

REGULAR CITY COUNCIL MEETING – AGENDA #39

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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 6:00 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 Proclamation Declaring Tuesday, October 31, 2023, as "Pat Martin Day" in Brooklyn Park, Minnesota

A. PROCLAMATION (*to be provided to at Monday's meeting*)

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 Consider Approving the Expenditure of \$112,594.90 for the Restoration of Nine City Guard Rails Within and Surrounding Village Creek Park and Allow the City Manager to Enter a Contract with Tambah and Sons Construction and Services LLC to Complete the Work

A. BROOKLYN PARK GUARD RAIL RESOLUTION

B. BROOKLYN PARK GUARD RAIL PROJECT SCOPE

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** Resolution Approving a Modification to the Development Program for Development District No. 1, Establishing Tax Increment Financing District No. 1-29 (a Housing District) Therein and Approving a Tax Increment Financing Plan Therefor
 - A.** RESOLUTION
 - B.** TIF PLAN
 - C.** LOCATION MAP
- 5.2** First Reading of the Prevailing Wage Ordinance
 - A.** ORDINANCE

6. LAND USE ACTIONS

- 6.1** Zoning Code Text Amendment: A Zoning Text and Map Amendment Adopting the Mixed Use (MU) Zoning District and Pedestrian Priority Overlay District (PPOD)
 - A.** ORDINANCE – REZONING
 - B.** ORDINANCE – MIXED USE
 - C.** ORDINANCE – PEDESTRIAN PRIORITY OVERLAY DISTRICT
 - D.** ORDINANCE – PROCEDURES
 - E.** ORDINANCE – SIGNS
 - F.** PLANNING COMMISSION MINUTES
- 6.2** First Student Fence Variance
 - A.** RESOLUTION – FINDINGS OF FACT
 - B.** LOCATION MAP
 - C.** PLANNING COMMISSION MINUTES
 - D.** APPLICANT’S NARRATIVE
 - E.** PLANS
- 6.3** 6317 Welcome Ave - Conditional Use Permit, #23-111 for an Auto Oriented Repair Service on a Property Zoned BP – Business Park
 - A.** RESOLUTION – AUTO ORIENTED REPAIR
 - B.** LOCATION MAP
 - C.** PLANNING COMMISSION MINUTES
 - D.** 6301 WELCOME CUP
 - E.** APPLICANT SUBMISSION
 - F.** RESIDENT SUBMISSIONS

7. GENERAL ACTION ITEMS

- 7.1** Adopt Resolution for Proposed Special Assessments For Certain Delinquent Utility Charges; Abatement Costs for Weed Cutting, Tree Removal, Nuisance Abatement, And Fire Inspection Fees; Administrative Penalty Citations; Various Costs Associated With Rental Housing Cases; and Administrative Fees
 - A.** RESOLUTION
 - B.** UTILITY BILLING DOCUMENTATION (LIMITED DISTRIBUTION – Available for viewing at the City Clerk’s office)
 - C.** CASE SUMMARY 8023 DUPONT CT N (LIMITED DISTRIBUTION – Available for viewing at the City Clerk’s office)
 - D.** CASE SUMMARY 8504 WEST RIVER RD N (LIMITED DISTRIBUTION – Available for viewing at the City Clerk’s office)
- 7.2** Set public hearing date for November 13, 2023, to consider the recommendation of the Brooklyn Park Charter Commission to amend Charter Chapter 7, Section 7.07 of the Home Rule City Charter
 - A.** PUBLIC HEARING NOTICE

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. CLOSED SESSION – Recess to Room A203

- 10.1** Close the Meeting Pursuant to MS Section 13D.05, Subdivision 3(b) to Discuss Attorney/Client Privilege Matters Relating to Potential PFAS Litigation and Settlements and 3M and Dupont

VI. ADJOURNMENT

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

City of Brooklyn Park Request for Council Action

Agenda Item:	3B.1	Meeting Date:	October 23, 2023
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	Originating Department:	Administration
Resolution:	N/A	Prepared By:	Katrina Doshier, Program Assistant
Ordinance:	N/A		
Attachments:	1	Presented By:	Mayor Hollies Winston
Item:	Proclamation Declaring Tuesday, October 31, 2023 as "Pat Martin Day" in Brooklyn Park, Minnesota		

City Manager's Proposed Action:

The Mayor shall proclaim Tuesday, October 31, 2023, as "Pat Martin Day" in the city of Brooklyn Park by one of the following:

1. I, Hollies Winston, Mayor of the City of Brooklyn Park, Minnesota, do hereby proclaim October 31, 2023 as "Pat Martin Day" in the City of Brooklyn Park.

or

2. By reading the proclamation.

Overview:

Pat Martin, a resident of Brooklyn Park, will be retiring on October 31, 2023 from the United States Postal Service. Mr. Milton has been a letter carrier for 44 years and has served as a vital connection to the residents and businesses in the area. His duties have gone far beyond the scope of a letter carrier and his dedication has been an inspiration to all in Brooklyn Park.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

3B.1A PROCLAMATION

City of Brooklyn Park Request for Council Action

Agenda Item:	4.1	Meeting Date:	October 23, 2023
Agenda Section:	Consent	Originating Department:	Economic Housing and Development
Resolution:	X	Prepared By:	Malcolm Hicks, Business Development Coordinator
Ordinance:	N/A		
Attachments:	2	Presented By:	Malcolm Hicks
Item:	Consider Approving the Expenditure of \$112,594.90 for the Restoration of Nine City Guard Rails Within and Surrounding Village Creek Park and Allow the City Manager to Enter a Contract with Tambah and Sons Construction and Services LLC to Complete the Work		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-_____ APPROVING THE EXPENDITURE OF \$112,594.90 FOR THE RESTORATION OF NINE CITY GUARD RAILS WITHIN AND SURROUNDING VILLAGE CREEK PARK AND ALLOW THE CITY MANAGER TO ENTER A CONTRACT WITH TAMBAH AND SONS CONSTRUCTION AND SERVICES LLC TO COMPLETE THE WORK.

Overview:

The streetscape elements located at Brooklyn Boulevard and Zane Avenue N. are aging and in need of repairs. Staff completed an inventory of needed repairs and sought quotes from various contractors to complete the work and seek to move forward to negotiate agreements with Tambah and Sons for the restoration of nine guard rails. It is anticipated that the work would begin Fall of 2023. Attachment 4.1B outlines a listing of the needed repairs.

Primary Issues/Alternatives to Consider:

- **Why is the EDA being asked to fund this work?**

The streetscape features that are being repaired were funded by the Brooklyn Park Economic Development Authority and grants from other agencies for the purpose of enhancing the aesthetics of the neighborhood and inspiring private reinvestment in the Village Creek redevelopment area.

- **How was Tambah and Sons Construction selected?**

Numerous vendors were solicited for quotes on removal and repairs. Due to shortages in materials, Tambah and Sons Construction was the only company that submitted a quote. In addition, Tambah and Sons Construction has worked with staff in creating the original scope of work. Tambah and Sons Construction submitted a quote for \$112,594.90.

- **What work is being done as part of this contract?**

The complete listing of work to be completed is outlined in Attachment 4.1B. In summary, nine guard rails will be restored, filled, sanded, primed, and painted, with a DTM coating primer and final painting application as specified in the submitted estimate.

Next Steps:

If approved, the EDA staff will negotiate proper agreements with Tambah and Sons Construction and Services LLC for the restoration of nine guard rails. It is anticipated that the work would begin late October 2023, weather pending.

Budgetary/Fiscal Considerations:

The amount of this contract is \$112,594.90. It is anticipated funds for this will come out of the 2023 Capital Improvement Plan budget. However, a budget amendment may be needed later in the year, based on actual spending.

Recommendation:

The City Manager recommends approval.

Attachments:

- 4.1A BROOKLYN PARK GUARD RAIL RESOLUTION
- 4.1B BROOKLYN PARK GUARD RAIL PROJECT SCOPE

RESOLUTION #2023-

APPROVING THE EXPENDITURE OF \$112,594.90 FOR THE RESTORATION OF NINE CITY GUARD RAILS WITHIN AND SURROUNDING VILLAGE CREEK PARK AND ALLOW THE CITY MANAGER TO ENTER A CONTRACT WITH TAMBAH AND SONS CONSTRUCTION AND SERVICES LLC TO COMPLETE THE WORK.

WHEREAS the Economic Development Authority, EDA, of Brooklyn Park has installed numerous guard rail streetscape throughout the Village Creek area that have sustained damage and worn down through time and now require restoration; and

WHEREAS, the City Council of Brooklyn Park have determined that the restoration of the nine guard rails (the "Project") is needed because it contributes to the economic development potential of the community by providing infrastructure necessary for the development or redevelopment of property in Development District No. 1 (the "Development District"); and

WHEREAS the City Council of Brooklyn Park had requested numerous vendors for quotes regarding removal and repairs, due to shortages in materials, Tambah and Sons Construction was the only company to submit a quote. In addition, Tambah and Sons Construction has worked with staff in creating the original scope of work. Tambah and Sons Construction submitted a quote for \$112,594.90.

Now, therefore, be it resolved by the City Council of the City of Brooklyn Park to authorize the City Manager to execute, on behalf of the City Council of the City of Brooklyn Park contracts in substantially the form on file with the City Manager, together with any related documents necessary in connection therewith, including without limitation all documents, consents or certifications referenced in or attached to the restoration of the nine guard rails (the "Project") and hereby authorizes the City Manager to execute, on behalf of the City Council of Brooklyn Park, the final Project documents to which the City Council of Brooklyn Park is a party and to carry out, on behalf of the City Council of Brooklyn Park, and its obligations thereunder when all conditions precedent thereto have been satisfied.



Tambah & Sons Construction And Services LLC

Date: September 28, 2023

7970 Brooklyn Blvd, Suite #44

Brooklyn Park, MN 55445

Phone #: 651 757-6541

Email: branko@tambahandsons.com

Job_Name: EDA/City of Brooklyn Park

Bill To EDA / City of Brooklyn
Park

RFPQ- Railing Painting Restoration on Zane and 73rd

Item #	Description	Unit Price	Total Price
A.	Railing Painting Restoration on Zane as per the 9 Railing photos email, I received May 19, 2023. Includes sanding, priming, and painting. Bridge railing included as well. All painting materials included.	\$ 89,763.00	\$ 89,763.00
	Containment and protection of concrete and roads		
B.	Mobilization, setups, and all site cleanup & trash disposal	\$ 12,596.00	\$ 12,596.00
****	Traffic control is included as needed.		
****	Note: Manufactured Specialty Commercial Grade Paint to be use matching original paint. Color# PL-21-Esquire Green		
	We are in touch with Manufactural / Supplier		

Budget base Total 1-8	\$102,359.00
Overhead/Profit	\$10,235.90
*Grand Total	\$112,594.90
50% Down payment	\$56,297.45

Please make all checks payable to: Tambah & Sons Construction And Services LLC

Thank you for your business!

FRQ Submission Information:

1) Company's Profile:

Tambah & Sons Construction And Services LLC

New Address: 7970 Brooklyn Blvd, Suite #44, Brooklyn Park, MN 55445

We are a license general contractor specialized in residential and commercial, remodeling and maintenance services. Have experience in DTM coating and painting metal and stud in commercial properties. Been in operation since January - 2016 to present.

2) Project Approach:

This project involves rust treatment and filling, sanding, priming, and painting. Applying DTM coating primer and final painting application as specified in the above estimate. Project timeline in approximately 4 weeks to 12 weeks depending on the paint supplies.

3) The above estimate / costs, includes labor, materials, equipment, permits, and cleanup.

Thanks,

Branko S. Tambah
Manager / Business Owner
MN License # BC 717912
Tambah & Sons Construction And Services LLC
Website: tambahandsons.com
Email: branko@tambahandsons.com
Phone # 651-757-6541

City of Brooklyn Park Request for Council Action

Agenda Item:	5.1	Meeting Date:	October 23, 2023
Agenda Section:	Public Hearings	Originating Department:	Community Development
Resolution:	X	Prepared By:	Sarah Abe, Development Project Coordinator
Ordinance:	N/A		
Attachments:	3	Presented By:	Sarah Abe
Item:	Resolution Approving a Modification to the Development Program for Development District No. 1, Establishing Tax Increment Financing District No. 1-29 (a Housing District) Therein and Approving a Tax Increment Financing Plan Therefor		

City Manager's Proposed Action

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-_____ APPROVING A MODIFICATION TO THE DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 1, ESTABLISHING TAX INCREMENT FINANCING DISTRICT NO. 1-29 (A HOUSING DISTRICT) THEREIN AND APPROVING A TAX INCREMENT FINANCING PLAN THEREFOR.

Overview:

On October 16, 2023, the Brooklyn Park Economic Development Authority (EDA) approved a Tax Increment Financing (TIF) Plan for District No. 1-29 and a Development Agreement for the Real Estate Equities (REE) 175-unit housing development project at 9500 Decatur Drive. The financing package includes unobligated TIF funds from other active districts to provide a deferred loan and issuance of a Pay-As-You-Go TIF Note for increment generated by District No. 1-29 for longer-term financing. In order to establish District No. 1-29, the city must hold a public hearing and approve the TIF Plan, which allows for the collection of tax increment once value is created from the project. There are a series of steps required when establishing a housing TIF district, and they are as follows:

- 1) Modify the Development Program for Development District No. 1
- 2) Establish Tax Increment Financing (TIF) District No. 1-29 within Development District No. 1
- 3) Approve the TIF Plan for District No. 1-29

Background:

The Brooklyn Park EDA has been working with Real Estate Equities for several years on the financing and development of a two-phased proposal. The first phase, which is this TIF district, is a 175-unit apartment building serving a mix of incomes. Rents will be held at 30%-70% of the Area Median Income (AMI). The project received an allocation of tax-exempt bonds through the Minnesota Office of Management and Budget (MMB) in July and has applied for other public funds such as the Livable Communities Demonstration Account (LCDA) Development grant through the Metropolitan Council. The land use approvals for this project were approved by both the Planning Commission and the City Council in March 2023.

Primary Issues/Alternatives to Consider:

- **What is a TIF Plan and why does it need to be updated?**

The TIF Plan is the city's planning document for the district. It outlines the project scope, objectives, and policies for the district, identifies the geographic boundaries, and sets the maximum budgetary authority for the district. This planning document allows for the creation of a new TIF district. It does not approve or grant any specific amount of TIF assistance to a development. The amount of assistance is determined by the development agreement which was approved by the EDA on October 16, 2023.

- **What is the Development Program for Development District No. 1 and why does it need modification?**

The Development Program for Development District No. 1 establishes the public purpose for the city and the EDA to use its redevelopment authorities under State Statutes. The proposed modifications will include justification to support the proposed project at 9500 Decatur Drive. The development program evaluates the conditions necessary to use public resources in real estate development and redevelopment activities throughout the city. As shown in the attached location map, Development District No. 1 covers most of the city and encompasses all active TIF districts.

The proposed modification represents a continuation of the goals and objectives set forth in the Development Program for Development District No. 1. Generally, the substantive changes include the establishment of TIF District No. 1-29.

What are next steps?

If this action is approved, the developer will move forward with closing on the property and aims to being in construction by early 2024. According to the development agreement with the EDA, REE must substantially complete construction of the project by July 31, 2025, and obtain a certificate of occupancy by December 31, 2025. After this meeting, Ehlers will file the appropriate items with the Minnesota Department of Revenue and the Office of the State Auditor and request the certification of the TIF district with Hennepin County.

Budgetary/Fiscal Impacts:

There are no immediate budgetary or fiscal impacts to the city or EDA general fund as a result of this TIF district. Once the district is established and begins to generate tax income, a portion of the district-generated revenue will cover all administrative expenses from the operations of the district. Once the PAYGO TIF Note is repaid over an anticipated 15-year term, the EDA will collect 100% of the tax increment generated.

Attachments:

- 5.1A RESOLUTION
- 5.1B TIF PLAN
- 5.1C LOCATION MAP

RESOLUTION #2023-

RESOLUTION APPROVING A MODIFICATION TO THE DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 1, ESTABLISHING TAX INCREMENT FINANCING DISTRICT NO. 1-29 (A HOUSING DISTRICT) THEREIN AND APPROVING A TAX INCREMENT FINANCING PLAN THEREFOR

WHEREAS, the City of Brooklyn Park, Minnesota (the "City") and the Brooklyn Park Economic Development Authority, a public body corporate and politic (the "EDA"), have undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City and have created a development district known as Development District No. 1 (the "Development District") in the City, pursuant to Minnesota Statutes, Sections 469.124 to 469.133 (the "Development District Act"), the administration of which has been transferred to the EDA; and

WHEREAS, it has been proposed that the EDA modify the Development Program for the Development District (the "Development Program"); establish Tax Increment Financing District No. 1-29, a housing tax increment financing district (the "TIF District"), within the Development District; adopt the Tax Increment Financing Plan (the "TIF Plan" and, together with the Development Program, the "Plans") therefor; and authorize the execution of certain agreements and documents related thereto (as further described and defined herein); all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the "TIF Act"), Minnesota Statutes, Sections 469.001 to 469.047 and Sections 469.090 to 469.1081, all inclusive, as amended (collectively, and together with the TIF Act and the Development District Act, the "Act"), and all as reflected in that certain document entitled in part "Modification to the Development Program - Development District No. 1 and Tax Increment Financing (TIF) Plan - Establishment of Tax Increment Financing District No. 1-29 (a housing district)" and presented for consideration by the City Council of the City (the "Council"); and

WHEREAS, the Council has investigated the facts relating to the Plans and certain information and material (collectively, the "Materials") relating to the TIF Plan and to the activities contemplated in the TIF District have heretofore been prepared and submitted to the Council and/or made a part of the City files and proceedings on the TIF Plan. The Materials include the tax increment application made and project pro forma financial statement, project sources and uses and other information supplied by Real Estate Equities ("REE") and Brooklyn Park AH I, LLLP, a Minnesota limited liability limited partnership (the "Developer"), as to the activities contemplated therein, the items listed under the heading "Supporting Documentation" in the TIF Plan, and information constituting or relating to (1) why the assistance satisfies the so-called "but for" test and (2) the basis for the other findings and determinations made in this resolution. The Council hereby confirms, ratifies and adopts the Materials, which are hereby incorporated into and made as fully a part of this resolution to the same extent as if set forth in full herein; and

WHEREAS, the City has performed all actions required by law to be performed prior to the adoption and approval of the Plans, including but not limited to notice to the County Commissioner representing the area of the County to be included in the TIF District, delivery of the Plans to Hennepin County and Independent School District No. 279, and holding a public hearing thereon by the City on the date hereof following notice thereof published in accordance with state law; and

WHEREAS, the Council has considered the documentation submitted in support of the TIF District and the Plans and has considered the information and knowledge gained in hearings upon and during consideration of other matters relating to the proposed development; and

WHEREAS, the TIF District is being established to facilitate the construction by the Developer of an approximately 175-unit multi-family rental housing facility with both workforce and market rate units and related amenities and improvements, including a fitness center, community room, tot lot, dog run, and outdoor grilling/patio area (the "Development") on certain property in the TIF District plus a proposed second phase approximately 175-unit multi-family rental housing facility to be constructed by an affiliate of REE on other property in the TIF District.

NOW, THEREFORE, BE IT RESOLVED by the City Council (the "Council") of the City of Brooklyn Park, Minnesota (the "City"), as follows:

Section 1. Findings for the Adoption and Approval of the Plans.

1.01. The Council hereby finds that the boundaries of the Development District are not being expanded and the Development Program is not being modified other than to incorporate the establishment of the TIF District therein and therefore the Council reaffirms the findings and determinations originally made in connection with the establishment of the Development District and the adoption of the Development Program therefor. The Council hereby finds that: (a) the land within the Development District would not be available for redevelopment without the financial aid to be sought under the Plans; (b) the Plans will afford maximum opportunity, consistent with the needs of the City as a whole, for the development of the Development District by private enterprise; and (c) the Plans conform to the general plan for the development of the City as a whole, and otherwise promotes certain public purposes and accomplishes certain objectives as specified in the Plans, including without limitation the development of affordable housing. The purposes and development activities set forth in the Development Program, as modified, are hereby expanded to include all development and redevelopment activities occurring within the TIF District.

1.02. The Council hereby finds that the TIF District is in the public interest and is a "housing district" within the meaning of Minnesota Statutes, Section 469.174, Subdivision 11, because it consists of a project or a portion of a project, intended for occupancy, in part, by persons or families of low and moderate income as defined in Chapter 462A, Title II of the National Housing Act of 1934; the National Housing Act of 1959; the United States Housing Act of 1937, as amended; Title V of the Housing Act of 1949, as amended; and any other similar present or future federal, state or municipal legislation or the regulations promulgated under any of those acts. No more than 20% of the square footage of buildings in the Development that receive assistance from tax increments will consist of commercial, retail or other nonresidential uses.

The Development to be constructed in the TIF District will consist of approximately 175 units of rental housing. The Developer has represented that at least 40% of the rental housing units will be rented to and occupied by individuals or families whose income is not greater than 60% or less of area median income and that no more than 20% of the square footage of buildings in the Development that receive assistance from tax increments will consist of commercial, retail, or other nonresidential uses. REE has represented that at least 40% of the rental housing units in Phase 2 will be rented to and occupied by individuals or families whose income is not greater than 60% or less of area median income and that no more than 20% of the square footage of buildings in Phase 2

that receive assistance from tax increments will consist of commercial, retail, or other nonresidential uses.

1.03. The Council hereby makes the following additional findings in connection with the TIF District:

(a) The Council further finds that the proposed Development and Phase 2, in the opinion of the Council, would not occur solely through private investment within the reasonably foreseeable future and, therefore, the use of tax increment financing is deemed necessary. The specific basis for such finding being:

The cost of land acquisition, site and public improvements and utilities in the TIF District makes the Development and Phase 2 infeasible without EDA assistance. Due to decreased rental income from affordable units, there is insufficient cash flow to provide a sufficient rate of return, pay operating expenses, and service the debt. This leaves a gap in the funding for the Development and Phase 2 and makes the Development and Phase 2 feasible only through assistance, in part, from tax increment financing. The Developer was asked for and provided a letter and a proforma as justification that the Developer would not have gone forward without tax increment assistance. The City reasonably determines that no other development of similar scope is anticipated on this site without substantially similar assistance being provided to the development.

(b) The Council further finds that the TIF Plan conforms to the general plan for the development or redevelopment of the City as a whole. The specific basis for such finding being:

The TIF Plan conforms with the general development plan of the City and will generally complement and serve to implement policies adopted in the City's comprehensive plan. The Development and Phase 2 contemplated on the property are in accordance with the existing zoning or approved zoning variances for the property.

(c) The Council further finds that the TIF Plan will afford maximum opportunity consistent with the sound needs of the City as a whole for the development of the TIF District by private enterprise. The specific basis for such finding being:

Through the implementation of the TIF Plan, the EDA will provide an impetus for residential development, which is desirable or necessary for the increased population and the increased need for workforce and affordable housing within the City. The TIF Plan also helps the City meet its goal of providing more affordable housing options in the City.

1.04. The City elects to retain all of the captured tax capacity to finance the costs of the TIF District and the Development District and elects to delay the receipt of the first increment until tax payable year 2026. Pursuant to Minnesota Statutes, Section 469.177, Subd. 3, the City elects to calculate fiscal disparities under clause (b) (inside).

1.05. The provisions of this Section 1 are hereby incorporated by reference into and made a part of the TIF Plan and the findings set forth in Appendix C to the TIF Plan are hereby incorporated by reference into and made a part of this resolution.

1.06. The Council further finds that the Plans are intended and in the judgment of the Council their effect will be to promote the public purposes and accomplish the objectives specified in the TIF Plan for the TIF District and the Development Program for the Development District.

Section 2. Approval and Adoption of the Plans; Policy on Interfund Loans and Advances.

2.01. The TIF District is hereby established and the Plans, as presented to the Council on this date, including without limitation the findings and statements of objectives contained therein, are hereby approved, ratified, established, and adopted and shall be placed on file in the office of the Executive Director of the EDA. Approval of the Plans does not constitute approval of any project or a development agreement with any developer. The Director of Community Development, or her designee, is hereby directed to request, in writing, the Hennepin County Auditor to certify the new TIF District and to file the Plans with the Commissioner of Revenue and the Office of the State Auditor.

2.02. The Council hereby approves a policy on interfund loans or advances ("Loans") for the TIF District, as follows:

(a) The authorized tax increment eligible costs ((including without limitation out-of-pocket administrative expenses in an amount up to \$334,496, interest in an amount up to \$1,661,626, and other development costs in an amount up to \$5,362,798) payable from the TIF District, as provided in the TIF Plan as originally adopted or as it may be amended, may need to be financed on a short-term and/or long-term basis via one or more Loans, as may be determined by the City Finance Director from time to time.

(b) The Loans may be advanced if and as needed from available monies in the City's general fund or other City fund or account designated by the City Finance Director. Loans may be structured as draw-down or "line of credit" obligations of the lending fund(s).

(c) Neither the maximum principal amount of any one Loan nor the aggregate principal amount of all Loans may exceed \$7,358,920 outstanding at any time.

(d) All Loans shall mature not later than February 1, 2052, or such earlier date as the Executive Director of the EDA may specify in writing. All Loans may be pre-paid, in whole or in part, whether from tax increment revenue, tax increment revenue bond proceeds or other eligible sources.

(e) The outstanding and unpaid principal amount of each Loan shall bear interest at the rate prescribed by Minnesota Statutes, Section 469.178, Subdivision 7, which is the greater of the rates specified under Minnesota Statutes, Sections 270C.40 or 549.09 at the time a Loan, or any part of it, is first made, subject to the right of the Executive Director of the EDA to specify a lower rate (but not less than the City's then-current average investment return for similar amount and term).

(f) Such Loans within the above guidelines are pre-approved. The Loans need not take any particular form and may be undocumented, except that the Executive Director of the EDA shall specify the principal amount and interest rate and maintain all necessary or applicable data on the Loans.

Approved by the City Council of the City of Brooklyn Park this 23rd day of October, 2023.

Mayor, Hollies J. Winston

ATTEST:

City Manager, Jay Stroebel

Adoption Date: October 23, 2023

Brooklyn Park Economic Development Authority

City of Brooklyn Park, Hennepin County,
Minnesota

MODIFICATION TO THE DEVELOPMENT PROGRAM

Development District No. 1

&

Tax Increment Financing (TIF) Plan

Establishment of Tax Increment Financing District No. 1-29
(a housing district)



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Modification to the Development Program for Development District No. 1

FOREWORD

The following text represents a Modification to the Development Program for Development District No. 1. This modification represents a continuation of the goals and objectives set forth in the Development Program for Development District No. 1. Generally, the substantive changes include the establishment of Tax Increment Financing District No. 1-29.

For further information, a review of the Development Program for Development District No. 1, is recommended. It is available from the Economic Development and Housing Director at the City of Brooklyn Park. Other relevant information is contained in the tax increment financing plans for the tax increment financing districts located within Development District No. 1.

Tax Increment Financing Plan for Tax Increment Financing District No. 1-29

FOREWORD

The Brooklyn Park Economic Development Authority (the "EDA"), the City of Brooklyn Park (the "City"), staff and consultants have prepared the following information to expedite the Establishment of Tax Increment Financing District No. 1-29 (the "District"), a housing tax increment financing district, located in Development District No. 1.

STATUTORY AUTHORITY

Within the City, there exist areas where public involvement is necessary to cause development or redevelopment to occur. To this end, the EDA and City have certain statutory powers pursuant to *Minnesota Statutes ("M.S."), Sections 469.090 - 469.1082*, inclusive, as amended, and *M.S., Sections 469.174 to 469.1794*, inclusive, as amended (the "TIF Act"), to assist in financing public costs related to this project.

This section contains the Tax Increment Financing Plan (the "TIF Plan") for the District. Other relevant information is contained in the Modification to the Development Program for Development District No. 1.

STATEMENT OF OBJECTIVES

The District currently consists of one parcel of land and adjacent roads and internal rights-of-way. The District is being created to facilitate the construction of two (2) low-income housing tax credit residential apartment buildings totaling 350 units in the City to be constructed in two phases (the "Development"). The EDA has not entered into an agreement at the time of preparation of this TIF Plan, but the EDA intends to enter into one or more agreements related to the Development with Real Estate Equities or affiliated entities. Phase one of the Development is anticipated to begin in early 2024 and be completed in late 2025. Phase two of the Development is anticipated to begin in mid-2024 and be completed in early 2026. This TIF Plan is expected to achieve many of the objectives outlined in the Development Program for Development District No. 1.

The activities contemplated in the Modification to the Development Program and the TIF Plan do not preclude the undertaking of other qualified development or redevelopment activities. These activities are anticipated to occur over the life of Development District No. 1 and the District.

DEVELOPMENT PROGRAM OVERVIEW

Pursuant to the Development Program and authorizing state statutes, the EDA or the City are authorized to undertake the following activities in the District:

1. Property to be Acquired - Selected property located within the District may be acquired by the EDA or City and is further described in this TIF Plan.
2. Relocation - Relocation services, to the extent required by law, will be available pursuant to *M.S., Chapter 117* and other relevant state and federal laws.
3. Upon approval of a developer's plan relating to the project and completion of the necessary legal requirements, the EDA or City may sell to a developer selected properties that it may acquire within the District or may lease land or facilities to a developer.
4. The EDA or City may perform or provide for some or all necessary acquisition, construction, relocation, demolition, and required utilities and public street work within the District.

DESCRIPTION OF PROPERTY IN THE DISTRICT AND PROPERTY TO BE ACQUIRED

The District encompasses all property and adjacent roads rights-of-way and abutting roadways identified by the parcels listed below.

Parcel number	Address	Owner
07-119-21-32-0006	9500 Decatur Dr. N.	Re-Load Inv. LLC

The aforementioned parcel is anticipated to be subdivided after the duly scheduled public hearing. Please also see the map in Appendix A for further information on the location of the District.

The EDA or City may acquire any parcel within the District including interior and adjacent street rights of way. Any properties identified for acquisition will be acquired by the EDA or City only in order to accomplish one or more of the following: storm sewer improvements; provide land for needed public streets, utilities and facilities; carry out land acquisition, site improvements, clearance and/or development to accomplish the uses and objectives set forth in this plan.

The EDA or City may acquire property by gift, dedication, or direct purchase from willing sellers in order to achieve the objectives of this TIF Plan. The EDA and the City will not exercise eminent domain powers in the District with respect to the property of the Development.

Such acquisitions will be undertaken only when there is assurance of funding to finance the acquisition and related costs.

The EDA or City does not own the parcel of the property to be included in the District.

DISTRICT CLASSIFICATION

The EDA and City, in determining the need to create a tax increment financing district in accordance with *M.S., Sections 469.174 to 469.1794*, as amended, inclusive, find that the District, to be established, is a housing district pursuant to *M.S., Section 469.174, Subd. 11 and M.S., Section 469.1761*.

- The District consists of one parcel
- The Development will consist of approximately 350 units of multi-family affordable rental housing
- 40% of the units will be occupied by person with incomes that do not exceed 60% of area median income
- No more that 20% of the square footage of the building that is receiving assistance from tax increment consists of commercial, retail or other non-residential uses.

Pursuant to *M.S., Section 469.176, Subd. 7*, the District does not contain any parcel or part of a parcel that qualified under the provisions of *M.S., Sections 273.111, 273.112, or 273.114 or Chapter 473H* for taxes payable in any of the five calendar years before the filing of the request for certification of the District.

DURATION & FIRST YEAR OF DISTRICT'S TAX INCREMENT

Pursuant to *M.S., Section 469.175, Subd. 1, and Section 469.176, Subd. 1*, the duration and first year of tax increment of the District must be indicated within the TIF Plan. Pursuant to *M.S., Section 469.176, Subd. 1b.*, the duration of the District will be 25 years after receipt of the first increment by the EDA or City (a total of 26 years of tax increment). The EDA or City elects to receive the first tax increment in 2026, which is no later than four years following the year of approval of the District.

Thus, it is estimated that the District, including any modifications of the TIF Plan for subsequent phases or other changes, would terminate after 2051, or when the TIF Plan is satisfied. The EDA or City reserves the right to decertify the District prior to the legally required date.

ORIGINAL TAX CAPACITY, TAX RATE & ESTIMATED CAPTURED NET TAX CAPACITY VALUE/INCREMENT & NOTIFICATION OF PRIOR PLANNED IMPROVEMENTS

Pursuant to *M.S., Section 469.174, Subd. 7* and *M.S., Section 469.177, Subd. 1*, the Original Net Tax Capacity (ONTC) as certified for the District will be based on the market values placed on the property by the assessor in 2023 for taxes payable 2024.

Pursuant to *M.S., Section 469.177, Subds. 1 and 2*, the County Auditor shall certify in each year (beginning in the payment year 2026) the amount by which the original value has increased or decreased as a result of:

1. Change in tax exempt status of property;
2. Reduction or enlargement of the geographic boundaries of the District;
3. Change due to adjustments, negotiated or court-ordered abatements;
4. Change in the use of the property and classification;
5. Change in state law governing class rates; or
6. Change in previously issued building permits.

In any year in which the current Net Tax Capacity (NTC) value of the District declines below the ONTC, no value will be captured and no tax increment will be payable to the EDA or City.

The original local tax rate for the District will be the local tax rate for taxes payable 2024, assuming the request for certification is made before June 30, 2024. The rates for 2024 were not available at the time the District was established, thus 2023 rates were used. The ONTC and the Original Local Tax Rate for the District appear in the table below.

Pursuant to *M.S., Section 469.174 Subd. 4* and *M.S., Section 469.177, Subd. 1, 2, and 4*, the estimated Captured Net Tax Capacity (CTC) of the District, within Development District No. 1, upon completion of the projects within the District, will annually approximate tax increment revenues as shown in the table below. The EDA and City request 100% of the available increase in tax capacity be used for repayment of the obligations of the EDA or City and current expenditures, beginning in the tax year payable 2026.

The Project Tax Capacity (PTC) listed is an estimate of values when the projects within the District are completed.

