Monday, November 8, 2021 Brooklyn Park Council Chambers
7:00 p.m. 5200 85th Avenue North

REGULAR COUNCIL MEETING – AGENDA #40

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 residents. 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 residents 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** Introduction of New Employees
- **3B.2** Mayor's Proclamation of the of November 2021 as "Native American Indian Heritage Month"
  - **A.** PROCLAMATION
- **3B.3** Proclamation Declaring November 27, 2021, as Small Business Saturday in the City of Brooklyn Park, Minnesota
  - **A.** PROCLAMATION
- **3B.4** Emerging Leaders on Commissions
  - **A.** DRAFT ORDINANCE
- **3B.5** Presentation on 2020 Census Data
  - **A.** 2020 CENSUS PRESENTATION

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** Development Bond Reductions/Releases
- **4.2** Gateway (Connor McCarthy, United Properties) – Comprehensive Plan Amendment #21-121 to Re-guide Property from Mixed Use to Business Park at 9500 Decatur Drive North
  - **A.** RESOLUTION

B. LOCATION MAPS

4.3 Approve a Tobacco License for QuickOne African Market Inc., dba QuickOne African Market Located at 5700 Brookdale Drive, Brooklyn Park, MN 55443

4.4 Hillcrest Development (Charlie Nestor) – Code Amendment #21-122 Regarding Accessory Outdoor Storage in the Business Park (BP) Zoning District Citywide

A. ORDINANCE

4.5 Approve Grade Crossing Signal Installation Agreement and Grade Crossing Construction and Maintenance Agreement with BNSF Railway Company and Hennepin County for 73rd Avenue Railroad Crossing Reconstruction

A. RESOLUTION
B. LOCATION MAP
C. GRADE CROSSING SIGNAL INSTALLATION AGREEMENT
D. GRADE CROSSING CONSTRUCTION AND MAINTENANCE AGREEMENT

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

5.1 Public Hearing to Solicit Testimony and Approve the Currency Exchange License for SJB Enterprises Inc. dba Your Exchange, Located at 7646 Brooklyn Boulevard North

A. SJB ENTERPRISES RENEWAL LETTER

5.2 Public Hearing to Solicit Testimony and Approve the Currency Exchange License for Unbank Company LLP Located at 6319 Zane Avenue North

A. UNBANK COMPANY RENEWAL LETTER

5.3 Approve an On-Sale Brewer Taproom License and Off-Sale Brewer License for Heavy Rotation Brewing Company Corp. doing business as Heavy Rotation Brewing located at 9801 Xenia Avenue N., Brooklyn Park

A. LIQUOR ON-SALE AND OFF-SALE MAP
B. LIQUOR ON-SALE AND OFF-SALE LIST

6. LAND USE ACTIONS

6.1 Heavy Rotation Brewing (Kenneth Smith, Scott Smith, and Joshua Denny) – Conditional Use Permit #21-119 for a Brewery and Taproom at 9801 Xenia Avenue N., Suite 105

A. RESOLUTION
B. LOCATION MAP
C. PLANNING AND ZONING INFORMATION
D. PLANNING COMMISSION MINUTES
E. RESOLUTIONS #2017-147 AND #2018-86
F. APPLICANT'S NARRATIVE
G. PLANS

7. GENERAL ACTION ITEMS

7.1 Consider Request to Lower Speed Limit on Noble Avenue (85th Avenue to the Border with Brooklyn Center) to 30 MPH

A. RESOLUTION
B. APPROVED POLICY-DECEMBER 14, 2020
C. SPEED STUDY COMPARISON OF BEFORE VS AFTER – TABLE
D. CRASH ANALYSIS DATA
E. LOCATION MAP
F. RESOLUTION #1980-123
G. RESIDENT CONCERNS – KENNETH NORDBERG
H. RESIDENT CONCERNS – SYLVIA SUARES

7.2 Consider Request to Lower Speed Limit on 63rd Avenue (TH 169 to CSAH 81) to 30 MPH

A. RESOLUTION
B. APPROVED POLICY – DECEMBER 14, 2020
C. SPEED STUDY COMPARISON OF BEFORE VS AFTER – TABLE
D. CRASH ANALYSIS DATA
E. LOCATION MAP
F. RESOLUTION #1980-123

G. RESIDENT CONCERNS-JACKIE MORTENSON
H. RESIDENT CONCERNS-GERALD PIERSON
I. RESIDENT CONCERNS-LARRY AND CYNTHIA HAUGBERG
J. RESIDENT CONCERNS-MIKE SIS

7.3 Resolution Amending Fee Resolution #2000-202 Adopting a Schedule of Fees and Charges for Various Services, Licenses and Permits for the City of Brooklyn Park, Minnesota
A. RESOLUTION
B. STAFF MEMOS

7.4 Consider Consider Authorizing Staff to Spend up to $4,465,000 in American Rescue Recovery Act Funds in 2021 and 2022
A. RESOLUTION
B. SURVEY RESULT SUMMARY

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
None

IV. VERBAL REPORTS AND ANNOUNCEMENTS

9A. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS
9B. CITY MANAGER REPORTS AND ANNOUNCEMENTS

V. ADJOURNMENT

10.1 MOTION FOR ADJOURNMENT
A. MOTION FOR ADJOURNMENT FORM

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:**	November 8, 2021
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	**Originating Department:**	Administration
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Marlene Kryder Program Assistant
Attachments:	N/A	**Presented By:**	Department Directors/Managers
Item:	Introduction of New Employees		

City Manager's Proposed Action:

Introduction of the City of Brooklyn Park's new employees.

Overview:

Employee	Start Date	Title
Administration		
Dr. Marcellus Davis	November 3, 2021	Racial Equity, Diversity and Inclusion Manager
Community Development		
Devon Miller	October 18, 2021	Program Assistant III – Planning

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:	3B.2	**Meeting Date:**	November 8, 2021
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	**Originating Department:**	Administration
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Devin Montero, City Clerk
Attachments:	1	**Presented By:**	Mayor Lisa Jacobson
Item:	Mayor's Proclamation of the of November 2021 as "Native American Indian Heritage Month"		

City Manager's Proposed Action:

The Mayor shall proclaim the Month of November 2021, as "Native American Indian Heritage Month" by one of the following:

1. "I, Lisa Jacobson, Mayor of the city of Brooklyn Park, Minnesota do hereby proclaim the month of November 2021, to be "Native American Indian Heritage Month" in the city of Brooklyn Park.

OR

2. By reading the proclamation.

Overview:

There is a deep, rich Native American history in the State of Minnesota going back 10,000 years. Minnesota is home to several Tribal Nations and a resilient and robust urban Native American community. Along with the Dakota people and Anishinaabe people, the Ho-Chunk, Cheyenne, Oto, Iowa, Hidatsa, Arikara, A'aninin, Cree, Blackfeet, Assiniboine, and the Sac and Fox tribes also acknowledge Minnesota as important to their tribal histories.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

3B.2A PROCLAMATION

PROCLAMATION

PROCLAIMING THE MONTH OF NOVEMBER AS "NATIVE AMERICAN INDIAN HERITAGE MONTH" IN THE CITY OF BROOKLYN PARK, MINNESOTA

WHEREAS, the City of Brooklyn Park recognizes and honors contributions of all members of our community; and

WHEREAS, the City of Brooklyn Park recognizes the Native American Indian community that is making our city a thriving, vibrant, and a diverse community; and

WHEREAS, the area known today as the State of Minnesota is located on ancestral and contemporary lands that have been called home by Indigenous Peoples since time immemorial; and

WHEREAS, Minnesota is home to several Tribal Nations and a resilient and robust urban Native American community; and

WHEREAS, Native Americans have made essential contributions to the history, culture, and economy of Minnesota, including traditional knowledge, labor, technology, science, philosophy, industry, and arts; and

WHEREAS, the Native American Indian community has had a profound influence on our country through their strong commitment to family, faith, hard work, and services, and they have enhanced and shaped our national heritage with centuries old traditions that reflect the multiethnic and multicultural customs of their community; and

WHEREAS, the City of Brooklyn Park invites all members of the community to learn more about the rich Native American Indian culture, traditions and history, and celebrate the contributions that have been made to our country and our community by Native American Indians.

NOW, THEREFORE, I, Lisa Jacobson, Mayor of the City of Brooklyn Park, Minnesota, do hereby proclaim November 2021 to be "Native American Indian Heritage Month" in the City of Brooklyn Park.

Brooklyn Park

5200 85th Avenue North
Brooklyn Park, MN 55443

_____
Lisa Jacobson, Mayor

City of Brooklyn Park
Request for Council Action

Agenda Item:	3B.3	**Meeting Date:**	November 8, 2021
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	**Originating Department:**	Administration
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Devin Montero, City Clerk
Attachments:	1	**Presented By:**	Mayor Lisa Jacobson
Item:	Proclamation Declaring November 27, 2021, as Small Business Saturday in the City of Brooklyn Park, Minnesota		

City Manager's Proposed Action:

The Mayor shall proclaim November 27, 2021, as Small Business Saturday:

1. I, Lisa Jacobson, Mayor of the City of Brooklyn Park, Minnesota, do hereby proclaim November 27, 2021 as Small Business Saturday in the City of Brooklyn Park, Minnesota.

OR

2. By reading the proclamation.

Overview:

Small Business Saturday was launched in 2010 to support local shops that make our communities strong, to encourage people to Shop Small, and to bring more holiday shopping to small businesses. It is the Saturday after Thanksgiving.

In 2020, 700+ mayors and city officials joined together to support Small Business Saturday. Below are some highlights from last year:

- U.S. shoppers who shopped at independent retailers and restaurants on Small Business Saturday reported spending a record high total of an estimated $19.8 billion.
- 97% of shoppers recognize the impact they can make by shopping small, and 85% of them also encouraged friends and family to do so.
- 56% of Small Business Saturday shoppers reported they shopped online with a small business on the day, an increase from 43% in 2019.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

3B.3A PROCLAMATION

PROCLAMATION

PROCLAIMING NOVEMBER 27, 2021, AS SMALL BUSINESS SATURDAY

WHEREAS, the government of Brooklyn Park, Minnesota celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are 31.7 million small businesses in the United States; they represent 99.7% of firms with paid employees, and they are responsible for 65.1% of net new jobs created from 2000 to 2019; and

WHEREAS, small businesses employ 47.1% of the employees in the private sector in the United States, 88% of U.S. consumers feel a personal commitment to support small businesses in the wake of the pandemic, and 92% of small business owners have pivoted the way they do business to stay open during the pandemic; and

WHEREAS, 97% of Small Business Saturday® shoppers recognize the impact they can make by shopping small, 85% of them also encouraged friends and family to do so; and

WHEREAS, 56% of shoppers reported they shopped online with a small business on Small Business Saturday in 2020; and more than 50% of consumers who reported shopping small endorsed a local business on social media or shopped at a local business because of a social media recommendation; and

WHEREAS, 92% of companies planning promotions on Small Business Saturday said the day helps their business stand out during the busy holiday shopping season; and

WHEREAS, many of the more than 1,500 businesses in Brooklyn Park are small and family owned and encompass all industries, ranging from small custom clothing shops to medical device manufacturers; and

WHEREAS, Brooklyn Park, Minnesota supports our local businesses that create jobs, boost our local economy and preserve our communities; and

WHEREAS, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

NOW, THEREFORE, I, Lisa Jacobson, Mayor of Brooklyn Park, Minnesota do hereby proclaim November 27, 2021, as SMALL BUSINESS SATURDAY and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

Brooklyn Park

5200 85th Avenue North
Brooklyn Park, MN 55443

_____
Lisa Jacobson, Mayor

City of Brooklyn Park
Request for Council Action

Agenda Item:	3B.4	**Meeting Date:**	November 8, 2021
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	**Originating Department:**	Administration
Resolution:	N/A	**Prepared By:**	Josie Shardlow, Community Engagement Manager
Ordinance:	DRAFT		
Attachments:	1	**Presented By:**	Jay Stroebel, City Manager Julie Richards, Brooklyn Bridge Alliance for Youth
Item:	Emerging Leaders on Commissions		

City Manager's Proposed Action:

Julie Richards, Brooklyn Bridge Alliance for Youth, and City Manager Jay Stroebel will present an initiative to recruit young adults to serve on the commissions.

Overview:

We currently and historically have had limited representation from 18-24-year-olds on the city's commissions. We have an opportunity to partner with Brooklyn Bridge Alliance for Youth's *Youth OnBoard!* initiative to recruit young adults to apply for the city's commissions. Brooklyn Bridge Alliance for Youth (BBAY) will provide training for the emerging leaders as well as readiness training for commissioners.

Julie Richards from (BBAY) has presented to the commissions and will share an overview of the support they will provide.

The city ordinance for the city code pertaining to advisory commissions would need to be amended to allow for these additional members.

Primary Issues/Alternatives to Consider:

Budgetary/Fiscal Issues: N/A

Attachments:

3B.4A DRAFT ORDINANCE

ORDINANCE #2021-

ORDINANCE AMENDING CHAPTER 31 OF THE BROOKLYN PARK CITY CODE PERTAINING TO ADVISORY COMMISSIONS

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

The City of Brooklyn Park Does Ordain:

Section 1. Chapter 31 of the Brooklyn Park City Code is amended to read as follows:

§ 31.45 ESTABLISHMENT.

There is hereby continued as heretofore created a Recreation and Parks Advisory Commission. All 1~~2~~4 members must be lawful residents of the City of Brooklyn Park. Members are appointed by the Council for terms of three years, excepting the ex-officio members and young adult members, who serve a one-year term. Vacancies are to be filled for the remainder of the original term of office in the same manner as provided for original appointments. One member, who is an ex-officio member must be a member of the Council, and there must be one member who is an ex-officio member who must be a member of the Planning Commission. The young adult members may serve up to three, one-year terms. The young adult members must have reached the age of 18 by the date of appointment to that young adult member's first term, and must not have reached the age of 25 by the appointment date of any term.

The Mayor may also appoint up to two youth liaisons. Youth liaisons are non-voting members of the Commission who serve one-year terms and may be appointed for a total of three one-year terms. Youth liaisons must have reached the age of 14 by the date of appointment for their first term and must not have reached the age of 18 by the date of appointment for any term.

Section 2. Chapter 31 of the Brooklyn Park City Code is amended to read as follows:

§ 31.60 ESTABLISHMENT; COMPOSITION.

There is hereby continued as heretofore created a Planning Commission for the City of Brooklyn Park to have all the powers provided by state law and as set forth in this subchapter.

(A) There are ~~nine~~11 members of the Commission to be appointed by the Council in the manner hereinafter set forth.

(B) All members of the Commission must be lawful residents of the City of Brooklyn Park.

(C) The ~~nine~~11 members are appointed to serve for terms of three years each, except that young adult members are appointed to terms of one year each, and that any vacancy occurring among the members of the Planning Commission during an unexpired term must be filled for the rest of the term by vote of the Council. Any members of said Commission may be removed for cause by the Council upon notice, written charges, and after a public hearing. Appointments must be made as soon after the first of each year as practicable.

(D) The members of the Commission must take the usual oath of office and the Commission must appoint its own Chair and Secretary and may provide its own rules of procedure. It must determine regular dates and times of meetings, which are to be held at least once a month, and it must call public hearings when appropriate. No member of the Commission shall pass or vote upon any question in which the member is directly or indirectly interested.

(E) The Commission must prepare all reports as the Council shall request.

(F) Two of the 11 members of the Planning Commission shall be young adult members. The young adult members may serve up to three, one-year terms. The young adult members must have reached the age of 18 by the date of appointment to that young adult member's first term and must not have reached the age of 25 by the date of appointment for any term.

Section 3. Chapter 31 of the Brooklyn Park City Code is amended to read as follows:

§ 31.75 ESTABLISHMENT

A Human Rights Commission comprised of ~~nine~~11 members is established for the purpose of securing for all residents equal opportunity in employment, housing, public accommodations, public services, education, and full participation in the affairs of the city by assisting the Minnesota Department of Human Rights in implementing state laws against discrimination and by advising the City Council in long-range programs to ensure human service needs are met.

§ 31.76 COMPOSITION AND REPRESENTATION.

All ~~nine~~11 members of the Commission must be lawful residents of the city. All members are appointed by the Council and serve staggered three-year terms, except for young adult members who shall serve one-year terms. Any vacancy occurring ~~among the members~~ during an unexpired term must be filled for the rest of term by vote of the Council. Members of the Commission may be removed for cause by the Council upon notice and written charges and after a public hearing. Members of the Commission serve without compensation, but may be reimbursed personal expenses in

the performance of their duties. The young adult members may serve up to three, one-year terms. The young adult members must have reached the age of 18 by the date of appointment to that young adult member's first term, and must not have reached the age of 25 by the date of appointment for any term.

Section 4. Chapter 31 of the Brooklyn Park City Code is amended to read as follows:

§ 31.90 ESTABLISHMENT.

The Budget Advisory Commission is an ongoing, ~~citizen~~ resident-led commission called to design and propose budgetary suggestions to the City Council reflecting the input and priorities of residents in the City of Brooklyn Park. The Commission will make use of previous budget information, review current and projected city service levels, analyze priorities from citizen input, consider long and short-term anticipated capital and operating expenditures, and identify revenue sources with consideration to projected expenditures. The Commission may also be asked to perform specific studies or present recommendations based on City Council requests.

§ 31.91 DUTIES.

Duties of The Budget Advisory Commission are to:

(A) Review all budgets of the city, such as city, EDA and the like, and long range plans, such as CIP/CEP and the like.

(B) Review results of previous ~~citizen~~ resident surveys, City Council goals and prioritization of city services.

(C) Recommend any necessary or reasonable survey or information gathering process to gain current resident preferences.

(D) Review historical and future trends of revenues and expenditures, both capitol and operating.

(E) Review budget challenges and recommend solutions.

(F) Formulate suggestions to the City Council on prioritized budget programs and choices between competing demands with citizen input.

(G) By May 31, the Commission shall present a recommendation for future funding along with comments on the city's overall trends and provide suggestions for any specific requests made by the City Council.

(H) Through objective measures of department performance, determine if the city is efficiently managing and allocating the community's resources.

(I) Complete a self-evaluation of the commission and make recommendations to the City Council on how to improve the process.

§ 31.92 COMPOSITION AND REPRESENTATION.

(A) Residents shall be appointed to the Budget Advisory Commission by the Council.

(B) Membership shall consist of ~~nine~~11 lawful residents, including two young adult members.

(C) Members shall serve staggered terms of three years, except young adult members who shall serve one-year terms. No member shall serve more than two consecutive three-year terms, except that young adult members may serve up to three one-year terms.

(D) The Mayor shall initially appoint members with the following staggered term length: Three members shall be appointed for one year; three members shall be appointed for two years; and three members shall be appointed for three years. Thereafter, all appointments or re-appointments shall be for a three-year term, except for the young adult members who shall be appointed for a one-year term..

(E) Terms shall expire on the first of April of the last year of their appointed term.

(F) A Chairperson is to be chosen from among the appointed Commission members.

(G) A non-voting representative of the Finance Department shall staff the Budget Advisory Commission. The Commission shall be provided with any requested information, data, or materials and shall be able to discuss any matters with the appropriate staff. Staff members may also have the ability to address the Commission as a whole with matters of concern.

(H) There shall be a non-voting representative of the City Council assigned to act as liaison to the Budget Advisory Commission.

(G) The young adult members may serve up to three, one-year terms. The young adult members must have reached the age of 18 by the date of appointment to that young adult member's first term, and must not have reached the age of 25 by the date of appointment for any term.

City of Brooklyn Park
Request for Council Action

Agenda Item:	3B.5	**Meeting Date:**	November 8, 2021
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	**Originating Department:**	Community Development
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Paul Mogush, Planning Director
Attachments:	1	**Presented By:**	Paul Mogush
Item:	Presentation on 2020 Census Data		

City Manager's Proposed Action:

Staff will present a snapshot of results from the 2020 Decennial Census.

Overview:

On August 12, 2021, the US Census Bureau released the data collected in the 2020 Decennial Census. Decennial Census data include information on population, age/sex, race, and housing. Census data are important for several reasons. Census data are important because they help us understand how the community is changing and inform the development of policies and programs designed to improve the lives of residents and the prosperity of the business community. The data also form the basis for redistricting and funding formulas for federal and state programs.

At the November 8 Council meeting, staff will present a snapshot of results for Brooklyn Park from the 2020 Decennial Census, looking at how these measures have changed over time as well as how Brooklyn Park compares to the Twin Cities metro area.

Later this year, the Census Bureau plans to release the latest one-year estimates from the American Community Survey (ACS). The ACS is conducted annually among a sample of the US population and includes much more detailed information about the makeup of the American people than the Decennial Census. The ACS asks about topics such as education, employment, internet access, transportation, and much more. After that dataset is released, staff will return to the Council with a presentation on information from the ACS.

Budgetary/Fiscal Issues: N/A

Alternatives to consider:

This is an informational presentation.

Attachments:

3B.5A 2020 CENSUS PRESENTATION

2020 Census

Overview of Community Change

November 8, 2021

The United States Census

- Conducted every ten years
- New for 2020: Online self-response option
- 75.1% self-response rate in MN; 79.7% in BP
- Supplemented by annual American Community Survey

BP Census Organizing

- Kicked off Census organizing in late 2018
- Coordinated Brooklyns Census Coalition in partnership with City of Brooklyn Center
- Hosted 7 events to inform and empower community leaders to reach their own communities
- City Council passed ordinance change giving Census employees access to multi-unit housing

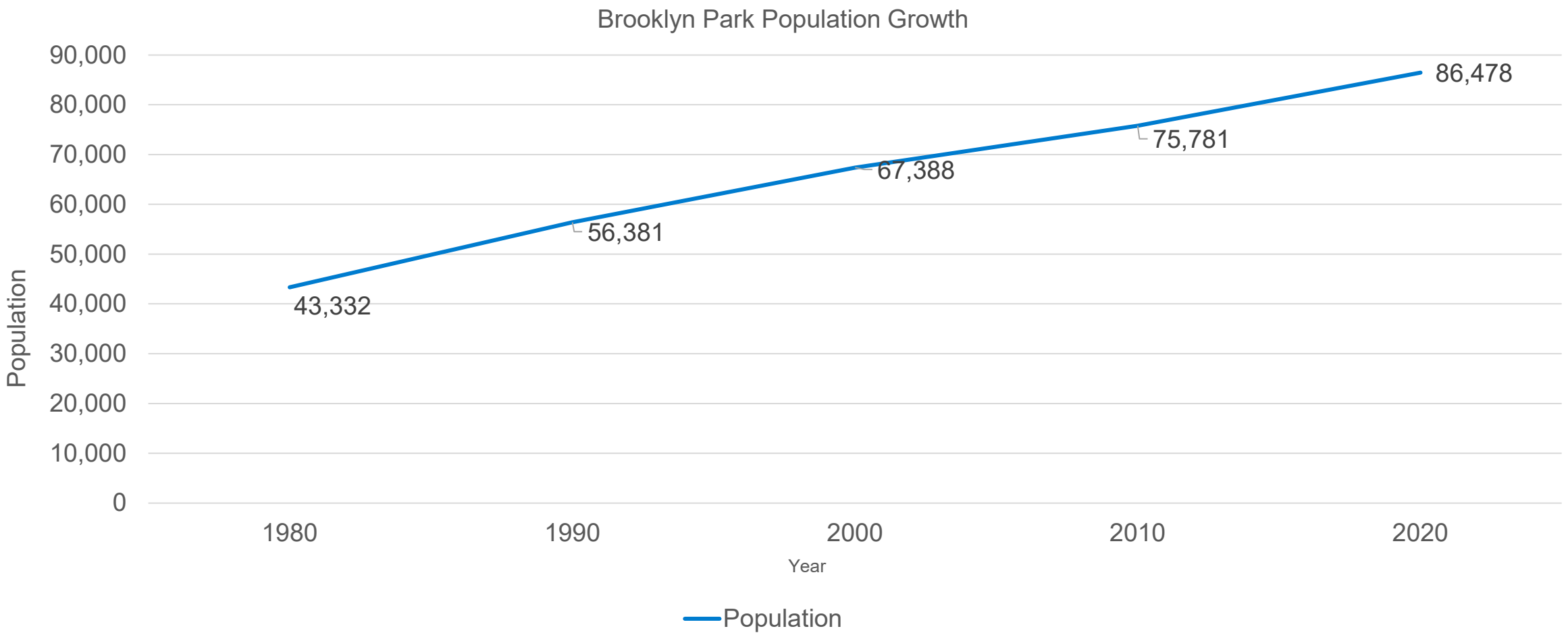
The United States Census

Decennial Census	American Community Survey
Every Ten Years	Every Year
Complete Count	Sample of Population
Includes data about population, age/sex, race, and housing	Asks about topics not on the decennial Census, such as education, employment, internet access, and transportation

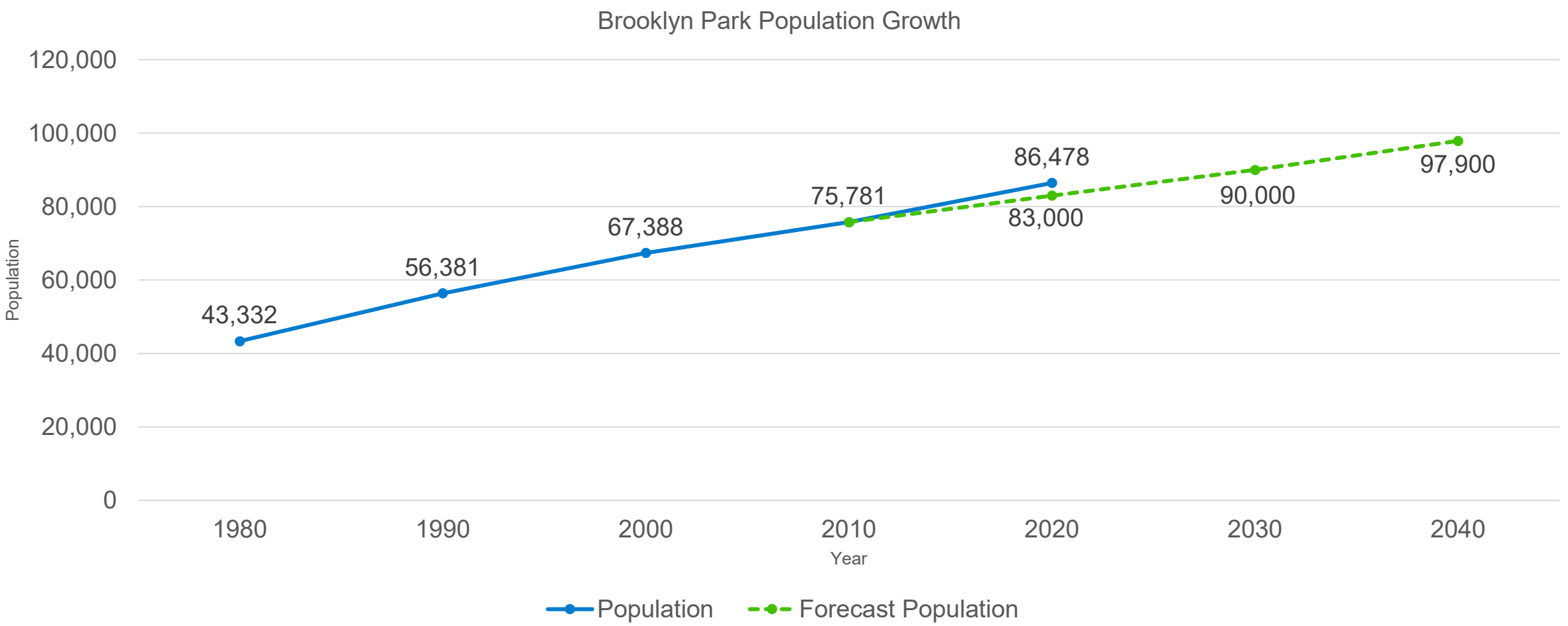
Why it Matters

- Understanding community change
- Redistricting
- Federal funding
- Designing policies and programs
- Land use planning

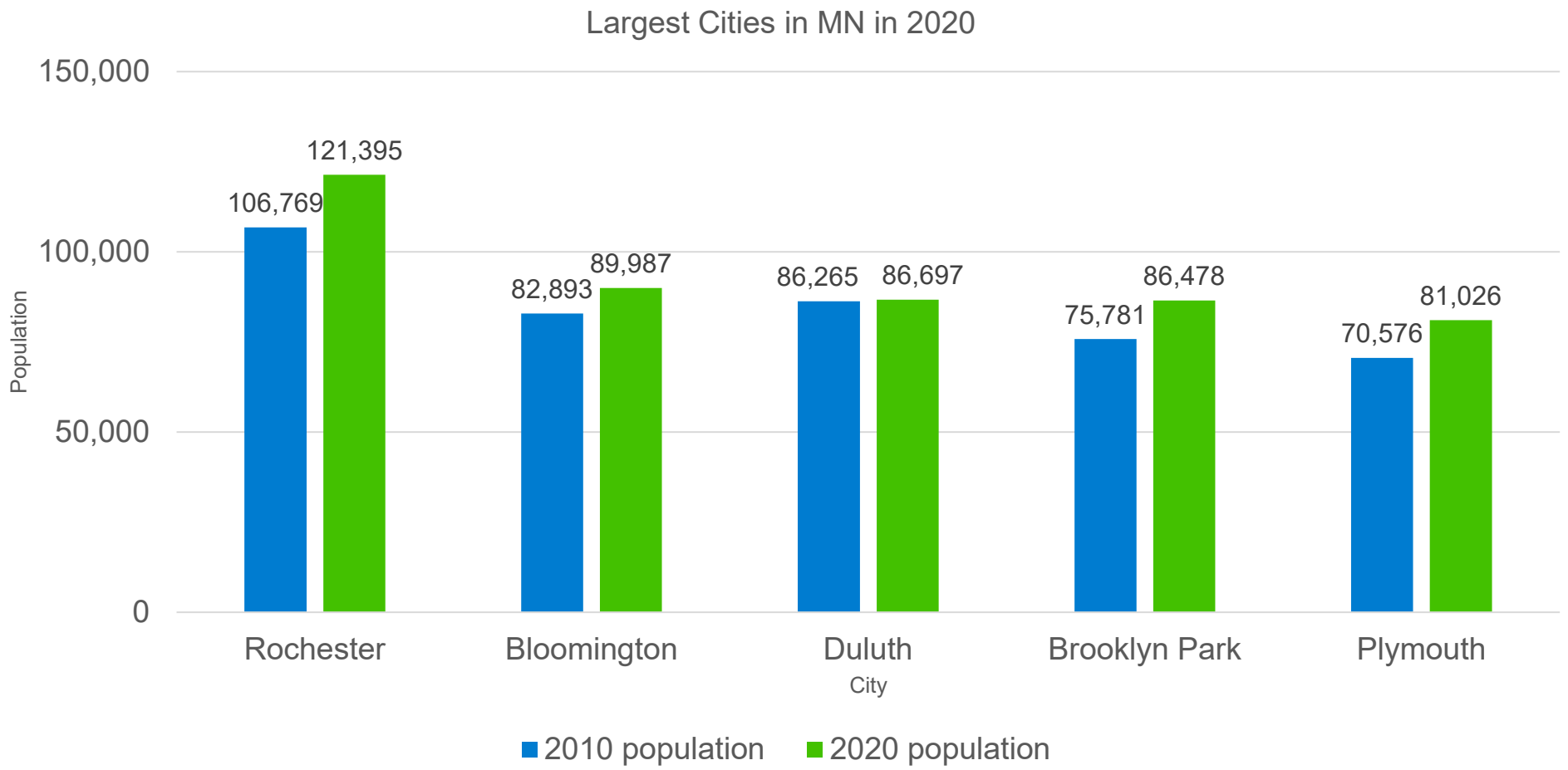
Population: 86,478



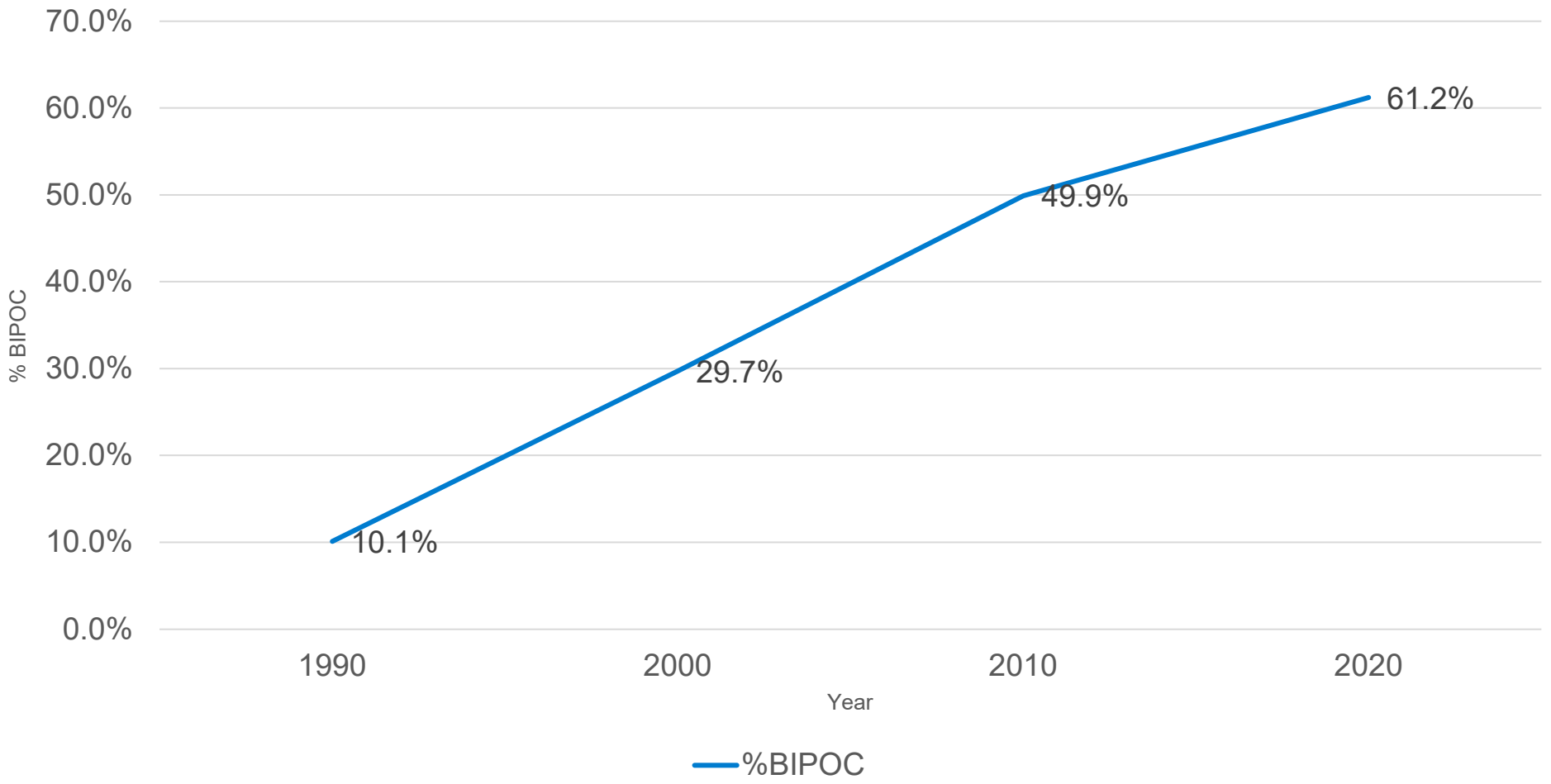
Growing Faster than Expected



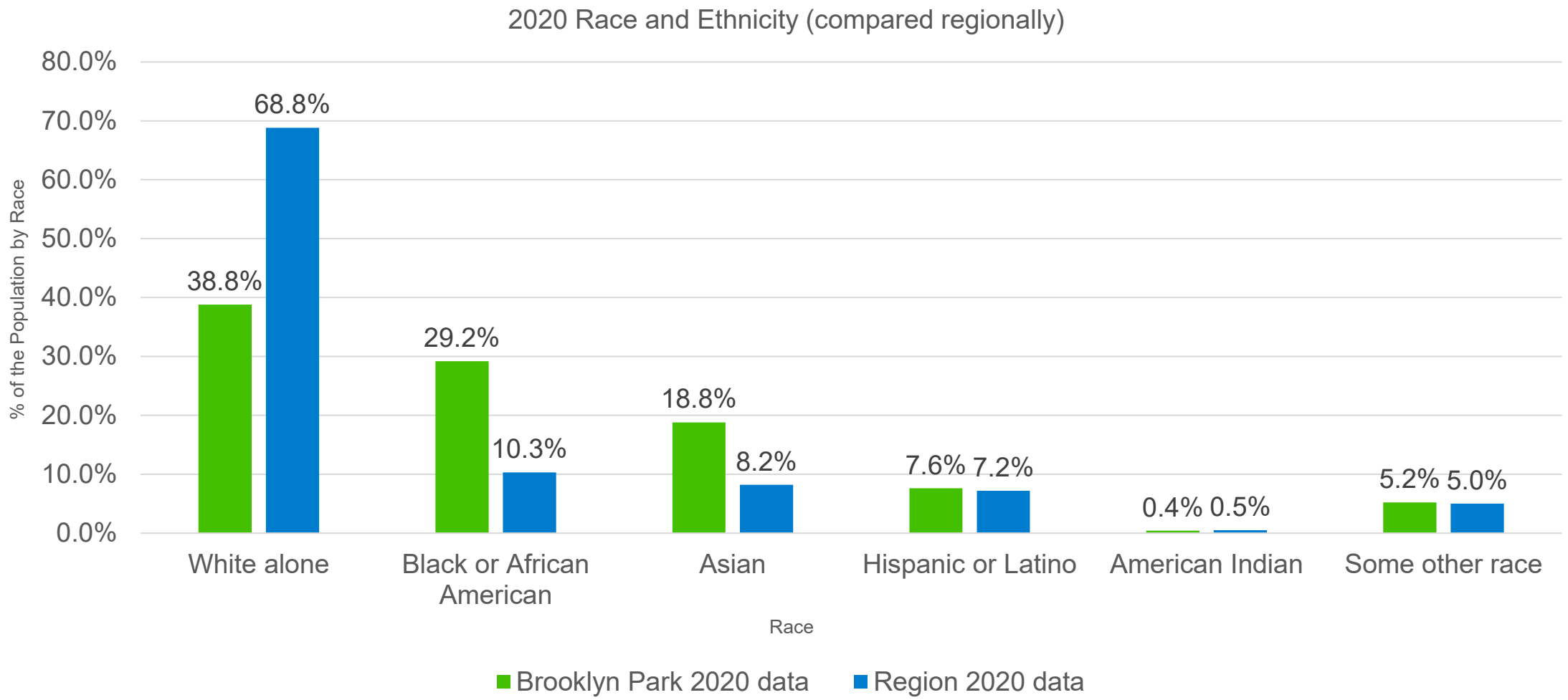
Sixth Largest MN City



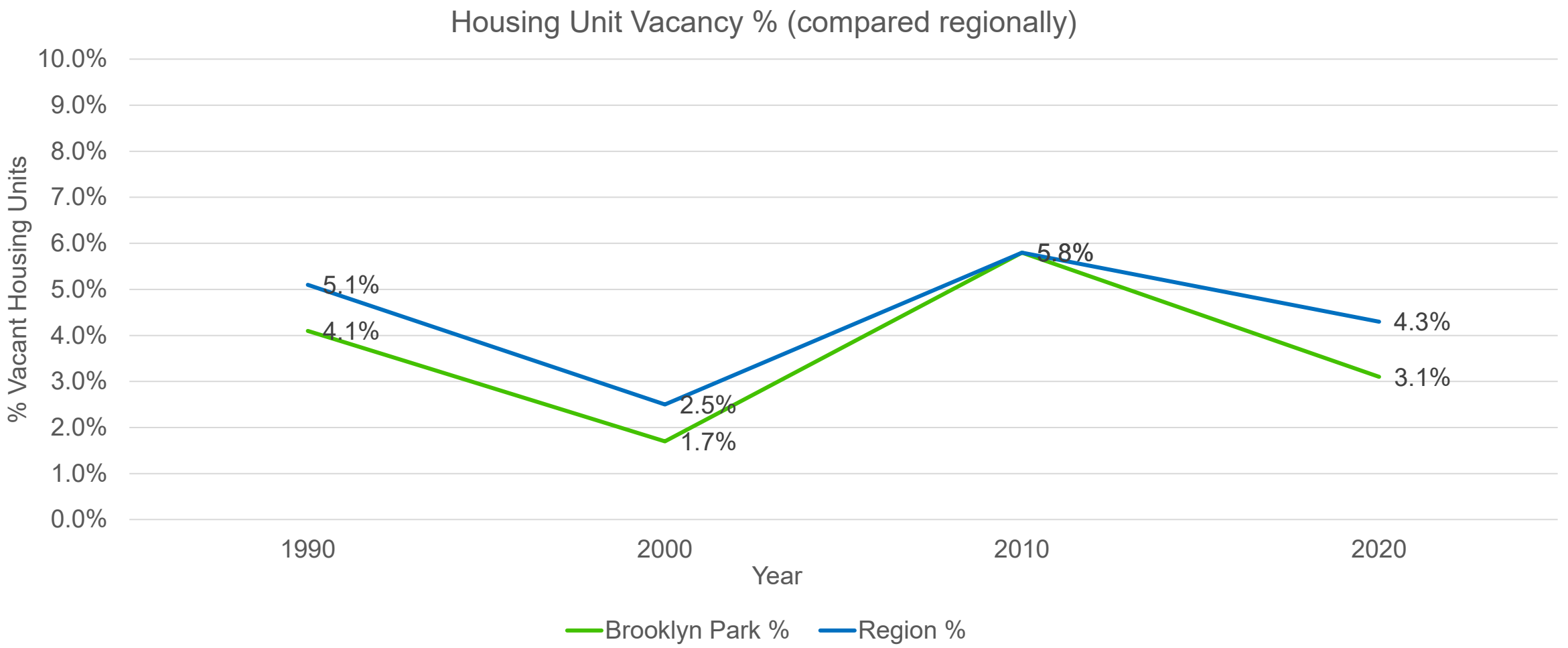
Majority Black, Indigenous, and People of Color



More Diverse than the Metro Area



Lower Housing Vacancy than the Metro Area



City of Brooklyn Park
Request for Council Action

Agenda Item:	4.1	**Meeting Date:**	November 8, 2021
Agenda Section:	Consent	**Originating Department:**	Community Development
Resolution:	N/A	**Prepared By:**	JoAnn Millette, Development Specialist
Ordinance:	N/A		
Attachments:	N/A	**Presented By:**	Paul Mogush, Planning Director
Item:	Development Bond Reductions/Releases		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO RELEASE THE CASH BOND ($11,700) AND THE ENGINEERING ESCROW ($7,746.05) FOR SATISFACTORY COMPLETION OF THE "MOTIVATE HOMES" PROJECT #17-134 LOCATED AT 9235 ZANE AVE N FOR MOTIVATE HOME SERVICES.

MOTION _____, SECOND _____, TO RELEASE THE CASH BOND ($82,500) ENGINEERING ESCROW ($18,984.01) FOR SATISFACTORY COMPLETION OF THE "NORTHPARK BUSINESS CENTER 1ST AND 4TH ADDITION PLATS" PROJECT" #15-101 LOCATED AT 10351 AND 10301 XYLON AVE N FOR SCANNELL PROPERTIES.

MOTION _____, SECOND _____, TO RELEASE THE CASH BOND ($66,500) ENGINEERING ESCROW ($41,316.29) FOR SATISFACTORY COMPLETION OF THE "NORTHPARK BUSINESS CENTER BUILDINGS 1 AND 2" PROJECT" #16-101 LOCATED AT 10351 AND 10301 XYLON AVE N FOR SCANNELL PROPERTIES.

MOTION _____, SECOND _____, TO RELEASE THE CASH BOND ($6,500) ENGINEERING ESCROW ($3,756.47) FOR SATISFACTORY COMPLETION OF THE "NORTHPARK BUSINESS CENTER 2ND ADDITION" PROJECT" #16-108 LOCATED AT 10300 XYLON AVE N FOR SCANNELL PROPERTIES.

MOTION _____, SECOND _____, TO RELEASE THE ENGINEERING ESCROW ($3,973.12) FOR "NORTHPARK BUSINESS CENTER BUILDING #3" PROJECT" #16-124 LOCATED AT 8111 OXBOW CREEK DR N FOR SCANNELL PROPERTIES. THIS PROJECT EXPIRED.

MOTION _____, SECOND _____, TO RELEASE THE ENGINEERING ESCROW ($877.54) FOR "NORTHPARK BUSINESS CENTER BUILDING #4" PROJECT" #16-129 LOCATED AT 8111 OXBOW CREEK DR N FOR SCANNELL PROPERTIES. THIS PROJECT EXPIRED.

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:**	November 8, 2021
Agenda Section:	Consent	**Originating Department:**	Community Development
Resolution:	X		
Ordinance:	N/A	**Prepared By:**	Paul Mogush, Planning Director
Attachments:	2	**Presented By:**	Paul Mogush
Item:	Gateway (Connor McCarthy, United Properties) – Comprehensive Plan Amendment #21-121 to Re-guide Property from Mixed Use to Business Park at 9500 Decatur Drive North		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2021-_____ DENYING A COMPREHENSIVE PLAN AMENDMENT TO RE-GUIDE 25.03 ACRES FROM MIXED USE TO BUSINESS PARK AT 9500 DECATUR DRIVE NORTH.

Overview

The City Council voted unanimously on October 25, 2021, to deny a request from United Properties for a Comprehensive Plan amendment re-guiding property from Mixed Use to Business Park at 9500 Decatur Drive North. The proposed resolution in the October 25 Council packet was for approval as a result of the Planning Commission's recommendation, so Council directed staff to draft a resolution denying the request. The attached resolution denies the request and outlines the reasons for denial expressed by Council Members at the October 25 meeting:

1. The 2040 Comprehensive Plan was recently approved by the City Council in March 2020, and the request is inconsistent with the land use goals and policy statements of the Comprehensive Plan, including the goal of a "signature development" at this interchange and the need to accommodate future population growth.

2. There is a market for multifamily housing development at this location that would be consistent with the current Mixed Use designation but not consistent with the Business Park designation.

3. The City Council still desires to fulfill the vision in the Comprehensive Plan for the development of this property.

Budgetary/Fiscal Issues: N/A

Alternatives to consider:

1. Adopt the resolution as written, denying the amendment and keeping the Mixed Use designation in place.
2. Adopt the resolution with modifications.
3. Approve the amendment changing the Future Land Use designation from Mixed Use to Business Park, and direct staff to prepare a resolution of approval.

Attachments:

4.2A RESOLUTION
4.2B LOCATION MAPS

RESOLUTION #2021-

RESOLUTION DENYING A COMPREHENSIVE PLAN AMENDMENT
TO RE-GUIDE 25.03 ACRES FROM MIXED USE TO BUSINESS PARK
AT 9500 DECATUR DRIVE NORTH

Planning Commission File #21-121

WHEREAS, United Properties has requested to amend the 2040 Comprehensive Plan to re-guide 25.03 acres from Mixed Use to Business Park at 9500 Decatur Drive North.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that the requested Comprehensive Plan amendment is denied for the following reasons:

1. The 2040 Comprehensive Plan was recently approved by the City Council in March 2020, and the request is inconsistent with the land use goals and policy statements of the Comprehensive Plan, including the goal of a “signature development” at this interchange and the need to accommodate future population growth.

2. There is a market for multifamily housing development at this location that would be consistent with the current Mixed Use designation but not consistent with the Business Park designation.

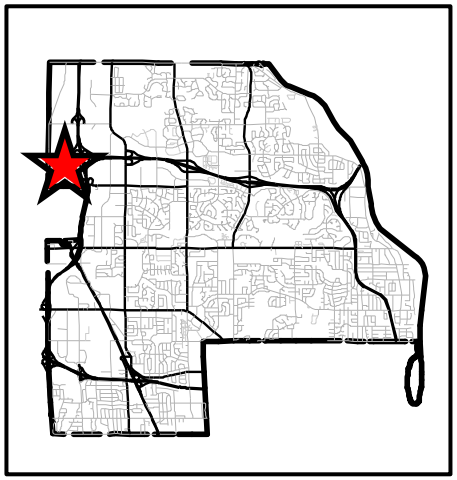
3. The City Council still desires to fulfill the vision in the Comprehensive Plan for the development of this property.

Comprehensive PlanAmendment #21-121 United Properties
9500 Decatur Dr. N.

Brooklyn Park
Community Development

Spring 2018 Air Photo

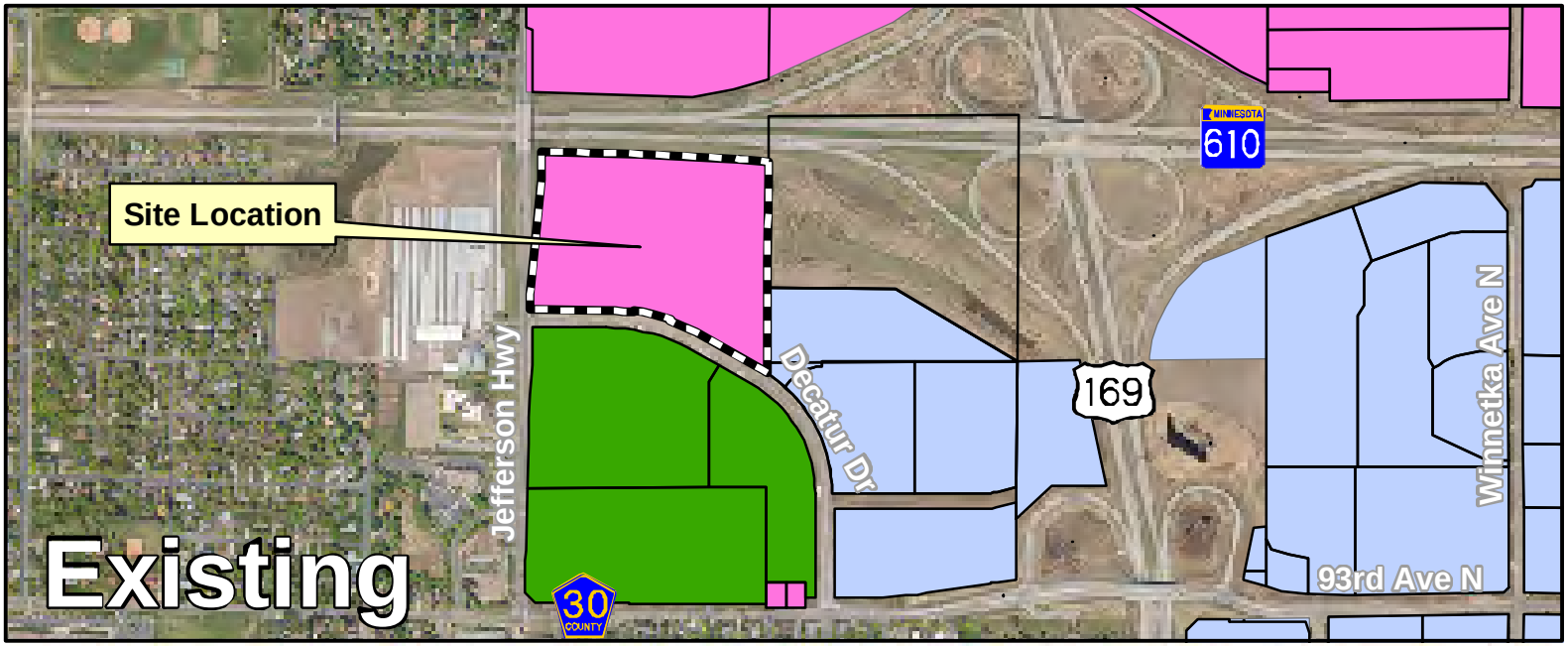
100
Feet



Map Date September 9, 2021

Comprehensive Plan Amendment #21-121
United Properties

Brooklyn Park
Community Development



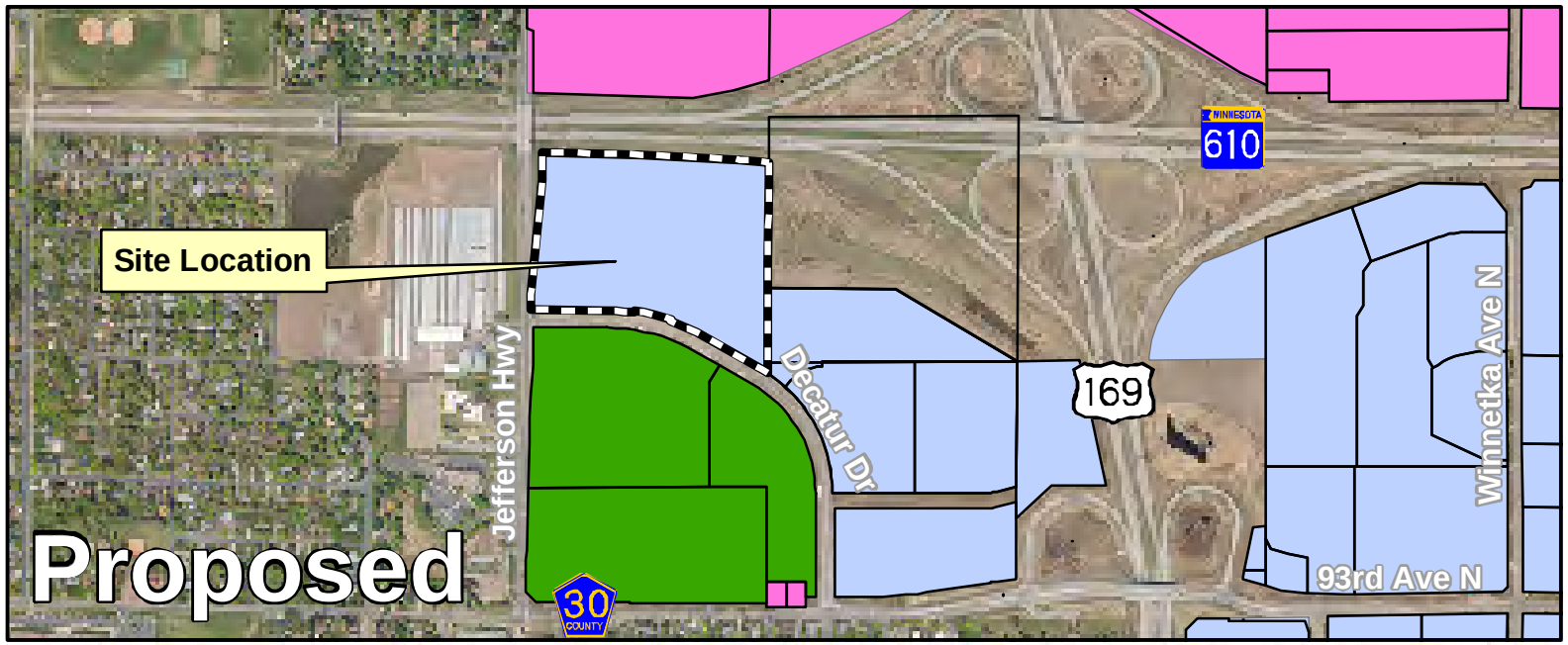
Legend

- Site Location

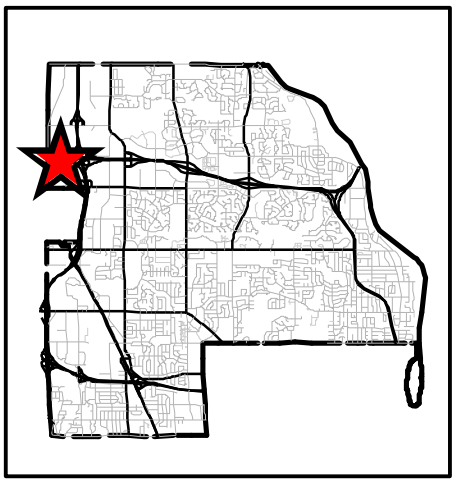
2040 Future Land Use

- Business Park
- Institutional
- Mixed Use

Spring 2018 Air Photo



1,000 Feet



Map Date Septemer 7, 2021

City of Brooklyn Park
Request for Council Action

Agenda Item:	4.3	**Meeting Date:**	November 8, 2021
Agenda Section:	Consent	**Originating Department:**	Community Development
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Megan Bookey, Program Assistant III
Attachments:	N/A	**Presented By:**	Keith Jullie, Rental and Business Licensing Manager
Item:	Approve a Tobacco License for QuickOne African Market Inc., dba QuickOne African Market Located at 5700 Brookdale Drive, Brooklyn Park, MN 55443		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE A TOBACCO LICENSE FOR QUICKONE AFRICAN MARKET INC., DBA QUICKONE AFRICAN MARKET LOCATED AT 5700 BROOKDALE DRIVE, BROOKLYN PARK, MN 55443.

Overview:

This is a new tobacco license for QuickOne African Market, Inc. dba QuickOne African Market at 5700 Brookdale Drive, Brooklyn Park, MN. The previous business at this location, Digir African Market, held a tobacco license. Due to a change in business ownership, a new tobacco license is required.

The Police Department has completed their investigation of the owner. The Community Development Department approved the application on November 1, 2021. There are no known code violations at this location. The Police and Community Development Departments recommend approval of this Tobacco Sales 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:	4.4	**Meeting Date:**	November 8, 2021
Agenda Section:	Consent	**Originating Department:**	Community Development
Resolution:	N/A		
Ordinance:	SECOND READING	**Prepared By:**	Todd A. Larson, Senior Planner
Attachments:	1	**Presented By:**	Paul Mogush, Planning Director
Item:	Hillcrest Development (Charlie Nestor) – Code Amendment #21-122 Regarding Accessory Outdoor Storage in the Business Park (BP) Zoning District Citywide		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2021-_____ AMENDING SECTION 152.362 PERTAINING TO ACCESSORY OUTDOOR STORAGE REQUIREMENTS.

Planning Commission Recommendation:

At its meeting on October 13, 2021, the Planning Commission unanimously (8-0) recommended approval of the Code Amendment. The Planning Commission also briefly discussed the proposed change at its work session on July 28, 2021, and provided feedback that the application was reasonable.

Overview:

The City Council adopted the first reading of the ordinance unanimously at its meeting on October 25, 2021.

In 2012, the City Council approved an ordinance amending City Code creating standards for outdoor storage in several zoning districts. This ordinance also started to authorize limited outdoor storage in the Business Park (BP) zoning district on properties with at least five acres.

Hillcrest Development, owners of properties smaller than the five-acre minimum, has requested amending City Code to lower the threshold to four acres. They are receiving inquiries from prospective users who would like to have some outdoor storage potential, but cannot entertain the offers since the properties are too small.

The proposed change would allow outdoor storage, with a conditional use permit, on seventeen additional business properties in Brooklyn Park.

Budgetary/Fiscal Issues: N/A

Alternatives to consider:

1. Approve the Code Amendment as recommended by the Planning Commission.
2. Approve the Code Amendment with modifications.
3. Deny the Code Amendment keeping the existing regulations in place.

Attachment:

4.4A ORDINANCE

ORDINANCE #2021-

ORDINANCE AMENDING SECTION 152.362 PERTAINING
TO ACCESSORY OUTDOOR STORAGE REQUIREMENTS

The City of Brooklyn Park does ordain:

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

Section 1. Section 152.362(I) of the Brooklyn Park City Code is amended to read as follows:

§ 152.362 ADDITIONAL STANDARDS FOR ACCESSORY USES.

(I) *Outdoor storage.* Outdoor storage of materials, equipment, and products accessory and necessary to the principal use must obtain a Conditional Use Permit and comply with the following:

(1) The items in the area designated for outdoor storage must be completely screened from view from adjacent public rights-of-way or adjacent properties.

