between the house and street.

AREA:

On any lot the combined floor area of the detached accessory building(s) and an attached garage shall not exceed the area of the foundation footprint of the house, or 1,000 square feet, whichever is greater.

NUMBER:

No more than two detached accessory structures are permitted on a property.

HEIGHT:

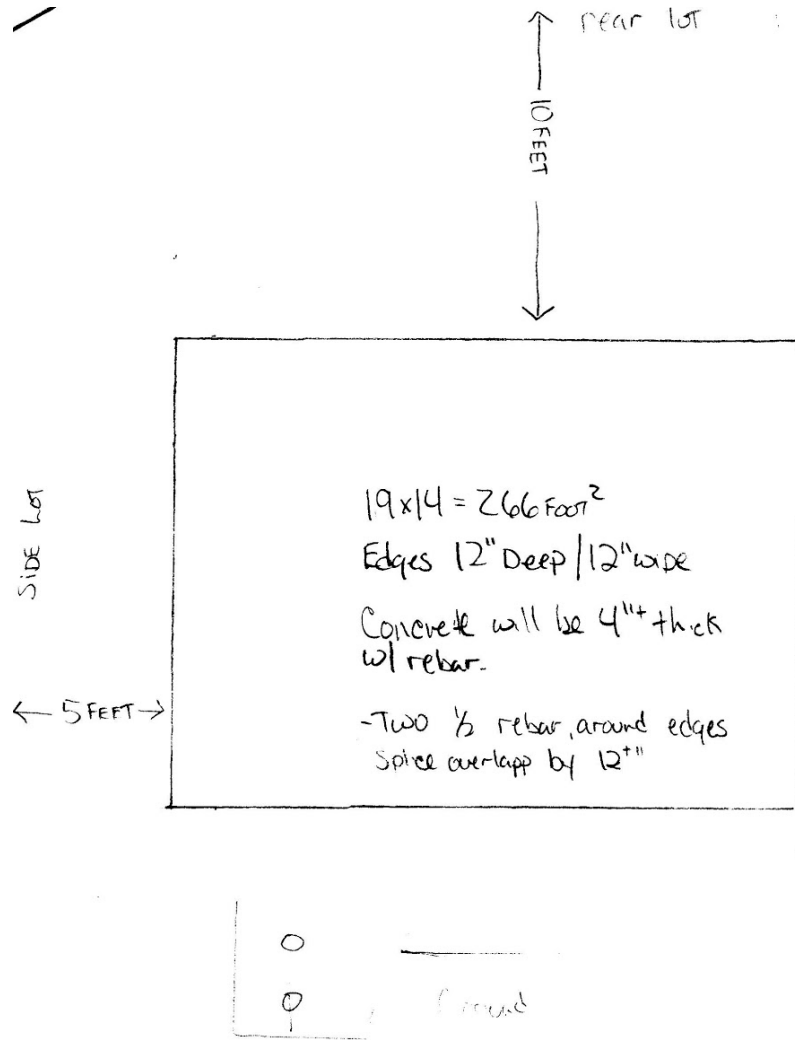
Detached accessory structures must not exceed 18 feet in height or the height of the principal building, whichever is less.

Your property may have restrictions that are different from the above listed. Please forward your zoning questions to the City Planning Division at (763) 493-8056.

(continued on back)

Prep Work Photo/Site Location 2014





Todd Miller
8819 Prestwick Pkwy
612-987-6231

- Future shed slab
(10-15 years from now)

June 19, 2014
1:30 P
Steve
No permit needed
Just pictures etc

Cemstone Receipt Week 1

LOAD	LEAVE PLANT	ARRIVE JOB SITE	START UNLOADING	FINISH UNLOADING	LEAVE JOB SITE	ARRIVE PLANT
675	705	720	730	835	850	

DANGER: CONCRETE MAY CAUSE BURNS TO EYES AND SKIN! SEE OTHER SIDE FOR MATERIAL SAFETY DATA SHEET.

The concrete contained in this load has been manufactured to the industry tolerance for water:cement ratio. Adding additional water will change the properties of the concrete, including color and bleed rate.