Project Tax Capacity	
Project estimated Tax Capacity upon completion	362,647
Original estimated Net Tax Capacity	3,737
Estimated Captured Tax Capacity	358,909
Original Local Tax Rate	104.4050% Pay 2023
Estimated Annual Tax Increment	\$374,719
Percent Retained by the City	100%

Note: Tax capacity includes a 3% inflation factor for the duration of the District. The tax capacity included in this chart is the estimated tax capacity of the District in year 25. The tax capacity of the District in year one is estimated to be \$59,719.

Pursuant to *M.S., Section 469.177, Subd. 4*, the EDA shall, after a due and diligent search, accompany its request for certification to the County Auditor or its notice of the District enlargement pursuant to *M.S., Section 469.175, Subd. 4*, with a listing of all properties within the District or area of enlargement for which building permits have been issued during the eighteen (18) months immediately preceding approval of the TIF Plan by the municipality pursuant to *M.S., Section 469.175, Subd. 3*. The County Auditor shall increase the original net tax capacity of the District by the net tax capacity of improvements for which a building permit was issued.

The City has reviewed the area to be included in the District to determine if any building permits have been issued during the 18 months immediately preceding approval of the TIF Plan by the City. No building permits were issued.

SOURCES OF REVENUE/BONDS TO BE ISSUED

The total estimated tax increment revenues for the District are shown in the table below:

SOURCES	
Tax Increment	\$ 6,689,927
Interest	668,993
TOTAL	\$ 7,358,920

The costs outlined in the Uses of Funds will be financed primarily through the annual collection of tax increments. The EDA and City reserve the right to issue bonds (as defined in the TIF Act) or incur other indebtedness as a result of the TIF Plan. As presently proposed, the projects within the District will be financed by pay-as-you-go notes and interfund loans.

Any refunding amounts will be deemed a budgeted cost without a formal modification to this TIF Plan. This provision does not obligate the EDA or City to incur debt. The EDA or City will issue bonds or incur other debt only upon the determination that such action is in the best interest of the City.

The EDA or City may issue bonds secured in whole or in part with tax increments from the District in a maximum principal amount of \$7,358,920. Such bonds may be in the form of pay-as-you-go notes, revenue bonds or notes, general obligation bonds, or interfund loans. This estimate of total bonded indebtedness is a cumulative statement of authority under this TIF Plan as of the date of approval.

USES OF FUNDS

Currently under consideration for the District is a proposal to facilitate the construction of two (2) low income housing tax credit residential apartment buildings totaling 350 units in the City. The EDA and City have determined that it will be necessary to provide assistance to the project(s) for certain District costs, as described herein.

The EDA has studied the feasibility of the development or redevelopment of property in and around the District. To facilitate the establishment and development or redevelopment of the District, this TIF Plan authorizes the use of tax increment financing to pay for the cost of certain eligible expenses. The estimate of public costs and uses of funds associated with the District is outlined in the following table.

USES	
Land/Building Acquisition	\$ 1,500,000
Site Improvements/Preparation	500,000
Affordable Housing	2,500,000
Utilities	50,000
Other Qualifying Improvements	565,755
Administrative Costs (up to 10%)	668,993
PROJECT COSTS TOTAL	\$ 5,784,748
Interest	1,574,172
PROJECT AND INTEREST COSTS TOTAL	\$ 7,358,920

The total project cost, including financing costs (interest noted above in the amount of \$1,574,172) listed in the table above does not exceed the total projected tax increments for the District as shown in the Sources of Revenue section.

Estimated costs associated with the District are subject to change among categories without a modification to the TIF Plan. The cost of all activities to be considered for tax increment financing will not exceed, without formal modification, the budget above pursuant to the applicable statutory requirements. The EDA may expend funds for qualified housing activities outside of the District boundaries.

FISCAL DISPARITIES ELECTION

Pursuant to *M.S., Section 469.177, Subd. 3*, the EDA or City may elect one of two methods to calculate fiscal disparities.

The EDA will choose to calculate fiscal disparities by clause b (inside).

ESTIMATED IMPACT ON OTHER TAXING JURISDICTIONS

The estimated impact on other taxing jurisdictions assumes that the redevelopment contemplated by the TIF Plan would occur without the creation of the District. However, the EDA or City has determined that such development or redevelopment would not occur "but for" tax increment financing and that, therefore, the fiscal impact on other taxing jurisdictions is \$0. The estimated fiscal impact of the District would be as follows if the "but for" test was not met:

Impact on Tax Base			
Entity	2022/Pay 2023 Total Net Tax Capacity	Estimated Captured Tax Capacity (CTC) upon completion	Percent of CTC to Entity Total
Hennepin County	2,478,633,845	358,909	0.0145%
City of Brooklyn Park	110,553,228	358,909	0.3246%
ISD 279 (Osseo Area Schools)	259,808,191	358,909	0.1381%

Impact on Tax Rates				
Entity	Pay 2023 Extension Rate	Percent of Total	CTC	Potential Taxes
Hennepin County	34.5420%	33.08%	358,909	\$ 123,974
City of Brooklyn Park	43.1480%	41.33%	358,909	154,862
ISD 279 (Osseo Area Schools)	19.6400%	18.81%	358,909	70,490
Other	7.0750%	6.78%	358,909	25,393
	104.4050%	100.00%		\$ 374,719

The estimates listed above display the captured tax capacity when all construction of the Development is completed. The tax rate used for calculations is the Pay 2023 rate. The total net capacity for the entities listed above are based on Pay 2023 figures. The District will be certified under the Pay 2024 rates, which were unavailable at the time this TIF Plan was prepared.

Pursuant to *M.S., Section 469.175 Subd. 2(b)*:

- (1) Estimate of total tax increment. It is estimated that the total amount of tax increment that will be generated over the life of the District is \$6,689,927;
- (2) Probable impact of the District on city provided services and ability to issue debt. An impact of the District on police protection is expected. With any addition of new residents or businesses, police calls for service will be increased. The police department anticipates a 10% increase in related calls for incidents. New developments add an increase in traffic, and additional overall demands to the call load. The City does not expect that the proposed Development, in and of itself, will necessitate new capital investment in vehicles or facilities.

The probable impact of the District on fire protection is not expected to be significant. Currently, the fire department anticipates an increased call volume of 10 - 45 calls. Typically new buildings generate few calls, if any, and are of superior construction. The City does not expect that the proposed Development, in and of itself, will necessitate new capital investment in vehicles or facilities.

The impact of the District on public infrastructure is expected to be minimal. The Development is not expected to significantly impact any traffic movements in the area. The current infrastructure for sanitary sewer, storm sewer and water will be able to handle the additional volume generated from the proposed development.

Based on the development plans, there are no additional costs associated with street maintenance, sweeping, plowing, lighting and sidewalks.

The probable impact of the issuance of any general obligation tax increment bonds payable from tax increment revenues from the District on the City's ability to issue debt for general fund purposes is expected to be minimal. It is not anticipated that there will be any general obligation debt issued in relation to this project, therefore there will be no impact on the City's ability to issue future debt or on the City's debt limit.

- (3) Estimated amount of tax increment attributable to school district levies. It is estimated that the amount of tax increments over the life of the District that would be attributable to school district levies, assuming the school district's share of the total local tax rate for all taxing jurisdictions remained the same, is \$1,258,466;
- (4) Estimated amount of tax increment attributable to county levies. It is estimated that the amount of tax increments over the life of the District that would be attributable to county levies, assuming the county's share of the total local tax rate for all taxing jurisdictions remained the same, is \$2,213,337;
- (5) Additional information requested by the county or school district. The City is not aware of any standard questions in a county or school district written policy regarding tax increment districts and impact on county or school district services. The county or school district must request additional information pursuant to *M.S., Section 469.175 Subd. 2(b)* within 15 days after receipt of the tax increment financing plan.

No requests for additional information from the county or school district regarding the proposed development for the District have been received.

SUPPORTING DOCUMENTATION

Pursuant to *M.S., Section 469.175, Subd. 1 (a), clause 7* this TIF Plan must contain identification and description of studies and analyses used to make the determination set forth in *M.S., Section 469.175, Subd. 3, clause (b)(2)* and the findings are required in the resolution approving the District.

- (i) In making said determination, reliance has been placed upon (1) written representation made by the Developer to such effects, (2) review of the Developer's proforma; and (3) City staff awareness of the feasibility of developing the project site within the District, which is further outlined in the City Council resolution approving the establishment of the District and Appendix C.

- (ii) A comparative analysis of estimated market value both with and without establishment of the District and the use of tax increments has been performed. Such analysis is included with the cashflow in Appendix B and indicates that the increase in estimated market value of the proposed development (less the indicated subtractions) exceeds the estimated market value of the site absent the establishment of the District and the use of tax increments.

DISTRICT ADMINISTRATION

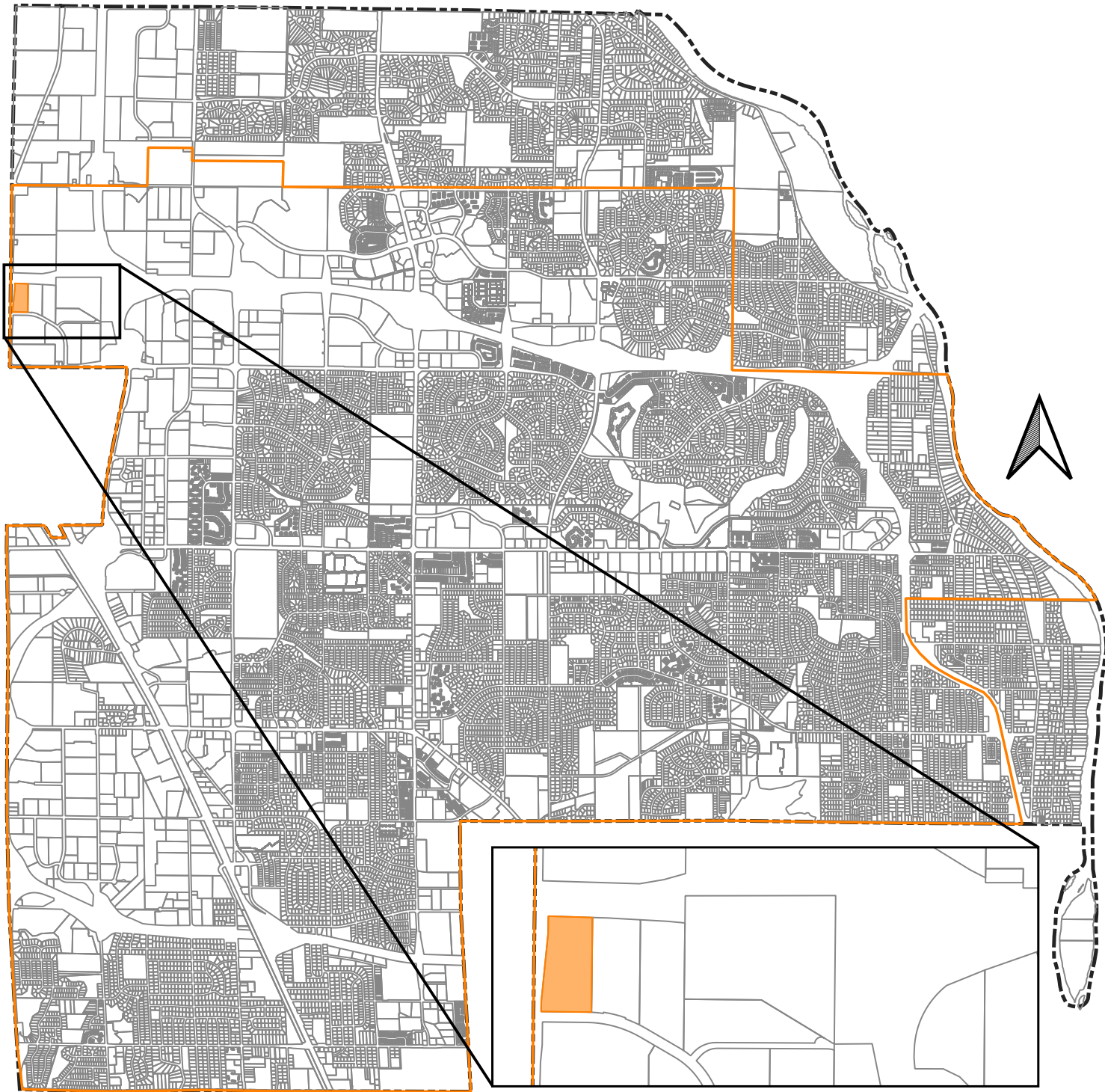
Administration of the District will be handled by the Economic Development and Housing Director.

Appendix A: Map of Development District No. 1 and the TIF District





Tax Increment Financing District No. 1-29

Development District No. 1

City of Brooklyn Park
Hennepin County, Minnesota



Legend

-  TIF District No. 1-29
-  Development District No. 1
-  Parcels
-  Municipal Boundary



Appendix B: Estimated Cash Flow for the District

Tax Increment Financing District No. 1-29 - 3.00% Inflation

City of Brooklyn Park, MN

350 LIHTC Apartment Units



ASSUMPTIONS AND RATES

DistrictType:	Housing
District Name/Number:	
County District #:	
First Year Construction or Inflation on Value	2024
Existing District - Specify No. Years Remaining	
Inflation Rate - Every Year:	3.00%
Interest Rate:	2.00%
Present Value Date:	1-Aug-25
First Period Ending	1-Feb-26
Tax Year District was Certified:	Pay 2024
Cashflow Assumes First Tax Increment For Development:	2026
Years of Tax Increment	26
Assumes Last Year of Tax Increment	2051
Fiscal Disparities Election [Outside (A), Inside (B), or NA]	Inside(B)
Incremental or Total Fiscal Disparities	Incremental
Fiscal Disparities Contribution Ratio	30.6386% Pay 2023
Fiscal Disparities Metro-Wide Tax Rate	133.6670% Pay 2023
Maximum/Frozen Local Tax Rate:	104.405% Pay 2023
Current Local Tax Rate: (Use lesser of Current or Max.)	104.405% Pay 2023
State-wide Tax Rate (Comm./Ind. only used for total taxes)	33.0030% Pay 2023
Market Value Tax Rate (Used for total taxes)	0.26768% Pay 2023

Tax Rates		
Exempt Class Rate (Exempt)		0.00%
Commercial Industrial Preferred Class Rate (C/I Pref.)		
First \$150,000		1.50%
Over \$150,000		2.00%
Commercial Industrial Class Rate (C/I)		2.00%
Rental Housing Class Rate (Rental)		1.25%
Affordable Rental Housing Class Rate (Aff. Rental)		
First \$100,000		0.25%
Over \$100,000		0.25%
Non-Homestead Residential (Non-H Res. 1 Unit)		
First \$500,000		1.00%
Over \$500,000		1.25%
Homestead Residential Class Rate (Hmstd. Res.)		
First \$500,000		1.00%
Over \$500,000		1.25%
Agricultural Non-Homestead		1.00%

BASE VALUE INFORMATION (Original Tax Capacity)

Map ID	PID	Owner	Address	Land Market Value	Building Market Value	Total Market Value	Percentage Of Value Used for District	Original Market Value	Tax Year Original Market Value	Property Tax Class	Current Original Tax Capacity	Class After Conversion	After Conversion Orig. Tax Cap.	Area/ Phase
1	07-119-21-32-0006	Re-Load Inv. LLC	9500 Decatur Dr. N.	1,494,900	0	1,494,900	50%	747,450	Pay 2024	Ag Non-Homestead	7,475	Aff. Rental	1,869	1
				1,494,900	0	1,494,900	50%	747,450	Pay 2024	Ag Non-Homestead	7,475	Aff. Rental	1,869	2
				2,989,800	0	2,989,800		1,494,900			14,949		3,737	

Note:

1. Base values are for pay 2024 based upon review of County website on 7-13-23.
2. Located in SD #279 and WS #9

Tax Increment Financing District No. 1-29 - 3.00% Inflation

City of Brooklyn Park, MN
350 LIHTC Apartment Units



PROJECT INFORMATION (Project Tax Capacity)													
Area/Phase	New Use	Estimated Market Value Per Sq. Ft./Unit	Taxable Market Value Per Sq. Ft./Unit	Total Sq. Ft./Units	Total Taxable Market Value	Property Tax Class	Project Tax Capacity	Project Tax Capacity/Unit	Percentage Completed 2024	Percentage Completed 2025	Percentage Completed 2026	Percentage Completed 2027	First Year Full Taxes Payable
1	South Apartment	210,000	210,000	175	36,750,000	Aff. Rental	91,875	525	40%	85%	100%	100%	2028
2	North Apartment	210,000	210,000	175	36,750,000	Aff. Rental	91,875	525	25%	70%	100%	100%	2028
TOTAL					73,500,000		183,750						
Subtotal Residential				350	73,500,000		183,750						
Subtotal Commercial/Ind.				0	0		0						

Note:

- Market values are based upon estimates received from the City Assessor on 7-27-23.

TAX CALCULATIONS									
New Use	Total Tax Capacity	Fiscal Disparities Tax Capacity	Local Tax Capacity	Local Property Taxes	Fiscal Disparities Taxes	State-wide Property Taxes	Market Value Taxes	Total Taxes	Taxes Per Sq. Ft./Unit
South Apartment	91,875	0	91,875	95,922	0	0	24,593	120,515	688.66
North Apartment	91,875	0	91,875	95,922	0	0	24,593	120,515	688.66
TOTAL	183,750	0	183,750	191,844	0	0	49,186	241,030	

Note:

- Taxes and tax increment will vary significantly from year to year depending upon values, rates, state law, fiscal disparities and other factors which cannot be predicted.

WHAT IS EXCLUDED FROM TIF?	
Total Property Taxes	241,030
less State-wide Taxes	0
less Fiscal Disp. Adj.	0
less Market Value Taxes	(49,186)
less Base Value Taxes	(3,902)
Annual Gross TIF	187,942

Tax Increment Financing District No. 1-29 - 3.00% Inflation

City of Brooklyn Park, MN

350 LIHTC Apartment Units



TAX INCREMENT CASH FLOW															
% of OTC	Project Tax Capacity	Original Tax Capacity	Fiscal Disparities Incremental	Captured Tax Capacity	Local Tax Rate	Annual Gross Tax Increment	Semi-Annual Gross Tax Increment	State Auditor 0.36%	Admin. at 10%	Semi-Annual Net Tax Increment	Semi-Annual Present Value	PERIOD ENDING Yrs.	Tax Year	Payment Date	
														02/01/26	
100%	59,719	(3,737)	-	55,982	104.405%	58,447	29,224	(105)	(2,912)	26,207	25,690	0.5	2026	08/01/26	
							29,224	(105)	(2,912)	26,207	51,126	1	2026	02/01/27	
100%	142,406	(3,737)	-	138,669	104.405%	144,777	72,389	(261)	(7,213)	64,915	113,509	1.5	2027	08/01/27	
							72,389	(261)	(7,213)	64,915	175,273	2	2027	02/01/28	
100%	183,750	(3,737)	-	180,013	104.405%	187,942	93,971	(338)	(9,363)	84,270	254,659	2.5	2028	08/01/28	
							93,971	(338)	(9,363)	84,270	333,259	3	2028	02/01/29	
100%	189,263	(3,737)	-	185,525	104.405%	193,698	96,849	(349)	(9,650)	86,850	413,463	3.5	2029	08/01/29	
							96,849	(349)	(9,650)	86,850	492,874	4	2029	02/01/30	
100%	194,940	(3,737)	-	191,203	104.405%	199,626	99,813	(359)	(9,945)	89,508	573,904	4.5	2030	08/01/30	
							99,813	(359)	(9,945)	89,508	654,133	5	2030	02/01/31	
100%	200,789	(3,737)	-	197,051	104.405%	205,731	102,866	(370)	(10,250)	92,246	735,996	5.5	2031	08/01/31	
							102,866	(370)	(10,250)	92,246	817,049	6	2031	02/01/32	
100%	206,812	(3,737)	-	203,075	104.405%	212,020	106,010	(382)	(10,563)	95,066	899,753	6.5	2032	08/01/32	
							106,010	(382)	(10,563)	95,066	981,638	7	2032	02/01/33	
100%	213,017	(3,737)	-	209,279	104.405%	218,498	109,249	(393)	(10,886)	97,970	1,065,189	7.5	2033	08/01/33	
							109,249	(393)	(10,886)	97,970	1,147,913	8	2033	02/01/34	
100%	219,407	(3,737)	-	215,670	104.405%	225,170	112,585	(405)	(11,218)	100,962	1,232,318	8.5	2034	08/01/34	
							112,585	(405)	(11,218)	100,962	1,315,888	9	2034	02/01/35	
100%	225,989	(3,737)	-	222,252	104.405%	232,042	116,021	(418)	(11,560)	104,043	1,401,156	9.5	2035	08/01/35	
							116,021	(418)	(11,560)	104,043	1,485,580	10	2035	02/01/36	
100%	232,769	(3,737)	-	229,032	104.405%	239,121	119,560	(430)	(11,913)	107,217	1,571,718	10.5	2036	08/01/36	
							119,560	(430)	(11,913)	107,217	1,657,003	11	2036	02/01/37	
100%	239,752	(3,737)	-	236,015	104.405%	246,411	123,206	(444)	(12,276)	110,486	1,744,018	11.5	2037	08/01/37	
							123,206	(444)	(12,276)	110,486	1,830,171	12	2037	02/01/38	
100%	246,945	(3,737)	-	243,207	104.405%	253,921	126,960	(457)	(12,650)	113,853	1,918,071	12.5	2038	08/01/38	
							126,960	(457)	(12,650)	113,853	2,005,101	13	2038	02/01/39	
100%	254,353	(3,737)	-	250,616	104.405%	261,655	130,828	(471)	(13,036)	117,321	2,093,893	13.5	2039	08/01/39	
							130,828	(471)	(13,036)	117,321	2,181,807	14	2039	02/01/40	
100%	261,984	(3,737)	-	258,246	104.405%	269,622	134,811	(485)	(13,433)	120,893	2,271,500	14.5	2040	08/01/40	
							134,811	(485)	(13,433)	120,893	2,360,306	15	2040	02/01/41	
100%	269,843	(3,737)	-	266,106	104.405%	277,828	138,914	(500)	(13,841)	124,572	2,450,908	15.5	2041	08/01/41	
							138,914	(500)	(13,841)	124,572	2,540,613	16	2041	02/01/42	
100%	277,938	(3,737)	-	274,201	104.405%	286,280	143,140	(515)	(14,262)	128,362	2,632,131	16.5	2042	08/01/42	
							143,140	(515)	(14,262)	128,362	2,722,744	17	2042	02/01/43	
100%	286,277	(3,737)	-	282,539	104.405%	294,985	147,493	(531)	(14,696)	132,265	2,815,188	17.5	2043	08/01/43	
							147,493	(531)	(14,696)	132,265	2,906,716	18	2043	02/01/44	
100%	294,865	(3,737)	-	291,128	104.405%	303,952	151,976	(547)	(15,143)	136,286	3,000,093	18.5	2044	08/01/44	
							151,976	(547)	(15,143)	136,286	3,092,545	19	2044	02/01/45	
100%	303,711	(3,737)	-	299,974	104.405%	313,187	156,594	(564)	(15,603)	140,427	3,186,863	19.5	2045	08/01/45	
							156,594	(564)	(15,603)	140,427	3,280,247	20	2045	02/01/46	
100%	312,822	(3,737)	-	309,085	104.405%	322,700	161,350	(581)	(16,077)	144,692	3,375,515	20.5	2046	08/01/46	
							161,350	(581)	(16,077)	144,692	3,469,840	21	2046	02/01/47	
100%	322,207	(3,737)	-	318,469	104.405%	332,498	166,249	(598)	(16,565)	149,085	3,566,067	21.5	2047	08/01/47	
							166,249	(598)	(16,565)	149,085	3,661,341	22	2047	02/01/48	
100%	331,873	(3,737)	-	328,136	104.405%	342,590	171,295	(617)	(17,068)	153,611	3,758,534	22.5	2048	08/01/48	
							171,295	(617)	(17,068)	153,611	3,854,766	23	2048	02/01/49	
100%	341,829	(3,737)	-	338,092	104.405%	352,985	176,492	(635)	(17,586)	158,271	3,952,935	23.5	2049	08/01/49	
							176,492	(635)	(17,586)	158,271	4,050,133	24	2049	02/01/50	
100%	352,084	(3,737)	-	348,347	104.405%	363,691	181,846	(655)	(18,119)	163,072	4,149,287	24.5	2050	08/01/50	
							181,846	(655)	(18,119)	163,072	4,247,459	25	2050	02/01/51	
100%	362,647	(3,737)	-	358,909	104.405%	374,719	187,360	(674)	(18,669)	168,017	4,347,607	25.5	2051	08/01/51	
							187,360	(674)	(18,669)	168,017	4,446,763	26	2051	02/01/52	
Total							6,714,098	(24,171)	(668,993)	6,020,935					
Present Value From 08/01/2025							4,958,699	(17,851)	(494,085)	4,446,763					

Appendix C: Findings Including But/For Qualifications

The reasons and facts supporting the findings for the adoption of the Tax Increment Financing Plan for Tax Increment Financing District No. 1-29, as required pursuant to *Minnesota Statutes, (M.S.) Section 469.175, Subdivision 3* are as follows:

1. *Finding that Tax Increment Financing District No. 1-29 is a housing district as defined in M.S., Section 469.174, Subd. 11.*

Tax Increment Financing District No. 1-29 consists of one parcel. The development will consist of two (2) low-income housing tax credit residential apartment buildings totaling 350 units in the City, all or a portion of which will receive tax increment assistance and will meet income restrictions described in *M.S. Section 469.1761*. At least 40% of the units receiving assistance will be occupied by individuals and families whose incomes are at or below 60% of area median income.

2. *Finding that the proposed development, in the opinion of the City Council, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future.*

The proposed development, in the opinion of the City, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future: This finding is supported by the fact that the development proposed in the TIF Plan is a housing district that meets the City's objectives for development and redevelopment. The cost of land acquisition, site and public improvements and utilities makes this housing development infeasible without City assistance. Due to decreased rental income from affordable units, there is insufficient cash flow to provide a sufficient rate of return, pay operating expenses, and service the debt. This leaves a gap in the funding for the project and makes this housing development feasible only through assistance, in part, from tax increment financing. The Developer was asked for and provided a letter and a proforma as justification that the Developer would not have gone forward without tax increment assistance.

The increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the District permitted by the TIF Plan: This finding is justified on the grounds that

the cost of land acquisition, site and public improvements, utilities and construction of affordable housing add to the total development cost. Historically, the costs of site and public improvements as well as reduced rents required for affordable workforce housing in the City have made development infeasible without tax increment assistance. The City reasonably determines that no other development of similar scope is anticipated on this site without substantially similar assistance being provided to the development.

3. *Finding that the TIF Plan for Tax Increment Financing District No. 1-29 conforms to the general plan for the development or redevelopment of the municipality as a whole.*

The City Council reviewed the TIF Plan and found that the TIF Plan conforms to the general development plan of the City.

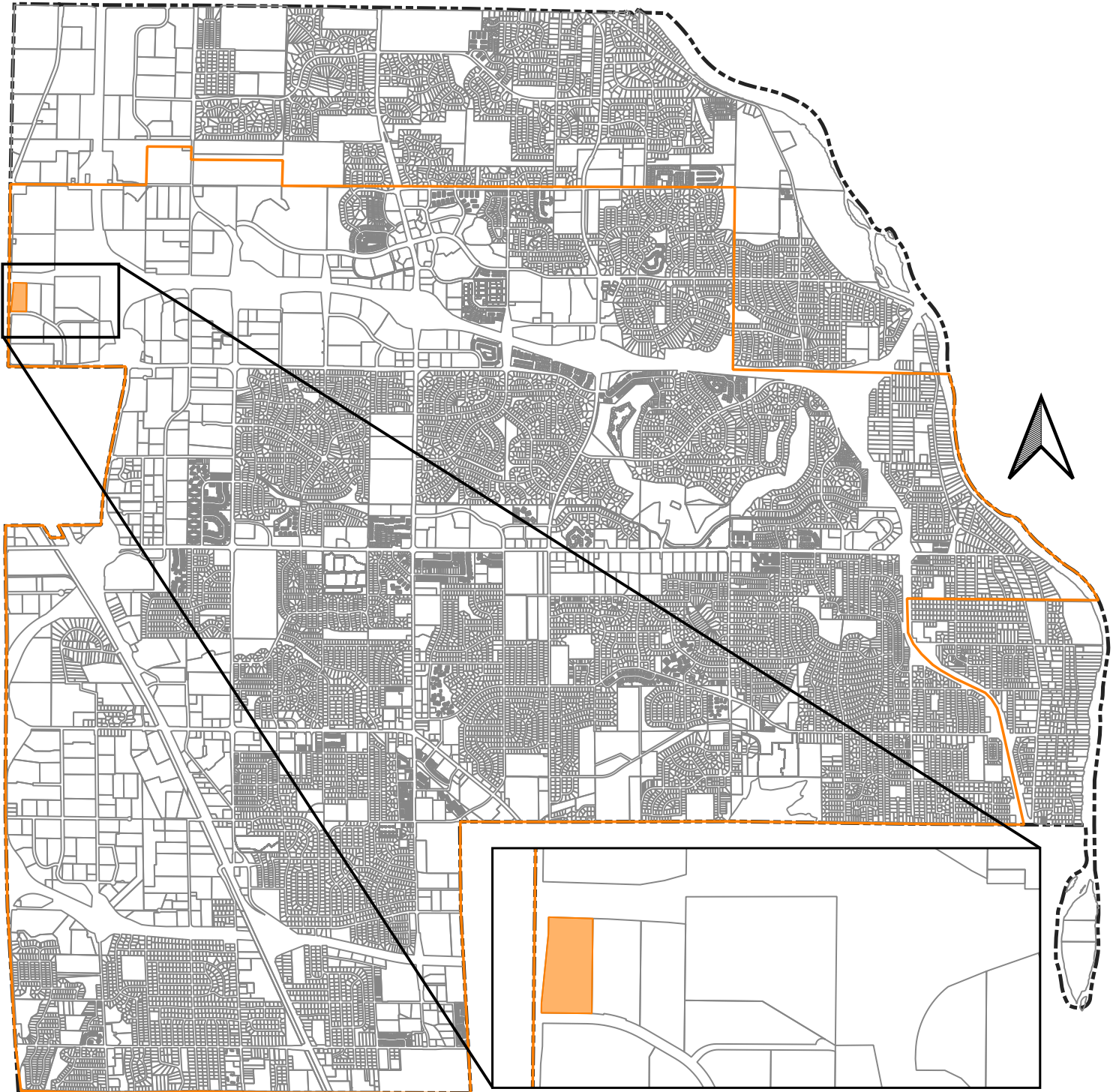
4. *Finding that the TIF Plan for Tax Increment Financing District No. 1-29 will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the development or redevelopment of Development District No. 1 by private enterprise.*

Through the implementation of the TIF Plan, the City will provide an impetus for residential development, which is desirable or necessary for increased population and an increased need for life-cycle housing within the City. The TIF Plan also helps the EDA or the City meet their goal of providing more affordable housing options in the City.





Tax Increment Financing District No. 1-29

Development District No. 1

City of Brooklyn Park
Hennepin County, Minnesota



Legend

-  TIF District No. 1-29
-  Development District No. 1
-  Parcels
-  Municipal Boundary



City of Brooklyn Park Request for Council Action

Agenda Item:	5.2	Meeting Date:	October 23, 2023
Agenda Section:	Public Hearings	Originating Department:	Administration
Resolution:	N/A	Prepared By:	Zach Kramka, Assistant to the City Manager
Ordinance:	First Reading		
Attachments:	1	Presented By:	Zach Kramka
Item:	First Reading of the Prevailing Wage Ordinance		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE ADDING CHAPTER 42 TO THE BROOKLYN PARK CITY CODE, TITLE III: ADMINISTRATION, PERTAINING TO PREVAILING WAGE.

Overview:

During its June 5, 2023 work session, the City Council heard from several representatives from local organized labor organizations who underscored the importance of labor protections as a deterrent to wage theft and exploitation of workers. In response to the presentation, Council directed staff to develop a draft prevailing wage ordinance for consideration.

On September 5, 2023, staff had a discussion with the City Council regarding a proposed prevailing wage ordinance. After receiving feedback, it was decided to move the ordinance forward to a first reading.

The federal government, State of Minnesota, and several local governments across the region have instituted prevailing wage requirements. Prevailing wage levels are defined by the State of Minnesota at the county level. Prevailing wage regulations establish a price floor for wages in addition to fringe benefits that must be paid by contractors and sub-contractors to their employees who are performing work on behalf of the government entity funding the work.

The proposed ordinance would institute prevailing wage requirements on capital projects funded in whole, or in part, by City contributions of \$50,000 or greater as well as projects receiving \$1 or more in EDA financing.

Primary Issues/Alternatives to Consider:

1. Approve the ordinance as presented.
2. Approve the ordinance with modifications.
3. Deny the ordinance keeping the existing regulations in place.

Budgetary/Fiscal Issues:

Staff currently do not have the capacity nor expertise to evaluate prevailing wage compliance. Discussions are ongoing to finalize an agreement to outsource this function. There would be an added cost associated with any agreement. In addition to compliance monitoring, an estimated 5% to 10% of a position will be needed to ensure project managers across the City include prevailing wage information in all bid documents and related contracts, and to oversee any contract for compliance evaluation.

In addition to any enforcement costs, staff have heard feedback from the development community as well as from colleagues in other jurisdictions with prevailing wage regulations. Prevailing wage requirements could increase subsidy requests from developers due to the increased labor costs associated with prevailing wage.

Attachments:

5.2A ORDINANCE

ORDINANCE 2023-

AN ORDINANCE ADDING CHAPTER 42 TO THE BROOKLYN PARK CITY CODE, TITLE III:
ADMINISTRATION, PERTAINING TO PREVAILING WAGE

~~Text with strikeout is proposed for deletion~~

Underlined text is proposed for insertion

The City of Brooklyn Park does ordain:

Section 1. The Brooklyn Park City Code, Title III, Administration, is amended to add Chapter 42, Prevailing Wage to read:

§42.01 PURPOSE.