(2) The area must not be used for the storage of junk vehicles, trash, debris, or other nuisance items as defined elsewhere in the City Code.

(3) The area designated for storage must be clearly defined by fencing, striping, paving, or other means. Any storage outside of the designated area shall be a violation of the Conditional Use Permit.

(4) Outdoor storage is not permitted in the Highway Overlay (HO) District.

(5) Height of materials, vehicles, or equipment in outdoor storage area shall not exceed the height of the principal structure.

(6) The following performance standards apply to outside storage:

Figure 152.362.01: Outdoor Storage Requirements

		Zoning Districts			
		B3	***B4***	***BP***	***I***
Minimum lot area to allow outside storage		25,000 sq. feet	2 acres	~~5 acres~~ 4 acres	40,000 sq. feet
Area limit on storage allowed		50% of site	70% of site	15% of building footprint	80% of site
Setbacks	From ROW	15 feet	15 feet	75 feet	15 feet
	From side and rear	5 feet	5 feet	50 feet	5 feet
	Adjacent to residential districts	35 feet	35 feet	NP	35 feet
Location restriction		Side or rear yard only	Side or rear yard only	Must be located to the rear of the front entrance	Side or rear yard only

City of Brooklyn Park
Request for Council Action

Agenda Item:	4.5	**Meeting Date:**	November 8, 2021
Agenda Section:	Consent	**Originating Department:**	Operations and Maintenance Engineering Services Division
Resolution:	X		
Ordinance:	N/A	**Prepared By:**	Mitch Robinson, Water Resources Engineer
Attachments:	4	**Presented By:**	Jesse Struve, City Engineer
Item:	Approve Grade Crossing Signal Installation Agreement and Grade Crossing Construction and Maintenance Agreement with BNSF Railway Company and Hennepin County for 73rd Avenue Railroad Crossing Reconstruction		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2021-_____ APPROVING GRADE CROSSING SIGNAL INSTALLATION AGREEMENT AND GRADE CROSSING CONSTRUCTION AND MAINTENANCE AGREEMENT WITH BNSF RAILWAY COMPANY AND HENNEPIN COUNTY FOR 73RD AVENUE RAILROAD CROSSING RECONSTRUCTION.

Overview:

The City of Brooklyn Park has been working with Hennepin County, Metro Transit, BNSF Railway, and the cities of Robbinsdale, Crystal, Minneapolis and Osseo over the past 15 years to reconstruct Bottineau Boulevard between Minneapolis and Osseo. The first phase between Minneapolis and TH 100 was completed in 2008. Subsequent phases extended the project into Brooklyn Park (roughly 65th Avenue) in 2013/2014 and up through 71st Avenue in 2016/2017. The current phase reconstructed CSAH 81 between 71st Avenue (County Road 8) and 83rd Avenue and the segment of Brooklyn Boulevard from Shingle Creek to the access east of Jolly Lane from 2019 to 2021.

As part of CIP 4032-19 CSAH 81 Reconstruction, the railway crossing at 73rd Avenue is to be reconstructed in order to implement new safety features. This includes lengthening the crossing to include a pedestrian crossing, installation of crossing gates, concrete medians and replacement of the traffic signal and railroad crossing.

BNSF has prepared the Grade Crossing Signal Agreement and the Grade Crossing Construction and Maintenance Agreement, which outlines the administration, construction and maintenance responsibilities/costs for each agency. The agreement is based on BNSF standard maintenance cost participation policy. Staff has reviewed the agreement and finds it to be acceptable. The City Manager recommends that the City Council formally approve Grade Crossing Signal Installation Agreement and Grade Crossing Construction and Maintenance Agreement with BNSF Railway Company and Hennepin County for 73rd Avenue Railroad Crossing Reconstruction.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues:

The agreement would increase the cost of the maintenance on the crossing. Currently, the City is paying for 33 Association of American Railroad (AAR) units. The reconstructing of the crossing would increase the AAR to 90. The cost for each AAR unit is determined yearly. For 2021, the cost is $268.67 per unit which would equate to $24,180.30. The cost to reconstruct the crossing is already accounted for in CIP 4032-19.

The City will use Street Light Utility funds to pay for the expected costs.

Attachments:

4.5A RESOLUTION
4.5B LOCATION MAP
4.5C GRADE CROSSING SIGNAL INSTALLATION AGREEMENT
4.5D GRADE CROSSING CONSTRUCTION AND MAINTENANCE AGREEMENT

RESOLUTION #2021-

RESOLUTION APPROVING GRADE CROSSING SIGNAL INSTALLATION AGREEMENT AND GRADE CROSSING CONSTRUCTION AND MAINTENANCE AGREEMENT WITH BNSF RAILWAY COMPANY AND HENNEPIN COUNTY FOR 73RD AVENUE RAILROAD CROSSING RECONSTRUCTION

WHEREAS, BNSF, Hennepin County and the City of Brooklyn Park consider it mutually desirable to reconstruct the 73rd Avenue Railway Crossing as part of CIP 4032-19; and

WHEREAS, the City of Brooklyn Park has expressed its willingness to participate in the construction and maintenance costs of said crossing; and

WHEREAS, BNSF has prepared the Grade Signal Installation Agreement and Grade Crossing Construction and Maintenance Agreement regarding the construction and maintenance of the crossing.

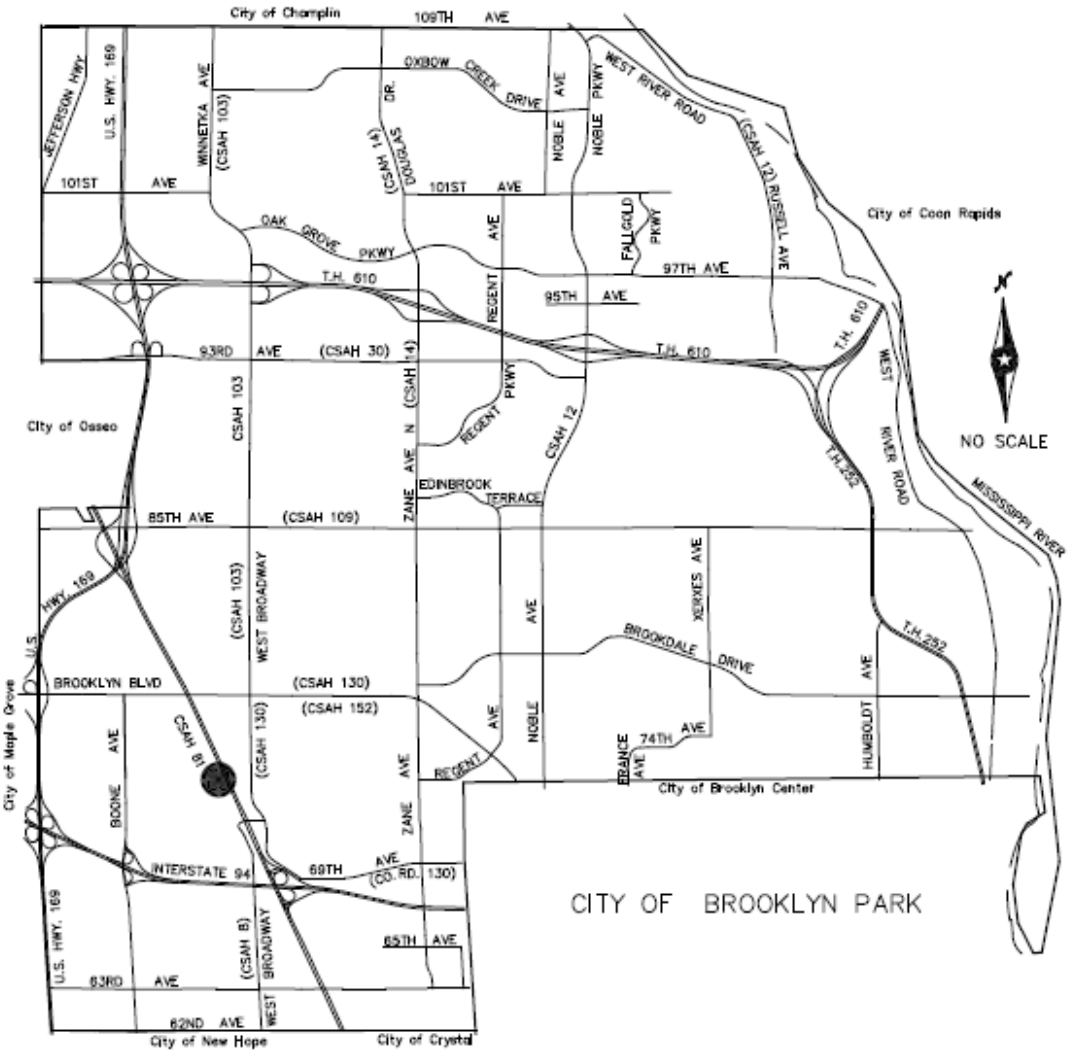
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park.

1. The City of Brooklyn Park approves the Grade Crossing Signal Installation Agreement and Grade Crossing Construction and Maintenance Agreement for participation in the construction and maintenance costs of the reconstruction of 73rd Avenue Railroad Crossing with BNSF Railway Company and Hennepin County, a copy of said agreements is attached hereto and made a part hereof.

2. The Mayor and City Manager are hereby authorized and directed to execute said agreement on behalf of the City of Brooklyn Park.

3. The City Clerk is hereby directed to forward three (3) City executed copies of said agreement and three (3) certified copies of this resolution to Kelly Agosto, Hennepin County Transportation Department, 1600 Prairie Drive, Medina, MN 55340-5421.

LOCATION MAP
PROPOSED 73RD AVENUE RAILROAD CROSSING RECONSTRUCTION



GRADE CROSSING SIGNAL INSTALLATION AGREEMENT

BNSF File No.: BF10017401
Mile Post 9.39
Line Segment 202
U.S. DOT Number 068447E
Monticello Subdivision

THIS GRADE CROSSING SIGNAL INSTALLATION AGREEMENT (hereinafter called, "Agreement"), is executed to be effective as of _____, by and between **Hennepin County, Minnesota**, a Political Subdivision of the State of Minnesota (hereinafter called, "COUNTY"); the **City of Brooklyn Park, Minnesota**, a Political Subdivision of the State of Minnesota (hereinafter called "CITY"); and **BNSF RAILWAY COMPANY**, a Delaware Corporation (hereinafter called, "RAILROAD");

WITNESSETH:

WHEREAS, in the interest of aiding vehicular travel and public safety, the COUNTY is undertaking a project to install railroad crossing signals and activation equipment in association to widen a portion of County Highway 81 in Brooklyn Park, MN;

WHEREAS, the project will necessitate changes to the configuration of the railroad crossing located at U.S. DOT crossing 068447E (73rd Ave.) as indicated on Exhibit "A", attached hereto and incorporated herein;

WHEREAS, the COUNTY and the CITY desire that the RAILROAD replace the railroad crossing signals and activation equipment in order to accommodate the new roadway configuration at said crossing;

WHEREAS, the parties agree that the RAILROAD will receive no ascertainable benefit from the installation of advance warning signs, pavement marking stop bars or crossing signal equipment (hereinafter collectively called, "Crossing Signal Equipment");

WHEREAS, COUNTY and the CITY also desire RAILROAD to replace the existing crossing surface at the 73rd Ave. crossing with a new concrete surface;

WHEREAS, the RAILROAD agrees to purchase and install, at COUNTY'S sole expense, the crossing signal equipment and the new crossing surface described in the scope of work herein, and upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I – SCOPE OF WORK

1. The term "Project" as used in this agreement includes any and all work related to the installation of crossing signals, activation equipment, and a new crossing surface at U.S. DOT crossing 068447E, more particularly described on Exhibit "A" and Exhibit "B" which are attached hereto and incorporated herein, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, installation of advance warning signs and pavement marking stop bars, installation of any new crossing surface, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation.

ARTICLE II – RAILROAD OBLIGATIONS

In consideration of the covenants of the CITY and COUNTY set forth herein and the faithful performance thereof, RAILROAD agrees as follows:

1. The RAILROAD will, using its own labor forces under applicable labor agreements, install the Crossing Signal Equipment and the new crossing surface at 73rd Ave. The work will be performed at COUNTY's expense and in accordance with the Minnesota Manual on Uniform Traffic Control Devices (hereinafter called, "MMUTCD") and the plans and specifications approved by COUNTY and the Federal Highway Administration. The plans and specifications are attached to this Agreement as Exhibit "B" and incorporated herein.

2. A detailed estimate of RAILROAD'S construction engineering, installation labor (including the costs, if any, of electrical service from a public utility) and material costs required for the Project are attached hereto as Exhibit "C" and incorporated herein. In the event construction for the Project has not commenced within six (6) months following the effective date of this Agreement, RAILROAD may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit "C". In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit "C" not specifically mentioned therein may be included as a part of this Agreement upon written approval of COUNTY, which approval will not be unreasonably withheld.

2. RAILROAD will furnish all labor, materials, tools and equipment for the railroad portion of the work required for the construction of the Project. Railroad work shall include:
   (a) Procurement of materials, equipment and supplies necessary for the railroad work;

   (b) Preliminary engineering, design, and contract preparation;

(c) Furnishing engineering and inspection as required in connection with the construction of the Project;

(d) Removal and disposal of the existing crossing surface;

(e) Installation of concrete crossing surface track complete with new rail, ties, ballast, fasteners, along with appropriate surfacing, to carry the improved roadways and sidewalks;

(f) Installation of Crossing Signal Equipment and Crossing Signal Control House as shown on Exhibit A;

(g) Provide an interface box, with contact terminals, mounted on side of Crossing Signal Control House;

(h) Make such changes in the alignment, location and elevation of its telephone, telegraph, signal and/or wire lines and appurtenances along, over or under the tracks, both temporary and permanent, as may become necessary by reason of the construction of the Project.

4. The RAILROAD will, at COUNTY'S expense, dispose of all scrap from the RAILROAD'S work hereunder.

5. The RAILROAD will finalize and complete billing of all incurred costs under this Agreement no later than one (1) year following installation of the Crossing Signal Equipment and the new crossing surface.

ARTICLE III – COUNTY AND CITY OBLIGATIONS

In consideration of the covenants of RAILROAD set forth herein and the faithful performance thereof, the COUNTY and CITY agree as follows:

1. COUNTY must perform, at COUNTY'S expense, the following work:

(a) Design and reconstruction of the roadway;

(b) Installation of pavement marking stop bars in accordance with the MMUTCD

(c) Installation of advance warning signs in accordance with the MMUTCD;

(d) Perform all necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on RAILROAD's right-of-way;

(e) Provide suitable drainage, both temporary and permanent;

(f) Provide all barricades, lights, flagmen or traffic control devices necessary for preventing vehicular traffic from using a portion of the Crossing, during the installation of the concrete crossing surfaces, and also during the installation of the Crossing Signal Equipment.

(g) Construct asphalt/concrete roadway surface on approaches to each track. Roadway surface will match elevation of the railroad crossing surface(s) and remain level to a point at least thirty (30) feet from nearest rail. Any concrete headers will be constructed no closer than 5'-6" (preferably 6'-0") from centerline of each track to provide for a minimum of 11'-0" (preferably 12'-0") opening for track and railroad crossing surface;

(h) Provide and place six (6) to twelve (12) inch wide section of asphalt between roadway concrete headers (and sidewalks) and the new concrete crossing surfaces;

(i) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of RAILROAD;

(j) Provide RAILROAD in writing with the total time required from start of preempt cycle of highway traffic control signals until arrival of the train at the highway-rail crossing.

(k) Connect the highway traffic control signals to the contact terminals in the interface box including all necessary cable and conduit.

(l) Install the new highway traffic control signals.

2. The COUNTY will approve the location of the signals and signal bungalow prior to installation by RAILROAD.

3. Actual costs for engineering, materials and labor (including third party charges for the installation of electrical service) associated with the installation of the Crossing Signal Equipment and the new crossing surface must be paid by the COUNTY (including taxes, such as applicable sales and use taxes, business and occupation taxes, and similar taxes).

4. In the event the services of a consultant are needed after execution of this Agreement due to any exigency of the RAILROAD and the Project, the COUNTY and the RAILROAD will mutually agree, in writing, as to the selection of a consultant and the applicable scope of work to be performed by such consultant. All work performed hereunder by any consultant and any resulting costs must be paid by COUNTY as a part of the costs for the Project.

5. During the installation of the Crossing Signal Equipment and the new crossing surface, RAILROAD will send COUNTY progressive invoices detailing the costs of the work performed by RAILROAD under

this Agreement. COUNTY must reimburse RAILROAD for completed force-account work within thirty (30) days of the date of the invoice for such work. Upon completion of the Project, RAILROAD will send COUNTY a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit "C". Pursuant to this section, COUNTY must pay the final invoice within ninety (90) days of the date of the final invoice. RAILROAD will assess a finance charge of .033% per day (12% per annum) on any unpaid sums or other charges due under this Agreement which are past its credit terms. The finance charge continues to accrue daily until the date payment is received by RAILROAD, not the date payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in dispute and any un-posted payments received by the month's end. Finance charges will be noted on invoices sent to COUNTY under this section.

6. The CITY shall pay BNSF for annual inspection and maintenance of the Crossing Signal Equipment. The payment for the first year the project is in service will be Twenty-Four Thousand One Hundred Eighty Dollars and Thirty Cents ($24,180.30), based off a calculation of 90 "AAR Maintenance Units" at $268.67 per unit. The cost of each AAR Maintenance Unit will be adjusted annually in accordance with the Association of American Railroad's (AAR's) published Annual Indexes of Chargeout Prices and Wage Rates. BNSF shall use its best efforts to provide the CITY with the estimated annual maintenance costs in time to be incorporated into the CITY'S annual appropriations process, and the CITY will appropriate these funds as necessary.

7. The COUNTY must have advance railroad crossing warning signs and standard pavement markings in place at the crossing shown on Exhibit "A" (if the same are required by the MMUTCD) prior to the acceptance of this Project by the COUNTY. The CITY assumes full responsibility for the maintenance of advance warning signs and pavement markings and agrees to hold harmless and indemnify the RAILROAD for any claims, damages or losses, in whole or in part, caused by or due to the CITY'S failure to maintain the advance warning signs and markings or other requirements of the MMUTCD.

8. The COUNTY must give RAILROAD's Manager of Public Projects written Notice to Proceed with the railroad portion of the work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from COUNTY.

ARTICLE IV- JOINT OBLIGATIONS

In consideration of the mutual covenants of the parties contained herein and the premises, the parties mutually agree as follows:

1. All cost records of the RAILROAD pertaining to the Project will be open to inspection and audit at any reasonable time by representatives of the COUNTY (including the legislative auditor and fiscal analyst for the COUNTY) and the Federal Highway Administration for a period of not less than three (3) years from the date of the final RAILROAD invoice under this Agreement.

2. Upon completion of the installation of the Crossing Signal Equipment and the new crossing surface, and provided that CITY makes timely payments on the maintenance payments described in Article III, Section 6 above, the RAILROAD will operate and maintain the Crossing Signal Equipment and the new crossing surface in proper condition until the end of its lifespan.

3. Notwithstanding the preceding provision, if any regulations, ordinances, acts, rules or other laws subsequently passed or amended by the CITY or any other appropriate governmental or legislative authority increase the CITY's portion of maintenance costs under this Agreement, RAILROAD will receive the benefit of any such regulations, ordinances, acts, rules or other laws and the CITY'S increased portion of maintenance costs will be incorporated into and made a part of this Agreement.

4. If a future railway or a highway improvement project necessitates rearrangement, relocation, or alteration of the Crossing Signal Equipment or the crossing surface installed hereunder, the costs for such rearrangement, relocation or alteration will be the responsibility of the party requesting such changes.

5. If any of the Crossing Signal Equipment is partially or wholly destroyed, then such repair and/or replacement costs must be distributed among the parties as follows:

a) In the event the RAILROAD's sole negligence destroys or damages the Crossing Signal Equipment, RAILROAD must reimburse CITY for the costs to replace or repair such Crossing Signal Equipment.
b) In the event the Crossing Signal Equipment is damaged or destroyed by any other cause, CITY must, at its sole cost and expense, replace or repair such Crossing Signal Equipment.

6. If the Crossing Signal Equipment installed hereunder cannot, through age, be maintained, or, by virtue of its obsolescence, requires replacement, the cost of installation of new crossing signal equipment will be negotiated by the parties hereto on the basis of the current Federal Aid Railroad Signal Program participation and applicable agency at the time such replacement is warranted.

7. This Agreement will inure to the benefit of and be binding on the parties hereto, their successors, and assigns.

8. In the event any paragraph contained in this Agreement or any item, part, or term within any particular paragraph is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remaining paragraphs or items will not be affected; and the rights and obligations of the parties will be construed and enforced as if this Agreement did not contain that particular paragraph or item held to be invalid or unenforceable.

9. This Agreement may be signed in counterparts, any one of which will be deemed to be an original. The parties further agree that any facsimile copy of a party's signature is valid and binding to the same extent as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BNSF RAILWAY COMPANY

By:_____

Printed Name: _____

Title:_____

Hennepin County, MN

By:_____

Printed Name: _____

Title:_____

City of Brooklyn Park, MN

By:_____

Printed Name: _____

Title:_____

BNSF
RAILWAY

Exhibit "A"

[Insert drawing of crossing here]

Exhibit "B"

[Insert plans and specifications detailing Railroad's work]

Exhibit "C"

[INSERT ESTIMATE OF RAILROAD'S COSTS HERE]

GRADE CROSSING CONSTRUCTION AND MAINTENANCE AGREEMENT

BNSF File No.: BF10015565
Mile Post 9.39, 9.99, and 10.467
Line Segment 202
U.S. DOT Numbers 068447E, 095636X, and 095637E
Monticello Subdivision

This Agreement **("Agreement")**, is executed to be effective as of this _____ day of _____, 20__ **("Effective Date")**, by and between BNSF RAILWAY COMPANY, a Delaware corporation **("BNSF");** Hennepin County, a political subdivision of the State of Minnesota **("COUNTY")**; and the City of Brooklyn Park, a political subdivision of the State of Minnesota **("CITY"**) (collectively "PARTIES").

RECITALS:

WHEREAS, BNSF owns and operates a line of railroad in and through the City of Brooklyn Park, Hennepin County, State of Minnesota;

WHEREAS, in the interest of aiding vehicular travel and public safety, the COUNTY is widening a portion of County State Aid Highway 81 (Bottineau Boulevard) ("CSAH 81"), and the COUNTY and CITY are cooperating to contemporaneously alter and improve certain COUNTY and CITY roads that intersect with CSAH 81 (the "Project");

WHEREAS, the Project will affect CSAH 81 and County State Aid Highway 130 (Brooklyn Boulevard) ("CSAH 130") (collectively, the "COUNTY ROADS"),

WHEREAS, the Project will also affect 73rd Avenue and Green Haven Drive, which are located in and owned by the City of Brooklyn Park – (collectively, the "CITY ROADS");

WHEREAS, work associated with the Project will result in reconstruction and alteration of the roadways at three existing at-grade railroad crossings (collectively, the **"Crossings"**), located at BNSF Line Segment 202:

- DOT #068447E, MP 9.39, 73rd Ave.
- DOT #095636X, MP 9.99, County State Aid Highway 130 / Brooklyn Blvd.

WHEREAS, by separate condemnation action Hennepin County v. BNSF Railway Company, District Court File 27-CV-18-18399, Parcels 401 and 404 ("Condemnation

Action") the COUNTY condemned permanent right of way easements from BNSF to facilitate ongoing maintenance and ownership of the Project (**"Permanent Easements"**);

WHEREAS, the negotiated settlement amount for the Permanent Easements is $146,857 which shall be filed in a Report of Condemnation Commission in the Condemnation Action (**"Condemnation Action"**);

WHEREAS, the Permanent Easements acquired in the above Condemnation Action shall be recorded in a Final Certificate, as required by Minnesota Statute Section 117.205;

WHEREAS, the COUNTY will transfer the Permanent Easements located adjacent to the CITY ROADS to CITY following completion of the Project;

WHEREAS, the County also condemned temporary construction easements for the Project as part of the above Condemnation Action to serve as the County's construction access (**"Temporary Construction Easements"**);

WHEREAS, the PARTIES have negotiated a settlement amount of $7,800 for the Temporary Construction Easements and such access is subject to execution of this Agreement;

WHEREAS, the Temporary Construction Easements acquired in the Condemnation Action shall be extended from September 30, 2021 through September 30, 2022, as more fully set forth herein;

WHEREAS, the COUNTY, CITY, and BNSF have further executed or intend to execute separate grade crossing signal installation agreements whereby the COUNTY shall reimburse BNSF for BNSF's cost of replacing the crossing surfaces and crossing signal equipment at each of the Crossings ("Crossing Agreements");

WHEREAS, by a separate construction cooperative agreement previously executed between the COUNTY and the CITY, the CITY will reimburse the COUNTY for certain capital and right of way expenses associated with the Project;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the PARTIES agree as follows:

ARTICLE I) SCOPE OF WORK

1. The term **"Project"** as used herein includes any and all work related to the reconstruction and widening of CSAH 81 by the COUNTY, including work within the BNSF right-of-way at the intersections of CSAH 130 and 73rd Ave. N within the City of Brooklyn Park, Minnesota. Such work includes grading, installation of pavement, pavement markings, and other roadway construction activities more particularly described in Exhibit

A, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation (the "Improvements").

2. The COUNTY, CITY, and BNSF also have executed or intend to execute the Crossing Agreements for the installation of crossings signals and new crossing surfaces at all three affected Crossings:

- DOT #068447E, MP 9.39, 73rd Ave.
- DOT #095636X, MP 9.99, CSAH 130 / Brooklyn Blvd.

The PARTIES agree that no work within the BNSF right-of-way as contemplated in this Agreement can begin at any of the Crossings until the separate, corresponding Crossing Agreement is executed.

ARTICLE II) RAILROAD OBLIGATIONS

In consideration of the covenants of COUNTY and CITY set forth herein and the faithful performance thereof, BNSF agrees as follows:

1. Upon the entry of an order in the Condemnation Action approving the Stipulation for Commissioner Award attached hereto as Exhibit B and the execution of the separate Crossing Agreements referenced in Article I, Section 2, the County may enter upon and use the portion of BNSF's right-of-way as is necessary to reconstruct and thereafter maintain, the Improvements within the Temporary Construction Easement and Permanent Easement areas as described further on Exhibit A-1, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

(a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said right-of-way;

(b) Construct, operate, maintain, renew and/or relocate upon said right-of-way, without limitation, such facilities as the BNSF may from time to time deem appropriate;

(c) Otherwise use or operate the right-of-way as BNSF may from time to time deem appropriate.

The term of the Temporary Construction Easements as established by the Condemnation Action is extended to September 30, 2022. . The Temporary Construction Easements and Permanent Easements and related rights are without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words herein contained. The County acknowledges that the Temporary Construction Easements are for construction of the Improvements only and

shall not be used by the County for any other purpose. The County further acknowledges and agrees that the County shall not have the right, under the Temporary Construction Easements, to use the Improvements for any other purpose than construction. In the event Agency is evicted by anyone owning, or claiming title to or any interest in said right-of-way, BNSF will not be liable to the County for any damages, losses or any expenses of any nature whatsoever.
The County may further enter upon and use that portion of the Permanent Easement areas as is necessary to use and maintain the Improvements as provided herein.

2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the Improvements, such railroad work and the estimated cost thereof being as shown on Exhibit D attached hereto and made a part hereof. In the event construction on the Improvements has not commenced within six (6) months following the Effective Date, BNSF may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit D. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit D not specifically mentioned therein may be included as a part of this Agreement upon written approval of COUNTY, which approval will not be unreasonably withheld. Construction of the Improvements must include the following railroad work by BNSF:

(a) Procurement of materials, equipment and supplies necessary for the railroad work;

(b) Preliminary engineering, design, and contract preparation;

(c) Furnishing of flagging services during construction of the Improvements as required and set forth in further detail on Exhibit C, attached to this Agreement and made a part hereof;

(d) Furnishing engineering and inspection as required in connection with the construction of the Improvements ;

(e) Make such changes in the alignment, location and elevation of its telephone, telegraph, signal and/or wire lines and appurtenances along, over or under the tracks, both temporary and permanent, as may become necessary by reason of the construction of the Improvements .

3. BNSF will perform all railroad work set forth in Article II, Section 2 above on an actual cost basis.

4. COUNTY agrees to reimburse BNSF for work of an emergency nature caused by COUNTY or COUNTY's contractor in connection with the Improvements which BNSF deems is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF without prior approval of COUNTY and COUNTY agrees to fully reimburse BNSF for all such emergency work.

5. BNSF may charge COUNTY for insurance expenses, including self-insurance expenses, when such expenses cover the cost of Employer's Liability (including, without limitation, liability under the Federal Employer's Liability Act) in connection with the construction of the Improvements. Such charges will be considered part of the actual cost of the Improvements, regardless of the nature or amount of ultimate liability for injury, loss or death to BNSF's employees, if any.

6. During the construction of the Improvements, BNSF will send COUNTY progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. COUNTY must reimburse BNSF for completed force-account work within thirty (30) days of the date of the invoice for such work. Upon completion of the Improvements, BNSF will send COUNTY a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. Pursuant to this section and Article IV, Section 7 herein, COUNTY must pay the final invoice within ninety (90) days of the date of the final invoice. BNSF will assess a finance charge of .033% per day (12% per annum) on any unpaid sums or other charges due under this Agreement which are past its credit terms. The finance charge continues to accrue daily until the date payment is received by BNSF, not the date payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in dispute and any unposted payments received by the month's end. Finance charges will be noted on invoices sent to COUNTY under this section.

ARTICLE III) COUNTY AND CITY OBLIGATIONS

In consideration of the covenants of BNSF set forth herein and the faithful performance thereof, COUNTY and CITY agree as follows:

1. COUNTY must furnish to BNSF plans and specifications for the Improvements. Said plans (reduced size 11" x 17"), showing the plan and profile of the roadway work on BNSF Right-of-Way and marked as Exhibit A, attached hereto and made a part hereof, must be submitted to BNSF for the development of railroad cost estimates.

2. COUNTY must make any required application and obtain all required permits and approvals for the construction of the Improvements.

3. COUNTY must acquire any additional rights of way necessary for the construction of the Improvements.

4. COUNTY must make any and all arrangements, in compliance with BNSF's Utility Accommodation Manual (http://www.bnsf.com/communities/faqs/pdf/utility.pdf), for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than BNSF which may be necessary for the construction of the Improvements.

5. COUNTY must construct the Improvements as shown on the attached Exhibit A and do all work ("COUNTY's Work") provided for in the plans and specifications for the Improvements, except railroad work that will be performed by BNSF hereunder. COUNTY must furnish all labor, materials, tools and equipment for the performance of COUNTY's Work. The principal elements of COUNTY's Work are as follows:

(a) Design and Reconstruction of County Highway 81, County Highway 130, 73rd Ave., and Green Haven Dr.;

(b) Installation of a pavement marking stop bar in accordance with the Minnesota Manual on Uniform Traffic Control Devices (hereinafter called, "MMUTCD");

(c) Installation of advance warning signs in accordance with the MMUTCD

(d) Perform all necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's right-of-way;

(e) Provide suitable drainage, both temporary and permanent, at the Crossings;

(f) Construct asphalt/concrete roadway surface on approaches to each track.

(g) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF;

(h) Install new highway traffic control signals.

7. The COUNTY must have advanced railroad crossing signs and standard pavement markings in place at the crossing shown on Exhibit A (if the same are required by the MMUTCD) prior to the acceptance of the Improvements by the COUNTY.

8. The COUNTY must give BNSF's Manager Public Projects written notice to proceed ("**Notice to Proceed**") with the railroad portion of the work after receipt of necessary funds for the Improvements. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written Notice to Proceed is received from COUNTY.

9. The COUNTY's Work must be performed by COUNTY or COUNTY's contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.

10. For any future inspection or maintenance of the Crossings, either routine or otherwise, performed by contractors or other agents on behalf of the COUNTY or CITY, as appropriate for each Crossing, COUNTY or CITY shall require the agents to comply with the provisions of the attached Exhibit C and execute the agreement attached hereto as Exhibit C-1 or other standard right-of-access agreement as BNSF may designate at the time, and pay BNSF reasonable processing fees for such agreement. Prior to performing any future maintenance with its own personnel, COUNTY or CITY shall: comply with all of BNSF's applicable safety rules and regulations; require any COUNTY or CITY employee performing maintenance to complete the safety training program at the BNSF's Internet Website "www.bnsfcontractor.com"; notify BNSF when, pursuant to the requirements of Exhibit C, a flagger is required to be present; procure, and have approved by BNSF's Risk Management Department, Railroad Protective Liability insurance.

11. COUNTY must require its contractor(s) to notify BNSF's Roadmaster at least thirty (30) calendar days prior to requesting a BNSF flagman in accordance with the requirements of Exhibit C attached hereto. Additionally, COUNTY must require its contractor(s) to notify BNSF's Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.

12. COUNTY must include the following provisions in any contract with its contractor(s) performing work on said Improvements:

(a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or right-of-way. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The contractor will be responsible for contacting BNSF and the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The contractor must also use all reasonable methods when working in the BNSF right-of-way or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.

(b) Failure to mark or identify these Lines will be sufficient cause for BNSF to stop construction at no cost to the COUNTY or BNSF until these items are completed.

(c) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.

(d) In addition to the liability terms contained elsewhere in this Agreement, the contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's right-of-way, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's right-of-way, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies).**THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF BNSF.**

13. COUNTY must require compliance with the obligations set forth in this agreement, including Exhibit C and Exhibit C-1, and incorporate in each prime contract for construction of the Improvements, or the specifications therefor (i) the provisions set forth in Article III and IV; and (ii) the provisions set forth in Exhibit C and Exhibit C-1, attached hereto and by reference made a part hereof.

14. Except as otherwise provided below in this Section 14, all construction work performed hereunder by COUNTY for the Improvements will be pursuant to a contract or contracts to be let by COUNTY, and all such contracts must include the following:

(a) All work performed under such contract or contracts within the limits of BNSF's right-of-way must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;

(b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;

(c) No work will be commenced within BNSF's Right-of-Way until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF an agreement in the form of Exhibit C-1, and (ii) delivered to and secured BNSF's approval of the required insurance; and

(d) If it is in COUNTY's best interest, COUNTY may direct that the construction of the Improvements be done by day labor under the direction and control of COUNTY, or if at any time, in the opinion of COUNTY, the contractor has failed to prosecute with diligence the work specified in and by the terms of said contract, COUNTY may terminate its contract with the contractor and take control over the work and proceed to complete the same by day labor or by employing another contractor(s) provided; however, that any contractor(s) replacing the original contractor(s) must comply with the obligations in favor of BNSF set forth above and, provided further, that if such construction is performed by day labor, COUNTY will, at its expense, procure and maintain on behalf of BNSF the insurance required by Exhibit C-1.

(e) To facilitate scheduling for the Improvements, COUNTY shall have its contractor give BNSF's Roadmaster 30 days' advance notice of the proposed times and dates for work windows. BNSF and COUNTY's contractor will establish mutually agreeable work windows for the Project. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Impovements.

15. COUNTY must advise the appropriate BNSF Manager Public Projects, in writing, of the completion date of the Improvements within thirty (30) days after such completion date. Additionally, COUNTY must notify BNSF's Manager Public Projects, in writing, of the date on which COUNTY and/or its Contractor will meet with BNSF for the purpose of making final inspection of the Improvements.

16. **TO THE FULLEST EXTENT PERMITTED BY LAW, COUNTY HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF COUNTY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE COUNTY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE**

SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF COUNTY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) COUNTY'S BREACH OF ANYEXISTING LICENSE OR EASEMENT AGREEMENT, (V) ANY NEW RIGHTS OR INTERESTS GRANTED TO COUNTY PURSUANT TO ANY EASEMENT DISCUSSED IN THIS AGREEMENT, (VI) COUNTY'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RIGHT-OF-WAY RELATED TO THE PROJECT, INCLUDING, WITHOUT LIMITATION, SUBSEQUENT MAINTENANCE OF THE IMPROVEMENTS BY COUNTY, OR (VII) AN ACT OR OMISSION OF COUNTY OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY COUNTY WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF BNSF.

TO THE FULLEST EXTENT PERMITTED BY LAW, CITY HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF CITY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE CITY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF CITY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) CITY'S BREACH OF ANY EXISTING LICENSE OR EASEMENT AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED OR ASSIGNED TO CITY PURSUANT TO THE EASEMENTS DISCUSSED IN ARTICLE II, (VI) CITY'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RIGHT-OF-WAY, INCLUDING, WITHOUT LIMITATION, SUBSEQUENT MAINTENANCE OF THE CROSSINGS BY CITY, OR (VII) AN ACT OR OMISSION OF CITY OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY CITY WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS

OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF BNSF.

ARTICLE IV) JOINT OBLIGATIONS

IN CONSIDERATION of the premises, the PARTIES hereto mutually agree to the following:

1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's approval prior to the commencement of any such changes or modifications.

2. The work hereunder must be done in accordance with the Exhibit A and the detailed plans and specifications approved by BNSF.

3. COUNTY must require its contractor(s) to reasonably adhere to the Improvement project's construction schedule for all Improvement work. The PARTIES hereto mutually agree that BNSF's failure to complete the railroad work in accordance with the construction schedule due to inclement weather or unforeseen railroad emergencies will not constitute a breach of this Agreement by BNSF and will not subject BNSF to any liability. Regardless of the requirements of the construction schedule, BNSF reserves the right to reallocate the labor forces assigned to complete the railroad work in the event of an emergency to provide for the immediate restoration of railroad operations of either BNSF or its related railroads, or to protect persons or property on or near any BNSF owned property. BNSF will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. The PARTIES mutually agree that any reallocation of labor forces by BNSF pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this Agreement by BNSF.

4. BNSF will have the right to stop construction work on the Improvements if any of the following events take place: (i) COUNTY (or any of its contractors) performs the Improvements work in a manner contrary to the plans and specifications approved by BNSF; (ii) COUNTY (or any of its contractors), in BNSF's opinion, prosecutes the Improvements work in a manner that is hazardous to BNSF property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Improvements; or (iv) COUNTY fails to pay BNSF for the Temporary Construction Easements or Permanent Easement as required by this Agreement and / or applicable laws. The work stoppage will continue until all necessary actions are taken by COUNTY or its contractor to rectify the situation

to the satisfaction of BNSF's Division Engineer or until proof of additional insurance has been delivered to and accepted by BNSF. In the event of a breach of this Agreement, BNSF may immediately suspend all work on and occupancy of the easement areas by COUNTY or CITY, its contractors and other agents until COUNTY or CITY remedies such breach. Any such work stoppage under this provision will not give rise to any liability on the part of BNSF. BNSF's right to stop the work is in addition to any other rights BNSF may have including, but not limited to, actions or suits for damages or lost profits. In the event that BNSF desires to stop construction work on the Improvements, BNSF agrees to immediately notify the following individual in writing:

Kelly Agosto
1600 Prairie Drive
Medina, MN 55430
kelly.agosto@hennepin.us

5. COUNTY must supervise and inspect the operations of all COUNTY contractors to ensure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of BNSF. If BNSF determines that proper supervision and inspection are not being performed by COUNTY personnel at any time during construction of the Improvements, BNSF has the right to stop construction (within or adjacent to its operating right-of-way). Construction of the Improvements will not proceed until COUNTY corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify _____ for appropriate corrective action.

6. Pursuant to this section and Article II, Section 6 herein, COUNTY must, out of funds made available to it for the construction of the Improvements, reimburse BNSF in full for the **actual costs** of all work performed by BNSF under this Agreement (including taxes, such as applicable sales and use taxes, business and occupation taxes, and similar taxes).

7. All expenses detailed in statements sent to COUNTY pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Title 23 U.S. Code, Title 23 Code of Federal Regulations, and the Federal-Aid Policy Guide, U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The PARTIES mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Improvements even though such work may have preceded the date of this Agreement.

8. The construction of the Improvements will not commence until COUNTY gives BNSF's Manager Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference BNSF's file number BF10015565 and D.O.T. Crossing No. 095636X and must state the time that construction activities will begin.

9. In addition to the terms and conditions set forth elsewhere in this Agreement, BNSF, the COUNTY, and the CITY agree to the following terms upon completion of construction of the Improvements:

(a) COUNTY and CITY will each own and be fully responsible for repairs, maintenance, future construction or reconstruction of the COUNTY ROADS and CITY ROADS, respectively.

(b) COUNTY and CITY will each maintain the elevation of the roadway approaches on the COUNTY ROADS and CITY ROADS respectively to match the elevation on the railroad track crossing surfaces and to be no more than three (3) inches above or six (6) inches below top-of-rail elevation at a distance measured thirty (30) feet from the nearest rail.

(c) COUNTY will maintain the advanced railroad crossing warning signs and pavement markings on the COUNTY ROADS and agrees to hold harmless and indemnify BNSF for any portion of claims, damages or lossescaused by or due to the COUNTY's failure to maintain the advanced warning signs and markings or other requirements of the MMUTCD.

(d) CITY will maintain the advanced railroad crossing warning signs and pavement markings on the CITY ROADS and agrees to hold harmless and indemnify BNSF for any portion of claims, damages or losses caused by or due to the CITY's failure to maintain the advanced warning signs and markings or other requirements of the MMUTCD.

(d) COUNTY and CITY will do nothing and permit nothing to be done in the maintenance of the Crossings, which will interfere with or endanger facilities of BNSF.

(e) It is expressly understood by COUNTY, CITY, and BNSF that any right to install utilities will be governed by a separate permit or license agreement between the PARTIES hereto. Nothing in this Agreement nor the Temporary Construction Easements or Permanent Easements shall grant or be interpreted to provide any right to third parties to install utilities on, over, under, across or through the easement areas.

10. COUNTY or CITY must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's Right-of-Way for **Inspection and Maintenance** purposes and the BNSF Manager of Public Projects will determine if flagging is required..

11. Any books, papers, records and accounts of the PARTIES hereto relating to the work hereunder or the costs or expenses for labor and material connected with the construction will at all reasonable times be open to inspection and audit by the agents and authorized representatives of the PARTIES hereto, as well as the State of Minnesota

and the Federal Highway Administration, for a period of three (3) years from the date of the final BNSF invoice under this Agreement.

12. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the PARTIES hereto. Notwithstanding the preceding sentence, neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party.

13. In the event construction of the Improvements does not commence within 24 months of the Effective Date, this Agreement will become null and void.

14. Neither termination nor expiration of this Agreement will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

15. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.

16. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein) is the full and complete agreement between BNSF, COUNTY, and CITY with respect to the subject matter herein.

17. Any notice provided for herein or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the PARTIES at the following addresses:

BNSF: BNSF's Manager Public Projects
80 44th Ave. NE
Minneapolis, MN 55421

COUNTY: Kelly Agosto
1600 Prairie Drive
Medina, MN 55340

CITY: Jesse Struve
5200 85th Ave N
Brooklyn Park, MN 55443

18. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together,

will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.

IN WITNESS WHEREOF, the PARTIES hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first above written.

BNSF RAILWAY COMPANY

By: _____

Printed Name: _____

Title: _____

WITNESS:

_____

Hennepin County

By: _____

Printed Name: _____

Title: _____

WITNESS:

_____

City of Brooklyn Park

By: _____

Printed Name: _____

Title: _____

WITNESS:

_____

Exhibit A-1

[Insert cross-hatched drawing of the Temporary Construction License and Structure]

[BARTLETT AND WEST TO PREPARE EXHIBIT A]

Exhibit B

Stipulation for Commissioner Award

EXHIBIT "C"

CONTRACTOR REQUIREMENTS

1.01 General:

- **1.01.01** The Contractor must cooperate with **BNSF RAILWAY COMPANY**, hereinafter referred to as "**Railway**" where work is over or under on or adjacent to Railway property and/or right-of-way, hereafter referred to as "Railway Property", during the construction of Hennepin County Highway 81 improvements in Brooklyn Park, MN.

- **1.01.02** The Contractor must execute and deliver to the Railway duplicate copies of the Exhibit "C-1" Agreement, in the form attached hereto, obligating the Contractor to provide and maintain in full force and effect the insurance called for under Section 3 of said Exhibit "C-1". Questions regarding procurement of the Railroad Protective Liability Insurance should be directed to Rosa Martinez at Marsh, USA, 214-303-8519.

- **1.01.03** The Contractor must plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Railway Property.

- **1.01.04** The Contractor's right to enter Railway's Property is subject to the absolute right of Railway to cause the Contractor's work on Railway's Property to cease if, in the opinion of Railway, Contractor's activities create a hazard to Railway's Property, employees, and/or operations. Railway will have the right to stop construction work on the Project if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the Project work in a manner contrary to the plans and specifications approved by Railway; (ii) Contractor (or any of its subcontractors), in Railway's opinion, prosecutes the Project work in a manner which is hazardous to Railway property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) COUNTY or CITY is in breach of the Construction and Maintenance Agreement. The work stoppage will continue until all necessary actions are taken by Contractor or its subcontractor to rectify the situation to the satisfaction of Railway's Division Engineer or until additional insurance has been delivered to and accepted by Railway. . Any such work stoppage under this provision will not give rise to any liability on the part of Railway. Railway's right to stop the work is in addition to any other rights Railway may have including, but not limited to, actions or suits for damages or lost profits. In the event that Railway desires to stop construction work on the Project, Railway agrees to immediately notify the following individual in writing:

Kelly Agosto
1600 Prairie Drive

Medina, MN 55430
kelly.agosto@hennepin.us

- **1.01.05** The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to environmental laws and regulations (including but not limited to the Resource Conservation and Recovery Act, as amended; the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA), and health and safety laws and regulations. The Contractor hereby indemnifies, defends and holds harmless Railway for, from and against all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railway which arise out of Contractor's work under this Agreement.

- **1.01.06** The Contractor must notify **Hennepin County** at 612-596-0365 and Railway's Manager Public Projects, telephone number (763) 782-3495 at least thirty (30) calendar days before commencing any work on Railway Property. Contractor's notification to Railway must refer to Railway's file BF10015565.

- **1.01.07** For any bridge demolition and/or falsework above any tracks or any excavations located with any part of the excavations located within, whichever is greater, twenty-five (25) feet of the nearest track or intersecting a slope from the plane of the top of rail on a 2 horizontal to 1 vertical slope beginning at eleven (11) feet from centerline of the nearest track, both measured perpendicular to center line of track, the Contractor must furnish the Railway five sets of working drawings showing details of construction affecting Railway Property and tracks. The working drawing must include the proposed method of installation and removal of falsework, shoring or cribbing, not included in the contract plans and two sets of structural calculations of any falsework, shoring or cribbing. For all excavation and shoring submittal plans, the current "BNSF-UPRR Guidelines for Temporary Shoring" must be used for determining the design loading conditions to be used in shoring design, and all calculations and submittals must be in accordance with the current "BNSF-UPRR Guidelines for Temporary Shoring". All submittal drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. All calculations must take into consideration railway surcharge loading and must be designed to meet American Railway Engineering and Maintenance-of-Way Association (previously known as American Railway Engineering Association) Coopers E-80 live loading standard. All drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. The Contractor must not begin work until notified by the Railway that plans have been approved. The Contractor will be required to use lifting devices such as, cranes and/or winches to place or to remove any falsework over Railway's tracks. In no case will the Contractor be relieved of responsibility for results obtained by the implementation of said approved plans.

- **1.01.08** Subject to the movement of Railway's trains, Railway will cooperate with the Contractor such that the work may be handled and performed in an efficient manner. The Contractor will have no claim whatsoever for any type of damages or for extra or additional compensation in the event his work is delayed by the Railway.

1.02 Contractor Safety Orientation

- **1.02.01 No employee of the Contractor, its subcontractors, agents or invitees may enter Railway Property without first having completed Railway's Engineering Contractor Safety Orientation, found on the web site www.bnsfcontractor.com. The Contractor must ensure that each of its employees, subcontractors, agents or invitees completes Railway's Engineering Contractor Safety Orientation through internet sessions before any work is performed on the Project. Additionally, the Contractor must ensure that each and every one of its employees, subcontractors, agents or invitees possesses a card certifying completion of the Railway Contractor Safety Orientation before entering Railway Property. The Contractor is responsible for the cost of the Railway Contractor Safety Orientation. The Contractor must renew the Railway Contractor Safety Orientation annually. Further clarification can be found on the web site or from the Railway's Representative.**

1.03 Railway Requirements

- **1.03.01** The Contractor must take protective measures as are necessary to keep railway facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by the Agency.

- **1.03.02** The Contractor must notify the Railway's Manager Engineering David Johnson at (763) 782-3005 and provide blasting plans to the Railway for review seven (7) calendar days prior to conducting any blasting operations adjacent to or on Railway's Property.

- **1.03.03** The Contractor must abide by the following temporary clearances during construction:

    - 15'-0" Horizontally from centerline of nearest track
    - 21'-6" Vertically above top of rail
    - 27'-0" Vertically above top of rail for electric wires carrying less than 750 volts
    - 28'-0" Vertically above top of rail for electric wires carrying 750 volts to 15,000 volts
    - 30'-0" Vertically above top of rail for electric wires carrying 15,000 volts to

20,000 volts
- 34'-0" Vertically above top of rail for electric wires carrying more than 20,000 volts

- **1.03.04** Upon completion of construction, the following clearances shall be maintained:
  - 25' Horizontally from centerline of nearest track
  - 23' 6" Vertically above top of rail

- **1.03.05** Any infringement within State statutory clearances due to the Contractor's operations must be submitted to the Railway and to Hennepin County and must not be undertaken until approved in writing by the Railway, and until Hennepin County has obtained any necessary authorization from the State Regulatory Authority for the infringement. No extra compensation will be allowed in the event the Contractor's work is delayed pending Railway approval, and/or the State Regulatory Authority's approval.

- **1.03.06** In the case of impaired vertical clearance above top of rail, Railway will have the option of installing tell-tales or other protective devices Railway deems necessary for protection of Railway operations. The cost of tell-tales or protective devices will be borne by the Agency.

- **1.03.07** The details of construction affecting the Railway's Property and tracks not included in the contract plans must be submitted to the Railway by **Hennepin County** for approval before work is undertaken and this work must not be undertaken until approved by the Railway.

- **1.03.08** At other than public road crossings, the Contractor must not move any equipment or materials across Railway's tracks until permission has been obtained from the Railway. The Contractor must obtain a "Temporary Construction Crossing Agreement" from the Railway prior to moving his equipment or materials across the Railways tracks. The temporary crossing must be gated and locked at all times when not required for use by the Contractor. The temporary crossing for use of the Contractor will be constructed and, at the completion of the project, removed at the expense of the Contractor.

- **1.03.09** Discharge, release or spill on the Railway Property of any hazardous substances, oil, petroleum, constituents, pollutants, contaminants, or any hazardous waste is prohibited and Contractor must immediately notify the Railway's Resource Operations Center at 1(800) 832-5452, of any discharge, release or spills in excess of a reportable quantity. Contractor must not allow Railway Property to become a treatment, storage or transfer facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.

- **1.03.10** The Contractor upon completion of the work covered by this contract, must promptly remove from the Railway's Property all of Contractor's tools, equipment,

implements and other materials, whether brought upon said property by said Contractor or any Subcontractor, employee or agent of Contractor or of any Subcontractor, and must cause Railway's Property to be left in a condition acceptable to the Railway's representative.

1.04 Contractor Roadway Worker on Track Safety Program and Safety Action Plan:

- **1.04.01** Each Contractor that will perform work within 25 feet of the centerline of a track must develop and implement a Roadway Worker Protection/On Track Safety Program and work with Railway Project Representative to develop an on track safety strategy as described in the guidelines listed in the on track safety portion of the Safety Orientation. This Program must provide Roadway Worker protection/on track training for all employees of the Contractor, its subcontractors, agents or invitees. This training is reinforced at the job site through job safety briefings. Additionally, each Contractor must develop and implement the Safety Action Plan, as provided for on the web site www.bnsfcontractor.com, which will be made available to Railway prior to commencement of any work on Railway Property. During the performance of work, the Contractor must audit its work activities. The Contractor must designate an on-site Project Supervisor who will serve as the contact person for the Railway and who will maintain a copy of the Safety Action Plan, safety audits, and Material Safety Datasheets (MSDS), at the job site.

- **1.04.02** Contractor shall have a background investigation performed on all of its employees, subcontractors and agents who will be performing any services for Railroad under this Agreement which are determined by Railroad in its sole discretion **a)** to be on Railroad's property, or **b)** that require access to Railroad Critical Infrastructure, Railroad Critical Information Systems, Railroad's Employees, Hazardous Materials on Railroad's property or is being transported by or otherwise in the custody of Railroad, or Freight in Transit involving Railroad.

  The required background screening shall at a minimum meet the rail industry background screening criteria defined by the e-RAILSAFE Program as outlined at http://www.e-railsafe.com, in addition to any other applicable regulatory requirements.

  Contractor shall obtain written consent from all its employees, subcontractors or agents screened in compliance with the e-RAILSAFE Program to participate in the Program on their behalf and to release completed background information to Railroad's designee. Contractor shall be subject to periodic audit to ensure compliance.

  Contractor subject to the e-RAILSAFE Program hereunder shall not permit any of its employees, subcontractors or agents to perform services hereunder who are not first approved under e-RAILSAFE Program standards. Railroad shall have the right to

deny entry onto its premises or access as described in this section above to any of Contractor's employees, subcontractors or agents who do not display the authorized identification badge issued by a background screening service meeting the standards set forth in the e-RAILSAFE Program, or who in Railroad's opinion, which may not be unreasonable, may pose a threat to the safety or security of Railroad's operations, assets or personnel.

Contractors shall be responsible for ensuring that its employees, subcontractors and agents are United States citizens or legally working in the United States under a lawful and appropriate work VISA or other work authorization.

1.05 Railway Flagger Services:

- **1.05.01** The Contractor must give Railway's **Roadmaster (telephone 763-782-3209)** a minimum of thirty (30) calendar days advance notice when flagging services will be required so that the Roadmaster can make appropriate arrangements (i.e., bulletin the flagger's position). If flagging services are scheduled in advance by the Contractor and it is subsequently determined by the parties hereto that such services are no longer necessary, the Contractor must give the Roadmaster five (5) working days advance notice so that appropriate arrangements can be made to abolish the position pursuant to union requirements.

- **1.05.02** Unless determined otherwise by Railway's Project Representative, Railway flagger will be required and furnished when Contractor's work activities are located over, under and/or within twenty-five (25) feet measured horizontally from centerline of the nearest track and when cranes or similar equipment positioned beyond 25-feet from the track centerline could foul the track in the event of tip over or other catastrophic occurrence, but not limited thereto for the following conditions:

    - **1.05.02a** When, upon inspection by Railway's Representative, other conditions warrant.

    - **1.05.02b** When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's representative, track or other Railway facilities may be subject to movement or settlement.

    - **1.05.02c** When work in any way interferes with the safe operation of trains at timetable speeds.

    - **1.05.02d** When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.

    - **1.05.02e** Special permission must be obtained from the Railway before

moving heavy or cumbersome objects or equipment which might result in making the track impassable.

- **1.05.03** Flagging services will be performed by qualified Railway flaggers.

  - **1.05.03a** Flagging crew generally consists of one employee. However, additional personnel may be required to protect Railway Property and operations, if deemed necessary by the Railways Representative.

  - **1.05.03b** Each time a flagger is called, the minimum period for billing will be the eight (8) hour basic day.

  - **1.05.03c** The cost of flagger services provided by the Railway will be borne by **Hennepin County**. The estimated cost for one (1) flagger is approximately between $800.00-$1,600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, vehicle, transportation, meals, lodging, radio, equipment, supervision and other costs incidental to performing flagging services. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. **THE FLAGGING RATE IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF FLAGGING PURSUANT TO THIS PARAGRAPH.**

  - **1.05.03d** The average train traffic on this route is 1 freight trains per 24-hour period at a timetable speed of 25 MPH and 0 passenger trains.

1.06 Contractor General Safety Requirements

- **1.06.01** Work in the proximity of railway track(s) is potentially hazardous where movement of trains and equipment can occur at any time and in any direction. All work performed by contractors within 25 feet of any track must be in compliance with FRA Roadway Worker Protection Regulations.

- **1.06.02** Before beginning any task on Railway Property, a thorough job safety briefing must be conducted with all personnel involved with the task and repeated when the personnel or task changes. If the task is within 25 feet of any track, the job briefing must include the Railway's flagger, as applicable, and include the procedures the Contractor will use to protect its employees, subcontractors, agents or invitees from moving any equipment adjacent to or across any Railway track(s).

- **1.06.03** Workers must not work within 25 feet of the centerline of any track without an on track safety strategy approved by the Railway's Project Representative. When authority is provided, every contractor employee must know: (1) who the Railway flagger is, and how to contact the flagger, (2) limits of the authority, (3) the method of communication to stop and resume work, and (4) location of the designated places of safety. Persons or equipment entering flag/work limits that were not previously job briefed, must notify the flagger immediately, and be given a job briefing when working within 25 feet of the center line of track.

- **1.06.04** When Contractor employees are required to work on the Railway Property after normal working hours or on weekends, the Railway's representative in charge of the project must be notified. A minimum of two employees must be present at all times.

- **1.06.05** Any employees, agents or invitees of Contractor or its subcontractors under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railway's Property and subsequently released to the custody of a representative of Contractor management. Future access to the Railway's Property by that employee will be denied.

- **1.06.06** Any damage to Railway Property, or any hazard noticed on passing trains must be reported immediately to the Railway's representative in charge of the project. Any vehicle or machine which may come in contact with track, signal equipment, or structure (bridge) and could result in a train derailment must be reported immediately to the Railway representative in charge of the project and to the Railway's Resource Operations Center at 1(800) 832-5452. Local emergency numbers are to be obtained from the Railway representative in charge of the project prior to the start of any work and must be posted at the job site.

- **1.06.07** For safety reasons, all persons are prohibited from having pocket knives, firearms or other deadly weapons in their possession while working on Railway's Property.

- **1.06.08** All personnel protective equipment (PPE) used on Railway Property must meet applicable OSHA and ANSI specifications. Current Railway personnel protective equipment requirements are listed on the web site, www.bnsfcontractor.com, however, a partial list of the requirements include: a) safety glasses with permanently affixed side shields (no yellow lenses); b) hard hats; c) safety shoe with: hardened toes, above-the-ankle lace-up and a defined heel; and d) high visibility retro-reflective work wear. The Railway's representative in charge of the project is to be contacted regarding local specifications for meeting requirements relating to hi-visibility work wear. Hearing protection, fall protection, gloves, and respirators must be worn as required by State and Federal regulations. **(NOTE – Should there be a discrepancy between the information contained on the web site and the information in this paragraph, the web site will govern.)**

- **1.06.09 THE CONTRACTOR MUST NOT PILE OR STORE ANY MATERIALS,**

MACHINERY OR EQUIPMENT CLOSER THAN 25'-0" TO THE CENTER LINE OF THE NEAREST RAILWAY TRACK. MATERIALS, MACHINERY OR EQUIPMENT MUST NOT BE STORED OR LEFT WITHIN 250 FEET OF ANY HIGHWAY/RAIL AT-GRADE CROSSINGS OR TEMPORARY CONSTRUCTION CROSSING, WHERE STORAGE OF THE SAME WILL OBSTRUCT THE VIEW OF A TRAIN APPROACHING THE CROSSING. PRIOR TO BEGINNING WORK, THE CONTRACTOR MUST ESTABLISH A STORAGE AREA WITH CONCURRENCE OF THE RAILWAY'S REPRESENTATIVE.

- **1.06.10** Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railway's Property must be left inoperable and secured against movement. (See internet Engineering Contractor Safety Orientation program for more detailed specifications)

- **1.06.11** Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water must meet all Federal, State and Local regulations.