You should not add water if:

- the maximum water:cement ratio has been reached, or
- the maximum slump has been obtained

WATER ADDED AT CUSTOMER REQUEST (GALLONS)

FULL LD 2/3 LD 1/3 LD

CHEMICAL ADMIXTURES ADDED (GALLONS) OR INCREASED SLUMP IN INCHES

SIGN HERE ☒ **SIGNATURE OF RECEIPT - CONCRETE & WATER ADDED & ACKNOWLEDGEMENT OF DANGER WARNING**

CUSTOMER NAME MILLER TODD **CUST. NO.** 989 **TIME DUE** 07:30 **PROJECT NAME** CODI CONTRACTOR PRICE **P.O. NO.** 651-442-7789 **ORDER NO.** CH 24

DELIVERY ADDRESS / DELIVERY/DRIVER INSTRUCTIONS

8819 PRESTWICK PKWY N BROOKLYN PARK

85TH 612-987-6231 TODD

DATE / TICKET NO. 07/05/14

LANT 16 **TRUCK** 810 **DRIVER** BOB WALLSKOG **USE** **MAP PAGE** 77-1E **SLUMP REQUESTED** 5 **SLUMP METER READING @ PLANT** 400 **SLUMP METER READING ON ARRIVAL** 1000

LOAD QTY.	CUM. QTY.	ORD'D QTY.	PRODUCT CODE	PRODUCT DESCRIPTION	UNIT PRICE	AMOUNT
7.50	7.50	7.50	4556	FD 4500 3/40 FWA	122.00	915.00
7.50	7.50	6.00	10	AIR ENTRAINMENT		
7.50	7.50	1.00	56	SATURDAY DELIVERY CHAR	9.00	67.50
1.00	7.50	1.00	127	ENVIRONMENTAL MANAGEME	20.00	20.00
1.00	1.00		CA	CREDIT CARD APPROVED		
				DIESSURG	15.00	15.00
				SUB TOTAL:		1,017.50
				TAX:		74.02
				TOTAL:		\$1,091.52
				ORDER TOTAL:		\$1,091.52

COD ORDERS: COLLECT CHECK, CASH OR CREDIT CARD (circle one)

AMOUNT RECEIVED	CHECK NUMBER	RECEIVED BY

RELEASE, WAIVER AND ASSUMPTION OF RISK BY OWNER/CONTRACTOR/SUBCONTRACTOR
READ VERY CAREFULLY BEFORE SIGNING BELOW!

we) acknowledge receiving from Cemstone Products Co./Cemstone Ready-Mix Inc. (collectively "Cemstone") the Material Safety Data Sheet (MSDS) for ready-mix concrete being purchased or delivered today, acknowledge understanding the Warnings contained in the MSDS, and acknowledge releasing, defending and indemnifying Cemstone, its affiliates, employees and representatives from any and all liability from claims or damages from any activities, including the delivery and installation of the ready-mix concrete, that are under, or a result of, my direction and/or control.

we) further acknowledge that Cemstone is not liable for damage of any kind incurred by my request that Cemstone move its concrete delivery truck or placing equipment past the curb line, right way limits or onto private property. I understand that this request may involve hazardous activities or create hazardous conditions which exposes equipment, real property, third parties and myself hazards which can result in property damage, bodily injury, illness, or death for which I agree to be responsible and pay, including any wrecker or tow truck fees.

CUSTOMER SIGNATURE (To be signed PRIOR to start of placement) **/ DATE** **(Print Name and Title) Owner, Foreman, etc.** **CUSTOMER COPY**

Cemstone Receipt Week 2

CORPORATE HEADQUARTERS
2025 CENTRE POINTE BLVD., #300
MENDOTA HEIGHTS, MN 55120-1221

CEMSTONE

Concrete Basketball Court
PHONE: (651) 688-9292 • FAX: 651-688-0124
cemstone.com

LOAD	LEAVE PLANT	ARRIVE JOB SITE	START UNLOADING	FINISH UNLOADING	LEAVE JOB SITE	ARRIVE PLANT
700	710	724	730	820		

DANGER: CONCRETE MAY CAUSE BURNS TO EYES AND SKIN! SEE OTHER SIDE FOR MATERIAL SAFETY DATA SHEET.

The concrete contained in this load has been manufactured to the industry tolerance for water/cement ratio. Adding additional water will change the properties of the concrete, including color and bleed rate.