- (A) It is in the public interest that Projects as defined herein, be constructed, maintained and provided by the highest quality of labor that is reasonably available and that persons working on such Projects be compensated according to the real and equitable value of the work they perform and that the wages for such work are comparable to wages paid for similar work in the community as a whole.

§42.02 DEFINITIONS.

- (A) For the purposes of this Chapter, the following words and phrases have the meanings ascribed to them in this section:

Apprenticeship Program. A bona fide apprenticeship program registered with the U.S. Department of Labor or recognized by a governmental agency of the State of Minnesota.

Basic Hourly Rate. The hourly wage paid to any employee.

Certified Payroll Records. Payroll records furnished under oath signed by an owner or officer of an employer and provided to the Department named in the contract no more than five (5) working days after the submission of a written request by the Compliance Officer for such records. A certified payroll report includes information related to the wages and benefits paid to each employee during the requested time frame specifying for each employee: name; prevailing wage master job classification; number of hours worked each day; total hours worked in the week; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs.

City. The City of Brooklyn Park.

Compliance Officer. Those persons designated by the City Manager to monitor compliance and investigate complaints pertaining to this Ordinance on behalf of the City or EDA.

Covered Persons. Contractors, subcontractors, holders of interests in real property, agents, or other persons regardless of the form of business entity used by the Covered Person, including but not limited to individuals, sole proprietorships and independent contractors, performing all or part of work on Projects.

Department. The department or office of the City or EDA designated to undertake a Project. **EDA.** The Brooklyn Park Economic Development Authority.

Laborers, Mechanics and Workers. All persons utilized, employed, or working on a Project who are doing work usually done by Laborers, Mechanics, and Workers.

Prevailing Wage Rate. The meaning contained in Minnesota Statute, Section 177.42, Subd. 6, as determined from time to time by the Minnesota Department of Labor and Industry for the area where the Project is located. The Minnesota Department of Labor and Industry shall determine the prevailing wage rate in accordance with Minnesota Statutes, Sections 177.41-177.44, as amended from time to time, and applicable rules promulgated thereto, including but not limited to Minnesota Rules 5200.1000-5200.1120 as amended from time to time. In those instances where the Minnesota Department of Labor and Industry has not certified and published a prevailing rate of wages and benefits for a particular work classification, the minimum wage and benefit rate per hour to be paid for such work classification means the union wage and benefit rate in the locality of the Project as the case may be for such classification over which the union has jurisdiction.

Prevailing Hours of Labor. The hours of labor per day and per week worked within the area by a large number of workers of the same class than are employed within the area for any other number of hours per day and per week.

Project. Any construction work, demolition work, maintenance work, or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, water infrastructure, removal of public nuisances or any other improvement of public or private property where all the following conditions exist:

- (1) The project is financed in whole or in part with City or EDA funds, including but not limited to contract payments, grants, loans, loan guarantees, land write-downs, tax increment financing, tax abatements, tax credits, lease payments, loan payments, contract for deed payments or revenue from bonds;
- (2) The estimated cost of the Project exceeds \$50,000 in City funds.
- (3) The estimated cost of the Project exceeds \$1 in EDA funds.

§42.03 PREVAILING WAGE RATE AND PREVAILING HOURS OF LABOR REQUIRED.

- (A) Prevailing Wage Required. Except as otherwise provided below in Section 7, all Covered Persons shall pay Laborers, Mechanics, and Workers directly performing work on a Project, at a minimum, the Prevailing Wage Rate.
- (B) Prevailing Hours of Labor. Laborers, Mechanics, and Workers employed directly on a Project by a Covered Person may not work more hours than the Prevailing Hours of Labor, unless paid for all hours in excess of the Prevailing Hours of Labor at a rate of at least one and one-half (1 ½) times the Basic Hourly Rate of pay.

- (C) Notice. All Covered Persons must post a notice describing the applicable Prevailing Wage Rate in at least one conspicuous place located on the Project site for the duration of the Project.

§42.04 CONTRACT REQUIREMENTS.

- (A) The requirements and obligations contained in this Ordinance are deemed to be incorporated into the bid specifications and requests for bids or proposals for all Projects are material and binding in terms and conditions of all contracts and subcontracts for Projects. The Prevailing Wage Rates, Prevailing Hours of Labor, and Hourly Basic Rates of pay must be set forth specifically in the contract. All contracts for Projects must include applicable schedules of Prevailing Wage Rates.

§42.05 MONITORING AND COMPLIANCE.

- (A) Submission of Certified Payroll Records. Upon request of the City or EDA, all Covered Persons shall, within five (5) working days, supply the City or EDA a copy of Certified Payroll Records for all work performed on the Project by Laborers, Mechanics, and Workers.
- (B) Compliance Officer. A Compliance Officer will investigate all complaints and monitor compliance upon receipt of a complaint regarding violations of this Ordinance. The Compliance Officer may request additional records reasonably required to monitor compliance or investigate complaints regarding this Ordinance. Upon request made by the Compliance Officer, all Covered Persons shall promptly provide additional records reasonably required to monitor compliance with this Ordinance. All Covered Persons shall permit the Compliance Officer physical access to the Project site at any time for the purpose of monitoring compliance with this Ordinance.

§42.06 VIOLATIONS AND PENALTIES.

- (A) Civil Enforcement. In addition to pursuit of criminal sanctions as provided in Paragraph (B) of this Section, a violation of this Ordinance may result in the City or EDA undertaking the following actions: seeking injunctive relief to compel specific performance of the requirements contained in this Ordinance; withholding funds owed by the City or EDA to the violating party pursuant to an agreement in amounts sufficient to fully remedy and satisfy the violation together with the withholding of a fee equal to five (5) percent of the entire contract price to the City or EDA as liquidated damages; or the termination of the contract with the violating party. None of the foregoing remedies are intended to be exclusive of any other remedy, but each is in addition to every other remedy listed above or otherwise available.
- (B) Criminal Enforcement. Any Covered Person who violates the provisions of this Ordinance shall be guilty of a misdemeanor with each day of violation constituting a separate offense.

§42.07 EXCEPTIONS.

- (A) This Ordinance does not apply to apprentices working on Projects pursuant to a bona fide registered Apprenticeship Program for work performed in their trade. A trainee and a helper are not exempt under this provision; the Covered Person must assign the trainee or helper a job classification that is the “same or most similar” to the work being performed and compensate the trainee or helper for the actual work performed regardless of the trainee’s or helper’s skill.

§42.08 NO CONFLICT WITH RELATED FEDERAL, STATE, COUNTY, OR MUNICIPAL LAWS, ORDINANCES, AND POLICIES.

- (A) Except as otherwise stated herein, no provision of this Ordinance is intended nor shall be construed as being in conflict with any federal, State of Minnesota, county or municipal laws, ordinances, rules, regulations or policies related to the matters to be regulated herein. Further, the obligations and requirements contained in this Ordinance shall be deemed to be in addition to the obligations and requirements contained in any such federal, state county or municipal laws, ordinances, rules or regulations.

§42.09 SEVERABILITY.

- (A) If any provision or application of this chapter is declared illegal, invalid, or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid, or inoperative shall remain in force or effect.

City of Brooklyn Park Request for Council Action

Agenda Item:	6.1	Meeting Date:	October 23, 2023
Agenda Section:	Land Use	Originating Department:	Community Development
Resolution:		Prepared By:	Erin McDermott, Associate Planner
Ordinance:	X		
Attachments:	6	Presented By:	Paul Mogush, Planning Director
Item:	Zoning Code Text Amendment: A Zoning Text and Map Amendment Adopting the Mixed Use (MU) Zoning District and Pedestrian Priority Overlay District (PPOD)		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE REZONING CERTAIN PROPERTY SURROUNDING THE 610 CORRIDOR AT ZANE AVENUE.

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING THE MIXED USE ZONING DISTRICT THROUGH TEXT AND MAP AMENDMENT TO BE APPLIED TO THE AREA SURROUNDING THE INTERSECTION OF ZANE AVENUE AND OAK GROVE BOULEVARD.

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING THE PEDESTRIAN PRIORITY OVERLAY DISTRICT THROUGH TEXT AND MAP AMENDMENT TO BE APPLIED TO THE AREA SURROUNDING THE INTERSECTION OF ZANE AVENUE AND OAK GROVE BOULEVARD.

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING PROCEDURES FOR THE MIXED USE ZONING DISTRICT.

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AMENDING CHAPTER 150 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING SIGN REGULATIONS FOR THE MIXED USE ZONING DISTRICT.

Overview:

On March 27, 2023, the Brooklyn Park City Council adopted an interim ordinance (2023-1287) establishing a development moratorium in the northwest portion of the city. The purpose of the moratorium is to conduct a study to consider the types of developments and land uses that would maximize the City's tax base. On April 10, 2023, the City Council approved a scope of work for the study that includes a focus on the 610-Zane area.

Planning and development consultants NEOO Partners created a series of hypothetical development models using 43 acres of vacant land in the vicinity of Zane Avenue and Oak Grove Parkway to test the viability of various development densities. NEOO and City staff engaged the City Council, Planning Commission, and the Brooklyn Park community on the tradeoffs associated with these models and found that there is substantial support for guiding the remaining developable land in the 610-Zane area for walkable, high-density, mixed-use development.

Over the course of the interim ordinance, City Council held two joint work sessions with Planning Commission,

as well as a work session held by Planning Commission to discuss the objectives that came out of the development model process and how they translate to Comprehensive Plan policy and zoning regulations. The Comprehensive Plan Amendment was approved by City Council on August 28, 2023 and was submitted to the Metropolitan Council on September 8, 2023. The zoning changes recommended by the Planning Commission provide the detailed rules that regulate development in a manner that achieves these objectives.

Planning Commission:

The Planning Commission heard these amendments at the October 11, 2023 Regular Meeting. There was one resident present at the public hearing, who requested information regarding traffic flow that will be reviewed at such a time as development is proposed in the area being rezoned. The Planning Commission voted unanimously (8-0) in favor of recommending approval of all proposed amendments.

Future Land Use Plan	Mixed Use and High Density Residential
Current Zoning	Town Center (TC), General Business District/ Planned Development Overlay (B3/PD), Planned Community Development District/Highway Overlay (PCDD/HO),
Proposed Zoning	Mixed Use and R7 – High Density Residential; Pedestrian Priority Overlay (PPO)
Neighborhood	Founders, Trinity Gardens, Oak Grove and Tessman
Site Area	160 acres
Notification	429 Public Hearing Notices mailed Posted in the Sun Post

Summary of Zoning Changes:

The proposed zoning text and map amendments establish two new zoning districts:

- The Mixed Use (MU) district will be mapped on all properties in the study area newly guided as Mixed Use in the Comprehensive Plan. This district is adapted from existing TOD-G district applied in the future Oak Grove station area, as the newly-adopted objectives for the 610-Zane area are similar to those of the TOD-G district.
- The Pedestrian Priority Overlay (PPO) District will be applied on properties fronting the Pedestrian Priority Streets as established by the Comprehensive Plan amendment.

The following table summarizes how the two new zoning districts will help achieve the objectives of the 610 Corridor Development Study and the associated update Comprehensive Plan policies:

Objective	Comp Plan Policy	Zoning Regulations
Allow the scale of buildings necessary to achieve the council's goal of increasing value	Maximum 8 stories (12 stories in LRT Overlay)	Maximum 8 stories in MU District
Ensure that individual parcels and the area as a whole are not underdeveloped , which would be counter to the Council's goal of increasing value	Establish minimum development intensity standards to ensure efficient use of land (Minimum Floor Area Ratio)	MU District: Minimum Floor Area Ratio of 1.0 (except existing properties under 1 acre) PPO Overlay: Minimum Floor Area Ratio of 0.5

Allow enough residential density (units/acre) to support the envisioned scale of development	12-100 Units per Acre	Does not directly regulate units per acre, but allows enough building bulk to accommodate density range.
Allow a wide range of uses including high-density residential, retail, service, office, and restaurants	High-density residential, retail, service, office, restaurants, medical, hospitality, and recreation.	Wide range of uses allowed (see last page of Attachment 6.3B)
Ensure that retail is included along Xylon in the Zane-Oak Grove area and on future walkable streets in other areas where the Mixed Use category is applied	Require retail along designated Pedestrian Priority Streets	Commercial uses required in Pedestrian Priority Overlay (PPO) District
Ensure that new development and street connections support a walkable environment	<p>New buildings require traditional neighborhood design with buildings close to the street and plenty of windows.</p> <p>New streets require a walkable block size and a design that promotes pedestrian safety and comfort, including ample sidewalk width, landscaping, and street furniture.</p>	<ul style="list-style-type: none"> • Build-to line (12 feet) • 30% window requirement • 400-foot block dimension • Street design requirements including ample sidewalk width and trees • Civic area required when subdividing land

Minimum Floor Area Ratio

During the work session with the City Council, there was discussion of the addition of the minimum FAR of 1.0 and the impact that this requirement could have on development, such as delaying development and/or contributing to financial challenges that might result in requests for development subsidy. In reviewing other projects in Brooklyn Park and in other communities, a FAR of between 0.75-1.0 appears to be supported by the market in recent years. Given current market challenges with high interest rates and rising construction costs, the Council may want to consider lowering the minimum required FAR to 0.75.

TOD-G and MU: Key Differences

While the new MU district is modeled after the existing TOD-G district in the planned Oak Grove station area, there are two key differences between the two districts:

- *Drive-throughs*: The existing TOD-G district in the Oak Grove Station area prohibits drive throughs because they can cause conflicts with pedestrians accessing the future station. While the new vision for the 610-Zane area is to design development in a pedestrian-friendly manner, that area will not be served by high-amenity regional transit. The staff recommendation is to allow drive throughs in the new MU district as a conditional use, requiring a conditional use permit. Existing language in the zoning ordinance requires that drive-throughs be designed in a manner that minimizes negative impacts, and all development would still need to comply with the pedestrian-oriented requirements outlined in the table above.
- *Off-street parking*: In all five planned LRT station areas, the TOD districts do not require off-street parking in conjunction with new development. That means it is theoretically possible for new buildings to be built in those areas without any parking, because those areas will be well-served by public transportation. In reality, parking will very likely be included in new development, but it will be up to the marketplace to determine the number of spaces. Because the 610-Zane area will not be served by high-amenity regional transit, the staff recommendation is for the MU district to require off-street parking.

Technical Changes

The following technical changes are included in the staff recommendation:

- The proposed amendment to the TOD/MU zoning prohibits Industrial grade concrete precast panels, with architecturally textured concrete precast panels considered a class two material. This is the result of a conversation with the Planning Commission regarding building materials.
- The proposed amendment to Chapter 150 – Signs is intended to scale signage focused on pedestrian use. Wall sign development standards are consistent with the sign allowances in the B3 – General Commercial zoning district, with allowance of monument signs that are not overwhelming to pedestrian traffic. It also fixes a technical error in the code that created a conflict between the sign ordinance and the TOD/Mixed Use districts.

Primary Issues/Alternatives to Consider:

1. Approve the text and map amendment as presented.
2. Approve the text and map amendment with modifications.
3. Decline to approve the text and map amendment.

Budgetary/Fiscal Issues: N/A

Attachments:

- 6.1A ORDINANCE - REZONING
- 6.1B ORDINANCE – MIXED USE
- 6.1C ORDINANCE – PEDESTRIAN PRIORITY OVERLAY DISTRICT
- 6.1D ORDINANCE – PROCEDURES
- 6.1E ORDINANCE – SIGNS
- 6.1F PLANNING COMMISSION MINUTES

ORDINANCE #2023-

ORDINANCE REZONING CERTAIN PROPERTY SURROUNDING THE 610 CORRIDOR AT
ZANE AVENUE

WHEREAS, the Brooklyn Park City Council adopted Interim Ordinance 2023-1287, and directed staff to conduct a planning study to consider the types of developments and land uses that would maximize the City's tax base; and

WHEREAS, the study identified 55 properties within the boundaries of the interim ordinance to be re-guided in the Comprehensive Plan, and subsequently re-zoned to be consistent with the goal specified in the interim ordinance (EXHIBIT A); and

WHEREAS, this rezoning is consistent with the approval of Resolution 2023- 96 Approving Comprehensive Plan Amendment #23-112 Consistent with the Goals of Interim Ordinance 2023-1287 (EXHIBIT B); and

WHEREAS, the City of Brooklyn Park adopted Ordinance #2023-____ establishing the Mixed Use Zoning District; and

WHEREAS, in adopting Ordinance #2023- _____, the City Council understood that it would be simultaneously be rezoning properties identified in EXHIBITS C and D of this Ordinance; and

WHEREAS, the owners of the affected properties that were proposed to be rezoned were notified of the City's proposed amendments consistent with Minnesota Statute 462.357 Subd. 3; and

WHEREAS, this Ordinance supersedes existing overlay districts.

NOW, THEREFORE, THE CITY OF BROOKLYN PARK ORDAINS that the properties described in EXHIBIT C, surrounding the 610 Corridor at Zane Avenue, are rezoned as depicted in the map attached as EXHIBIT D.

ORDINANCE #2023-1287

INTERIM ORDINANCE ESTABLISHING A SIX-MONTH MORATORIUM ON DEVELOPMENT
OF PROPERTY LOCATED NORTH OF 93RD AVENUE AND WEST OF REGENT AVENUE
AND DIRECTING THAT A PLANNING STUDY BE CONDUCTED

THE CITY OF BROOKLYN PARK ORDAINS:

Section 1. Background.

1.01 Minnesota Statutes, Section 462.351 states that one of the purposes of municipal planning is to allow a municipality to achieve a more secure tax base.

1.02 The City Council has been discussing various methods to achieve a more secure tax base on property in the northwest portion of the City.

1.03 It is important for the City to study and review its land use and zoning regulations applicable to the northwest portion of the City to ensure that future development maximizes the City's tax base in that area.

1.04 Minnesota Statutes, Section 462.355, Subd. 4 allows the City Council to adopt an interim ordinance for the purpose of protecting the planning process and to promote the health, safety, and welfare of City residents.

Section 2. Findings

2.01. The City Council finds that it is necessary to conduct a study to consider the types of developments and land uses in the northwest portion of the City that would be appropriate in order to maximize the City's tax base. The study may also identify appropriate changes, if any, that should be made to the City's official land use controls, including but not limited to the City's Zoning Ordinance and Comprehensive Plan to accomplish that goal.

2.02. While the study referenced in Section 2.01 of this ordinance is being conducted, the City Council finds that there is a need to adopt an interim ordinance imposing a moratorium on development of land in the City located north of 93rd Avenue and west of Regent Avenue ("Moratorium Area").

2.03. To ensure that development does not occur within the Moratorium Area that might be inconsistent with any potential future changes in the City's official controls resulting from the study referenced in Section 2.01, the City Council finds that the moratorium established by this ordinance should apply to all land use and zoning applications for property in the Moratorium Area, except for pending planning applications that were considered by the Planning Commission before the date that this ordinance is adopted. The City Council further finds that, except as otherwise provided in this ordinance, no new land use or zoning applications for property in the Moratorium Area shall be accepted for review by City staff after the date that this ordinance is adopted.

Section 3. Planning and Zoning Study; Moratorium

3.01. A study is authorized to be conducted under the direction of the City staff to study the matters referenced in Section 2.01 of this ordinance.

3.02. Pending completion of the study and adoption of any amendments to the City's official controls, a moratorium is established on the acceptance, processing, or issuance of any development applications or approvals, including but not limited to preliminary plats, re-zonings, variances, conditional use permits, PUDs, or site plans pertaining to any property located in the Moratorium Area. The moratorium does not apply to any pending applications that were considered by the Planning Commission before the date that this ordinance is adopted or to any planning applications that seek only to allow a new use in an existing building or to make an addition to an existing building.

3.03. During the period of the moratorium, planning applications for any permits or approvals related to land in the Moratorium Area shall not be accepted, processed, or issued by the City nor shall the Planning Commission or City Council consider or grant approval of any such application, unless the application was considered by the Planning Commission before the date that this ordinance is adopted or the application seeks only to allow a new use in an existing building or to make an addition to an existing building.

3.04. The moratorium established by this ordinance does not apply to any development that has obtained preliminary plat approval by the City Council before the effective date of this ordinance.

Section 4. Enforcement. The City may enforce this ordinance by mandamus, injunction or other appropriate civil remedy in any court of competent jurisdiction.

Section 5. Waiver. The City Council may grant a waiver to the moratorium established by this Ordinance for a project or development that the City Council determines maximizes the City's tax base for the parcel of land on which the project or development is located.

Section 6. Term. Unless it is repealed earlier by the City Council, this ordinance shall remain in effect for a period of six months after its effective date.


HOLLIES WINSTON, MAYOR

ATTEST:


DEVIN MONTERO, CITY CLERK

Approved as to Form by City Attorney
Passed on First Reading 03-13-2023
Passed on Second Reading 03-27-2023
Published in Official Newspaper: 04-06-2023

RESOLUTION #2023-96

RESOLUTION APPROVING COMPREHENSIVE PLAN AMENDMENT #23-112
CONSISTENT WITH THE GOALS OF INTERIM ORDINANCE 2023-1287

Planning Commission File #23-112

WHEREAS, the Brooklyn Park City Council adopted Interim Ordinance 2023-1287 and directed staff to conduct a planning study to consider the types of developments and land uses that would maximize the City's tax base; and

WHEREAS, the planning study has identified 55 properties within the boundary of the interim ordinance to be re-guided in a manner consistent with the goal specified in the interim ordinance (Exhibit A); and

WHEREAS, the planning study has identified changes to the text of the Comprehensive Plan to meet the foal specified in the interim ordinance (Exhibit B); and

WHEREAS, the proposed change is consistent with the land use goals and policy statements of the Comprehensive Plan and is consistent with the Brooklyn Park 2025 goals; and

WHEREAS, the proposed amendment is consistent with the regional development framework.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park, the Comprehensive Plan amendment is approved and staff are authorized to work with Metropolitan Council staff to update all necessary forecasts and technical documentation in the Comprehensive Plan and submit a Comprehensive Plan amendment application to the Metropolitan Council.

The foregoing resolution was introduced by Council Member Klonowski and duly seconded by Council Member Morson.


The following voted in favor of the resolution: Lee, Eriksen, Morson, Tran, McGarvey, Klonowski, and Winston.

The following voted against: None.

The following were absent: None.

Where upon the resolution was adopted.

ADOPTED: August 28, 2023



HOLLIES WINSTON, 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, 2023.

WITNESS my hand officially as such Clerk and the corporate seal of the city this 29th day of August 2023.

(SEAL)



DEVIN MONTERO, CITY CLERK

EXHIBIT A

Comprehensive Plan Map Amendment

Proposed
Future Land Use

- Residential**
- Low Density Residential
- Medium Density Residential
- Medium-High Density Residential
- High Density Residential
- Mixed Use**
- Live/Work
- Neighborhood Mixed Use
- Mixed Use
- Flex
- Commercial**
- Community Commercial
- Neighborhood Service Center
- Employment**
- Employment
- Business Park
- Industrial
- Other**
- Institutional
- Parks/Open Space
- Airport
- Railroad
- Parcels changing use
- Pedestrian Priority Street

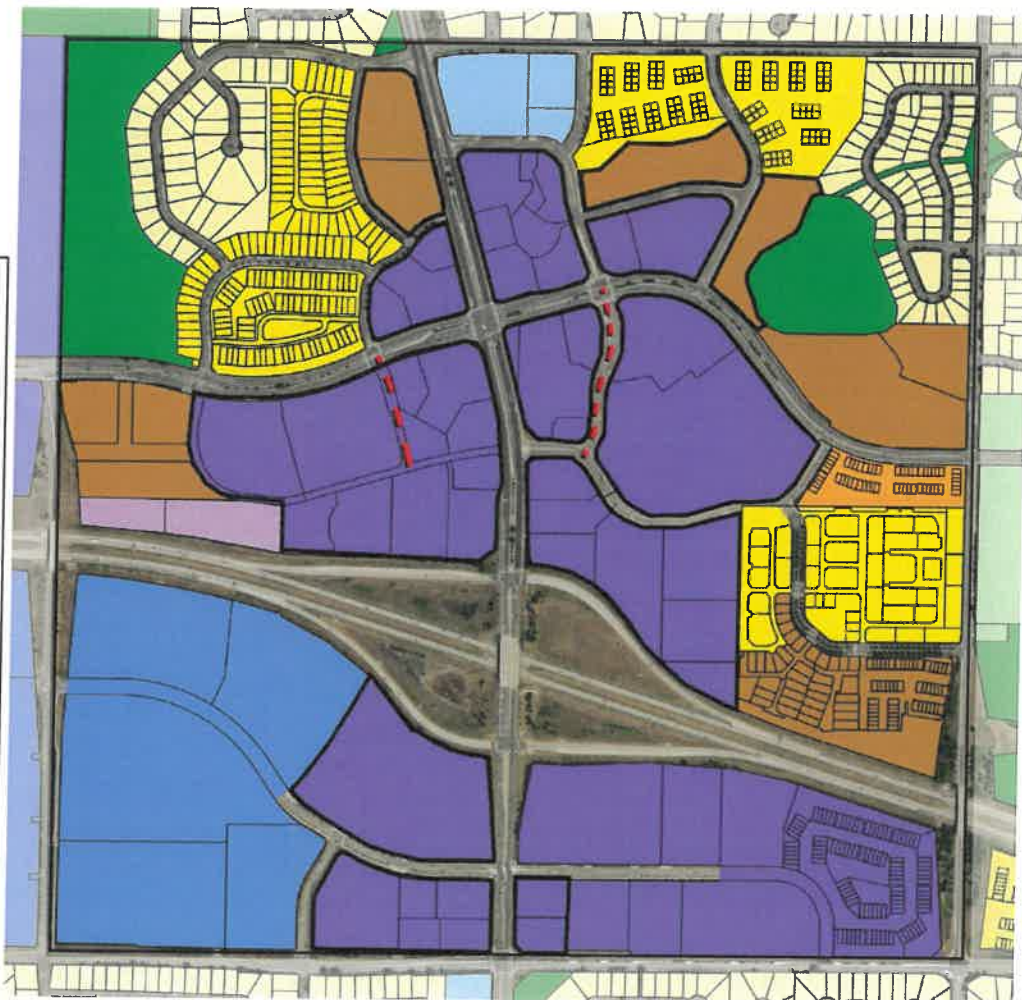


EXHIBIT B

Comprehensive Plan Text Amendment

<p>MU</p>	<p>Mixed Use</p>	<p><u>Density:</u> 12-100 units/acre</p> <p><u>Uses:</u> Medium-high-density residential, retail, service, office, restaurants</p> <p><u>Residential Requirement:</u> 30% minimum</p> <p><u>Scale/intensity:</u> Up to 8 stories (12 stories in LRT Overlay)</p>	<p>The Mixed Use District is intended to provide for pedestrian-oriented mixed-use development with a mixture of office, commercial, retail and residential uses. Development in these areas shall follow a traditional neighborhood design where buildings are within a close proximity to the street and pedestrian connections are abundant. The City encourages both horizontal and vertical mixed use, with residential densities between twelve and 100 units per acre. Housing must be an integral component of the overall development and will encompass at least 30% of the land mass of the district.</p> <p>The City will establish minimum development intensity standards to ensure efficient use of land and street design and require block dimension standards to promote walkability. Retail uses are required on properties fronting Pedestrian Priority Streets as designated on the Future Land Use map.</p> <p>The mix of uses may be in a common site, development area, or building. Individual developments may consist of a mix of two or more complementary uses that are compatible and connected to the surrounding area. To ensure that the desired development intensities and connections are achieved, a regulating plan is may be required to guide phased development projects as governed by the Zoning Code.</p>
<p>PPS</p>	<p>Pedestrian Priority Street</p>		<p>Pedestrian Priority Streets are located in areas designated Neighborhood Mixed Use or Mixed Use and serve as the main public focal points of each designated area. Streets must be designed to promote pedestrian and bicyclist safety and comfort, including ample sidewalk width, landscaping, and street furniture. New development is required to include retail fronting Pedestrian Priority Streets.</p>

EXHIBIT C

Property Descriptions of Properties to be Rezoned

TC – Town Center to High Density Residential (Final Zoning R7)

- 10001 Zane Ave N (09-119-21-22-0014) Outlot I, Liberty Oaks
- 9945 Zane Ave N (09-119-21-22-0015) Outlot J, Liberty Oaks
- Unassigned (09-119-21-21-0005) Lot 2, Block 2, Oxbow Commons
- Unassigned (09-119-21-12-0005) Lot 5, Block 3, Oxbow Commons

PCDD/HO to Mixed Use

- 9314 Zane Ave (09-119-21-34-0009) Lot 2, Block 1, Superamerica 2nd Addition
- 9300 Zane Ave (09-119-21-34-0008) Lot 1, Block 1, Superamerica 2nd Addition

B3/PD to Mixed Use

- 6001 94th Ave N (09-119-21-33-0012) Outlot A, Six Ten Zane Second Addition
- 5931 94th Ave N (09-119-21-33-0011) Lot 4, Block 1, Six Ten Zane Second Addition
- 5901 94th Ave N (09-119-21-33-0008) Lot 1, Block 1, Six Ten Zane Second Addition
- 5921 94th Ave N (09-119-21-33-0009) Lot 2, Block 1, Six Ten Zane Second Addition
- 5941 94th Ave N (09-119-21-33-0010) Lot 3, Block 1, Six Ten Zane Second Addition
- 9401 Zane Ave N (09-119-21-33-0006) Lot 1, Block 1, Six Ten Zane

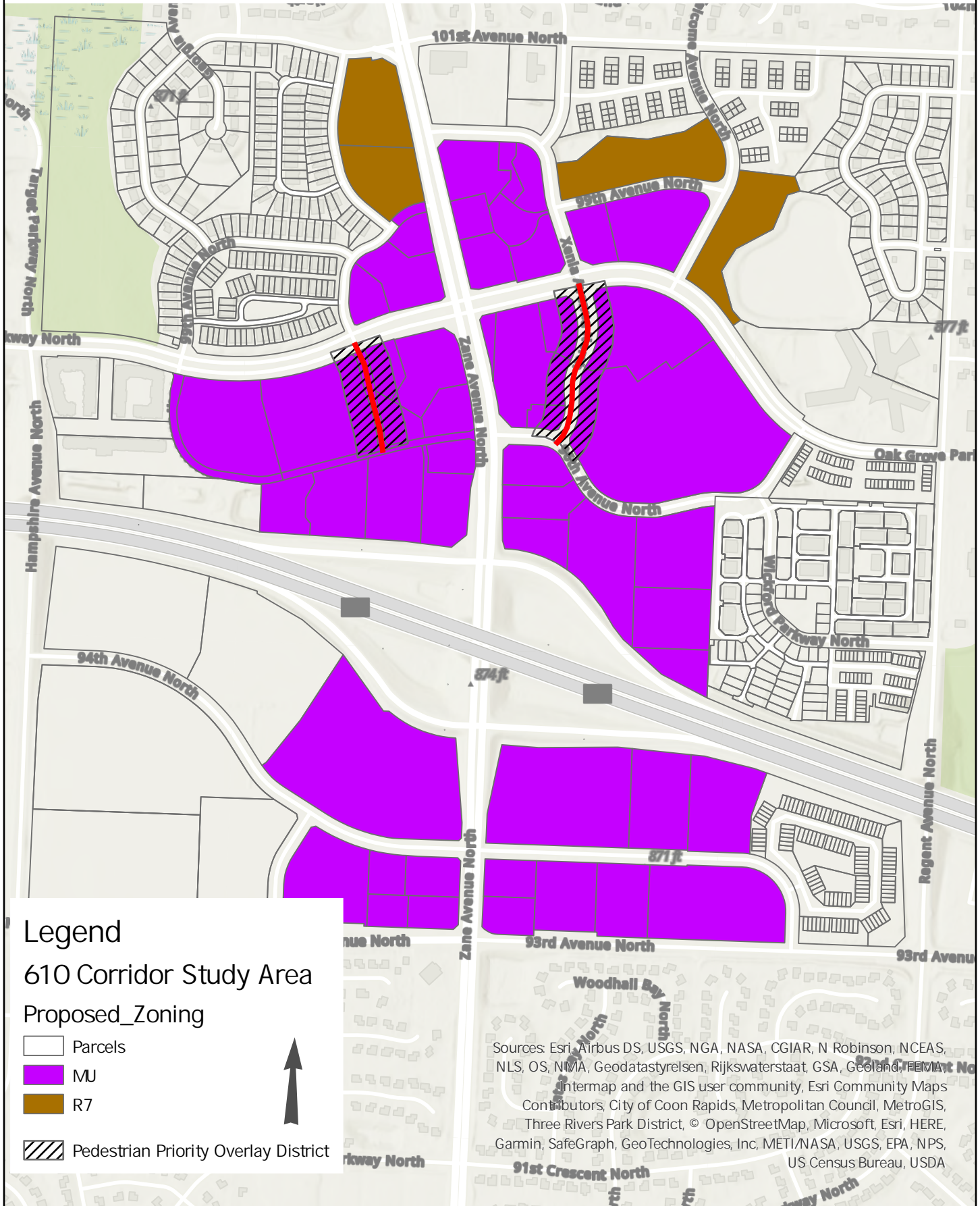
TC- Town Center to Mixed Use

- 9700 Schreiber Ter N (09-119-21-23-0009) Lot 3, Block 1, Park Place Promenade
- 9750 Schreiber Ter N (09-119-21-23-0008) Lot 1, Block 1, Park Place Promenade
- 9790 Schreiber Ter N (09-119-21-22-0017) Lot 2, Block 1, Park Place Promenade
- Unassigned (09-119-21-22-0016) Outlot O, Liberty Oaks
- 9975 Xenia Ave N (09-119-21-22-0068) Lot 1, Block 1, Stone Mountain Addition
- 9985 Xenia Ave N (09-119-21-21-0099) Lot 1, Block 1, Stone Mountain 2nd Addition
- 9995 Xenia Ave N (09-119-21-21-0100) Lot 2, Block 1, Stone Mountain 2nd Addition

- 9801 Xenia Ave N (09-119-21-21-0101) Lot 3, Block 1, Stone Mountain 2nd Addition
- 9725 Xenia Ave N (09-119-21-21-0095) Lot 1, Block 1, Oxbow Commercial Centre
- 9751 Xenia Ave N (09-119-21-22-0070) Lot 4, Block 1, Stone Mountain Addition
- 9901 Xenia Ave N (09-119-21-22-0071) Lot 4, Block 1, Stone Mountain 2nd Addition
- Unassigned (09-119-21-21-0006) Lot 1, Block 4, Oxbow Commons
- Unassigned (09-119-21-21-0007) Lot 2, Block 4, Oxbow Commons
- 9680 Xenia Ave N (09-119-21-24-0007) Outlot A, Six Ten Crossings
- 5600 96th Ave N (09-119-21-24-0008) Outlot B, Six Ten Crossings
- 9695 Xenia Ave N (09-119-21-24-0004) Lot 1, Block 1, Six Ten Crossings
- 9611 Xenia Ave N (09-119-21-24-0009) Outlot F, Six Ten Crossings
- Unassigned (09-119-21-23-0005) Unplatted 09.119.21
- 9601 Xenia Ave N (09-119-21-24-0006) Lot 1, Block 3, Six Ten Crossings
- 5565 96th Ave N (09-119-21-31-0013) Outlot A, Six Ten Crossings 4th Addition
- 5555 96th Ave N (09-119-21-31-0012) Lot 3, Block 1, Six Ten Crossings 4th Addition
- 5505 96th Ave N (09-119-21-31-0011) Lot 2, Block 1, Six Ten Crossings 4th Addition
- 5601 96th Ave N (09-119-21-31-0010) Lot 1, Block 1, Six Ten Crossings 4th Addition
- 5625 96th Ave N (09-119-21-31-0009) Lot 1, Block 1, Six Ten Crossings 3rd Addition
- 5651 96th Ave N (09-119-21-31-0007) Lot 1, Block 1, Six Ten Crossings 2nd Addition
- 5801 96th Ave N (09-119-21-24-0005) Lot 1, Block 2, Six Ten Crossings
- Unassigned (09-119-21-32-0016) Outlot A, Park Place Promenade 3rd Addition
- 6201 96th Ln N (09-119-21-32-0023) Lot 1, Block 1, Park Place Promenade 8th Addition
- 6001 96th Ln N (09-119-21-32-0024) Lot 2, Block 1, Park Place Promenade 8th Addition
- 5909 96th Ln N (09-119-21-32-0021) Lot 1, Block 1, Park Place Promenade 7th Addition
- 5901 96th Ln N (09-119-21-23-0049) Lot 1, Block 1, Park Place Promenade 4th Addition
- Unassigned (09-119-21-23-0015) Outlot A, Park Place Promenade
- Unassigned (08-119-21-14-0051) Outlot A, Park Place Promenade 2nd Addition
- 6600 96th Ln N (08-119-21-14-0050) Lot 1, Block 1, Park Place Promenade 2nd Addition
- 9655 Colorado Ln N (09-119-21-23-0014) Lot 1, Block 3, Park Place Promenade
- 9600 Colorado Ln N (09-119-21-23-0012) Lot 3, Block 2, Park Place Promenade

- 9630 Colorado Ln N (09-119-21-23-0011) Lot 2, Block 2, Park Place Promenade
- 9640 Colorado Ln N (09-119-21-23-0010) Lot 1, Block 2, Park Place Promenade
- 9690 Colorado Ln N (09-119-21-23-0013) Lot 4, Block 2, Park Place Promenade
- 9400 Zane Ave N (09-119-21-34-0014) Lot 1, Block 1, Astra Village 2nd Addition
- 5701 94th Ave N (09-119-21-34-0017) Outlot A, Astra Village 4th Addition
- 5401 94th Ave N (09-119-21-43-0006) Lot 2, Block 1, Astra Village 4th Addition
- 5500 94th Ave (09-119-21-34-0015) Lot 1, Block 1, Astra Village 3rd Addition
- 5601 94th Ave N (09-119-21-34-0016) Lot 1, Block 1, Astra Village 4th Addition
- 5400 94th Ave N (09-119-21-43-0009) Outlot B, Astra Village 5th Addition

610 Corridor Study Rezoning



Legend

610 Corridor Study Area

Proposed_Zoning

Parcels

MU

R7

Pedestrian Priority Overlay District



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, City of Coon Rapids, Metropolitan Council, MetroGIS, Three Rivers Park District, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

ORDINANCE #2023-

ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING THE MIXED USE ZONING DISTRICT THROUGH TEXT AND MAP AMENDMENT TO BE APPLIED TO THE AREA SURROUNDING THE INTERSECTION OF ZANE AVENUE AND OAK GROVE BOULEVARD

~~Text with strikeouts is proposed for deletion.~~

Text with underline is proposed for insertion.