- **1.06.12** All power line wires must be considered dangerous and of high voltage unless informed to the contrary by proper authority. For all power lines the minimum clearance between the lines and any part of the equipment or load must be; 200 KV or below - 15 feet; 200 to 350 KV - 20 feet; 350 to 500 KV - 25 feet; 500 to 750 KV - 35 feet; and 750 to 1000 KV - 45 feet. If capacity of the line is not known, a minimum clearance of 45 feet must be maintained. A person must be designated to observe clearance of the equipment and give a timely warning for all operations where it is difficult for an operator to maintain the desired clearance by visual means.

1.07 Excavation:

- **1.07.01** Before excavating, the Contractor must determine whether any underground pipe lines, electric wires, or cables, including fiber optic cable systems are present and located within the Project work area. The Contractor must determine whether excavation on Railway's Property could cause damage to buried cables resulting in delay to Railway traffic and disruption of service to users. Delays and disruptions to service may cause business interruptions involving loss of revenue and profits. Before commencing excavation, the Contractor must contact **BNSF's Field Engineering Representative (David Johnson 763-782-3005).** All underground and overhead wires will be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line. **It is the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.**

- **1.07.02** The Contractor must cease all work and notify the Railway immediately

before continuing excavation in the area if obstructions are encountered which do not appear on drawings. If the obstruction is a utility and the owner of the utility can be identified, then the Contractor must also notify the owner immediately. If there is any doubt about the location of underground cables or lines of any kind, no work must be performed until the exact location has been determined. There will be no exceptions to these instructions.

- **1.07.03** All excavations must be conducted in compliance with applicable OSHA regulations and, regardless of depth, must be shored where there is any danger to tracks, structures or personnel.

- **1.07.04** Any excavations, holes or trenches on the Railway's Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, the areas must be secured and left in a condition that will ensure that Railway employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

1.08 Hazardous Waste, Substances and Material Reporting:

- **1.08.01** If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to Railway's Property, in or near any surface water, swamp, wetlands or waterways, while performing any work under this Agreement, Contractor must immediately: (a) notify the Railway's Resource Operations Center at 1(800) 832-5452, of such discovery: (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties: and (c) exercise due care with respect to the release, including the taking of any appropriate measure to minimize the impact of such release.

1.09 Personal Injury Reporting

- **1.09.01** The Railway is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invitees while on the Railway's Property must be reported immediately (by phone mail if unable to contact in person) to the Railway's representative in charge of the project. The Non-Employee Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railway at 1(817) 352-7595 and to the Railway's Project Representative no later than the close of shift on the date of the injury.

BNSF RAILWAY

BNSF RAILWAY

(If injuries are in connection with rail equipment accident/incident, highway rail grade crossing accident or automobile accident, ensure that appropriate information is obtained, forms completed and that data entry personnel are aware that injuries relate to that specific event.)

Injured Person Type:

☐ Passenger on train (C)

☐ Non-employee (N)
(i.e., emp of another railroad, or, non-BNSF emp involved in vehicle accident, including company vehicles)

☐ Contractor/safety sensitive (F)

☐ Contractor/non-safety sensitive (G)

☐ Volunteer/safety sensitive (H)

☐ Volunteer/other non-safety sensitive (I)

☐ Non-trespasser (D) - to include highway users involved in highway rail grade crossing accidents who did not go around or through gates

☐ Trespasser (E) - to include highway users involved in highway rail grade crossing accidents who went around or through gates

☐ Non-trespasser (J) - Off railroad property

If train involved, Train ID: _____

Transmit attached information to Accident/Incident Reporting Center by:
Fax 1-817-352-7595 or by Phone 1-800-697-6736 **or email to:** Accident-Reporting.Center@BNSF.com

Officer Providing Information:

_____ _____ _____
(Name) (Employee No.) (Phone #)

REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING REQUIREMENTS AND PROTECTED FROM DISCLOSURE PURSUANT TO 49 U.S.C. 20903 AND 83 U.S.C. 490

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IT IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY.

1. Accident City/St: _____ 2. Date: _____ Time: _____

County: _____ 3. Temperature: _____ 4. Weather: _____
(if non BNSF location)

Mile Post / Line Segment: _____

5. Driver's License No (and state) or other ID: _____ **SSN (required)**: _____

6. Name (last, first, mi): _____

7. Address: _____ City: _____ St: _____ Zip: _____

8. Date of Birth: _____ and/or Age: _____ Gender: _____
(if available)

Phone Number: _____ Employer: _____

9. Injury: _____ 10. Body Part: _____
(i.e., Laceration, etc.) (i.e., Hand, etc.)

11. Description of Accident (To include location, action, result, etc.): _____

_____

_____

_____

12. Treatment:

- ☐ First Aid Only _____
- ☐ Required Medical Treatment _____
- ☐ Other Medical Treatment _____

13. Dr. Name: _____ Date: _____

14. Dr. Address:

Street: _____ City: _____ St: _____ Zip: _____

15. Hospital Name: _____

16. Hospital Address:

Street: _____ City: _____ St: _____ Zip: _____

17. Diagnosis: _____

REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING REQUIREMENTS AND PROTECTED FROM DISCLOSURE PURSUANT TO 49 U.S.C. 20903 AND 83 U.S.C. 490

EXHIBIT "C-1"

Agreement Between
BNSF RAILWAY COMPANY
and the
CONTRACTOR

Railway File: _____

Agency Project: **BF10015565**

_____(hereinafter called "Contractor"), has entered into an agreement (hereinafter called "Agreement") dated _____, 202_, with Hennepin County for the performance of certain work in connection with the following project: Hennepin County Highway 81 improvements in Brooklyn Park, MN. Performance of such work will necessarily require Contractor to enter **BNSF RAILWAY COMPANY** (hereinafter called "Railway") right of way and property (hereinafter called "Railway Property"). The Agreement provides that no work will be commenced within Railway Property until the Contractor employed in connection with said work for Hennepin County (i) executes and delivers to Railway an Agreement in the form hereof, and (ii) provides insurance of the coverage and limits specified in such Agreement and Section 3 herein. If this Agreement is executed by a party who is not the Owner, General Partner, President or Vice President of Contractor, Contractor must furnish evidence to Railway certifying that the signatory is empowered to execute this Agreement on behalf of Contractor.

Accordingly, in consideration of Railway granting permission to Contractor to enter upon Railway Property and as an inducement for such entry, Contractor, effective on the date of the Agreement, has agreed and does hereby agree with Railway as follows:

1) RELEASE OF LIABILITY AND INDEMNITY

Contractor hereby waives, releases, indemnifies, defends and holds harmless Railway for all judgments, awards, claims, demands, and expenses (including attorneys' fees), for injury or death to all persons, including Railway's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or any work performed on or about Railway's property or right-of-way. **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILWAY, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENSIONAL MISCONDUCT OR GROSS NEGLIGENCE OF RAILWAY.**

THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR INCLUDES ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILWAY UNDER THE FEDERAL EMPLOYEE'S LIABILITY ACT, INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE LOCOMOTIVE INSPECTION ACT, WHENEVER SO CLAIMED.

Contractor further agrees, at its expense, in the name and on behalf of Railway, that it will adjust and settle all claims made against Railway, and will, at Railway's discretion, appear and defend any suits or actions of law or in equity brought against Railway on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railway is liable or is alleged to be liable. Railway will give notice to Contractor, in writing, of the receipt or dependency of such claims and thereupon Contractor must proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against Railway, Railway may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railway's discretion, must defend, adjust, or settle such suits and protect, indemnify, and save harmless Railway from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from or incident to any such claims or suits.

In addition to any other provision of this Agreement, in the event that all or any portion of this Article shall be deemed to be inapplicable for any reason, including without limitation as a result of a decision of an applicable court, legislative enactment or regulatory order, the parties agree that this Article shall be interpreted as requiring Contractor to indemnify Railway to the fullest extent permitted by applicable law. **THROUGH THIS AGREEMENT THE PARTIES EXPRESSLY INTEND FOR CONTRACTOR TO INDEMNIFY RAILWAY FOR RAILWAY'S ACTS OF NEGLIGENCE.**

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement survive any termination of this Agreement.

2) TERM

This Agreement is effective from the date of the Agreement until (i) the completion of the project set forth herein, and (ii) full and complete payment to Railway of any and all sums or other amounts owing and due hereunder.

3) INSURANCE

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of $2,000,000 each occurrence and an aggregate limit of at least $4,000,000 but in no event less than the amount otherwise carried by the Contractor. Coverage must be purchased on a post 2004 ISO occurrence form or equivalent and include coverage for, but not limit to the following:

- Bodily Injury and Property Damage
- Personal Injury and Advertising Injury
- Fire legal liability
- Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- Waver of subrogation in favor of and acceptable to Railway.
- Additional insured endorsement in favor of and acceptable to Railway.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to ***Railway*** employees.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy with regard to the work being performed under this agreement.

B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least $1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

The policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Railway.
- Additional insured endorsement in favor of and acceptable to Railway.
- Separation of insureds.

- The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

C. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:

- Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
- Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 by disease policy limit, $500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Railway.

D. Railroad Protective Liability insurance naming only the ***Railway*** as the Insured with coverage of at least $2,000,000 per occurrence and $6,000,000 in the aggregate. The policy Must be issued on a standard ISO form CG 00 35 12 04 and include the following:

- Endorsed to include the Pollution Exclusion Amendment
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to remove any exclusion for punitive damages.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to the ***Railway*** prior to performing any work or services under this Agreement
- Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured' care, custody, and control arising out of the acts or omissions of the contractor named on the Declarations.

In lieu of providing a Railroad Protective Liability Policy, Licensee may participate (if available) in Railway's Blanket Railroad Protective Liability Insurance Policy.

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages.

Contractor agrees to waive its right of recovery against ***Railway*** for all claims and suits against ***Railway***. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against ***Railway*** for all claims

and suits. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against ***Railway*** for loss of its owned or leased property or property under Contractor's care, custody or control.

Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Contractor is not allowed to self-insure without the prior written consent of ***Railway.*** If granted by ***Railway***, any self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all ***Railway*** liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing services, Contractor shall furnish to ***Railway*** an acceptable certificate(s) of insurance from an authorized representative evidencing the required coverage(s), endorsements, and amendments. The certificate should be directed to the following address:

BNSF Railway Company
c/o CertFocus
P.O. Box 140528
Kansas City, MO 64114
Toll Free: 877-576-2378
Fax number: 817-840-7487
Email: BNSF@certfocus.com
www.certfocus.com

Contractor shall notify ***Railway*** in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration.

Any insurance policy shall be written by a reputable insurance company acceptable to ***Railway*** or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Contractor hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this Agreement. Annually Contractor agrees to provide evidence of such coverage as required hereunder.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement.

Not more frequently than once every five years, ***Railway*** may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Contractor, Contractor shall require that the subcontractor shall provide and maintain insurance coverage(s) as set forth herein, naming ***Railway*** as an additional insured, and shall require that the subcontractor shall release, defend and indemnify ***Railway*** to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify ***Railway*** herein.

Failure to provide evidence as required by this section shall entitle, but not require, ***Railway*** to terminate this Agreement immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by ***Railway*** shall not be limited by the amount of the required insurance coverage.

In the event of a claim or lawsuit involving ***Railway*** arising out of this agreement, Contractor will make available any required policy covering such claim or lawsuit.

These insurance provisions are intended to be a separate and distinct obligation on the part of the Contractor. Therefore, these provisions shall be enforceable and Contractor shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

For purposes of this section, ***Railway*** shall mean “Burlington Northern Santa Fe LLC”, “BNSF Railway Company” and the subsidiaries, successors, assigns and affiliates of each.

4) SALES AND OTHER TAXES

In the event applicable sales taxes of a state or political subdivision of a state of the United States are levied or assessed in connection with and directly related to any amounts invoiced by Contractor to Railway (“Sales Taxes”), Railway shall be responsible for paying only the Sales Taxes that Contractor separately states on the invoice or other billing documents provided to Railway; *provided, however,* that (i) nothing herein shall preclude Railway from claiming whatever Sales Tax exemptions are applicable to amounts Contractor bills Railway, (ii) Contractor shall be responsible for all sales, use, excise, consumption, services and other taxes which may accrue on all services, materials, equipment, supplies or fixtures that

Contractor and its subcontractors use or consume in the performance of this Agreement, (iii) Contractor shall be responsible for Sales Taxes (together with any penalties, fines or interest thereon) that Contractor fails to separately state on the invoice or other billing documents provided to Railway or fails to collect at the time of payment by Railway of invoiced amounts (except where Railway claims a Sales Tax exemption), and (iv) Contractor shall be responsible for Sales Taxes (together with any penalties, fines or interest thereon) if Contractor fails to issue separate invoices for each state in which Contractor delivers goods, provides services or, if applicable, transfers intangible rights to Railway.

Upon request, Contractor shall provide Railway satisfactory evidence that all taxes (together with any penalties, fines or interest thereon) that Contractor is responsible to pay under this Agreement have been paid. If a written claim is made against Contractor for Sales Taxes with respect to which Railway may be liable for under this Agreement, Contractor shall promptly notify Railway of such claim and provide Railway copies of all correspondence received from the taxing authority. Railway shall have the right to contest, protest, or claim a refund, in Railway's own name, any Sales Taxes paid by Railway to Contractor or for which Railway might otherwise be responsible for under this Agreement; provided, however, that if Railway is not permitted by law to contest any such Sales Tax in its own name, Contractor shall, if requested by Railway at Railway's sole cost and expense, contest in Contractor's own name the validity, applicability or amount of such Sales Tax and allow Railway to control and conduct such contest.

Railway retains the right to withhold from payments made under this Agreement amounts required to be withheld under tax laws of any jurisdiction. If Contractor is claiming a withholding exemption or a reduction in the withholding rate of any jurisdiction on any payments under this Agreement, before any payments are made (and in each succeeding period or year as required by law), Contractor agrees to furnish to Railway a properly completed exemption form prescribed by such jurisdiction. Contractor shall be responsible for any taxes, interest or penalties assessed against Railway with respect to withholding taxes that Railway does not withhold from payments to Contractor.

5) EXHIBIT "C" CONTRACTOR REQUIREMENTS

The Contractor must observe and comply with all provisions, obligations, requirements and limitations contained in the Agreement, and the Contractor Requirements set forth on Exhibit "C" attached to the Agreement and this Agreement, including, but not be limited to, payment of all costs incurred for any damages to Railway roadbed, tracks, and/or appurtenances thereto, resulting from use, occupancy, or presence of its employees, representatives, or agents or subcontractors on or about the construction site. Contractor shall execute a Temporary Construction Crossing Agreement or Private Crossing Agreement (http://www.bnsf.com/communities/faqs/permits-real-estate/), for any temporary crossing requested to aid in the construction of this Project, if approved by BNSF.

6) TRAIN DELAY

Contractor is responsible for and hereby indemnifies and holds harmless Railway (including its affiliated railway companies, and its tenants) for, from and against all damages arising from any unscheduled delay to a freight or passenger train which affects Railway's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be billed, as further provided below, for the economic losses arising from loss of use of equipment, contractual loss of incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, or subcontractors, or by the Railway performing work under this Agreement. Railway agrees that it will not perform any act to unnecessarily cause train delay.

For loss of use of equipment, Contractor will be billed the current freight train hour rate per train as determined from Railway's records. Any disruption to train traffic may cause delays to multiple trains at the same time for the same period.

Additionally, the parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts between Railway and its customer(s). Under these arrangements, if Railway does not meet its contract service commitments, Railway may suffer loss of performance or incentive pay and/or be subject to penalty payments. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railway which are attributable to a train delay caused by Contractor or its subcontractors.

The contractual relationship between Railway and its customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railway will share information relevant to any train delay to the extent consistent with Railway confidentiality obligations. The rate then in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of train delay pursuant to this agreement.

Contractor and its subcontractors must give Railway’s representative Kota Patton (763-782-3209) four (4) weeks advance notice of the times and dates for proposed work windows. Railway and Contractor will establish mutually agreeable work windows for the project. Railway has the right at any time to revise or change the work windows due to train operations or service obligations. Railway will not be responsible for any additional costs or expenses resulting from a change in work windows. Additional costs or expenses resulting from a change in work windows shall be accounted for in Contractor’s expenses for the project.

Contractor and subcontractors must plan, schedule, coordinate and conduct all Contractor's work so as to not cause any delays to any trains.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized officer the day and year first above written.

_____

By: _____

Printed Name: _____

Title: _____

Contact Person: _____

Address: _____

City: _____

State: _____ Zip: _____

Fax: _____

Phone: _____

E-mail: _____

BNSF Railway Company

By:_____

Name: _____

Title: _____

Accepted and effective this _____day of 20__.

City of Brooklyn Park
Request for Council Action

Agenda Item:	5.1	**Meeting Date:**	November 8, 2021
Agenda Section:	Public Hearings	**Originating Department:**	Community Development
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Megan Bookey, Program Assistant III
Attachments:	1	**Presented By:**	Keith Jullie, Rental and Business Licensing Manager
Item:	Public Hearing to Solicit Testimony and Approve the Currency Exchange License for SJB Enterprises Inc. dba Your Exchange, Located at 7646 Brooklyn Boulevard North		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO SOLICIT TESTIMONY AND APPROVE THE CURRENCY EXCHANGE LICENSE FOR SJB ENTERPRISES INC. DBA YOUR EXCHANGE, LOCATED AT 7646 BROOKLYN BOULEVARD NORTH.

Overview:

This is a Currency Exchange license for SJB Enterprises Inc. dba Your Exchange at 7646 Brooklyn Boulevard North.

As described in the attached license letter, Minnesota Statutes Chapter 53A.04 requires the Department of Commerce to submit an application for licensure as a currency exchange to the city in which the currency exchange business is located, and to hold a public hearing to solicit input on the issuance of the license. The City has 60 days to reply; otherwise, a recommendation for approval is presumed. The City may recommend denial of the license renewal with cause.

There are no known code violations existing at the property currently and staff recommends approval of this Currency Exchange license. The City's approval would forward the application to the Commissioner of Commerce for the final decision.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

5.1A SJB ENTERPRISES RENEWAL LETTER

COMMERCE DEPARTMENT

October 12, 2021

Sent via e-mail and regular mail to:
devin.montero@brooklynpark.org

City of Brooklyn Park
Attention: City Clerk – Devin Montero
5200 85th Avenue North
Brooklyn Park, MN 55443

RE: Currency Exchange License Renewal for 2022

Dear Mr. Montero:

The following currency exchange licensee has made application to renew their currency exchange license to operate at:

SJB Enterprises Inc
7646 Brooklyn Boulevard
Brooklyn Park, MN 55443
NMLS Branch #1550663

Pursuant to Minnesota Statutes Chapter 53A.04, we are notifying your office that a complete currency exchange license renewal application has been filed with the Department of Commerce. The renewal application included the names of the officers and owners of the licensee, background checks on each of the owners and officers from the Minnesota Bureau of Criminal Apprehension, a fee schedule of all fees to be charged by the currency exchange office, a $10,000 surety bond valid through December 31, 2022, and the $500 renewal fee. If you wish to receive a copy of the complete currency exchange license renewal application form that was filed with this office, please call Jessica at 651-539-1570 or via email at jessica.trouten@state.mn.us and the renewal form will be emailed to you.

Minnesota Statutes Chapter 53A.04 requires the Department of Commerce to submit any application for licensure as a currency exchange to the governing body of the local unit of government in which the currency exchange business is located. The law further requires the governing body to give published notice of its intention to consider the issue and shall solicit testimony from interested persons, including those in the community in which the licensee is located. If the governing body has not approved or disapproved the issue within 60 days of receipt of the application, concurrence is presumed. The governing body shall have the sole responsibility for its decision. The state shall have no responsibility for that decision. Your cooperation in forwarding this information to the proper unit within your organization is appreciated.

Your reply must be received within 60 days of receipt of this letter. If you have any questions, please contact me at the telephone number or email listed below.

Very truly yours,

Jaime Awoyinka

Jaime Awoyinka
Financial Institutions Division
651-539-1721
Jaime.awoyinka@state.mn.us

City of Brooklyn Park
Request for Council Action

Agenda Item:	5.2	**Meeting Date:**	November 8, 2021
Agenda Section:	Public Hearings	**Originating Department:**	Community Development
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Megan Bookey, Program Assistant III
Attachments:	1	**Presented By:**	Keith Jullie, Rental and Business Licensing Manager
Item:	Public Hearing to Solicit Testimony and approve the Currency Exchange License for Unbank Company LLP Located at 6319 Zane Avenue North		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO SOLICIT TESTIMONY AND APPROVE THE CURRENCY EXCHANGE LICENSE FOR UNBANK COMPANY, LLP LOCATED AT 6319 ZANE AVENUE NORTH.

Overview:

This is a Currency Exchange license renewal for Unbank Company LLP located at 6319 Zane Avenue North.

As described in the attached license letter, Minnesota Statutes Chapter 53A.04 requires the Department of Commerce to submit an application for licensure as a currency exchange to the city in which the currency exchange business is located, and to hold a public hearing to solicit input on the renewal of the license. The City has 60 days to reply; otherwise, a recommendation for approval is presumed. The City may recommend denial of the license renewal with cause.

There are no known code violations existing at the property currently and staff recommends approval of this Currency Exchange license. The City's approval would forward the application to the Commissioner of Commerce for the final decision.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

5.2A UNBANK COMPANY RENEWAL LETTER

November 1, 2021

Sent via e-mail and regular mail to:
devin.montero@brooklynpark.org

City of Brooklyn Park
Attention: City Clerk – Devin Montero
5200 85th Avenue North
Brooklyn Park, MN 55443

RE: Currency Exchange License Renewal for 2022

Dear Mr. Montero:

The following currency exchange licensee has made application to renew their currency exchange license to operate at:

Unbank Company, LLP
6319 Zane Avenue N
Brooklyn Park, MN 55429
NMLS Branch #1676936

Pursuant to Minnesota Statutes Chapter 53A.04, we are notifying your office that a complete currency exchange license renewal application has been filed with the Department of Commerce. The renewal application included the names of the officers and owners of the licensee, background checks on each of the owners and officers from the Minnesota Bureau of Criminal Apprehension, a fee schedule of all fees to be charged by the currency exchange office, a $10,000 surety bond valid through December 31, 2022, and the $500 renewal fee. If you wish to receive a copy of the complete currency exchange license renewal application form that was filed with this office, please call Jessica at 651-539-1570 or via email at jessica.trouten@state.mn.us and the renewal form will be emailed to you.

Minnesota Statutes Chapter 53A.04 requires the Department of Commerce to submit any application for licensure as a currency exchange to the governing body of the local unit of government in which the currency exchange business is located. The law further requires the governing body to give published notice of its intention to consider the issue and shall solicit testimony from interested persons, including those in the community in which the licensee is located. If the governing body has not approved or disapproved the issue within 60 days of receipt of the application, concurrence is presumed. The governing body shall have the sole responsibility for its decision. The state shall have no responsibility for that decision. Your cooperation in forwarding this information to the proper unit within your organization is appreciated.

Your reply must be received within 60 days of receipt of this letter. If you have any questions, please contact me at the telephone number or email listed below.

Very truly yours,

Jaime Awoyinka

Jaime Awoyinka
Financial Institutions Division
651-539-1721
Jaime.awoyinka@state.mn.us

City of Brooklyn Park
Request for Council Action

Agenda Item:	5.3	**Meeting Date:**	November 8, 2021
Agenda Section:	Public Hearings	**Originating Department:**	Community Development
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Megan Bookey, Program Assistant III
Attachments:	2	**Presented By:**	Keith Jullie, Rental and Business Licensing Manager
Item:	Approve an On-Sale Brewer Taproom License and Off-Sale Brewer License for Heavy Rotation Brewing Company Corp. doing business as Heavy Rotation Brewing located at 9801 Xenia Avenue N., Brooklyn Park		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE AN ON-SALE BREWER TAPROOM LICENSE FOR HEAVY ROTATION BREWING COMPANY CORP. DBA HEAVY ROTATION BREWING, LOCATED AT 9801 XENIA AVENUE N. AND CONTINGENT UPON RECEIVING ALL REQUIRED BUILDING PERMITS, INSPECTIONS, A CERTIFICATE OF OCCUPANCY, AND ALL REQUIRED LICENSES FROM THE STATE OF MINNESOTA.

MOTION _____, SECOND _____, TO APPROVE AN OFF-SALE BREWER LICENSE FOR HEAVY ROTATION BREWING COMPANY CORP. DBA HEAVY ROTATION BREWING, LOCATED AT 9801 XENIA AVENUE N. AND CONTINGENT UPON RECEIVING ALL REQUIRED BUILDING PERMITS, INSPECTIONS, A CERTIFICATE OF OCCUPANCY AND ALL REQUIRED LICENSES FROM THE STATE OF MINNESOTA.

Overview:
This is a public hearing solicit testimony and consider approval of a new brewery tap room for Heavy Rotation Brewing Company Corporation, doing business as Heavy Rotation Brewing, located at 9801 Xenia Ave. N. Brooklyn Park.

The on-sale brewer license allows service of brewed liquor produced at the location for customers to consume on-site. The off-sale brewer license allows sales of brewed liquor produced at the location for customers to take with them and consume off-site.

The Conditional Use Permit (CUP) for Heavy Rotation Brewing Company will be brought before the Council for consideration tonight in agenda item 6.1.

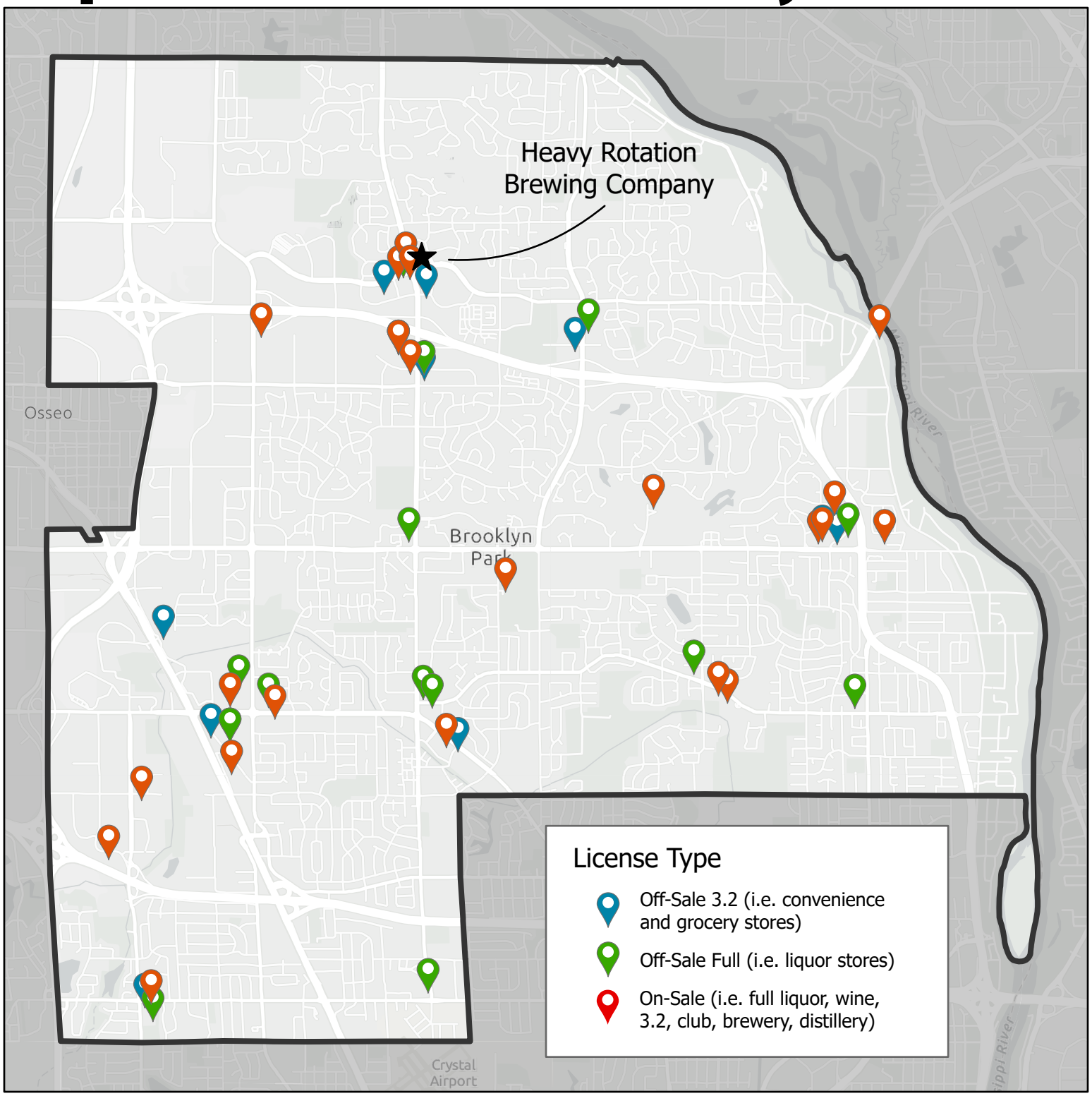
The Community Development Department has completed the review of the application. The Police Department has completed their investigation of the owners and managers. The space that Heavy Rotation Brewing will be moving into is still under construction and the liquor licenses are contingent upon receiving all required building permits, inspections, a Certificate of Occupancy, and all other licenses and approvals required by the State of Minnesota. Staff recommends approval of these licenses.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:
5.3A LIQUOR ON-SALE AND OFF-SALE MAP
5.3B LIQUOR ON-SALE AND OFF-SALE LIST

Liquor Licenses in Brooklyn Park



Brooklyn Park
Unique. United. Undiscovered.

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. Basemap source: ArcGIS Online.

Created on 11/2/2021 by Brooklyn Park GIS

Business Name	Address	Business Type	On / Off Sale	Liquor Type
AMOCO	8050 LAKELAND AVE N	Gas - Food	Off-sale	3.2
BILL'S SUPERETTE	6290 BOONE AVE N	Gas - Food	Off-sale	3.2
HOLIDAY STATIONSTORE	8500 EDINBURGH CTR DR N	Gas - Food	Off-sale	3.2
KWIK TRIP	9495 NOBLE PKWY N	Gas - Food	Off-sale	3.2
KWIK TRIP	5801 96TH AVE N	Gas - Food	Off-sale	3.2
SPEEDWAY	7601 JOLLY LN N	Gas - Food	Off-sale	3.2
SPEEDWAY	9300 ZANE AVE N	Gas - Food	Off-sale	3.2
SPEEDWAY	7525 BROOKLYN BLVD N	Gas - Food	Off-sale	3.2
CUB FOODS	9655 COLORADO LN N	Grocery	Off-sale	3.2
CUB FOODS	7555 WEST BROADWAY N	Grocery	Off-sale	3.2
FESTIVAL FOODS	8535 EDINBURGH CTR DR N	Grocery	Off-sale	3.2
HY-VEE FOOD STORE	9409 ZANE AVE N	Grocery	Off-sale	3.2
BIG LIQUOR	8022 BROOKLYN BLVD N	Liquor Store	Off-sale	Full
BROOKLYN PARK LIQUOR	8520 EDINBURGH CTR DR N	Liquor Store	Off-sale	Full
CELLARS WINES & SPIRITS	7944 BROOKLYN BLVD N	Liquor Store	Off-sale	Full
CITY LIQUOR	5716 BROOKDALE DR N	Liquor Store	Off-sale	Full
CUB DISCOUNT LIQUOR	7555 WEST BROADWAY N	Liquor Store	Off-sale	Full
G-WILL LIQUORS	6256 BOONE AVE N	Liquor Store	Off-sale	Full
HY-VEE WINE & SPIRITS	9409 ZANE AVE N SUITE B	Liquor Store	Off-sale	Full
IKE'S WINE & SPIRITS	9682 COLORADO LN N	Liquor Store	Off-sale	Full
KELLY'S LIQUOR	3210 BROOKDALE DR N	Liquor Store	Off-sale	Full
MADDIES LIQUOR	8521 ZANE AVE N	Liquor Store	Off-sale	Full
MERWIN LIQUORS	7636 BROOKLYN BLVD N	Liquor Store	Off-sale	Full
PARK LIQUOR OUTLET	6315 ZANE AVE N	Liquor Store	Off-sale	Full
PIXIE LIQUOR	1512 BROOKDALE DR N	Liquor Store	Off-sale	Full
TM LIQUORS	9318 ZANE AVE N	Liquor Store	Off-sale	Full
UP NORTH LIQUOR	9570 NOBLE PKWY N	Liquor Store	Off-sale	Full
BOWLERO	7545 BROOKLYN BLVD N	Bowling Alley	On-sale	Full
HEAVY ROTATION	9801 XENIA AVE N	Brewery	On & Off sale	Brewery
BLUE WOLF BREWING COMPANY	8515 EDINBURGH CTR DR N	Brewery	On & Off sale	Brewery
PALMER LAKE VFW	2817 BROOKDALE DR N	Club	On-sale	Full
SKAALVENN DISTILLERY	8601 73RD AVE N	Distillary	On-sale	Distillary
BUASAVANH	7324 LAKELAND AVE N	Event Center	On-sale	Full

LEOPOLD'S MISSISSIPPI GARDENS	9500 WEST RIVER RD N	Event Center	On-sale	Full
BROOKLAND EXECUTIVE NINE GOLF	8232 REGENT AVE N	Golf	On-sale	3.2
HAMPTON INN	9470 WEST BROADWAY N	Hotel	On-sale	3.2
MINNEAPOLIS MARRIOTT NORTHWEST	7025 NORTHLAND DR N	Hotel	On-sale	Full
BROADWAY PIZZA	8525 EDINBURGH CTR DR N	Restaurant	On-sale	Full
CAM'S BAR & EATERY	8517 63RD AVE N	Restaurant	On-sale	Full
CHIPOTLE MEXICAN	5901 94TH AVE N SUITE 101	Restaurant	On-sale	Full
THE BROOKLYN	8700 EDINBROOK CROSSING N	Restaurant	On-sale	Full
DOS HERMANOS MEXICAN GRILL AND BAR	1408 85TH AVE N	Restaurant	On-sale	Full
EL LORO MEXICAN	7901 BROOKLYN BLVD N	Restaurant	On-sale	Full
HY-VEE MARKET GRILLE	9409 ZANE AVE N SUITE A	Restaurant	On-sale	Full
LEMON GRASS THAI	8600 EDINBURGH CTR DR N	Restaurant	On-sale	Full
MAD JACKS SPORTS CAFE	8078 BROOKLYN BLVD N	Restaurant	On-sale	Full
MC'S TAP HOUSE	9690 COLORADO LN N	Restaurant	On-sale	Full
ORO BANQUET - BAR & RESTAURANT	2875 BROOKDALE DR N	Restaurant	On-sale	Full
ROLLS AND BOWLS	9656 COLORADO LN N	Restaurant	On-sale	Wine
TOKYO SUSHI ALL YOU CAN EAT	9750 SCHREIBER TER N	Restaurant	On-sale	Wine

City of Brooklyn Park
Request for Council Action

Agenda Item:	6.1	**Meeting Date:**	November 8, 2021
Agenda Section:	Land Use Actions	**Originating Department:**	Community Development
Resolution:	X		
Ordinance:	N/A	**Prepared By:**	Todd A. Larson, Senior Planner
Attachments:	7	**Presented By:**	Paul Mogush, Planning Director
Item:	Heavy Rotation Brewing (Kenneth Smith, Scott Smith, and Joshua Denny) – Conditional Use Permit #21-119 for a Brewery and Taproom at 9801 Xenia Avenue N., Suite 105		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2021-_____ APPROVING AMENDED CONDITIONAL USE PERMIT FOR A BREWERY AND TAPROOM AT 9801 XENIA AVENUE NORTH.

Planning Commission Recommendation:

At its meeting on October 13, 2021, the Planning Commission unanimously (8-0) recommended approval of the Conditional Use Permit (CUP) with the conditions that are listed in the attached resolution.

Overview:

The applicant team would like to open a brewery with a taproom in the 9,352 square foot Stone Mountain Plaza retail building. The 3,217 square foot space will provide the company a place to brew its beer and an area where customers can enjoy its brews. The building has a CUP for retail uses, so an amendment is necessary to add the brewery and taproom uses.

Taprooms in conjunction with a brewery have become popular in Minnesota over the past few years. This business will be Brooklyn Park's second taproom. A taproom is only allowed to serve the beers that are brewed on site. No food will be served, but the brewery owners will allow people to bring in their own food or make a take-out order from a nearby restaurant. Occasionally, a food truck may be parked outside. The space also has two outdoor patio areas that will be used for additional seating. The applicant will be installing decorative fencing around the patios.

Anticipated initial daily hours of operation will be from noon until 10:00 p.m. but could be expanded or adjusted as the business grows. State law prohibits the serving of alcohol past 2:00 a.m.

As a condition of the CUP, the applicant must hold a taproom license (a type of liquor license), which is the previous agenda item. The brewery will be selling beer for on-site consumption and to take home (off-sale liquor license).

The site was designed for retail and restaurant uses which have similar parking demands as a taproom, though City Code does not list a standard for brewery with taproom businesses.

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:

6.1A RESOLUTION
6.1B LOCATION MAP
6.1C PLANNING AND ZONING INFORMATION
6.1D PLANNING COMMISSION MINUTES
6.1E RESOLUTIONS #2017-147 AND #2018-86
6.1F APPLICANT'S NARRATIVE
6.1G PLANS

RESOLUTION #2021-

RESOLUTION APPROVING AMENDED CONDITIONAL USE PERMIT
FOR A BREWERY AND TAPROOM AT 9801 XENIA AVENUE NORTH

Planning Commission File #21-119

WHEREAS, Messrs. Ken Smith, Scott Smith, and Joshua Denny have made an application for a Conditional Use Permit (CUP) to operate a brewery and taproom on property legally described as:

Lot 3, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota

WHEREAS, the property has a conditional use permit approved by Resolution #2017-147 recorded as Documents A10491942 and T05484109 and amended by Resolution #2018-86 for a retail building; and

WHEREAS, the proposed use on a brewery and tap room requires an amendment to the conditional use permit to add these uses; 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 the neighborhood have been considered.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that the Conditional Use Permit for a brewery and taproom is hereby granted subject to the following conditions:

1. A building permit may be issued consistent with the floor plans presented to the Planning Commission and City Council.

2. The business must obtain and maintain the required brewery taproom and off-sale license(s).

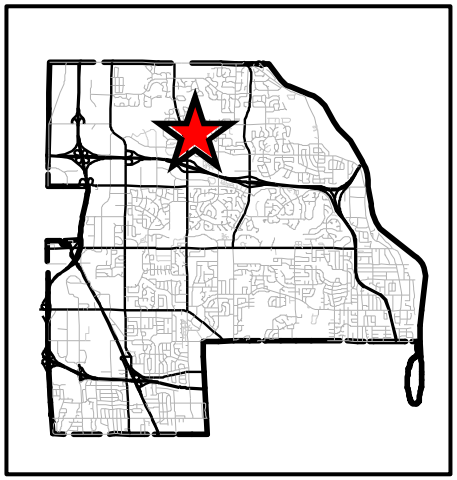
This resolution must be recorded with the Hennepin County Recorder's office prior to issuance of building permits. This resolution expires one year from the date of approval unless all conditions are met.

Conditional Use Permit #21-119 Brewery Taproom
9801 Xenia Ave. N., Suite 105

Brooklyn Park Community Development

Spring 2018 Air Photo (prior to construction of the building)

100 Feet



Map Date October 7, 2021

Land Use Plan	Community Commercial
Current Zoning	Town Center (TC)
Surrounding Zoning	All Sides – Town Center (TC)
Neighborhood	Founders
Building Area	9,325 ft²
Tenant Space Area	3,217 ft²

Conforms to:
- Land Use Plan – Yes
- Zoning Code – Yes
- Variances Needed – None

Public Notification	27 mailed notices Sun Post Legal Notices – September 30, 2021 1 Proposed Development Sign Neighborhood Update Email – Founders

Photo 1. The east end of the building where the brewery is proposed (October 11, 2021).

UNAPPROVED MINUTES
MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION
Regular Meeting – October 13, 2021

1. CALL TO ORDER

The meeting was called to order at 7:00 PM.

2. ROLL CALL/PLEDGE OF ALLEGIANCE

Those present were: Commissioners Cavin, Husain, Kiekow, Kisch, Klonowski, Lee, Turnham, and Udomah; Council Liaison Jacobson; Planning Director Mogush; Senior Planner Larson.

Those arrived late: None

Those not present were: Commissioner Vosberg (with prior notice).

6. PUBLIC HEARING

A. **Kenneth Smith, Scott Smith, Joshue Denny –** Brewery and taproom at Stone Mountain Plaza at 9801 Xenia Avenue North, Suite 105

Senior Planner Larson introduced the application for a conditional use permit amendment for what was publicized as Bold North Brewing, noting that the name of the brewery has changed. He displayed the layout of the Stone Mountain Plaza which is a multi-tenant retail building. He stated that the building was approved for retail and restaurant uses, noting that a brewery and taproom is a different use and therefore requires an amendment to the conditional use permit. He recognized that the proposed use would operate similarly to a restaurant and therefore the available parking would be sufficient. He stated that the proposed site was designed for a restaurant use with an outdoor seating area. He noted that staff recommends approval of the request.

Ken Smith, the applicant, stated that the name was changed to Heavy Rotation Brewing. He stated that he and his partners have been part of the brewing industry for multiple years with experience at different locations. He stated that they are excited to bring their family friendly business to Brooklyn Park and create additional jobs.

Commission Chair Kisch opened the public hearing.

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

Commissioner Klonowski asked if Mr. Smith has been in contact with the nearby childcare facility.

Mr. Smith replied that they have not but noted that their business is family friendly. He stated that they view that business as a perk in the area, as families could come to the business after picking up their children. He stated that they can reach out to the business.

Commissioner Klonowski recognized that breweries are typically family and pet friendly. She stated that her only concern would be whether there would be concern from the childcare facility about people drinking and possibly driving from a location so close to where children are. She understood that the City does not have regulations against that.

Senior Planner Larson stated that the childcare business was mailed a public hearing notice and there is a public hearing notice posted at the property and there were no comments from that business.

Commissioner Cavin stated that he shared the same question and had nothing further.

Commissioner Husain asked the capacity of the space and whether there would be live music.

Mr. Smith replied that the capacity is 145 to 165 seated. He stated that if they had live music, it would be acoustic, and they would follow any permitting requests for outdoor music.

MOTION LEE, SECOND TURNHAM, TO RECOMMEND APPROVAL OF AMENDMENT TO CONDITIONAL USE PERMIT FOR A BREWERY AND TAPROOM AT 9801 XENIA AVENUE NORTH, SUITE 105, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.

MOTION CARRIED UNANIMOUSLY.

Planning Director Mogush stated the public hearing item is scheduled to be reviewed at the City Council meeting on October 25, 2021.

Doc No **A10491942**

Certified, filed and/or recorded on
Oct 20, 2017 2:02 PM

Office of the County Recorder
Hennepin County, Minnesota
Martin McCormick, County Recorder
Mark Chapin, County Auditor and Treasurer

Deputy 26 Pkg ID 1613360C

Document Recording Fee	$46.00
Document Total	$46.00

This cover sheet is now a permanent part of the recorded document.

Doc No **T05484109**

Certified, filed and/or recorded on
Oct 20, 2017 2:02 PM

Office of the Registrar of Titles
Hennepin County, Minnesota
Martin McCormick, Registrar of Titles
Mark Chapin, County Auditor and Treasurer

Deputy 26	Pkg ID 1613256C
Document Recording Fee	$46.00
Multiple Certificates Affected Fee	$20.00
Document Total	$66.00

Existing Certs
1422447, 1453032

This cover sheet is now a permanent part of the recorded document.

RESOLUTION #2017-147

RESOLUTION APPROVING CONDITIONAL USE PERMITS FOR
"STONE MOUNTAIN PLAZA"
NORTHEAST OF ZANE AVENUE AND OAK GROVE PARKWAY

Planning Commission File #17-116

WHEREAS, Mr. David Larson of Stone Mountain Plaza has made application for Conditional Use Permits under the provisions of Chapter 152 of the City Code on properties legally described as:

PINT – *Lot 4, Block 1, Stone Mountain Addition, Hennepin County, Minnesota;*
Lot 1, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota;
Lot 2, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota;
Lot 3, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota;
Lot 4, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota;

WHEREAS, the property is subject to a Development Plan in the Town Center zoning district as described by Sections 152.460 through 152.467 of City Code; and

WHEREAS, all uses consistent with the Comprehensive Plan are conditional uses in the Town Center zoning district; and

WHEREAS, the Development Plan ("the development"), as approved in Resolution #2017-146, identifies building sites for different types of users, as well as overall site requirements; 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 the neighborhood have been considered.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that Conditional Use Permits are hereby granted for the following uses with conditions:

1.00 Office/Retail Building

The use located on *Lot 1, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota,* is approved for a multi-tenant office or retail building in conjunction with the following conditions:

1.01 Per plans dated 07-24-2017.

1.02 A bike rack must be installed.

2.00 Child Care Building

The use located on *Lot 2, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota,* is approved for a child care use subject to the following conditions:

2.01 Per plans dated 07-25-2017.

2.02 The expansion area as shown on plans may be constructed in the future provided it matches the design of the building and is in the location shown.

3.00 Retail/Office Building

The use located on *Lot 3, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota,* is approved for a retail and office building subject to the following conditions:

3.01 Per plans dated 07-24-2017.

3.02 The patio areas may be used for restaurant seating in the event such a use were to occupy the adjacent tenant spaces.

3.03 In the event additional capacity is needed for waste, an additional enclosure may be constructed in the rear of the building.

3.04 A bike rack must be installed.

4.00 Restaurant Building with Drive-Thru

The restaurant use located on *Lot 4, Block 1, Stone Mountain Addition, Hennepin County, Minnesota,* is approved for a restaurant businesses with a drive-thru subject to the following conditions:

4.01 Per plans dated 06-30-2017.

4.02 The 9 parking spaces along the eastern side of the parcel and the 15 spaces along the north side of the parcels as shown on Site Plan dated 06-30-2017 will not be installed during initial construction. In the event parking demands more spaces, the property owner will work with City staff to install.

4.03 The fire hydrant shown to be "relocated" must be relocated to the southeastern portion of the parking lot

5.00 Restaurant Building with Drive-Thru

The restaurant use located on *Lot 4, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota*, is approved for a restaurant businesses with a drive-thru subject to the following conditions:

5.01 Per plans dated 07-24-2017.

5.02 The LED Light banding shown atop the building must be shielded.

5.03 No more than 35 percent of the building's exterior may be covered in EIFS.

6.00 Conditions Applicable to All Parcels

The following conditions are applicable to all users and the development as a whole:

6.01 All parking spaces must be shared by all users across the development. No exclusive parking spaces are allowed. Spaces may be limited by time.

6.02 Parking spaces toward the center of the development may be identified for employee parking.

6.03 The electronic message center sign near the intersection of Zane Avenue and Oak Grove Parkway must not display messages or images that are primarily red, yellow, or green that could confuse drivers with the nearby traffic signal.

6.04 Wall signs are permitted on all buildings facades facing a public roadway or a customer area up to ten percent of each wall or tenant space.

6.05 Because of the two shared area identification signs, no other free standing signs are allowed per 150.28(A).

6.06 Outdoor sales, display, and storage are not permitted, except with a Special Event Permit.

6.07 All exterior lighting must conform to City Code. All building lighting must be downcast and shielded.

7.00 Previous Conditional Use Permits

7.01 Conditional Use Permits on the following parcels granted through Resolution #2015-105 and recorded as Document Number T5344733 were never constructed and are hereby declared null and void:

Lot 2, Block 1, Stone Mountain Addition, Hennepin County, Minnesota.
Lot 3, Block 1, Stone Mountain Addition, Hennepin County, Minnesota.
Lot 4, Block 1, Stone Mountain Addition, Hennepin County, Minnesota.

7.02 A Conditional Use Permit granted through Resolution #1994-179 and recorded at Document Number T2537999 has been discontinued for over 365 consecutive days and is hereby declared null and void.

This resolution must be recorded with the Hennepin County Recorder's office. All approvals will remain valid unless the use is discontinued for 365 consecutive dates or any condition is violated.

The foregoing resolution was introduced by Council Member Jacobson and duly seconded by Council Member B. Mata.
The following voted in favor of the resolution: Jacobson, Gates, B. Mata, Parks, Lunde, Pha and M. Mata.
The following voted against: None.
The following was absent: None.
Where upon the resolution was adopted.

ADOPTED: August 28, 2017

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 August 28, 2017.

WITNESS my hand officially as such Clerk and the corporate seal of the City this 29th day of August 2017.

(SEAL)

DEVIN MONTERO, CITY CLERK

RESOLUTION #2018-86

RESOLUTION TO AMEND THE CONDITIONAL USE PERMIT
TO INCREASE THE STONE MOUNTAIN CENTER RETAIL BUILDING AREA TO 9,352 SQUARE FEET
AT 9801 XENIA AVENUE NORTH

Planning Commission File #18-109

WHEREAS, Mr. David Larson of Stone Mountain Plaza has made application for amending a Conditional Use Permit under the provisions of Chapter 152 of the City Code on properties legally described as:

Lot 3, Block 1, Stone Mountain 2nd Addition, Hennepin County, Minnesota;

WHEREAS, the property is subject to a Development Plan in the Town Center zoning district as described by Sections 152.460 through 152.467 of City Code; and

WHEREAS, all uses consistent with the Comprehensive Plan are conditional uses in the Town Center zoning district; and

WHEREAS, a Conditional Use Permit was approved in Resolution #2017-147 for a 6,000 square foot multi-tenant retail and office building and recorded as Document Number A10491942; and

WHEREAS, the applicant has requested to construct a larger building; 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 impact on the neighborhood have been considered.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that Conditional Use Permit for a 9,352 square foot retail and office building is hereby granted per plans dated 03-29-2018. All other conditions listed in Resolution #2017-147 remain in effect.

The foregoing resolution was introduced by Council Member B. Mata and duly seconded by Council Member Parks.
The following voted in favor of the resolution: Pha, Jacobson, Parks, Gates, B. Mata and Lunde.
The following voted against: None.
The following was absent: M. Mata.
Where upon the resolution was adopted.

ADOPTED: May 29, 2018

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 May 29, 2018.

WITNESS my hand officially as such Clerk and the corporate seal of the City this 30th day of May 2018.

(SEAL)

DEVIN MONTERO, CITY CLERK

BOLD NORTH BREWING COMPANY

9801 Xenia Ave North
Brooklyn Park, MN 55443

Kenneth Smith, Scott Smith & Joshua Denny

Created on June 10th, 2021

Executive Summary

Product:

Bold North Brewing Co. brews small batches of classic, trendy & unique styles of craft beer.

Customers:

The target audience for Bold North Brewing is adults, specifically adults that enjoy craft beer.

Future of the Company:

Although the craft beer business is highly competitive, we believe that there is a place in this area of Brooklyn Park, MN for high-quality, delicious, small batch beers. Our goal is to brew and market beers that will not only attract the neighborhood, but craft beer drinkers from all over the state for many years to come.

Company Description

Mission Statement:

To brew and sell high-quality small batch beers that will be enjoyed by all. Craft beer brewed by people that enjoy craft beer.

Principal Members:

Kenneth Smith — owner, marketing, sales
Scott Smith — owner, sales
Joshua Denny — owner, brewer

Legal Structure:

Bold North Brewing Co. is a C-Corp.

Market Research

Industry:

Bold North Brewing Co. will be a part of the craft beer industry. Currently, craft beer is booming in the state of Minnesota and around the country.

Bold North Brewing Co. would be in a niche category of "Nano-Brewery". This allows us to keep expanding our beer styles with what the customers are enjoying at the time. The market does not have very many of these types of breweries.

Detailed Description of Customers:

We will be focused on anyone that enjoys craft beer. Bold North Brewing Co. will pride itself on being a welcoming place where an individual or family can stop in to enjoy a craft beer and their time together. We will focus on new craft beer drinkers as well as the experienced drinker. All are welcome at Bold North Brewing Co.

Company Advantages:

Bold North Brewing Co. has the following advantages compared to competitors:

- Small 1bbl system that provides the ability to brew small batches to keep things "fresh".
- Two owners that have a combined 10+ years in the brewing industry (Ken/Josh).
- Experienced owner with 20+ years of sales background (Scott).
- Very low overhead.
- Close proximity to other established business along with a booming community that is growing to grow.

Regulations:

Bold North Brewing Co. must and will meet all federal, state and city regulations concerning food and agriculture in the state of Minnesota.

Service Line

Product/Service:

Bold North Brewing Co. will sell small batch craft beers. The beers are handcrafted and designed for the new craft beer drinker as well as the experienced fan. Our brewery would consist of the following:

- 1bbl Brew House
- 10 fermenters
- 16 tap system
- 15 rotating small batch beers
- 1 rotating small batch soda.

Pricing Structure:

Bold North Brewing Co. will offer its products for the following prices:

- Craft beer tulips - $5-$8
- Craft beer pints - $5-$8
- Craft beer crowlers - $8-$10
- Craft soda pints - $5

Product Lifecycle:

Bold North Brewing Co will have a consistently changing lineup of beers. Each beer will average roughly 1 week on tap depending on demand.

Intellectual Property Rights:

Bold North Brewing Co. is a trademarked name in the State of Minnesota.

Research and Development:

The company is planning to conduct the following research and development:

- Include a feedback mechanism on our social media platforms for ideas, suggestions, and improvements.
- Participate in craft beer festivals before and during being open.
- Review market trends to determine which styles people are enjoying and when.

Marketing & Sales

Growth Strategy:

To grow the company, Bold North Brewing Co. will do the following:

- Participate in local craft beer festivals as well as in boarding states.
- As business grows, supply local liquor stores & bars/restaurants with off-sale crowlers.

Communicate with the Customer:

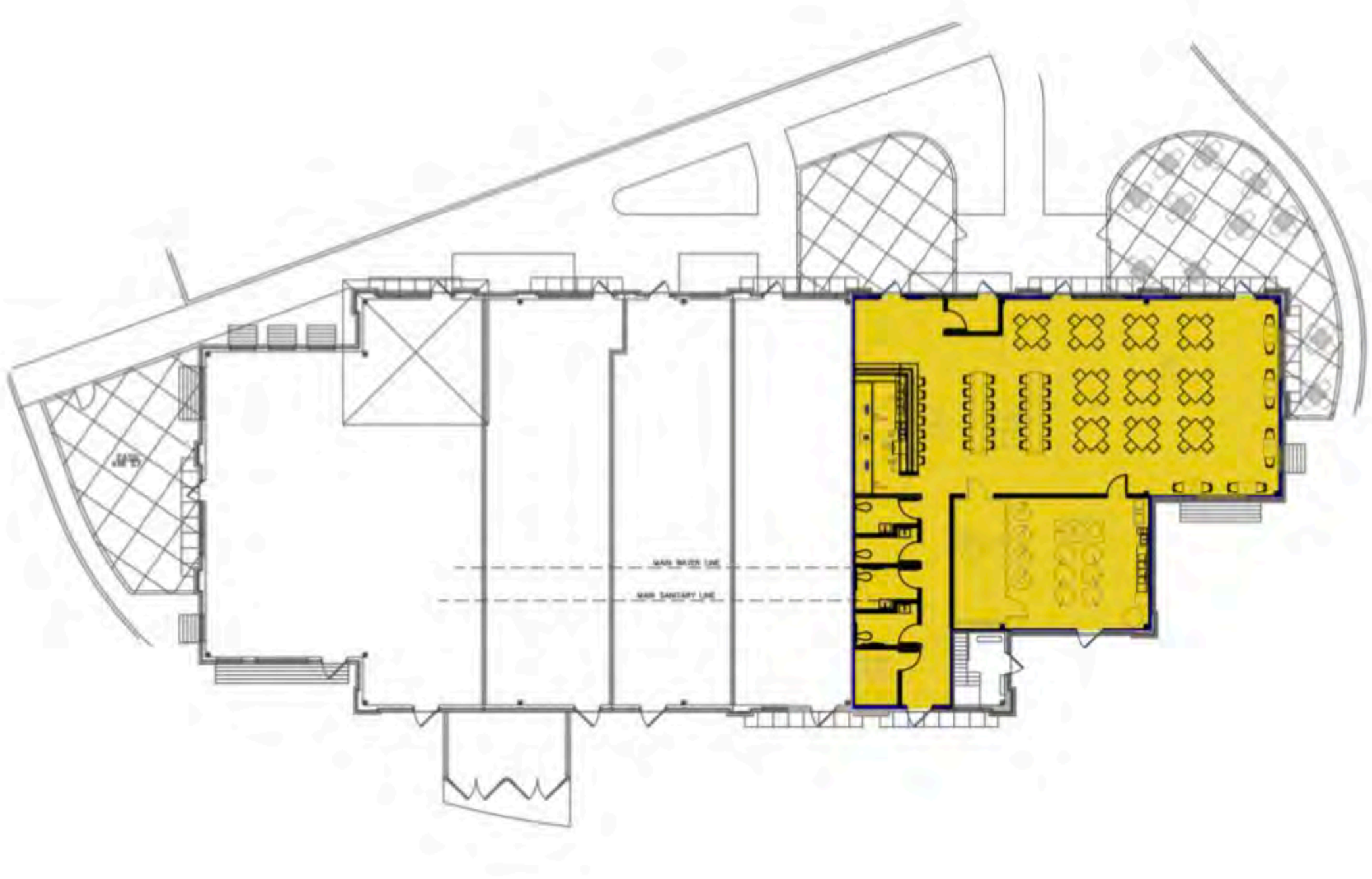
Bold North Brewing Co. will communicate with its customers by:

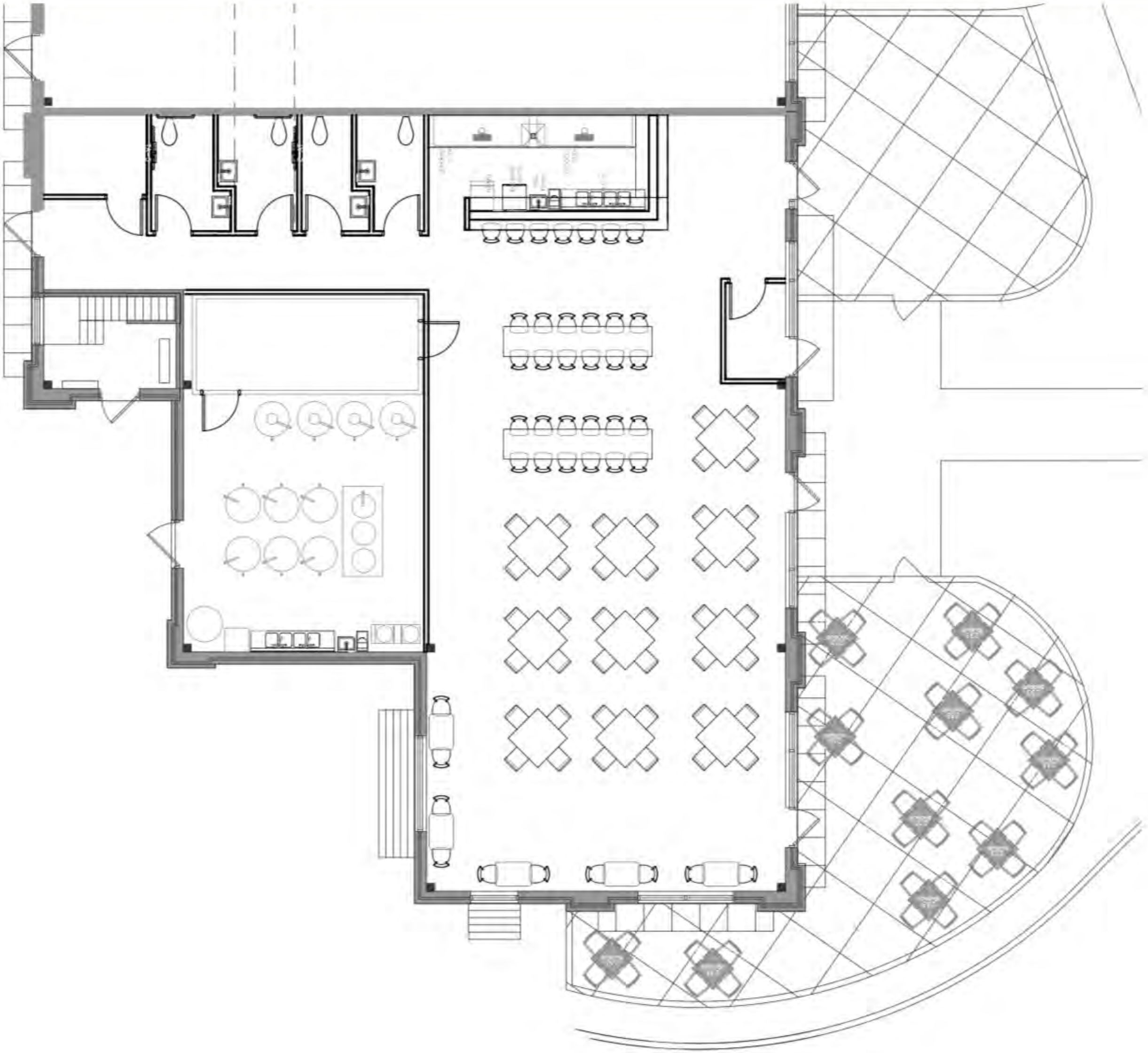
- Providing an e-newsletter with company news, product information, and beer release information.
- Using targeted Google and Facebook advertisements.
- Utilizing social media such as Twitter, YouTube, Facebook, Tik Tok to interact with new and current customers.
- Providing contact information on the company website.
- Simply talking to them when they visit our Taproom.