You should not add water if:

- the maximum water-cement ratio has been reached, or
- the maximum slump has been obtained

WATER ADDED AT CUSTOMER REQUEST (GALLONS)

FULL LD 0 2/3 LD 0 1/3 LD 0

SIGN HERE ☒ *[Signature]*

SIGNATURE OF RECEIPT - CONCRETE & WATER ADDED & ACKNOWLEDGEMENT OF DANGER WARNING

CUSTOMER NAME
MILLER TODD CA

CUST. NO.
989

TIME DUE
07:30

PROJECT NAME
COD1 CONTRACTOR PRICI

P.O. NO.
651-442-7789 CH 39

ORDER NO.
39

DELIVERY ADDRESS / DELIVERY/DRIVER INSTRUCTIONS

8819 PRESTWICK PKWY N BROOKLYN PARK

85TH 612-987-6231 TODD CARD APPROVED

DATE / TICKET NO. 07/12/14

* 0 3 2 8 7 4 1 3 *

PLANT	TRUCK	DRIVER	USE	MAP PAGE	SLUMP REQUESTED	SLUMP METER READING @ PLANT	SLUMP METER READING ON ARRIVAL
16	571	SCOTT STUTELB		77-1E	4	1100	1200

LOAD QTY.	CUM. QTY.	ORD'D QTY.	PRODUCT CODE	PRODUCT DESCRIPTION	UNIT PRICE	AMOUNT	
6.00	6.00	6.00	4556	FD 4500 3/4D FWA	122.00	732.00	
6.00	6.00	6.00	10	AIR ENTRAINMENT			
6.00	6.00	1.00	56	SATURDAY DELIVERY CHAR	9.00	54.00	
1.00	6.00	1.00	127	ENVIRONMENTAL MANAGEME	20.00	20.00	
						DIESEL	15.00
						SUB TOTAL:	821.00
						TAX:	59.72
						TOTAL:	\$880.72
						ORDER TOTAL:	\$880.72

COD ORDERS: COLLECT CHECK, CASH OR CREDIT CARD (circle one)

AMOUNT RECEIVED	CHECK NUMBER	RECEIVED BY

RELEASE, WAIVER AND ASSUMPTION OF RISK BY OWNER / CONTRACTOR / SUBCONTRACTOR
READ VERY CAREFULLY BEFORE SIGNING BELOW!

I (we) acknowledge receiving from Cemstone Products Co./Cemstone Ready-Mix Inc. (collectively "Cemstone") the Material Safety Data Sheet (MSDS) for ready-mix concrete being purchased or delivered today, acknowledge understanding the Warnings contained in the MSDS, and acknowledge releasing, defending and indemnifying Cemstone, its affiliates, employees and representatives from any and all liability from claims or damages from any activities, including the delivery and installation of the ready-mix concrete, that are under, or a result of, my direction and/or control. I (we) further acknowledge that Cemstone is not liable for damage of any kind incurred by my request that Cemstone move its concrete delivery truck or placing equipment past the curb line, right of way limits or onto private property. I understand that this request may involve hazardous activities or create hazardous conditions which exposes equipment, real property, third parties and myself to hazards which can result in property damage, bodily injury, illness, or death for which I agree to be responsible and pay, including any wrecker or tow truck fees.

CUSTOMER SIGNATURE (To be signed PRIOR to start of placement) / DATE

(Print Name and Title) Owner, Foreman, etc.

CUSTOMER COPY

View of Slab August 2020



City of Brooklyn Park

Request for Council Action

Agenda Item:	6.4	Meeting Date:	August 31, 2020
Agenda Section:	Land Use Actions	Originating Department:	Community Development
Resolution:	N/A		
Ordinance:	SECOND READING		
Attachments:	3	Prepared By:	Cindy Sherman, Planning Director
		Presented By:	Cindy Sherman
Item:	Sale of City Property to Zachary and Kelsey Pierson 6341 Sumter Avenue N.		

City Manager's Proposed Actions:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2020-____ AUTHORIZING THE CONVEYANCE OF CITY OWNED PROPERTY, AND TO APPROVE AND AUTHORIZE THE MAYOR AND MANAGER TO ENTER INTO THE PURCHASE AGREEMENT FOR THE SALE.

Overview:

Zachary and Kelsey Pierson recently purchased their home on Sumter Avenue North. There is a city-owned parcel ten feet in width next to their property that they would like to purchase. The parcel dates to the original plat in 1955 where the entire southerly border included ten-foot outlots adjacent to the platted lots.