The City of Brooklyn Park does ordain:

Section 1. Section 152.601 of the City Code is amended to read as follows:

TRANSIT ORIENTED DEVELOPMENT (TOD) AND MIXED USE (MU) ZONING

§ 152.601 PURPOSE.

- (A) The Transit Oriented Development (TOD) and Mixed Use (MU) zoning districts are established to provide for the creation of mixed use, multi-modal neighborhoods within walking distance of public transit and in other areas where walkable development is desired. These districts enhance walkability by requiring small block sizes, reduced travel lane widths on local streets, and active frontages. These districts may be applied around high frequency transit service stations or in areas designated Mixed Use in the Comprehensive Plan, per district maps.
- (B) Multiple types of development are encouraged, with developments designed to promote walking, bicycling and transit use. The placement of building edges and treatment of architecture, parking, landscaping, sidewalks, and public spaces are to be carefully planned in order to achieve the pedestrian-oriented development envisioned for the districts.
- (C) These districts are developed to generate income from taxes.
- (D) All development must conform to the Comprehensive Plan and to the adopted Brooklyn Park Subarea Stormwater Master Plan.

(Ord. 2018-1231, passed 7-9-18)

Section 2. Section 152.602 of the City Code is amended to read as follows:

(E)

§ 152.602 TOD AND MIXED USE DISTRICTS.

- (A) TOD-C Transit Oriented Development Center District.
 - (1) *Purpose.* The TOD-C TOD Center is intended to provide the most intensive mixed-use, transit-oriented zoning district.
- (B) TOD-C.T Transit Oriented Development Center Transition District.
 - (1) *Purpose.* The TOD-C.T TOD Center Transition is intended to provide a transition from-the higher intensity transit-oriented mixed use to other zoning districts.
- (C) TOD-E Transit Oriented Employment.
 - (1) *Purpose.* The TOD-E TOD Employment is intended to provide walkable urbanism with complementary uses in industrial, warehousing, and office park areas.
- (D) TOD-E.T Transit Oriented Development Employment Transition District.
 - (1) *Purpose.* The TOD-E.T TOD Employment Transition is intended to provide large format industrial, warehousing, and office park areas complementary to walkable urbanism, with office and showrooms facing the street.
- (E) TOD-G Transit Oriented Greenfield.
 - (1) *Purpose.* The TOD-G TOD Greenfield - High, Medium, and Low Intensity is intended to provide standards for new walkable, mixed use communities.
 - (2) Additional subdivision standards are applied to this District. Subdivision standards in this chapter supersede those of Chapter 151.
- (F) MU Mixed Use District
 - (1) The MU Mixed Use district is intended to provide standards for walkable, mixed use communities.
 - (2) Additional subdivision standards are applied to this District.

(Ord. 2018-1231, passed 7-9-18)

Section 3. Section 152.603 of the City Code is amended to read as follows:

§ 152.603 USES.

The TOD and MU districts are subject to the requirements of §152.604 below, where the use notations have the following meanings in Table 6 through Table 9; Table 16 through Table 18; and Table 24 through 25.

- P Permitted subject to standards
- NP Not permitted
- C Allowed with approval of a conditional
- R Permitted with compliance to the conditions of use permit division (B)(1) below
- (A) Multiple uses within a single parcel or building are permitted in TOD and MU districts.
- (B) Uses permitted in sections § 152.606 - § 152.611 are limited for size or intensity as follows:
 - (1) Restrictions per use:
 - (a) Institutional on-site parking may not exceed 50 surface lot spaces. (Ord. 2018-1231, passed 7-9-18)

Section 4. Section 152.604 of the City Code is amended to read as follows:

§ 152.604 BUILDING AND SITE STANDARDS.

(A) *Purpose.* This section regulates the development and modification of buildings and other elements of the built environment within the private lot, based on the following premises:

- (1) Building regulations should equitably balance the rights of the individual and the interests of the community as a whole.
- (2) Building form individually and collectively defines and supports the public realm.
- (3) Building placement should support walkability, safe streets, and safe public spaces, to create pedestrian-friendly neighborhoods.

(B) Minimum frontage buildout indicates that lots must contain buildings along the prescribed length of property line.

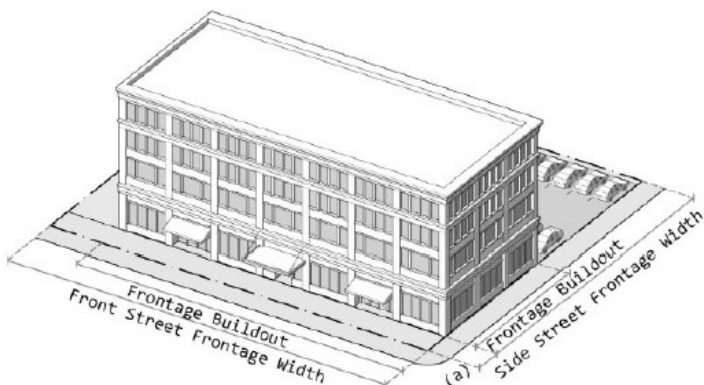
- (1) At front streets the minimum frontage buildout is a percentage of the length of the abutting property line.
- (2) At side streets the minimum frontage buildout is a specified distance along the property line from the corner.
- (3) Facades must be within the minimum and maximum setback.

(4) At corner lots the width of the property, for frontage buildout calculation, may be reduced by the setback of the perpendicular lot line as indicated by (a) in the illustration below.

(C) Front setback requirements of Table 6 through Table 9; Table 16 through Table 18; and Table 24 through Table 25 will be maintained as city easement for right-of-way maintenance.

(D) Building width must meet the requirements of Table 6 through Table 9; Table 16 through Table 18; and Table 24 through Table 25 measured at front setback. The maximum building width does not apply to buildings with a forecourt frontage type where the forecourt is wider than 40 feet.

Figure 1. Minimum Frontage Buildout Illustration



(E) Building height is limited in above ground stories according to Table 6 through Table 9; Table 16 through Table 18; and Table 24 through 25.

- (1) Stories are measured as follows:
 - (a) Stories are measured from finished floor to finished ceiling.
 - (b) Stories above the ground floor are limited to 14 feet in height.
 - (c) Ground floor height is subject to the following requirements:
 - 1. Ground floor height must be no less than 12 feet. Townhouses, single-family, and two-family houses are not subject to this requirement.
 - 2. Ground floor height is limited to 20 feet, above which it counts as an additional story.
- (2) Parking structure height is subject to the following requirements:
 - (a) Structure height may not exceed the finished ceiling height of the top floor of the tallest primary use building.

(3) Projections not used for human habitation are exempt from building height restrictions, including the following:

- (a) Chimneys, spires, domes, elevator shaft and stair housings, antennae, vents, and flag poles.

(F) Facade types must be assigned along all streets according to the standards of Table 1 and the following requirements:

(1) Buildings may include multiple facade types along their length, each type no less than 30 feet in width.

(2) Functioning building entries must be provided along street frontages as follows:

- (a) The primary building entry must be located along the front street frontage.

(3) Loading docks and service areas are restricted according to the parking and storage setbacks of Table 6 through Table 9; Table 16 through Table 18; and Table 24 through Table 25.

(4) Encroachments into the front street and side street setbacks are permitted as follows:

- (a) Underground parking within the setback is not considered an encroachment provided the structure is not visible from the sidewalk.

(b) Roof overhangs, cornices, window and door surrounds and other facade decorations may encroach up to two feet but not beyond the property line.

(c) Awnings may encroach into the right-of-way to within two feet of the curb. A minimum clearance of 10 feet above the sidewalk is required.

- (d) Porches, stoops, balconies, bay and bow windows may encroach a maximum of three feet, but not beyond the property line.

(5) Facade glazing at street frontages must meet the minimum area requirements of Table 1 and Table 6 through Table 9 and Table 16 through Table 17 and Table 24 through 25.

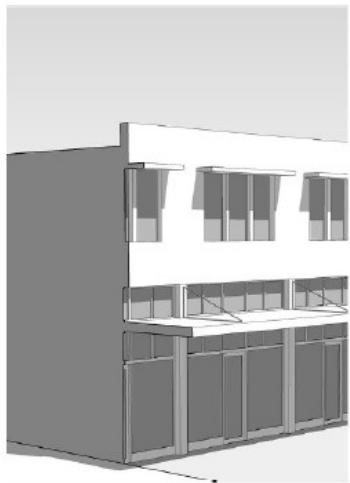
- (a) Percentage glazing is calculated individually for each facade.

Glazing must be transparent at the first floor, where tinted and reflective glass are prohibited, and must not be blocked by merchandise or other obstructions. (Ord. 2018-1231, passed 7-9-18)

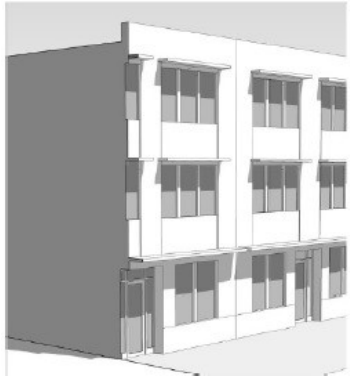
Table 1. Facade Types

Table 1. Facade Types


SHOPFRONT


Entry Grade	At sidewalk grade.	
Requirements	A shopfront is required at the primary entrance.	
	Display windows may project into frontage setbacks no more than five feet and not beyond the property line.	
Guidelines	Building entries may be recessed from the facade up to six feet in depth.	
	<p>If ground floor grade is above sidewalk grade, the differential should be accommodated within the building.</p> <p>Awnings may project into the setback 100% of their depth.</p>	

COMMON ENTRY

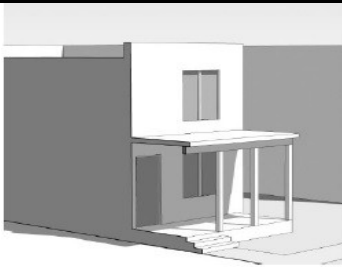
Entry Grade	At sidewalk grade.	
Requirements	A single collective entry to a multi-tenant lobby is required at the primary building entrance.	
	Canopies and awnings are permitted to encroach into frontage setbacks 100% of their depth.	
Guidelines	Canopies and awnings should encroach into the public right-of-way.	

FORECOURT

Entry Grade	At sidewalk grade.	
Requirements	Front court facing the street with a maximum area of 1,800 sq. ft.	
	Must be lined with habitable space on three sides, or on two sides at corner lots.	
	Must be 50% paved. Landscaping is permitted at grade or in raised containers.	

Guidelines	May be combined with shopfront or common entry within the court.	
STOOP		
Entry Grade	18 in. min. from sidewalk grade.	
Requirements	A stoop is required at building entrances, projecting from or recessed into the facade.	

PORCH	
Entry Grade	18 in. min. from sidewalk grade.
Requirements	A porch is required at building entrances, projecting from or recessed into the facade.
	Porches must be a minimum of six ft. deep and ten ft. wide.



(Ord. 2018-1231, passed 7-9-18)

(G) Architectural materials.

(1) *Classes of materials.* For the purpose of this section, acceptable exterior materials are divided into Class 1 and Class 2 categories as shown in the following table:

<i>Class 1</i>	<i>Class 2</i>
<ul style="list-style-type: none"> 1. Brick 2. Natural or cementious stone 3. Glass, or other glazing materials 4. Masonry stucco 5. Architectural metal panels 6. Specialty concrete block (including textured, burnished block or rock faced block) 7. Other materials not listed elsewhere as approved by the City Manager or as recommended by the Planning Commission 	<ul style="list-style-type: none"> 1. Architecturally textured concrete precast panels 2. Wood 3. Tile (masonry, stone or clay), ceramic 4. Other materials not listed elsewhere as approved by the City Manager or as recommended by the Planning Commission 5. EFIS in conformance with the ICC ES report

(2) *Required combination of materials.* Buildings must incorporate classes of materials for each facade in the following manner:

- (a) Front facades and side and rear facades visible from public right(s)-of-way, the public view from adjacent properties, parks, civic areas, or residential uses or districts must be composed of at least two or more Class 1 materials totaling 65% of the facade.
- (b) Side and rear facades not visible from public right(s)-of-way, parks, public view from adjacent properties or residential uses or districts must use a combination of Class 1 or 2 materials.
- (c) Facades visible from public right(s)-of-way must include windows, doors, canopies, balconies or other visual elements that help mitigate the appearance of blank walls.

(H) Minimum floor area ratio. Minimum floor area ratio requirements of principal buildings are set forth within Table 25. Floor area devoted to parking or loading shall not be counted toward compliance with the minimum floor area ratio. Floor area devoted to any other habitable space, including spaces below grade, may be used for the purpose of determining compliance with the minimum floor area ratio requirement. Minimum floor area ratio regulations shall not apply to the expansion of buildings existing on the effective date of this ordinance. Minimum floor area ratio requirements shall not apply on lots existing on the effective date of this ordinance with less than one acre of area.

Section 5. Section 152.605 of the City Code is amended to read as follows:

§ 152.605 DEVELOPMENT STANDARDS.

(A) *Parking.* Off-street parking must be set back from frontages according to Table 6 through Table 9 and Table 16 through Table 18 and Table 25, except where parking is located underground.

(1) *Location.* Required vehicular parking may be fulfilled in the following locations:

- (a) Parking spaces provided on-site, or between multiple connected sites with a recorded shared use parking agreement.
- (b) Parking spaces provided along a parking lane on-street corresponding to the site frontages.

(2) *Access.* Parking access must meet the following requirements:

- (a) Driveways are limited to 20 feet in width.
- (b) Sites with alley access must use the alley for ingress and egress.
- (c) Pedestrian access to off-street parking must be provided from frontages with walkways a minimum of six feet in width.

(3) *Screening.* Parking areas must be screened from public streets, sidewalks and paths by a masonry wall or evergreen hedge. The height of the screen must be a minimum of 36 inches and a maximum of 48 inches in height.

(4) *Structured parking.* The ground floor of any parking structure abutting a public street must have habitable space for a depth of 30 feet

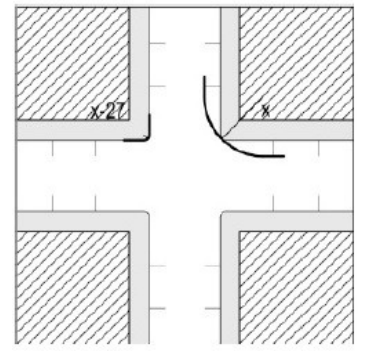
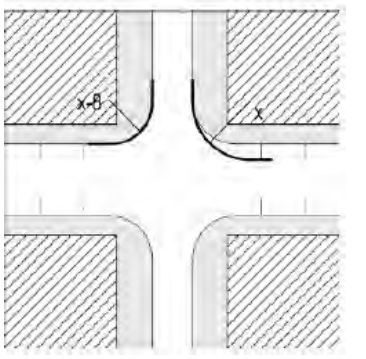
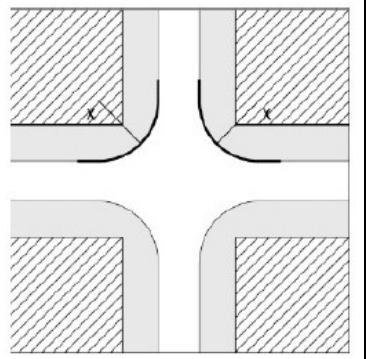
facing the street. METRO parking structures may be eligible for a waiver from this requirement if a façade that limits vehicle visibility is

- (a) Upper floors must be designed and detailed in a manner consistent with adjacent buildings.
- (b) Entrances must minimize conflict with pedestrian movement.
- (5) *Required parking.* Parking minimums and maximums do not apply to TOD zones. Parking minimums and maximums do apply in the MU district.
- (B) *Streetscape improvements.* The provisions of this section apply to all streetscape improvements in TOD-C, TOD-T, and TOD-E.
 - (1) Streetscape improvements including sidewalks, boulevards, furniture zones, lights and trees must meet the requirements of Table 3.
 - (2) Improvements must transition to existing conditions at adjacent properties to preserve pedestrian access and safety.

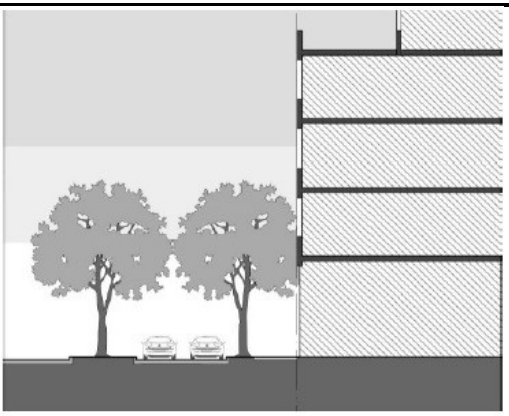
Table 2.3. Streetscape Requirements

	WITHIN 1/4 MILE OF STATION	GREATER THAN 1/4 MILE OF STATION
Zoning district	TOD-C, TOD-C.T	TOD-C, TOD-E, TOD-E.T
Streetscape illustration		
(1) Sidewalk width	10 ft. min. including boulevard width and furniture zone.	6 ft. min. including boulevard width and furniture zone.
Boulevard size	5 ft. min. square or 4 ft. by 6 ft. min.	5 ft. by 14 ft. min.
Tree spacing	Adjusted to accommodate shopfront needs	30 - 40 ft. on center

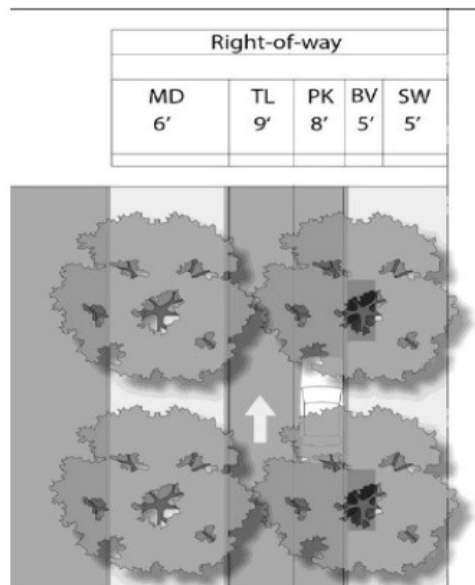
(3) Curb return radius must meet the standards of Table 4.

Table 3 4. Curb Return Radius			
EFFECTIVE RETURN RADIUS	PARKING LANE ON BOTH STREETS	PARKING LANE ON ONE STREET	NO PARKING LANES
Table 4. Curb Return Radius			
EFFECTIVE RETURN RADIUS	PARKING LANE ON BOTH STREETS	PARKING LANE ON ONE STREET	NO PARKING LANES
			
Minimum Required Curb Return Radius			
Local street to local street: 25 ft.	5 ft. min.	17 ft. min.	25 ft. min.
Local street to primary street: 30 ft.	5 ft. min.	22 ft. min.	30 ft. min.
Primary local to primary local: 35 ft.	8 ft. min.	27 ft. min.	35 ft. min.
Primary local to arterial 40 ft.	13 ft. min.	32 ft. min.	40 ft. min.
Arterial to arterial: 55 ft.	28 ft. min.	47 ft. min.	55 ft. min.
Bike lane reduction	Curb return radius may be further reduced by the width of the bike facility when present.		

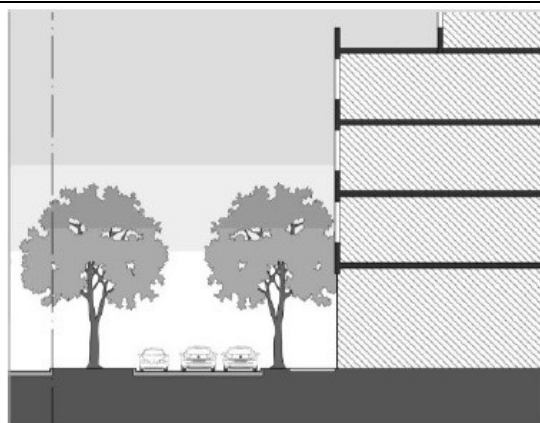
(4) New frontage lanes adjacent to existing arterials may use the Table 5 street sections in TOD zoning districts.

Table 4 5. Frontage Lane Sections		ILLUSTRATION
Table 4 5. Frontage Lane Sections		
FRONTAGE LANE FL 33-17		
Functional class	Local street	
Right-of-way	35 ft. min.	
Design, target speed	15 - 20 mph	
TRAVELED WAY		
(TL) Vehicle lanes	1	
Vehicle lane width	9 ft.	
Movement	One-way	
(Pk) parking lanes	1	
Parking lane width	8 ft.	

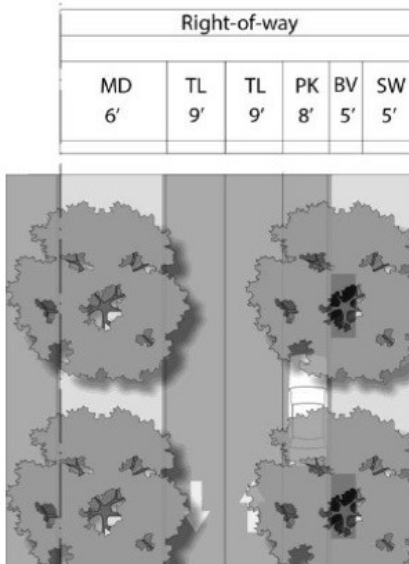
(BL) bicycle facility	n/a
Bicycle facility width	n/a
(Md) median	6 ft. min.
Turning lanes	n/a
STREETSCAPE	
(SW) Sidewalk width	5 ft. min.
(BV) Boulevard width	5 ft. min.
Boulevard type	Long tree well, 5 ft. x 14 ft. min.
Tree spacing	30 ft. on center



FRONTAGE LANE FL 42-26	
Functional class	Local
Right-of-way	ft. min.
Design, target speed	15 - 20 mph
TRAVELED WAY	
(TL) Vehicle lanes	2
Vehicle lane width	9 ft.
Movement	Two-way
(PK) Parking lanes	1
Parking lane width	8 ft.



(BL) Bicycle facility	n/a
Bicycle facility width	n/a
(MD) Median	6 ft. min.
Turning lanes	n/a
STREETSCAPE	
(SW) Sidewalk width	5 ft. min.
(BV) Boulevard width	5 ft. min.
Boulevard type	Long tree well, 5 ft. x 14 ft. min.
Tree spacing	30 ft. on center



(C) *Drive-through facilities.*

- (1) Drive-through facilities are prohibited for new construction after date of passage in TOD-G.
- (2) Drive-through facilities and lanes must be located behind the principal building.
- (3) Queuing lanes must not interfere with pedestrian circulation.
- (4) Drive-through canopies and other structures, where present, must be constructed from the same materials as the primary building, and with a similar level of architectural quality and detailing.

(D) *Outdoor dining areas.* Outdoor seating is permitted within any setback area and temporary seating may be permitted with rights-of-way, provided the sidewalk remains clear to a width of five feet.

(E) *Landscaping requirements.* All open areas of any site, except for that portion used for parking, driveways, and storage, must be

landscaped and incorporated in a landscape plan, per the following requirements:

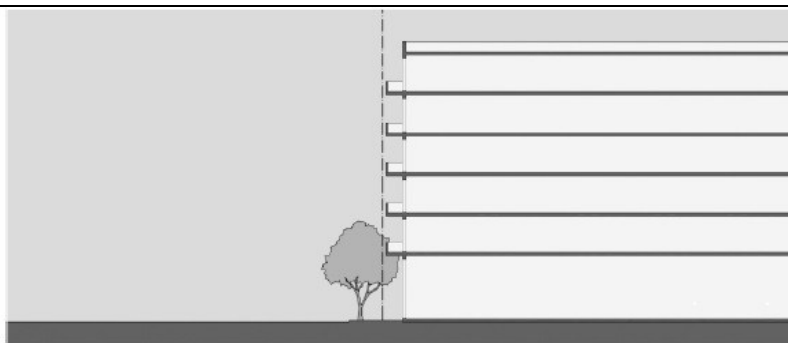
- (1) The required landscaped area must be planted with trees, ground cover, low shrubs or flowering plants.
- (F) *Signs.* Signs in TOD-G Medium and High Intensity must comply with the following:
 - (1) Type.
 - (a) An establishment may erect wall signs or projecting signs, or a combination thereof as regulated by divisions (2) and (3).
 - (b) Roof signs are prohibited.
 - (c) Freestanding or pylon signs, permanent or temporary, are prohibited, except for joint or shared parking uses and public transit message center signs and monument signs. Monument signs may not exceed five feet in height.
 - (d) Mural scenes or designs painted directly on an exterior building wall that are intended as decorative or ornamental features are permitted with the prior approval of the City Manager. Murals that include text, numbers, trademarks, logos or other forms of business advertisement are considered painted wall signs and must comply with the regulations of this code. Murals that are not painted wall signs are not regulated by divisions (2) and (3).
 - (e) Sandwich board signs, one per business establishment, are permitted provided that they are located on the sidewalk in front of the business establishment and do not block pedestrian use of the sidewalk. Each side of the sandwich board sign must not exceed nine square feet. Sandwich board signs are not regulated by divisions (2) and (3).
 - (2) *Number.* An establishment may erect any number of wall signs provided that the total area does not exceed the total permitted area established in division (3).
 - (3) *Size and materials.*
 - (a) The maximum total area of all wall signs must not exceed three square feet per one lineal foot of business establishment frontage. Window signs are not included in the above calculation and may not exceed one-third of the glazed area of the window. Signs may be illuminated. Signs must be placed on the building so as not to obscure architectural features and detail.
 - (b) The maximum area of any individual wall sign must not exceed two square feet per one lineal foot of business establishment frontage. The maximum area of any projecting sign must not exceed six square feet.

(Ord. 2018-1231, passed 7-9-18; Am. Ord. 2020-1248, passed 1-13-20)

§ 152.606 TOD-C TRANSIT ORIENTED DEVELOPMENT CENTER DISTRICT.

(A) *Standards.* All parcels in TOD-C must meet the standards of Table 6 below.

Table 5-6. TOD-C Building and Site Standards			
Table 5-6. TOD-C Building and Site Standards			
BUILDING SETBACKS		PARKING AND STORAGE SETBACKS	
a. Front street	1 ft. min. - 12 ft. max.	Front street	30 ft. min.
b. Side street	2 ft. min. - 12 ft. max.	Side street	30 ft. min.
c. Side property line	0 ft. min. or 6 ft. max.	Side property line	0 ft. min. if shared; or 5 ft.
d. Rear property line	3 ft. min.	Rear property line	0 ft. min. if shared; or 5 ft.
MINIMUM FRONTAGE BUILDOUT		LOT COVERAGE AND BUILDING WIDTH	
Front street	80% min.	Lot coverage by buildings	100% max.
Side street	50 ft. min. from front street	Building width	200 ft. max.
MINIMUM GLAZING		FACADE TYPES	
Front street	60% min.	Shopfront	Common entry
Side street	30% min.	Forecourt	Stoop
Upper floors	15% min.		



BUILDING HEIGHT

6 stories max.	Parking structure height	1 story less than building
Building height of 8 stories is available with a conditional use permit upon initiation of construction of the METRO station, Building height may not exceed one story more than an adjacent single-family district within 50 ft. of residential parcels.		

USES

RESIDENTIAL		COMMERCIAL	
P	Multiple dwelling	P	Sales and service
		P	Office
P	Care facility, convalescent home	P	Medical and dental clinics
INSTITUTIONAL		P	Veterinary and animal services
P	Religious assembly	P	Child and adult day care
NP	Schools	P	Restaurants, brewpubs, breweries with taprooms, micro-distilleries with cocktail rooms and theatres
OTHER		C	Parking as a principal use
P	Wireless communication facilities as accessory uses located on a building	NP	Fuel stations
		C	Drive-through windows
		C	Entertainment
		NP	Auto oriented repair services, Carwashes, Heavy equipment, machinery and farm vehicle sales, Contractor yards, Bulk firewood sales and gravel and rock sales, Indoor sales of automobiles, trucks and recreational vehicles and the like, Self-storage facilities, sexually oriented businesses, impound lots, vehicle sales

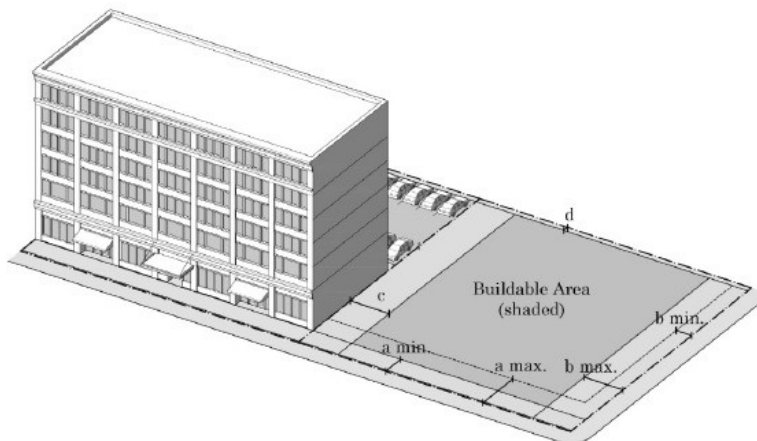
(Ord. 2018-1231, passed 7-9-18; Am. Ord. 2020-1247, passed 1-6-20; Am. Ord. 2020-1248, passed 1- 13-20)

Section 6. Section 152.607 of the City Code is amended to read as follows:

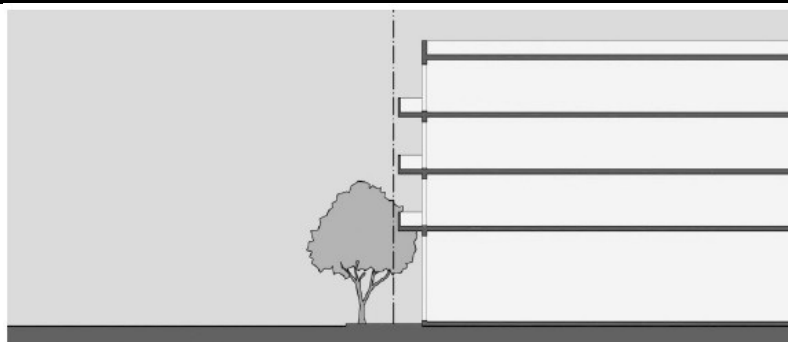
§ 152.607 TOD-C.T TRANSIT ORIENTED DEVELOPMENT CENTER TRANSITION DISTRICT.