How to Sell:

Currently, all owners (Kenneth, Scott, Joshua) will handle sales both onsite and offsite. As profits increase, Bold North Brewing Co. will look to add an employee(s) to assist in all areas of need. The target demographic for the company will be new and existing craft beer drinkers 21+. Bold North Brewing Co. will increase awareness to our targeted customers through online advertising and attending craft beer festivals.

100th Ave N
Stone Mountain Pet Lodge
Bold North Brewing
Zane Ave. N
Freddy's
Oak Grove Parkway


MAIN WATER LINE
MAIN SANITARY LINE



City of Brooklyn Park
Request for Council Action

Agenda Item:	7.1	**Meeting Date:**	November 8, 2021
Agenda Section:	General Action Items	**Originating Department:**	Operations and Maintenance - Engineering Services Division
Resolution:	X	**Prepared By:**	Jesse Struve, P.E., City Engineer and Jeff Holstein, P.E., P.T.O.E. City Transportation Engineer
Ordinance:	N/A		
Attachments:	7	**Presented By:**	Jesse Struve
Item:	Consider Request to Lower Speed Limit on Noble Avenue (85th Avenue to the Border with Brooklyn Center) to 30 MPH		

City Manager's Proposed Action:

It is the City Engineer's recommendation to keep Noble Avenue posted as 35mph, following the newly passed speed limit policy. In accordance with the Speed Limit Policy, the City Council has the authority to override the City Engineer's decision due to extenuating circumstances by passing the motion below. This action will require a two-thirds vote of the City Council to approve the change.

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2021-_____ APPROVING REAUTHORIZATION OF THE PREVIOUS 30 MPH SPEED LIMIT ALONG NOBLE AVENUE FROM 85TH AVENUE TO THE BROOKLYN CENTER BORDER.

Overview:

The City Council accepted a petition from Sylvia Suares on September 13 for the City Council to review the decision to increase the speed from 30 mph to 35 mph. The speed limit was recently changed to 35 mph in accordance with the criteria included in the City's new Speed Limit Setting Policy approved by the City Council in December of 2020.

Noble Avenue is a Class I Collector roadway that services approximately 9,000 vehicles per day. The roadway is designed as a major collector roadway connecting multiple county roadways and Trunk Highway 610. The roadway is 44 feet in width with sidewalks along both sides of its length and wide shoulders. It has adjacent residential uses but does not look or function as a local residential roadway. The previous 30 mph limit was **not** set by MnDOT, but instead by the City under the Urban District designation (Resolution #1980-123). This resulted in an artificially low speed limit for this type of roadway.

When the Council was considering a new speed limit policy, staff communicated upcoming Council discussions to residents through articles in the Park Pages, community-wide emails, and the use of social media. During the Council discussions, staff presented several possible changes in speed limits including raising the speed limit on Noble Avenue. Ultimately, the City Council passed the Speed Limit Policy on December 14, 2020 (see attachment 7.1B). Prior to changing the speed limits, staff completed further analysis and brought back final proposed speed limit changes to the City Council on June 6, 2021.

Noble Avenue (85th Avenue to Brooklyn Center border) was changed from 30 mph to 35 mph during the week of August 2. The City's Communications Division sent notices the week prior to notify residents of the speed changes. The notification also informed people about the installation of school speed zoning (25 mph) adjacent to Birch Grove Elementary and Park Center High School/Brooklyn Middle School. The engagement and notification process were consistent with what was discussed with Council during the speed limit policy discussions.

One of the major goals for creating a Speed Limit Policy was to make speed limits fair and equitable across the community. The goal was for roads that look, feel, and have similar designs to have the same speed limits across the community. Parameters included in the policy help staff evaluate each road segment and to allow a uniform application of the policy across the community. Having roads with artificially reduced speed limits will increase police interactions with people who travel on these roadways.

Some of the residents feel the higher posted speed limits will result in significant increases in speed and crash severity. While it is true that speed does contribute to the severity of crashes, the analysis of the traffic speed and accident history does not support the assertion the accidents will be more severe than what is taking place now or that there will be more severe crashes. Noble Avenue has sidewalks on both sides of the road for pedestrians and wide shoulders that allow for bikers to be outside the travel lane (unless a car is parked there). The summary of data collected is as follows:

1) Additional speed studies were completed on Noble Avenue in September 2021 (in the same location as previous studies), approximately one month after the speed limit changes. This information allowed staff to compare Before to After the speed limit changes. The data show the speeds along Noble Avenue between 85th Avenue and the border with Brooklyn Center have increased by less than 1 mph (see attachment 7.1C).

2) Staff also conducted additional crash analysis along Noble Avenue for the After Condition using data from the Minnesota Department of Public Safety. The DPS data show the segment of Noble Avenue had two total reported crashes over an approximate 2.5-month time period, both at Brookdale Drive intersection and both attributed to failure to yield the right of way after initially stopping. Thus, not associated with speeding or a change in speed limit. Prior to raising the speed limits, staff conducted Before Condition crash analyses of the segments. The crash analyses for these segments showed the actual crash rates were lower than the statewide crash rates for similar roadways.

   Crash analyses are typically conducted for a three-to-five-year time period to account for the random nature of crashes. This typically allows for regression to the mean. It is staff's intention to continue to monitor the crash and speed data in the After Condition and work with Council to modify the Speed Limit Setting Policy, if necessary.

Primary Issues/Alternatives to Consider:

The policy is a living document with capacity to change/evolve over time as conditions change. The policy allows the City to set speed limits along City owned Class I (Major) Collector and Minor Arterial roadways. For local and Class II Collector Roadways, the City will continue to follow State requirements.

The Speed Limit Setting Policy approved by the City Council requires a two-thirds vote to change a limit set by the policy. If voted on and not approved, a segment speed limit cannot be reconsidered for change for a minimum period of two years.

The City's Community Engagement team prepared an engagement plan for the speed limit changes based on informative and not consultative efforts. In addition to the email and social media notifications, staff included articles in the city newsletter (Park Pages), to keep residents notified of the speed limit policy process. There was also a meeting with the Council outlining the final results prior to the time the speed limits were changed.

Budgetary/Fiscal Issues:

The City's Operations and Maintenance Department (Streets Division) has retained the old 30 mph signs, so costs associated with reimplementing the previous 30 mph speed limits would be limited to internal labor costs.

Attachments:

7.1A RESOLUTION
7.1B APPROVED POLICY-DECEMBER 14, 2020
7.1C SPEED STUDY COMPARISON OF BEFORE VS AFTER – TABLE
7.1D CRASH ANALYSIS DATA
7.1E LOCATION MAP
7.1F RESOLUTION #1980-123
7.1G RESIDENT CONCERNS – KENNETH NORDBERG
7.1H RESIDENT CONCERNS – SYLVIA SUARES

RESOLUTION #2021-

RESOLUTION APPROVING REAUTHORIZATION OF THE PREVIOUS 30 MPH SPEED LIMIT ALONG NOBLE AVENUE FROM 85TH AVENUE TO THE BROOKLYN CENTER BORDER

WHEREAS, the City Council approved a Speed Limit Setting Policy on December 14, 2020 to allow the City Engineer to establish speed limits on city owned Class I Collector and arterial roadways based on the application of the procedures documented in the policy; and

WHEREAS, the City Engineer determined the appropriate speed limit along Noble Avenue, a Class I Collector roadway, between 85th Avenue and the Brooklyn Center border should be 35 mph and this speed limit change was implemented in August of 2021; and

WHEREAS, some Noble Avenue residents have petitioned the City to change the posted speed limit back to 30 mph; and

WHEREAS, the Speed Limit Setting Policy requires a two-thirds vote from Council to change a limit set by the Speed Limit Setting Policy.

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

1. The City of Brooklyn Park has voted to reauthorize the 30 mph posted speed limit along Noble Avenue from 85th Avenue to the Brooklyn Center border.

2. The City Engineer is hereby directed to oversee the change of the posted speed limit back to 30 mph.

City of Brooklyn Park, MN

Policy for Setting Speed Limits on City Streets

December 14, 2021

INTRODUCTION

The State Legislature authorized cities to set regulatory speed limits on certain city streets without a Minnesota Department of Transportation (MnDOT) traffic study effective August 1, 2019. The action resulted in two new speed limit setting laws. The first allows city "residential roadways" to be set at 25 mph (M.S. 169.14, sub 2(a)(7) & 2(b)) if they meet the new definition, are formally adopted by the city and signs are posted designating the speed limit at the beginning and end of the roadway segment. A "residential roadway" is now defined to include all city streets in an area zoned exclusively for housing that are not collector or arterial streets.

The second new speed limit setting law allows a city to set its own regulatory speed limits for other city owned streets, including collectors, arterials and non-residential local roadways. A city that uses the authority under this subdivision (M.S. 169.14, sub 5h) must develop and adopt procedures to set speed limits based on the city's safety, engineering and traffic analysis. At a minimum, the analysis must consider national urban speed limit guidance and studies, local traffic crashes and methods to effectively communicate the change to the public. Speed limit changes must be made in a consistent and understandable manner and must be posted on the affected street.

Prior to the adoption of these new laws, virtually all speed limits were set by the State, either by statute or by a detailed MnDOT traffic study. The statutory speed limits (M.S. 169.14) on most typical roadways under ideal conditions are as follows unless otherwise posted:

- 10 mph in alleys
- 30 mph on streets in urban districts
- 55 mph on other roads
- 65 mph on expressways
- 65 mph on urban interstate highways
- 70 mph on rural interstate highways

All other limits were set by MnDOT, acting for the Commissioner of Transportation, based upon an engineering and traffic investigation that considered the following factors:

- Road type and condition
- Location and type of access points
- Adjacent land usage
- Sufficient length of roadway
- Existing traffic control devices
- Crash history, traffic volume
- Horizontal and vertical curvature (sight distance)
- Travel speed samples

The most weight was typically assigned to the speed samples and the 85^{th} percentile speed (speed at which 85% of the sampled traffic was traveling at or below).

The purpose of this document is to create a clear process that satisfies the requirements of the new legislation. This document will focus primarily on the development of a consistent and uniform process for setting appropriate regulatory speed limits on city owned collector and arterial roadways while maintaining 30 mph on local roadways. The new legislation did not impact the processes for setting School Zone, Advisory and Work Zone speed limits.

The City's desire to change the speed limits of its roadways is consistent with BP2025 Goal 4 (Heathy and Safe People) and Goal 6 (City laws are understandable, equitably enforced and relevant to the community. This also supports the City's 2040 Comprehensive Plan, including the Pedestrian and Bicycle Plan.

EXISTING ROADWAY SYSTEM

The City Roadway System currently includes 322 miles of public roadway. The existing classification of the roadways within the city is shown in Figure #1. The breakdown by functional classification and jurisdiction is as follows:

- 210 miles of city owned Local streets with a standard width of 32' back/back of curb (Figure #2).
- 23 miles of city owned Class 2 (Minor) Collector streets with the vast majority at widths of 32' back/back of curb (Figure #3).
- 30 miles of city owned Class 1 (Major) Collector streets with nominal widths of 40-44' F/F (Figure #4).
- 14 miles of city owned Minor Arterial streets with widths ranging from 32'-96' with the vast majority as multi-lane facilities (Figure #5).
- 45 miles of County and State owned Minor Arterial and Principal Arterial streets.

In general, most traffic issues occur on the Collector and Arterial (non-freeway) roadway systems, where both the mobility and access functions are being provided at moderate to high levels. Local roadways, which provide primarily access, and freeway facilities, which provide primarily mobility, do not typically experience major issues.

EXISTING TRAFFIC SPEEDS

The existing regulatory speed limits on all roadways within the city are shown in Figure #6. All existing speed limits within the City of Brooklyn Park, including City, County and State roadways, were set by statute or MnDOT speed study. Some city roadways posted at 30 mph were set by the Urban District Statute. Roadways set at 35, 40, 45 and 50 mph were set by MnDOT speed study.

The City of Brooklyn Park receives several citizen complaints each year regarding speeding. The City conducted 80 speed studies over the 2015-2020 period on city owned roadway segments of various classification. This data is documented in Table 1 and indicate the following:

- Average speed of 23.4 mph, 50th% speed of 24.2 mph and 85th% speed of 30.0 mph on city local "residential roadways" (with 30 mph limit).
- Average speed of 29.2 mph, 50th% speed of 29.5 mph and 85th% speed of 34.6 mph on city Class 2 (Minor) collector roadways with 30 mph speed limit.
- Average speed and 50th% speed approx. at speed limit and 85th% speed approx. at 5 mph over limit on city Class 1 (Major) collector and arterial roadways with various limits.

Based on the information from the speed studies, the majority of motorists are driving at or below the 30 mph speed limit on local roadways. The speeds on the Class 2 (Minor) Collector roadways that are posted at 30 mph are slightly higher, but still most motorists are driving under 30 mph. Traffic speeds and speeding are highest on the city owned Class 1 (Major) Collector and Arterial roadways. The worst traffic speeding issues occur along Major Collector and Arterial roadways

where limits were set at 30 mph by use of the "Urban District" Statute. This includes 63rd Avenue (TH 169 to Brooklyn Center), Brookdale Drive (Zane Avenue to TH 252) and West River Road (Brookdale Drive to 97th Avenue).

A review of City's Police Department enforcement data for 2019 shows more traffic citations issued for the city's Major Collector and Arterial roadways than any other roadway system. Approximately one third of these citations were for traffic speeding.

RECENT CRASH HISTORY

The crash histories within the city for vehicles, bicycles and pedestrians were investigated for the most recent ten-year (2010-2019) period. This analysis reviewed crash data provided by the Minnesota Department of Public Safety (see Table 2) and indicates the following:

- 8,639 total citywide crashes, including 8,414 vehicle crashes (9 fatal) and 225 ped/bike vs vehicle crashes (11 fatal).
- 839 (9.7%) crashes occurred on city local roadways, including 799 vehicle crashes (1 fatal) and 40 ped/bike vs vehicle crashes (0 fatal).
- 1,630 (18.9%) vehicle crashes occurred on city collector and arterial roadways, including 1,535 vehicle crashes (1 fatal) and 95 ped/bike vs vehicle crashes (2 fatal).

The State and County roadway systems experienced 71.4% of the total crashes though they comprise only 14% of the total roadway mileage in the city. Conversely, local roadways experienced only 9.7% of the vehicle crashes though they comprise approximately 66% of the roadway system.

The severity (by fatal crashes) of these crashes is documented in Table 3 and indicate the following:

- 20 total fatal crashes including 9 single or multi-vehicle vehicle crashes and 11 ped/bike vs vehicle crashes. Ten of the eleven ped/bike crashes were pedestrian vs vehicle crashes.
- One fatal vehicle crash along a city local roadway (single vehicle run off the road).
- Three fatal crashes along city collector or arterial roadways, including two ped/bike vs vehicle crashes.

Further investigation of these fatal crashes indicate that seven of the crashes occurred along state highways, with six (4 vehicle and 2 pedestrian) along TH 252 and one vehicle crash along TH 169. Nine of the fatal crashes occurred along county roadways, including four pedestrian crashes along Brooklyn Boulevard. Thus, 16 of the 20 total fatal crashes, including 9 of the 11 ped/bike fatal crashes, occurred on the State and County roadway systems.

A comprehensive investigation into the citywide ped/bike vs vehicle crashes by severity over the 2010-2019 time period is shown in Figure 7. The figure identifies clusters of crashes along Brooklyn Boulevard (County) and Zane Avenue south of Brooklyn Boulevard (city) and shows that 30 of the 225 (13%) ped/bike crashes were fatal or serious injury with the remainder as minor injury or no injury. Of the 135 ped/bike crashes on the city owned roadways, 5.3% were fatal or serious injury crashes. The two ped/bike fatal crashes along city roadways occurred at the Zane/65th intersection (bike) and the Lakeland Avenue / 62nd Avenue intersection (pedestrian).

The contributing factors of these crashes was also investigated. The data show the primary causes of single and multi-vehicle crashes as; failure to yield the right of way, following too closely, distracted/inattentive driving and speeding. The primary causes of ped/bike crashes for the portion attributed to pedestrians and bicyclists were failure to yield the right of way, dart/dash into traffic and dark clothes, whereas those attributed to motorists were inattentive driving, failure to yield the right of way, weather conditions and speed. Speeding and careless driving were listed as a primary contributing factor in approximately 12% of vehicle crashes, 10% of pedestrian crashes and 4% of bike crashes.

The vast majority (86%) of the vehicle, pedestrian and bicycle crashes and the most severe crashes on city owned roadways occurred along Class 1 (Major) collector roadways and minor arterial roadways. The number of crashes and the severities of vehicle, pedestrian and bicycle crashes is similar to most other similar sized cities within the metro area.

NATIONAL GUIDANCE ON SETTING URBAN SPEED LIMITS

The Cities of Minneapolis and St. Paul have both recently met the new legislative requirements to allow them to set speed limits along their roadways. These cities are urban in nature and have significantly more pedestrian, bicycle and transit traffic than the City of Brooklyn Park. The City of Brooklyn Park is a suburban community with roadways and ancillary transportation facilities of different character, context and design than the Cities of Minneapolis and St. Paul.

However, the national guidance for setting speed limits is similar. Thus, this section incorporates some of the guidance documented in the St. Paul Speed Limit Evaluation.

Manual on Uniform Traffic Control Devices (MUTCD)

The MUTCD sets minimum standards and provides guidance to ensure uniformity and consistency on the public transportation system. In the State of Minnesota, the Minnesota Manual on Uniform Traffic Control Devices (MN MUTCD) is used. The MN MUTCD and MUTCD are, in general, identical in language, and exact in language as they reference speed limits. It is routine that new and addendum language of the MUTCD is adopted by the MN MUTCD.

Based on a recent National Transportation Safety Board recommendation, the National Committee on Uniform Traffic Control Devices (NCUTCD) began collecting feedback and considering changes to the MUTCD related to setting speed limits.

The current MUTCD offers the following standards (not guidance) for setting speed limits:

> *"Speed zones (other than statutory speed limits) shall only be established on the basis of an engineering study that has been performed in accordance with traffic engineering practices. The engineering study shall include an analysis of the current speed distribution of free-flowing vehicles*.
>
> *The Speed Limit sign […] shall display the limit established by law, ordinance, regulation, or as adopted by the authorized agency based on the engineering study. The speed limits displayed shall be in multiples of 5 mph (Section 2B.13, page 56)."*

The current MUTCD offers the following guidance (not standard) on setting speed limits:

"*States and local agencies should conduct engineering studies to reevaluate non-statutory speed limits on segments of their roadways that have undergone significant changes since the last review, such as the addition or elimination of parking or driveways, changes in the number of travel lanes, changes in the configuration of bicycle lanes, changes in traffic control signal coordination, or significant changes in traffic volumes".*

"When a speed limit within a speed zone is posted, it should be within 5 mph of the 85th-percentile speed of free-flowing traffic" (Section 2B.13, page 58).

The current MUTCD offers the following option (not guidance or standard) on setting speed limits:

"Other factors that may be considered when establishing or reevaluating speed limits are the following:

A. Road characteristics, shoulder condition, grade, alignment, and sight distance;

B. The pace;

C. Roadside development and environment;

D. Parking practices and pedestrian activity; and

E. Reported crash experience for at least a 12-month period (Section 2B.13)."

The National Committee on Uniform Traffic Control Devices (NCUTCD) recently approved recommended changes to the current MUTCD related to setting speed limits. These recommendations are provided to the Federal Highway Administration (FHWA) for consideration in the next edition of the MUTCD, which requires federal rulemaking. The FHWA has not initiated rule making for the next edition of the MUTCD yet, but this is expected to begin within the next year. The recommendations approved by the NCUTCD include:

- Removing from standard that "The engineering study shall include an analysis of the current speed distribution of free-flowing vehicles."
- Upgrading and revising the considerations for establishing speed zones to read:

"Factors that should be considered when establishing or reevaluating speed limits within speed zones are the following:

A. Speed distribution of free-flowing vehicles (such as current 85th percentile, the pace, and review of past speed studies).

B. Reported crash experience for at least a 12-month period relative to similar roadways.

C. Road characteristics (such as lane widths, curb/shoulder condition, grade, alignment, median type, and sight distance).

D. Road context (such as roadside development and environment including number of driveways and land use, functional classification, parking practices, presence of sidewalks/bicycle facilities).

E. Road users (such as pedestrian activity, bicycle activity)."

- Revising the guidance statement regarding the posted speed limit being made within 5 mph of the 85th percentile speed to apply only "on freeways, expressways, or rural highways."

FHWA Methods and Practices for Setting Speed Limits: An Informational Report

This report describes three approaches for setting speed limits.

Engineering Approach – A two-step process where the base speed limit is set according to the 85th percentile speed, the design speed for the road or other conditions. This base speed limit is adjusted according to traffic and infrastructure conditions such as pedestrian use, median presence, etc. The Operating Speed Method (widely used in the U.S.) is typically set speed limit within 5 mph of the 85th percentile limit plus or minus other considerations. Under the Road Risk Method, the level of roadside development and the function of a road are the primary determinants of the appropriate speed limit.

Expert System Approach – Speed limits are suggested by a computer program that uses knowledge and inference procedures that simulate the judgement and behavior of speed limit experts.

Safe System Approach – This approach emphasizes that some degree of roadway user error will occur and that such errors should not result in a fatality or serious injury. Under this approach, the primary criterion is the safety of all road users, including pedestrians and bicyclists who are more vulnerable to injury and death when hit by a vehicle.

MnDOT Website

The MnDOT website states lower posted speed limits result in little to no reduction in actual speeds without a change in roadway character and /or significant police enforcement. The City's experience in setting artificially low speed limits (93rd Avenue, West River Road, Brookdale Drive, 63rd Avenue, Bottineau Blvd, 85th Avenue, etc), usually by Urban District designation or by pilot study prior to a MnDOT speed study, is consistent with the MnDOT website statement.

The MnDOT website also states the posting of lower speed limits without a change in roadway character can result in greater speed disparity in actual speeds and an increase in crash frequency.

National Safety Research

Numerous studies demonstrate the relationship between speed and street safety where higher speeds increase the likelihood of a crash and the likelihood a crash will be severe or fatal.

The National Transportation Safety Board 2017 report *Reducing Speeding-Related Crashes Involving Passenger Vehicles* summarizes the connection between speed and safety:

> *"Speed—and therefore speeding—increases crash risk in two ways: (1) it increases the likelihood of being involved in a crash, and (2) it increases the severity of injuries sustained by all road users in a crash.*

The relationship between speed and crash involvement is complex, and it is affected by factors such as road type, driver age, alcohol impairment, and roadway characteristics like curvature, grade, width, and adjacent land use. In contrast, the relationship between speed and injury severity is consistent and direct. Higher vehicle speeds lead to larger changes in velocity in a crash, and these velocity changes are closely linked to injury severity. This relationship is especially critical for pedestrians involved in a motor vehicle crash, due to their lack of protection" (Executive Summary page ix).

A key factor in the likelihood of a crash is how far it takes a vehicle to stop. Figure 8 outlines the relationship between stopping sight distance and speed. Stopping sight distance grows with speed. According to the American Association of State Highway and Transportation Officials (AASHTO), it takes the average driver 301 feet to stop at 40 mph, 197 feet at 30 mph, and 112 feet at 20 mph. A change from 30 to 20 mph results in an average driver stopping 85 feet sooner, which is a significant distance. To provide context, 85 feet is almost 5 car lengths of 18 feet each. Note that other research yields different stopping sight distances based on different reaction times and speeds of braking (AASHTO guidance is conservative), but it always takes longer to stop at higher speeds.

Figure 9 shows the relative crash risk for a pedestrian hit at different speeds. A person is significantly more likely to lose their life or sustain a serious injury as the speed at impact increases. A person hit at 30 mph is three times as likely to be killed than at 20 mph and a person hit at 40 mph is almost twice as likely to be killed or suffer serious injury as compared to a person hit at 30 mph.

CONCLUSIONS

Based on the data and research within this document, including the city's safety, engineering and traffic analysis, local traffic crashes and speeds, national urban speed limit guidance and studies, the following conclusions were identified:

- For city owned roadways, the traffic speeds are highest and speeding worst along Class I (Major) Collector roadways and Minor Arterial roadways.
- For city owned roadways, the traffic crashes for vehicles, pedestrians and bicyclists are the worst along Class I (Major) Collector roadways and Minor Arterial roadways.
- City owned local roadways and Class 2 (Minor) Collector roadways typically do not experience significant speeds and speeding issues and have low crash numbers and severities for vehicles, pedestrians and bicycles.
- Lower traffic speeds reduce both the likelihood and severity of crashes (Figure 9).
- The posting of lower speed limits should be carefully considered to ensure reasonableness and/or coupled with a change in roadway character.
- A majority of states have adopted lower speed limits than Minnesota. All of Minnesota's neighboring states have a 25 mph default urban speed limit. However, the fatality crash rate within the State of Minnesota is lower than all of these states.
- The current national trend is towards a Safe Systems Approach for setting speed limits where the primary criterion is the safety of all road users.
- The traditional Engineering Approach of using the 85th percentile speed to set speed limits is no longer considered best practice for urban streets.

- Some major cities across the country are using or considering the use of limits near the 50th percentile speed. Minneapolis and St. Paul implemented category (minor and major roadways) limits resulting in posted speeds slightly under the 50th percentile speed.
- The setting of speed limits near the 50th percentile speed instead of the 85th percentile speed would lower several city Major Collector and Arterial speed limits by 5 mph. However, a few others which were set at 30 mph by use of the Urban District designation may increase by 5 mph.
- The state is continuing to investigate and evaluate the option of going to a statewide urban speed limit of 25 mph for urban roadways. This may occur within the next few years.

RECOMMENDATONS

Recommendations are based on the conclusions, discussions with City Council, and input from the Speed Limit Task Force which is comprised of members from various City Departments. The City Operations and Maintenance staff recommend the City Engineer use the following approach to set speed limits.

- City Local roadways and Class 2 (Minor) Collector Roadways (Figure #10)
    - Maintain the current 30 mph speed limit.

- City Class I (Major) Collector Roadways (Figure #11) and Minor Arterial Roadways (Figure #12)
    - Use the 50th percentile observed speed instead of the 85th percentile observed speed and the other factors typically used in a MnDOT Speed Study to determine an appropriate Safe Systems speed.
    - Boundary roadways, such as Jefferson Highway and 109th Avenue, would require discussion and agreement with adjacent communities. Roadways that extend into adjacent communities, such as 63rd Avenue, 109th Avenue and Jefferson Highway, may also require discussion and agreement.
    - Roadways with a planned limit change previously designated as Urban District may need this designation formally revoked by the City Council.

- Designate the City Engineer as authority to set speed in accordance with the policy. Residents can petition the City Council for review of the speed limit where they can present extenuating circumstances for consideration by the Council.

APPLICATION

The recommended speed limit changes shown in Figures #11 and #12 conform to the existing roadway functional classification shown in Figure #1. Over time the functional classification of roadways may change and/or new Class 1 (Major) Collector roadways or Minor Arterial roadways may be constructed or acquired via jurisdictional transfer with the State or County. These roadways would be investigated using the recommended process based on their new classification and an appropriate speed limit would be implemented as determined by the City Engineer. Some of the changes recommended in Figures #11 and #12 have yet to be confirmed

by speed studies. If this policy is approved, City Engineering staff would conduct the necessary studies in the spring/summer of 2021 to determine the appropriate speed limits.

It is important, and the new legislation mandates, all speed limit changes to be made in a consistent and uniform manner under a defined process/policy. This policy will be used to set speed limits city wide by the City Engineer. There may be extenuating circumstances where the City Engineer or a Council member will request a speed limit that differs from the established policy. This will require at least *2/3 vote of the City Council to approve for this change to be applied. If voted on and **not** approved, this action cannot be voted on again for at least two years. *(*Amended by the Council on December 14, 2020*)

Figures:

- Figure 1 – Roadway Classification
- Figure 2 – Local Roads
- Figure 3 – Class 2 (Minor) Collector Roads
- Figure 4 – Class 1 (Major) Collector Roads
- Figure 5 – Minor Arterial Roads
- Figure 6 – Existing Speed Limits
- Figure 7 – Pedestrian and Bike Crash Summary (2010-2019)
- Figure 8 – Stopping Sight Distance by Travel Speed
- Figure 9 – Pedestrian Crash Risk vs Vehicle Speed
- Figure 10 – Recommended Speed Limit for Local and CL 2 Collector Roads
- Figure 11 – Recommended Speed Limits for CL 1 Collector Roads
- Figure 12 – Recommended Speed Limits for Minor Arterial Roads

Tables:

- Table 1 – Speed Study Summary (2015-2020)
- Table 2 – Crash Data Summary (2010-2019)
- Table 3 – Crash Severity Summary (2010-2019)

Roadway Classification

March 2018, Updated November 2020

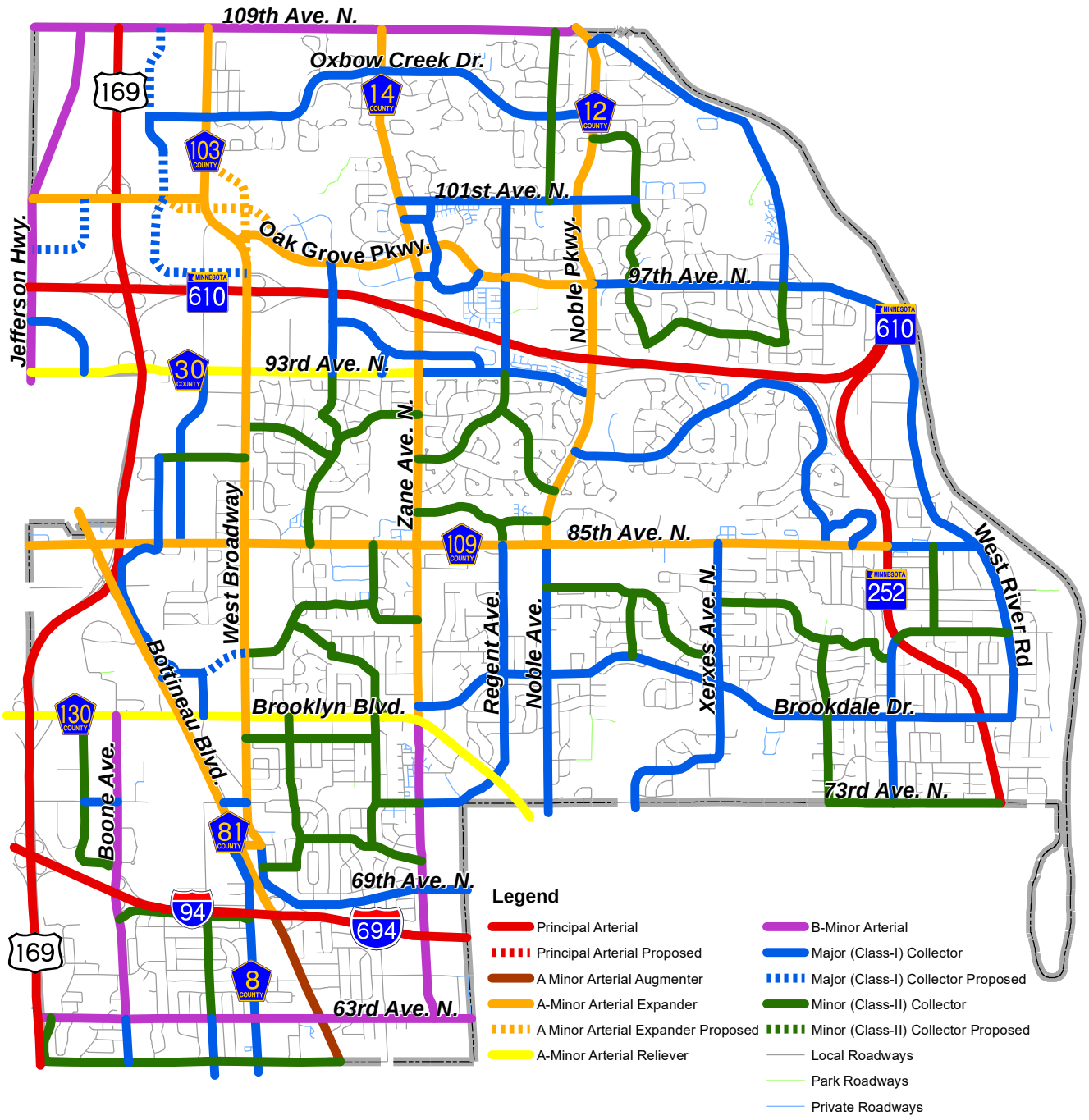


Figure #1

CITY LOCAL ROADS

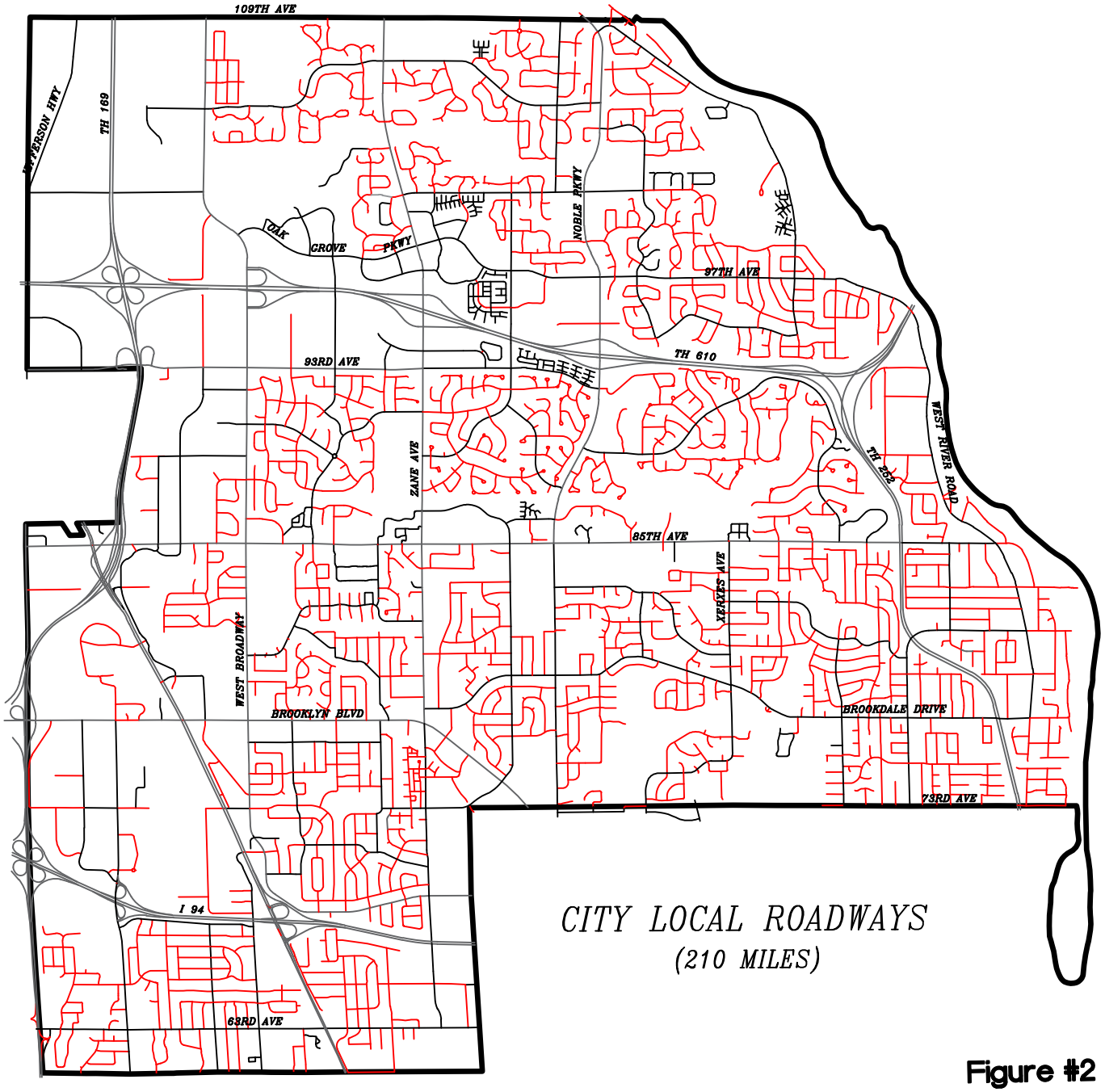


Figure #2

CITY CLASS 2 (MINOR) COLLECTOR ROADS

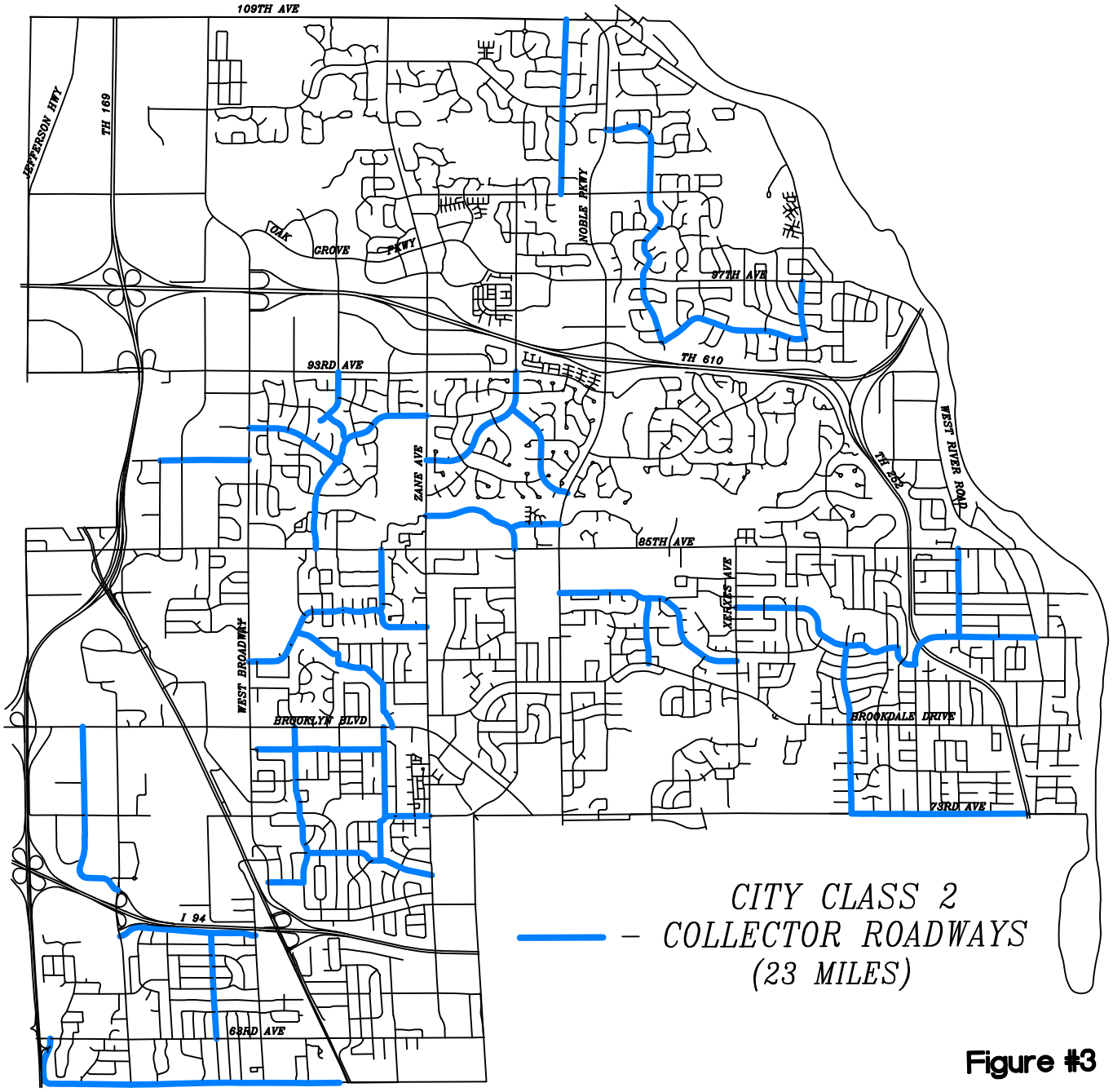


Figure #3

CITY CLASS 1 (MAJOR) COLLECTOR ROADS

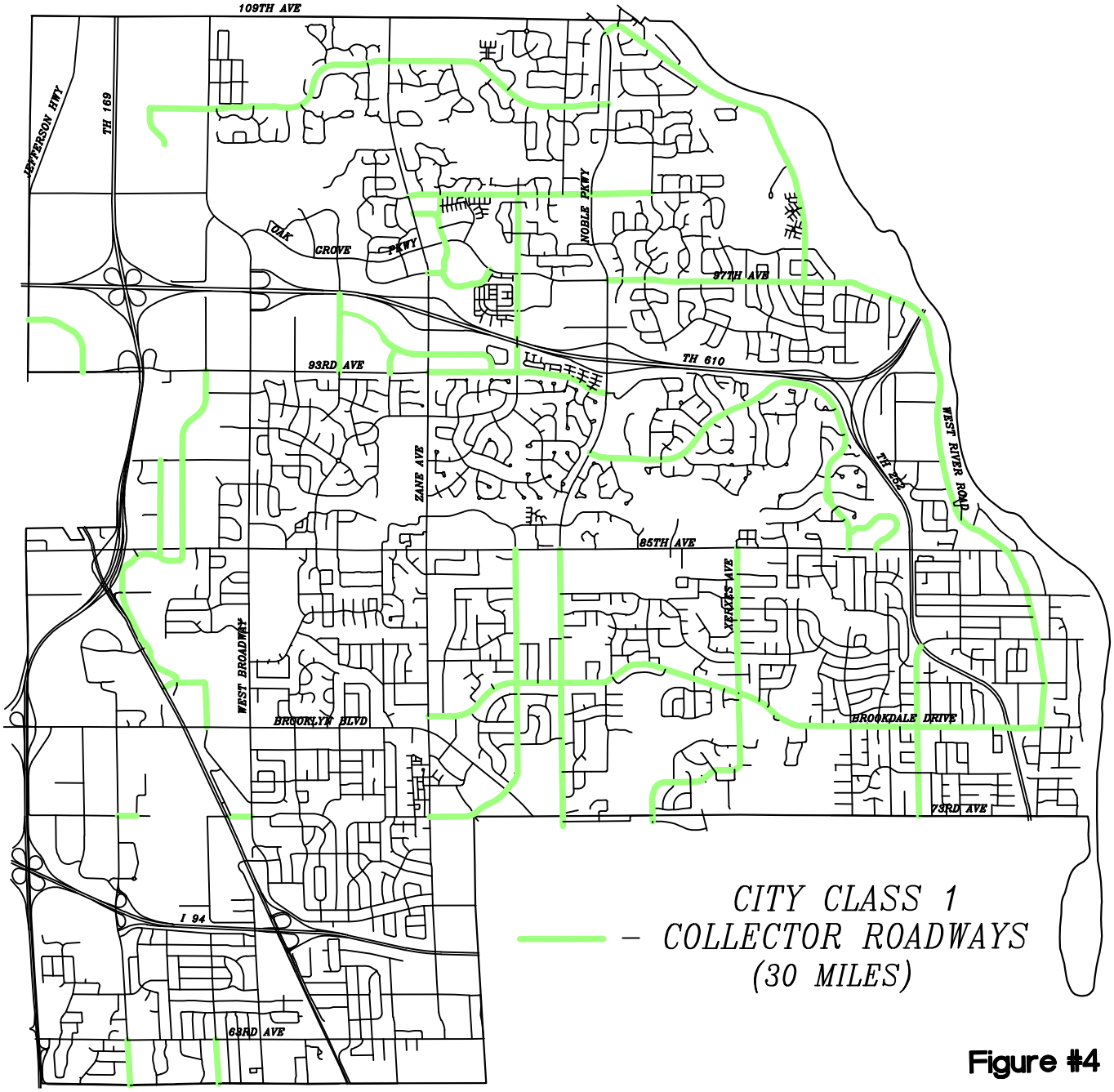


Figure #4

CITY MINOR ARTERIAL ROADS

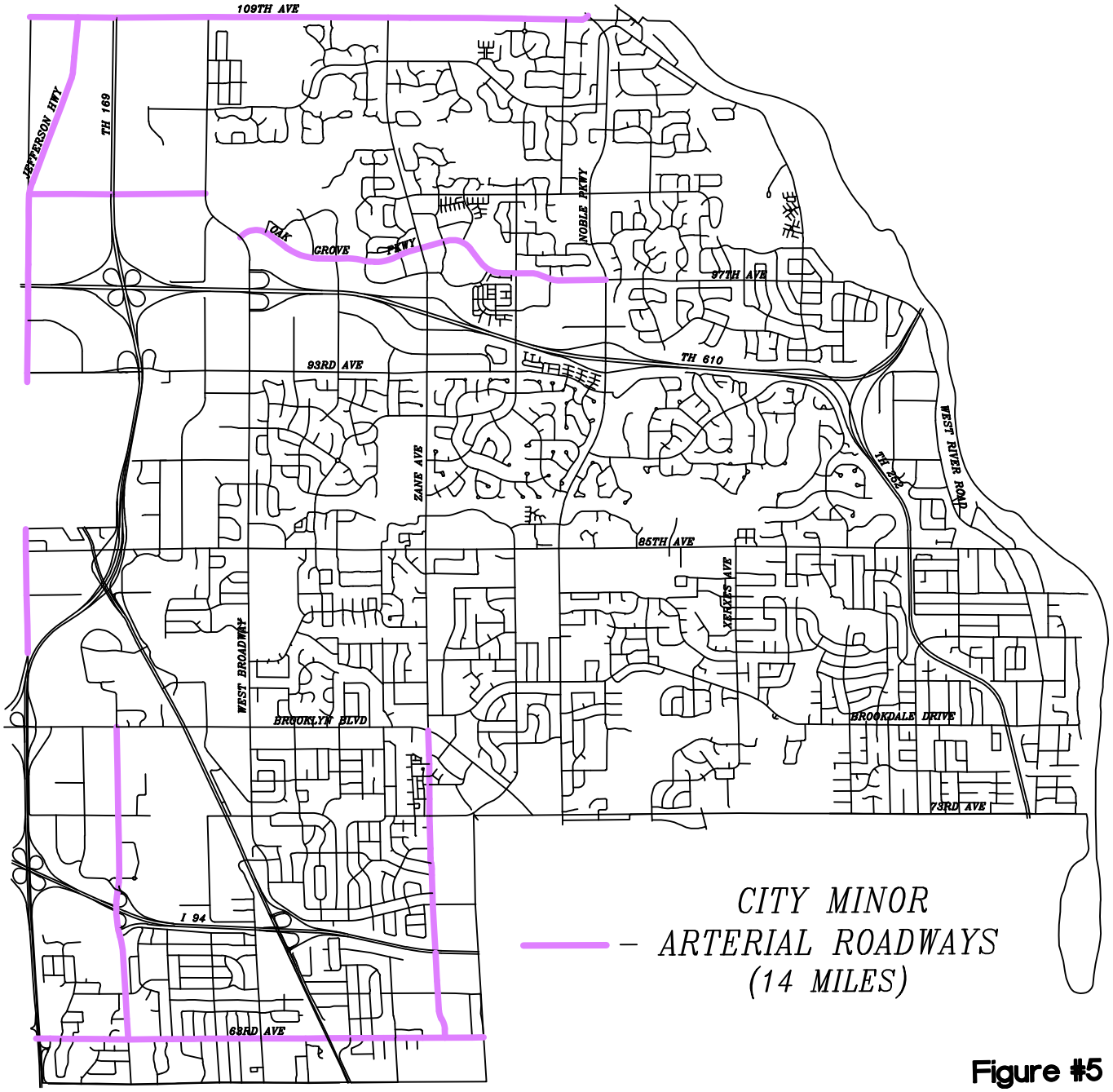


Figure #5

EXISTING SPEED LIMITS

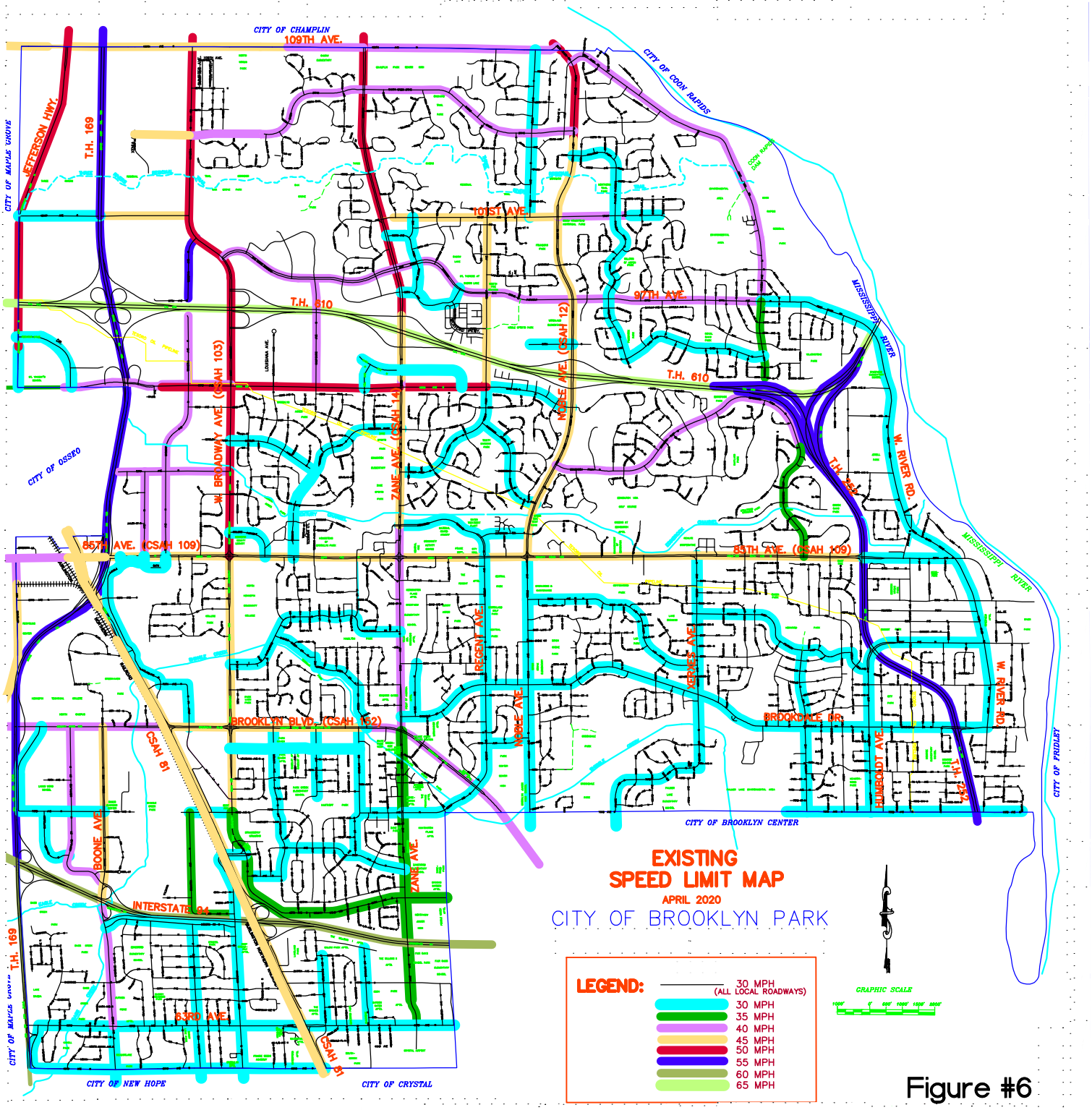


Figure #6

PEDESTRIAN AND BICYCLE CRASHES 2010–2019

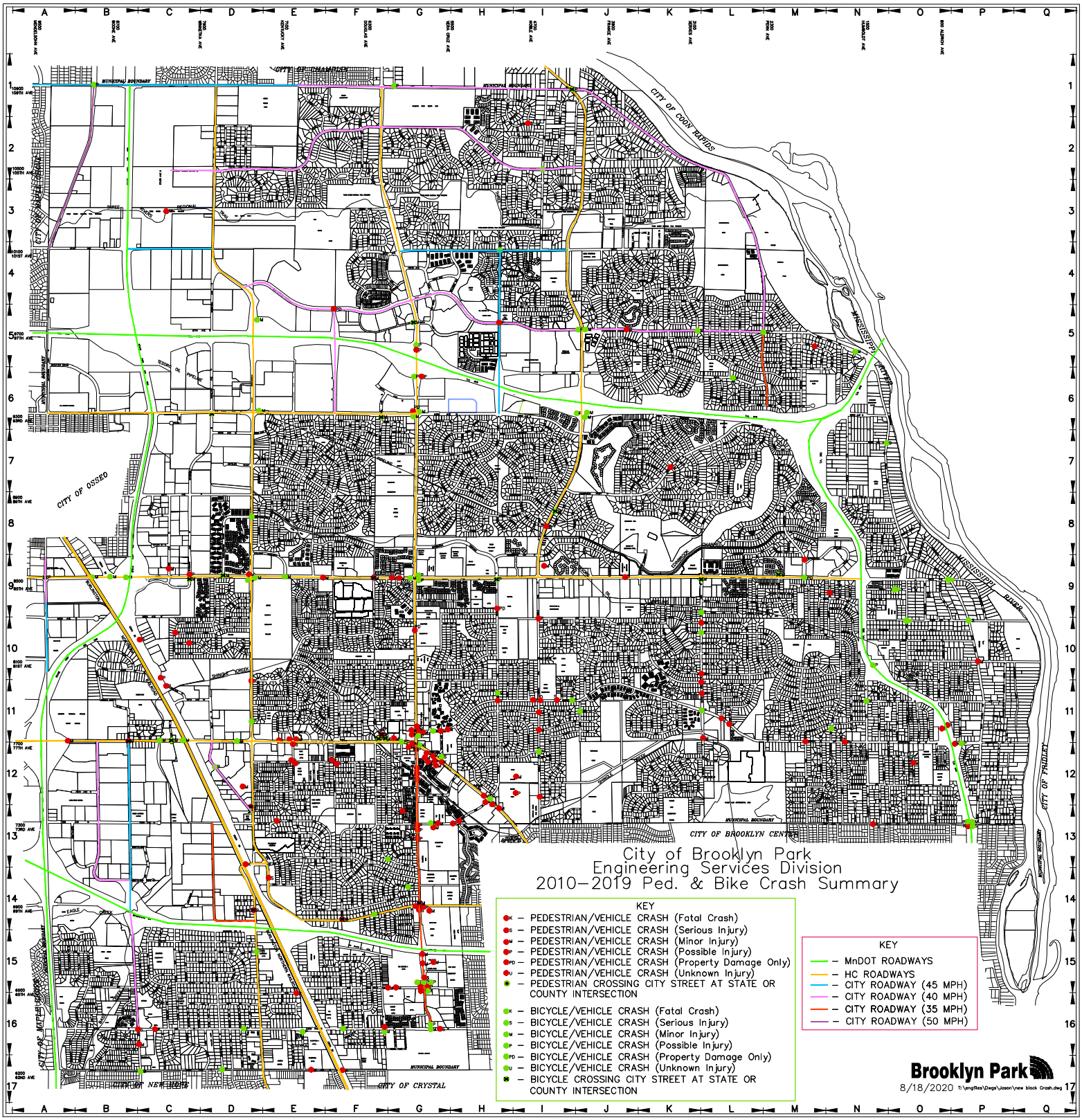
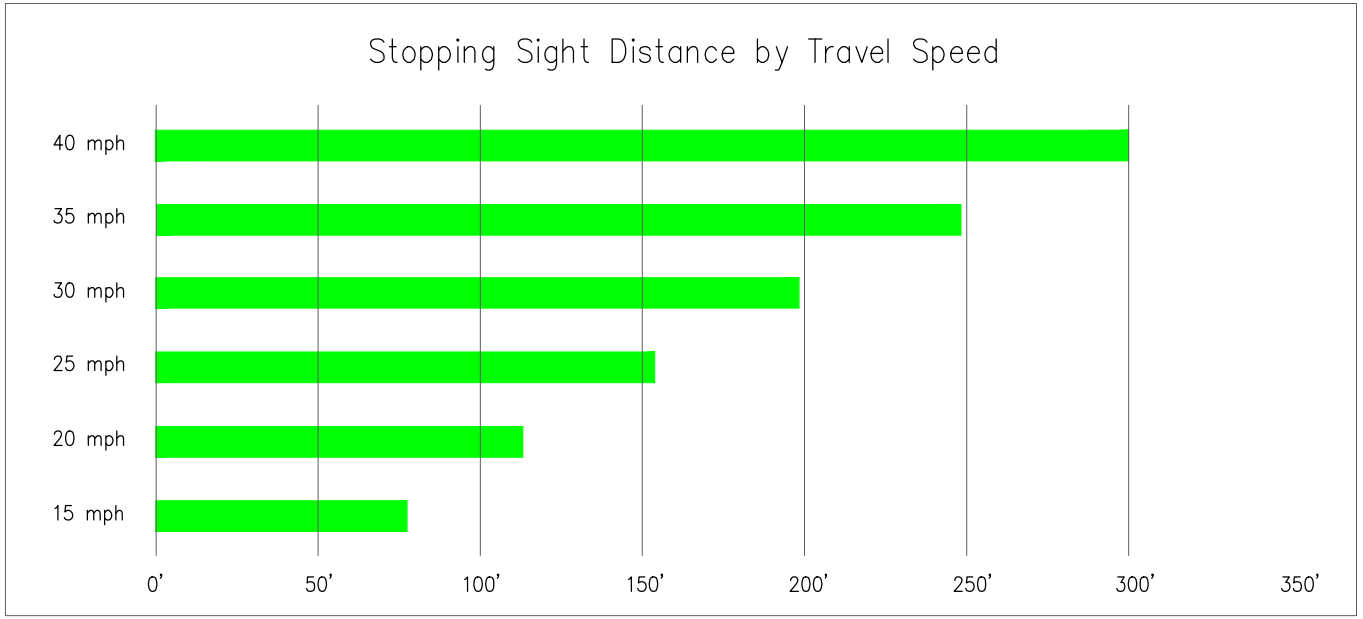