There are no utilities present in the outlots and no reason for the city to maintain ownership. The new homeowners wish to buy the parcel and consolidate it with their property.

The city assessor and planning director have reviewed the property and recommend that the lot be sold for a price up to \$5,500 including expenses. The details of the price and purchase are included in the purchase agreement.

As required by City Charter, sale of city-owned property requires two readings of ordinance. This is the second reading. The buyers have approved the attached purchase agreement and are ready to close on the parcel.

Budgetary/Fiscal Issues:

The proceeds of the sale will be placed into the general fund and will also be used to cover related city expenses.

Alternatives to consider:

1. Approve the first reading of the conveyance ordinance.
2. Deny the sale based on certain findings.

Attachments:

- 6.4A ORDINANCE
- 6.4B LOCATION MAP
- 6.4C PURCHASE AGREEMENT

ORDINANCE #2020-

ORDINANCE AUTHORIZING THE CONVEYANCE OF CITY
OWNED PROPERTY, AND TO APPROVE AND AUTHORIZE THE MAYOR AND MANAGER
TO ENTER INTO THE PURCHASE AGREEMENT FOR THE SALE

The City of Brooklyn Park Does Ordain:

The City of Brooklyn Park owns the fee title to that certain property (PID 32-119-21-32-0094) and legally described as Outlot 2, CHERRY MEADOWS SECOND ADDITION ("Property"). The City no longer needs the property and the City therefore desires to sell the property to Kelsey and Zachary Pierson so that the property can be returned to the tax rolls. The net proceeds from the sale of the property shall be paid to the City's General Fund.

The Mayor and City Manager are authorized and directed to convey the property to Kelsey and Zachary Pierson. City staff and consultants are authorized and directed to take all necessary and convenient steps to accomplish the intent of this Ordinance.

All actions shall be pursuant to Section 14.06 of the City Charter. The City Council finds that the conveyance of the property has no relationship or impact on the City's comprehensive plan and therefore there is no need for the City's Planning Commission to review and comment on the proposed conveyance.



This map is for general reference only. It is not for legal, engineering, or surveying use. Please contact the sources of the information if you desire more details.



PURCHASE AGREEMENT

1. PARTIES. This Purchase Agreement (“Agreement”) is made on this _____ day of August, 2020 (the “Effective Date”), by and between the City of Brooklyn Park, a Minnesota municipal corporation (“Seller”) and Zachary Pierson and Kelsey Pierson, husband and wife (“Buyer”, and, taken together with Seller, the “Parties”).

2. SUBJECT PROPERTY. Seller is the owner of that certain real estate located in the City of Brooklyn Park, Minnesota, legally described as Outlot 2, Cherry Meadows 2nd Addition (the “Property”), also described on the attached Exhibit A. Seller desires to sell to Buyer, and Buyer wishes to buy and combine with the Buyer’s current property located adjacent thereto with an address of 6341 Sumter Avenue North, Brooklyn Park, MN 55428 (the “Pierson Property”) as shown on Exhibit B.

3. OFFER/ACCEPTANCE. In consideration of the mutual agreements herein contained, Buyer offers to purchase the Property from Seller and Seller agrees to sell the Property to Buyer.

4. CONTINGENCIES. This Agreement is subject to the following contingencies:

- A. Approval of this Agreement by Seller’s governing body. Nothing in this Agreement limits or restricts the discretion of the Seller’s governing body to grant or withhold approval of this Agreement. This contingency may not be waived by either party.
- B. Buyer having determined that it is satisfied with the result of and matters disclosed by Buyer’s investigations, surveys, soil tests, engineering inspections, hazardous substance, and environmental reviews of the Property, if any.
- C. Title having been found acceptable to Buyer or been made acceptable to Buyer in accordance with section 12 of this Agreement.

If the contingencies above are satisfied in a timely manner, then Buyer and Seller shall proceed to close the transaction as contemplated herein. If, however, either of the contingencies at subsections A or B above is not satisfied, this Agreement shall thereupon be void, and Buyer and Seller shall execute and deliver to each other a termination of this Agreement. As a contingent purchase agreement, the termination of this Agreement is not required pursuant to Minnesota Statutes Section 559.21, et seq.