(A) *Standards.* All parcels in TOD-C.T must meet the standards of Table 7 below.

Table 6-Z. TOD-C.T Building and Site Standards
Table 6-Z. TOD-C.T Building and Site Standards



BUILDING SETBACKS		PARKING AND STORAGE SETBACKS	
a. Front street	1 ft. min. - 16 ft. max.	Front street	30 ft. min.
b. Side street	2 ft. min. - 16 ft. max.	Side street	15 ft. min.
c. Side property line	0 ft. min. or 6 ft. max.	Side property line	5 ft. min., 0 if shared
d. Rear property line	3 ft. min.	Rear property line	5 ft. min., 0 if shared
MINIMUM FRONTAGE BUILDOUT		LOT COVERAGE AND BUILDING WIDTH	
Front street	70% min.	Lot coverage by buildings	80% max.
Side street	40 ft. min. from front street	Building width	100 ft. max.
MINIMUM GLAZING		FACADE TYPES	
Front street	60% min.	Shopfront	Common entry
Side street	30% min.	Forecourt	Stoop
Upper floors	15% min.		



BUILDING HEIGHT		
4 stories max.	Parking structure height	1 story less than building
Building height of 6 stories is available with a conditional use permit upon initiation of construction of a METRO station. Building height must match height of adjacent single-family within 50 ft. of residential parcels.		

USES			
RESIDENTIAL		COMMERCIAL	
P	Townhouse	R	Retail and service
P	Multiple dwelling	P	Restaurants and brewpubs
P	Care facility, convalescent home	P	Office
INSTITUTIONAL		P	Lodging
NP	Religious assembly	P	Medical clinic
NP	Schools	P	Child care
R	Libraries	P	Adult day care
R	Museums	P	Parking
OTHER		C	Gasoline sales
C	Wireless communication facilities	P	Breweries with taprooms and micro-distilleries with cocktail rooms
P	Drive-through as an accessory use	C	
		NP	Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales

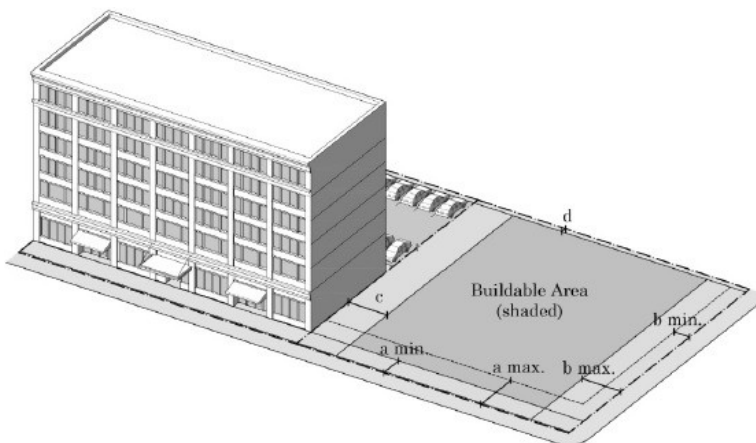
(Ord. 2018-1231, passed 7-9-18; Am. Ord. 2020-1247, passed 1-6-20)

§ 152.608 TOD-E TRANSIT ORIENTED EMPLOYMENT DISTRICT.

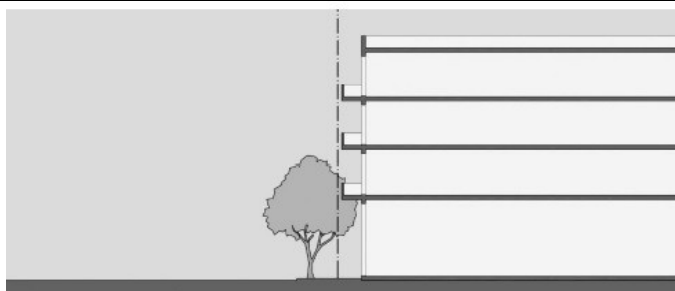
(A) *Standards.* All parcels in TOD-E must meet the standards of Table 8. This district requires buildings to have an urban form to accommodate commercial, retail, office, and accommodations or other general mixed-use activity in the front of buildings where proximity to high frequency transit service stations expects active, pedestrian-oriented streetscapes to occur. TOD-E.T must meet the standards of Table 9.

Table 7.8. TOD-E Building and Site Standards

Table 7.8. TOD-E Building and Site Standards



BUILDING SETBACKS		PARKING AND STORAGE SETBACKS	
a. Front street	2 ft. min. - 16 ft. max.	Front street	30 ft. min.
b. Side street	2 ft. min. - 16 ft. max.	Side street	12 ft. min.
c. Side property line	0 ft. min. or 6 ft. max.	Side property line	0 ft. min.
d. Rear property line	3 ft. min.	Rear property line	3 ft. min.
MINIMUM FRONTAGE BUILDOUT		LOT COVERAGE AND BUILDING WIDTH	
Front street	70% min.	Lot coverage by buildings	80% max.
Side street	40 ft. min. from front street	Building width	200 ft. max.
MINIMUM GLAZING		FACADE TYPES	
Front street	60% min.	Shopfront	Common entry
Side street	30% min.	Forecourt	
Upper floors	15% min.		



BUILDING HEIGHT		
4 stories max.	Parking structure height	1 story less than building
Building height of 6 stories is available with a conditional use permit upon initiation of construction of the 93rd Ave. METRO station.		
USES		
RESIDENTIAL		COMMERCIAL
NP	Townhouse	P Sales and service
NP	Multiple dwelling	P Restaurants and brewpubs

NP	Care facility, convalescent home	P	Office
INSTITUTIONAL		P	Lodging
P	Religious assembly	P	Medical clinic
NP	Schools	P	Parking
NP	Libraries		
NP	Museums	P	Warehousing as an accessory use
OTHER		P	Child care
C	Wireless communication facilities	C	Adult day care
P	Drive-through windows	C	Fuel stations
NP	Distribution as a primary use		
P	Distribution or products produced on site	C	Taprooms and cocktail rooms
		C	Taprooms and cocktail rooms
		NP	Auto oriented repair services, Carwashes, Heavy equipment, machinery and farm vehicle sales, contractor yards, bulk firewood sales, and gravel and rock sales, Indoor sales of automobiles, trucks and recreational vehicles and the like, Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales
		P	Manufacturing, assembly, processing, fabricating, brewing, distilling and accessory sale of the product produced on site

(Ord. 2018-1231, passed 7-9-18; Am. Ord 2020-1247, passed 1-6-20)

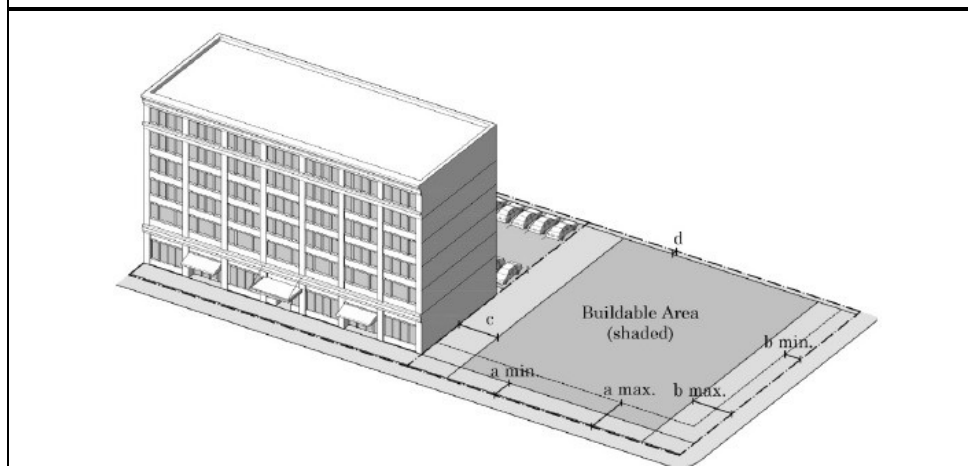
Section 7. Section 152.609 of the City Code is amended to read as follows:

§ 152.609 TOD-E.T TRANSIT ORIENTED EMPLOYMENT TRANSITION DISTRICT.

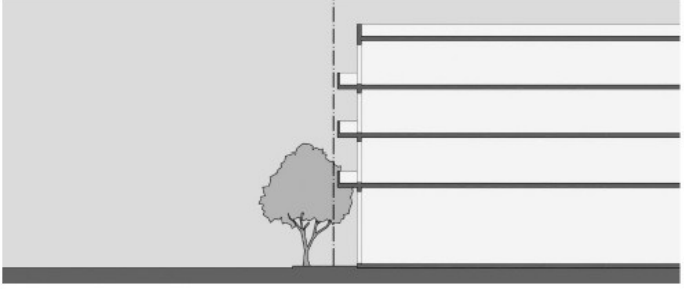
(A) *Standards.* All parcels in TOD-E.T must meet the standards of Table 9. This district is intended to provide transition in building scale from the core area of commercial, retail, office, and accommodations or other general mixed-use activity into large format industrial, warehousing, and office park areas with office and showrooms facing the street.

Table 8-9. TOD-E.T Building and Site Standards

Table 8-9. TOD-E.T Building and Site Standards



BUILDING SETBACKS		PARKING AND LOADING SETBACKS	
a. Front street	5 ft. min. - 20 ft. max.	Front street	40 ft. min.
b. Side street	5 ft. min. - 20 ft. max.	Side street	20 ft. min.
c. Side property line	10 ft. min.	Side property line	10 ft. min.
d. Rear property line	10 ft. min.	Rear property line	10 ft. min.
MINIMUM FRONTAGE BUILDOUT		LOT COVERAGE AND BUILDING WIDTH	

Front street	60% min.	Lot coverage by buildings	70% max.
Side street	40 ft. min. from front street	Building width	No max.
MINIMUM GLAZING		FACADE TYPES	
Front street	30% min.	Shopfront	Common entry
Side street	20% min.	Forecourt	
Upper floors	n/a		
			
BUILDING HEIGHT			
4 stories max.	Parking structure height	1 story less than building	
USES			
RESIDENTIAL		COMMERCIAL	
NP	Townhouse	P	Sales and service
NP	Multiple dwelling	P	Restaurants and brewpubs
NP	Care facility, convalescent home	P	
INSTITUTIONAL		P	Office
P	Adult training facilities	P	Lodging
NP	Schools	P	Medical clinic
P	Religious assembly	P	Parking
NP	Museums	C	Child care
OTHER		C	Adult day care
C	Wireless communication facilities	C	Fuel station
NP	Distribution as a primary use	P	Warehousing
P	Distribution of products produced on site	P	Taprooms and cocktail rooms
		NP	Auto oriented repair services, Carwashes, Heavy equipment, machinery and farm vehicle sales, contractors yards, bulk firewood sales, and gravel and rock sales, Indoor sales of automobiles , trucks and recreational vehicles and the like, Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales
		P	Manufacturing, assembly, processing, fabricating, brewing, distilling and accessory sale of the product produced on site

(Ord. 2018-1231, passed 7-9-18; Am. Ord. 2020-1247, passed 1-6-20; Am. Ord. 2020-1258, passed 10-26-20)

Section 8. Section 152.610 of the City Code is amended to read as follows:

§ 152.610 TOD-G TRANSIT ORIENTED GREENFIELD DISTRICT - HIGH, MEDIUM AND LOW INTENSITIES AND GREENFIELD NEIGHBORHOOD STRUCTURE AND PUBLIC REALM STANDARDS.

(A) *Purpose and applicability.* The structure of the TOD-G district provides the city and future development groups with the regulations and guidelines needed to develop a comprehensive, resilient and pedestrian-oriented TOD. The subdivision regulations in division (D) provide the following:

- (1) A network of connected streets and blocks that reflect an approved station area plan;
- (2) General block sizes and configurations that support zoning and land use goals;
- (3) Maximum block perimeters that foster attractive, safe and walkable environments, while enhancing circulation through the site;
- (4) Guidance on meeting regional stormwater requirements as detailed in the Brooklyn Park Subarea Stormwater Master Plan.

(B) *Regulating plan.* The TOD-G district is implemented through a regulating plan, approved with the rezoning to TOD-G, which includes a combination of at least two of the three intensities described below and regulated by Table 10 and § 152.601. TOD-G areas must be divided into neighborhoods by the introduction of a primary thoroughfare network, and then into blocks by the completion of the streets and open spaces. As the area is subdivided to generate blocks, parcels and individual building sites, the regulating plan assigns intensities that may be refined with approval by the City Manager according to § 152.021. Regulating plans, consisting of one or more maps, must show the following:

- (1) District boundaries;
- (2) Existing infrastructure including streets, parks and open space;
- (3) Thoroughfare network according to division (D) with thoroughfare assignments according to Table 12 or Table 13;
- (4) Civic area according to Table 10, with types and boundaries according to Table 14.

(C) *Intensities.* TOD-G intensities are comprised of:

- (1) *Low intensity.* Consists of medium density residential areas, with a mix of uses, home occupations, and accessory buildings. It contains a wide range of building types - houses, courtyard housing, townhouses, duplexes, triplexes, small apartment buildings, and neighborhood commercial uses. This area must be more than 1,500 feet from a high frequency transit service station.
- (2) *Medium intensity.* Consists of a mix of uses but is primarily medium to high density residential and neighborhood commercial uses.
- (3) *High intensity.* Consists of high density mixed-use buildings that accommodate retail, offices, institutions, and multi-family housing.

Table 9 10. Regulating Plan Requirements

AREA IN ACRES	CIVIC SPACE	INTENSITY % OF AREA		
		Low	Medium	High
40 min.	Percentage of Area			
	5 - 10%	20% max.	50 - 70%	10 - 30%

(D) *Subdivision regulations.* The provisions of this section will be used upon re-zoning to Transit Oriented Greenfield (TOD-G) and subdivision within any TOD zoning district.

- (1) The thoroughfare network must be laid out according to Table 11 and comply with the standards of division (D)(1)(a) below.

Table 10 11. Subdivision and Block Standards

BLOCK DIMENSIONS	DIMENSIONS
Block length	400 ft. max
Block perimeter	1,600 ft. max.
Alley width	16 ft. min.
MID-BLOCK PEDESTRIAN PASSAGES	
Pedestrian passage width	12 ft. min., 24 ft. max.

(a) *Thoroughfare standards.*

- 1. All thoroughfares must connect to other thoroughfares, forming a network.

- a. New thoroughfares must connect wherever possible to thoroughfares on adjacent sites. Cul-de-sacs may only be permitted by approval of the City Manager to accommodate specific site conditions.
- b. New thoroughfares must implement the approved Station Area Plan Street Network and use street section options from Table 11 12.
- c. A section may be chosen according to right-of-way width and functional classification. New thoroughfare sections may be created using the standards in Table 13.

(b) *Block dimensions.*

- 1. Block length and perimeter may be adjusted up to 20% with approval from the City Manager due to topography, existing development conditions, or if the block is at the perimeter of the TOD regulating plan. Block lengths up to 800 feet may be approved if a mid-block pedestrian passage is provided.

(c) *Mid-block pedestrian passages.*

- 1. In areas with adequate vehicular capacity, pedestrian-only connections may be used mid-block and will count as a new edge in block perimeter calculations.

(d) *Parking lot layout.*

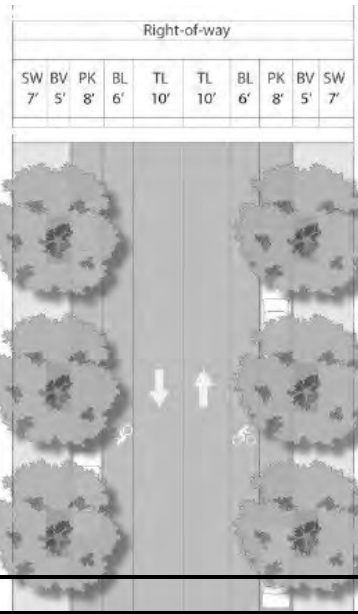
- 1. In addition to the parking regulations of §152.605(A), parking lots in TOD-G must be laid out as blocks per Table 11, with utilities located in the drive aisles. Drive aisles must have adequate width to redevelop with rights-of-way required by one or more of the thoroughfare sections in Table 12.

Table 44 12. Thoroughfare Sections

Table 44 12. Thoroughfare Sections

STREET ST 98 - 72		ILLUSTRATION
Functional class	Arterial	
Right-of-way	98 ft. min.	
Design, target speed	30 - 35 mph	
TRAVELED WAY		
(TL) Vehicle lanes	3	
Vehicle lane width	10 ft. ¹	
Movement	Two-way	
(PK) Parking lanes	2	
Parking lane width	8 ft.	
(BL) Bicycle facility	Buffered lane	
Bicycle facility width	6 ft. + 3 ft. buffer	
(MD) Median	n/a	
Turning lanes	At arterial intersections only	
STREETSCAPE		
(SW) Sidewalk width	8 ft. min.	
(BV) Boulevard width	5 ft. min., 7 ft. max.	
Boulevard type	Long tree well, 5 ft. x 14 ft. min.	
Tree spacing	30 ft. on center	
1 Subject to MNDOT approval.		
STREET ST 70 - 46		
Functional class	Primary, local, local street	
Right-of-way	74 ft. min. primary local 70 ft. min. local street	
Design, target speed	25 mph	
TRAVELED WAY		
(TL) Vehicle lanes	2	
Vehicle lane width	10 ft. ²	
Movement	Two-way	
(PK) Parking lanes	2	
Parking lane width	8 ft.	
(BL) Bicycle facility	Lane (local street), buffered lane (primary local)	

Bicycle facility width	6 ft. + 2 ft. buffer (primary local)
(MD) Median	n/a
Turning lanes	n/a
STREETSCAPE	
(SW) Sidewalk width	7 ft. min.
(BV) Boulevard width	5 ft. min., 7 ft. max.
Boulevard type	Long tree well, 5 ft. x 14 ft. min.
Tree spacing	30 ft. on center



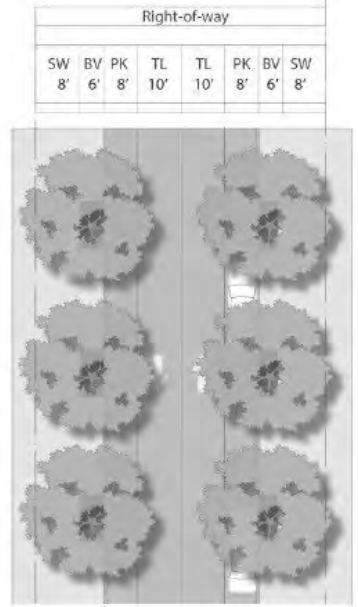
2 Subject to MNDOT approval.

STREET ST 58 - 30	
Functional class	Primary local, local street
Right-of-way	60 ft. min. primary local 58 ft. min. local street
Design, target speed	25 mph
TRAVELED WAY	
(TL) Vehicle lanes	2
Vehicle lane width	10 ft. primary local ³
Movement	Two-way
(PK) Parking lanes	2
Parking lane width	8 ft.



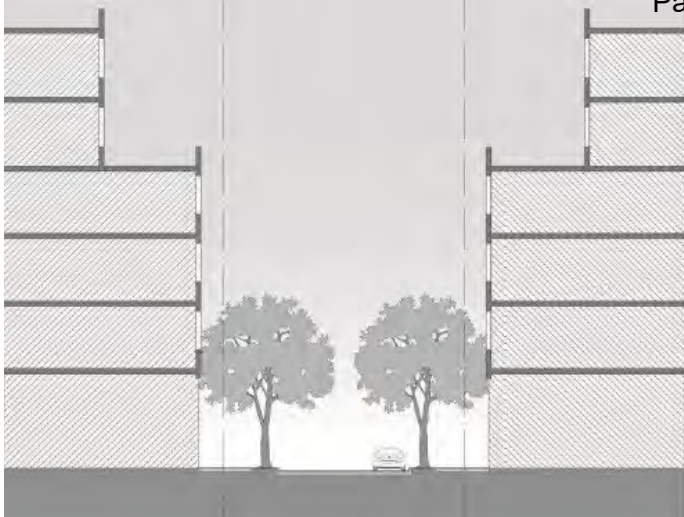
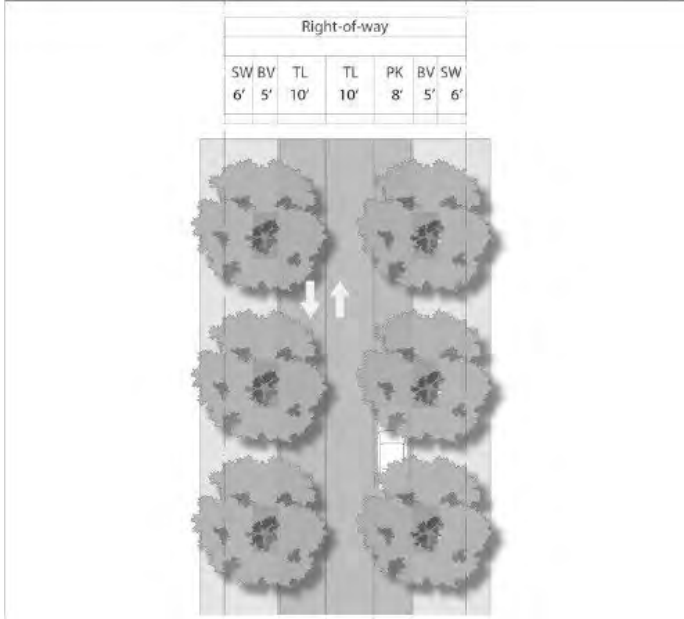
(BL) Bicycle facility	sharrow optional
Bicycle facility width	n/a
(MD) Median	n/a
Turning lanes	n/a

STREETSCAPE	
(SW) Sidewalk width	8 ft. min.
(BV) Boulevard width	6 ft. min., 7 ft. max.
Boulevard type	Long tree well, 6 ft. x 14 ft. min.
Tree spacing	30 - 35 ft. on center



3 Subject to MNDOT approval.

STREET ST 49 - 27	
Functional class	Local street
Right-of-way	49 ft. min.
Design, target speed	20 mph
TRAVELED WAY	
(TL) Vehicle lanes	2
Vehicle lane width	10 ft.4
Movement	Two-way
(PK) Parking lanes	1
Parking lane width	8 ft.
(BL) Bicycle facility	sharrow optional
Bicycle facility width	n/a
(MD) Median	n/a
Turning lanes	n/a
STREETSCAPE	
(SW) Sidewalk width	6 ft. min.
(BV) Boulevard width	5 ft. min., 7 ft. max.
Boulevard type	Long tree well, 5 ft. x 14 ft. min.
Tree spacing	30 ft. on center

4 Subject to MNDOT approval.

Table 42 13. Street Design Criteria

CRITERIA	LOCAL STREET	PRIMARY LOCAL	ARTERIAL
Sidewalk	5 ft. min. plus boulevard width	6 ft. min. plus boulevard width	8 ft. min. plus boulevard width
Boulevard	6 ft. wide by 6 ft. long min.	7 ft. wide by 14 ft. long min.	7 ft. wide by 14 ft. long min.
Parking lane width	8 ft. min.	8 ft. min.	8 ft. min.
Parking lanes required	0 - 2	2 min.	0 - 2
Travel lane width	9 ft. min., 10 ft. max.	10 ft. min., 11 ft. max.	10 ft. min., 11 ft. max.
Travel lanes required	1 - 2	2 - 4	4+ median
Movement types	one-way, two-way	two-way	two-way
Median	n/a	optional, 8 ft. min	optional, 10 ft. min.
Design speed, target speed	20 mph	25 mph	30 mph
Bike facility required	optional	required	required
Bike facility type	sharrow, lane, route	buffered lane, protected lane	buffered lane, protected lane
Bike lane width	5 ft. min.	6 ft. min.	6 ft. min.
Bike lane buffer	n/a	2 ft. min.	3 ft. min.

(2) Civic standards.

(a) The minimum and maximum percentage of land to be dedicated and deeded as civic space is shown in Table 14. Civic spaces must be designed according to Table 14.

Table 13.14. Civic Space Types

Table 13.14. Civic Space Types

SQUARE		
Size in acres	0.25 - 2.5	
Proportion (a:b)	1:5 max.	
Edge condition	Thoroughfares on a minimum of two non-adjacent sides	
Surface	50% maximum paved; pervious paving allowed	
Landscape	1 tree with mature canopy over 25 ft. per 800 sq. ft. of area min.	
PLAZA		
Size in square feet	5,000 - 20,000	
Proportion (a:b)	1:5 max.	
Edge condition	Thoroughfares on a minimum of two sides	
Surface	50% minimum paved; pervious paving allowed; bituminous pavement prohibited	
Landscape	1 tree with mature canopy over 25 ft. per 1,000 sq. ft. of area min.	
POCKET PARK		
Size in square feet	1,000 - 5,000	
Proportion (a:b)	1:4 max.	
Edge condition	1 side minimum along a thoroughfare or pedestrian passage	
Surface	May be paved or landscaped	
Landscape	1 tree with mature canopy over 20 ft. per 600 sq. ft. of area min.	
PEDESTRIAN PASSAGE		
Width	12 ft. min., 24 ft. max.	
Edge condition	Active frontages required in high intensity blocks	
Walkway width	6 ft. min.	
Landscape	3 ft. minimum landscape edge in medium and low intensity blocks	

(3) Lot standards.

- (a) Lots must have minimum and maximum widths according to Table 15.
- (b) Each lot must have a primary frontage along a vehicular thoroughfare, except up to 20% of the parcels in a regulating plan may front a

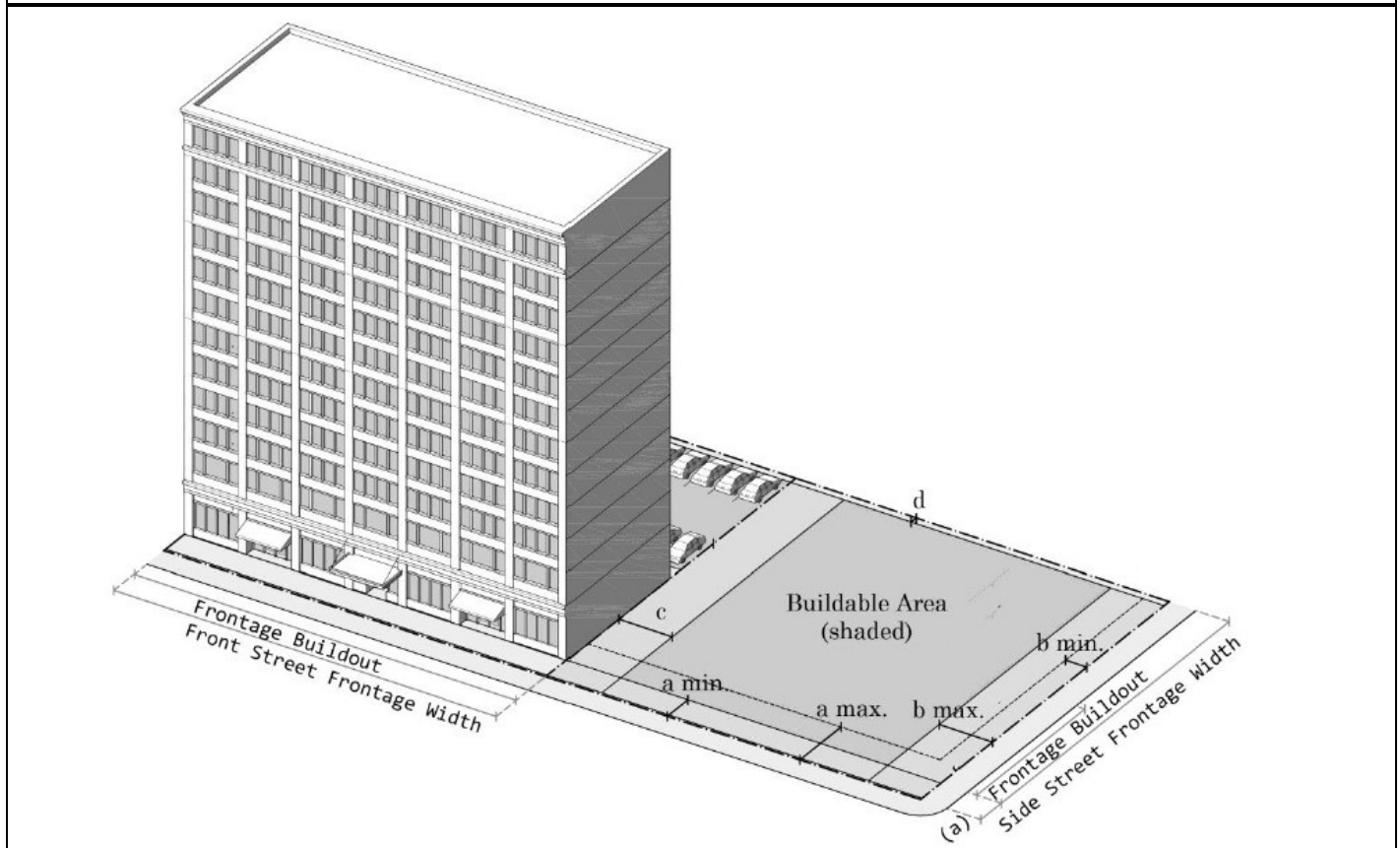
civic space or pedestrian passage.

(c) Where lots have multiple frontages, one frontage line must be designated as primary and any other frontage lines must be designated as secondary.

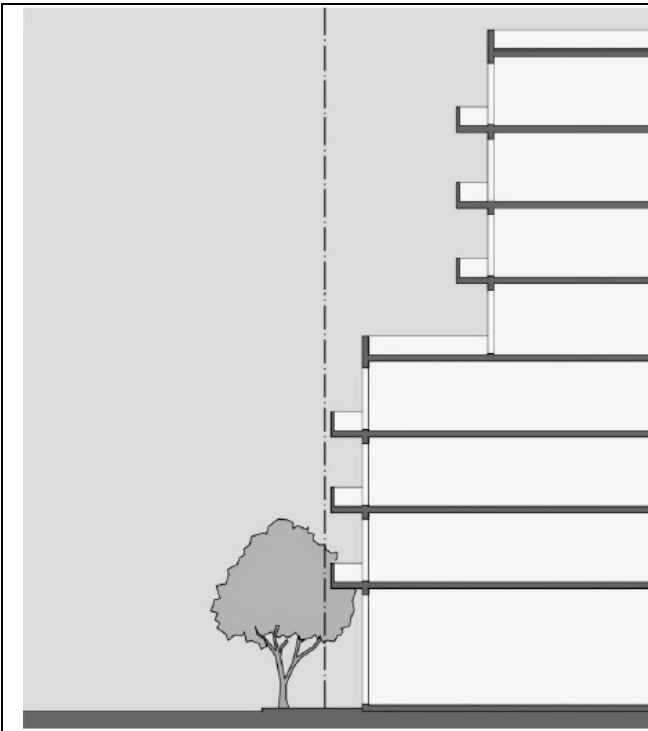
Table 14.15. Lot Width		
LOW INTENSITY	MEDIUM INTENSITY	HIGH INTENSITY
20 ft. min., 100 ft. max. except single-family lots may not exceed 50 ft.	20 ft. min., 180 ft. max.	20 ft. min., 300 ft. max.

(E) *Standards.* All parcels in TOD-G must meet the standards of Table 16 through Table 18 according to the requirements of §152.601.

Table 15.16. TOD-G High Intensity Building and Site Standards



BUILDING SETBACKS		PARKING AND STORAGE SETBACKS	
a. Front street	1 ft. min. - 12 ft. max.	Front street	30 ft. min.
b. Side street	2 ft. min. - 12 ft. max.	Side street	12 ft. min.
c. Side property line	0 ft. or 6 ft. min.	Side property line	0 ft. min.
d. Rear property line	3 ft. min.	Rear property line	3 ft. min.
MINIMUM FRONTAGE BUILDOUT		LOT COVERAGE AND BUILDING WIDTH	
Front street	80% min.	Lot coverage by building	80% max
Side street	50 ft. min. from front street	Building width	200 ft. max.
MINIMUM GLAZING		FACADE TYPES	
Front street	60% min.	Shopfront	Common entry
Side street	30% min.	Forecourt	
Upper floors	15% min.		