Figure #7

STOPPING SIGHT DISTANCE BY TRAVEL SPEED

Lower traffic speeds = Shorter Stopping Sight Distance



Data Source: American Association of State Highway and Transportation Officials (AASHTO). A Policy on Geometric Design of Highways and Streets. Washington, DC:AASHTO, 2011. "Assumes 2.5 second perception-breaking time and 11.2 ft/sec2 driver deceleration"

Figure #8

PEDESTRIAN CRASH RISK VS. VEHICLE SPEED

Lower traffic speeds = Less severe crashes

SOURCE: BRIAN TEFFT. 2013, AAA FOUNDATION FOR TRAFFIC SAFETY

Figure #9

RECOMMENDED SPEED LIMITS
LOCAL AND CITY CLASS 2 (MINOR) COLLECTOR ROADWAYS
NO CHANGES (MAINTAIN 30 MPH)

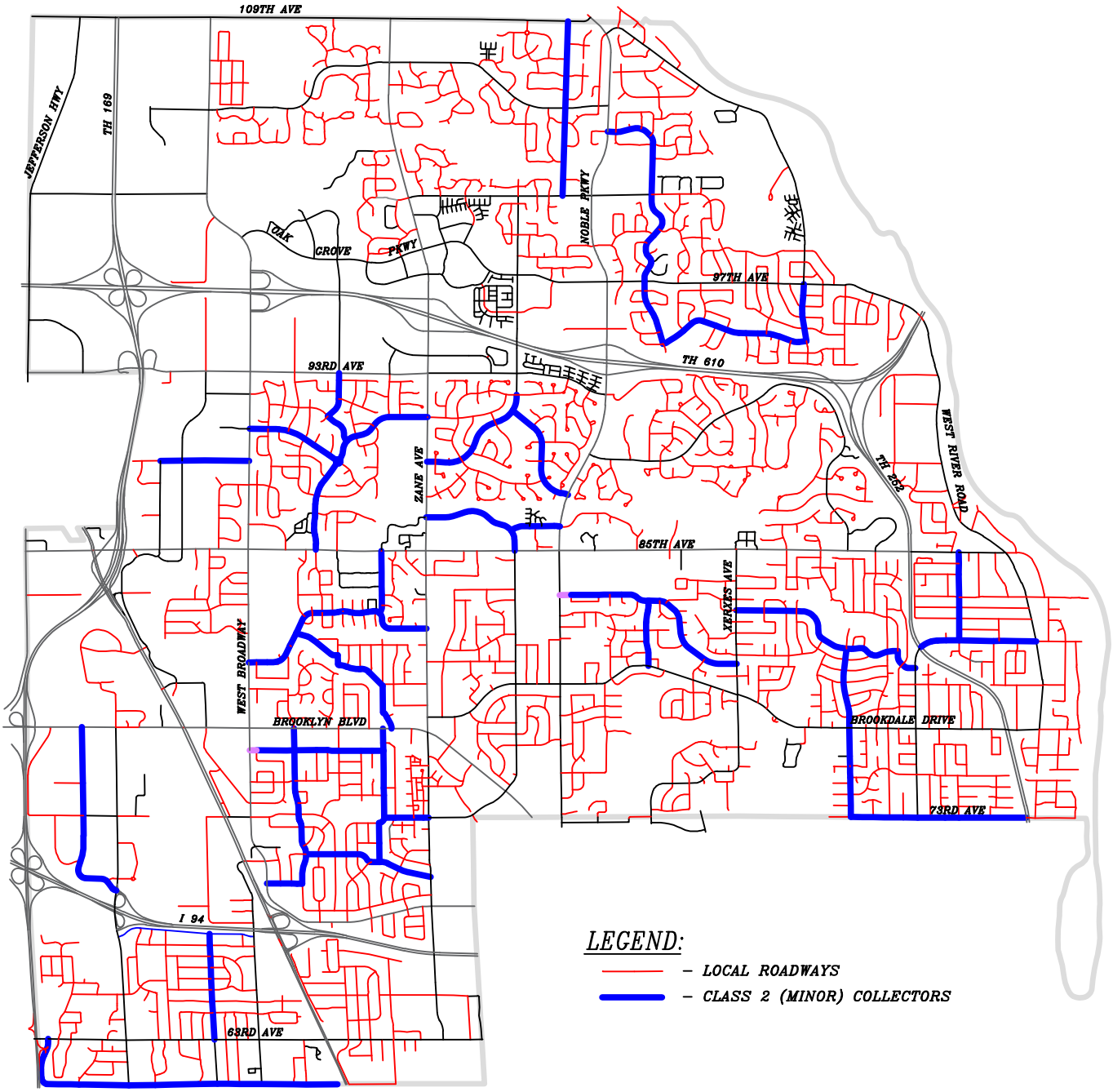


Figure #10

RECOMMENDED SPEED LIMITS
CLASS 1 (MAJOR) COLLECTOR CITY ROADWAYS
USE 50% SPEED

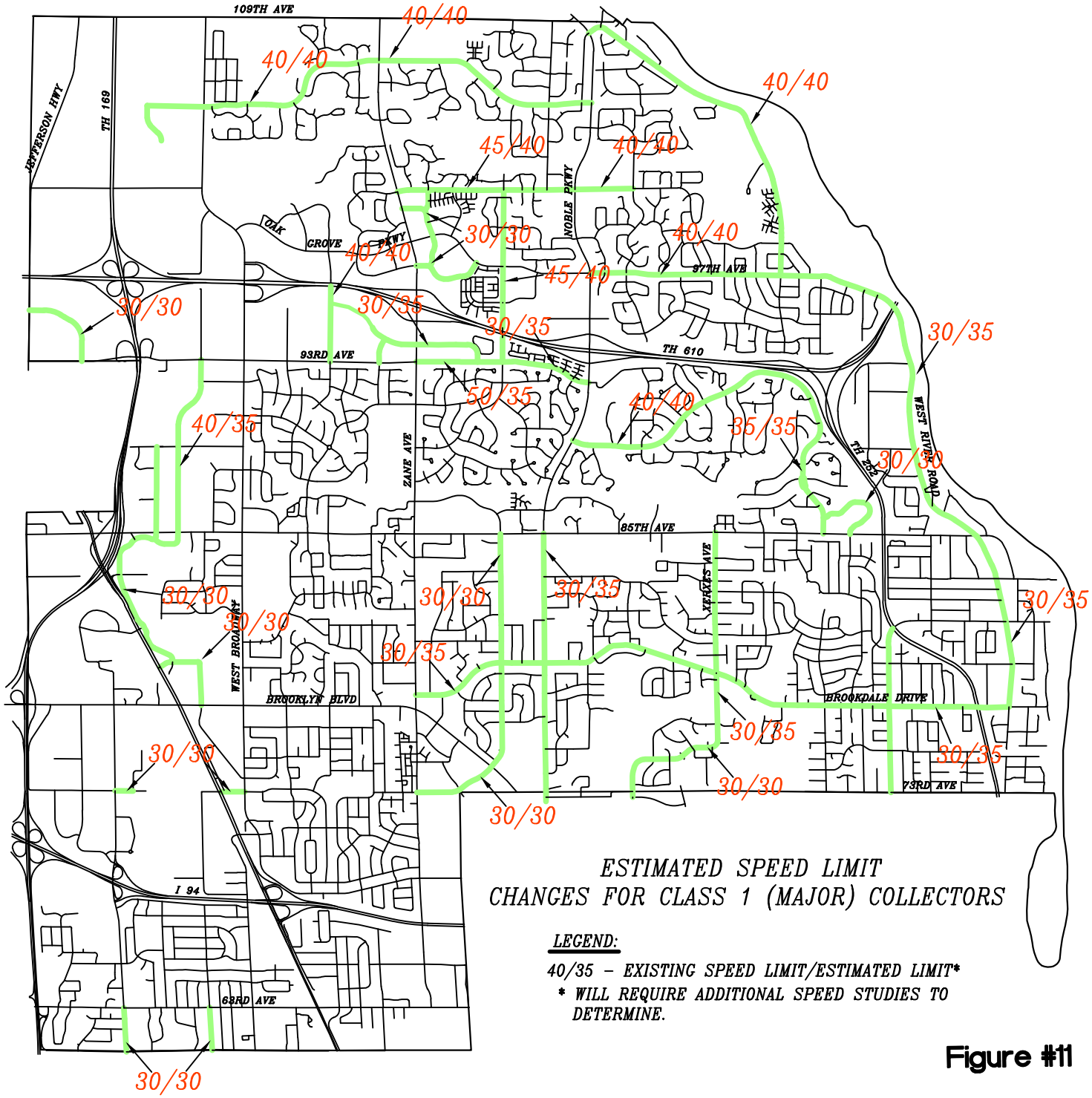


Figure #11

RECOMMENDED SPEED LIMITS
MINOR ARTERIAL CITY ROADWAYS
USE 50% SPEED

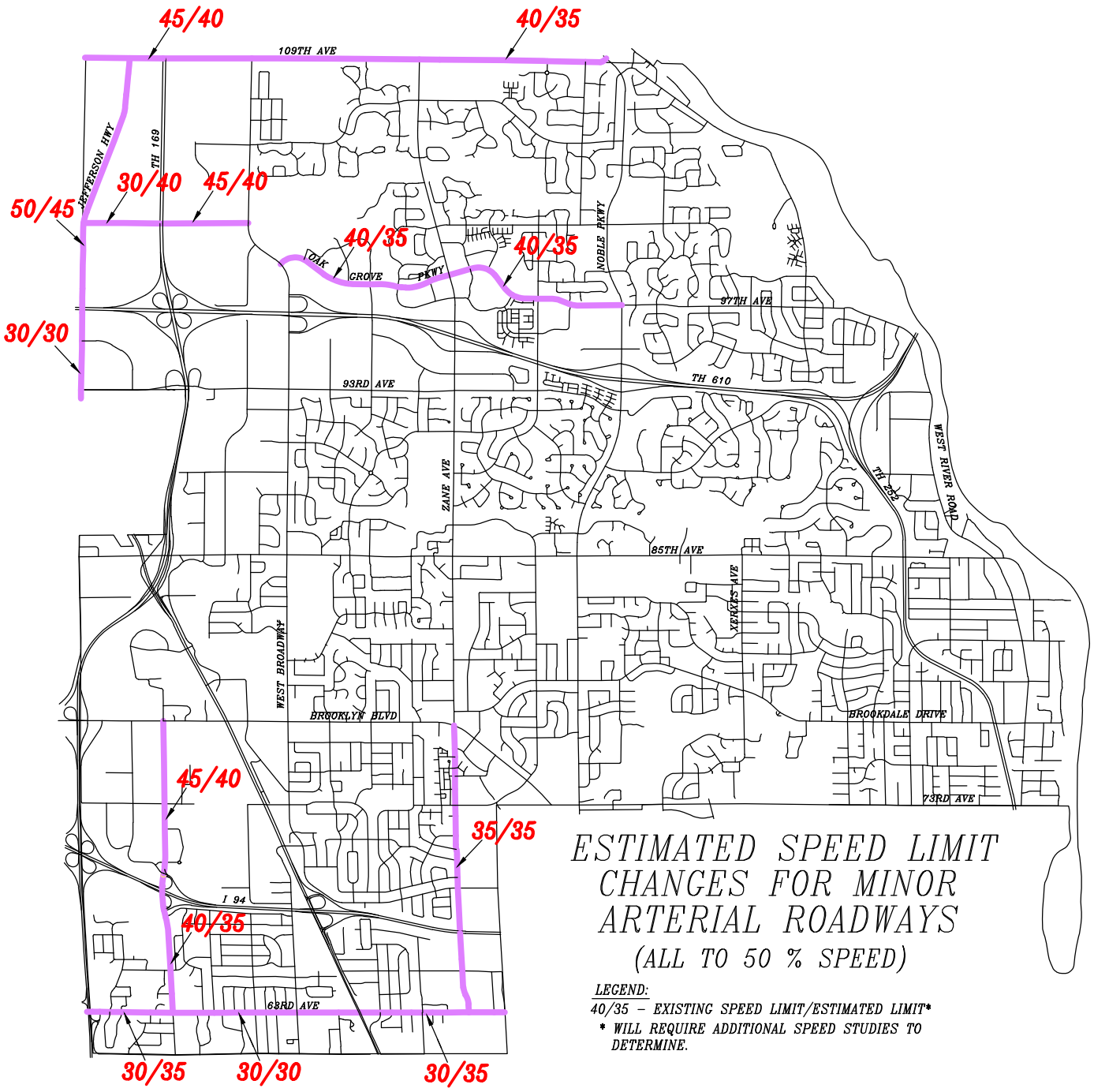


Figure #12

Table #1

City of Brooklyn Park
Observed Speeds (2015-2020) on
City Owned Roadways

ROADWAY CLASS.	NO. OF STUDIES	AVERAGE SPEEDS (MPH)*				
		AVG. SPEED	50th %	67th %	75th %	85th %
Locals (30 mph)	48	23.4	24.2	26.7	28.3	30.0
Class 2 (Minor) Collectors (30 mph)	10	29.2	29.5	31.7	33.0	34.6
Class 1 (Major) Collectors	15	Approx. Posted Limit	Approx. Posted Limit	+(1–3)	+(3-5)	+(5–6)
Minor Arterials	7	Approx. Posted Limit	Approx. Posted Limit	+(1–2)	+(3–4)	+(5)

*Source: City of Brooklyn Park Speed Studies (2015-2020).

Table #2

City of Brooklyn Park
Public Roadway Crashes (2010-2019)

ROAD TYPE	VEHICLE CRASHES	PEDS & BIKE CRASHES	TOTAL CRASHES*
State Roads	3471 **(41.3%)**	10 **(4.4%)**	3481 **(40.3%)**
County Roads	2609 **(31%)**	80 **(35.6%)**	2689 **(31.1%)**
City Major Collectors & Arterials	1313 **(15.6%)**	90 **(40%)**	1403 **(16.3%)**
City Minor Collectors	222 **(2.6%)**	5 **(2.2%)**	227 **(2.6%)**
City Locals	799 **(9.5%)**	40 **(17.8%)**	839 **(9.7%)**
Totals	8414	225	8639

*Source: MN Dept. of Public Safety.

Table #3

City of Brooklyn Park
Crash Severity (2010-2019)

ROAD TYPE	VEHICLE FATALS	PEDS & BIKE FATALS	TOTAL FATALS*
State	5	2	7
County	2	7	9
City Major Collectors & Arterials	1	2	3
City Minor Collectors	0	0	0
City Locals	1	0	1
Totals	9	11	20

*Source: MN Dept. of Public Safety.

Speed Study Comparison Along Noble Avenue Before & After Limit Increases

				Before Condition				After Condition			
Roadway	Segment	Study Location	Roadway Section	Speed Limit	Year	50% Speed	85% Speed	Speed Limit	Year	50% Speed	85% Speed
Noble Avenue	BC Border to Brookdale Dr	S. of Brookdale Dr	2 lane	30	2018	35.8	40.5	35	2021	36.5	41.6
Noble Avenue	Brookdale Dr to 85th Ave	S. of 81st Ave	2 lane	30	2021	35.5	40.4	35	2021	36	41

Crash Rate Calculation for Noble Avenue Between BC and Brookdale Dr

- 16 crashes over 2017-2019 time period along Noble Avenue between the Brooklyn Center Border and Brookdale Drive as documented in Dept. of Public Safety database
- Average Annual Daily Traffic volume of approximately 8,900 vehicles per day
- 2 Lane Urban Roadway (44')
- Distance of 0.75 miles
- 60 Access points along segment or approx. 80 accesses/mile
- Actual crash rate of 2.19 crashes per million vehicle miles
- Statewide Average crash rate of 6 crashes per million vehicle miles for similar roadways
- Actual rate < Average rate, thus no apparent safety issue

Note: The statewide average crash rate is dependent upon the number of access points, the number of lanes and roadway type.

Crash Rate Calc. for Noble Avenue Between 85th Ave & Brookdale Dr

- 25 crashes over 2017-2019 time period along Noble Avenue between 85th Avenue and Brookdale Drive (including Brookdale intersection crashes) as documented in Dept. of Public Safety database
- Average Annual Daily Traffic volume of approximately 8,000 vehicles per day
- 2 Lane Urban Roadway (44')
- Distance of 0.75 miles
- 39 Access points along segment or approx. 52 accesses/mile
- Actual crash rate of 3.81 crashes per million vehicle miles
- Statewide Average crash rate of 5 crashes per million vehicle miles for similar roadways
- Actual rate < Average rate, thus no apparent safety issue

Note: The statewide average crash rate is dependent upon the number of access points, the number of lanes and roadway type.

LOCATION MAP

REQUESTED SPEED LIMIT REDUCTION SEGMENTS

Brooklyn Park

T:\ENGFILES\DWGS\LOCATION\TRAFFIC\SPEED LIMIT.DWG

RESOLUTION #1980-123

RESOLUTION ESTABLISHING 30 MILE PER HOUR SPEED ON CERTAIN STREETS IN ACCORDANCE WITH MINNESOTA LAWS 1980, CHAPTER 498

WHEREAS, Minnesota Laws 1980, Chapter 498 provides that the governing body of a City or Town may, by resolution, designate speed limits of 30 miles per hour on any City street, Municipal State Aid street or Town road which meets the definition of "urban District" as defined in Section 169.01, Subdivision 59 and

WHEREAS, the City of Brooklyn Park has three streets on which a speed limit in excess of 30 miles per hour has been established pursuant to an Engineering and Traffic investigation by the Commissioner which do now meet the definition of "urban district" for at least a quarter-mile

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK:

1. The following streets are hereby designated as carrying a 30 mile per hour speed limit:

   A. Noble Avenue North from Brooklyn Center to 85th Avenue North.

   B. 63rd Avenue North from Brooklyn Center to County Road 18.

   C. Brookdale Drive from Zane Avenue to T.H. 252 (West River Road).

2. The City Clerk is hereby authorized and directed to forward a copy of this resolution to the Commissioner, Minnesota Department of Transportation and the Golden Valley District Engineer.

3. The City Street Department is hereby directed to erect the appropriate 30 mile speed limit signs designating said speed and indicating the beginning and end of the segment on which the speed limit is established and at appropriate intervals within said segments ten days after submission of this resolution to the Commissioner.

The foregoing resolution was introduced by Mayor Krautkremer and duly seconded by Councilman Slack.
The following voted in favor of the resolution: Krautkremer, Dow, Marshall, Umland, Engh, Abbey and Slack.
The following voted against: None.
The following were absent: None.
Whereupon the resolution was adopted.

ADOPTED: MAY 27, 1980

James J. Krautkremer

JAMES KRAUTKREMER, MAYOR

Gerri Herman

From: Ken Nordberg <drkennordberg@gmail.com>
Sent: Monday, November 1, 2021 4:58 PM
To: Jesse Struve
Subject: Re: 211101 Noble Ave speed increase question

On Nov 1, 2021, at 3:09 PM, Jesse Struve <Jesse.Struve@BrooklynPark.Org> wrote:

Mr. Nordberg,

Thank you for taking the time to reach out about the speed limit on Noble Avenue. The City Council has a discussion item about the speed limit change at the November 8 City Council meeting. If you would like to include an email with the City Council meeting packet please just email me what you would like included by tomorrow at 3pm or just let me know if you want me to include the email below. As you are aware with the speed limit changes we also implemented school reduction zones for both the Elementary and Middle Schools. On of my staff confirmed the school reduction zone signs are up around the Middle School today. You can also come to the meeting next Monday night at 7pm at City Hall to discuss your concerns directly with the City Council too.

I'm more than happy to discuss this in more detail or answer any additional questions you may have. I can be reached directly at 763-493-8114 or at jesse.struve@brooklynpark.org.

Jesse Struve, PE
Operations and Maintenance - City Engineer
W. 763-493-8114
<image001.jpg>
<image002.png><image003.png><image004.png><image005.png>
5200 85th Avenue N, Brooklyn Park, MN 55443

-----Original Message-----
From: Ken Nordberg <drkennordberg@gmail.com>
Sent: Sunday, October 31, 2021 4:51 PM
To: BPCouncil-MGR-DL <BPCouncil-MGR@BrooklynPark.Org>
Subject: Noble Avenue Speed Limits

I have lived at 7833 Noble Ave. N, Brooklyn Park, MN 55443 since 1996. In my opinion, the recent increase in the speed limit from 30 mph to 35 mph on Noble avenue between 85th to Brooklyn Boulevard should be rescinded immediately. The main reason is, a grade school and a middle school are on this short section of this avenue, plus a large well-used park at the north end and busy church crosswalk at the south end. Whereas a second speed limit of 25 mph was posted to slow traffic nearing the grade school when children are present, too many drivers are paying no attention to these signs, especially coming from the north, probably because the sped limit is 45 mph on Noble Parkway north of 85th—a 4-lane thoroughfare with a medium. No homes north of 85 have driveways that connect with Noble Parkway (all homes are hidden by berms). Noble avenue south if 85th in a 2-lane residential thoroughfare with sidewalks and lots

of street side parking. All driveways connect to the street. Lots of children play in the park on the northwest part of Noble avenue, in the playground next to the grade school, middle school and the athletic field adjoining Noble Avenue next the the high school. Many children cross daily cross to residential areas and the path along Shingle creek from the middle school grounds. Considering all this, it makes no sense to raise the speed limit on any portion of Noble Avenue any more than raising the speed limit on any other portion of any other 2-lane residential street in Brooklyn Park. As it is, i often find tt dangerous to turn left from my driveway onto Noble Avenue because a slight hill in the street north of my driveway hides automobiles accelerating toward me from the 4-way stop at Brookdale Drive until they are about two houses away, forcing me to quickly accelerate to safely get into the right lane. Most important, however, wherever young children are located along Noble Avenue today, in the park, on school grounds or in their own yards, they are now in greater danger from traffic passing at a greater rate of speed. Because so many Minnesota drivers now routinely drive 10 mph over the speed limit, it is not difficult to imagine Noble Avenue is now a tragic car accident involving a child now waiting to happen.

I will be out of town on the 8th, so please read this at the council meeting on the 8th.

Respectfully submitted on this date11/1/21

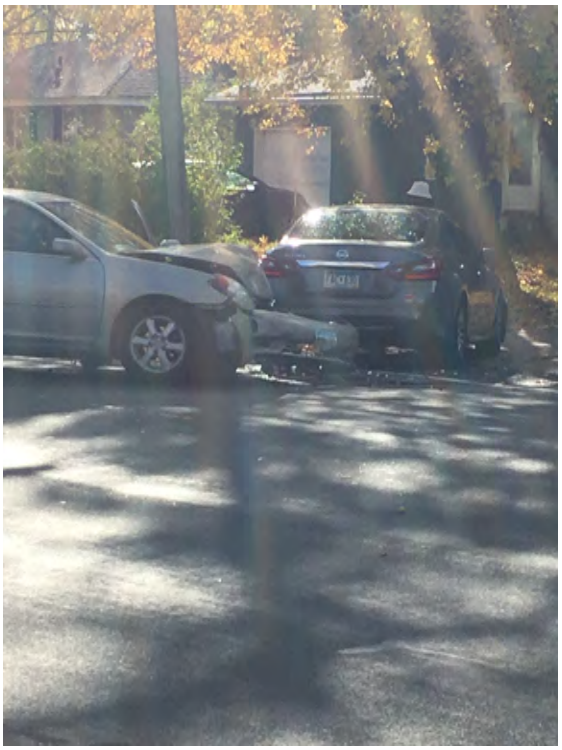
Kenneth Nordberg

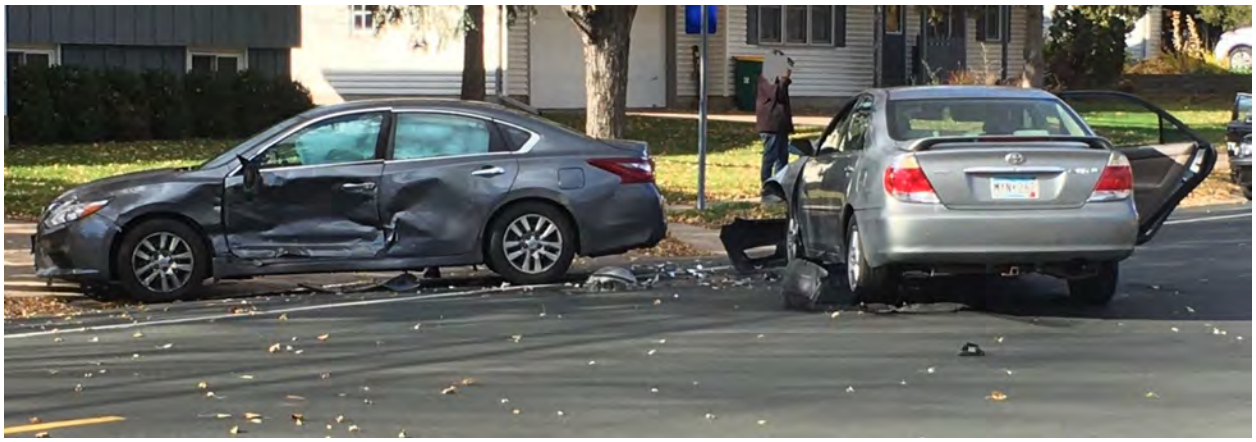
Dear Brooklyn Park City Council,

Thank you for accepting our petition and taking the time to hear our pleas regarding the safety on Noble Ave.

Please lower the speed limit on Noble Ave N back to a safer speed of 30mph.

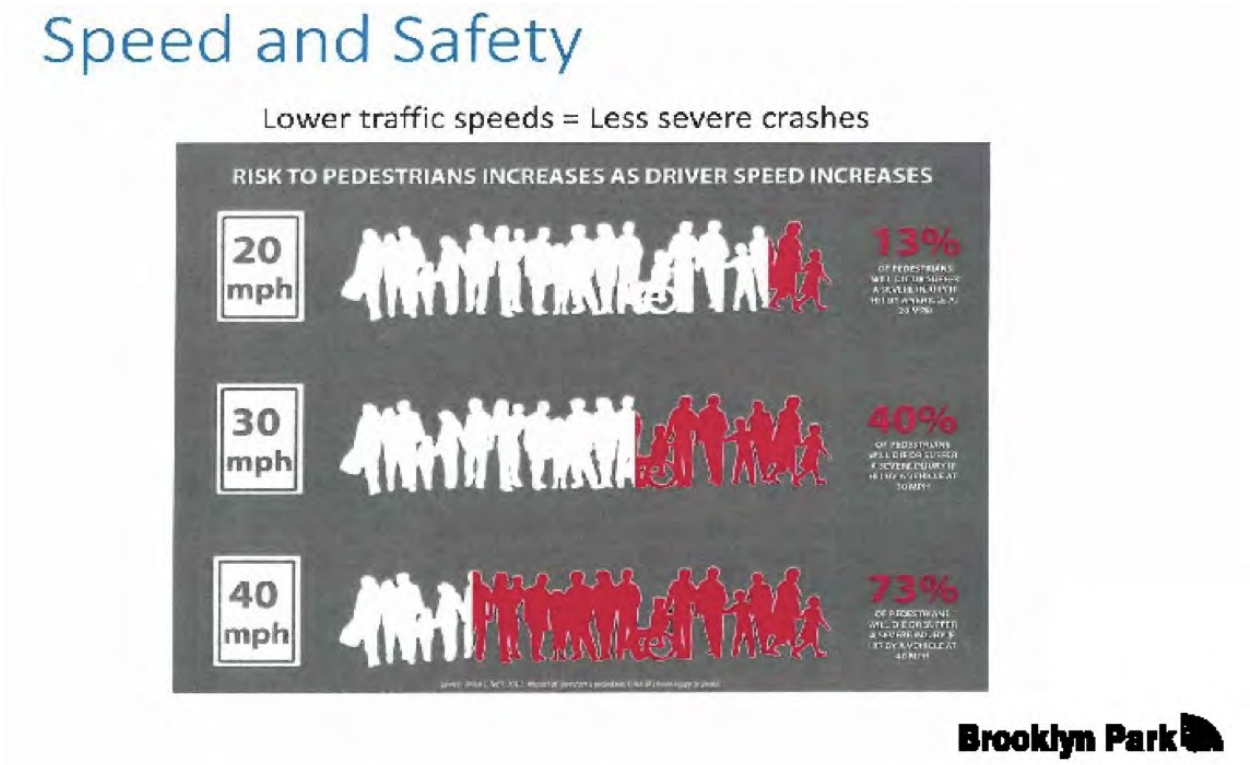
On October 31, 2021 at around 2:45pm the accident shown in the following pictures occurred on 78th Ave and Noble Ave.





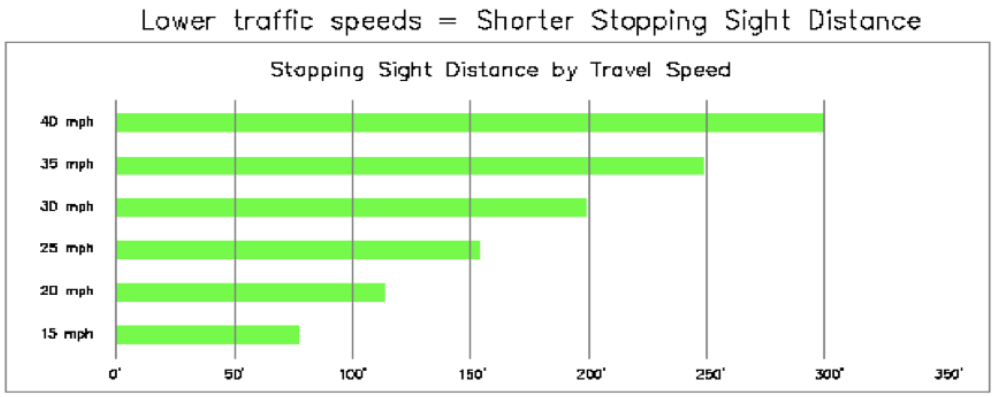
On a data sheet, this accident would just be another mark on the page. But in real life, these are real people, real human lives. Someone's father, mother, or child. Higher speeds increase the risk of crashes and make them more severe when they do happen.

In the city council meeting on August 17, 2020, the city traffic engineer showed this graphic (slide 13) and explained how crash fatalities dramatically increase as speed increases:



He also showed how higher speeds need a longer stopping sight distance with this graphic:

Speed and Safety



Data Source: American Association of State Highway and Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets. Washington, DC:AASHTO, 2011. "Assumes 2.5 second perception-breaking time and 11.2 ft/sec2 driver deceleration"

Brooklyn Park

He then asked for the council's direction regarding these questions:

4) Council Guidance

- Does Council desire a residential speed limit below 30 mph?
- Is Council more concerned with speeding on residential roadways or on City Collector and Arterial roadways?
- Is the primary goal of Council to improve pedestrian and bicycle safety?

The city council at that time told the city engineer to prioritize pedestrian and bicyclist safety, even stating that "it is a huge primary goal to improve pedestrian and bicycle safety". The risks of driving at higher speeds were clearly understood by all, and many city council members expressed concerns about speeding in our neighborhoods. It was clear that you all wanted our streets to be as safe as possible. The decision to raise the speed limit on Noble Ave does not in any way improve pedestrian or bicycle safety, in fact, it worsens their safety.

Another slide presented at the December 2020 council meeting said this:

Proposed Policy

New legislation passed that allows communities to set their own speed limits must establish a policy that includes:

- Procedures based on the city's safety, engineering and traffic analysis. This analysis must consider national urban speed limit guidance and studies, local traffic crashes and methods to effectively communicate the change to the public.
- Changes must be made in a consistent and understandable manner and must be posted on the affected street.
- Reduced Speed Limits address BP2025 goals 4 (Healthy and Safe People) and Goal 6 (City Laws are understandable, equitably enforced, and relative to community.

Noble Ave has had its speed limit raised. That does NOT address goal 4 - Healthy and Safe People - in fact, it does the opposite.

The MN Dept of Transportation gives clear guidance regarding speed. It states: "Lowering speeds leads to safer roads. Speed is one of the most important factors in roadway safety. High speeds increase both the risk of crashes and their severity. The faster a person drives: the less they can see out their windshield; the more time and distance it takes to stop, and the more severe a crash will be." - (MN Dept of Transportation infosheet about vehicle speeds)

Please examine this infosheet from the MN Dept of Transportation about vehicle speeds:

Each 1 mph decrease in speed reduces the risk of severe injury or death by 3 percentage points[5]

Vehicle Speeds

Lowering speeds leads to safer roads

Speed is one of the most important factors in roadway safety. High speeds increase both the risk of crashes and their severity. The faster a person drives:

- The less they can see out of their windshield.
- The more time and distance it takes to stop.
- The more severe a crash will be.

Injuries and fatalities are a result of the transfer of energy between a motor vehicle and the person or object it hits. The faster a vehicle is going, the more energy there is to transfer. The difference in mass between a motor vehicle and a human body means that just a small increase in speed can result in a significant increase in crash severity for pedestrians, bicyclists, or other vulnerable users.

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1. Bartmann, A., Spijkers, W., and Hess, M. 1991. Street Environment, Driving Speed and Field of Vision. Vision in Vehicles III.
2. W. A. Leaf, W.A. and Preusser, D.F. Literature Review on Vehicle Travel Speeds and Pedestrian Injuries Among Selected Racial/Ethnic Groups. DTNH22-97-D-05018 Task Order 97-03. U.S. Department of Transportation, 1999
3. Braking distances include 2.5 seconds of reaction time
4. AASHTO Green Book—A Policy on Geometric Design of Highways and Streets, 7th Edition. American Association of State and Highway Transportation Officials, 2018
5. Tefft, B. 2013. Impact Speed and a Pedestrian's Risk of Severe Injury or Death. Accident Analysis & Prevention, 50(87): 1-8. DOI: 10.1016/j.aap.2012.07.022

DEPARTMENT OF TRANSPORTATION

What Contributes to Higher Speeds?

- Wide and straight roadways
- Roadways with multiple traffic lanes
- Streets that feel open due to a lack of trees or street-side development

Speeds also tend to be higher at mid-block locations than at intersections.

How Can We Slow Drivers Down?

Changing the posted speed limit is often not enough to slow motorists to safe speeds. Safer speeds can be encouraged through roadway design solutions, such as:

- Narrowing travel lanes.
- Reducing the number of travel lanes. For example, converting a four-lane road to a three-lane road may slow traffic.
- Adding vertical road elements such as raised crosswalks or raised intersections.
- Using roundabouts to slow cars at intersections.
- Visually narrowing the roadway by:
  - Orienting buildings toward the street and reducing setbacks (or street fronting).[6]
  - Using a mix of alternate paving materials.
  - Installing medians.
  - Installing curb extensions (at mid-block locations and intersections).
  - Planting street trees.[7]
  - Landscaping.
  - Installing pedestrian-scale lighting.

To make streets safer, slow motorists down. Even slowing a roadway by 2 to 3 miles per hour will improve safety for all road users.

Streets that have been visually narrowed using trees and narrow travel lanes (top) and curb extensions (bottom).

6 Ivey, J. N., Garrick N. W., and Howson, G. Designing Roads that Guide Drivers to Choose Safer Speeds. JHR 09-321. Connecticut Department of Transportation. 2009.

7 van der Horst, R., and de Ridder, S. 2007. Influence of Roadside Infrastructure on Driving Behavior: Driving Simulator Study. *Transportation Research Record*. 2018: 36-44. DOI: 10.3141/2018-06

DESIGN RESOURCES

FHWA-HEP-16-005: Achieving Multimodal Networks: Applying Design Flexibility and Reducing Conflicts

MnDOT Report 2013-22: Minnesota's Best Practices for Pedestrian/Bicycle Safety

ITE Publication IR-145E: Implementing Context Sensitive Design on Multimodal Corridors: A Practitioner's Handbook

RELATED INFOSHEETS

Roadway Reallocation

Curb Extensions

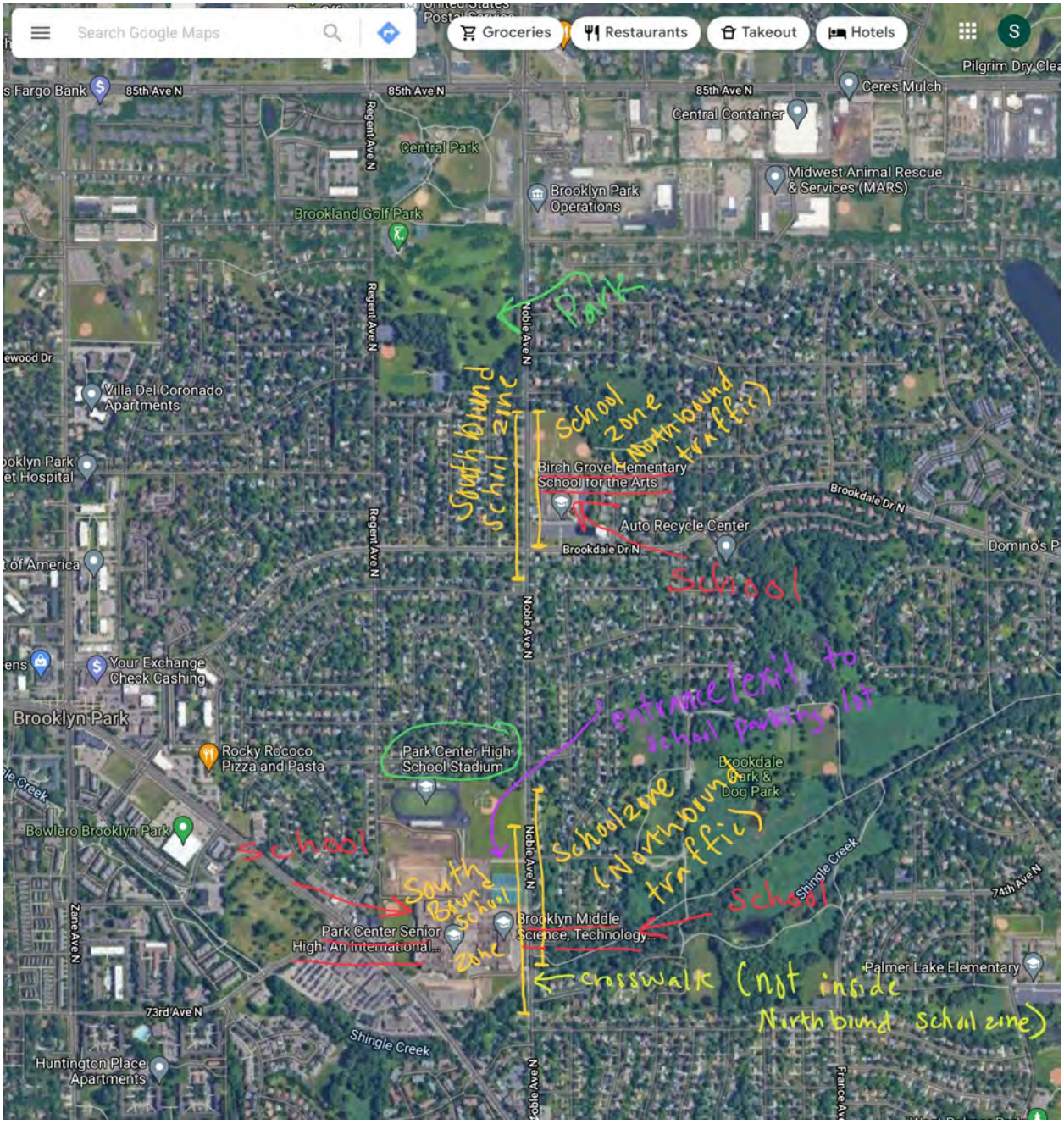
Medians

Mini Roundabouts

DEPARTMENT OF TRANSPORTATION

As can be seen in the images showing the driver's field of vision, by raising the speed limit to 35 mph the drivers' field of vision is greatly narrowed. As stated in the blue box on the infosheet, "even slowing a roadway by 2 to 3 miles per hour will improve safety for all road users." Noble Ave has done the opposite. It has raised the speed limit by 5 mph, which therefore *decreases* safety for all users.

Many users of Noble Ave. are children attending the 3 schools located on this street. Having 3 schools and a park located on Noble Ave. are extenuating circumstances that are unique to Noble Ave. Park Center High School, Brooklyn Middle Steam School, and Birch Grove Elementary School together serve over 3,400 students. On the map shown on the next page, please notice the location of the park, three schools, school zones, school parking and a crosswalk that is not included inside the northbound school zone:



Many students walk to school. There is a school zone, but students leave the school zone as they walk to and from school, or walk to the park at 85th Ave. In addition, the southern crosswalk (used by many students) at Noble Ave and Shingle Creek path, is not included in the northbound school zone. As can be seen in the photos below, there is a sign for 35mph, then a crosswalk, and then a school zone sign in the distance.

School
school zone starts
SPEED LIMIT 35
Crosswalk used by students / bikers / pedestrians

If a student (or any person) were to get hit by a vehicle going 35mph (or higher) they are more than twice as likely to be killed than if the vehicle had been moving at 30mph. Also, as was shown in the infosheet from the MN Dept of Transportation mentioned earlier, the field of vision for a driver is much smaller at 35mph, so drivers are less likely to notice the students on the side of the road. Even more so is this the case in the winter - when it is still dark out at the start of school. By the time a driver sees a student crossing the road, it may be too late.

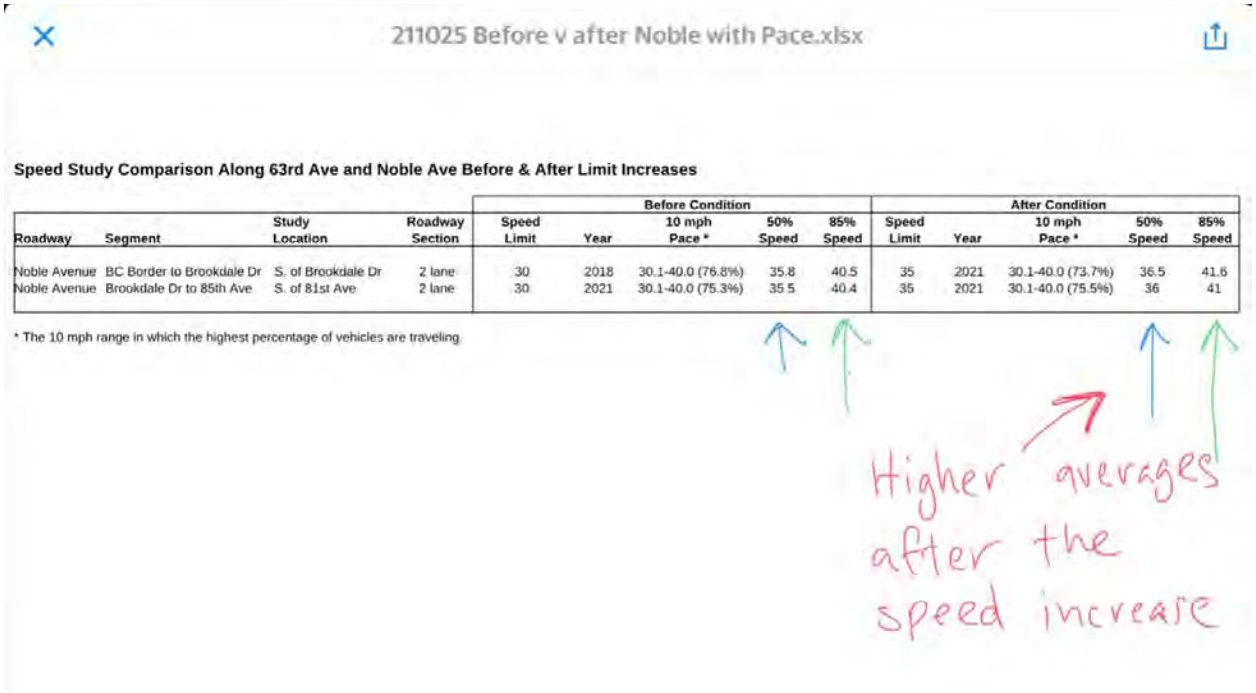
In addition, this crosswalk is commonly used by bikers and pedestrians using the Shingle Creek Path. Please see this in the map on the next page. Please lower the speed limit back to 30 mph to increase biker and pedestrian safety.

Many high school students drive to school, using Noble Ave as their route, and also entering/exiting the school parking lot at Noble Ave (this can be seen in the map above). They are newer drivers; any mistakes or misjudgements are more dangerous for them now that the speed limit is 35mph. Please lower the speed limit back to 30 mph to keep them safer.

Students are not the only ones who walk along Noble Ave. Many neighborhood residents take the bus and cross the street in order to get to the bus stop. There are not crosswalks at all of these locations, and with faster traffic coming, it is now more dangerous for them to cross the street.

Children play on Noble Ave. Many young children ride their bikes up and down the sidewalk. Teenagers play basketball in their driveways. Any fall, stray ball or mistake could be deadly for them. This photo below shows my little nextdoor neighbors who like to ride bikes on the sidewalk. Please lower the speed limit to 30mph and make Noble Ave. safer for our children.

Raising the speed limit to 35 mph in no way made our street safer. According to an investigation by AAA Newsroom "Drivers often travel faster than posted speed limits, but when officials raise limits to match travel speeds, people still go faster." When examining the data and comparing speeds prior to the change, it can be seen that people are in fact driving faster on Noble Ave than before. As can be seen in the data shared by the traffic engineer, people are in fact going faster on Noble Ave than they were before the speed limit increased. Please see this in the table below:



211025 Before v after Noble with Pace.xlsx

Speed Study Comparison Along 63rd Ave and Noble Ave Before & After Limit Increases

				Before Condition					After Condition				
Roadway	Segment	Study Location	Roadway Section	Speed Limit	Year	10 mph Pace *	50% Speed	85% Speed	Speed Limit	Year	10 mph Pace *	50% Speed	85% Speed
Noble Avenue	BC Border to Brookdale Dr	S. of Brookdale Dr	2 lane	30	2018	30.1-40.0 (76.8%)	35.8	40.5	35	2021	30.1-40.0 (73.7%)	36.5	41.6
Noble Avenue	Brookdale Dr to 85th Ave	S. of 81st Ave	2 lane	30	2021	30.1-40.0 (75.3%)	35.5	40.4	35	2021	30.1-40.0 (75.5%)	36	41

* The 10 mph range in which the highest percentage of vehicles are traveling

It may seem that an increase in just 1 or 2mph is not a big deal, but as the MN Dept of Transportation infographic states "Each 1 mph decrease in speed reduces the risk of severe injury or death by 3 percentage points." The converse would then also be true… each increase in 1 mph would increase the risk of severe injury or death by 3 percentage points.

Also, averages don't always tell the whole story. Note the following example:

10 mph and 70 mph = average of 35mph
30 mph and 40 mph = average of 35mph
33 mph and 37mph = average of 35mph
25 mph and 45 mph = average of 35 mph

As can be seen from that example, averages in themselves do not tell the whole story. Regardless, the collected data shows that the average speed has in fact increased on Noble Ave since the speed limit change. Higher speeds decrease road safety. Please lower the speed limit back to a safer speed of 30 mph.

Almost every home on Noble Ave. has a driveway that requires us to either back out of it into the street, or back into it from the street. Please see these picture of my driveway so you can get a feel for what our driveways look like:

With a higher speed limit, it becomes more dangerous for us to enter and exit our driveways. I have heard many more horns than I used to. When my neighbors back out of their driveways with minivans full of children, I hear horns honking at them because other cars are approaching them faster than before. There are many near-misses that are not collected in the data. Also, many accidents do not get reported to the police and are not included in the data. As stated in the Brooklyn Park 2040 Comprehensive Plan: “Generally, as the frequency of access points increase, so does the crash rate. In addition, a study of accidents in suburban areas has indicated that over eleven percent of all accidents on major streets in municipalities involved driveway maneuvers.” Please lower the speed limit back to 30 mph so that we can be safer pulling into and out of our driveways.

Additionally, an increase of speed from 30mph to 35mph greatly increases the amount of vehicle noise heard 50 feet away, according to the logarithmic decibel scale and research from Noise Pollution Clearinghouse. Our homes are about 50 feet away from the street, so we hear substantially more street noise inside our homes now - even with the windows closed. This has reduced the quality of life for us here on Noble Ave. Goal 4 of the Brooklyn Park 2025 Plan is to have “Healthy and Safe People.” Increased noise is not in line with this goal. If residents do not have central air, they must have windows open in the summertime. Increased noise levels have been proven to interrupt quality sleep, and cause other negative health effects.

Please lower the speed limit back to 30mph so that we can be healthier and safer.

Thank you for your time and consideration of this important matter.

Sincerely,

Sylvia Suares
Resident
7824 Noble Ave N

City of Brooklyn Park
Request for Council Action

Agenda Item:	7.2	**Meeting Date:**	November 8, 2021
Agenda Section:	General Action Items	**Originating Department:**	Operations and Maintenance - Engineering Services Division
Resolution:	X	**Prepared By:**	Jesse Struve, P.E., City Engineer and Jeff Holstein, P.E., P.T.O.E. City Transportation Engineer
Ordinance:	N/A		
Attachments:	10	**Presented By:**	Jesse Struve
Item:	Consider Request to Lower Speed Limit on 63rd Avenue (TH 169 to CSAH 81) to 30 MPH		

City Manager's Proposed Action:

It is the City Engineer's recommendation to keep 63rd Avenue posted as 35mph, following the newly passed speed limit policy. In accordance with the Speed Limit Policy, the City Council has the authority to override the City Engineer's decision due to extenuating circumstances by passing the motion below. This action will require a two-thirds vote of the City Council to approve the change.

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2021-____APPROVING REAUTHORIZATION OF THE PREVIOUS 30 MPH SPEED LIMIT ALONG 63RD AVENUE FROM TH169 TO CSAH 81.

Overview:

The City Council accepted a petition from Gerald Pierson on September 13 for the City Council to review the decision to increase the posted speed limit along 63rd Avenue from County Highway 81 to U.S. Highway 169 from 30 mph to 35 mph. The speed limit was recently changed to 35 mph in accordance with the criteria included in the City's new Speed Limit Setting Policy approved by the City Council in December of 2020.

The subject segment of 63rd Avenue is classified as an arterial roadway within the City's roadway system. It services approximately 7,000 vehicles per day and provides significant continuity connecting into Maple Grove and U.S. Highway 169 to the west and Brooklyn Center and Brooklyn Boulevard to the east. The roadway varies in width with most of the subject segment over 40 feet in width, except for between Quebec and Yukon Avenues (32 feet), and includes sidewalks and/or trails along both sides. It also has adjacent residential uses, but does not look or function similar to a local residential roadway. The previous 30 mph limit was **not** set by MnDOT, but instead by the City under the Urban District designation (Resolution #1980-123). This resulted in an artificially low speed limit for this type of roadway.

When the Council was considering a new speed limit policy, staff communicated upcoming Council discussions to residents through articles in the Park Pages, community-wide emails, and the use of social media. During the Council discussions, staff presented several possible changes in speed limits including raising the speed limit on Noble Avenue and 63rd Avenue. Ultimately, the City Council passed the Speed Limit Policy on December 14, 2020 (see attachment 7.2B). Prior to changing the speed limits, staff completed further analysis and brought back final proposed speed limit changes to the City Council on June 6, 2021.

This segment of 63rd Avenue (County Highway 81 to U.S. Highway 169) was changed from 30 mph to 35 mph during the week of August 16. The City's Communications Division sent email and social media notices during the week of August 9 notifying the surrounding areas of the upcoming change.

One of the major goals for creating a Speed Limit Policy was to make speed limits fair and equitable across the community. The goal was for roads that look, feel, and have similar designs, to have the same speed limits across the community. Parameters included in the policy help staff evaluate each road segment and to allow a uniform application of the policy across the community. Having roads with artificially reduced speed limits will increase police interactions with people who travel on these roadways.

Some of the residents feel the higher posted speed limits will result in significant increases in speed and crash severity. While it is true that speed does contribute to the severity of crashes, the analysis of the traffic speed and accident history does not support the assertion the accidents will be more severe or "that there will be more severe crashes" than what is taking place now. 63rd Ave has sidewalks on both sides of the road for pedestrian except for west of Boone Ave (1 side) and wide shoulders that allow for bikers to be outside the travel lane (unless a car is parked there). The summary of data collected is as follows:

1) Additional speed studies were completed on 63rd Avenue in September 2021 (in the same location as previous studies), approximately one month after the speed limit changes. This information allowed staff to compare Before to After the speed limit changes. The data show the speeds on 63rd Avenue between TH 169 and CSAH 81 have increased by less than 0.6 mph.

2) Staff also conducted additional crash analysis along 63rd Avenue for the After Condition using data from the Minnesota Department of Public Safety. The DPS data show the segment of 63rd Avenue between County Highway 81 and U.S. Highway 169 experienced two crashes over the two-month time period between the sign change (mid-August) and the available data (mid-October). The recent history of crashes along this segment of 63rd Avenue show other Before Condition two-month time periods with up to five crashes. Prior to raising the speed limits, staff conducted Before Condition crash analyses of the segments. The crash analyses for these segments showed the actual crash rates were lower than the statewide crash rates for similar roadways.

   Crash analyses are typically conducted for a three-to-five-year time period to account for the random nature of crashes. This typically allows for regression to the mean. It is staff's intention to continue to monitor the crash and speed data in the After Condition and work with Council to modify the Speed Limit Setting Policy, if necessary.

Primary Issues/Alternatives to Consider:

The policy is a living document with capacity to change/evolve over time as conditions change. The policy allows the City to set speed limits along City owned Class I (Major) Collector and Minor Arterial roadways. For local and Class II Collector Roadways, the City will continue to follow State requirements.

The Speed Limit Setting Policy approved by the City Council requires a two-thirds vote to change a limit set by the policy. If voted on and not approved, a segment speed limit cannot be reconsidered for change for a minimum period of two years.

The City's Community Engagement team prepared an engagement plan for the speed limit changes based on informative and not consultative efforts. In addition to the email and social media notifications, staff included articles in the city newsletter (Park Pages), to keep residents notified of the speed limit policy process. There was also a meeting with the Council outlining the final results prior to the time the speed limits were changed.

Budgetary/Fiscal Issues:

The City's Operations and Maintenance Department (Streets Division) has retained the old 30 mph signs, so costs associated with reimplementing the previous 30 mph speed limits would be limited to internal labor costs.

Attachments:

7.2A RESOLUTION
7.2B APPROVED POLICY – DECEMBER 14, 2020
7.2C SPEED STUDY COMPARISON OF BEFORE VS AFTER – TABLE
7.2D CRASH ANALYSIS DATA
7.2E LOCATION MAP
7.2F RESOLUTION #1980-123
7.2G RESIDENT CONCERNS-JACKIE MORTENSON
7.2H RESIDENT CONCERNS-GERALD PIERSON
7.2I RESIDENT CONCERNS-LARRY AND CYNTHIA HAUGBERG
7.2J RESIDENT CONCERNS-MIKE SIS

RESOLUTION #2021-

RESOLUTION APPROVING REAUTHORIZATION OF THE PREVIOUS 30 MPH SPEED LIMIT ALONG 63rd AVENUE FROM TH169 TO CSAH 81

WHEREAS, the City Council approved a Speed Limit Setting Policy on December 14, 2020 to allow the City Engineer to establish speed limits on city owned Class I Collector and arterial roadways based on the application of the procedures documented in the policy; and

WHEREAS, the City Engineer determined the appropriate speed limit along 63rd Avenue, an arterial roadway, between County Highway 81 and U.S. Highway 169 should be 35 mph and this speed limit change was implemented in August of 2021; and

WHEREAS, some 63rd Avenue residents have petitioned the City to change the posted speed limit back to 30 mph; and

WHEREAS, the Speed Limit Setting Policy requires a two-thirds vote from Council to change a limit set by the Speed Limit Setting Policy.

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

1. The City of Brooklyn Park has voted to reauthorize the 30 mph posted speed limit along 63rd Avenue from County Highway 81 to U.S. Highway 169.

2. The City Engineer is hereby directed to oversee the change of the posted speed limit back to 30 mph.

City of Brooklyn Park, MN

Policy for Setting Speed Limits on City Streets

December 14, 2021

INTRODUCTION

The State Legislature authorized cities to set regulatory speed limits on certain city streets without a Minnesota Department of Transportation (MnDOT) traffic study effective August 1, 2019. The action resulted in two new speed limit setting laws. The first allows city "residential roadways" to be set at 25 mph (M.S. 169.14, sub 2(a)(7) & 2(b)) if they meet the new definition, are formally adopted by the city and signs are posted designating the speed limit at the beginning and end of the roadway segment. A "residential roadway" is now defined to include all city streets in an area zoned exclusively for housing that are not collector or arterial streets.

The second new speed limit setting law allows a city to set its own regulatory speed limits for other city owned streets, including collectors, arterials and non-residential local roadways. A city that uses the authority under this subdivision (M.S. 169.14, sub 5h) must develop and adopt procedures to set speed limits based on the city's safety, engineering and traffic analysis. At a minimum, the analysis must consider national urban speed limit guidance and studies, local traffic crashes and methods to effectively communicate the change to the public. Speed limit changes must be made in a consistent and understandable manner and must be posted on the affected street.

Prior to the adoption of these new laws, virtually all speed limits were set by the State, either by statute or by a detailed MnDOT traffic study. The statutory speed limits (M.S. 169.14) on most typical roadways under ideal conditions are as follows unless otherwise posted:

- 10 mph in alleys
- 30 mph on streets in urban districts
- 55 mph on other roads
- 65 mph on expressways
- 65 mph on urban interstate highways
- 70 mph on rural interstate highways

All other limits were set by MnDOT, acting for the Commissioner of Transportation, based upon an engineering and traffic investigation that considered the following factors:

- Road type and condition
- Location and type of access points
- Adjacent land usage
- Sufficient length of roadway
- Existing traffic control devices
- Crash history, traffic volume
- Horizontal and vertical curvature (sight distance)
- Travel speed samples

The most weight was typically assigned to the speed samples and the 85^{th} percentile speed (speed at which 85% of the sampled traffic was traveling at or below).

The purpose of this document is to create a clear process that satisfies the requirements of the new legislation. This document will focus primarily on the development of a consistent and uniform process for setting appropriate regulatory speed limits on city owned collector and arterial roadways while maintaining 30 mph on local roadways. The new legislation did not impact the processes for setting School Zone, Advisory and Work Zone speed limits.

The City's desire to change the speed limits of its roadways is consistent with BP2025 Goal 4 (Heathy and Safe People) and Goal 6 (City laws are understandable, equitably enforced and relevant to the community. This also supports the City's 2040 Comprehensive Plan, including the Pedestrian and Bicycle Plan.

EXISTING ROADWAY SYSTEM

The City Roadway System currently includes 322 miles of public roadway. The existing classification of the roadways within the city is shown in Figure #1. The breakdown by functional classification and jurisdiction is as follows:

- 210 miles of city owned Local streets with a standard width of 32' back/back of curb (Figure #2).
- 23 miles of city owned Class 2 (Minor) Collector streets with the vast majority at widths of 32' back/back of curb (Figure #3).
- 30 miles of city owned Class 1 (Major) Collector streets with nominal widths of 40-44' F/F (Figure #4).
- 14 miles of city owned Minor Arterial streets with widths ranging from 32'-96' with the vast majority as multi-lane facilities (Figure #5).
- 45 miles of County and State owned Minor Arterial and Principal Arterial streets.

In general, most traffic issues occur on the Collector and Arterial (non-freeway) roadway systems, where both the mobility and access functions are being provided at moderate to high levels. Local roadways, which provide primarily access, and freeway facilities, which provide primarily mobility, do not typically experience major issues.