5. EXCLUDED PERSONAL PROPERTY. There are no personal property, trade fixtures or equipment, including but not limited to, any above ground or underground storage tanks, included in the sale of the Property.

6. PURCHASE PRICE AND TERMS. The purchase price to be paid by Buyer to Seller at closing shall be determined as follows:

At Closing, Buyer shall pay Seller up to and not to exceed FIVE THOUSAND FIVE HUNDRED and 00/100 Dollars (\$5,500.00) for the Property (the "Base Purchase Price"), which shall include the purchase price for the real property and costs incurred by the Seller, which shall include the Seller's Attorneys' fees provided under section 16 of this Agreement.

7. TITLE EXAMINATION. Title examination shall be conducted as follows:

A. Title Commitment. The Buyer may elect to obtain a title insurance commitment for the Property within 10 days of the Effective Date of this Agreement. Buyer shall be responsible for any costs associated with obtaining the title commitment and any policy of title insurance. The cost of said title commitment and policy shall be separate and independent of the purchase price referenced in section 6 of this agreement. Notwithstanding any language to the contrary in this Agreement, the Seller makes no representations or warranties regarding the condition of title and sells the property with any and all title defects that may be present, except for the representations and warranties in paragraph 12 A - H herein.

8. CLOSING. The closing of the sale of the Property (the "Closing") shall take place on or before _____, 2020 (the "Closing Date"), unless the Seller approves of an extension. The parties contemplate that the Closing will be conducted via escrow instructions given to the Title Company or at such other place and time as may be acceptable to Seller and Buyer.

9. DOCUMENTS TO BE DELIVERED AT CLOSING.

Seller agrees to deliver the following documents to Buyer at Closing:

- A. A duly recordable quitclaim deed conveying fee simple title to the Property to Buyer, subject to the following encumbrances: [insert, if any];
- B. Affidavit of Seller confirming that Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code;
- C. A standard owner's affidavit as may be required by the Title Company to issue the Buyer's title insurance policy;
- D. A completed Minnesota Well Disclosure Certificate or a statement that Seller is not aware of any wells on the Property; and
- E. Any notices, certificates, and affidavits regarding any private sewage systems, underground storage tanks, and environmental conditions as may be required by Minnesota statutes, rules or ordinances.

10. CLOSING COSTS AND RELATED ITEMS. Buyer agrees to pay all fees and costs associated with closing the transaction including, without limitation, the Seller's attorneys' fees as provided under paragraph 16 of this Agreement, however any closing fees of Buyer's title company incurred as a result of the Buyer's election to obtain a title commitment or a title insurance policy as

11. REAL ESTATE TAXES AND SPECIAL ASSESSMENTS. The Property is currently exempt from real estate taxes and special assessments. Buyer shall be responsible for all real estate taxes and special assessment that become due and payable after the Closing.

12. SELLER'S REPRESENTATIONS. Seller hereby represents to Buyer as of the Closing Date that:

- A. Authority. Seller is a municipal corporation under the laws of Minnesota; Seller has the requisite power and authority to enter into and perform this Agreement and those closing documents signed by it.
- B. Legal Proceedings. There is no action, litigation, investigation, condemnation or proceeding of any kind pending or, to the best of Seller's knowledge without investigation, threatened against Seller or any portion of the Property, and Seller has no actual knowledge that any such action is contemplated.
- C. Wells. There are not any wells located on the Property.
- D. Individual Sewage Treatment Systems. There are no individual sewage treatment systems located on the Property.
- E. Methamphetamine Production. To the best of Seller's knowledge, methamphetamine production has not occurred on the Property.
- F. Foreign Status. Seller is not a "foreign person" as such term is defined in the Internal Revenue Code.
- G. Legal Compliance and Use of the Property. Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to and affecting the Property and Seller shall continue to comply with such laws, ordinances, regulations, statutes, rules and restrictions. To the best knowledge of Seller, the Property does not violate any federal, state, local or other governmental building, zoning, health, safety, platting, subdivision or other law or regulation, or any applicable private restriction.
- H. Taxes and Assessments. To the best knowledge of Seller, the Property is currently exempt from real estate taxes and there are no assessments pending or levied against the Property.