BUILDING HEIGHT

8 stories max.	Parking structure height	1 story less than building
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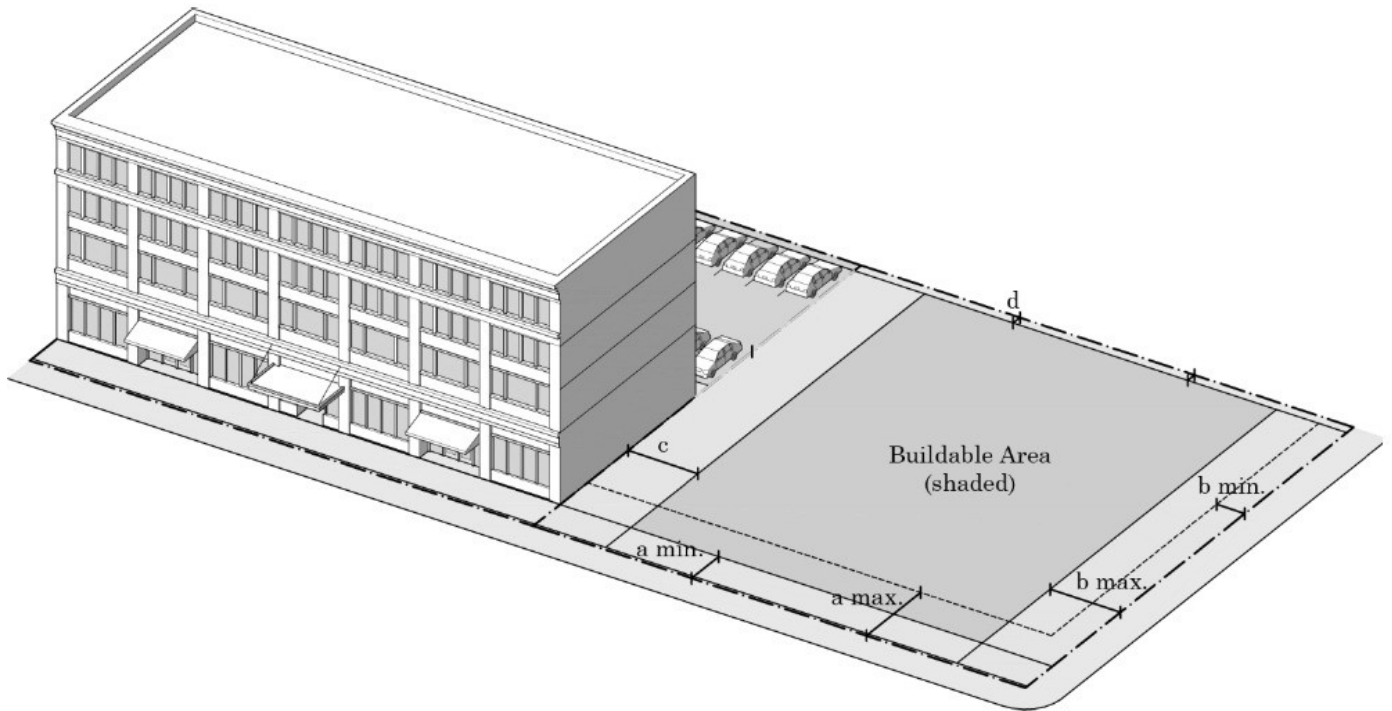
Building height of 12 stories is available with a conditional use permit upon initiation of construction of the Oak Grove METRO station. Building height must match height of adjacent single-family within 50 ft. of residential parcels.

USES

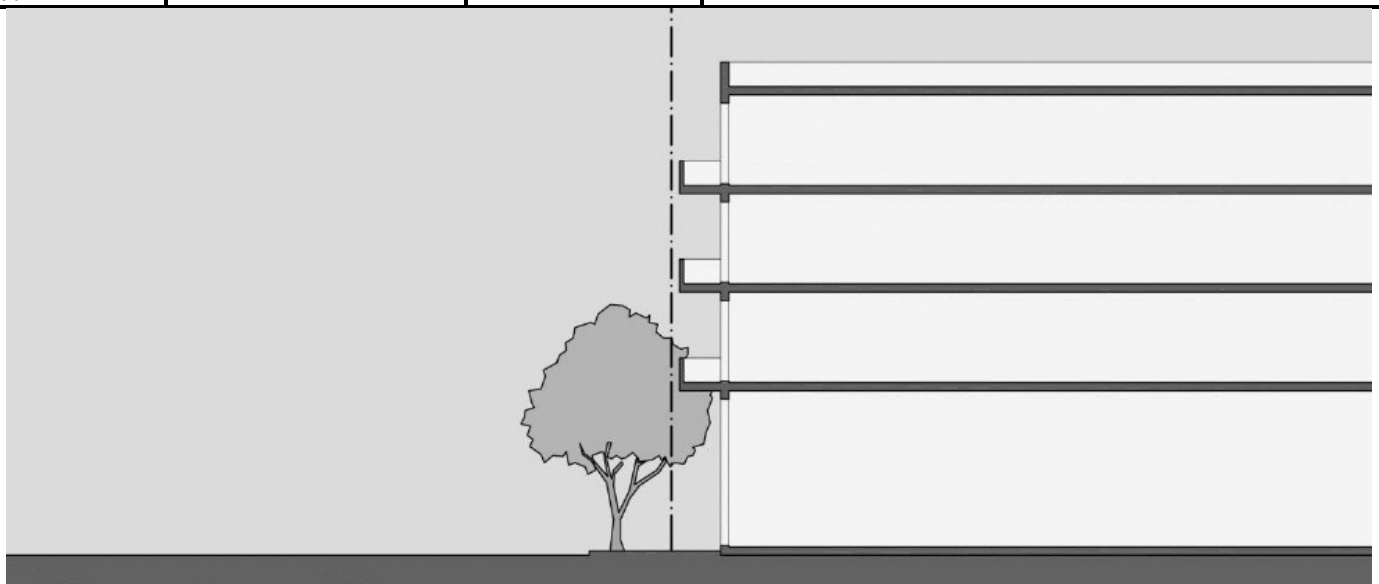
RESIDENTIAL		COMMERCIAL	
P	Multiple dwelling	P	Sales and service
P	Care facility and convalescent home	P	Restaurants and brewpubs
INSTITUTIONAL		P	Office
P	Religious assembly	P	Medical clinics
NP	Schools	P	Child care
P	Libraries	P	Adult day care
P	Museums	P	Parking
OTHER		C	Breweries and micro-distilleries
C	Wireless communication facilities	C	Taprooms and cocktail rooms
		NP	Drive-through window
		NP	Fuel stations
		NP	Auto oriented repair services, Carwashes, Heavy equipment, machinery, and farm vehicle sales, contractors yards, bulk firewood sales, and gravel and rock sales, Indoor sales of automobiles, trucks and recreational vehicles and the like, Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales

Table 4617. TOD-G Medium Density Building and Site Standards

Table 4617. TOD-G Medium Density Building and Site Standards



BUILDING SETBACKS		PARKING AND STORAGE SETBACKS	
a. Front street	1 ft. min - 16 ft. max.	Front street	30 ft. min.
b. Side street	2 ft. min - 16 ft. max.	Side street	12 ft. min.
c. Side property line	0 ft. or 6 ft. min.	Side property line	0 ft. min.
d. Rear property line	3 ft. min.	Rear property line	3 ft. min.
MINIMUM FRONTAGE BUILDOUT		LOT COVERAGE AND BUILDING WIDTH	
Front street	70% min.	Lot coverage by buildings	80% max.
Side street	40 ft. min. from front street	Building width	100 ft. max.
MINIMUM GLAZING		FACADE TYPES	
Front street	60% min.	Shopfront	Common entry
Side street	30% min.	Forecourt	Stoop
Upper floors	15% min.		



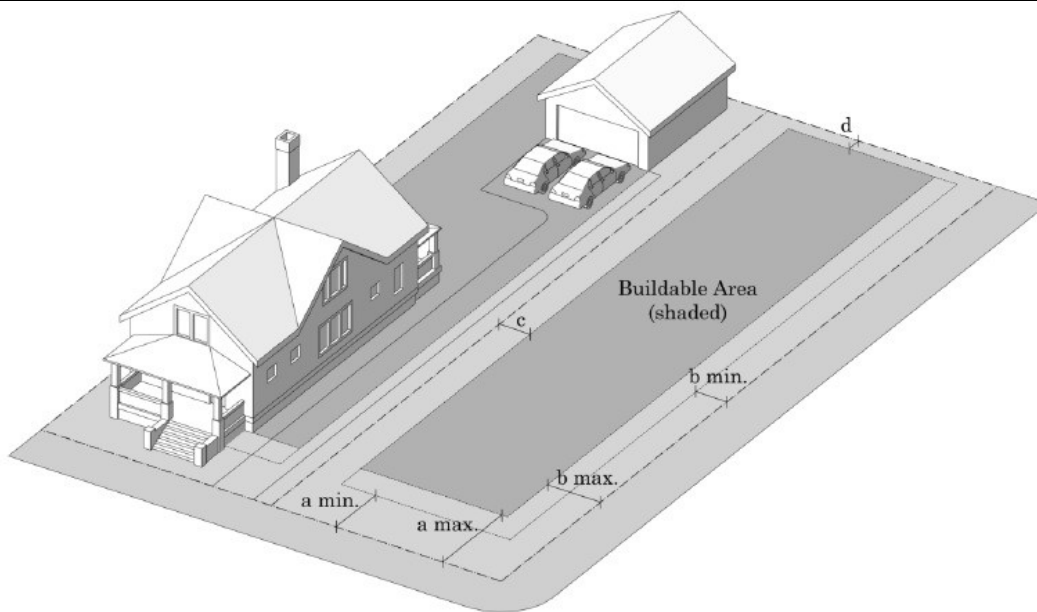
BUILDING HEIGHT		
4 stories max.	Parking structure height	1 story less than building

Building height of 6 stories is available with a conditional use permit upon initiation of construction of the Oak Grove METRO station. Building height must match height of adjacent single-family within 50 ft. of residential parcels.

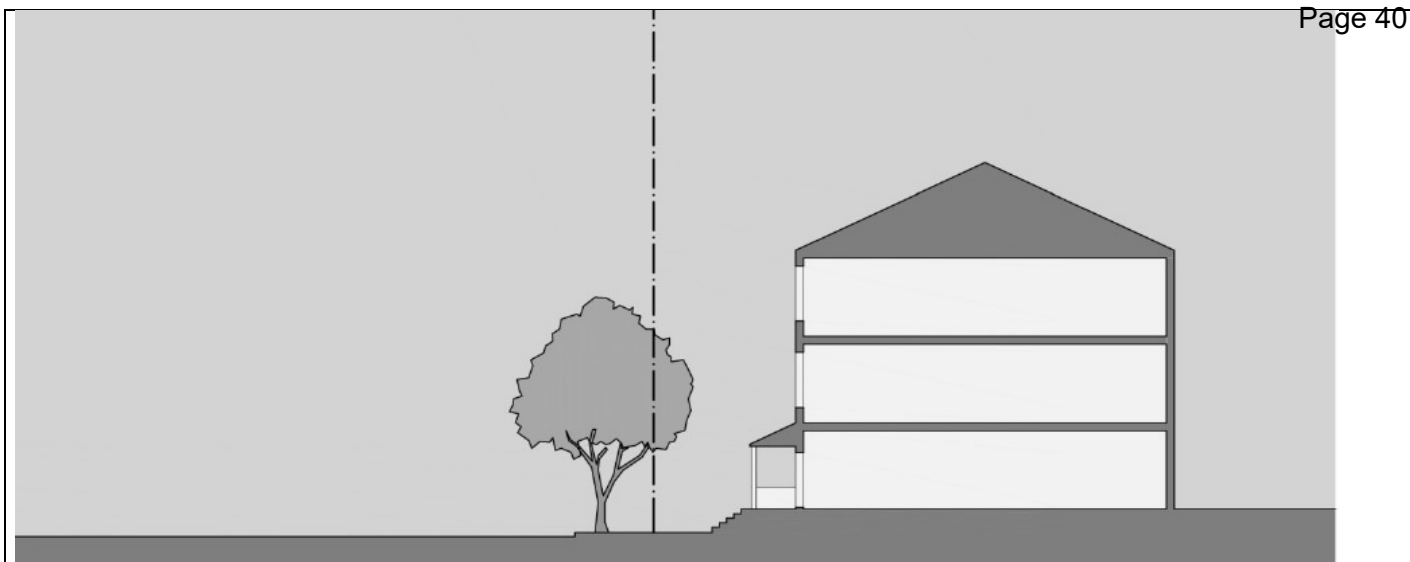
USES			
RESIDENTIAL		COMMERCIAL	
P	Townhouse	R	Sales and service
P	Multiple dwelling	P	Restaurants and brewpubs
P	Care facility , convalescent home	P	Office
INSTITUTIONAL		P	Lodging, not to exceed 50 rooms
P	Religious assembly	P	Medical clinic
NP	Schools	P	Child care
R	Libraries	P	Adult day care
R	Museums	C	Taprooms and cocktail rooms
OTHER		C	Breweries and micro-distilleries
C	Wireless communication facilities	NP	Parking as primary use
		NP	Fuel stations
		NP	Auto oriented repair services, Carwashes, Heavy equipment, machinery and farm vehicle sales, contractors yards, bulk firewood sales, and gravel and rock sales, Indoor sales of automobiles, trucks and recreational vehicles and the like, Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales

Table 47 18. TOD-G Low Intensity Building and Site Standards

Table 47 18. TOD-G Low Intensity Building and Site Standards



BUILDING SETBACKS		PARKING AND STORAGE SETBACKS	
a. Front street	8 ft. min. - 20 ft. max.	Front street	24 ft. min.
b. Side street	5 ft. min. - 20 ft. max.	Side street	12 ft. min.
c. Side property line	0 ft. or 6 ft. min.	Side property line	5 ft. min.
d. Rear property line	3 ft. min.	Rear property line	5 ft. min.
MINIMUM FRONTAGE BUILDOUT		LOT COVERAGE AND BUILDING WIDTH	
Front street	60% min.	Lot coverage by building	70% max.
Side street	40 ft. min. from front street	Building width	80 ft. max.
MINIMUM GLAZING		FACADE TYPES	
Front street	15% min.	Shopfront	Common entry
Side street	15% min.	Stoop	Porch
Upper floors	n/a		



BUILDING HEIGHT

3 stories or 40 feet max.

USES

RESIDENTIAL		COMMERCIAL	
P	Single-family, two-family	R	Retail and service
P	Townhouse	P	Restaurants, not to exceed 40 seats
P	Multiple dwelling	P	Brewpubs, not to exceed 40 seats
P	Care facility, convalescent home	P	Office, not to exceed 5,000 sq. ft.
INSTITUTIONAL		P	Lodging, not to exceed 12 rooms
NP	Religious assembly	P	Child care
NP	Schools	C	Medical clinic, not to exceed 5,000 sq. ft.
R	Libraries	C	Adult day care
R	Museums	NP	Parking as primary use
OTHER		NP	Gasoline sales
C	Wireless communication facilities	NP	Breweries and micro-distilleries
		NP	Taprooms and cocktail rooms
		NP	Auto oriented repair services, Carwashes, Heavy equipment, machinery and farm vehicle sales, contractors yards, bulk firewood sales, and gravel and rock sales, Indoor sales of automobiles, trucks and recreational vehicles and the like, Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales

(Ord. 2018-1231, passed 7-9-18)

Section 9. Section 152.611 of the City Code is amended to read as follows:

§ 152.611 MU MIXED USE DISTRICT

- (A) Purpose and applicability. The structure of the MU district provides the city and future development groups with the regulations and guidelines needed to develop a comprehensive, resilient and pedestrian-oriented neighborhood. The subdivision regulations in division (C) provide the following:
- (1) A network of connected streets and blocks that reflect an approved station area plan;
 - (2) General block sizes and configurations that support zoning and land use goals;
 - (3) Maximum block perimeters that foster attractive, safe and walkable environments, while enhancing circulation through the site;
 - (4) Guidance on meeting regional stormwater requirements as detailed in the Brooklyn Park Subarea Stormwater Master Plan.
- (B) Regulating plan. The MU district is implemented through a regulating plan, to be submitted prior to or in conjunction with other required applications. Areas zoned MU must be divided into neighborhoods by the introduction of a primary thoroughfare network, and then into blocks by the completion of the streets and open spaces. Regulating plans must be recorded against all properties governed by the plan and must show the following:
- (1) District boundaries;
 - (2) Existing infrastructure including streets, parks and open space;
 - (3) Thoroughfare network according to division (C) with thoroughfare assignments according to Table 21 or Table 22;
 - (4) Civic area according to Table 19, with types and boundaries according to Table 23.

<u>Table 19. Regulating Plan Requirements</u>	
<u>CIVIC SPACE</u>	
<u>Percentage of Area</u>	
	<u>5 - 10%</u>

- (C) Subdivision regulations. The provisions of this section will be used upon subdivision within the MU zoning district.
- (1) The thoroughfare network must be laid out according to Table 20 and comply with the standards of division (D)(1)(a) below.

<u>Table 20. Subdivision and Block Standards</u>	
<u>BLOCK DIMENSIONS</u>	<u>DIMENSIONS</u>
<u>Block length</u>	<u>400 ft. max</u>
<u>Block perimeter</u>	<u>1,600 ft. max.</u>
<u>Alley width</u>	<u>16 ft. min.</u>
<u>MID-BLOCK PEDESTRIAN PASSAGES</u>	
<u>Pedestrian passage width</u>	<u>12 ft. min., 24 ft. max.</u>

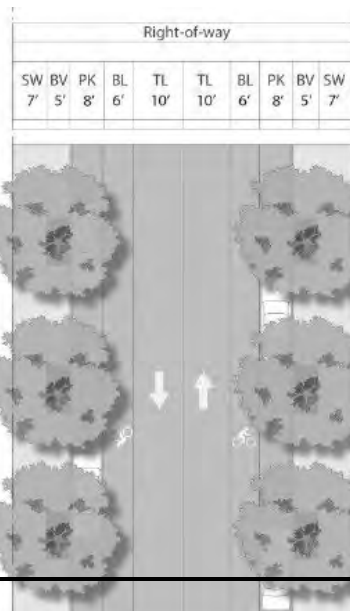
- (a) Thoroughfare standards.
1. All thoroughfares must connect to other thoroughfares, forming a network.
 - a. New thoroughfares must connect wherever possible to thoroughfares on adjacent sites. Cul-de-sacs may only be permitted by approval of the City Manager to accommodate specific site conditions.
 - b. New thoroughfares must implement any approved Small Area Plan Street Network and use street section options from Table 21.
 - c. A section may be chosen according to right-of-way width and functional classification. New thoroughfare sections may be created using the standards in Table 22.
- (b) Block dimensions.
1. Block length and perimeter may be adjusted up to 20% with approval from the City Manager due to topography, existing development conditions, or if the block is at the perimeter of the regulating plan. Block lengths up to 800 feet may be approved if a mid-block pedestrian passage is provided.
- (c) Mid-block pedestrian passages.
1. In areas with adequate vehicular capacity, pedestrian-only connections may be used mid-block and will count as a new edge in block perimeter calculations.
- (d) Parking lot layout.

1. In addition to the parking regulations of §152.605(A), parking lots in MU must be laid out as blocks per Table 20, with spaces located in the drive aisles. Drive aisles must have adequate width to redevelop with rights-of-way required by one or more of the thoroughfare sections in Table 21.

Table 21. Thoroughfare Sections

Table 21. Thoroughfare Sections		ILLUSTRATION																															
STREET ST 98 – 72																																	
Functional class	Arterial																																
Right-of-way	98 ft. min.																																
Design, target speed	30 - 35 mph																																
TRAVELED WAY																																	
(TL) Vehicle lanes	3																																
Vehicle lane width	10 ft. ¹																																
Movement	Two-way																																
(PK) Parking lanes	2																																
Parking lane width	8 ft.																																
(BL) Bicycle facility	Buffered lane																																
Bicycle facility width	6 ft. + 3 ft. buffer																																
(MD) Median	n/a																																
Turning lanes	At arterial intersections only																																
STREETSCAPE																																	
(SW) Sidewalk width	8 ft. min.																																
(BV) Boulevard width	5 ft. min., 7 ft. max.																																
Boulevard type	Long tree well, 5 ft. x 14 ft. min.																																
Tree spacing	30 ft. on center																																
<table border="1"> <tr> <th colspan="10">Right-of-way</th> </tr> <tr> <td>SW</td> <td>BV</td> <td>PK</td> <td>BL</td> <td>TL</td> <td>TL</td> <td>TL</td> <td>BL</td> <td>PK</td> <td>BV</td> <td>SW</td> </tr> <tr> <td>8'</td> <td>5'</td> <td>8'</td> <td>6'</td> <td>10'</td> <td>10'</td> <td>10'</td> <td>6'</td> <td>8'</td> <td>5'</td> <td>8'</td> </tr> </table>		Right-of-way										SW	BV	PK	BL	TL	TL	TL	BL	PK	BV	SW	8'	5'	8'	6'	10'	10'	10'	6'	8'	5'	8'
Right-of-way																																	
SW	BV	PK	BL	TL	TL	TL	BL	PK	BV	SW																							
8'	5'	8'	6'	10'	10'	10'	6'	8'	5'	8'																							
<p>¹ Subject to MNDOT approval.</p>																																	
STREET ST 70 - 46																																	
Functional class	Primary, local, local street																																
Right-of-way	74 ft. min. primary local 70 ft. min. local street																																
Design, target speed	25 mph																																
TRAVELED WAY																																	
(TL) Vehicle lanes	2																																
Vehicle lane width	10 ft. ²																																
Movement	Two-way																																
(PK) Parking lanes	2																																
Parking lane width	8 ft.																																
(BL) Bicycle facility	Lane (local street), buffered lane (primary local)																																

Bicycle facility width	6 ft. + 2 ft. buffer (primary local)
(MD) Median	n/a
Turning lanes	n/a
STREETSCAPE	
(SW) Sidewalk width	7 ft. min.
(BV) Boulevard width	5 ft. min., 7 ft. max.
Boulevard type	Long tree well, 5 ft. x 14 ft. min.
Tree spacing	30 ft. on center

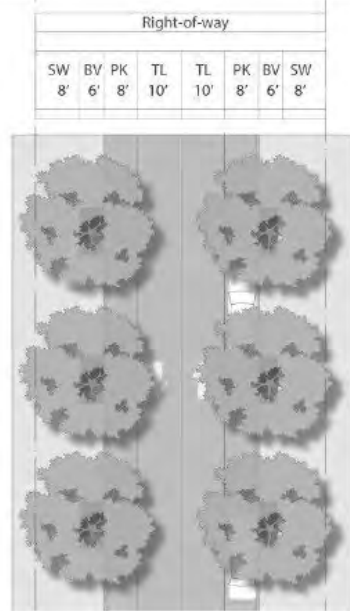


2 Subject to MNDOT approval.

STREET ST 58 - 30	
Functional class	Primary local, local street
Right-of-way	60 ft. min. primary local 58 ft. min. local street
Design, target speed	25 mph
TRAVELED WAY	
(TL) Vehicle lanes	2
Vehicle lane width	10 ft. primary local ³
Movement	Two-way
(PK) Parking lanes	2
Parking lane width	8 ft.



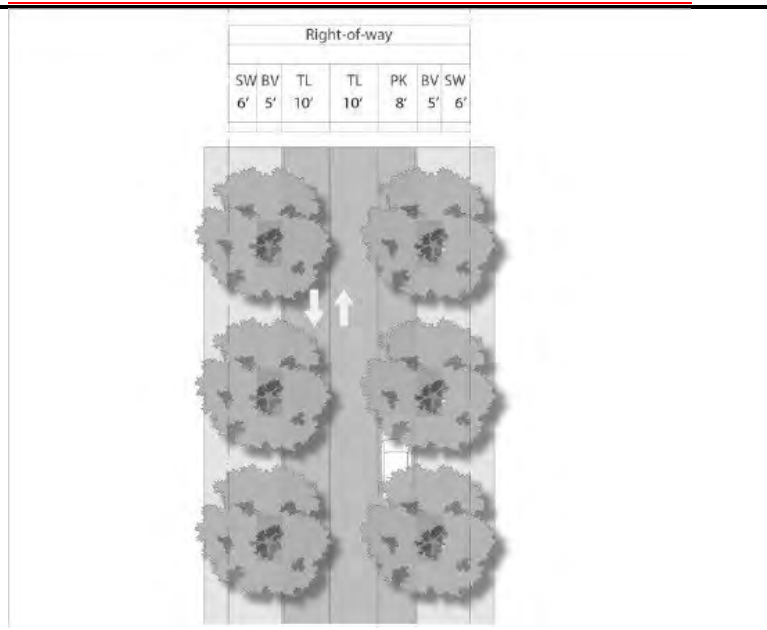
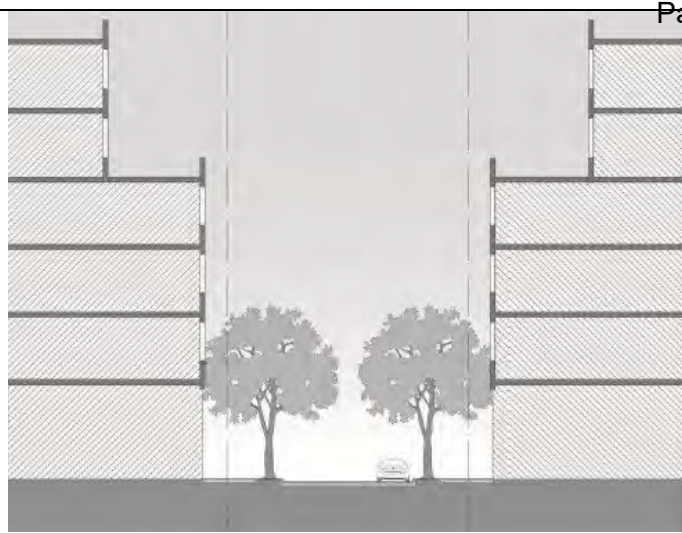
(BL) Bicycle facility	sharrow optional
Bicycle facility width	n/a
(MD) Median	n/a
Turning lanes	n/a
STREETSCAPE	
(SW) Sidewalk width	8 ft. min.
(BV) Boulevard width	6 ft. min., 7 ft. max.
Boulevard type	Long tree well, 6 ft. x 14 ft. min.



Tree spacing	30 - 35 ft. on center
--------------	-----------------------

3 Subject to MNDOT approval.

STREET ST 49 - 27	
Functional class	Local street
Right-of-way	49 ft. min.
Design, target speed	20 mph
TRAVELED WAY	
(TL) Vehicle lanes	2
Vehicle lane width	10 ft.4
Movement	Two-way
(PK) Parking lanes	1
Parking lane width	8 ft.
(BL) Bicycle facility	sharrow optional
Bicycle facility width	n/a
(MD) Median	n/a
Turning lanes	n/a
STREETSCAPE	
(SW) Sidewalk width	6 ft. min.
(BV) Boulevard width	5 ft. min., 7 ft. max.
Boulevard type	Long tree well, 5 ft. x 14 ft. min.
Tree spacing	30 ft. on center



4 Subject to MNDOT approval.

Table 22. Street Design Criteria

CRITERIA	LOCAL STREET	PRIMARY LOCAL	ARTERIAL
Table 22. Street Design Criteria			
CRITERIA	LOCAL STREET	PRIMARY LOCAL	ARTERIAL
Sidewalk	5 ft. min. plus boulevard width	6 ft. min. plus boulevard width	8 ft. min. plus boulevard width
Boulevard	6 ft. wide by 6 ft. long min.	7 ft. wide by 14 ft. long min.	7 ft. wide by 14 ft. long min.
Parking lane width	8 ft. min.	8 ft. min.	8 ft. min.
Parking lanes required	0 - 2	2 min.	0 - 2
Travel lane width	9 ft. min., 10 ft. max.	10 ft. min., 11 ft. max.	10 ft. min., 11 ft. max.
Travel lanes required	1 - 2	2 - 4	4+ median
Movement types	one-way, two-way	two-way	two-way
Median	n/a	optional, 8 ft. min	optional, 10 ft. min.
Design speed, target speed	20 mph	25 mph	30 mph
Bike facility required	optional	required	required
Bike facility type	sharrow, lane, route	buffered lane, protected lane	buffered lane, protected lane
Bike lane width	5 ft. min.	6 ft. min.	6 ft. min.
Bike lane buffer	n/a	2 ft. min.	3 ft. min.

(2) Civic standards.

(a) The minimum and maximum percentage of land to be dedicated and deeded as civic space is shown in Table 23. Civic spaces must be designed according to Table 23.

Table 23. Civic Space Types

Table 23. Civic Space Types		
SQUARE		
Size in acres	0.25 - 2.5	
Proportion (a:b)	1:5 max.	
Edge condition	Thoroughfares on a minimum of two non-adjacent sides	
Surface	50% maximum paved; pervious paving allowed	
Landscape	1 tree with mature canopy over 25 ft. per 800 sq. ft. of area min.	
PLAZA		
Size in square feet	5,000 - 20,000	
Proportion (a:b)	1:5 max.	
Edge condition	Thoroughfares on a minimum of two sides	
Surface	50% minimum paved; pervious paving allowed; bituminous pavement prohibited	
Landscape	1 tree with mature canopy over 25 ft. per 1,000 sq. ft. of area min.	
POCKET PARK		
Size in square feet	1,000 - 5,000	
Proportion (a:b)	1:4 max.	
Edge condition	1 side minimum along a thoroughfare or pedestrian passage	
Surface	May be paved or landscaped	
Landscape	1 tree with mature canopy over 20 ft. per 600 sq. ft. of area min.	
PEDESTRIAN PASSAGE		
Width	12 ft. min., 24 ft. max.	
Edge condition	Active frontages required in high intensity blocks	
Walkway width	6 ft. min.	
Landscape	3 ft. minimum landscape edge in medium and low intensity blocks	

(3) Lot standards.

- (a) Lots must have minimum and maximum widths according to Table 24.
- (b) Each lot must have a primary frontage along a vehicular thoroughfare, except up to 20% of the parcels in a regulating plan may front a

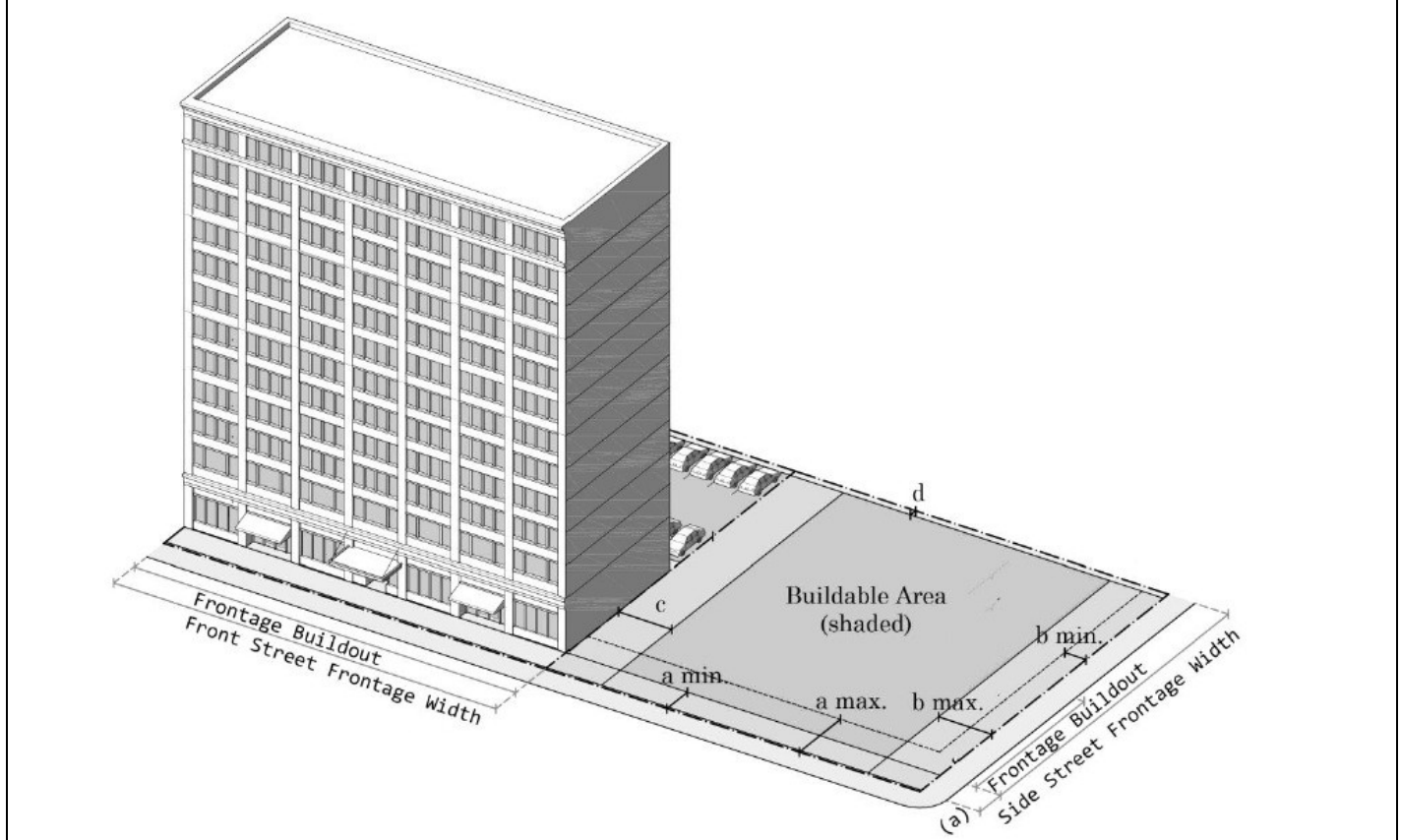
civic space or pedestrian passage.

(c) Where lots have multiple frontages, one frontage line must be designated as primary and any other frontage lines must be designated as secondary.

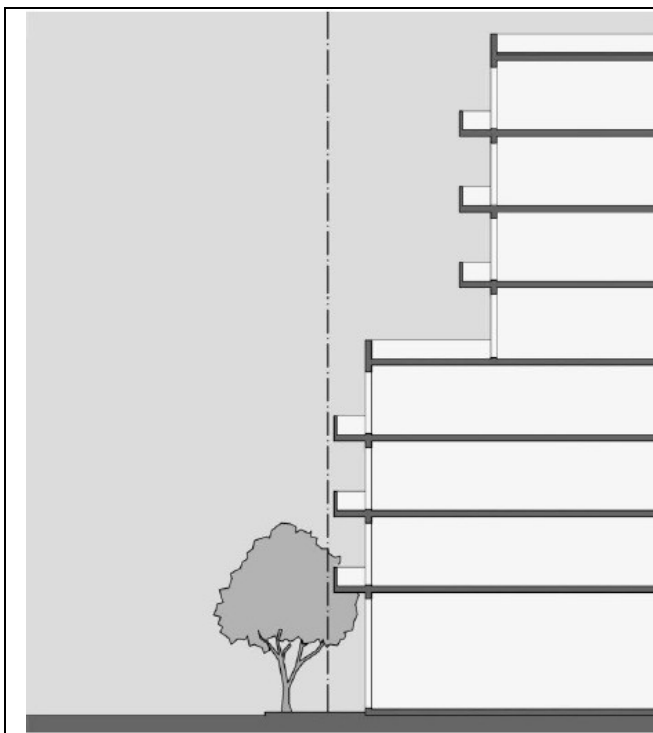
<u>Table 24. Lot Width</u>
<u>20 ft. min., 400 ft. max.</u>

(D) Standards. All parcels in MU must meet the standards of Table 25 according to the requirements of §152.601.