EXISTING TRAFFIC SPEEDS

The existing regulatory speed limits on all roadways within the city are shown in Figure #6. All existing speed limits within the City of Brooklyn Park, including City, County and State roadways, were set by statute or MnDOT speed study. Some city roadways posted at 30 mph were set by the Urban District Statute. Roadways set at 35, 40, 45 and 50 mph were set by MnDOT speed study.

The City of Brooklyn Park receives several citizen complaints each year regarding speeding. The City conducted 80 speed studies over the 2015-2020 period on city owned roadway segments of various classification. This data is documented in Table 1 and indicate the following:

- Average speed of 23.4 mph, 50th% speed of 24.2 mph and 85th% speed of 30.0 mph on city local "residential roadways" (with 30 mph limit).
- Average speed of 29.2 mph, 50th% speed of 29.5 mph and 85th% speed of 34.6 mph on city Class 2 (Minor) collector roadways with 30 mph speed limit.
- Average speed and 50th% speed approx. at speed limit and 85th% speed approx. at 5 mph over limit on city Class 1 (Major) collector and arterial roadways with various limits.

Based on the information from the speed studies, the majority of motorists are driving at or below the 30 mph speed limit on local roadways. The speeds on the Class 2 (Minor) Collector roadways that are posted at 30 mph are slightly higher, but still most motorists are driving under 30 mph. Traffic speeds and speeding are highest on the city owned Class 1 (Major) Collector and Arterial roadways. The worst traffic speeding issues occur along Major Collector and Arterial roadways

where limits were set at 30 mph by use of the "Urban District" Statute. This includes 63rd Avenue (TH 169 to Brooklyn Center), Brookdale Drive (Zane Avenue to TH 252) and West River Road (Brookdale Drive to 97th Avenue).

A review of City's Police Department enforcement data for 2019 shows more traffic citations issued for the city's Major Collector and Arterial roadways than any other roadway system. Approximately one third of these citations were for traffic speeding.

RECENT CRASH HISTORY

The crash histories within the city for vehicles, bicycles and pedestrians were investigated for the most recent ten-year (2010-2019) period. This analysis reviewed crash data provided by the Minnesota Department of Public Safety (see Table 2) and indicates the following:

- 8,639 total citywide crashes, including 8,414 vehicle crashes (9 fatal) and 225 ped/bike vs vehicle crashes (11 fatal).
- 839 (9.7%) crashes occurred on city local roadways, including 799 vehicle crashes (1 fatal) and 40 ped/bike vs vehicle crashes (0 fatal).
- 1,630 (18.9%) vehicle crashes occurred on city collector and arterial roadways, including 1,535 vehicle crashes (1 fatal) and 95 ped/bike vs vehicle crashes (2 fatal).

The State and County roadway systems experienced 71.4% of the total crashes though they comprise only 14% of the total roadway mileage in the city. Conversely, local roadways experienced only 9.7% of the vehicle crashes though they comprise approximately 66% of the roadway system.

The severity (by fatal crashes) of these crashes is documented in Table 3 and indicate the following:

- 20 total fatal crashes including 9 single or multi-vehicle vehicle crashes and 11 ped/bike vs vehicle crashes. Ten of the eleven ped/bike crashes were pedestrian vs vehicle crashes.
- One fatal vehicle crash along a city local roadway (single vehicle run off the road).
- Three fatal crashes along city collector or arterial roadways, including two ped/bike vs vehicle crashes.

Further investigation of these fatal crashes indicate that seven of the crashes occurred along state highways, with six (4 vehicle and 2 pedestrian) along TH 252 and one vehicle crash along TH 169. Nine of the fatal crashes occurred along county roadways, including four pedestrian crashes along Brooklyn Boulevard. Thus, 16 of the 20 total fatal crashes, including 9 of the 11 ped/bike fatal crashes, occurred on the State and County roadway systems.

A comprehensive investigation into the citywide ped/bike vs vehicle crashes by severity over the 2010-2019 time period is shown in Figure 7. The figure identifies clusters of crashes along Brooklyn Boulevard (County) and Zane Avenue south of Brooklyn Boulevard (city) and shows that 30 of the 225 (13%) ped/bike crashes were fatal or serious injury with the remainder as minor injury or no injury. Of the 135 ped/bike crashes on the city owned roadways, 5.3% were fatal or serious injury crashes. The two ped/bike fatal crashes along city roadways occurred at the Zane/65th intersection (bike) and the Lakeland Avenue / 62nd Avenue intersection (pedestrian).

The contributing factors of these crashes was also investigated. The data show the primary causes of single and multi-vehicle crashes as; failure to yield the right of way, following too closely, distracted/inattentive driving and speeding. The primary causes of ped/bike crashes for the portion attributed to pedestrians and bicyclists were failure to yield the right of way, dart/dash into traffic and dark clothes, whereas those attributed to motorists were inattentive driving, failure to yield the right of way, weather conditions and speed. Speeding and careless driving were listed as a primary contributing factor in approximately 12% of vehicle crashes, 10% of pedestrian crashes and 4% of bike crashes.

The vast majority (86%) of the vehicle, pedestrian and bicycle crashes and the most severe crashes on city owned roadways occurred along Class 1 (Major) collector roadways and minor arterial roadways. The number of crashes and the severities of vehicle, pedestrian and bicycle crashes is similar to most other similar sized cities within the metro area.

NATIONAL GUIDANCE ON SETTING URBAN SPEED LIMITS

The Cities of Minneapolis and St. Paul have both recently met the new legislative requirements to allow them to set speed limits along their roadways. These cities are urban in nature and have significantly more pedestrian, bicycle and transit traffic than the City of Brooklyn Park. The City of Brooklyn Park is a suburban community with roadways and ancillary transportation facilities of different character, context and design than the Cities of Minneapolis and St. Paul.

However, the national guidance for setting speed limits is similar. Thus, this section incorporates some of the guidance documented in the St. Paul Speed Limit Evaluation.

Manual on Uniform Traffic Control Devices (MUTCD)

The MUTCD sets minimum standards and provides guidance to ensure uniformity and consistency on the public transportation system. In the State of Minnesota, the Minnesota Manual on Uniform Traffic Control Devices (MN MUTCD) is used. The MN MUTCD and MUTCD are, in general, identical in language, and exact in language as they reference speed limits. It is routine that new and addendum language of the MUTCD is adopted by the MN MUTCD.

Based on a recent National Transportation Safety Board recommendation, the National Committee on Uniform Traffic Control Devices (NCUTCD) began collecting feedback and considering changes to the MUTCD related to setting speed limits.

The current MUTCD offers the following standards (not guidance) for setting speed limits:

> *"Speed zones (other than statutory speed limits) shall only be established on the basis of an engineering study that has been performed in accordance with traffic engineering practices. The engineering study shall include an analysis of the current speed distribution of free-flowing vehicles*.
>
> *The Speed Limit sign […] shall display the limit established by law, ordinance, regulation, or as adopted by the authorized agency based on the engineering study. The speed limits displayed shall be in multiples of 5 mph (Section 2B.13, page 56)."*

The current MUTCD offers the following guidance (not standard) on setting speed limits:

"*States and local agencies should conduct engineering studies to reevaluate non-statutory speed limits on segments of their roadways that have undergone significant changes since the last review, such as the addition or elimination of parking or driveways, changes in the number of travel lanes, changes in the configuration of bicycle lanes, changes in traffic control signal coordination, or significant changes in traffic volumes".*

"When a speed limit within a speed zone is posted, it should be within 5 mph of the 85th-percentile speed of free-flowing traffic" (Section 2B.13, page 58).

The current MUTCD offers the following option (not guidance or standard) on setting speed limits:

"Other factors that may be considered when establishing or reevaluating speed limits are the following:

A. Road characteristics, shoulder condition, grade, alignment, and sight distance;

B. The pace;

C. Roadside development and environment;

D. Parking practices and pedestrian activity; and

E. Reported crash experience for at least a 12-month period (Section 2B.13)."

The National Committee on Uniform Traffic Control Devices (NCUTCD) recently approved recommended changes to the current MUTCD related to setting speed limits. These recommendations are provided to the Federal Highway Administration (FHWA) for consideration in the next edition of the MUTCD, which requires federal rulemaking. The FHWA has not initiated rule making for the next edition of the MUTCD yet, but this is expected to begin within the next year. The recommendations approved by the NCUTCD include:

- Removing from standard that "The engineering study shall include an analysis of the current speed distribution of free-flowing vehicles."
- Upgrading and revising the considerations for establishing speed zones to read:

"Factors that should be considered when establishing or reevaluating speed limits within speed zones are the following:

A. Speed distribution of free-flowing vehicles (such as current 85th percentile, the pace, and review of past speed studies).

B. Reported crash experience for at least a 12-month period relative to similar roadways.

C. Road characteristics (such as lane widths, curb/shoulder condition, grade, alignment, median type, and sight distance).

D. Road context (such as roadside development and environment including number of driveways and land use, functional classification, parking practices, presence of sidewalks/bicycle facilities).

E. Road users (such as pedestrian activity, bicycle activity)."

- Revising the guidance statement regarding the posted speed limit being made within 5 mph of the 85th percentile speed to apply only "on freeways, expressways, or rural highways."

FHWA Methods and Practices for Setting Speed Limits: An Informational Report

This report describes three approaches for setting speed limits.

Engineering Approach – A two-step process where the base speed limit is set according to the 85th percentile speed, the design speed for the road or other conditions. This base speed limit is adjusted according to traffic and infrastructure conditions such as pedestrian use, median presence, etc. The Operating Speed Method (widely used in the U.S.) is typically set speed limit within 5 mph of the 85th percentile limit plus or minus other considerations. Under the Road Risk Method, the level of roadside development and the function of a road are the primary determinants of the appropriate speed limit.

Expert System Approach – Speed limits are suggested by a computer program that uses knowledge and inference procedures that simulate the judgement and behavior of speed limit experts.

Safe System Approach – This approach emphasizes that some degree of roadway user error will occur and that such errors should not result in a fatality or serious injury. Under this approach, the primary criterion is the safety of all road users, including pedestrians and bicyclists who are more vulnerable to injury and death when hit by a vehicle.

MnDOT Website

The MnDOT website states lower posted speed limits result in little to no reduction in actual speeds without a change in roadway character and /or significant police enforcement. The City's experience in setting artificially low speed limits (93rd Avenue, West River Road, Brookdale Drive, 63rd Avenue, Bottineau Blvd, 85th Avenue, etc), usually by Urban District designation or by pilot study prior to a MnDOT speed study, is consistent with the MnDOT website statement.

The MnDOT website also states the posting of lower speed limits without a change in roadway character can result in greater speed disparity in actual speeds and an increase in crash frequency.

National Safety Research

Numerous studies demonstrate the relationship between speed and street safety where higher speeds increase the likelihood of a crash and the likelihood a crash will be severe or fatal.

The National Transportation Safety Board 2017 report *Reducing Speeding-Related Crashes Involving Passenger Vehicles* summarizes the connection between speed and safety:

> *"Speed—and therefore speeding—increases crash risk in two ways: (1) it increases the likelihood of being involved in a crash, and (2) it increases the severity of injuries sustained by all road users in a crash.*

The relationship between speed and crash involvement is complex, and it is affected by factors such as road type, driver age, alcohol impairment, and roadway characteristics like curvature, grade, width, and adjacent land use. In contrast, the relationship between speed and injury severity is consistent and direct. Higher vehicle speeds lead to larger changes in velocity in a crash, and these velocity changes are closely linked to injury severity. This relationship is especially critical for pedestrians involved in a motor vehicle crash, due to their lack of protection" (Executive Summary page ix).

A key factor in the likelihood of a crash is how far it takes a vehicle to stop. Figure 8 outlines the relationship between stopping sight distance and speed. Stopping sight distance grows with speed. According to the American Association of State Highway and Transportation Officials (AASHTO), it takes the average driver 301 feet to stop at 40 mph, 197 feet at 30 mph, and 112 feet at 20 mph. A change from 30 to 20 mph results in an average driver stopping 85 feet sooner, which is a significant distance. To provide context, 85 feet is almost 5 car lengths of 18 feet each. Note that other research yields different stopping sight distances based on different reaction times and speeds of braking (AASHTO guidance is conservative), but it always takes longer to stop at higher speeds.

Figure 9 shows the relative crash risk for a pedestrian hit at different speeds. A person is significantly more likely to lose their life or sustain a serious injury as the speed at impact increases. A person hit at 30 mph is three times as likely to be killed than at 20 mph and a person hit at 40 mph is almost twice as likely to be killed or suffer serious injury as compared to a person hit at 30 mph.

CONCLUSIONS

Based on the data and research within this document, including the city's safety, engineering and traffic analysis, local traffic crashes and speeds, national urban speed limit guidance and studies, the following conclusions were identified:

- For city owned roadways, the traffic speeds are highest and speeding worst along Class I (Major) Collector roadways and Minor Arterial roadways.
- For city owned roadways, the traffic crashes for vehicles, pedestrians and bicyclists are the worst along Class I (Major) Collector roadways and Minor Arterial roadways.
- City owned local roadways and Class 2 (Minor) Collector roadways typically do not experience significant speeds and speeding issues and have low crash numbers and severities for vehicles, pedestrians and bicycles.
- Lower traffic speeds reduce both the likelihood and severity of crashes (Figure 9).
- The posting of lower speed limits should be carefully considered to ensure reasonableness and/or coupled with a change in roadway character.
- A majority of states have adopted lower speed limits than Minnesota. All of Minnesota's neighboring states have a 25 mph default urban speed limit. However, the fatality crash rate within the State of Minnesota is lower than all of these states.
- The current national trend is towards a Safe Systems Approach for setting speed limits where the primary criterion is the safety of all road users.
- The traditional Engineering Approach of using the 85th percentile speed to set speed limits is no longer considered best practice for urban streets.

- Some major cities across the country are using or considering the use of limits near the 50th percentile speed. Minneapolis and St. Paul implemented category (minor and major roadways) limits resulting in posted speeds slightly under the 50th percentile speed.
- The setting of speed limits near the 50th percentile speed instead of the 85th percentile speed would lower several city Major Collector and Arterial speed limits by 5 mph. However, a few others which were set at 30 mph by use of the Urban District designation may increase by 5 mph.
- The state is continuing to investigate and evaluate the option of going to a statewide urban speed limit of 25 mph for urban roadways. This may occur within the next few years.

RECOMMENDATONS

Recommendations are based on the conclusions, discussions with City Council, and input from the Speed Limit Task Force which is comprised of members from various City Departments. The City Operations and Maintenance staff recommend the City Engineer use the following approach to set speed limits.

- City Local roadways and Class 2 (Minor) Collector Roadways (Figure #10)
    - Maintain the current 30 mph speed limit.

- City Class I (Major) Collector Roadways (Figure #11) and Minor Arterial Roadways (Figure #12)
    - Use the 50th percentile observed speed instead of the 85th percentile observed speed and the other factors typically used in a MnDOT Speed Study to determine an appropriate Safe Systems speed.
    - Boundary roadways, such as Jefferson Highway and 109th Avenue, would require discussion and agreement with adjacent communities. Roadways that extend into adjacent communities, such as 63rd Avenue, 109th Avenue and Jefferson Highway, may also require discussion and agreement.
    - Roadways with a planned limit change previously designated as Urban District may need this designation formally revoked by the City Council.

- Designate the City Engineer as authority to set speed in accordance with the policy. Residents can petition the City Council for review of the speed limit where they can present extenuating circumstances for consideration by the Council.

APPLICATION

The recommended speed limit changes shown in Figures #11 and #12 conform to the existing roadway functional classification shown in Figure #1. Over time the functional classification of roadways may change and/or new Class 1 (Major) Collector roadways or Minor Arterial roadways may be constructed or acquired via jurisdictional transfer with the State or County. These roadways would be investigated using the recommended process based on their new classification and an appropriate speed limit would be implemented as determined by the City Engineer. Some of the changes recommended in Figures #11 and #12 have yet to be confirmed

by speed studies. If this policy is approved, City Engineering staff would conduct the necessary studies in the spring/summer of 2021 to determine the appropriate speed limits.

It is important, and the new legislation mandates, all speed limit changes to be made in a consistent and uniform manner under a defined process/policy. This policy will be used to set speed limits city wide by the City Engineer. There may be extenuating circumstances where the City Engineer or a Council member will request a speed limit that differs from the established policy. This will require at least *2/3 vote of the City Council to approve for this change to be applied. If voted on and **not** approved, this action cannot be voted on again for at least two years. *(*Amended by the Council on December 14, 2020*)

Figures:

- Figure 1 – Roadway Classification
- Figure 2 – Local Roads
- Figure 3 – Class 2 (Minor) Collector Roads
- Figure 4 – Class 1 (Major) Collector Roads
- Figure 5 – Minor Arterial Roads
- Figure 6 – Existing Speed Limits
- Figure 7 – Pedestrian and Bike Crash Summary (2010-2019)
- Figure 8 – Stopping Sight Distance by Travel Speed
- Figure 9 – Pedestrian Crash Risk vs Vehicle Speed
- Figure 10 – Recommended Speed Limit for Local and CL 2 Collector Roads
- Figure 11 – Recommended Speed Limits for CL 1 Collector Roads
- Figure 12 – Recommended Speed Limits for Minor Arterial Roads

Tables:

- Table 1 – Speed Study Summary (2015-2020)
- Table 2 – Crash Data Summary (2010-2019)
- Table 3 – Crash Severity Summary (2010-2019)

Roadway Classification

March 2018, Updated November 2020

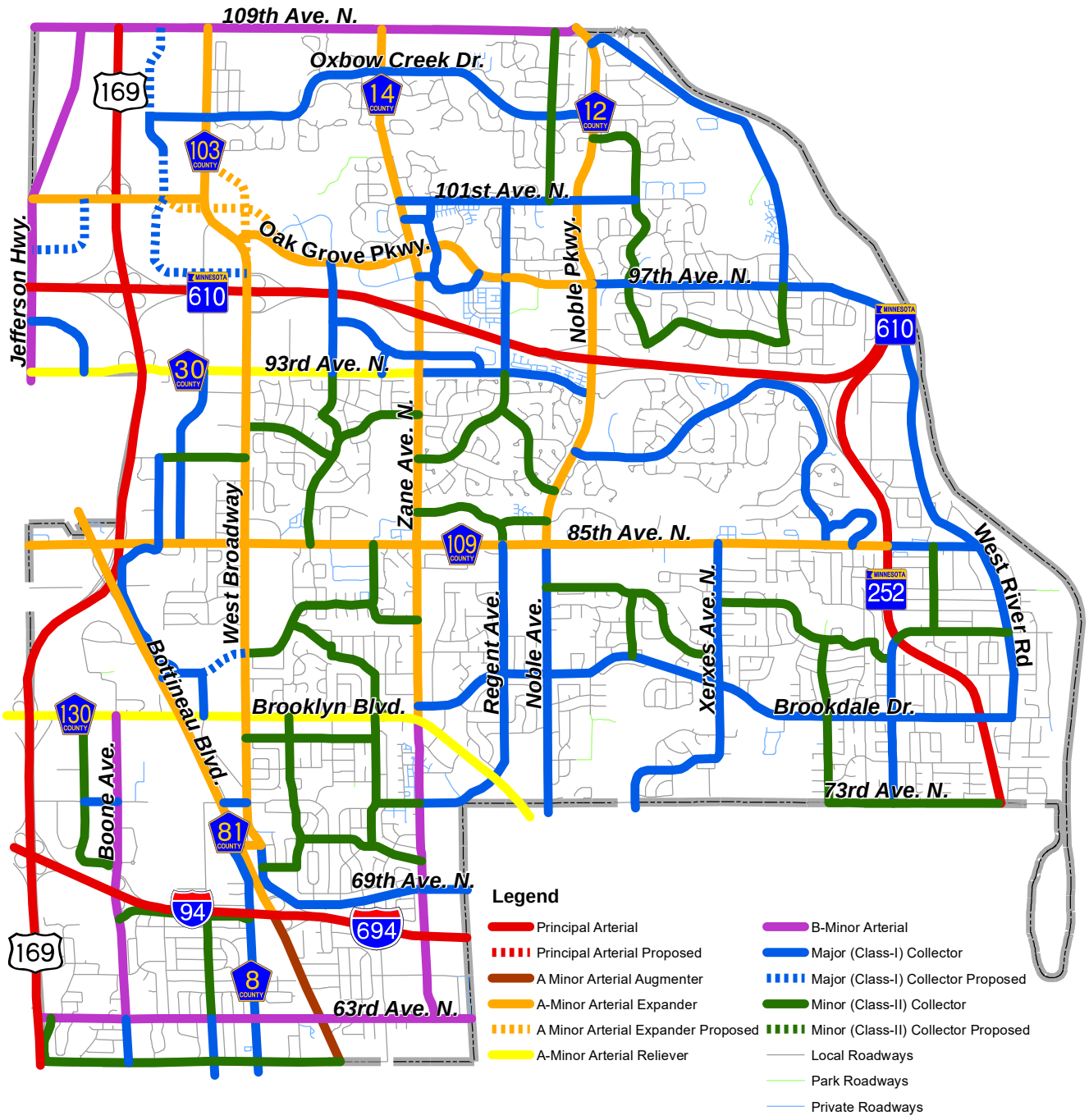


Figure #1

CITY LOCAL ROADS

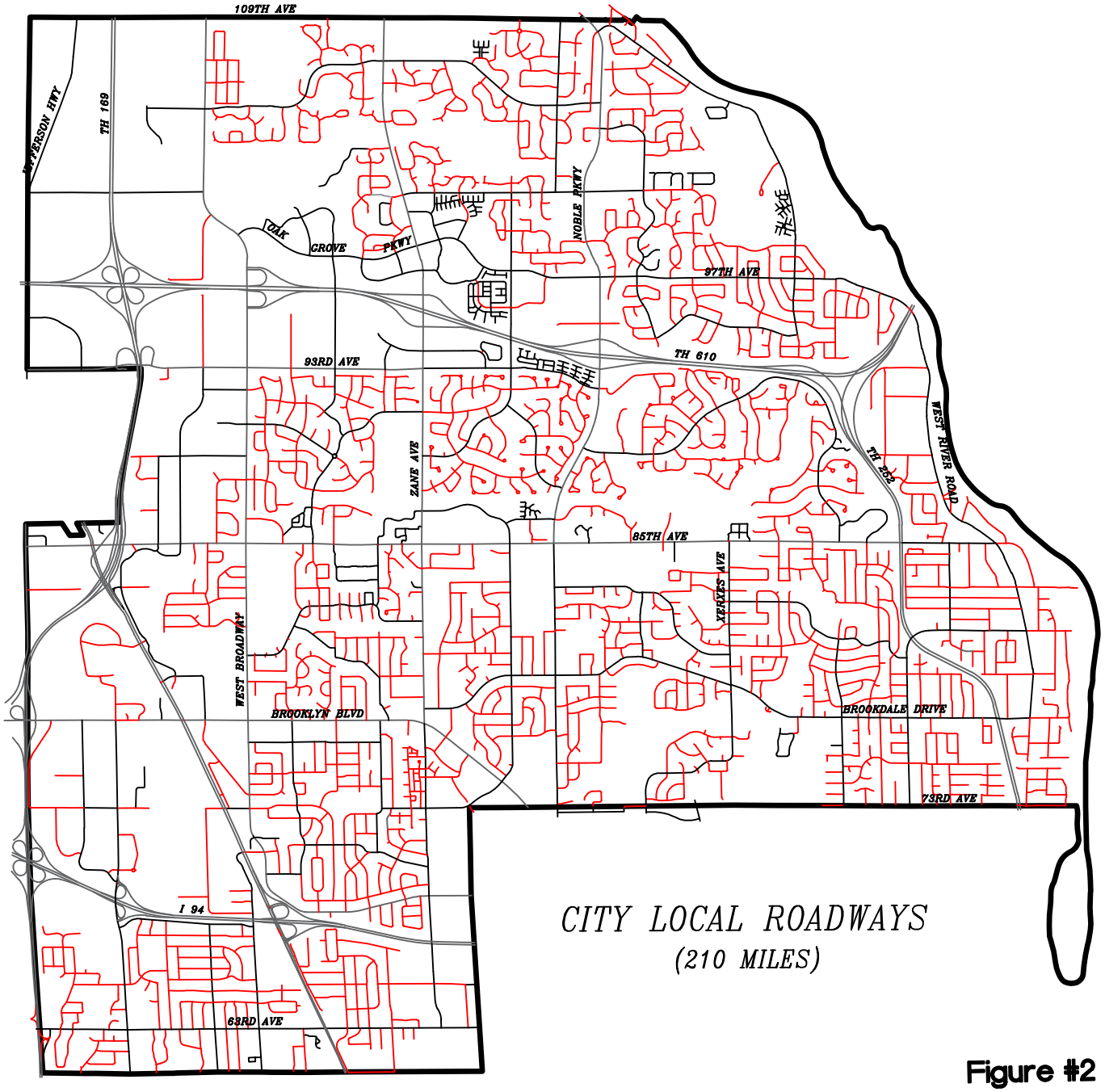


Figure #2

CITY CLASS 2 (MINOR) COLLECTOR ROADS

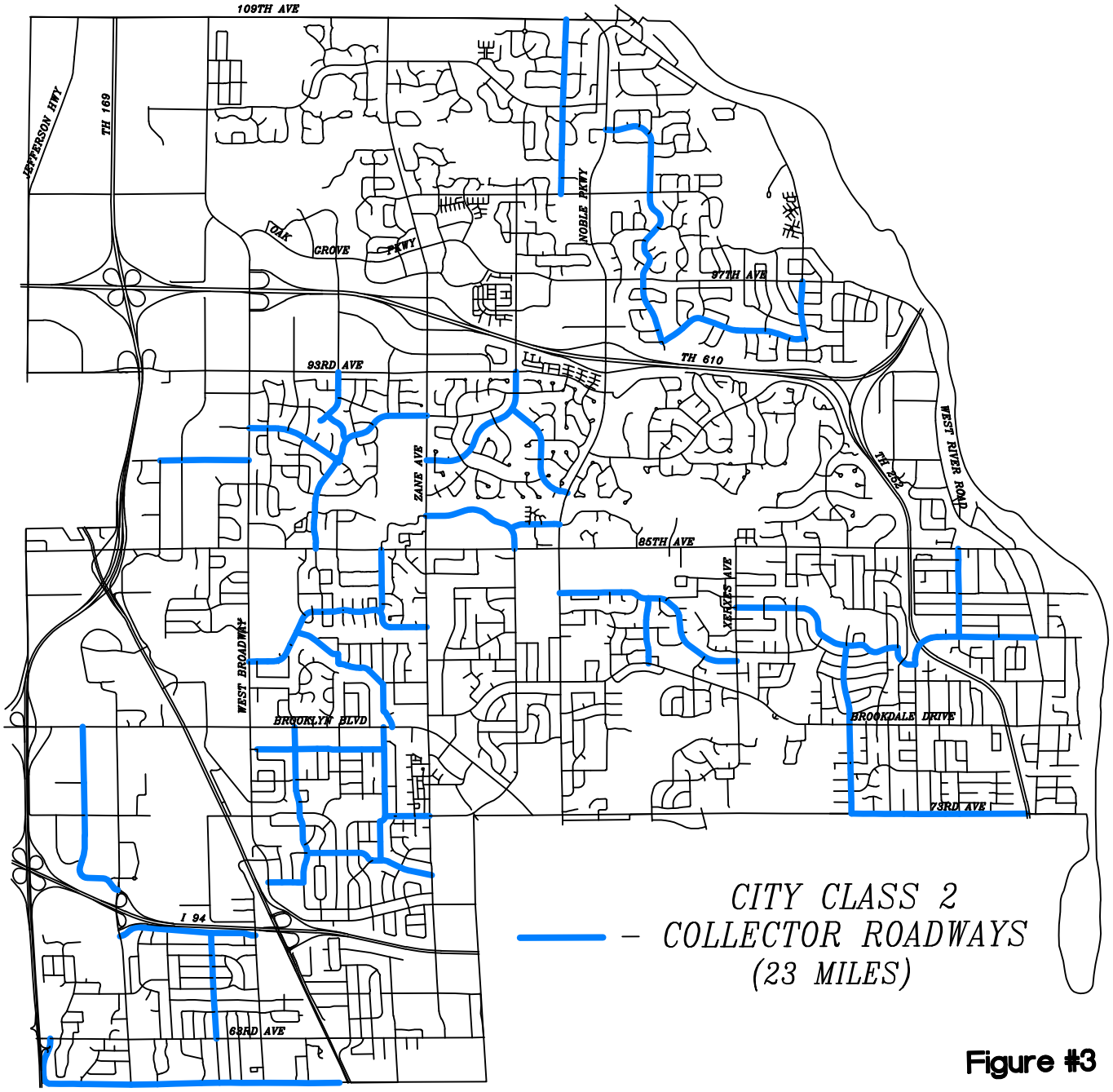


Figure #3

CITY CLASS 1 (MAJOR) COLLECTOR ROADS

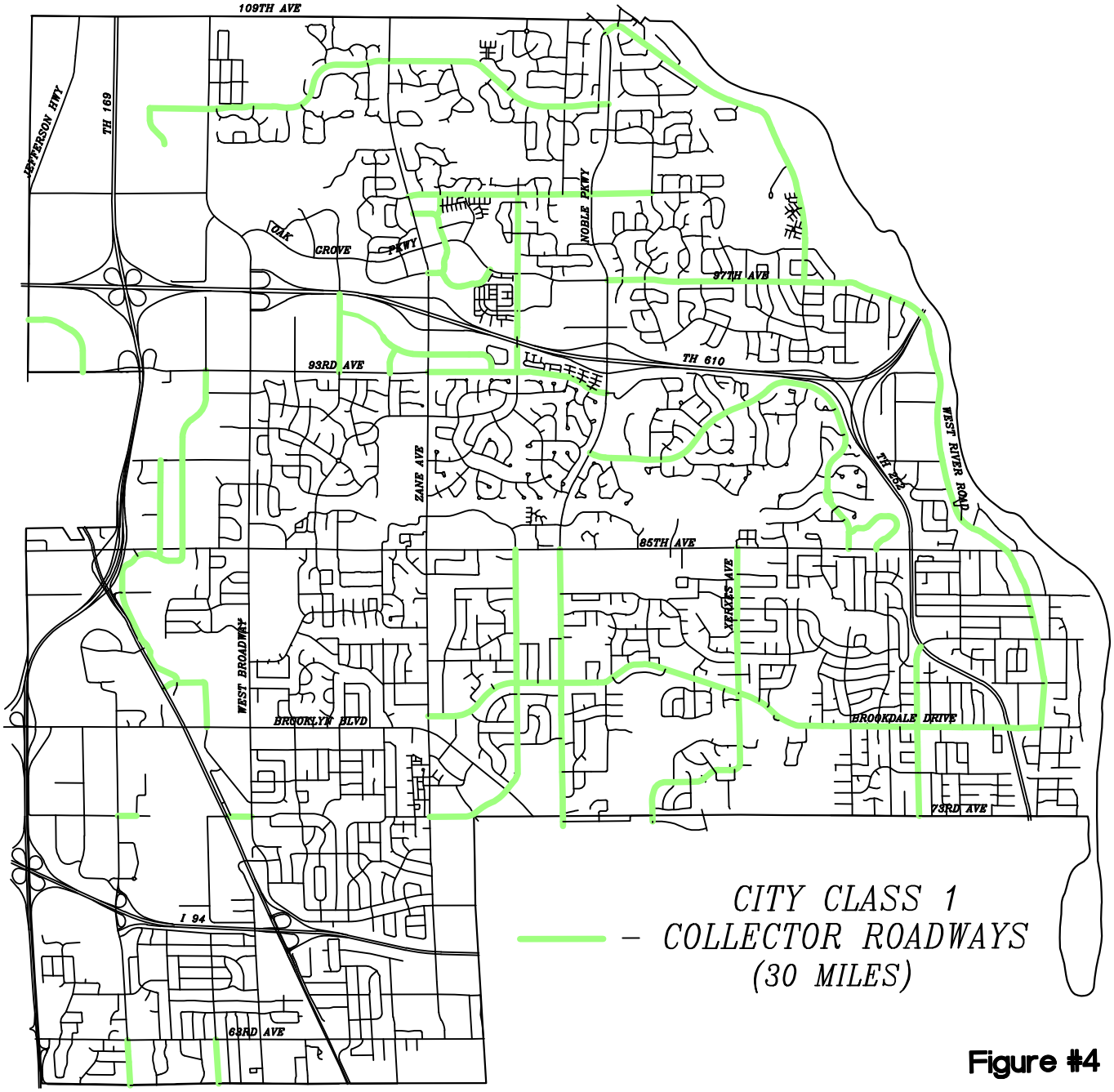


Figure #4

CITY MINOR ARTERIAL ROADS

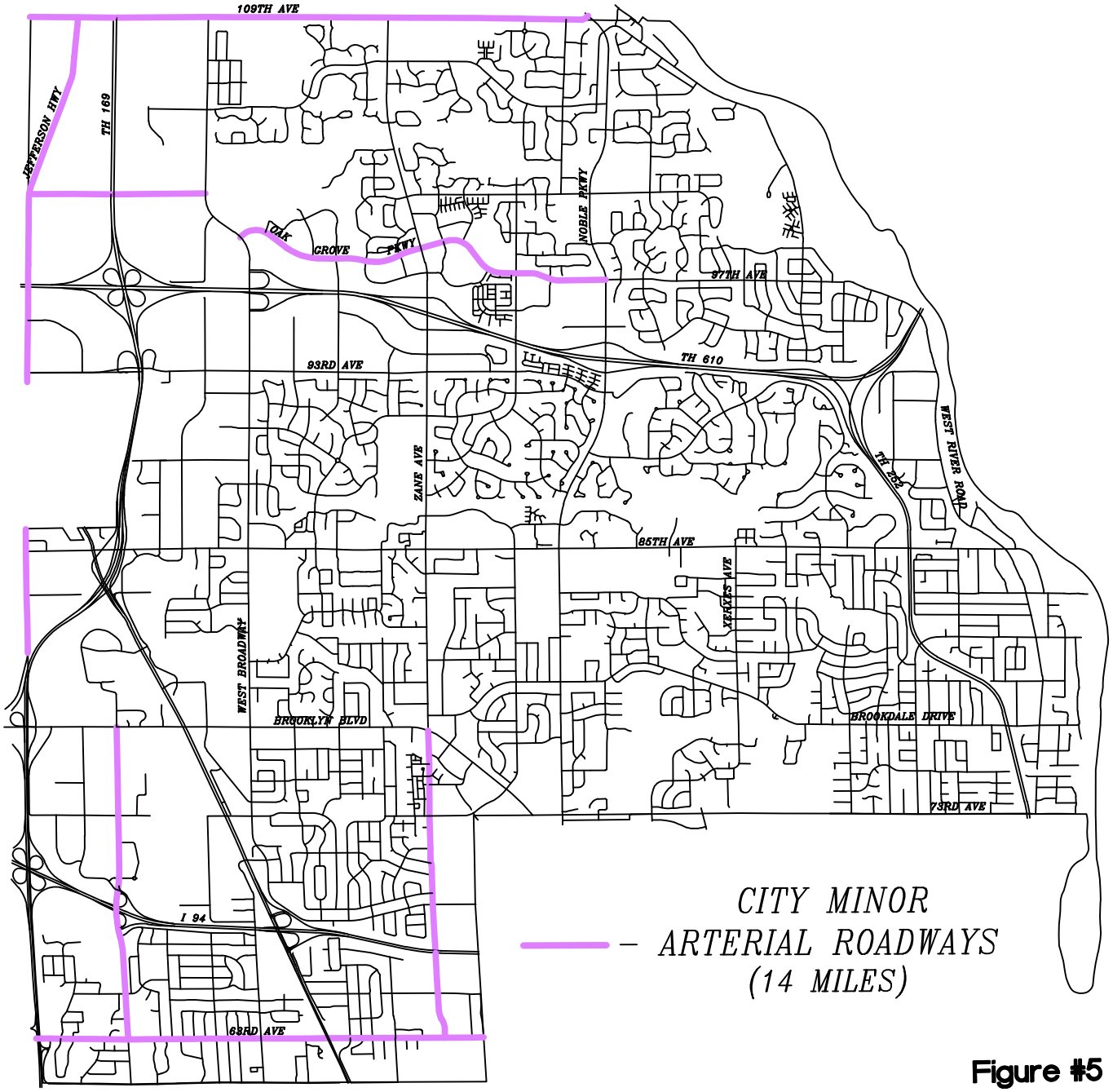


Figure #5

EXISTING SPEED LIMITS

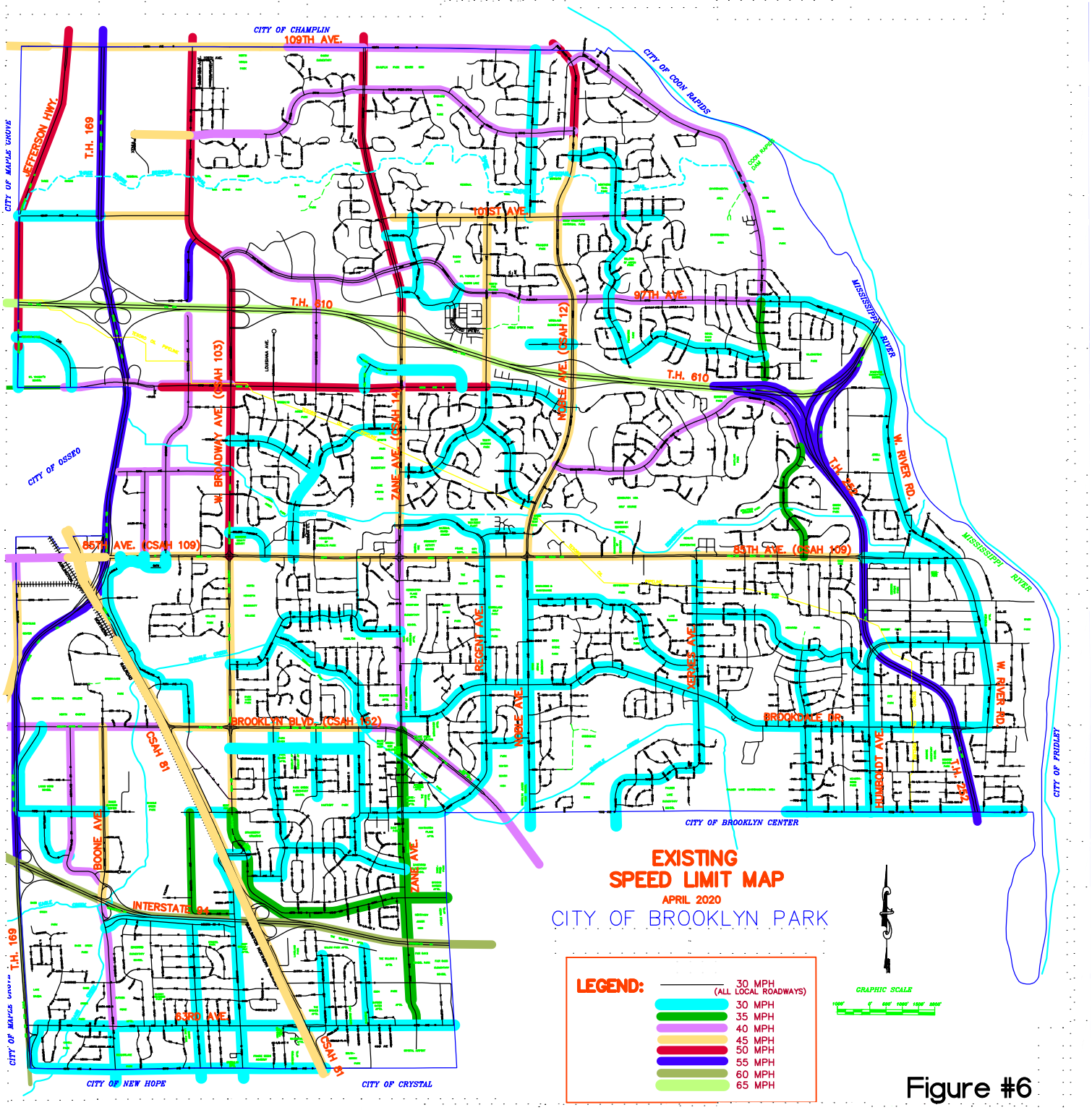


Figure #6

PEDESTRIAN AND BICYCLE CRASHES 2010–2019

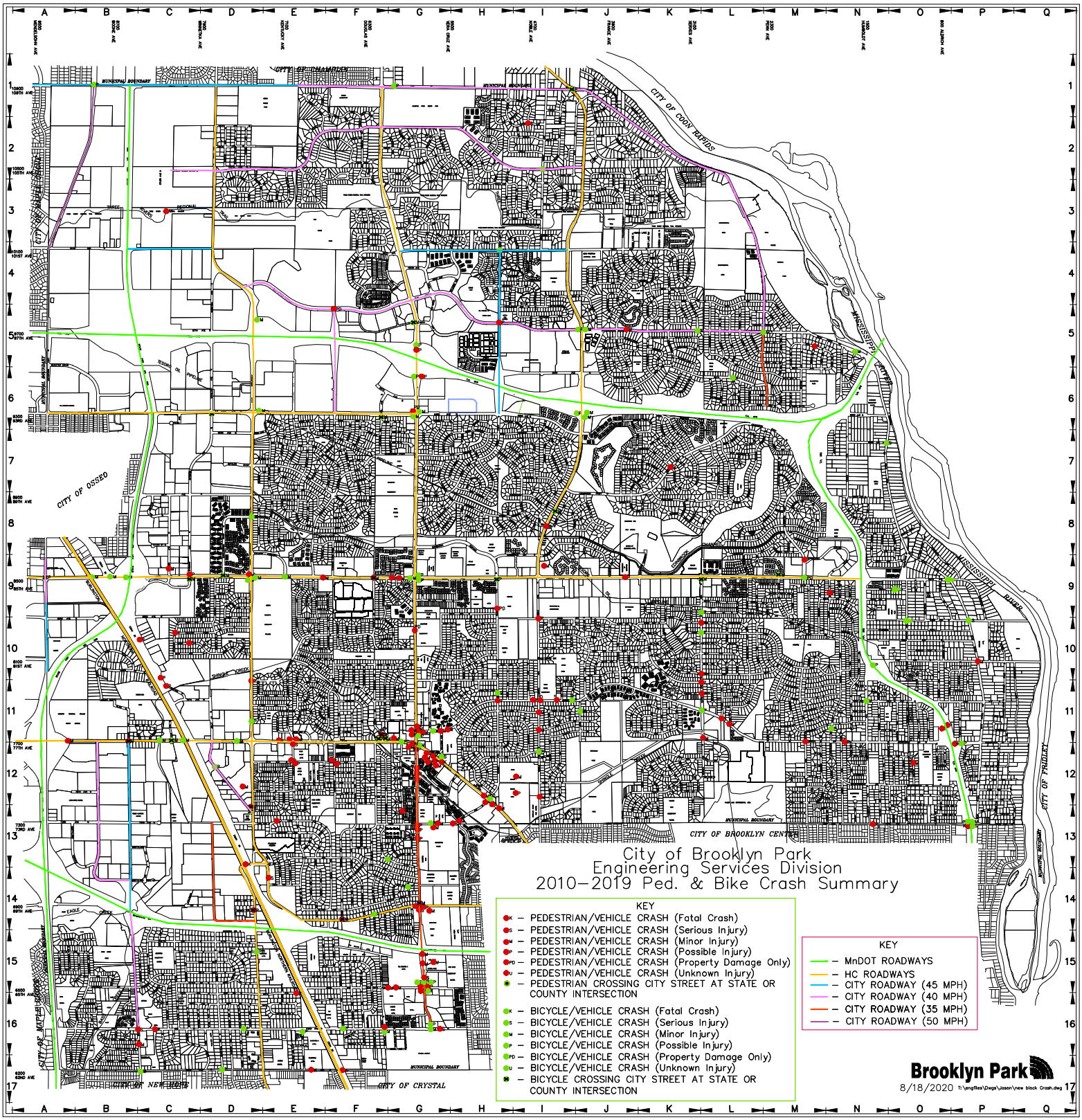
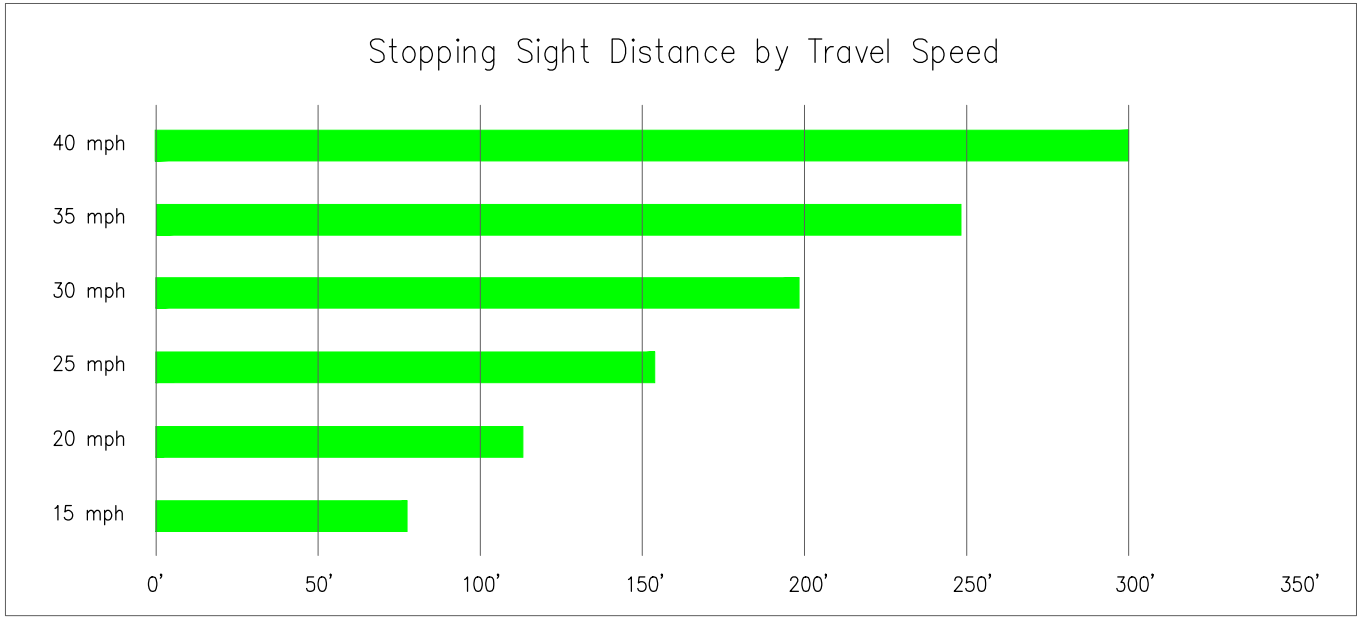


Figure #7

STOPPING SIGHT DISTANCE BY TRAVEL SPEED

Lower traffic speeds = Shorter Stopping Sight Distance



Data Source: American Association of State Highway and Transportation Officials (AASHTO). A Policy on Geometric Design of Highways and Streets. Washington, DC:AASHTO, 2011. "Assumes 2.5 second perception-breaking time and 11.2 ft/sec2 driver deceleration"

Figure #8

PEDESTRIAN CRASH RISK VS. VEHICLE SPEED

Lower traffic speeds = Less severe crashes

SOURCE: BRIAN TEFFT. 2013, AAA FOUNDATION FOR TRAFFIC SAFETY

Figure #9

RECOMMENDED SPEED LIMITS
LOCAL AND CITY CLASS 2 (MINOR) COLLECTOR ROADWAYS
NO CHANGES (MAINTAIN 30 MPH)

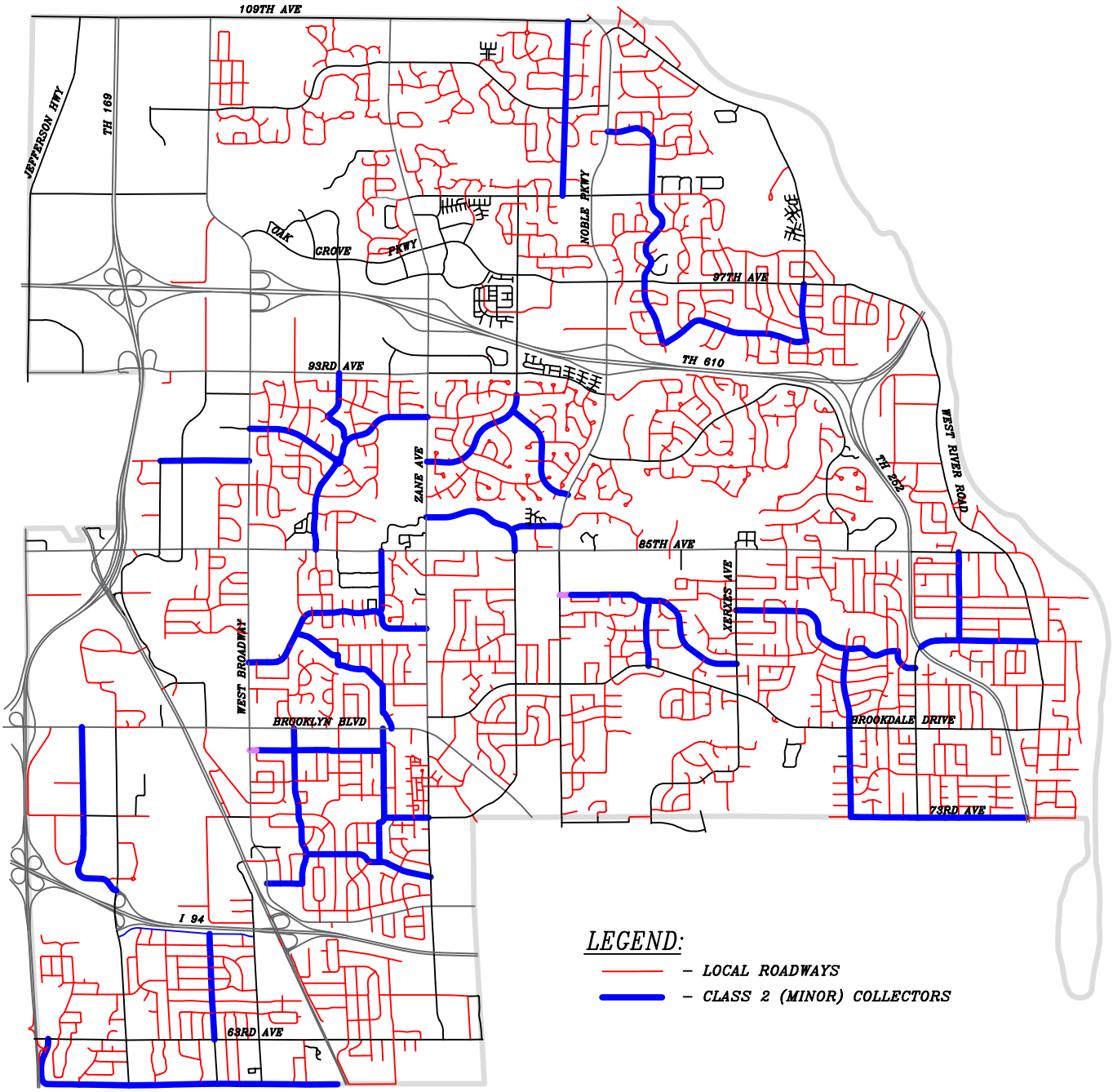


Figure #10

RECOMMENDED SPEED LIMITS
CLASS 1 (MAJOR) COLLECTOR CITY ROADWAYS
USE 50% SPEED

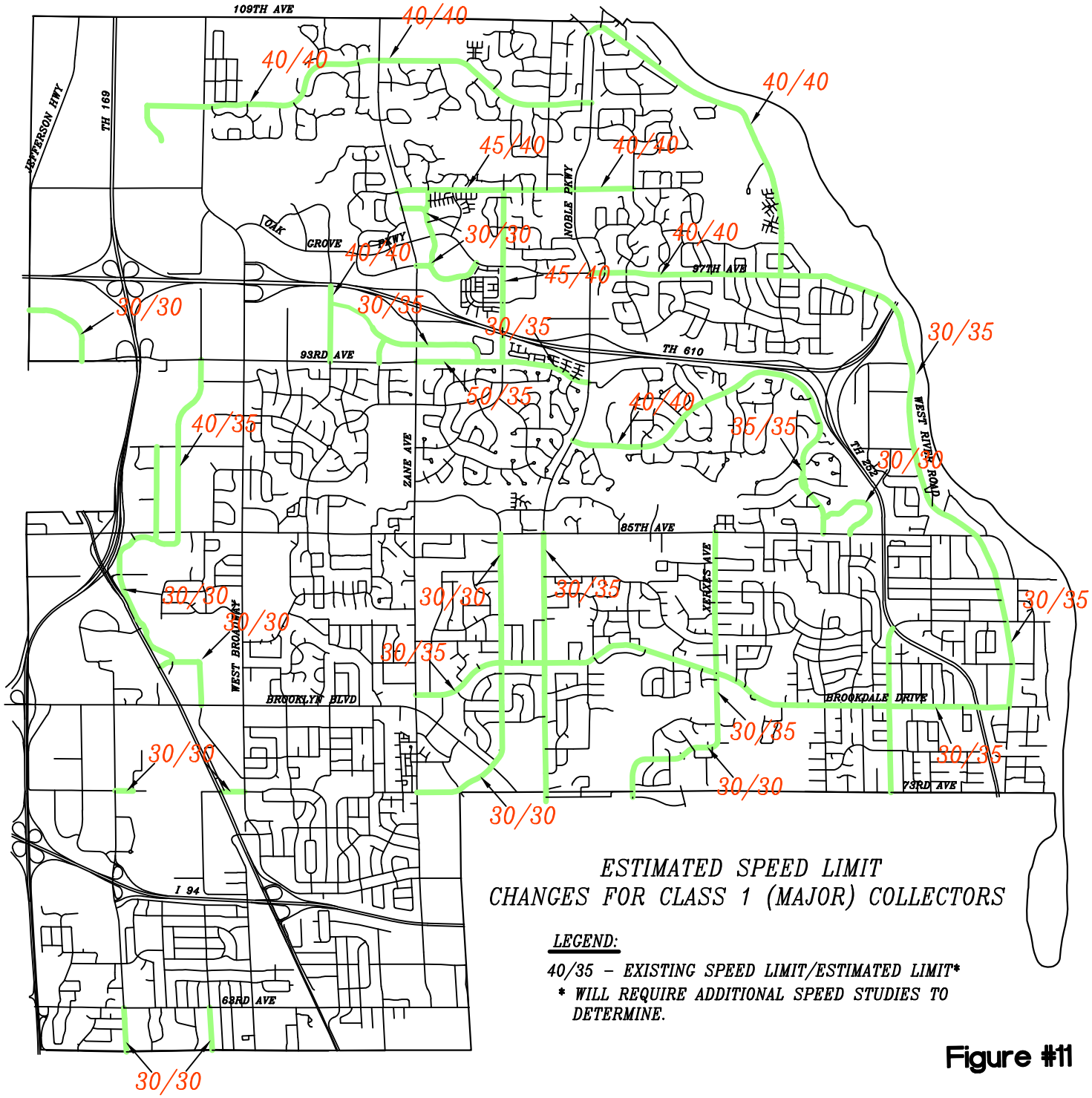


Figure #11

RECOMMENDED SPEED LIMITS
MINOR ARTERIAL CITY ROADWAYS
USE 50% SPEED

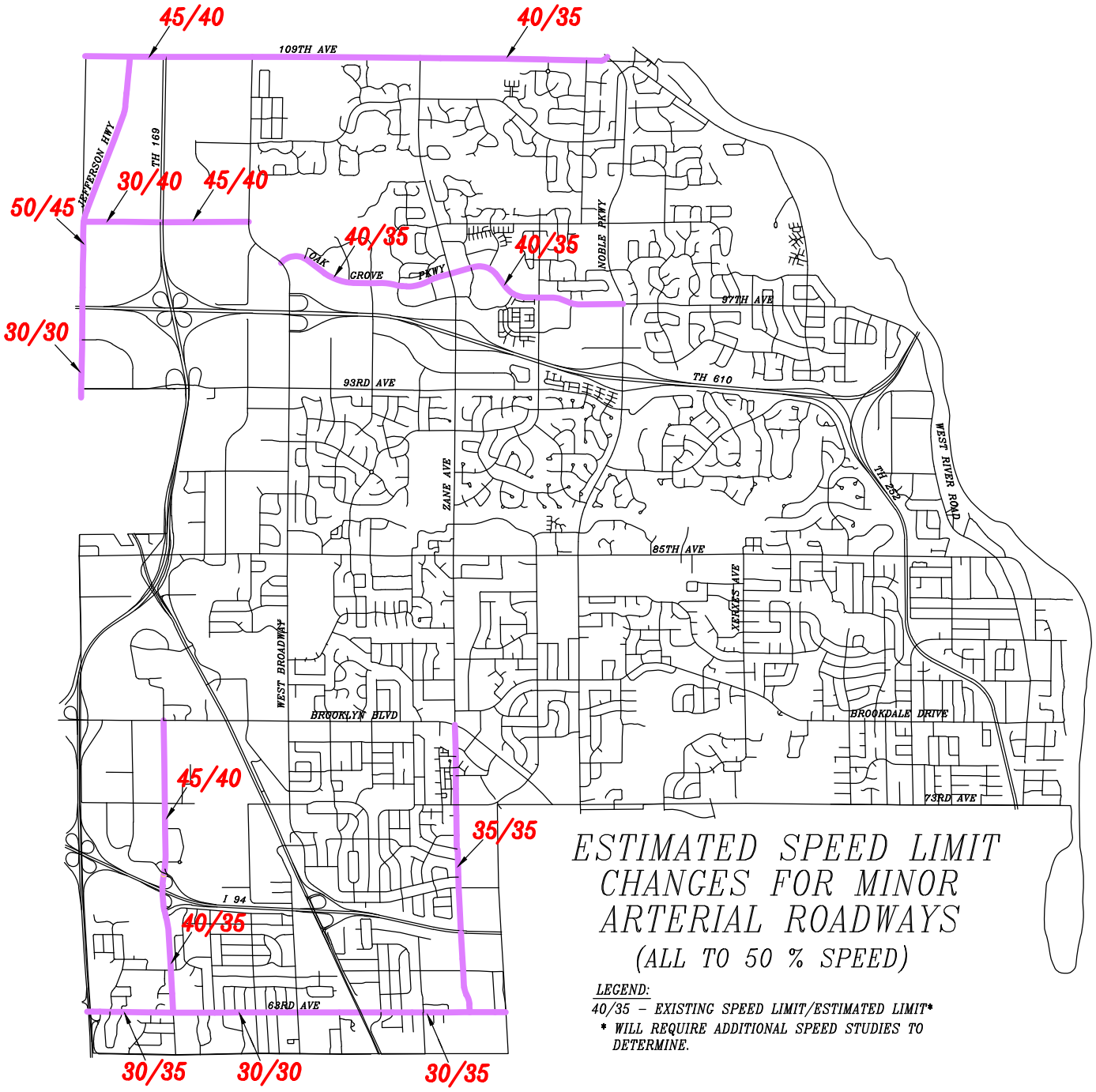


Figure #12

Table #1

City of Brooklyn Park
Observed Speeds (2015-2020) on
City Owned Roadways

ROADWAY CLASS.	NO. OF STUDIES	AVERAGE SPEEDS (MPH)*				
		AVG. SPEED	50th %	67th %	75th %	85th %
Locals (30 mph)	48	23.4	24.2	26.7	28.3	30.0
Class 2 (Minor) Collectors (30 mph)	10	29.2	29.5	31.7	33.0	34.6
Class 1 (Major) Collectors	15	Approx. Posted Limit	Approx. Posted Limit	+(1–3)	+(3-5)	+(5–6)
Minor Arterials	7	Approx. Posted Limit	Approx. Posted Limit	+(1–2)	+(3–4)	+(5)

*Source: City of Brooklyn Park Speed Studies (2015-2020).