13. "AS IS, WHERE IS." Buyer represents that it either has inspected or will have the opportunity to inspect the Property and agrees to accept the Property "AS IS" with no right of set off or reduction in the Purchase Price. Such sale shall be without representation of warranties, express or implied, either oral or written (except for the representations and warranties in paragraph 12 A - H herein), made by Seller or any official, employee or agent of Seller with respect to the physical condition of the Property, including but not limited to, the existence or absence of petroleum, hazardous substances, pollutants or contaminants in, on, or under, or affecting the Property or with respect to the compliance of the Property or its operation with any laws, ordinances, or regulations

of any government or other body, except as stated above. Except for the representations and warranties in paragraph 12 A - H herein, Buyer acknowledges and agrees that Seller has not made and does not make any representations, warranties, or covenants of any kind or character whatsoever, whether expressed or implied, with respect to warranty of income potential, operating expenses, uses, access, habitability, tenant ability, or suitability for any purpose, merchantability, or fitness of the Property for a particular purpose, all of which warranties Seller hereby expressly disclaims.

14. BROKER COMMISSIONS. Seller and Buyer represent and warrant to each other that they have not dealt with any other brokers in connection with the transaction contemplated by this Agreement. Each party agrees to indemnify, defend and hold each other harmless from the claims of any broker, or real estate agent.

15. REMEDIES. Time is of the essence of this Agreement. If Buyer defaults in performance of its obligations under this Agreement, as its sole and exclusive remedies, Seller shall have the right to terminate this Agreement in the manner provided by Minn. Stat. Sec. 559.21. Upon Seller's request, Buyer shall execute a cancellation agreement within ten (10) days of presentation, barring any reasonable objection of the Buyer, which the parties shall work in good faith to resolve.

Except for Seller's right to all fees and costs actually incurred with respect to negotiating this agreement and proceeding in good faith towards Closing, Seller waives all other rights and remedies including the right to recover damages and the right to seek specific performance.

If Seller defaults in performance of its obligations under this Agreement, as its sole and exclusive remedies, Buyer shall have the right to either: (a) terminate this Agreement by written notice delivered to Seller; or b) seek specific performance of this Agreement.

16. ATTORNEYS' FEES. Unless Seller defaults under this Agreement, Buyer shall pay for the Seller's fees and costs actually incurred with respect to negotiating this Agreement and working in good faith towards Closing. The fees referenced in this section, with the base price of the Property in Section 6 and closing costs referenced in Section 10 shall not exceed \$5,500.00.

17. AMENDMENT AND MODIFICATION. No amendment, modification or waiver of any condition, provision or term of this Purchase Agreement shall be valid or have any effect unless made in writing, is signed by the party to be bound and specifies with particularity the extent and nature of such amendment, modification or waiver. Any waiver by either party of any default by the other party shall not affect or impair any right arising from any previous or subsequent default.

18. BINDING EFFECT. This Agreement binds and benefits the parties and their successors and assigns.

19. NO PARTNERSHIP OR JOINT VENTURE. Nothing in this Agreement shall be construed or interpreted as creating a partnership or joint venture between Seller and Buyer relative to the Property.

20. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and no other agreement prior to this Agreement or contemporaneous herewith shall be effective except as expressly set forth or incorporated herein.

21. CONTROLLING LAW. This Agreement has been made under the substantive laws of the State of Minnesota, and such laws shall control its interpretation.

22. TIME IS OF THE ESSENCE. Time is of the essence to this Agreement.

(The balance of this page left blank intentionally.)

6.4C PURCHASE AGREEMENT Page 9
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written
above.

SELLER

CITY OF BROOKLYN PARK

By: _____

Its: _____

By: _____

Its: _____

BUYER

ZACHARY PIERSON AND KELSEY PIERSON

By: _____
Zachary Pierson

By: _____
Kelsey Pierson

EXHIBIT A
Legal Description of Property

Outlot 2, Cherry Meadows 2nd Addition.

Hennepin County, Minnesota.

EXHIBIT B
Pierson Property

Lot 4, Block 3, Cherry Meadows 2nd Addition

Hennepin County, Minnesota.

City of Brooklyn Park

Request for Council Action

Agenda Item:	8.1	Meeting Date:	August 31, 2020
Agenda Section:	Discussion Items	Originating Department:	Administration
Resolution:	N/A		
Ordinance:	N/A		
Attachments:	N/A		
Item:	Update on Police Reform and Racial Justice Discussions		

City Manager's Proposed Action:

Update regarding police reform and racial justice work.

Overview: N/A

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A