Table 25. MU Building and Site Standards



<u>BUILDING SETBACKS</u>		<u>PARKING AND STORAGE SETBACKS</u>	
<u>a. Front street</u>	<u>1 ft. min. - 12 ft. max.</u>	<u>Front street</u>	<u>30 ft. min.</u>
<u>b. Side street</u>	<u>2 ft. min. - 12 ft. max.</u>	<u>Side street</u>	<u>12 ft. min.</u>
<u>c. Side property line</u>	<u>0 ft. or 6 ft. min.</u>	<u>Side property line</u>	<u>0 ft. min.</u>
<u>d. Rear property line</u>	<u>3 ft. min.</u>	<u>Rear property line</u>	<u>3 ft. min.</u>
<u>MINIMUM FRONTAGE BUILDOUT</u>		<u>LOT COVERAGE AND FLOOR AREA RATIO</u>	
<u>Front street</u>	<u>80% min.</u>	<u>Lot coverage by building</u>	<u>80% max</u>
<u>Side street</u>	<u>50 ft. min. from front street</u>	<u>Minimum Floor Area Ratio</u>	<u>1.0</u>
<u>MINIMUM GLAZING</u>		<u>FACADE TYPES</u>	
<u>Front street</u>	<u>30% min.</u>	<u>Shopfront</u>	<u>Common entry</u>
<u>Side street</u>	<u>30% min.</u>	<u>Forecourt</u>	<u>Stoop</u>
<u>Upper floors</u>	<u>10% min.</u>	<u>Porch</u>	



BUILDING HEIGHT

8 stories max.	<u>Parking structure height</u>	1 story less than building
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USES

<u>RESIDENTIAL</u>		<u>COMMERCIAL</u>	
<u>P</u>	<u>Multiple dwelling</u>	<u>P</u>	<u>Sales and service</u>
<u>P</u>	<u>Townhouse</u>	<u>P</u>	<u>Restaurants and brewpubs</u>
<u>P</u>	<u>Care facility and convalescent home</u>	<u>P</u>	<u>Office</u>
<u>INSTITUTIONAL</u>		<u>P</u>	<u>Medical clinics</u>
<u>P</u>	<u>Religious assembly</u>	<u>P</u>	<u>Child care</u>
<u>P</u>	<u>Schools</u>	<u>P</u>	<u>Adult day care</u>
<u>P</u>	<u>Libraries</u>	<u>P</u>	<u>Parking</u>
<u>P</u>	<u>Museums</u>	<u>P</u>	<u>Lodging</u>
		<u>C</u>	<u>Breweries and micro-distilleries</u>
<u>OTHER</u>		<u>C</u>	<u>Taprooms and cocktail rooms</u>
<u>C</u>	<u>Wireless communication facilities</u>	<u>C</u>	<u>Entertainment</u>
		<u>C</u>	<u>Drive-through facilities</u>
		<u>NP</u>	<u>Fuel stations</u>
		<u>NP</u>	<u>Auto oriented repair services, Carwashes, Heavy equipment, machinery and farm vehicle sales, contractors yards, bulk firewood sales, and gravel and rock sales, Indoor sales of automobiles, trucks and recreational vehicles and the like, Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales</u>

ORDINANCE #2023-

ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING THE PEDESTRIAN PRIORITY OVERLAY DISTRICT THROUGH TEXT AND MAP AMENDMENT TO BE APPLIED TO THE AREA SURROUNDING THE INTERSECTION OF ZANE AVENUE AND OAK GROVE BOULEVARD

The City of Brooklyn Park does ordain:

Section 1. Chapter 152 of the City Code is amended to add the following sections:

PEDESTRIAN PRIORITY OVERLAY DISTRICT

§ 152.550 PURPOSE.

The Pedestrian Priority Overlay District (PPOD) is established to provide pedestrian-oriented development on streets designated as Pedestrian Priority Streets in the Comprehensive Plan. This district is applied at a 150-foot depth from the front lot line of parcels fronting a Pedestrian Priority Street.

§ 152.551 DISTRICT STANDARDS.

- (A) *Minimum Floor Area Ratio.* Notwithstanding the regulations of the underlying zoning district, the minimum floor area ratio for new development in the PPOD is 0.5, subject to the requirements of §152.604(H)
- (B) *Required commercial uses.* The first floor of all new developments in the PPOD shall provide commercial uses, subject to the requirements of this section.
- (C) *Size of required commercial use space.* In a multi-story building the commercial use or uses shall occupy at least sixty (60) percent of the building's ground-floor street frontage and a minimum interior depth of twenty (20) feet. In a single-story building the commercial use or uses shall occupy one hundred (100) percent of the building's street frontage and a minimum interior depth of twenty (20) feet.
- (D) *Use of required commercial space.* Required commercial use areas shall be occupied by one or more of the following uses. Building amenities intended for use solely by building occupants and not open to the general public shall not qualify as a required commercial use.
 - a. Retail and service
 - b. Restaurant and brewpubs
 - c. Medical clinics
 - d. Child care
 - e. Adult day care
 - f. Breweries and micro-distilleries
 - g. Taprooms and cocktail rooms

ORDINANCE #2023-

ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING
PROCEDURES FOR THE MIXED USE ZONING DISTRICT

~~Text with strikeouts is proposed for deletion.~~
Text with underline is proposed for insertion.

The City of Brooklyn Park does ordain:

Section 1. Section 152.031 of the City Code is amended to read as follows:

APPLICATIONS AND PROCEDURES.

§ 152.030 PURPOSE.

This subchapter is established to define the procedures and processes for applications for development, redevelopment, and changes in use of property in Brooklyn Park.

(Ord. 2000-936)

§ 152.031 GENERAL PROCEDURES.

(A) *Applications.* The City Manager determines if the required information is complete. If the information is determined to be incomplete, such that a thorough review of the application is not possible, the item may not be placed on the Planning Commission or City Council agenda for consideration until the required information is submitted. The applicant will be notified within ten days following the receipt of the application describing the information that is missing.

(B) *Notification.* All applications for development proposals requiring a public hearing must be advertised to allow informed participation by all interested parties and conform with the applicable state statute. The City Manager may maintain copies of the city policy concerning notification.

(C) *Applications requiring public hearings.* The following applications for development proposals require public hearings:

- (1) Approval of Site Plan.
- (2) Variance.
- (3) Conditional Use Permits and amendments.
- (4) Conditional Use Permit revocation.
- (5) Zoning Text and Map Amendments (Rezoning).
- (6) Preliminary Development Plan for the Planned Unit Development District.
- (7) Concept or Regulating Plans.
- (8) Development Plan for Planned Community Development District, the Planned Unit Development District, or Special Zoning Districts.

(D) *Planning Commission and City Council action.*

(1) The Planning Commission may recommend such actions or conditions relating to the application as it deems necessary to carry out the intent and purpose of this chapter and the Comprehensive Plan.

(2) The City Council may adopt, modify or reject any recommendation of the Planning Commission.

(3) At any time before final action is taken on an application, the applicant may request a continuance of action by the Planning Commission and City Council, or withdraw the application by submitting a letter to the City Manager stating the applicant's desire to do so. Any portion of fees spent in the processing of the application may be retained by the city. The City Manager may establish a time limit on any continuation.

(E) *Appeals.* This division is established to allow those aggrieved by the decision of the City Manager to attempt to remedy the grievance by appealing the decision to the City Council. Any unresolved dispute as to an administrative interpretation of City Code, ordinance, or policy requirements may be appealed to the Planning Commission in its role as the Board of Adjustments and Appeals subject to §§ 31.15 through 31.19 of the City Code. The appeal must be submitted in writing to the City Manager on or before the next application filing deadline for a Planning Commission meeting.

(F) *Re-submitting denied applications.* No application which has been denied wholly or in part may be resubmitted for at least one year from the date of its denial, unless substantial changes have been made which warrant reconsideration, as determined by the City Manager.

(G) *Expiration of action.* Unless otherwise specified in this Chapter, or as approved by the City Council, the approved applications for projects become null and void by December 31 of the year following the date of its approval, unless the property owner or applicant has begun construction of any building, structure, addition or alteration, or use as evidenced by the issuance of a building permit or grading permit in compliance with the approved plan. The property owner or applicant has the right to submit an application for a time extension in accordance with this chapter.

(H) *Request for time extensions.*

(1) A request for a time extension may be considered by the City Manager. Time extensions must be submitted to the City Manager prior to the expiration of a final action by the City Council. If an action has officially expired, no time extension may be granted. If the time extension request is delayed in the review process and, through no fault of the applicant, cannot be reviewed by the City Manager as anticipated, the request may proceed through the process to final resolution without jeopardy. The applicant may request a maximum of one time extension. Time extensions are valid for a maximum of one year from the original expiration date.

(2) The request may be reviewed with consideration of the following:

- (a) The Comprehensive Plan or any other city plan.
- (b) City policy changes.
- (c) Transportation conditions.
- (d) Applicable changes to any city, county, state or federal statutes, rules, requirements, or ordinances.
- (e) Park dedication fees and other financial guarantees may be redetermined as required by the current City Code to the date of approval of the extension.
- (f) Any negative escrow accounts from previous reviews must be paid and the escrow account must be updated to current minimum requirements prior to the City Manager's consideration of the extension.

(Ord. 2000-936; Am. Ord. 2001-952, passed 5-14-01)

§ 152.032 ADMINISTRATIVE PERMITS.

(A) *Purpose.* This section establishes regulations and procedures for the consideration of activities allowed by administrative permit, and of matters requiring the approval of the City Manager with the goal of protecting the health, safety, and welfare of the citizens of the city.

(B) *Procedure.*

- (1) Application for an administrative permit must be filed by the property owner or designated agent with the City Manager on forms to be provided by the city.
- (2) The applications for permits or amendments to permits must be accompanied by a non-refundable fee established elsewhere in the City Code.
- (3) The City Manager may review the application and related materials for compliance with all applicable requirements of the City Code.
- (4) The City Manager may consider possible adverse effects of the proposed events or activities. Evaluation includes (but is not limited to) consideration of the following factors:
 - (a) Compliance with and effect upon the Comprehensive Plan.
 - (b) The establishment, maintenance, or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
 - (c) The use, event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
 - (d) The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 - (e) Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
 - (f) The use, event or activity may, in all other respects, conform to the applicable regulations of the district in which it is located, as outlined in the applicable sections of this chapter.
 - (g) The use, event or activity and site conform to the performance standards as outlined in the applicable provisions of this chapter.
- (5) The City Manager must make a determination on approval or denial of the administrative permit within 30 days from the date of submission of a complete application.
- (6) A written permit may be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this chapter must be attached to the permit.
- (7) Determination of the applications non-compliance with applicable codes, ordinances, and the standards in this division may be communicated to the applicant in writing and the application for the permit may be considered denied; unless, within ten days of the date of such notice, the applicant submits revised plans and/or information with which the City Manager is able to determine compliance.
- (8) Unresolved disputes as to administrative application of the requirements of this division may be subject to appeal as defined in this chapter.
- (9) An administrative permit may be revoked by the City Manager or by an officer of the Brooklyn Park Police Department if it is determined that the applicant has violated any conditions of the administrative permit, any applicable provisions of the City Code or any applicable provisions of state or federal law.

(C) *Performance standards.* All uses, events, or activities allowed by administrative permit must conform to the applicable standards outlined in the performance standards for the district in which such use, event, or activity is proposed.

(Ord. 2000-936)

§ 152.033 SITE PLAN REVIEW.

(A) *Purpose.* This section establishes Site Plan Review procedures and provides regulations pertaining to the enforcement of site design standards consistent with the requirements of this chapter. These procedures are established to promote high quality development to ensure the long term stability of residential neighborhoods and enhance the built and natural environment within the city as new development and redevelopment activities occur. The specific goals of the city are:

- (1) To ensure the application of quality design principles within new and redevelopment projects.
- (2) To ensure the active participation and review of site plans by the affected public.
- (3) To mitigate to the extent possible, the impact of one development upon another.
- (4) To ensure new developments to contain elements of internal and external cohesiveness to promote good neighborhood atmosphere.

(B) *Exemptions to Site Plan Review.* The following are exempt from the Site Plan Review process:

- (1) Agricultural structures in the R-1 Urban Reserve District provided they comply with all sections of the City Code.
- (2) Accessory structures in residential developments under 120 square feet and 18 feet in height or the height of the principal structure, whichever is less, provided they comply with §§ 152.260 through 152.263.

(C) *Approval required.*

- (1) Without first obtaining site plan approval it is unlawful to do any of the following:
 - (a) Construct a building.
 - (b) Move a building or structure to any lot within the city.
 - (c) Expand or change the use of a building or parcel of land or modify a building, accessory structure or site or land feature in any manner that results in a different intensity of use, including the requirement for additional parking.
 - (d) Grade or take any action to prepare a site for development, except in conformance with the requirements for a grading permit, an approved neighborhood development plan or an approved Conditional Use Permit.
 - (e) Remove earth, soils, gravel or other natural material from or place the same on a site, except in conformance with the requirements for a building or grading permit or an approved neighborhood development plan or an approved Conditional Use Permit.
- (2) *Procedures.* The procedures for application and public hearings for City Council approved Site Plan Review are outlined in § 152.031 of this subchapter.
- (3) *Plan modification.* A modification to the plans previously approved through the City Council approved Site Plan Review process, which do not qualify for an administrative Site Plan Review, must follow the City Council approved Site Plan Review procedure.
- (4) *Conditions.* The City Council may impose conditions that affect the intent of this chapter to the approval of a Site Plan Review. No building or grading permit can be issued except in compliance with the approved site plan and the conditions of approval.

(D) *Administrative Site Plan Review.*

- (1) *Approval criteria.* Site and building plans for projects may be approved by the City Manager in lieu of City Council approval if they meet the following criteria, except as otherwise expressly provided in this chapter:
 - (a) Residential properties with one dwelling unit per parcel, including those residential properties within the Planned Community Development District, the Planned Unit Development District or a Special Zoning Overlay that have already been approved through another procedure and are in compliance with the approved plan.
 - (b) Sites, buildings and uses that are permitted in the zoning district and do not require any variances from this chapter or any other city code, with the exception of the following:
 1. Nonresidential uses in a residential district.
 2. Uses with drive-through service.
 3. Nonresidential structures in a nonresidential zoning district that are not adjacent to any property zoned or guided for residential development other than property in the Urban Reserve District (R-1).
 4. Uses in the Public Institution District (PI).
 5. Religious institutions, either free-standing or within a multi-tenant building.
 6. Projects that received a Conditional Use Permit, site plan approval, or are located in a PUD or PCDD district, or a

Special Zoning Overlay, and are an expansion of no more than 10% of the floor area of an existing building, and/or affect no more than 10% of the site. They may include, but are not limited to, changing parking and circulation routes, changes in buffering or landscaping against abutting adjacent residential, etc. The site and building plans must also be in compliance with the previously approved permit, its conditions and plan requirements.

7. Public and private elementary and secondary schools, including charter schools.

(2) *Procedure.*

(a) Administrative Site Plan Review may be combined with the established building permit process when applicable. The City Manager may impose conditions on the approval to implement the intent of this chapter.

(b) Administrative approval, including all applicable conditions and requirements may be made either in writing separately or attached to the submitted plans. The applicant must fulfill all applicable conditions of the approval prior to the issuance of any permits.

(E) *Evaluation criteria.* The city must evaluate the effects of the proposed site plans. This review may be based upon, but not be limited to, the following criteria:

(1) Consistency with the Comprehensive Plan, the City Code, and this chapter.

(2) Enhancement of the site to create a meaningful and harmonious development.

(3) Creation of a functional and harmonious design for structures and site features, with special attention to the following principals:

(a) A functional relationship of the building(s) on the site to its intended use(s); accessory site improvements, public street and sidewalks, and adjacent uses and structures.

(b) The provision of a desirable environment through building and site design for occupants, visitors and the general community.

(c) A balance of open space and landscaping with site intensity, building height and parking requirements.

(d) The utilization of building materials, textures, colors, and construction details as an expression of design concept and quality.

(e) The functional internal design of vehicular and pedestrian circulation, location of access points to public streets, design of parking areas incorporating landscape elements, and separation of pedestrian and vehicular circulation movements.

(f) The use of landscape design and materials to augment significant native species existing on the site, create an aesthetically pleasing environment, and a sense of character between site elements.

(g) The design of site elements to adequately provide for drainage resulting from development, mitigation of off-site impacts from the development, mitigation of impacts from adjacent property such as noise, poor air quality, and unsightliness.

(4) The height, scale and massing of new buildings and structures should complement similar buildings within the same zoning district in which the application is made.

(F) *Conformance to the Approved Site Plan Review.* All developments must remain in continual conformance with the approved Site Plan Review until or unless amended in compliance with this chapter.

(Ord. 2000-936; Am. Ord. 2003-997, passed 5-12-03; Am. Ord. 2003-997, passed 5-12-03; Am. Ord. 2007-1070, passed 3-26-07)

§ 152.034 VARIANCE.

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

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

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

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

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

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

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

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

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

(Ord. 2000-936; Am. Ord. 2011-1131, passed 10-24-11)

§ 152.035 CONDITIONAL USE PERMIT.

(A) *Purpose*. The purpose of a Conditional Use Permit is to allow the city discretion in permitting certain uses in particular zoning districts that may be compatible with uses in the district or perceived public needs under certain circumstances. The use must comply with all standards of this chapter and any additional conditions imposed for specific instances to protect the public health, safety or welfare.

(B) *Qualifications*. Only the specific uses classified as conditional in the zoning district where the property is located may qualify for a Conditional Use Permit.

(C) *Procedures*. The procedures for application and public hearing of a Conditional Use Permit are described in § 152.031.

(D) *Review Standards*. The request may address the following factors, although the City Council, the Planning Commission, and city staff has the authority to request additional information from the applicant concerning operational factors pertaining to the proposed use or to retain experts with the consent and at the expense of the applicant concerning operational factors, when necessary to establish performance conditions to effect the intent of this chapter.

(1) *Comprehensive Plan*. Compliance with the Comprehensive Plan, public facilities and capital improvement plans, and all sections of the City Code.

(2) *Traffic*. The generation and characteristics of the traffic associated with the use and its impact on the traffic volumes of and safety associated with driveway location on adjacent roads, sidewalks and trail connections.

(3) *Parking*. The characteristics of the parking area of the use, including the number and design of parking spaces, landscaping, traffic circulation, drainage, and lighting. The city may require additional parking above that required in §§ 152.140 through 152.146.

(4) *City services*. The provision of adequate public facilities and services to the site where the use is proposed and the ability of the existing infrastructure to absorb the additional demand for city services.

(5) *Screening and landscaping*. The ability to screen and buffer incompatible off-site impacts of the proposed use on adjacent property and the surrounding neighborhood. The city may require additional landscaping or screening above that required in the specific zoning district.

(6) *Architectural standards*. The degree that the site or building associated with the proposed use meets or exceed the architectural design and landscaping standards for the district in which it is located. The city may require additional architectural standards above those required in the specific zoning district.

(7) *Other sections of the city code*. The applicant may be required to submit additional information demonstrating that the development is able to comply with any other applicable section of this chapter or the city code.

(E) *Conditions*. The Planning Commission may recommend and the City Council may impose conditions to the approval of a Conditional Use Permit. No building or grading permit can be issued except in compliance with the conditions of the Conditional Use Permit.

(F) *Duration*. The Conditional Use Permit remains with the property as long as the property and use are in compliance with the conditions attached to the permit by the City Council. A Conditional Use Permit expires if the use has been discontinued for more than 364 consecutive days from the date that the use ceased or the business owner fails to meet the certification requirement of the Conditional Use Permit. The revocation of the Conditional Use Permit may be recorded with the county by the city.

(G) *Certification*. Upon request by the City Manager, the holder of a Conditional Use Permit certifies that the use, building, and site are in conformance with the Conditional Use Permit and city codes, in conjunction with §§ 152.050 through 152.055. The City Manager may maintain copies of the city policy concerning certification.

(H) *Revocation*. If the holder of the permit fails to comply with any of the terms imposed by the Conditional Use Permit, the city may impose penalties or discipline for noncompliance, which may include revocation of the permit, in accordance with the following terms:

(1) *Procedure*. The imposition of any penalty may be preceded by (the notices contained in subdivisions (a) and (c) hereof may be combined):

(a) Written notice of the holder's alleged violation.

(b) The opportunity to cure the violation during a period not to exceed 30 days following receipt of the written notice.

(c) A hearing before the City Council at least 15 days after sending written notice of the hearing. The hearing

provides the holder with an opportunity to show cause why the permit should not be subject to discipline.

(2) *Exigent circumstances.* If the city finds that exigent circumstances exist requiring immediate permit revocation, the city may revoke the permit and provides a post revocation hearing before the City Council not more than 15 days after holder's receipt of written notice of the hearing. Following such hearing, the City Council may sustain or rescind the revocation, or may impose such other and further discipline as it deems appropriate.

(3) *Record.* Any decision to impose a penalty or other discipline must be in writing and supported by substantial evidence contained in a written record.

(I) *Amendment.* Holders of a Conditional Use Permit may propose amendments to the approved permit at any time, subject to the procedures of § 152.031, except where administrative Site Plan Review may be granted as outlined in § 152.033. No significant changes in the circumstances or scope of the use may be undertaken without the approval of those amendments by the city. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of buildings, structures and/or premises, different and/or additional signage, and operation modifications resulting in increased external activities and traffic, and the like. The City Manager must determine what constitutes significant change. The City Council may approve significant changes and modifications to Conditional Use Permits, including the application of new or revised conditions.

(Ord. 2000-936)

§ 152.036 ZONING ORDINANCE TEXT AND MAP AMENDMENTS.

(A) *Purpose.* This section specifies the procedures for amendments to the text of this chapter or the associated official zoning map.

(B) *Initiation.* An amendment to the text of this chapter or change in the boundaries or designations in the official zoning map may be initiated by a simple majority of the City Council or Planning Commission. Any person owning property within the city, or their designated agent, may initiate an application to amend the district boundaries or designation on the official zoning map for property in which they have a real estate interest.

(C) *Procedures.* The procedures for application and public hearing of zoning amendment applications are described in § 152.031.

(D) *Effective date.* Any amendment to this chapter adopted by the City Council may be effective 30 calendar days after its publication or at such later date as may be specified in the amendment.

(Ord. 2000-936)

§ 152.037 ZONING OVERLAYS.

(A) *Purpose.* Special zoning overlays are intended to implement development in accordance with the special circumstances affecting a property or an area.

(B) *Procedures.* The procedures for application and public hearing of special zoning overlays are described in § 152.031 and as modified in §§ 152.490 through 152.494. Exceptions to these procedures and performance standards may be described in the specific overlay requirements.

(Ord. 2000-936)

Section 2. Section 152.038 of the City Code is amended to read as follows:

§ 152.038 CONCEPT PLANS, REGULATING PLANS, AND DEVELOPMENT PLANS

(A) *Purpose.* This section is to establish procedures, and regulations for the adoption and enforcement of concept, regulating and development plans consistent with the requirements of this chapter. These procedures are established to promote high quality development to ensure the long-term stability of mixed uses and enhance the built and natural environment within the city as new development and redevelopment activities occur. The specific goals of these plans are:

- (1) To ensure the application of quality design principles within new and redevelopment projects.
- (2) To ensure the active participation and review of site plans by the affected public.
- (3) To mitigate to the extent possible, the impact of one development upon another.

(4) To ensure new developments contain elements of internal and external cohesiveness to promote good neighborhood atmosphere.

(B) *Procedures.* All requests for concept, regulating, or development plan approval must include the following items:

- (1) *Grading plan, including drainage and storm water management plans.*
- (2) Utility plan.
- (3) Landscaping plan.
- (4) Placement of buildings, parking lots, driveways, pedestrian connections, drainage areas, and amenities.

(5) Public rights-of-way.

(6) Illustrative architectural designs. This plan will show the general architectural style or parameters in which all buildings within the plan will follow.

(7) Sign plan. This plan will articulate the location of all monument and directional signage, as well as a calculation of the maximum signage on the proposed structures.

(8) Additional information as required by the zoning district in which the development will occur.

(9) A narrative containing the following information:

(a) Anticipated mix of uses and approximate area/ number of each use.

(b) Anticipated completion schedule.

(c) Environmental review may be necessary as required by Minnesota Rules Chapter 44110. The environmental review and development plan review process may run concurrently with each other, provided that final approval of the plan does not precede the City Council's approval of the environmental review.

(D) In addition to the other application materials, the applicant provides a general plan of development, consisting, at a minimum, of the components specified in the district provisions and those required for a Conditional Use Permit in compliance with § 152.035. The city has the right to approve, or refuse items in the application.

(E) Amendments and revocation must follow the procedures for Site Plan Review and revocations as outlined in § 152.033.

(F) Duration. A concept, regulating or development plan is in effect for five years from the date of approval.

(Ord. 2000-936)

§ 152.039 REQUIRED INFORMATION FOR APPLICATIONS.

The City Manager must maintain copies of city policy concerning the information required for all applications.

(Ord. 2000-936)

ORDINANCE #2023-

ORDINANCE AMENDING CHAPTER 150 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING
SIGN REGULATIONS FOR THE MIXED USE ZONING DISTRICT

~~Text with strikeouts is proposed for deletion.~~

Text with underline is proposed for insertion.

The City of Brooklyn Park does ordain:

Section 1. Section 150.33 of the City Code is amended to read as follows:

DISTRICT REGULATIONS

§ 150.25 R-1, R-2, R-2A, R-2B, R-3, R-3A, R-4 AND R-4A RESIDENTIAL DISTRICTS AND AREAS GUIDED FOR LOW- AND MEDIUM-DENSITY RESIDENTIAL IN THE PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PLANNED UNIT DEVELOPMENT DISTRICT.

The following provisions concern signs in the R-1, R-2, R-2A, R-2B, R-3, R-3A, R-4 and R-4A Residential Districts and area guided for low- and medium-density residential in the Planned Community Development District and Planned Unit Development District, and said signs are regulated according to the requirements set forth below:

(A) *Identification signs (name plate).* One free-standing or wall sign/name plate per dwelling unit, not greater than two square feet in area, indicating the name and/or address of the occupant. A sign must not be constructed so as to have more than two surfaces.

(B) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign per street frontage. Such sign must not exceed 60 square feet in area.

(C) *Residential development signs.* These signs shall be reviewed and approved as part of a preliminary plat, site plan review, conditional use permit, or development plan application. Sign area shall be determined by the text copy area only and be limited to 60 square feet per structure face.

(D) *Home occupation signs.* One non-illuminated sign with a maximum square footage of two feet for each dwelling unit wherein a permitted home occupation exists.

(E) *Minimum setbacks.* A sign must not be erected in the public right-of-way. For divisions (A) and (B) of this section, signs must be set back at least 15 feet from front property lines, at least ten feet from side and rear property lines and at least 15 feet from the property lines of corner lots. For division (C) signs, no setback is required. For division (D) of this section, signs must be set back at least 20 feet from front property lines. All signs must allow for an unobstructed view of traffic at intersections of streets or driveways.

(F) *Maximum height of signs.* For signs described in divisions (A) and (D) of this section, no sign may exceed six feet above grade. For signs described in divisions (B) and (C) of this section, no sign may exceed ten feet above grade.

(G) *Residential development signs.* Signs must be constructed of durable materials. Residential development signs may be placed in median islands, roundabouts, or cul-de-sac islands provided that the island is a separate platted lot privately owned and maintained by a homeowners association, management company, or the like, and approved through the preliminary plat, site plan review, or conditional use permit application.

('72 Code, § 356.30(1)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03) Penalty, see § 10.99

§ 150.26 R-5, R-6 AND R-7 MULTIPLE RESIDENTIAL DISTRICTS AND AREAS GUIDED FOR HIGH-DENSITY RESIDENTIAL IN THE PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PLANNED UNIT DEVELOPMENT DISTRICT.

The following sections concern signs in the R-5, R-6, and R-7 Multiple Residential Districts and areas guided for high-density residential development in the Planned Community Development District and Planned Unit Development District, and said signs are regulated according to the requirements set forth below:

(A) *Identification signs (name plate).* One wall sign/name plate per institution or multiple residential building, not to exceed six square feet in area, or one wall sign/name plate per dwelling unit where separate entrances occur, not to exceed two square feet in area.

(B) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign per street frontage, not to exceed 60 square feet in area.

(C) *Residential development signs.* These signs shall be reviewed and approved as part of a preliminary plat, site plan review, conditional use permit, or development plan application. Sign area shall be determined by the text copy area only and be limited to 60 square feet per structure face.

(D) *Minimum setbacks.* For division (B) of this section, monument signs must be set back at least 15 feet from front property lines and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections. All signs must allow for an unobstructed view of traffic at intersections of streets or driveways.

(E) *Maximum height of signs.* For division (B) of this section, no sign may exceed eight feet above grade. For division (C) of this section, no sign may exceed ten feet above grade.

(F) *Residential development signs.* Signs must be constructed of durable materials. Residential development signs may be placed in median islands, roundabouts, or cul-de-sac islands provided that the island is a separate platted lot privately owned and maintained by a homeowners association, management company, or the like, and approved through the preliminary plat, site plan review, or conditional use permit application.

('72 Code, § 356.30(2)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-69, passed 5-11-92; Am. Ord. 2003-1002, passed 8-25-03) Penalty, see § 10.99

§ 150.27 B-1 OFFICE PARK DISTRICT.

The following sections concern signs in the B-1 Office Park District, and said signs are regulated according to the requirements set forth below:

(A) In B-1 Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivision (2) and (3) below, or in subdivisions (2) and (4) below, or in subdivision (5) unless modified by a planned unit development.

(1) *Free-standing or monument sign.* One free-standing sign, not to exceed 75 square feet in area, or one monument sign not to exceed 120 square feet.

(2) *Area identification sign.* One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 100 square feet in area.

(3) *Wall signs.* One and two story, single or multiple tenant buildings: Signs attached to two walls, immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.

(4) *Wall signs.* Multiple story buildings (three or more stories).

(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one wall not to exceed ten percent of the building facade to which it is attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) *Three wall signs.* Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.

(B) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

(C) *Minimum setbacks.* Free-standing signs must be set back at least 25 feet from the front property line and at least ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines, and all free-standing signs must be set back at least 25 feet from all front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(D) *Maximum height of signs.* Signs described in divisions (A)(1), (A)(2) and (B) of this section may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs.

(E) *Minimum height of signs.* Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

('72 Code, § 356.30(3)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

§ 150.28 B-2 NEIGHBORHOOD RETAIL BUSINESS DISTRICT, B-3 GENERAL BUSINESS DISTRICT, AND B-4 VEHICLE SALES AND SHOWROOM DISTRICT.

The following sections concern signs in the B-2 Neighborhood Retail Business District and in the B-3 General Business District, and said signs are regulated according to the requirements set forth below:

(A) In B-2 and B-3 Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or (5) below, unless modified by a planned unit development.

(1) *Free-standing or monument sign.* One free-standing sign not to exceed 100 square feet in area, or one monument sign not to exceed 120 square feet in area.

(2) *Area identification sign.* One free-standing or monument per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.

(3) *Wall signs.* One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.

(4) *Wall signs.* Multiple story buildings (three or more stories):

(a) *Identification signs:* One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) *Three wall signs.* Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.

(B) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

(C) *Minimum setbacks.* Free-standing signs must be set back at least 25 feet from the front property line and at least ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines, and all free-standing signs must be set back at least 25 feet from all front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(D) *Maximum height of signs.* Signs described in division (A)(1), (A)(2) and (B) of this section may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs.

(E) *Minimum height of signs.* Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

('72 Code, § 356.30(4)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

§ 150.29 BP BUSINESS PARK AND I GENERAL INDUSTRIAL DISTRICTS.

The following sections concern signs in the BP Business Park District and I General Industrial District, and said signs are regulated according to the requirements set forth below:

(A) In BP and I Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or subdivision (5) below unless modified by a planned unit development.

(1) *Free-standing or monument sign.* One free-standing sign, not to exceed 100 square feet in area, or one monument sign not to exceed 120 square feet.

(2) *Area identification sign.* One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 220 square feet in area.

(3) *Wall signs.* One and two story buildings, single or multiple tenant buildings: Signs attached to two walls, not to exceed ten percent of the building facades to which the signs are attached.

(4) *Wall signs.* Multiple story buildings (three or more stories).

(a) *Identification signs:* One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall not to exceed ten percent of the building facade to which it is attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) *Three wall signs.* Wall signs are allowed on only three walls only when immediately adjacent to a public street parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this section.

(B) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign and/or reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

(C) *Minimum setbacks.* For subdivisions (A)(1) and (A)(2) of this section, free-standing signs must be set back 25 feet from the front property line and ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property lines and ten feet from side and rear property lines. For division (B) of this section, signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all free-standing signs must be set back at least 30 feet from all property lines, and all monument signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(D) *Maximum height of signs.* For signs described in subdivisions (A)(1) and (A)(2) of this section, signs may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs. For signs described in division (B) of this section, no sign may exceed 15 feet above grade.

(E) *Minimum height of signs.* Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

(F) *Billboard signs.* Billboard signs are allowed in the I District by conditional use permit as provided by the city zoning ordinance. A billboard sign must be the principal use on the lot on which it is located. The lot must meet the minimum lot requirements for the I District in accordance with the zoning code. A billboard must not be erected within 300 feet of any Residential District. A billboard must not be located within a 1,320 foot radius of an existing or approved billboard. A billboard must not be located in the T.H. 610 Corridor or Highway Overlay area as delineated in the T.H. 610 Corridor Plan and the zoning code.