Table #2

City of Brooklyn Park
Public Roadway Crashes (2010-2019)

ROAD TYPE	VEHICLE CRASHES	PEDS & BIKE CRASHES	TOTAL CRASHES*
State Roads	3471 **(41.3%)**	10 **(4.4%)**	3481 **(40.3%)**
County Roads	2609 **(31%)**	80 **(35.6%)**	2689 **(31.1%)**
City Major Collectors & Arterials	1313 **(15.6%)**	90 **(40%)**	1403 **(16.3%)**
City Minor Collectors	222 **(2.6%)**	5 **(2.2%)**	227 **(2.6%)**
City Locals	799 **(9.5%)**	40 **(17.8%)**	839 **(9.7%)**
Totals	8414	225	8639

*Source: MN Dept. of Public Safety.

Table #3

City of Brooklyn Park
Crash Severity (2010-2019)

ROAD TYPE	VEHICLE FATALS	PEDS & BIKE FATALS	TOTAL FATALS*
State	5	2	7
County	2	7	9
City Major Collectors & Arterials	1	2	3
City Minor Collectors	0	0	0
City Locals	1	0	1
Totals	9	11	20

*Source: MN Dept. of Public Safety.

Speed Study Comparison Along 63rd Avenue Before & After Limit Increases

				Before Condition				After Condition			
Roadway	Segment	Study Location	Roadway Section	Speed Limit	Year	50% Speed	85% Speed	Speed Limit	Year	50% Speed	85% Speed
63rd Avenue	CSAH 8 to Yukon Ave	E. of Winnetka Ave	2 lane	30	2021	32.9	37.4	35	2021	32.8	37.1
63rd Avenue	Yukon Ave to Boone Ave	W. of Yukon Ave	2 lane	30	2021	33.9	38.8	35	2021	34.5	39.1

Crash Rate Calculation for 63rd Avenue Between CR 81 & Hwy 169

- 36 crashes over 2017-2019 time period along 63rd Avenue between County Road 81 and Highway 169 as documented in Dept. of Public Safety database
- Average Annual Daily Traffic volume of approximately 7,000 vehicles per day
- Primarily 2 Lane Urban Roadway
- Distance of 1.55 miles
- 71 Access points along segment or approx. 46 accesses/mile
- Actual crash rate of 3 crashes per million vehicle miles
- Statewide Average crash rate of 5 crashes per million vehicle miles for similar roadways
- Actual rate < Average rate, thus no apparent safety issue

Note: The statewide average crash rate is dependent upon the number of access points, the number of lanes and roadway type.

Crash Rate Calculation for 63rd Avenue Between Quebec Ave & Yukon Ave

- 11 crashes over 2017-2019 time period along 63rd Avenue between Quebec Avenue and Yukon Avenue as documented in Dept. of Public Safety database
- Average Annual Daily Traffic volume of approximately 6,900 vehicles per day
- 2 Lane Urban Roadway (32')
- Distance of 0.47 miles
- 25 Access points along segment or approx. 53 accesses/mile
- Actual crash rate of 3.10 crashes per million vehicle miles
- Statewide Average crash rate of 5 crashes per million vehicle miles for similar roadways
- Actual rate < Average rate, thus no apparent safety issue

Note: The statewide average crash rate is dependent upon the number of access points, the number of lanes and roadway type.

Crash Rate Calculation for 63rd Avenue Between Boone Ave & Hwy 169

- 9 crashes over 2017-2019 time period along 63rd Avenue between Boone Avenue and Highway 169 as documented in Dept. of Public Safety database
- Average Annual Daily Traffic volume of approximately 5,100 vehicles per day
- 2 Lane Urban Roadway (44')
- Distance of 0.44 miles
- 16 Access points along segment or approx. 36 accesses/mile
- Actual crash rate of 3.66 crashes per million vehicle miles
- Statewide Average crash rate of 4 crashes per million vehicle miles for similar roadways
- Actual rate < Average rate, thus no apparent safety issue

Note: The statewide average crash rate is dependent upon the number of access points, the number of lanes and roadway type.

LOCATION MAP

REQUESTED SPEED LIMIT REDUCTION SEGMENTS

Brooklyn Park

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RESOLUTION #1980-123

RESOLUTION ESTABLISHING 30 MILE PER HOUR SPEED ON CERTAIN STREETS IN ACCORDANCE WITH MINNESOTA LAWS 1980, CHAPTER 498

WHEREAS, Minnesota Laws 1980, Chapter 498 provides that the governing body of a City or Town may, by resolution, designate speed limits of 30 miles per hour on any City street, Municipal State Aid street or Town road which meets the definition of "urban District" as defined in Section 169.01, Subdivision 59 and

WHEREAS, the City of Brooklyn Park has three streets on which a speed limit in excess of 30 miles per hour has been established pursuant to an Engineering and Traffic investigation by the Commissioner which do now meet the definition of "urban district" for at least a quarter-mile

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK:

1. The following streets are hereby designated as carrying a 30 mile per hour speed limit:

   A. Noble Avenue North from Brooklyn Center to 85th Avenue North.

   B. 63rd Avenue North from Brooklyn Center to County Road 18.

   C. Brookdale Drive from Zane Avenue to T.H. 252 (West River Road).

2. The City Clerk is hereby authorized and directed to forward a copy of this resolution to the Commissioner, Minnesota Department of Transportation and the Golden Valley District Engineer.

3. The City Street Department is hereby directed to erect the appropriate 30 mile speed limit signs designating said speed and indicating the beginning and end of the segment on which the speed limit is established and at appropriate intervals within said segments ten days after submission of this resolution to the Commissioner.

The foregoing resolution was introduced by Mayor Krautkremer and duly seconded by Councilman Slack.
The following voted in favor of the resolution: Krautkremer, Dow, Marshall, Umland, Engh, Abbey and Slack.
The following voted against: None.
The following were absent: None.
Whereupon the resolution was adopted.

ADOPTED: MAY 27, 1980

James J. Krautkremer

JAMES KRAUTKREMER, MAYOR

Gerri Herman

From: Jay Stroebel
Sent: Monday, November 1, 2021 8:04 PM
To: Jesse Struve
Cc: Dan Ruiz; Devin Montero
Subject: FW: November 8 meeting

FYI...

Jay Stroebel
City Manager

763-493-8002 Office
Jay.stroebel@brooklynpark.org
Brooklyn Park
Unique. United. Undiscovered.
www.brooklynpark.org
5200 85th Avenue N, Brooklyn Park, MN 55443

From: Jackie Mortenson <jackiequilt@yahoo.com>
Sent: Monday, November 1, 2021 4:50 PM
To: BPCouncil-MGR-DL <BPCouncil-MGR@BrooklynPark.Org>
Subject: November 8 meeting

November 1, 2021

For November 8th meeting about speed limit changes.

Dear Council members:

I live on 63rd near Broadway so I have to be careful coming out of my driveway when the traffic light changes because of the speed that some cars are going when they turn the corner or get a green light. Previously cars drove at the speed of 31-38 miles per hour. Since the limit has been changed they now drive 36-42/4 mph. It is rare for a car to use the speed limit.

Since Brooklyn Center and Maple Grove do not view 63rd as a through street in need of a higher limit I don't see how Brooklyn Park is justified in setting a higher speed limit on our portion of the road. It is common knowledge that higher speeds cause more problems. We should keep the speeds as low as possible not as high as possible.

I knew nothing of the change until I saw the signs.

Jackie Mortenson

Gerri Herman

From: Gerald Pierson <gerald.pierson1@gmail.com>
Sent: Tuesday, November 2, 2021 3:25 PM
To: Jesse Struve
Subject: Fwd: For Nov 8 2021 council meeting to reconsider Speed Limit Change

Jesse,

Here is what I have for the November 8 council meeting. Just got back from 2500 mile road trip paying attention road speeds and markings.
Another local section of roadway that we should look at restriping is the Boone Ave N from I94 to 63rd. This would allow bikes to safely travel this road and also tie into New Hope's section of biking.

Gerald

Dear council members,

This is for the November 8, 2021 Council meeting about Speed Limit Changes.

Attached to this email is a pdf file with some compelling information to restore the speed limit on 63rd Ave N to 30 MPH as it was designed for.

Additional thoughts not included in the pdf file:

- One of the problems with raising speed limits is that our smart GPS enabled devices will redirect traffic which changes the flow of traffic patterns. This concern was brought up at a council meeting but never addressed.
- I would also like to point out that a follow up speed study was done after the speed change but that data was over a special event in our community.

Gerald Pierson

Speed limit on 63rd Ave N needs to be reduced to it's designed 30 MPH speed limit.

Looking forward, we have a bike path going in along 63rd Ave N in collaboration with Three Rivers Park District. This is a great amenity but bikes and speeding cars do not mix. We need to reduce the speed back down to 30 MPH. (note: Brooklyn Center and Maple Grove have 30 MPH along 63rd Ave N so we should stay consistent with our neighbors along this bike route).

The new Speed Limit Policy states that residents will be notified before the change. I was told that it was on FACEBOOK and in the Park Pages. I could not find anything on Facebook and the Park Pages did not specifically say 63rd Ave N was to be increased. I have Nextdoor, facebook and Twitter but did not get communication about 63rd Ave N on these platforms. After talking with several residents along 63rd Ave N not one person was contacted by the city.

1) We need the Speed Limit Policy to clearly state the timeline for determining changes and how residents will be contacted. We also need to know when and how we can have input. I am on the e-mail notification list and August 10, 2021 was the first notice before the signs went up a couple days later. Clearly such short notice only notified a few residents and only AFTER the decision was already made. The Speed Limit Policy needs to be updated with more clarity.

2) The reason for increasing the speed is weak and data not handled properly. The engineer's only reason for the speed increase boiled down to: "people are driving faster so we need to increase the speed limit to match their driving." Historical Data (older than during the pandemic) was not considered or used. The 63rd Ave roadway was designed around a 30 MPH speed limit in the 1990's. The data used for the increase was only during the pandemic and the crash data used was from a different time period.

3) Speed limit changes need to demonstrate consistency as stated as a goal in the policy. If we want consistency we could simply say "all roadways in residential areas in Brooklyn Park should have a 30 MPH speed limit." For example when coming off a fast roadway like HWY 169 or HWY 81 we need signage and road markings to let drivers know they are entering a residential area. Having multiple speed limits in the area creates confusion, noise, and more serious accidents. Note: shortly after the speed increase happened on 63rd a serious accident with injuries occurred and since then multiple other accidents have occured.

I propose the council do the following:

- ☐ Reduce speed limit on 63rd Ave N back to 30 MPH
- ☐ To be consistent, reduce the speed limit to 30MPH in all residential areas.
- ☐ Make changes to Speed Limit Policy to clarify and include citizen input.
- ☐ Designate an "official" way to notify residents.
- ☐ Involve citizens in the yet unfinished bike trail along 63rd Ave N.

I have included some supporting information on the following 5 pages.

Below copied from PARK PAGES(including grammatical error):

Sept/Oct 2021 Park Pages: "Speed limit changes In 2019, State Legislature passed a allowing local communities to set speed limits on city-owned roadways once they have a policy providing a framework for addressing speed limits. In December 2020, City Council approved a policy for the larger city-owned roads with heavier traffic. Staff then conducted dozens of studies to help determine appropriate speed limits and proposed changes to Council in June 2021. There are eight roadway segments slated for speed limit decreases and eight scheduled for increases. The changes will include reduced school speed limits along Noble Avenue and Brookdale Drive. All speed limit changes are expected to be implemented between July and September 2021. Residents who live near a road with a speed limit change will be notified ahead of the change."

History:
Myself and other long time residents were involved in the planning of the reconstruction along 63rd Ave N in the early 1990's including determining the speed limit going forward. In the early 1990's then Mayor Jesse Ventura walked the entire area with neighbors. In fact we contacted every neighbor along 63 Ave N from Boone to Hwy 81, and on Winnetka from 62nd to Modern Road. We did an extensive study based on facts, figures and how the area is used for living and transportation for the larger community. That is why Winnetka from 62 to 63 is wider, to accommodate more traffic, on street parking, and we have sidewalks on both sides, north of 63rd ave N the traffic dies down and the residents along this portion wanted and needed only one sidewalk and did not need on street parking. On 63rd we put in sidewalks on both sides with green space in between. What I am trying to say is that I think we thought of everything that we could to keep the area from becoming a raceway.

At that time (early 1990's) we were all concerned with the speed limit. It was determined that 30 mph was what was needed and wanted and in the best interest of traffic flow Speeding is a problem nationwide and increasing the speed limit is proven to cause more fatalities and noise.

Where is the "Pros and Cons" list for the change? How can his increase follow any rational policy? Before we did the road changes back in the early 1990s we had neighbors gathering information by actually sitting on the corners of some critical intersections like 63rd and Winnetka and we gathered information on how people were driving. Speed, direction, numbers, time of day, bikers, walkers, even information like distractions or missing the stop sign. I have not seen anybody gathering such information before this speed increase was announced. Note: I have been a stay at home parent since the road reconstruction in the 1990's and I walk the area almost daily since the early 1990's. According to the engineer the monitoring cables are put out one or two weeks every other year. This is not enough data to justify increasing the speed limit. These cables also do not account for Police, Ambulance and Fire vehicles that speed through the area on any given week.

Monitoring cables to check the traffic speed and numbers can get you some basic facts (and we also did this in the early 1990s) but it does not give a good picture of what is needed in the area. Spending time in the area will give you what we need to improve the area. Increasing the speed limit only adds to existing problems.

Below are some of my comments about the written conversations I had with Jesse Struve BP City Engineer about the speed limit change. I added numbers for reference.This is followed by the original questions and answers in RED by Jesse. I have also talked with Jesse twice over the phone. From all indications, Jesse is the person that made the change and he apparently has the power to reverse his decision. In my opinion this should be a community decision based on all the facts and knowledge gained over the decades. Ignoring data and presenting confusing statistics about 50 and 85 percentile speeds really distorts what is happening with our roadways and how to improve them. Comments and answers given by Jesse Struve, City Engineer are in RED:

#1) Jesse said we can get counts for each classification of vehicle but essentially says in the same sentence that they cannot isolate the speeds for those vehicles. Which in reality means, the measurements cannot account for multi axle vehicles or tailgating. If we could determine the type of vehicle we would use that data and not commingle that valuable information.
#2) Jesse gave an opinion about measurement accuracy. What does “very accurate mean”?

#3) Jesse says the accuracy is 0.1 MPH yet if the cables are 1" closer or further than the 4 foot distance documented in the data we would have a 2 percent change in recorded speed. So a car traveling 30 MPH would have a little over 0.5 MPH change if a cable was placed only an inch off of 48 inches. I walked by the cables and they were definitely closer than 4 feet, thus the timing would record a faster speed and that could be quite significant if every inch represents a 2% change. The main problem is not his argument that the data or equipment is accurate, the problem is we have no recorded verification of the measurements. Generally a standard test speed needs to be run on a regular basis say every 1000 cars or once a day.
Manufacturers many times make claims but users still have to take measurements against a known standard. For example we drive a vehicle over the cables at a known speed, record this and include the accuracy of the test vehicle speedometer.

#4) How accurate is your car speedometer? I doubt it is accurate to 0.1 MPH. If you get a tire change with a slightly larger or small tire the speedometer is off. Also if a vehicle is used to check the equipment why was it not recorded and documented in the data? Using numbers and percentages can be wrought with misrepresentation. Test sample speeds need to be run on a regular basis, and these test speeds need to be documented.

#5) I do not believe the cables were 4 feet apart. Without a test speed recorded we cannot not know the accuracy of the measurements. Reporting numbers to an accuracy 0.1 is wrong especially without a standard speed test being collected.

#6) Jesse seems to choose data that is in the winter to compare to summer crashes. This is cherry picking the data. Shortly after the speed increase I saw the worst accident in my 32 years here where the firefighters used the jaws of life to remove a person from a vehicle. I was the first person to check with a driver, who had head injuries and clearly was not thinking rationally. A full investigation was not done because the cars were quickly removed so it is speculation either way to determine if speeding was involved. The fact is, more serious accidents will happen at faster speeds. Even the speed limit policy points out that a 5 MPH speed increase will require 50 feet more to stop a vehicle.

#7) Crash data is over the pandemic years yet Jesse goes on with some data table that just muddles the facts.
#8) Jesse admitted that history before the pandemic was not used.
#9) Jesse admits we cannot distinguish between different types of vehicles.
#15) Confirmed that crash data is different time period than speed data. Using unrelated data for justifying increasing the speed.
#16)This question is not answered. What is the reason for the speed increase? What possible benefit will come from increasing the speed?

#17) Who approved of the decision? This was answered with who approved the policy. I wanted to know who checked the data that was used to increase the speed limit?
#18) Another question that was not really answered. Why were residents not notified? Many residents to this day have no idea what happened. If we have a policy that says we need to notify residents it better do that.
#19)Links to Park Pages did not mention the speed increase along 63rd ave N so this is not notification to residents along the route.

1) Can you explain how the speed measurements can account for multi-axle vehicles? (or vehicles tailgating). The speed studies were collected in the same method for both before and after the speed limit changes. We can get the counts for each classification of vehicle, but we can't isolate the speeds of each of these classifications. The equipment does a good job of accurately deciphering between the different multi-axle vehicles based on all the testing requirements oaf the manufacturer. This equipment has been reviewed by many agencies and all national traffic counts utilize the same sort of equipment for counts.

When a vehicle drives over the tubes a puff of air is registered at the devise and the devise utilizes this info to decipher the type of vehicle that has driven over it. Even if a vehicle is tailgating, the equipment will register two separate vehicles have driven over it.

2) Can you address the accuracy of the data points because I know the cables were adjusted one of the days during the measurement? The accuracy of the counts, in my opinion are very accurate. The tubes are monitored and tightened if they become loose, so they don't pull up.

3) For example, are the readings 10 MPH accurate or 0.1 MPH accurate or somewhere inbetween? The accuracy of the counters are to the 0.1mph.

4) How do we know the speed measurements are accurate? Do we use a radar gun to calibrate or how are they calibrated? The equipment was recently purchased and calibrated at the factory. Also, whenever we set up a counter, the person will drive over the counter at a known speed and will check to make sure the equipment is recording properly. Again, while we do this as a check, you are limited to the accuracy of the vehicle's speedometer.

5) The sensor spacing says 4 feet and loop length 6 feet, however the actual cables were only about 1 foot apart, what am I missing? The tubes were placed at 4' apart. While driving over the tubes, they do appear to be very close together, but they were set up with a 4' spacing.

6) How many new accidents happened after the speed change? I know of at least 3, two with injuries. Crash analyses are typically conducted for a three to five year period to account for the random nature of crashes. This time period usually allows for regression to the mean. Thus, more time is needed to make an informed decision regarding whether or not the speed limit change has resulted in a negative impact on the crash rate.

For example, the Dept. of Public Safety Crash database shows there have been two crashes along 63rd Avenue (between County Road 81 and Highway 169) over the mid-August (speed limit change) to mid-October (data available) time period. This with the 35 mph speed limit.

The DPS crash data for November and December of 2019 shows there were five crashes (including two injury crashes) along this same segment of 63rd Avenue. This with the 30 mph speed limit.

7) The data for increasing the speed limit on 63rd Ave N has major problems for the following reasons.
   - Data is over pandemic years 2020/2021 where traffic counts are down and people are driving faster. You are correct that we did see some reductions in the traffic volumes in the counts done in 2020 / 2021 vs counts completed prior to the pandemic. In some segments (CSAH 81 to CSAH 8) we did not see any reduction in volumes compared to the counts done in 2017 while other segments (Boone to Mendelson) we saw reductions of 13% from those collected prior to 2020. We did not see significant increases in speed in other areas where we had speed studies done prior to the pandemic. Below is a table of some segments where we had speed date from before the pandemic:

	Data Collected prior to 2020		Data Collected in 2020/2021	
Segment	50% (mph)	85% (mph)	50% (mph)	85% (mph)
West River Road north of Banfill Cir	35.5	39.3	35.4	40.8
Winnetka Ave Near 63rd	31.7	36.6	33.2	37.7
Hampshire Ave north of 64th Ave	26.3	31.1	28.0	32.7
93rd Ave East of Regent Ave	37.3	42.6	36.7	42.8

Again, this data isn't conclusive in saying there was widespread increases in speeding, but it does paint a picture that while speeds did go up, it wasn't significantly increased during the pandemic (at least on local roadways).

- 8) Important historical data from before the pandemic is not included in the speed averages. Correct, we did not have historical data for 63rd Avenue prior to the pandemic.
- 9) Data does not breakdown the makeup of the vehicles, emergency vehicles for example travel over the speed limit and should not be included. We do not break down the data for vehicle types. If we had the equipment that could do that breakdown, it would not be able to decipher between emergency vehicles and normal traffic.
- 10) How many days was data collected for each average? The counts were out on average of 6 days. We were going for a 7-day average, but one tube was pulled up by something early. Three of the counts were out March 18-25 and one was March 29-April 1
- 11) Was there a holiday when data was collected? no
- 12) Was the data for the 5 segments of road collected simultaneously or over separate dates? Same timeframes see above
- 13) How are outlier data points handled? All data is factored into the final determination
- 14) Did one direction of the roadway experience higher speeds?

The 50th percentile speeds for each of the four segments W. of CR 81 changes slightly by direction.

- CSAH 81 to CSAH 8 (EB – 36.8 mph and WB – 35.4 mph)
- CSAH 8 to Yukon Avenue (EB – 33.0 mph and WB – 32.8 mph)
- Yukon Ave to Boone Ave (EB – 33.7 mph and WB – 34.2 mph)
- Boone Ave to Mendelsohn Ave (EB – 38.8 mph and WB – 39.1 mph)

- 15) Crash data is for a different time period than the speed data.
  - Crash data 2017 to 2019

- Speed data 2020/2021 Yes the data points for the crash data is different than the speed data because it is the most current crash data we can obtain. This is a state database and this is the most up to date data available.

This is only a partial list of the problems with the data.

What we did correctly for the 1990's reconstruction of the roadway (Winnetka and 63rd):

- Contacted every household with door knocking and fliers for every home adjacent to the roadway.
  - 52 homes along 63rd Ave N
  - 66 homes along Winnetka
- Informed General area (now known as Sunny Lane)
  - Used official weekly publication (Sun Newspaper-delivered to every house throughout the city)
  - also set up a phone tree for the 100+ residents that wanted to be more informed with details
  - Multiple meetings at area facilities to discuss and answer questions and concerns.
  - collected data, extensive road use information and other factors:
    - Residents volunteered to help collect data at street corners.
    - Collected information on potential area changes that may affect traffic.
    - History of area roads (example 62nd was main East/West road until Railroad closed the Hwy81 crossing)
  - City Mayor (Jesse Ventura) walked the entire area with residents to see what we needed.
  - Engineering staff worked with the residents to come up with a plan including the speed limit.

For the public to understand a speed limit change we need:

- Sufficient data to back our decision.
- The decision needs to follow logic throughout.
- 16) Reason for change that improves something?
- 17) Who has approved of the decision? The City Council approved the speed limit policy on December 14, 2020 which set the criteria for evaluating speed limits on all Minor Arterial and Collector I roadways. All local and Collector II roads will remain at 30 mph.
- 18) Appropriate amount of time for review and questioning. In August 2020, City Council authorized staff to start developing a speed limit policy. On October 5, there was a City Council work session where staff presented preliminary findings for the speed limit policy, community outreach plan, and staff received comments from the Council. On December 14, 2020, the City council reviewed and approved the speed limit policy at the city council meeting.
- 19) We need an official way to notify people. (In the past it was the newspaper or direct mail, what is it now?) Staff put articles in the Park Pages in October 2020 prior to the December meeting, again in February after it passes, and sent out several email and other social media notifications and on June 14, 2021 staff presented final findings for where speed limits were changing to the council.
  - https://www.brooklynpark.org/newsletter/park-pages-october-2020/
  - https://www.brooklynpark.org/newsletter/park-pages-february-2021/

20) August 10, 2021 is the first notification I received stating the 63rd Ave N change.
I did read about the speed limit study but then nothing until August 10, 2021 and I am on the email list for city notifications. The August notification was sent specifically to the area where the speed limits were changing. We have done this with other areas and as we progress through the community, we will continue to notify people before the signs are changed.

Sincerely
Gerald Pierson

Gerri Herman

From: Jay Stroebel
Sent: Tuesday, November 2, 2021 8:20 PM
To: Jesse Struve
Cc: Dan Ruiz; Devin Montero
Subject: Fw: Speed Limit on 63rd Avenue North

FYI

From: haugbergl@gmail.com <haugbergl@gmail.com>
Sent: Tuesday, November 2, 2021 9:18 AM
To: BPCouncil-MGR-DL <BPCouncil-MGR@BrooklynPark.Org>
Subject: Speed Limit on 63rd Avenue North

Dear City Council Members,

We are opposed to the increase of the speed limit from 30 miles per hour to 35 miles per hour on 63rd Avenue North in Brooklyn Park. This section of 63rd Avenue North is a residential area. There are many pedestrians and bicyclists that travel along 63rd Avenue North in this area. The increased speed limit poses a greater probability of serious accidents between cars and pedestrians, bicyclist and children. We appreciate your interest in this issue. We encourage you to vote to set the speed limit to 30 miles per hour on 63rd Avenue North in Brooklyn Park.

Sincerely,
Larry and Cynthia Haugberg

It has come to my attention that the City Council, at its Nov 8 meeting, will be reconsidering the City Engineer's decision to raise the speed limit on 63rd Ave N from 30 to 35 mph. Since, as I understand it, there wasn't a meeting needed to increase the limit to 35mph, I didn't want to miss this chance to voice my opinion and disagree with the decision raising the speed limit.

For the reasons stated below, I am writing and asking the Council to restore the 30mph speed limit on 63rd Ave. I strongly encourage the Council to vote to return the entire length of 63rd to 30mph so a driver going from Brooklyn Center to Maple Grove only sees a consistent speed posted (30mph) for their travel. But, at a minimum, the speed should be returned to 30mph for **at least** the middle segment of 63rd Ave N that stretches from Louisiana to Yukon (that is the segment of 63rd between County 81 and Boone where the street is only 32ft wide; on either side of that section of 63rd the road is much wider).

From all indications, this middle segment of 63rd has been functioning well since it was rebuilt back in 1993.

- The City's traffic study showed the 50% speed at 33.9[1] mph, meaning the posted 30-mph limit was being generally adhered to by motorists (~34 mph is within the average MN driver's "buffer speed" of "Posted+5mph", which people base on the premise that officers don't write tickets for less than a 5mph violation to avoid tickets dismissed for radar calibration defenses).
- The crash rate statistics have been favorably low with the road posted at 30 mph. Just because the crash rate is low, the mentality should not be "we've got wiggle room" but instead to choose only actions that might push the rate lower. Raising speed just increases the likelihood of crashes and goes against all safer-road / safer-driving messaging we've all heard for years.
- It sounds like the traffic count has gone down from the approximately 10,000[2] cars/day in 1989 to about 7000[3] cars/day now (that's less than 50% of the 16,500[2] cars/day that were predicted to be on that road by 2010). That affirms the Council's decision in the early 1990s, when it chose to reduce the road width to 32-ft in an effort to reduce traffic, lower accident rates, and target a lower speed in the corridor.
- The middle segment of 63rd has been stable for 30+ years and is still lined by only residences, apartments and a park (Sunny Lane)..

Overall, the above statistics indicate that what the City Council aimed for back in the early 1990s has been achieved. Why was the choice made to mess with a success story by hiking up the speed limit?

It turns out that the reason for messing with the speed on 63rd (and other roads) began with the City Council's 14Dec2020 adoption of the Speed Policy at a Public Hearing that very, very few residents (if any) were aware was happening.

It turns out the main tool in Brooklyn Park's Speed Policy is a traditional speed study.
The traditional speed study tends to favor the motorist because collective speeding behavior is rewarded, potentially with ever increasing speed limits. As a tool, the traditional speed study has come under scrutiny by groups, like NATCO, that view it a legacy method that often results in speeds that are inappropriately fast[4]. Was any consideration given to using a NATCO safe speed study, which uses conflict density and activity level to set context-appropriate speed limits?

The City's recent set of 58 speed studies were conducted in or after a period of reduced enforcement due to COVID-19, and we're now seeing the impact of drivers being allowed to "drive as they wish". As demonstrated by the City's study results, speeds are generally up, which aligns with the stories we've seen/heard/read across media stating that speeds are up on all roads across the U.S[5]. Along with those stories have been the numerous entreaties for drivers to "Slow Down!"; but instead of "Slow Down!", Brooklyn Park has taken the opposite tack and raised limits. So, why is Brooklyn Park

choosing to raise some speeds? Two reasons that were plainly stated at the 14Jun2021 meeting were what seemed to be a deeply felt opinion that the speeds on several roads (including 63rd Ave N) were "arbitrarily low" and that the new limits would reduce the number of traffic tickets written[6].

Please note: the 30mph speed for 63rd was not arbitrary – per the consulting engineer at the time 63rd Ave was rebuilt in the early 1990s: "**The roadway should be designed for 30 miles per hour.** [7]"

In the Council meetings, one of the oft mentioned goals of the new Brooklyn Park Speed Policy is setting consistent and correct speeds that make people feel "safe" and "comfortable" driving on a road, and that "similar roads" should be set to similar speeds so people know what to expect on a type of road. In this case the phrase "similar road" refers not to the driver's perception of whether the road is wide vs narrow, straight vs curvy or residential vs commercial; instead, "similar road" refers to the classification of the road as assigned by the City (i.e. Local, C2, C1, Minor Arterial) – a designation that is somewhat subjective, is often assigned to qualify for state/county aid, and is pretty much unknown to drivers. People talk of driving in a residential area, not "I could tell it was a Collector."

As for the reduction in number of tickets written and fines paid, it was mentioned at the 14June2021 meeting as a positive outcome because it reduced police/motorist interaction[6]. But after stumbling across a slide in the Agenda Item 8.2 slide deck, it is almost hard to believe the police/motorist interaction could be reduced much more and have any enforcement occur. I'm not sure if the information on that slide is correct since it was not shown during the formal presentation (seems like a support slide that was never needed so not presented), but the slide implies that in 2019 the Police wrote a total of 1235 traffic citations for the entire year, for the entire city!! And those numbers are **before** COVID-19 effectively shut down enforcement to avoid non-essential contact between people. Of those 1235 citations written in 2019 only 393 were tickets[8]. If that info is true, that means an average of 3 citations/day with 1 ticket/day being a fine – across the entire City. That's not going to deter anyone and make them change their behavior! From what I've seen driving through New Hope and Crystal (on Winnetka, 36th Ave, and Douglas), they easily exceed those Brooklyn Park's citation numbers – and I don't witness rampant speeding on those roads. (Note: since the slide only says 2019, I assume the numbers are annual and not a daily average or quarterly reporting; I could be wrong.).

Suggested actions:

1. Reverse City Engineer's decision and restore 30mph speed limit along 63rd Ave N (and possibly other roads – seems the roads that were raised primarily parallel Trunk Highways)
2. Amend the Speed Limit policy so the City Engineer is only authorized to lower speed limits. Raising speed limits are to require the approval of the Council after a Public Hearing (with at least one means of publicizing the hearing being signage at major intersections along the effected corridor; a re-zoning or variance seems to require such signage, and increasing speed limit is as impactable on a neighborhood)
3. Increase enforcement of speed limits. When 50% of motorists feel comfortable driving 6+mph over limit, it indicates no fear of being stopped for speeding.
4. If not already owned, the City should purchase a few portable speed monitors that can be stationed along roadside to warn motorists that they are speeding. If they don't notice the regular speed sign, they won't miss one of those portable speed monitors 42 flashing at them.
5. If possible, for speed studies, use speed monitors from #4 in place of those 1980s-era small boxes with the hoses draped across the road (hard to imagine those things can be very accurate considering the manual setup and the crude technology involved)
6. Update Public Notices on City website to show upcoming Public Hearings, not just past ones.
7. Don't fail to do community outreach because a topic is too technical – Brooklyn Park is a diverse City with a lot of capable residents whose input should not be discounted.

References:

1. City Council website, 14Jun2021 meeting:
https://nwsccc-brooklynpark.granicus.com/player/clip/1613?view_id=5&redirect=true
Agenda Packet Item 8.2B, Proposed Speed Limit Changes – Table
Segment CSAH 8 to Boone Ave, 3rd line down from Minor Arterials, 50% column
2. Preliminary Report, 63rd Avenue North Improvement Project ST-999 (M.S.A. 110-103-11), Orr, Schelen, Mayeron & Associates, April 1991. Page 4.
3. File "211025 Crash Rates for 63rd Ave.docx" provided by the City
4. National Association of City Transportation Officials website
https://nacto.org/2020/07/22/nacto-announces-new-framework-to-set-safe-speed-limits/
3rd bullet of City Limits highlights
5-a. Traffic Deaths Worst in 15 Years as Unsafe Driving Spikes After Lockdown
https://www.msn.com/en-us/autos/news/traffic-deaths-worst-in-15-years-as-unsafe-driving-spikes-after-lockdown/ar-AAQ6vLD?ocid=entnewsntp
5-b: https://minnesota.cbslocal.com/2021/09/07/brooklyn-park-family-pleads-hit-and-run-driver-who-struck-17-year-old-son-to-come-forward/
6. City Council website, 14Jun2021 meeting:
https://nwsccc-brooklynpark.granicus.com/player/clip/1613?view_id=5&redirect=true
Council video audio, 2hrs 11 minutes thru 2hrs 15 minutes into meeting
7. Preliminary Report, 63rd Avenue North Improvement Project ST-999 (M.S.A. 110-103-11), Orr, Schelen, Mayeron & Associates, April 1991. Section 5.0 Design Standards, 2nd para, last line
8. City Council website, 14Dec2020 meeting
https://nwsccc-brooklynpark.granicus.com/player/clip/1562?view_id=5&redirect=true
Agenda Packet Item 7.2A, Presentation Graphics – Slide 19

Signed,

- Mike Sis
6301 Rhode Island Ave N
Brooklyn Park, MN 55428
2-Nov-2021

Other topics that came to mind but didn't have time to develop into talking points:

- Increased aggressive driving on the road
  - Passing on 63rd, probably at speeds approaching 50
  - At night, seen cars blow thru stop at Winnetka when no headlights visible from side street
  - Honking at bus driver to get moving right after last kid seems to have gotten off bus
- Noticed that the map of changes indicates little change in speeds around Gov't Center area
  - Maybe due to frequent presence of police cars on roads near Police Station
  - Seen similar effects at Rockford and Douglas in Crystal and Rockford and Winnetka in New Hope
- Sidewalks are butted up to gutter in some areas – danger if car jumps the curb
- High driveway density and no-other-option interactions with main traffic flow
  - For area between Louisiana and W. Broadway – can only back onto 63rd\
  - For area from Winnetka to Wyoming, driveways on south side
  - With narrow road, no space for people to back out of driveway onto a parking area and then ease into traffic. Need to gun it out onto road, and switch gears quick.
- 63rd has about only hill in Brooklyn Park
  Travelling west and approaching Wyoming, somewhat hidden side street comes sloping down to 63rd – presenting possible danger point
- When semi passes at higher speed, if mowing on boulevard, need to brace yourself for the increased air wave
- Reduced use of Sunny Lane Park
  - Parents won't let kids go to park because 63rd has gotten too dangerous for kids to cross
  - Some parents have resorted to piling kids into car to take them to park instead of walking
  - No pedestrian striping by park, although there is a curb cut presumably for foot traffic
- Mostly no white shoulder/rain/danger stripe to warn driver drifting out of lane
- On the Figure 12 presented in the 14Dec2020 meeting when Speed Policy was adopted, middle segment of 63rd was shown to remain at 30 mph, and no mention that there'd be studies on roads shown as unchanged…feels like a bit of a bait and switch
- Accident at Winnetka between bicyclist and car shortly after increase to 35 mph
- In general, noticed fewer bicyclists along 63rd since increased speed
- Some people on sidewalks have indicated they don't feel as safe with people driving so fast
- MN State Troopers say they've never written so many tickers for over 100mph, and that driving attitude is carrying over into neighborhoods
- Appears no outreach was conducted, or it was extremely ineffective.
  - No one that I've spoken to heard about the Public Hearing when Speed Policy was adopted.
  - No signage was put up along road indicating a speed change was being considered
  - Bright flags were put up when increased to 35mph to let motorists know they could stomp on the gas pedal
- Always have a problem with icing at Winnetka with people laying on horn, hoping for the best, and sliding through. Can only assume that'll get worse at increased speed.
- In old days, cars used to shudder and felt pull in the steering wheel, providing warning to driver they needed to slow down. Modern cars are so highly engineered that driver often gets no warning before they lose control of car.
- Saw a group of kids that turned the increased speed into a game of chicken – at twilight. Seemed they used the "clunk-clink" of car passing over traffic counter hoses as "Go" for game, then ran out into traffic lane far as they thought they could and still get safely back to the curb.

City of Brooklyn Park
Request for Council Action

Agenda Item:	7.3	**Meeting Date:**	November 8, 2021
Agenda Section:	General Action Items	**Originating Department:**	Finance
Resolution:	X		
Ordinance:	N/A	**Prepared By:**	Taofeek Ishola, Senior Accountant
Attachments:	2	**Presented By:**	LaTonia Green, Finance Director
Item:	Resolution Amending Fee Resolution #2000-202 Adopting a Schedule of Fees and Charges for Various Services, Licenses and Permits for the City of Brooklyn Park, Minnesota		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2021-_____ AMENDING FEE RESOLUTION #2000-202 ADOPTING A SCHEDULE OF FEES AND CHARGES FOR VARIOUS SERVICES, LICENSES AND PERMITS FOR THE CITY OF BROOKLYN PARK, MINNESOTA.

Overview:

Each year, staff reviews and makes recommended changes to the City's schedule of fees and charges. Fees are set to recover the cost of the service provided and must not exceed that cost per Minnesota Statute. These changes must be approved by the City Council by resolution. A resolution including these changes is included in the packet for your review. Additions or changes are underlined, and deletions are struck through. Some of the changes are only to delete outdated information. Also, attached are memos from departments recommending changes and providing information on the changes. Staff is recommending approval of the 2022 fees and charges schedule.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues:

The recommended fees have been incorporated in the preliminary 2022 budget. Should the City Council choose not to adopt the recommended fees, the preliminary budget would need to be adjusted accordingly.

Attachments:

7.3A RESOLUTION
7.3B STAFF MEMOS

RESOLUTION #2021-

RESOLUTION AMENDING FEE RESOLUTION #2000-202 ADOPTING A SCHEDULE OF FEES AND CHARGES FOR VARIOUS SERVICES, LICENSES AND PERMITS FOR THE CITY OF BROOKLYN PARK, MINNESOTA

WHEREAS, fees and charges are assessed for various services for the City of Brooklyn Park; and

WHEREAS, in the year 2000, the Brooklyn Park City Council approved Resolution #2000-202 adopting a schedule of fees and charges for various services, licenses and permits for the City of Brooklyn Park; and

WHEREAS, the City Council of the City of Brooklyn Park, Minnesota resolves to adopt the following schedule of fees and charges for the calendar year 2022.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Brooklyn Park approves the following schedule of fees and charges for various services, licenses and permits for the calendar year 2022.

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

The City of Brooklyn Park does ordain

Section 1. Section 103.01 of the Brooklyn Park City Code is amended to read as follows:

§ 103.01 BUILDING CODE.

(A) *Codes adopted by reference.* The *Minnesota State Building Code* ("MSBC"), as adopted by the Commissioner of Labor and Industry pursuant to M.S. §§ 326B.101-326B.16 ~~16B.59 to 16B.75~~, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section.
The *Minnesota State Building Code* is hereby incorporated in this section as if fully set out in full.

(B) *Application, administration and enforcement*. The application, administration and enforcement of the building code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 326B.082 ~~16B.62, Subd. (1)~~, if so established by this section. The code enforcement agency of the city is the Building Inspection Division. The building code shall be enforced by the city's Certified Building Official, as designated by M.S. § 326B.148 ~~16B.65, Subd. (1).~~

(C) *Permits and fees*. The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.151 ~~16B.62, Subd. (1)~~. Permit fees shall be assessed for work governed by the code in accordance with the fee schedule adopted by the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 326B.148~~16B.70~~.

(1) *Building valuation*. Building valuation for the purpose of establishing building permit fees is as set forth by the most current Building Valuation Data published by the International Code Council (ICC) ~~Minnesota Department of Labor and Industry, Building Codes and Standards Unit~~.

(2) *Residential contractor license check*. As provided by M.S. ~~Ch. 306~~ 326B.805, for any residential building contractor required to be licensed by the state, the applicant for a building permit for residential work must pay a fee for a building permit for administration and review of residential contractor licenses. The fee is in an amount as established by the fee resolution, set forth in the Appendix to this code.

(D) *Violations and penalties*. It is unlawful to perform any work subject to the building code for which a permit is required without obtaining the permit and having paid the fees required herein. Permits, inspections, and collections of fees are as authorized in M.S. § 326B.151 ~~16B.62, Subd. (1)~~. A violation of the building code is a misdemeanor.

(E) *Building code optional chapters*. The Minnesota State Building Code established pursuant to M.S. §§ 326B.101-326B.16 ~~16B.59 to 16B.75~~, allows cities to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for the city:

(1) Chapter 1306 – Special Fire Protection Systems option, incorporating subpart 2 (Existing and New Buildings).

Section 2. Section 103.02 of the Brooklyn Park City Code is amended to read as follows:

§ 103.02 FEES AND CHARGES.

(A) *Basic fees.*

(1) The fee for any building permit is determined by the Building Official in accordance with the provisions of § 103.01. The fees established and set forth therein or in other sections of the city code must be collected where applicable by the Building Official before the issuance of any permits. The Building Official must not issue any such permits for which the payment of a fee is required by the schedules until the fee is paid. Applications must be filed as required by this code or as established by the Building Official. All fees collected must be paid to the Finance Director by the Inspection Department daily, or as soon after collection as practicable.

(2) Prior to the issuance of any building permit which requires on-site improvements, including but not limited to the construction of parking facilities, garbage refuse pickup stations, lighting, landscape, fencing, or items spelled out in a conditional use permit, the City Council or the Building Official must require a contract and a surety bond guaranteeing to the city the actual construction and installation of the improvements within the period specified in the contract and bond, not exceeding two years.

(B) *Miscellaneous fees required.* The Building Official must not issue permits for any construction, maintenance, reconstruction, improvements, or uses governed by the MSBC without collecting the fees as established in the schedule set forth in the Appendix to this code.

(C) *Moving and routing.* Moving of any structure and the routing thereof must be cleared through the Director of Public Works with notification to the Police Department for approval of the route and time of the move. All permits must comply with ~~Section 364.12~~ Chapter 152 and the provisions of ~~Section 446~~ of the city code, and M.S. § 221.81, as amended.

(D) *Demolition and moving of buildings; fees required.* Before issuing any building moving permit or a permit for the demolition of any building or structure, the Building Official must require the payment, by the applicant, of fees in accordance with the schedule established by the fee resolution, set forth in the Appendix to this code.

(E) *Underground liquid storage system permit fees.* Fees for the installation, alteration, reconstruction, removal, or repair of any underground liquid storage system are computed and based upon valuations in accordance with the schedule set forth in the Appendix to this code.

(F) *Fire suppression system/fire alarm system permit; fees required.* The installation of any fire suppression sprinkler equipment or system requires the payment by the applicant of fees in the amount provided by the fee resolution, set forth in the Appendix to this code. No permit for the installation of any fire suppression equipment or system or installation of any fire alarm equipment or system will be issued until the applicant files with the Building Official a complete set of plans for such system and approval obtained by the Fire Chief.

(G) *False statements, violations, and penalties.* It is unlawful to make any false statement in connection with the securing of any permit from the Inspection Department. It is unlawful to violate any provision of §§ 103.02, 93.30 et seq., 93.50 et seq., 99.75 et seq., 100.55 et seq., 92.37(B), 151.014, 99.01 et seq., 99.15 et seq., or 99.30 through 99.41, or make any false statement in the affidavit as sworn statement made, as required by this code, in connection with the securing of any permit from the Inspection Department. Any person who violates any of the provisions of this code hereby adopted or fail to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the Building Inspector or by a court of competent jurisdiction, within the time fixed herein, severally for each and every such violation and noncompliance respectively is guilty of a misdemeanor. The imposition of one penalty for any violation does not excuse the violation or permit it to continue; and all such persons are required to correct or remedy the violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained constitute a separate offense. The application of the above penalty is not held to prevent the enforced removal of prohibited conditions.

Section 3. Section 103.61 of the Brooklyn Park City Code is amended to read as follows:

§ 103.61 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.

The following standards must be followed in substance by the Building Official and the Council in ordering, repair, vacation or demolition:

(A) If the “dangerous building” can reasonably be repaired so that it will no longer constitute a dangerous building under this subchapter, it will be ordered repaired.

(B) If the “dangerous building” is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it will be ordered to be vacated.

(C) Any “dangerous building” ordered to be vacated must also be ordered to be either repaired or demolished.

(D) In all cases where a “dangerous building” cannot be repaired so that it will no longer exist as a “dangerous building” under the terms of this subchapter, it must be ordered to be demolished in accordance with the provisions of M.S. ~~§§ 463.17 through 463.25~~ 463.15 through 463.261.

(E) In any case where a “dangerous building” is 50% damaged, decayed or deteriorated from its original condition and construction, it must be ordered to be demolished in accordance with the provisions of M.S. Chapter 463.

(F) In each case when a “dangerous building” is ordered to be repaired, vacated and repaired, vacated and demolished, or demolished if already vacant, a reasonable time must be specified within which the ordered action may readily be accomplished.
('72 Code, § 1005:10) Penalty, see § 10.99

Section 4. Section 103.75 of the Brooklyn Park City Code is amended to read as follows:

MECHANICAL AND PLUMBING CONTRACTOR LICENSES

§ 103.75 LICENSE REQUIREMENTS.

It is unlawful for a person, firm or corporation to engage in businesses regulated by the Minnesota State Building Code (MSBC), Chapter 1346, or Chapter ~~4715~~ 4714, Minnesota Plumbing Code, for any purpose whatsoever in this city without first having procured a license therefor as herein provided.

(A) *Mechanical contractor license.* It is unlawful for a person to engage in any businesses regulated by MSBC Chapter 1346, without first having procured a license therefore from the City Building Official. The license will be issued only to persons who show a thorough understanding of the laws and regulations governing such work and who demonstrate sufficient knowledge, skill and training as to enable them to carry on the work covered by their license.

(B) *Plumbing contractor license.* Persons engaged in businesses regulated by MSBC Chapter ~~4715~~ 4714, Minnesota Plumbing Code, must be licensed by the State of Minnesota pursuant to M.S. Chapter 326B.

Cross-reference: *General business licenses, see Ch. 110*

Section 5. Section 103.79 of the Brooklyn Park City Code is amended to read as follows:

§ 103.79 INSURANCE PROVISIONS.

(A) No license or permit will be issued unless and until the applicant first provides evidence to the city of public liability insurance, including products liability insurance with limits of at least $50,000 per person and $100,000 per occurrence and property damage insurance with limits of at least $10,000. The insurance must be written by an insurer licensed to do business in the State of Minnesota and each licensee must maintain on file with the city a certificate evidencing the insurance and providing that the insurance must not be cancelled without the insurer first giving 15 days written notice to the city. The term of the insurance must be concurrent with the term of the license.

(B) The certificate evidencing insurance must be filed with the city prior to licensure, except that the applicant may provide to the city a certificate evidencing that the applicant has filed evidence of insurance with the State of Minnesota, pursuant to M.S. § ~~326.40~~ 326.46, Subd. 2 and that the evidence of insurance is in force and on file with the State Commissioner of Health. If the certificate is provided, then separate evidence of insurance is not required by the City of Brooklyn Park.

Section 6. Appendix: Fee Resolution of the Brooklyn Park City Code is amended to read as follows:

BUILDING PERMIT ADMINISTRATION FEES

Reason for Change	*Amount of Charge*	*Reference*
Permit fee for residential work for administration and review of residential contractor licenses	$5 per permit	§ 103.01(E)(1)
Copies of permits and documents	As established by Council resolution	§ 103.02(B)
Building Permit Fees	As established by Council resolution	§ 103.01(C)

TABLE 1-A BUILDING PERMIT FEES CITY OF BROOKLYN PARK

Total Valuation	***Fee***
$1.00 to $1,200.00	$51.50
$1,201.00 to $2,000.00	$51.50 for the first $1,200.00 plus $3.37 for each additional $100.00, or fraction thereof, to and including $2,000.00
$2,001.00 to $25,000.00	$78.46 for the first $2,000.00 plus $15.86 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.01 to $50,000.00	$443.24 for the first $25,000.00 plus $11.44 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00	$729.24 for the first $50,000.00 plus $7.93 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$1,125,74 for the first $100,000.00 plus $6.34 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001.00 to $1,000,000.00	$3,661.74 for the first $500,000.00 plus $5.39 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,001.00 and up	$6,356.74 for the first $1,000,000.00 plus $4.14 for each additional $1,000.00, or fraction thereof
Use International Code Council (ICC) ~~and State Building Codes & Standards Division~~ square foot cost of construction for determining building valuation and state surcharge fees.	
Other Inspections and Fees:	
1. Inspections outside of normal business hours	~~$51.50~~ $75.00 per hour (minimum charge-two hours)
2. Reinspection fee assessed under provisions of Section ~~1300.0210~~ 1300.0160	~~$51.50~~ $75.00 per hour
3. Inspections for which no fee is specifically indicated	~~$51.50~~ $75.00 per hour (minimum charge-one hour)
4. When submittal documents are required by Section 1300.0130, a plan review fee must be paid	The plan review fee shall be 65% of the building permit fee
5. Additional plan review required by changes, additions or revisions to plan	~~$51.50~~ $75.00 per hour (deferred submittals)
6. Shell only buildings	80% of valuations

Maintenance Permits	***Fee Based on Valuation or Fixed Fee***
Roofing/tear off	$2,000 valuation
~~Roofing/layover~~	~~$1,500 valuation~~
Re-side	$2,500 valuation
Replacement windows	$2,500 valuation
Annual permit	Determined by Building Official
~~Residential water heater~~	~~$25~~
~~Residential water softener~~	~~$25~~
~~Residential lawn irrigation~~	~~$25~~

~~*Accessory Structures*~~ *Accessory Structures, Additions, Alterations, or Construction*	*Fixed Fee*
Pools	$3,000 valuation
Residential decks	$15 per square foot
Covered decks	$25 per square foot
Sheds	$20 per square foot
Carports	$16 per square foot
Garage	$22 per square foot
Screen porch	$35 per square foot
Three season porch	$55 per square foot
Basement finish with bathroom	$12 per square foot
Basement finish without bathroom	$9 per square foot
Steel storage racks (commercial)	$10,000 valuation
Miscellaneous	***Fee***
Temporary certificate of occupancy	Initial issuance/$100
	First 30-day extension/$300
	Second 30-day extension/$600
	Third and final 30-day extension/$1,200
Expired permit renewal	~~Renewal within 180 days of expiration/one-half original fee~~ Renewal within 180 days of expiration, one-half original fee
	~~Renewal after 180 days of expiration/full permit fee~~ Renewal after 180 days of expiration, full permit fee
Expedited permit and phased permits	Twice the building permit fee*
Mechanical contractor license	$100/year
Reinspection fee	~~$51.50~~ $75.00 per hour (minimum one hour)
Investigation fee	Twice the building permit fee
* When an applicant demonstrates the existence of extraordinary circumstances or other unique factors relating to the proposed development, the Building Official may authorize expediting or phasing of the permit and/or submittal documents.	
Fees Fixed By State Statute	***Fee***
Minnesota Rule 1300.0160 similar plans	Maximum 25% plan review
Utility Taps	
Sanitary sewer	$150 ~~$75~~
Water main	$150 ~~$75~~
Storm sewer	$150 ~~$75~~
Street Permits	
Street cut	$85 ~~$25~~
Curb cut	$85 ~~$25~~
Small Utility Permits	
Administration fee	$200
Excavation in the boulevard	$25
Excavation in the street	$50
Underground trenching of lines (per LF)	$0.50
Overhead placement of lines (per LF)	$0.20
Grading/Excavating	
200 - 1,000 cubic yards	$200 ~~$50~~
1,001 - 10,000 cubic yards	$350 ~~$75~~
10,001 - 100,000 cubic yards	$750 ~~$250~~
100,001 + cubic yards	$1,200 ~~$600~~

Fee Refunds
The Building Official may authorize refunding not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with the code.

The Building Official may authorize refunding not more than 80% of the plan review fee paid when an application for a permit for which a plan review has been paid is withdrawn or canceled before any plan review is done.

A state surcharge will be applied based on valuation or fixed fee permits.

Stormwater Review Fee		
153.07	Administration Fee	$150

DEMOLITION AND MOVING OF BUILDINGS FEES

Reason for Fee	***Amount of Fee***	***Reference***
Demolition of any ~~minor~~ accessory structure ~~building~~	$50	§ 103.02(B)
Demolition of any building not classified as a ~~minor~~ accessory structure ~~building~~	$150	§103.02(B)
For holding up, raising or moving any building or structure on the same lot	$50	§103.02(B)
For moving any minor building as defined herein to a different lot within the city over city streets	$50	§ 103.02(B)
For moving a manufactured home as defined by State Building Code Chapter 1350 Manufactured Homes, to a lot within the city or from outside of the city to a lot within the city	$75	§ 103.02(B)
For moving any building or structure non-stop through the city upon city streets (see exception - Section 446:15(e), County Roads and State Highways Exempt)	$75	§ 103.02(B)
For moving any building or structure out of the city	$75	§ 103.02(B)
For moving any building or structure, except any minor building, from one lot to another lot within the city	$250	§ 103.02(B)
For moving any building or structure, including any minor building, from outside of the city to a lot within the city	$250	§ 103.02(B)

TABLE 1-B MECHANICAL PERMIT FEES
CITY OF BROOKLYN PARK 2003

Total Valuation		***Fee***
New single-family home heating and cooling		$200.00
Single-family home replacement of heating or cooling		$100.00
$1.00 to $2,500.00		$50.00
$2,501.00 to $50,000.00		2% of valuation
$50,001.00 and up		$1,000 plus 1% of valuation in excess of $50,000.00
Other Inspections and Fees:		
1.	Inspections outside of normal business hours	~~$51.50~~ $75.00 per hour (minimum charge-two hours)
2.	Reinspection fee assessed under provisions of Section ~~1300.0210~~ 1300.0160	~~$51.50~~ $75.00 per hour

3.	Inspections for which no fee is specifically indicated	~~$51.50~~ $75.00 per hour (minimum charge-one hour)
4.	When submittal documents are required by Section 1300.0130, a plan review fee must be paid	The plan review fee shall be 10% of the mechanical permit fee.
5.	Additional plan review required by changes, additions, or revision to plan.	~~$51.50~~ $75.00 per hour (deferred submittals)

MECHANICAL PERMIT FEES

Value of Work	*Fee*	*Reference*
Per Table 1-B	Per Table 1-B	§ 103.02(A) and (B)

PLUMBING FEES

Reason for Fee	*Amount of Fee*	*Reference*
For installation of plumbing work	As established by Council resolution	§ 103.02(A) and (B)
Water Service, Supply and Distribution System		
Permit and inspection fee made at the time of applying for water services	$75	§§ 100.57 and 103.02
Making taps for taps for all service types	$100	§ 100.58

TABLE 1-C PLUMBING PERMIT FEES
CITY OF BROOKLYN PARK 2003

Total Valuation		*Fee*
New single-family plumbing ~~home heating and cooling~~	$200.00	
Residential lawn irrigation	$25	
Commercial lawn irrigation	$25	
Residential water heater	$25	
Residential water softener	$25	
$1.00 to $2,500.00	$50.00	
$2,501.00 to $50,000.00	2% of valuation	
$50,001.00 and up	$1,000 plus 1% of valuation in excess of $50,000.00	
Other Inspections and Fees:		
1.	Inspections outside of normal business hours	~~$51.50~~ $75.00 per hour (minimum charge-two hours)
2.	Reinspection fee assessed under provisions of Section ~~1300.0210~~ 1300.0160	~~$51.50~~ $75.00 per hour
3.	Inspections for which no fee is specifically indicated	$50.00 per hour (minimum charge-one hour)
4.	When submittal documents are required by Section 1300.0130, a plan review fee must be paid	The plan review fee shall be 10% of the plumbing permit fee.

5.	Additional plan review required by changes, additions or revision to plan	~~$51.50~~ $75.00 per hour (deferred submittals)

WATER ACCESS CHARGES

Year	*Amount of Charge*	*Reference*
~~June 1, 2018~~	~~$2,125~~	~~§ 100.63~~
~~June 1, 2019~~ June 1, 2021	~~$2,250~~ $2,500	§ 100.63
WAC total charge is calculated utilizing the same unit charge multiplier as per the Metropolitan Council Environmental Services (MCES) Sewer Availability Charge (SAC) Procedure Manual.		

RECREATION AND PARK FEES -- FACILITY USER DEFINITIONS

RESIDENT	Any person who **maintains a residential address** in the City of Brooklyn Park. An address to a Brooklyn Park post office box number only is not applicable to obtain resident stature.
NON-RESIDENT	Any person who maintains a residential address outside the Brooklyn Park city limits.
CIVIC GROUP	Includes civic organization, charitable groups and character building organization devoted to the betterment of the community by offering community oriented social, educational, recreational and/or cultural enrichment opportunities.
NON-PROFIT GROUP	Includes any group/organization that legally qualifies for a not-for-profit status and files as such with the Internal Revenue Service. Proof of status may be required upon processing a reservation. Includes churches, political parties, elected officials and others listed within the Community Center policies.
COMMERCIAL/ BUSINESS	Includes groups that operate for profit or the purpose of promotion or advertisement.
PRIVATE	An individual or group using the facility for personal non-public or private purpose.

Edinburgh USA		
Rounds	***2021***	***2022***
Patron card holder	$44+ tax	$45+ tax
Resident	$49 + tax	$50 + tax
Non-resident	$59 + tax	$60 + tax
Senior rate	$45 + tax	$54 + tax
Daily Specials		
Monday w/cart	$49 + tax	$50 + tax
Tuesday w/cart	$59 + tax	$60 + tax
Thursday w/cart	$59 + tax	$60 + tax
Super Twilight	$39 + tax	$40 + tax
Rounds		
Player's Card rate	$59 + tax	$99 + tax

Edinburgh USA		
Rounds	***2021***	***2022***
SAC Season Pass	$2,275 unlimited $1,320 (40 rounds) $1,020 (30 rounds) $740 (20 rounds)	$2,400 unlimited $1,360 (40 rounds) $1,080 (30 rounds) $760 (20 rounds)

BROOKLYN PARK SPORTS DOME	**2021**	**2022**
Prime Rental Rate (full field)	$300+tax per hour	$310+tax per hour
Non-Prime Rental Rate (full field)	$195+tax per hour	$200+tax per hour
Prime Rental Rate (half field)		$180+tax per hour
Non-Prime Rental Rate (half field)		$115+tax per hour

BROOKLAND GOLF COURSE	2021	2022
Patron Card - Annual Footgolf Rate	$60.45 + tax $9.00 + tax	$70.00 + tax $10.00 + tax

ICE ARENA	*2021	2022
Prime Rental Rate Non-Prime Rental Rate *Not implemented due to COVID.	$ 240/hour, effective 09/01/2021, $195/hour, effective 09/01/2021	$240/hour, effective 09/01/2022 $195/hour, effective 09/01/2022

Zanewood Recreation Center	2021	2022
Classroom A - Resident Rate (Sunday - Saturday)		$15/hour + tax
Classroom A - Non-Resident Rate (Sunday - Saturday)		$17/hour + tax

PARK BUILDING RENTALS	**2021**	**2022**
20-person capacity (resident)	$50.00 + tax	$60.00 + tax
20-person capacity (non-resident)	$80.00 + tax	$110.00 + tax
50-person capacity (resident)	$100.00 + tax	$120.00 + tax
50-person capacity (non-resident)	$125.00 + tax	$160.00 + tax

PICNIC PAVILION RENTALS	2021	2022
20-person capacity (resident)		$30 + tax
20-person capacity (non-resident)		$65 + Tax
40-person capacity (resident)	$25 + tax	$50 + tax
40-person capacity (non-resident)	$50 + tax	$85 + tax
50-person capacity (resident)	$50 + tax	$60 + tax
50-person capacity (non-resident)	$90 + tax	$95 + tax
60-person capacity (resident)	$100 + tax	$110 + tax
60-person capacity (non-resident)	$125 + tax	$145 + tax
150-person capacity (resident)	$200 + tax	$225 + tax
150-person capacity (non-resident)	$225 + tax	$260 + tax
Shelter Kitchen rental		$65 + tax

POLICE DEPARTMENT	2021	2022
Animal impound daily boarding fee	$31/day	$33/day

Memorandum

Craig Enevoldsen, Chief of Police

To: LaTonia Green, Finance

CC: Craig Enevoldsen, Police; Renee Manning, Finance

From: Stephanie Heiberger, Police

Date: October 13, 2021

Subject: 2022 PD Fees and Charges Update

For the 2022 budget cycle, the Police Department proposes the following rate change:

Item	Current rate	Proposed rate
Animal impound daily boarding fee	$31/day	$33/day

Brooklyn Park utilizes PUPS (Pets Under Police Security) for animal impounds. Effective January 1, 2022, the City of Maple Grove will increase the rate they charge to the City of Brooklyn Park for the PUPS daily boarding fee, from $31 to $33 per day. The proposed increase mirrors the change being implemented by PUPS. It should be noted, I was not able to find reference to the daily boarding fees in the current city ordinance.

MEMORANDUM

DATE: October 25, 2021

TO: LaTonia Green, Finance Director

FROM: Jason Newby, Inspections & Environmental Health Manager

CC: Kim Berggren, Director of Community Development
Jason Klema, Building Official

SUBJECT: **2022 Building Code and Fee Changes**

The Community Development staff has reviewed the Fees Schedules and Charges for Various Services, Licenses and Permits for the city. Upon review we are recommending the following updates:

- Update Chapter 103 Building Code to align with the current Minnesota State Building Code, statutes, and rule references.

- Update Appendix – Fee Resolution

    - Increase reinspection fees to accurately reflect the City's cost for service for inspections requested outside of normal business hours and for permits that require additional inspections that consume staff resources beyond the normal inspection process.

    - Change some permit fee types (primarily plumbing and mechanical) to fixed fees to align with our new electronic plan review system and eCommerce needs. This will also provide better customer service by moving some of these permit types to our other online platforms.

    - Update the language to be more consistent with the terminology used on our permit applications.

Note – These changes are not estimated to impact the budget. These changes will benefit our staff processing permits and the customer will experience a more streamlined permit service and fee schedule.

Ordinance #2021-

ORDINANCE AMENDING CHAPTER 103 OF THE BROOKLYNPARK CITY CODE

PERTAINING TO BUILDING CODE

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

The City of Brooklyn Park does ordain

Section 1. Section 103.01 of the Brooklyn Park City Code is amended to read as follows:

§ 103.01 BUILDING CODE.

(A) *Codes adopted by reference.* The *Minnesota State Building Code* ("MSBC"), as adopted by the Commissioner of Labor and Industry pursuant to M.S. §§ 326B.101-326B.16 ~~16B.59 to 16B.75~~, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The *Minnesota State Building Code* is hereby incorporated in this section as if fully set out in full.

(B) *Application, administration and enforcement*. The application, administration and enforcement of the building code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 326B.082 ~~16B.62, Subd. (1)~~, if so established by this section. The code enforcement agency of the city is the Building Inspection Division. The building code shall be enforced by the city's Certified Building Official, as designated by M.S. § 326B.148 ~~16B.65, Subd. (1).~~

(C) *Permits and fees*. The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.151 ~~16B.62, Subd. (1)~~. Permit fees shall be assessed for work governed by the code in accordance with the fee schedule adopted by the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 326B.148~~16B.70~~.

(1) *Building valuation*. Building valuation for the purpose of establishing building permit fees is as set forth by the most current Building Valuation Data published by the International Code Council (ICC) ~~Minnesota Department of Labor and Industry, Building Codes and Standards Unit~~.

(2) *Residential contractor license check*. As provided by M.S. ~~Ch. 306~~ 326B.805, for any residential building contractor required to be licensed by the state, the applicant for a building permit for residential work must pay a fee for a building permit for administration and review of residential contractor licenses. The fee is in an amount as established by the fee resolution, set forth in the Appendix to this code.

(D) *Violations and penalties*. It is unlawful to perform any work subject to the building code for which a permit is required without obtaining the permit and having paid the fees required herein. Permits, inspections, and collections of fees are as authorized in M.S. § 326B.151 ~~16B.62, Subd. (1)~~. A violation of the building code is a misdemeanor.

(E) *Building code optional chapters*. The Minnesota State Building Code established pursuant to M.S. §§ 326B.101-326B.16 ~~16B.59 to 16B.75~~, allows cities to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for the city:

(1) Chapter 1306 - Special Fire Protection Systems option, incorporating subpart 2 (Existing and New Buildings).

Section 2. Section 103.02 of the Brooklyn Park City Code is amended to read as follows:

§ 103.02 FEES AND CHARGES.

(A) *Basic fees.*

(1) The fee for any building permit is determined by the Building Official in accordance with the provisions of § 103.01. The fees established and set forth therein or in other sections of the city code must be collected where applicable by the Building Official before the issuance of any permits. The Building Official must not issue any such permits for which the payment of a fee is required by the schedules until the fee is paid. Applications must be filed as required by this code or as established by the Building Official. All fees collected must be paid to the Finance Director by the Inspection Department daily, or as soon after collection as practicable.

(2) Prior to the issuance of any building permit which requires on-site improvements, including but not limited to the construction of parking facilities, garbage refuse pickup stations, lighting, landscape, fencing, or items spelled out in a conditional use permit, the City Council or the Building Official must require a contract and a surety bond guaranteeing to the city the actual construction and installation of the improvements within the period specified in the contract and bond, not exceeding two years.

(B) *Miscellaneous fees required.* The Building Official must not issue permits for any construction, maintenance, reconstruction, improvements, or uses governed by the MSBC without collecting the fees as established in the schedule set forth in the Appendix to this code.

(C) *Moving and routing.* Moving of any structure and the routing thereof must be cleared through the Director of Public Works with notification to the Police Department for approval of the route and time of the move. All permits must comply with ~~Section 364.12~~ Chapter 152 and the provisions of ~~Section 446~~ of the city code, and M.S. § 221.81, as amended.

(D) *Demolition and moving of buildings; fees required.* Before issuing any building moving permit or a permit for the demolition of any building or structure, the Building Official must require the payment, by the applicant, of fees in accordance with the schedule established by the fee resolution, set forth in the Appendix to this code.

(E) *Underground liquid storage system permit fees.* Fees for the installation, alteration, reconstruction, removal, or repair of any underground liquid storage system are computed and based upon valuations in accordance with the schedule set forth in the Appendix to this code.

(F) *Fire suppression system/fire alarm system permit; fees required.* The installation of any fire suppression sprinkler equipment or system requires the payment by the applicant of fees in the amount provided by the fee resolution, set forth in the Appendix to this code. No permit for the installation of any fire suppression equipment or system or installation of any fire alarm equipment or system will be issued until the applicant files with the Building Official a complete set of plans for such system and approval obtained by the Fire Chief.

(G) *False statements, violations, and penalties.* It is unlawful to make any false statement in connection with the securing of any permit from the Inspection Department. It is unlawful to violate any provision of §§ 103.02, 93.30 et seq., 93.50 et seq., 99.75 et seq., 100.55 et seq., 92.37(B), 151.014, 99.01 et seq., 99.15 et seq., or 99.30 through 99.41, or make any false statement in the affidavit as sworn statement made, as required by this code, in connection with the securing of any permit from the Inspection Department. Any person who violates any of the provisions of this code hereby adopted or fail to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the Building Inspector or by a court of competent jurisdiction, within the time fixed herein, severally for each and every such violation and noncompliance respectively is guilty of a misdemeanor. The imposition of one penalty for any violation does not excuse the violation or permit it to continue; and all such persons are required to correct or remedy the violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained constitute a separate offense. The application of the above penalty is not held to prevent the enforced removal of prohibited conditions.

Section 3. Section 103.61 of the Brooklyn Park City Code is amended to read as follows:

§ 103.61 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.

The following standards must be followed in substance by the Building Official and the Council in ordering, repair, vacation or demolition:

(A) If the “dangerous building” can reasonably be repaired so that it will no longer constitute a dangerous building under this subchapter, it will be ordered repaired.

(B) If the “dangerous building” is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it will be ordered to be vacated.

(C) Any “dangerous building” ordered to be vacated must also be ordered to be either repaired or demolished.

(D) In all cases where a “dangerous building” cannot be repaired so that it will no longer exist as a “dangerous building” under the terms of this subchapter, it must be ordered to be demolished in accordance with the provisions of M.S. ~~§§ 463.17 through 463.25~~ 463.15 through 463.261.

(E) In any case where a “dangerous building” is 50% damaged, decayed or deteriorated from its original condition and construction, it must be ordered to be demolished in accordance with the provisions of M.S. Chapter 463.

(F) In each case when a “dangerous building” is ordered to be repaired, vacated and repaired, vacated and demolished, or demolished if already vacant, a reasonable time must be specified within which the ordered action may readily be accomplished. ('72 Code, § 1005:10) Penalty, see § 10.99

Section 4. Section 103.75 of the Brooklyn Park City Code is amended to read as follows:

MECHANICAL AND PLUMBING CONTRACTOR LICENSES

§ 103.75 LICENSE REQUIREMENTS.

It is unlawful for a person, firm or corporation to engage in businesses regulated by the Minnesota State Building Code (MSBC), Chapter 1346, or Chapter ~~4715~~ 4714, Minnesota Plumbing Code, for any purpose whatsoever in this city without first having procured a license therefor as herein provided.

(A) *Mechanical contractor license.* It is unlawful for a person to engage in any businesses regulated by MSBC Chapter 1346, without first having procured a license therefore from the City Building Official. The license will be issued only to persons who show a thorough understanding of the laws and regulations governing such work and who demonstrate sufficient knowledge, skill and training as to enable them to carry on the work covered by their license.

(B) *Plumbing contractor license.* Persons engaged in businesses regulated by MSBC Chapter ~~4715~~ 4714, Minnesota Plumbing Code, must be licensed by the State of Minnesota pursuant to M.S. Chapter 326B.

Cross-reference: *General business licenses, see Ch. 110*

Section 5. Section 103.79 of the Brooklyn Park City Code is amended to read as follows:

§ 103.79 INSURANCE PROVISIONS.

(A) No license or permit will be issued unless and until the applicant first provides evidence to the city of public liability insurance, including products liability insurance with limits of at least $50,000 per person and $100,000 per occurrence and property damage insurance with limits of at least $10,000. The insurance must be written by an insurer licensed to do business in the State of Minnesota and each licensee must maintain on file with the city a certificate evidencing the insurance and providing that the

insurance must not be cancelled without the insurer first giving 15 days written notice to the city. The term of the insurance must be concurrent with the term of the license.

(B) The certificate evidencing insurance must be filed with the city prior to licensure, except that the applicant may provide to the city a certificate evidencing that the applicant has filed evidence of insurance with the State of Minnesota, pursuant to M.S. § ~~326.40~~ 326.46, Subd. 2 and that the evidence of insurance is in force and on file with the State Commissioner of Health. If the certificate is provided, then separate evidence of insurance is not required by the City of Brooklyn Park.

Section 6. Appendix: Fee Resolution of the Brooklyn Park City Code is amended to read as follows:

BUILDING PERMIT ADMINISTRATION FEES

Reason for Change	***Amount of Charge***	***Reference***
Permit fee for residential work for administration and review of residential contractor licenses	$5 per permit	§ 103.01(E)(1)
Copies of permits and documents	As established by Council resolution	§ 103.02(B)
Building Permit Fees	As established by Council resolution	§ 103.01(C)

TABLE 1-A BUILDING PERMIT FEES CITY OF BROOKLYN PARK

Total Valuation	***Fee***
$1.00 to $1,200.00	$51.50
$1,201.00 to $2,000.00	$51.50 for the first $1,200.00 plus $3.37 for each additional $100.00, or fraction thereof, to and including $2,000.00
$2,001.00 to $25,000.00	$78.46 for the first $2,000.00 plus $15.86 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.01 to $50,000.00	$443.24 for the first $25,000.00 plus $11.44 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00	$729.24 for the first $50,000.00 plus $7.93 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$1,125,74 for the first $100,000.00 plus $6.34 for each additional $1,000.00, or fraction thereof, to and including $500,000.00

$500,001.00 to $1,000,000.00		$3,661.74 for the first $500,000.00 plus $5.39 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,001.00 and up		$6,356.74 for the first $1,000,000.00 plus $4.14 for each additional $1,000.00, or fraction thereof
Use International Code Council (ICC) ~~and State Building Codes & Standards Division~~ square foot cost of construction for determining building valuation and state surcharge fees.		
Other Inspections and Fees:		
1.	Inspections outside of normal business hours	~~$51.50~~ $75.00 per hour (minimum charge-two hours)
2.	Reinspection fee assessed under provisions of Section ~~1300.0210~~ 1300.0160	~~$51.50~~ $75.00 per hour
3.	Inspections for which no fee is specifically indicated	~~$51.50~~ $75.00 per hour (minimum charge-one hour)
4.	When submittal documents are required by Section 1300.0130, a plan review fee must be paid	The plan review fee shall be 65% of the building permit fee
5.	Additional plan review required by changes, additions or revisions to plan	~~$51.50~~ $75.00 per hour (deferred submittals)
6.	Shell only buildings	80% of valuations

Maintenance Permits	***Fee Based on Valuation or Fixed Fee***
Roofing/tear off	$2,000 valuation
~~Roofing/layover~~	~~$1,500 valuation~~
Re-side	$2,500 valuation
Replacement windows	$2,500 valuation
Annual permit	Determined by Building Official
~~Residential water heater~~	~~$25~~
~~Residential water softener~~	~~$25~~
~~Residential lawn irrigation~~	~~$25~~
~~Accessory Structures~~ Accessory Structures, Additions, Alterations, or Construction	***Fixed Fee***
Pools	$3,000 valuation
Residential decks	$15 per square foot
Covered decks	$25 per square foot

Sheds	$20 per square foot
Carports	$16 per square foot
Garage	$22 per square foot
Screen porch	$35 per square foot
Three season porch	$55 per square foot
Basement finish with bathroom	$12 per square foot
Basement finish without bathroom	$9 per square foot
Steel storage racks (commercial)	$10,000 valuation
Miscellaneous	***Fee***
Temporary certificate of occupancy	Initial issuance/$100
	First 30-day extension/$300
	Second 30-day extension/$600
	Third and final 30-day extension/$1,200
Expired permit renewal	~~Renewal within 180 days of expiration/one-half original fee~~ Renewal within 180 days of expiration, one-half original fee
	~~Renewal after 180 days of expiration/full permit fee~~ Renewal after 180 days of expiration, full permit fee
Expedited permit and phased permits	Twice the building permit fee*
Mechanical contractor license	$100/year
Reinspection fee	~~$51.50~~ $75.00 per hour (minimum one hour)
Investigation fee	Twice the building permit fee
* When an applicant demonstrates the existence of extraordinary circumstances or other unique factors relating to the proposed development, the Building Official may authorize expediting or phasing of the permit and/or submittal documents.	
Fees Fixed By State Statute	***Fee***
Minnesota Rule 1300.0160 similar plans	Maximum 25% plan review
Utility Taps	
Sanitary sewer	$150 (was $75)
Water main	$150 (was $75)
Storm sewer	$150 (was $75))
Street Permits	
Street cut	$85 (was $25)
Curb cut	$85 (was $25)
Small Utility Permits	
Administration fee	$200
Excavation in the boulevard	$25
Excavation in the street	$50
Underground trenching of lines (per LF)	$0.50
Overhead placement of lines (per LF)	$0.20

Grading/Excavating	
200 - 1,000 cubic yards	$200 (was $50)
1,001 - 10,000 cubic yards	$350 (was $75)
10,001 - 100,000 cubic yards	$750 (was $250)
100,001 + cubic yards	$1,200 (was $600)

Fee Refunds
The Building Official may authorize refunding not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with the code.

The Building Official may authorize refunding not more than 80% of the plan review fee paid when an application for a permit for which a plan review has been paid is withdrawn or canceled before any plan review is done.

A state surcharge will be applied based on valuation or fixed fee permits.

Stormwater Review Fee		
153.07	Administration Fee	$150

DEMOLITION AND MOVING OF BUILDINGS FEES

Reason for Fee	***Amount of Fee***	***Reference***	
Demolition of any ~~minor~~ accessory structure ~~building~~		$50	§ 103.02(B)
Demolition of any building not classified as a ~~minor~~ accessory structure ~~building~~		$150	§103.02(B)
For holding up, raising or moving any building or structure on the same lot		$50	§103.02(B)
For moving any minor building as defined herein to a different lot within the city over city streets		$50	§ 103.02(B)
For moving a manufactured home as defined by State Building Code Chapter 1350 Manufactured Homes, to a lot within the city or from outside of the city to a lot within the city		$75	§ 103.02(B)
For moving any building or structure non-stop through the city upon city streets (see exception - Section 446:15(e), County Roads and State Highways Exempt)		$75	§ 103.02(B)
For moving any building or structure out of the city		$75	§ 103.02(B)
For moving any building or structure, except any minor building, from one lot to another lot within the city		$250	§ 103.02(B)
For moving any building or structure, including any minor building, from outside of the city to a lot within the city		$250	§ 103.02(B)

TABLE 1-B MECHANICAL PERMIT FEES
CITY OF BROOKLYN PARK 2003

Total Valuation		***Fee***
New single-family home heating and cooling		$200.00
Single-family home replacement of heating or cooling		$100.00
$1.00 to $2,500.00		$50.00
$2,501.00 to $50,000.00		2% of valuation
$50,001.00 and up		$1,000 plus 1% of valuation in excess of $50,000.00
Other Inspections and Fees:		
1.	Inspections outside of normal business hours	~~$51.50~~ $75.00 per hour (minimum charge-two hours)
2.	Reinspection fee assessed under provisions of Section ~~1300.0210~~ 1300.0160	~~$51.50~~ $75.00 per hour
3.	Inspections for which no fee is specifically indicated	~~$51.50~~ $75.00 per hour (minimum charge-one hour)
4.	When submittal documents are required by Section 1300.0130, a plan review fee must be paid	The plan review fee shall be 10% of the mechanical permit fee.
5.	Additional plan review required by changes, additions, or revision to plan.	~~$51.50~~ $75.00 per hour (deferred submittals)

MECHANICAL PERMIT FEES

Value of Work	***Fee***	***Reference***
Per Table 1-B	Per Table 1-B	§ 103.02(A) and (B)

PLUMBING FEES

Reason for Fee	***Amount of Fee***	***Reference***
For installation of plumbing work	As established by Council resolution	§ 103.02(A) and (B)
Water Service, Supply and Distribution System		
Permit and inspection fee made at the time of applying for water services	$75	§§ 100.57 and 103.02
Making taps for taps for all service types	$100	§ 100.58

TABLE 1-C PLUMBING PERMIT FEES
CITY OF BROOKLYN PARK 2003

Total Valuation	***Fee***

New single-family plumbing ~~home heating and cooling~~	$200.00	
Residential lawn irrigation	$25	
Commercial lawn irrigation	$25	
Residential water heater	$25	
Residential water softener	$25	
$1.00 to $2,500.00	$50.00	
$2,501.00 to $50,000.00	2% of valuation	
$50,001.00 and up	$1,000 plus 1% of valuation in excess of $50,000.00	
Other Inspections and Fees:		
1.	Inspections outside of normal business hours	~~$51.50~~ $75.00 per hour (minimum charge-two hours)
2.	Reinspection fee assessed under provisions of Section ~~1300.0210~~ 1300.0160	~~$51.50~~ $75.00 per hour
3.	Inspections for which no fee is specifically indicated	$50.00 per hour (minimum charge-one hour)
4.	When submittal documents are required by Section 1300.0130, a plan review fee must be paid	The plan review fee shall be 10% of the plumbing permit fee.
5.	Additional plan review required by changes, additions or revision to plan	~~$51.50~~ $75.00 per hour (deferred submittals)

WATER ACCESS CHARGES

Year	***Amount of Charge***	***Reference***
~~June 1, 2018~~	~~$2,125~~	~~§ 100.63~~
~~June 1, 2019~~ June 1, 2021	~~$2,250~~ $2,500	§ 100.63
WAC total charge is calculated utilizing the same unit charge multiplier as per the Metropolitan Council Environmental Services (MCES) Sewer Availability Charge (SAC) Procedure Manual.		

MEMORANDUM

Date: October 15, 2021

To: LaTonia Green, Finance Director

From: Brad Tullberg, Recreation & Parks Director

Subject: 2022 Recreation & Parks Department Fee changes

The following are the proposed changes to the 2022 Fees and Charges for the Recreation and Parks Department. While many of our fees will remain the same for 2022, we have requested some increases to help cover the cost of providing the services offered. Staff has conducted a market analysis of neighboring parks and recreation agencies where applicable. The proposed rates are competitive for comparable programs and facilities in and around the area.

Zanewood Recreation Center

- Increase Classroom A - Resident Rate (Sunday - Saturday) to $15/hour + tax
- Increase Classroom A - Non-Resident Rate (Sunday - Saturday) to $17/hour + tax

All other rates at Zanewood Recreation Center remain unchanged

Edinburgh USA Golf Course

- Increase Non-Resident Rate to $60 + tax
- Increase Resident Rate to $50 + tax
- Increase Patron Rate to $45 + tax
- Increase Senior Rate to $54 + tax
- Increase Monday Rate to $50 + tax
- Increase Tuesday Rate to $60 + tax
- Increase Thursday Rate to $60 + tax
- Increase Super Twilight Rate w/cart to $40 + tax
- Increase Players Card to $99
- Increase St. Andrews Club 20 round package to $760
- Increase St. Andrews Club 30 round package to $1,080
- Increase St. Andrews Club 40 round package to $1,360
- Increase St. Andrews Club unlimited rounds package to $2,400

All other rates at Edinburgh USA remain unchanged

Brooklyn Park Sports Dome

- Increase Prime Rental Rate (full field) to $310/hour
- Increase Non-prime Rental Rate (full field) to $200/hour
- Increase Prime Rental Rate (half field) to $180/hour
- Increase Non-prime Rental Rate (half field) to $115/hour

All other rates at Brooklyn Park Sports Dome remain unchanged

Brookland Golf Park

- Increase Adult Patron Card Rate to $70 + tax
- Increase Senior Patron Card Rate to $70 +tax
- Increase Junior Patron Card Rate to $70 + tax
- Increase Footgolf Rate to $10 + tax

All other rates at Brookland Golf Park remain unchanged

Ice Arena

- Increase Prime Rental Rate to $240/hour effective September 1, 2022
- Increase Non-Prime Rental Rate to $195/hour effective September 1, 2022

All other Ice Arena rental rates remain unchanged

Park Building Rentals

- Increase Park Buildings – 20-person capacity (resident) to $60 + tax
- Increase Park Buildings – 20-person capacity (non-resident) to $110 + tax
- Increase Park Buildings – 50-person capacity (resident) to $120 + tax
- Increase Park Buildings – 50-person capacity (non-resident) to $160 + tax

Picnic Pavilion Rentals

- Increase Picnic Pavilion – 20-person capacity (resident) to $30 + tax
- Increase Picnic Pavilion – 20-person capacity (non-resident) to $65 + Tax
- Increase Picnic Pavilion – 40-person capacity (resident) to $50 + tax
- Increase Picnic Pavilion – 40-person capacity (non-resident) to $85 + tax
- Increase Picnic Pavilion – 50-person capacity (resident) to $60 + tax
- Increase Picnic Pavilion – 50-person capacity (non-resident) to $95 + tax
- Increase Picnic Pavilion – 60-person capacity (resident) to $110 + tax
- Increase Picnic Pavilion – 60-person capacity (non-resident) to $145 + tax
- Increase Picnic Pavilion – 150-person capacity (resident) to $225 + tax
- Increase Picnic Pavilion – 150-person capacity (non-resident) to $260 + tax
- Increase Shelter Kitchen rental to $65 + tax

City of Brooklyn Park
Request for Council Action

Agenda Item:	7.4	**Meeting Date:**	November 8, 2021
Agenda Section:	General Action Items	**Originating Department:**	Community Development
Resolution:	X		
Ordinance:	NA	**Prepared By:**	Sarah Abe, Development Project Coordinator
Attachments:	2	**Presented By:**	Kim Berggren, Community Development Director LaTonia Green, Finance Director Josie Shardlow, Community Engagement Manager
Item:	Consider Authorizing Staff to Spend up to $4,465,000 in American Rescue Recovery Act Funds in 2021 and 2022		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2021-_____ AUTHORIZING STAFF TO SPEND UP TO $4,465,000 IN AMERICAN RESCUE PLAN ACT FUNDS IN 2021 AND 2022.

Overview:

On March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) of 2021 (H.R. 1319) into law. The ARPA provides $1.9 trillion in additional relief to respond to the novel coronavirus (COVID-19). According to the U.S. Department of the Treasury, the Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its fallout, and lay the foundation for a strong and equitable recovery. The city of Brooklyn Park received a total allocation of $11,052,580 with half the funds received earlier in 2021 and another half available to be requested in 2022.

Since June, the city has coordinated with community partners, residents, local businesses, nonprofit organizations, and city staff to develop an investment plan for ARPA funds. In August, the City Council approved an initial allocation of $2 million to address immediate health and safety needs within the community and to administer ARPA funded activities. Staff continued to seek community input on how best to utilize ARPA funds and has now used that input to develop a recommended 2021-2022 ARPA investment plan.

Primary Issues/Alternatives to Consider:

The city conducted an iterative community engagement process to understand critical community needs and gather input on how the ARPA funds should be invested. First, staff reviewed reports, studies, letters, and survey results. Staff then solicited input at a July 14 stakeholder meeting as well as the August 2 joint council and commissions meeting. Finally, community members gave feedback on draft strategies, which informed allocation recommendations. The following guiding principles resulted from the earlier rounds of engagement:

1. Address underlying factors to increase community safety
   - i.e., unemployment, educational disparities, housing instability, food security, mental health
2. Fund community wellness services brought to community
   - i.e., Health on the Go, Rec on the Go, Mobile food unit, Outreach workers
3. Direct investments toward community members most impacted
   - i.e., geographic impact; impact by race, income, age; small businesses

4. Focus on creating opportunities for young people
   - i.e., programs, services, higher education, internships, jobs
5. Use culturally sensitive and diverse communication and engagement strategies to improve awareness and access to resources
6. Be strategic by coordinating with other government agencies, leveraging other funds, and aiming for financial sustainability

The city has adopted a strategy of stabilizing the city budget followed by investing in strategic programs and partnerships that respond to the public health emergency. The City Council's August action approved $2 million in the following categories:

1) Violence interrupters and support services
2) Mental health services
3) Interventions to stabilize community
4) ARPA administration

These categories echo the community feedback from residents, businesses, and community-based organizations. In the attached survey results summary, the highest priorities were violence intervention and neighborhood safety, mental health, and youth outreach, followed by community proposals, emergency assistance, job training and health disparities. The survey also found that the overwhelming majority of respondents agreed that the proposed categories above would address the community's most critical issues and positively impact the community.

Based on these results, staff have developed a proposed funding allocation for 2021-2022 to be considered for approval by Council. Implementation of this investment plan might be impacted when the Treasury releases the Final Rule, which governs the use of the funds.

Budgetary/Fiscal Issues:

This action will approve up to $4,465,000 in 2021-2022 spending. The city has already requested and received $5.5 million in ARPA funds that will be used to cover these programs.

Attachments:

7.4A RESOLUTION
7.4B SURVEY RESULT SUMMARY

RESOLUTION #2021-

RESOLUTION AUTHORIZING STAFF TO SPEND UP TO $4,465,000
IN AMERICAN RESCUE PLAN ACT FUNDS IN 2021 AND 2022

WHEREAS, on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (H.R. 1319) into law. The American Rescue Plan Act provides $1.9 trillion in additional relief to respond to the novel coronavirus (COVID-19); and

WHEREAS, the city of Brooklyn Park was allocated $11,052,580, which can be used to support urgent COVID-19 response efforts to continue to decrease the spread of the virus and bring the pandemic under control, replace lost revenue for eligible state, local, territorial and Tribal governments to strengthen support for vital public services and help retain jobs, support immediate economic stability for households and business and address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic, as well as necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, on June 7, 2021, the city of Brooklyn Park received $5,526,290 of the $11,052,580 with the remaining balance being available for requesting in June 2022; and

WHEREAS, the period of performance for the American Rescue Plan Act is from March 3, 2021 and must be obligated by December 21, 2024, which means all funds must be encumbered and projects contracted. By December 31, 2026, all projects must be complete, including all payments made for encumbrances and projects; and

WHEREAS, on August 23, 2021, the Brooklyn Park City Council authorized staff to spend up to $2 million in American Rescue Plan Act funding to go toward violence interrupters and support services, mental health services, interventions to stabilize the community, and American Rescue Plan Act administration; and

WHEREAS, the city of Brooklyn Park has utilized community feedback to develop a 2021-2022 investment plan.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the city of Brooklyn Park hereby authorizes staff to spend up to $4,465,000 in American Rescue Recovery Act funds in 2021 and 2022 in accordance with the proposed investment plan.

BE IT FURTHER RESOLVED that all planned investments that do not occur in 2021 will roll forward to a 2022 expenditure.

ZENCITY TEMPERATURE CHECK REPORT

ARPA Funding

Prepared for Brooklyn Park, MN

Introduction

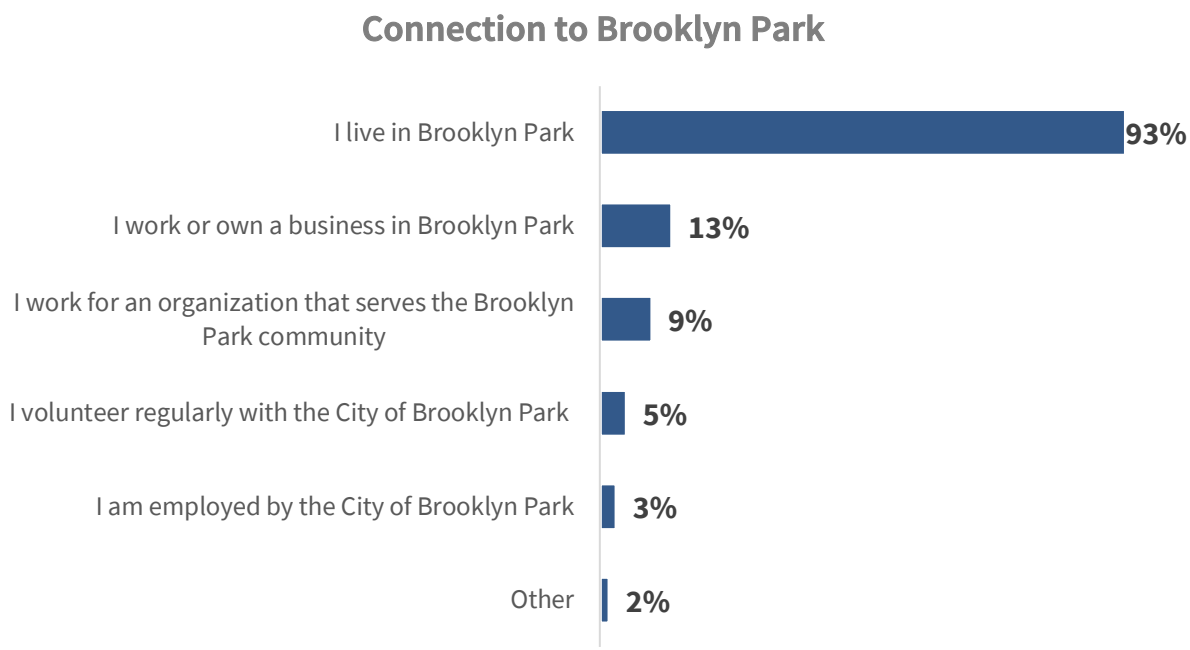
The following report reviews resident input into how the City should best use federal funding provided by the American Rescue Plan Act (ARPA) through an analysis of responses to a survey designed by Zencity and deployed by the City of Brooklyn Park. The survey was conducted between September 20 and October 17, 2021, and included 6 closed-ended and 1 open-ended question.The survey received a total of 733 responses.

The following analysis includes: Results of each closed-ended question; Results of the open-ended question; Related social media discourse analysis; Main takeaways and recommendations.

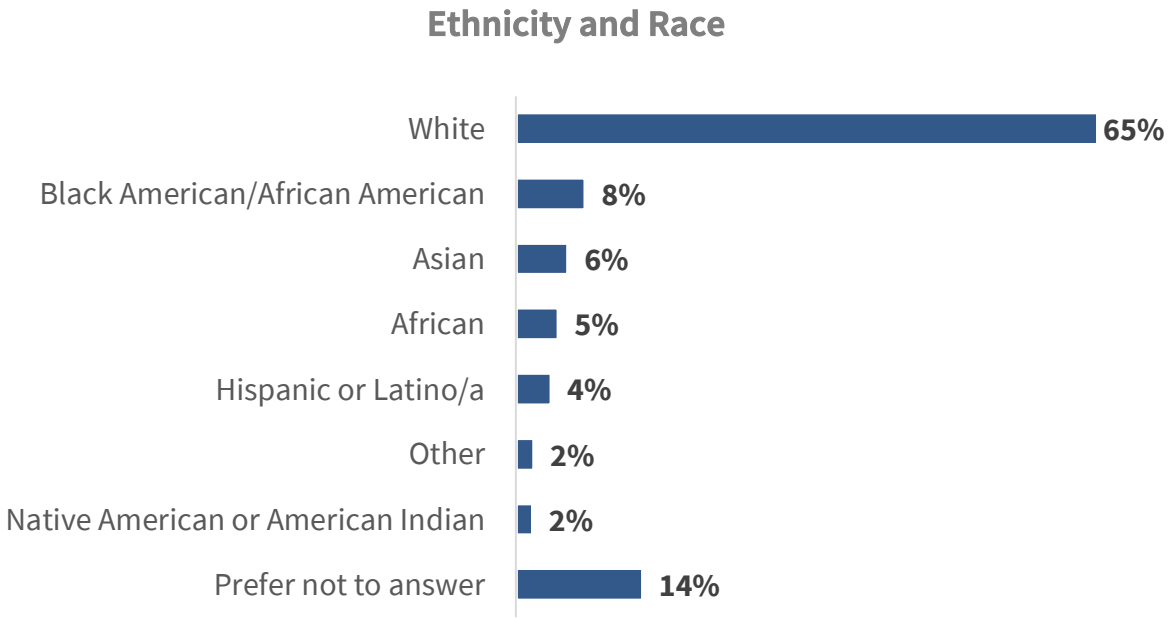
Executive Summary

- Many in the community are concerned about public safety issues, and a majority of respondents supported funding violence intervention and support services to alleviate rising crime.
- Funding more “upstream” issues that can contribute to violence and crime — such as mental health services, youth outreach and programming, and housing and homelessness — also earned the approval of many respondents.
- Respondents also supported funding community-based organizations and highlighted the unique position they are in to address community needs.

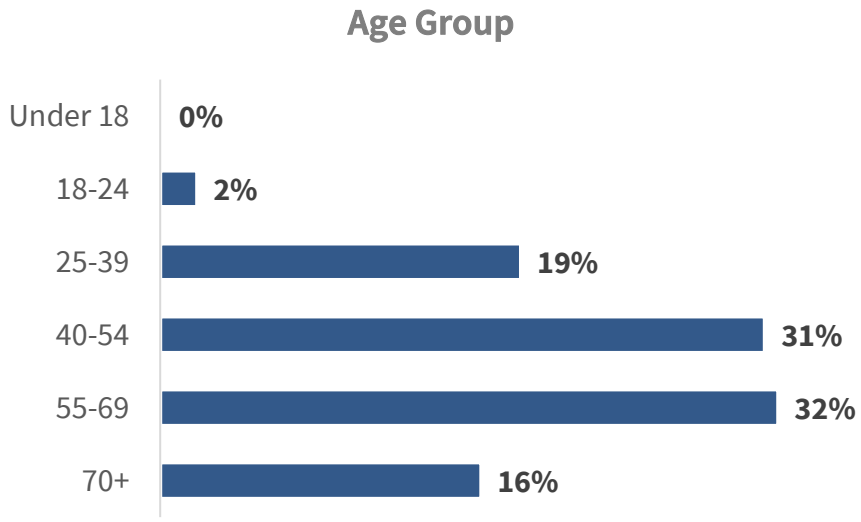
Demographics



At 93%, the overwhelming majority of respondents were residents of Brooklyn Park. Another 13% worked or owned a business in the city. Most of the "Other" responses came from former residents, local volunteers, and residents of Brooklyn Center.



Almost two-thirds (65%) of respondents identified as white, more than 8x greater than the second-largest group (Black American/African American). Additionally, 14% of respondents preferred not to self-identify.



Nearly two-thirds of respondents were between the ages of 40 and 69, with the 55-69 (32%) and 40-54 (31%) age groups representing the largest cohorts. Comparatively, slightly more than a fifth (21%) of respondents were below the age of 40.

Methodology

In order to provide a holistic overview of the community's response, **Zencity analyzed the data in a way that provides a representative snapshot of the community's attitudes and priorities**.

For the responses to each closed-ended question in the following section, we use an industry-standard statistical technique called rake weighting **to correct for any differences between the makeup of our survey respondents and the community as a whole** by using data from the U.S. Census American Community Survey.

RESULTS ANALYSIS

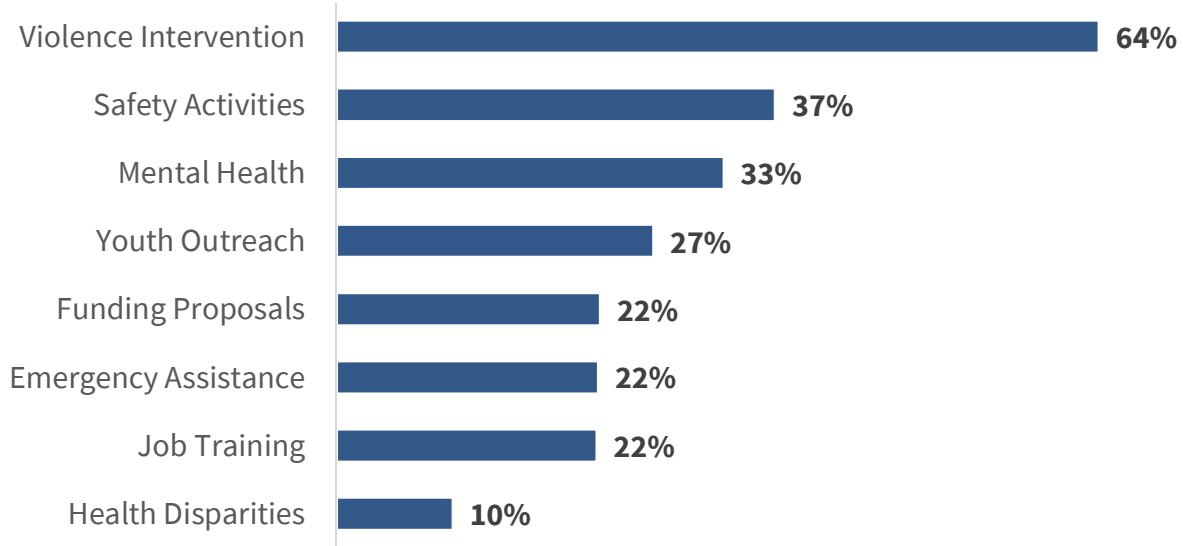
Closed-Ended Questions Analysis

1 Based on community input, below are proposed spending categories for the first half of the funds. Which of these activities do you think are most important for our city? (Choose up to 3)

Residents were asked to evaluate **8 proposed spending categories for ARPA funding**:

1.1 **Violence intervention** and support services
1.2 Neighborhood **safety activities**.
1.3 **Mental health** services
1.4 **Youth outreach** workers
1.5 **Job training** and placement programs
1.6 **Emergency assistance** (i.e., housing, food).
1.7 **Funding proposals** from community-based organizations (i.e., housing, business support, nonprofit services)
1.8 Reduce **health disparities**, increasing access to vaccines and testing

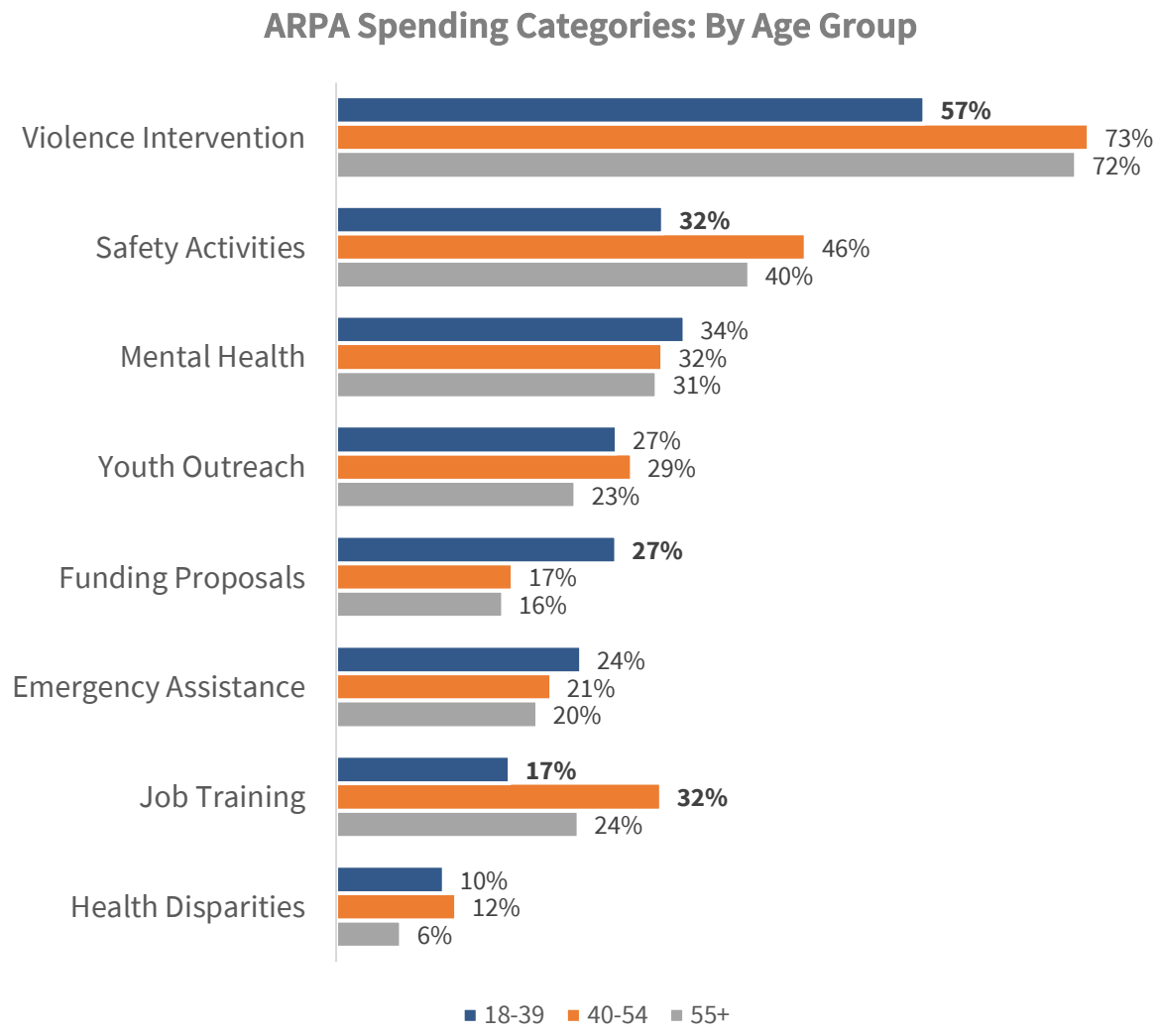
As shown in the graph below, **funding violence intervention and support services emerged as a consensus priority** for nearly two-thirds (64%) of the community.



At least a third of respondents also chose neighborhood safety activities (37%) and mental health services (33%). On the other hand, using ARPA funds to reduce health disparities in the community received the least number of votes (8%).

Additionally, 41 “Other” responses (6% of respondents) specified issues relating to public safety and law enforcement, taxation, and water treatment.

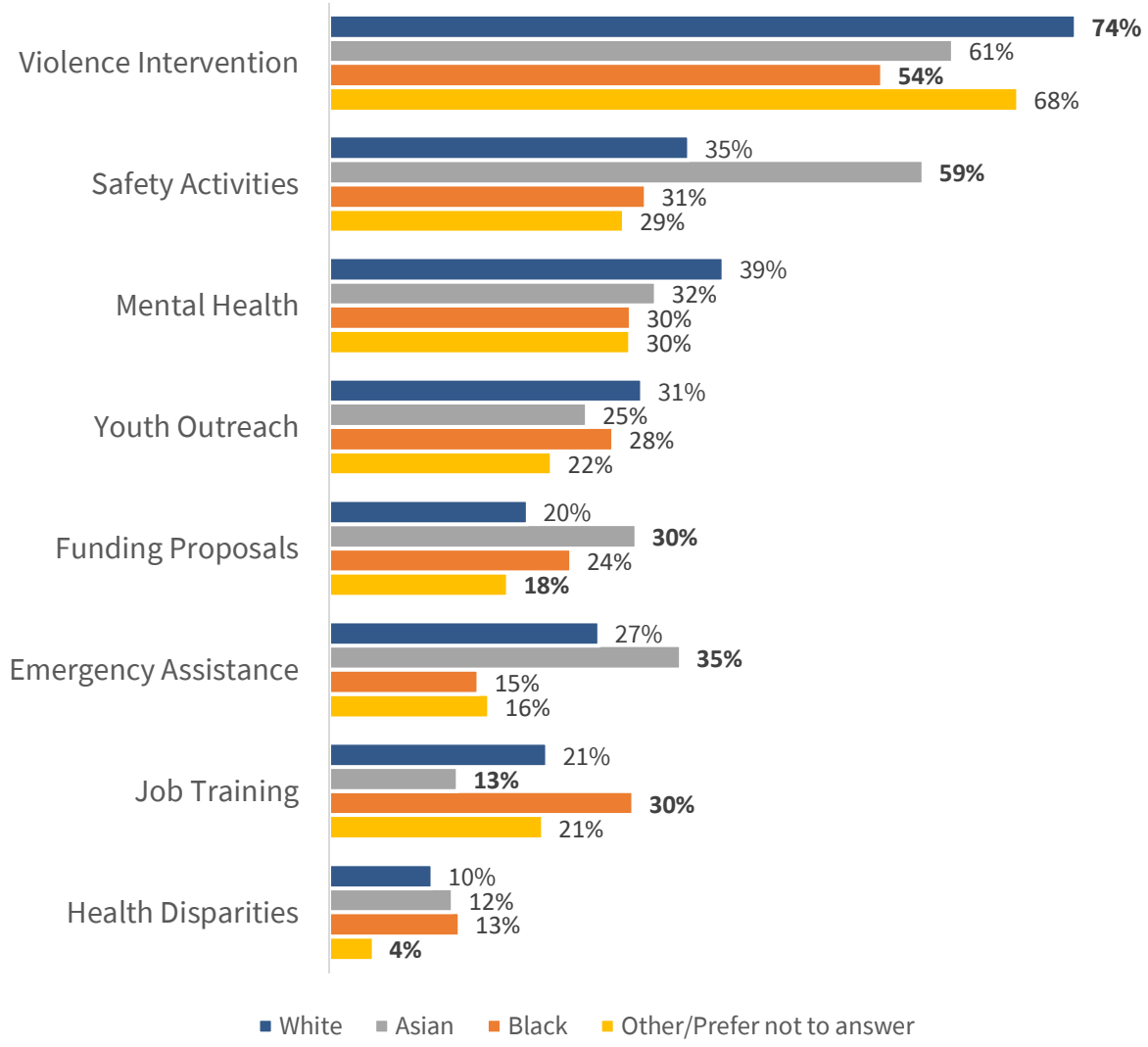
To pinpoint specific trends among demographic groups, we also **analyzed the responses to Q1 according to demographic groups**. In the following two graphs, **bolded figures represent statistically significant responses** among a certain demographic group when compared to the general population.



As seen, safety-related issues — Violence Intervention and Safety Activities — are top priorities for all age groups, **but younger respondents prioritize them significantly less than people over the age of 40**.

Further, **respondents under the age of 40 also prioritized funding proposals from community-based organizations significantly more than older respondents**. Finally, **the 40-54 age group was more likely to prioritize job training and placement programs**, while people under the age of 40 prioritized this issue significantly less.

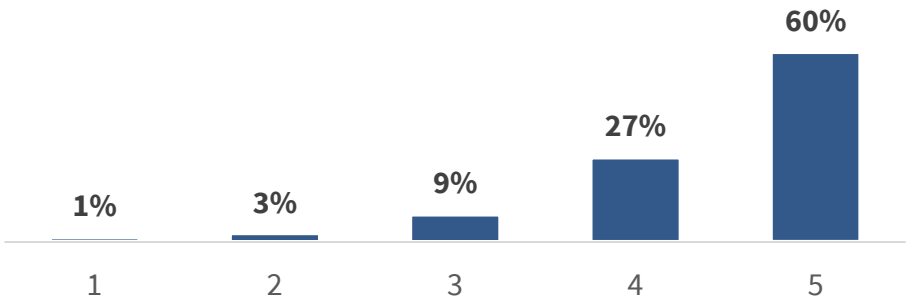
ARPA Spending Categories: By Ethnicity and Race



Safety issues are a top priority for all groups, **though white respondents were significantly more likely to prioritize Violence Intervention and Black respondents were significantly less likely to prioritize it compared to other groups.** On the other hand, Black respondents also prioritized Job Training significantly higher than other groups.

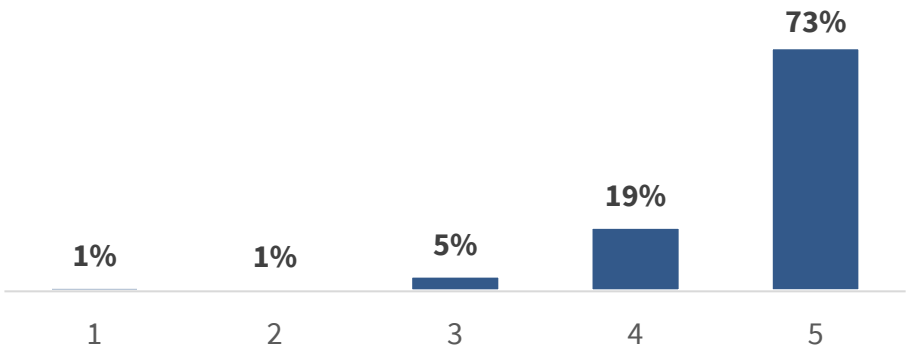
Finally, Asian respondents prioritized Neighborhood Safety significantly higher than other groups, as well as Funding Proposals, and Emergency Assistance.

2 In your opinion, to what extent do the suggested actions that you just rated address the most crucial issues in the community? (1 - Not at all; 5 - Very much)



At 87%, **the overwhelming majority of respondents expressed some level of agreement that the proposed funding options listed in Q1 would address the community's most crucial issues.** Nearly two-thirds (60%) expressed the highest level of agreement, while only 4% expressed some level of disagreement.

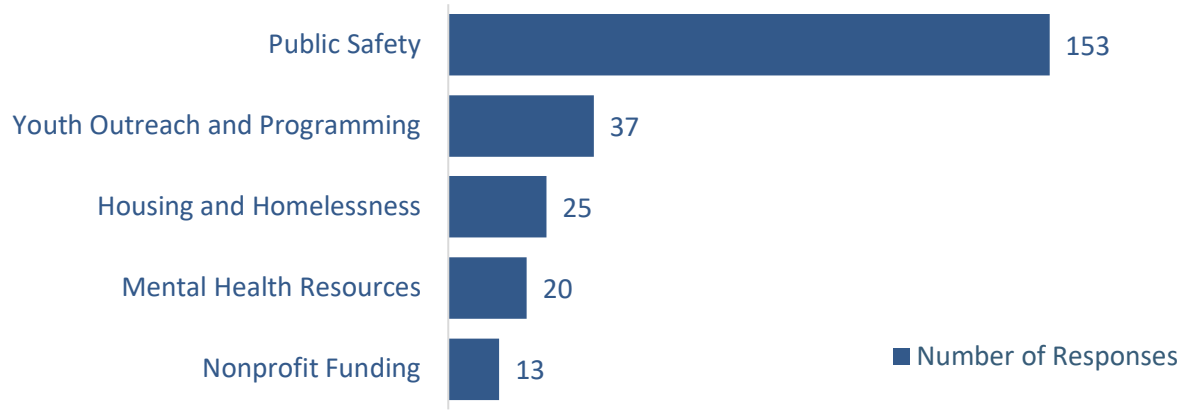
3 In your opinion, to what extent do the suggested actions that you just rated have a positive impact on the community? (1 - Not at all; 5 - Very much)



Similar to Q3, **almost all (92%) respondents expressed some degree of agreement that investing in the spending categories positively impact the community**. Only 2% also voiced some level of disagreement with this statement.

Open-Ended Question Analysis

4 Please share any thoughts you have on the city's use of American Rescue Plan dollars including anything you think should be changed.



When asked what the City should consider as part of its planning for the use of ARPA funds, **352 respondents offered input through free-text responses**. Analysis of these responses reveals that some of the common themes included:

- **Public Safety (153 responses):** By far, the most common issue raised in the free-text responses was concern about the state of the City's public safety. In particular, respondents advocated for increased funding for the police department, combatting gun and gang violence, and restoring an overall sense of safety in the community.

  "We need to make Brooklyn Park a safe place to live again. The violence in our city is out of control. Residents no longer feel safe in their community. The amount of gun violence is increasing and the police do not have enough resources to deal with it."

- **Youth Outreach and Programming (37 responses):** More than a tenth of responses called for more resources to be directed toward more youth outreach and programming, with many directly linking this perceived deficiency to public safety concerns.

  "I think youth programs to provide early interventions to prevent our youth [from joining] a gang due to lack of hope for a future."

- **Housing and Homelessness (25 responses):** Many also pinpointed insufficient housing options and homelessness as priority areas and root causes of other issues facing the city.

  "Stable housing impacts every aspect of people's lives. We need to increase affordable housing for large families."

- **Mental Health Resources (20 responses):** Another group called for more mental health resources in the community, some of whom believed that addressing this area would alleviate some of the public safety issues.

  "We really need to improve access to mental health intervention, education, violence associated with mental health."

- **Nonprofit Funding (13 responses):** Finally, some believed that ARPA dollars would have the most positive impact if distributed to local nonprofits given the success of their existing work in the community.

  "Community based organizations have an insight into what their communities need and how they have been affected by the pandemic. Having the funds to work with them will help address their immediate needs."

Conclusions

The survey results outlined above reveal several key takeaways about how Brooklyn Park residents believe the City could best appropriate ARPA funds to maximize impact in the community:

Concerns about rising crime and residents' sense of safety emerged as consistent priorities in responses to both the closed-ended and open-ended questions. Although Violence Intervention was chosen as a preferred spending category by older and white residents, **a majority of respondents in all demographic groups approved of funding this priority area.**

> As such, this survey strongly indicates that **public safety is at the forefront of residents' minds** and that there is consensus support for funding violence intervention and support services and, to a lesser extent, neighborhood safety activities. The City may also want to consider using ARPA funds for promoting public safety in a way that aligns with answers to the free-response question, which included **increased funding for the police department and specific initiatives combatting gun and gang violence**.

Furthermore, the fact that **Safety Activities and Violence Intervention received more positive sentiment than negative in the online social media discourse** indicates that residents largely support such initiatives.

Respondents also consistently pointed to Mental Health and Youth Outreach as priority areas for the City to address. Responses to the free-response question also indicate that many **view these two issues as directly linked to the rising crime and violence** that many raised fears about in other parts of the survey.

> Accordingly, the City should be aware that funding **Mental Health and Youth Outreach are also important to many Brooklyn Park stakeholders** and are viewed as "upstream" issues contributing to residents' perceived lack of sense of safety.

Finally, **funding nonprofits and community organizations** also received consistent approval in responses to the open-ended and closed-ended questions, as well as the social media discourse.

> Given that **many believe these organizations are well-positioned to serve the community's needs**, the City may also want to consider how best to bring community-based organizations into the fold to address the priority listed above.

Overall, **the survey responses indicate that most are supportive of funding areas that would promote public safety and alleviate residents' concerns about rising crime and violence**. Addressing more "upstream issues" that directly and indirectly impact public safety — such as mental health, youth outreach and programming, and housing and homelessness — would also likely receive significant support in the community.

City of Brooklyn Park
Request for Council Action

Agenda Item:	10.1	**Meeting Date:**	November 8, 2021
Agenda Section:	Adjournment	**Originating Department:**	Administration
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Devin Montero, City Clerk
Attachments:	1	**Presented By:**	Lisa Jacobson, Mayor
Item:	Motion for Adjournment		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO ADJOURN THIS MEETING OF THE BROOKLYN PARK CITY COUNCIL IN RECOGNITION OF AND RESPECT FOR THE LIFE AND CONTRIBUTIONS OF CURTIS A. "CURT" PEARSON AND RESPECTFULLY ASK THE SUPPORT OF FELLOW COUNCIL MEMBERS.

CURT WAS THE CITY OF ATTORNEY FOR THE CITY OF BROOKLYN PARK FOR 37 YEARS. HE RETIRED IN 1999. IN HIS PRIVATE LEGAL PRACTICE, HE REPRESENTED NUMEROUS GOVERNMENTAL ENTITITIES, INCLUDING THE CITY OF MOUND AND THE BASSETT CREEK WATER MANAGEMENT COMMISSION.

HIS DEDICATED CONTRIBUTIONS TOUCHED MANY LIVES THROUGHOUT THE CITY AND THE SURROUNDING COMMUNITIES.

I FURTHER REQUEST THE MOTION BE MADE A PART OF THE PERMANENT RECORDS OF THIS BODY AND THAT A LETTER BEARING THE CITY SEAL AND THE SIGNATURE OF THE MAYOR BE SENT TO THE FAMILY ADVISING THEM OF THIS ACTION.

Overview:

Mayor Jacobson asked that the motion for adjournment be considered for Curt Pearson.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

10.1A MOTION FOR ADJOURNMENT INFORMATION FORM

MOTION FOR ADJOURNMENT

Information Form

(Information must be in the office 2 working days before the Council Meeting.)

1. Sponsor (Councilor): Mayor Lisa Jacobson

2. Council Meeting date when motion is to be made: November 8, 2021
   (or “NEXT” for next Council Meeting)

3. Name of deceased person to be recognized: Curtis A. “Curt” Pearson

4. Family representative to whom the letter is to be sent:

   Name: Curt Pearson
   Address: xxxx