(1) *Sign area.* Billboard signs must not exceed one square foot of sign area for each lineal foot of street frontage nor may sign area exceed 300 square feet on any side. On corner lots or lots with more than one street frontage, only one street frontage will be considered in determining the sign area. Signs must have no more than two sides.

(2) *Minimum setbacks.* Billboard signs must be set back at least 50 feet from front and rear property lines and at least 25 feet from side property lines.

(3) *Maximum height of signs.* Billboard signs may not exceed 25 feet above grade.

(4) *Minimum height of signs.* Billboard signs must have a minimum height of 12 feet from grade to the bottom of the sign.

(5) *Sign illumination.* Billboard sign illumination must meet the requirements of § 150.03 of this chapter.

('72 Code, § 356.30(5)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 1994-766, passed 9-12-94; Am. Ord. 1999-914, passed 11- -99; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2010-1117, passed 9-7-10;. Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

§ 150.30 PCDD PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PUD PLANNED UNIT DEVELOPMENT DISTRICT.

The following sections concern signs in the PCDD Planned Community Development District, and the PUD Planned Unit Development District, and said signs are regulated according to the requirements set forth below:

(A) In the PCDD or PUD Districts, a property used for single-family, two-family, residential townhouse or apartment use may erect only signs as allowed by § 150.25 and § 150.26 of this chapter, as established for Residential Districts.

(B) In PCDD and PUD Districts, a property used for other than single-family, two-family, residential townhouse or apartment use may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or in subdivision (5) below unless modified by a General Plan of Development or a planned unit development.

(1) *Monument sign.* One monument sign, not to exceed 120 square feet in area.

(2) *Area identification sign.* One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 220 square feet in area.

(3) *Wall signs.* One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.

(4) *Wall signs.* Multiple story buildings (three or more stories):

(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one

wall not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) *Three wall signs.* Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.

(C) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign and/or reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

(D) *Minimum setbacks.*

(1) For subdivision (B)(1) of this section, monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. For subdivision (B)(2) of this section, free-standing signs must be set back at least 30 feet from all property lines, and monument signs must be set back at least 15 feet from all property lines. For division (C) of this section, signs must be set back at least 15 feet from front property line and at least ten feet from side and rear property lines.

(2) On corner lots, all free-standing signs must be set back at least 30 feet from all property lines, and all monument signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(E) *Maximum height of signs.* For signs described in subdivision (B)(1) of this section, no sign may exceed 15 feet above grade. For signs described in subdivision (B)(2) of this section, no free-standing sign may exceed 25 feet above grade and no monument sign may exceed 15 feet above grade. For signs described in division (C) of this section, no sign may exceed 15 feet above grade.

(F) *Minimum height of signs.* Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

('72 Code, § 356.30(6)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

§ 150.31 PI PUBLIC INSTITUTIONAL DISTRICT.

The following sections concern signs in the PI Public Institutional District, and said signs are regulated according to the requirements set forth below:

(A) In PI Districts, a property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or subdivision (5) below unless modified by a conditional use permit.

(1) *Free-standing or monument sign.* One freestanding sign, not to exceed 50 square feet in area, or one monument sign not to exceed 120 square feet.

(2) *Area identification sign.* One free-standing sign or monument sign per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.

(3) *Wall signs.* One and two story, single or multiple tenant buildings: Signs attached to one wall not to exceed ten percent of the building facade to which the signs are attached.

(4) *Wall signs.* Multiple story buildings (three or more stories):

(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) *Two wall signs.* Wall signs are allowed on only two walls. The wall signs on each wall must individually conform to the area limitations, defined in subdivisions (3) or (4) of this division.

(B) *Minimum setbacks.* For subdivisions (A)(1) and (A)(2) of this section, all signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(C) *Maximum height of signs.* For signs described in subdivision (A)(1) of this section, no sign may exceed 20 feet above grade. For signs described in subdivision (A)(2) of this section, no sign may exceed 25 feet above grade.

(D) *Minimum height of signs.* Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

('72 Code, § 356.30(7)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

§ 150.32 HIGHWAY OVERLAY.

The following provisions concern signs in the Highway Overlay area, and the signs are regulated according to the requirements set forth below. In the Highway Overlay, properties may erect only signs described in divisions (A), and (C) below, or in divisions (A) and (D) below, or in divisions (B) and (C) below, or in divisions (B) and (D) or in division (E) below unless modified by a Development Plan.

(A) *Monument sign.* One monument sign, not to exceed 100 square feet in area.

(1) *Minimum setbacks.* Monument signs must be setback at least 15 feet from the property lines adjacent to public rights-of-way, at least ten feet from side and rear property lines, at least three feet from driveways to the edge of sign, and must maintain a 30-foot clear-view triangle at public street intersections.

(2) *Maximum height of signs.* No sign may exceed 15 feet above grade.

(3) *Design and materials.* Monument bases must be constructed of the same materials as the principal building.

(B) *Area identification sign.* One monument sign per development, as described by § 150.03, not to exceed 220 square feet in area.

(1) *Minimum setbacks.* Signs must be setback at least 15 feet from the property lines adjacent to public rights-of-way, at least ten feet from side and rear property lines, at least three feet from driveways to the edge of sign, and must maintain a 30-foot clear-view triangle at public street intersections.

(2) *Maximum height of signs.* No sign may exceed 15 feet above grade.

(3) *Design and materials.* Monument bases must be constructed of the same materials as the principal building.

(C) *Wall signs.* Signs attached to only one wall, not to exceed 10% of the building facade to which the signs are attached.

(D) *Wall signs.* Multiple story buildings (three or more stories).

(1) Identification signs - One identification sign per building facade identifying the name and/or address of the building, not to exceed 10% in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(2) In addition to the identification signs described above, wall signs may be attached to only one wall not to exceed 10% of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.

(E) *Two wall signs.* Wall signs are allowed on only two walls. The wall signs on each wall must individually conform to the area limitations defined in division (B) above.

(Ord. 1999-914, passed 11- -99)

§ 150.33 TRANSIT ORIENTED DEVELOPMENT (TOD) AND MIXED USE DISTRICT.

The following sections concern signs in the TOD Transit Oriented Development, and the MU Mixed Use districts, and said signs are regulated according to the requirements set forth below:

(A) In the TOD or MU Districts, a property used for single-family, two-family, residential townhouse or apartment use may erect only signs as allowed by § 150.25 and § 150.26 of this chapter, as established for Residential Districts.

(B) In TOD and MU Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or (5) below, unless modified through the approval of a sign plan at the time of Site Plan Review as approved by City Council.

(1) *Monument sign.* One monument sign not to exceed 120 square feet in area.

(2) *Area identification sign.* One monument per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.

(3) *Wall signs.* One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.

(4) *Wall signs.* Multiple story buildings (three or more stories):

- (a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.
- (b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) *Three wall signs.* Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.

- (C) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.
- (D) *Minimum setbacks.* Monument signs must be set back at least 1 foot from the front property line and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.
- (E) *Maximum height of signs.* Signs described in division (A)(1), (A)(2) and (B) of this section may not exceed 8 feet above grade for monument signs.

of enforcement. She noted that the applicant has been very responsive in working with City staff and the Police Department to address these issues.

Commissioner Turner stated that as they think about additional enforcement that could occur, perhaps some mitigation strategies could be built to build a relationship with the townhome HOA. She encouraged the applicants to reach out and build a relationship with the HOA.

The applicants confirmed that they would be interested in being a part of that neighborhood committee and would welcome the invitation.

Commissioner Kiekow asked if this could be tabled for three months to allow the applicants to prove they are doing what they say they will do. He noted that they could work to come into compliance and then review the request.

Associate Planner McDermott replied that under the review rules, the City has 60 days to respond to a request. She noted that could be extended by 60 days but they are already on the tail end of that extension window and this needs to move forward with a decision by the City Council prior to December 8th.

Commissioner Borer asked how these issues would be addressed if this were to be denied.

Associate Planner McDermott replied that the City would continue its code enforcement process that would require all auto repair operations cease on the northern portion of the site but noted that those businesses could remain in operation at 6301 Welcome.

Commission Chair Cavin appreciated the applicants attempting to be good neighbors and for answering some tough questions tonight.

MOTION FRASER, SECOND WAKO, TO RECOMMEND APPROVAL OF A CONDITIONAL USE PERMIT FOR AN AUTO ORIENTATED REPAIR SERVICE, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.

FURTHER DISCUSSION: COMMISSIONER KIEKOW COMMENTED THAT THIS SITE IS ON THE CITY RADAR AND ENCOURAGED THE APPLICANTS TO FOLLOW THROUGH.

COMMISSIONER WAKO REFERENCED THE LETTER FROM RESIDENTS MENTIONING VEHICLES WITHOUT PLATES SITTING ON THE STREET FOR MORE THAN ONE WEEK, PREVENTING TRASH TRUCKS FROM COMING THROUGH. HE HOPED THAT THE APPLICANT WOULD ENSURE THAT DOES NOT HAPPEN AGAIN.

MOTION CARRIED UNANIMOUSLY.

B. 169 Logistics – Variance #23-116 for a second monument sign.

Item removed from agenda.

C. 610 Corridor – Zoning Text Amendment #23-112 adopting a zoning text and map amendment to adopt the Mixed Use and Pedestrian Priority Overlay Districts.

Planning Director Mogush introduced the request to consider zoning text and map amendment for the 610 corridor development. He reviewed the sequence of events that has led to this point, noting that a key decision will be the minimum intensity of development that would be accepted. He stated that after these regulations are in place and the moratorium expires, they will need to determine how to prioritize proactive development related investment that will help achieve the vision for development not only in this area but in other areas of the city as well. He reviewed the current future land use map to the proposed future land use map. He stated that before the Commission tonight is the map and related zoning changes that go along with the Comprehensive Plan change. He explained that staff used the TOD-G district as a baseline for creating this new district. He reviewed the previous work the group did to review the Comprehensive Plan amendment, which has been approved by the Council as well. He noted that tonight they will review how the zoning code would regulate those development objectives. He explained how the zoning regulations would achieve the goals related to scale. He provided additional details on floor area ratio (FAR) and additional information on the recommended FAR of 1.0. He then explained how the zoning regulations would achieve the goals related to land use and design. He highlighted the key differences between the TOD-G and MU districts.

Commission Chair Cavin opened the public hearing.

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

Commission Chair Cavin commented that throughout this process they have focused on the area of Zane but noted that the Oak Grove Station area was mentioned a lot tonight as well. He asked for clarification on whether these changes would apply to just the Zane area or also to the Oak Grove Station area.

Planning Director Mogush acknowledged that he did mention the TOD-G district quite a bit, but more as a way to show the work that has been done and in comparison. He confirmed that the changes tonight would only apply to the MU district.

Commission Chair Cavin asked if there is any thought to making the entire Oak Grove street from the TOD to this development as a pedestrian friendly, walkable area.

Planning Director Mogush replied that is quite a long distance to require retail along and would worry that the market could not deliver that. He stated that they can be proactive about making changes to the infrastructure to make it comfortable for people to walk from one place to the other.

Commission Chair Cavin stated that perhaps they define the road as a walkable street rather than requiring retail.

Planning Director Mogush replied that the MU district would get to the 610 West Apartments and after that is the area covered by the station plan for Oak Grove.

Commission Chair Cavin referenced the eight-story maximum height, but noted that the packet also states up to 12 stories with a Conditional Use Permit and asked for clarification.

Planning Director Mogush replied that is the standard for the TOD-G district regulations for Oak Grove Station, noting that the MU regulations would be placed in the same section of City Code, but would have a maximum height of eight stories.

Commission Chair Cavin referenced the topic of signage noting that would be addressed in a future staff meeting. He stated that he would love to see the vision for signage once that is developed.

Planning Director Mogush replied that these changes would have some changes to the sign regulations for this district and provided an overview on the sign regulations proposed at this time.

Commission Chair Cavin asked if sustainability is addressed.

Planning Director Mogush commented that there has been a fair amount of work in the zoning code related to sustainability, noting that has been on the side of allowing rather than requiring. He stated that in the future they could consider reasonable requirements related to sustainability. He commented that being more friendly in how they design development for different modes of transportation is part of that.

Scott Bjorke, 6737 99th Avenue, asked if there is inclusion to re-lane the Oak Grove and Zane intersection.

Planning Director Mogush commented that the zoning changes themselves regulate the development of new streets but do not directly affect existing streets. He stated that as development proposals come through, City staff will evaluate the proposal against the existing street network and identify if changes need to be made to that network to accommodate the development. He commented that during the interim period between now and when development occurs, staff is open to input from residents as there are issues that could be addressed.

MOTION UDOMAH, SECOND GAYE-BAI, TO RECOMMEND APPROVAL OF AN ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING THE MIXED USE ZONING DISTRICT AND PEDESTRIAN PRIORITY OVERLAY DISTRICT THROUGH TEXT AND MAP AMENDMENT TO BE APPLIED TO THE AREA SURROUNDING THE INTERSECTION OF ZANE AVENUE AND OAK GROVE BOULEVARD.

MOTION CARRIED UNANIMOUSLY.

MOTION UDOMAH, SECOND TURNER, TO RECOMMEND APPROVAL OF AN ORDINANCE AMENDING CHAPTER 150 OF THE BROOKLYN PARK CODE OF ORDINANCES ADOPTING SIGN REGULATIONS FOR THE MIXED USE ZONING DISTRICT.

MOTION CARRIED UNANIMOUSLY.

7. OTHER BUSINESS

Commission Chair Cavin commented that he has been thinking about edible gardens/landscaping and stated that perhaps fruit trees could be allowed as part of landscaping.

Planning Director Mogush confirmed that could be part of the broader zoning code review that they are in the process of and would be related to sustainability.

City of Brooklyn Park Request for Council Action

Agenda Item:	6.2	Meeting Date:	October 23, 2023
Agenda Section:	Land Use Actions	Originating Department:	Community Development
Resolution:	X	Prepared By:	Erin McDermott, Associate Planner
Ordinance:	N/A		
Attachments:	5	Presented By:	Paul Mogush, Planning Director
Item:	First Student – Variance, #23-113 for a 10-foot Electric Fence.		

City Manager’s Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-_____ TO APPROVE FINDINGS OF FACT FOR THE DENIAL OF A VARIANCE REQUEST FOR A HEIGHT INCREASE OF 18 INCHES FROM 8 FEET 6 INCHES TO 10 FEET, AND DEVIATION FROM THE PROHIBITION OF ELECTRIC FENCES FOR AN ELECTRIC FENCE AT 7225 WINNETKA AVE NORTH.

Overview:

Amarock, LLC would like to construct a 10-foot electric fence on the First Student property at 7225 Winnetka Ave. N. The requested fence would be constructed in addition to an existing 6-foot fence per the provided plans, the newly constructed fence would be approximately 4 to 8 inches away from the existing perimeter fence.

This application is seeking relief from two separate provisions of the Zoning Ordinance as follows:

152.363 (D) *Height*. No fence may exceed eight feet, six inches as measured from the top of the fence or supports to grade. Exceptions to this height may be made for fences enclosing tennis courts and other similar recreational uses with the approval of the City Manager.

152.392 (B)(4)(a) Prohibited fence materials include electric, chicken, concertina, or barbed wire fences.

Variances may be granted if the enforcement of a zoning ordinance provision, as applied to a specific property, would cause the landowner “practical difficulties”. For “practical difficulties” to be established, they must meet all three of the evaluation criteria for the three-factor test, as listed below. Statute lists additional factors for the consideration of a variance, such as economic considerations do not constitute practical difficulties, and the board of appeals and adjustments or the governing body (in Brooklyn Park, this is the Planning Commission) as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person’s land is located (Minn. St. 462.357 sub. 6).

Planning Commission

This item was heard by the Planning Commission at the September 13, 2023 Regular Meeting. The property owner and a representative of First Student were present to speak in favor of this application. The Planning Commission voted 5-2 to recommend adopting the findings of fact as stated in the resolution, denying the variance request.

Current Conditions

This property is situated between Winnetka Avenue and City-owned property designated for conservation. This property is made up of two properties that were developed through a CUP site plan approval in 1988 as a “court development” and cannot be sold independently. The northern property contains gas pumps, and the southern property is developed with a building in which maintenance and office functions occur. Both sites have paved parking for bus storage.

Future Land Use	Industrial
Current Zoning	Industrial
Site Area	9.71 acres
Surrounding Zoning	North – I - Industrial East – I - Industrial South – I - Industrial West – CD – Conservancy District
Conforms to	
Land Use Plan	No
Zoning Code	No
Notification	Legal notice was published in the Sun Post, 18 Notices were mailed, Proposed Development Sign was placed on the property.
60- and 120- Days (MN §15.99)	October 13, 2023; December 12, 2023

Previous Approvals

This property was originally developed as a site for Penske truck leasing, as approved by CUP 1995-122 for the use of this property as a truck terminal. The property was subsequently sold, and the use changed. At that time, the City granted amended CUP 2003-152 for the use of this property as a school bus terminal.

Variance

Minnesota Statute requires all variance requests be evaluated and be found to meet all conditions of the three-factor test for practical difficulties ([§ 462.357, subd. 6](#)). The applicant's submitted findings can be found in Attachment D, and are summarized below:

The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any practical use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place the building there is reasonable. *In this case:*

Applicant Submission: The applicant feels that this variance request is reasonable, as it does not change or alter the use of the property as a school bus terminal.

Staff response: The installation of a 10-foot-tall electric fence 4 to 8 inches behind an existing 6-foot-tall fence is unreasonable. There are alternative methods to achieve site security permitted by the zoning ordinance. The denial of this variance would not create a practical difficulty to the property owner as it would not impede the use of the land.

The second factor is that the landowner's problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees. *In this case:*

Applicant Submission: The applicant sites a uniquely shaped lot abutting city owned property, and proximity to high traffic road as a concern for a high volume of criminal activity.

Staff response: There are no unique circumstances existing on this property that would create a practical difficulty necessitating a 10-foot tall electric second fence. There are many rectangular properties in the city abutting wooded properties and parks, including all industrial properties abutting this conservation area. The applicant focused on economic hardship caused by hypothetical criminal activity, and not on unique features of the property and characteristics of the land on which the proposed fence would be constructed.

The third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to the lot line and if that fits in with the character of the area. *In this case:*

Applicant Submission: The applicant feels that the fence is a safe, effective, and reliable security measure and crime deterrent.

Staff response: The approval of this application would irreparably alter the character of the neighborhood. The installation of the proposed fence would look out of place, as there are no electric fences anywhere else in the city, nor are there fences taller than 8 feet tall existing for a purpose other than highway noise attenuation. The proposed fence would be 4 feet taller than the existing fence, and as such it would be out of scale, out of place and inconsistent with the surrounding area.

The Statutory requirement as well as variance standards in the Zoning Ordinance (§152.034) state that variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the variances are consistent with the comprehensive plan. Granting a variance permitting a design standard that is explicitly prohibited by code directly conflicts with this purpose statement and should not be permitted.

Staff believes this request to be incompatible with the zoning ordinance and does not preserve the established purpose and intent prescribed by the zoning ordinance.

Staff recommends the City Council adopt the abovementioned findings of fact to support denial of a variance request for the increase in the height allowance of a fence from 8 feet 6 inches to 10 feet, and to permit an electric fence, as stated in the draft resolution provided.

Primary Issues/Alternatives to Consider:

1. Approve the findings of fact to deny the requested variance as recommended by Staff.
2. Approve the findings of fact to deny the requested variance with modifications.
3. Deny the findings of fact for the variance request and recommend approval of the variance request based on certain findings.

Budgetary/Fiscal Issues: N/A

Attachments:

- 6.2A RESOLUTION – FINDINGS OF FACT
- 6.2B LOCATION MAP
- 6.2C PLANNING COMMISSION MINUTES
- 6.2D APPLICANT'S NARRATIVE
- 6.2E PLANS

RESOLUTION #2023-

RESOLUTION TO APPROVE FINDINGS OF FACT FOR THE DENIAL OF A VARIANCE REQUEST FOR A HEIGHT INCREASE OF 18 INCHES FROM 8 FEET 6 INCHES TO 10 FEET, AND DEVIATION FROM THE PROHIBITION OF ELECTRIC FENCES FOR AN ELECTRIC FENCE AT 7225 WINNETKA AVENUE NORTH

Planning Commission File #23-113

WHEREAS, Amarock, LLC, on behalf of First Student, has made application for a Variance under the provisions of Chapter 152 of the City Code at 7225 Winnetka Avenue North and legally described as:

LOTS 19 AND 20, BLOCK 1, BROOKLYN GARDENS, HENNEPIN COUNTY,
MINNESOTA.

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

WHEREAS, the variance request for the construction of a 10-foot tall electric fence would require a deviation from City Code Chapter 152, Section 152.363(D) to exceed the allowable height for fences, and 152.392(B)(4)(a) for a deviation from permitted fencing materials to permit electric fencing; and

WHEREAS, the Planning Commission held a public hearing on September 13, 2023; and

WHEREAS, Minnesota Statute Section 462.357, subd. 6 provides:

1. Variances shall only be permitted (a) when in harmony with the general purposes and intent of the ordinance, and (b) when the variances are consistent with the comprehensive plan.
2. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties", as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.

WHEREAS, the effect of the proposed use upon the health, safety and welfare of surrounding lands and existing and anticipated effects on the neighborhood have been considered; and

WHEREAS, the Planning Commission has reviewed the variance request for a height increase from 8 feet, 6 inches, to 10 feet, and a deviation from prohibited fencing materials for the allowance of an electric fence, and finds the request:

1. Is in conflict with the purpose and intent of the ordinance because electric fencing is explicitly prohibited by the ordinance.
2. The applicant is requesting unreasonable use, the installation of a 10-foot tall electric fence 4 to 8 inches behind an existing 6-foot tall fence is not reasonable.

3. The applicant's circumstances are not unique to the property, there are many properties within the City of Brooklyn Park abutting heavily wooded properties, and park properties.
4. The approval of this application would irreparably alter the character of the neighborhood. The installation of the proposed fence would look out of place, as there are no electric fences anywhere else in the city, nor are there fences taller than 8 feet tall existing for a purpose other than highway noise attenuation. The proposed fence would be 4 feet taller than the existing fence, and as such it would be out of scale, out of place and inconsistent with the surrounding area.

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

The application to issue a variance for the construction of a 10-foot tall electric fence would require a deviation from City Code Chapter 152, Section 152.363(D) to exceed the allowable height for fences, and 152.392(B)(4)(a) for a deviation from permitted fencing materials to permit electric fencing is hereby denied.

The petitioner shall be required to record a copy of this resolution with the Hennepin County Recorder and to pay all fees for said recording. Proof of said recording shall be filed promptly with the City.



Variance
Case #23-113 – First Student
Area of Request (Air Photo)
7225 Winnetka Ave

Brooklyn Park 



Ms. Brinkley replied that she does not have security because there is not alcohol involved. She commented that anytime she has hosted events with alcohol, she has had security onsite.

Commissioner Fraser asked if there is music at the events.

Ms. Brinkley replied that there is music at the events.

Commissioner Fraser asked for details on noise ordinances from staff.

Principal Planner Turnquest commented that the hours of operation would comply with the zoning ordinances and with the appropriate times.

Commission Chair Cavin asked for details on the typical clients of the business.

Ms. Brinkley replied that she hosts birthday parties, baby showers and other small intimate private gatherings.

Commission Chair Cavin asked and received confirmation that the maximum allowed occupancy would meet the needs of the business. He asked if the available parking would also meet the demand of the business.

Principal Planner Turnquest replied that the City has reviewed the plans and determined that the parking would be adequate given the difference in hours between the other businesses in the area.

Commissioner Turner asked if the vendors the business works with would have food permits.

Ms. Brinkley replied that in the contract she would stipulate that the client would be required to obtain a licensed caterer.

MOTION WAKO, SECOND UDOMAH, TO RECOMMEND APPROVAL OF A CONDITIONAL USE PERMIT FOR AN ASSEMBLY, BANQUET, CONVENTION HALL, OR CONFERENCE CENTER AT 8568 EDINBURGH CENTRE DRIVE, SUBJECT TO CONDITIONS CONTAINED 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 September 25, 2023.

C. First Student – Variance #23-113 for a 10-foot electric fence.

Associate Planner McDermott introduced the application for First Student. She reviewed the subject site location and noted that the applicant seeks a variance for the height of the fence along with a deviation on the prohibition of electric fences. She provided details on the subject property, surrounding uses, and zoning. She stated that the applicant would propose to install an electric fence behind the current chain link fence. She reviewed the three-factor test required for a variance consideration and explained how this request would not meet the factors for a practical

difficulty. She commented that staff believes this request to be inconsistent with the zoning ordinance and therefore does not support the request.

Michael Pate, representing the applicant, introduced himself and explained that his business is hired to guard large yards, such as school buses. He explained that people camp out and do drugs in the buses and also cut the catalytic converters from the buses. He commented that this is an issue of public safety. He explained how the electric fence would be powered and how the silent alarm protocol would work. He explained that this process helps to deter issues and police involvement. He commented that it is reasonable to protect assets, and this is unique property because it backs up to the wetland. He commented that this will not alert the character of an industrial site in an industrial area. He stated that this simply creates a safe area for this business to operate. He commented that this is not a fence, but a security system. He commented that this is a safe and effective device and is held to the same standard as any other electrical system. He stated that he has been in this business since 1990 and there has never been an injury or death associated with these devices. He asked the Commission to approve the request to allow the business to continue to operate in this location. He acknowledged that they do need a little height to operate this system as it would prevent someone from jumping the fence. He noted that there are different fence heights around the property, and they need two feet above that, therefore they could utilize eight feet in height where the six-foot fence exists. He noted that there are required signs that would be placed every 30 feet, warning people not to touch the fence. He stated that people would be unable to touch the fence unless they had already jumped the perimeter fence.

Commission Chair Cavin opened the public hearing.

Phil O'Donnel, First Student, commented that their company transports children, and they need to keep the buses as safe as they can. He noted a break in that occurred after the last Thanksgiving break, where 11 buses had catalytic converters cut off of them. He commented that there is also a safety risk in people tampering with buses that transport children. He stated that they researched options for security and this was the solution they have found.

Tim Metzger commented that his family owns the building that First Student operates out of and recognized that things have changed over time in this area. He stated that he is open to this solution as he wants the business to remain and does not want his property to be involved in a bad incident.

Commission Chair Cavin closed the public hearing but reminded the public that comments can be submitted via email to City Staff for consideration in the City Council agenda packet.

Commissioner Udomah appreciated the input of the applicants but stated that he is skeptical on the length of security requested to resolve this issue. He understands the issue with catalytic converter theft but was concerned with the use of electric fence as that is not even used around prisons. He asked for alternatives that were considered and perhaps disregarded before they reached this option.

Mr. O'Donnel commented that they contracted with the off-duty police for a while after the break-in and reviewed security systems, but felt that they would need to protect the property full-time without the use of personnel on site at all times. He commented that they felt that this was an option to protect the property at all times without requiring someone to be onsite at all times.

Commissioner Wako recognized the request to increase the height of the fence to ten feet and to electrify the fence. He asked for more details on the circumstance of the break-in and whether there is camera footage.

Mr. O'Donnell commented that they did not have a security system at that time and therefore do not have footage of the incident. He stated that they also do not currently have a security system.

Commissioner Wako stated that public safety is mentioned in the presentation, recognizing the importance of the safety of the children being transported, but asked about the safety of the children in the area that might be playing near the site.

Mr. Pate commented that there is a perimeter barrier prior to the electric fence which would prevent someone from touching the fence from the outside of the property. He noted that the fence would not be operated during business hours and would only be turned on during non-business hours. He commented that if there were a child walking through the industrial area during the night, they still could not touch the electric fence without going over the six-foot perimeter fence. He commented that if someone climbs over the six foot fence, they would be trespassing. He stated that there would be signage posted on the electric fence and even if someone were to touch the fence, they would not be injured.

Commissioner Wako asked for more input on the issue of reasonability when a security system has not been tried prior to requesting an electric fence.

Mr. Pate commented that there is already a six-foot security fence. He commented that a camera system would record a crime, but would not stop a crime and perhaps would not even identify the people committing the crime whereas this system is meant to prevent crime from occurring. He stated that there have been off-duty police providing security in the past, which is security. He commented that this system would make the neighborhood safer. He commented that this system has been tested, is safe, and meets the required standards.

Commissioner Gaye-Bai asked what other companies use this type of system.

Mr. Pate replied that he has over 700 sites using this system including almost every major trucking company and almost every equipment rental company. He provided examples of companies within Minnesota using his systems such as FedEx and UPS and Co-Part in Fridley. He stated that automobile yards also use his system.

Commissioner Kiekow asked if any other systems have been considered, providing some examples. He asked if there are flood lights on the lot.

Mr. O'Donnell confirmed that the lot is adequately lit with a fence around the property.

Commissioner Kiekow asked if monitored cameras were considered.

Mr. O'Donnell commented that they did look at that option but has not had great experience with that in other locations. He stated that First Student uses this type of system in other locations and that is why they requested to use it in this location.

Commissioner Kiekow commented that he has managed sites more dangerous than this and they did not use electrified wires. He noted that they used eight-foot fences and monitored cameras. He commented that this would seem to be the highest-powered option without looking at other options. He noted that perhaps increasing the lighting would deter theft along with security patrols. He commented that Brooklyn Park does not have electric fences, razor wire or barbed wire. He did not think that this has been fully vetted to find a solution that would work and would be acceptable to the community.

Commission Chair Cavin asked how often there have been break ins or whether that was a one-time event.

Mr. O'Donnell commented that while it was a one-time event, when you are transporting children one event is significant.

Commissioner Borer commented that the height stands out the most along with the fact that the fence is electrified. She stated that having someone camp out in a bus or finding needles in a bus would be troublesome as the business transports children. She also recognized the difficulty in trying different things that may not work and therefore would support this request as she believes that something needs to be done. She stated that the City needs to make a stand and protect business owners and therefore supports this request.

Commissioner Udomah stated that he is still yet to be entirely convinced. He asked if the people that stole catalytic converters are professional thieves, noting that can happen out in the daylight as it is a quick process. He commented that an electrified fence is like a net in the ocean, catching everything. He recognized the intent to protect children, but noted that they also want to protect children that may be in the neighborhood and see it as a challenge.

Mr. Pate commented that this is not a scalable device, and provided additional details. He commented that these young children are not going to be out there in this area during the middle of the night when the fence would be turned on. He stated that if someone were to attempt to break into the property, this would stop them. He commented that this system is used by First Student in almost 60 of its other centers because it is the most effective and economical way to protect the property.

Commissioner Udomah asked why the electric fence is required if the alarm is triggered.

Mr. Pate commented that the alarm is not triggered until five consecutive attempts are made.

Commissioner Turner appreciated the hardships, recognizing that this could be a hardship for parents as well as vandalism of school transportation impacts parents as well. She asked where the panels would be located.

Mr. Pate replied that they would have a solar array and provided additional details on how the system works using wi-fi.

Commissioner Turner commented that she has had her catalytic converter stolen and her workplace has experienced that issue during the day as well, therefore this is a broad issue.

Commissioner Wako commented that this seems to be untested territory in terms of electrifying a fence and believed there are other measures that could be attempted before moving to this step. He noted that there has only been one instance that has occurred on this property.

MOTION CAVIN, SECOND KIEKOW, TO ADOPT FINDINGS OF FACT FOR THE DENIAL OF A VARIANCE REQUEST FOR A HEIGHT INCREASE OF 18 INCHES FROM 8 FEET 6 INCHES TO 10 FEET AND DEVIATION FROM THE PROHIBITION OF ELECTRIC FENCES FOR AN ELECTRIC FENCE AT 7225 WINNETKA AVENUE NORTH, SUBJECT TO THE CONDITIONS IN THE DRAFT RESOLUTION.

A ROLL CALL VOTE WAS PERFORMED:

COMMISSION CHAIR CAVIN	AYE
COMMISSIONER WAKO	AYE
COMMISSIONER BORER	NAY
COMMISSIONER KIEKOW	AYE
COMMISSIONER FRASER	AYE
COMMISSIONER UDOMAH	AYE
COMMISSIONER GAYE-BAI	AYE
COMMISSIONER TURNER	NAY

MOTION CARRIED.

7. OTHER BUSINESS

Commission Chair Cavin welcomed the new City Council Liaison.

8. DISCUSSION ITEMS

None.

9. INFORMATION ITEMS

A. Council Comments

Council Liaison McGarvey provided an update on recent City Council actions previously considered by the Planning Commission.

B. Commission comments

None.

C. Staff Comments

Planning Director Mogush welcomed Councilmember McGarvey as the new liaison. He commented that staff is not planning a work session later this month.

**Justification for Variance Approval (10')
7225 & 7233 Winnetka Avenue Nort, Brooklyn Park, MN 55428**

AMAROK, LLC on behalf of FIRST STUDENT, is respectfully requesting for City Council to approve a Variance for the proposed security system which has been submitted to Brooklyn Park, allowing the installation of a 10' tall low-voltage, battery-powered, pulsed security fence to secure the property of FIRST STUDENT safely and effectively. The property is located at **7225 and 7233 Winnetka Avenue North** and is Zoned Industrial.

The security system would be low-voltage, battery-powered (12V/DC), 10' tall, safely located inside/behind of the existing 6'-0" – 8'-0" tall existing chain-link perimeter fence to secure the property. The AMAROK security fence has proven to be the most effective theft and crime deterrent for businesses across the country such as FIRST STUDENT. Even in cases where businesses were experiencing frequent theft and loss, the installation of our security fence immediately results in the prevention of any further attempted break-ins, vandalism, and theft.

Brooklyn Park Ordinance 152.363(2)(D) ACCESSORY STRUCTURES

Only commercial fences and walls that meet the following specifications are permitted as accessory structures on any site in a business district.

(2) Fences and gates controlling access to the property must be approved by the City Manager before a building permit may be issued or approval is given through another process.

(D) *Height.* No fence may exceed eight feet, six inches as measured from the top of the fence or supports to grade. Exceptions to this height may be made for fences enclosing tennis courts and other similar recreational uses with the approval of the City Manager.

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

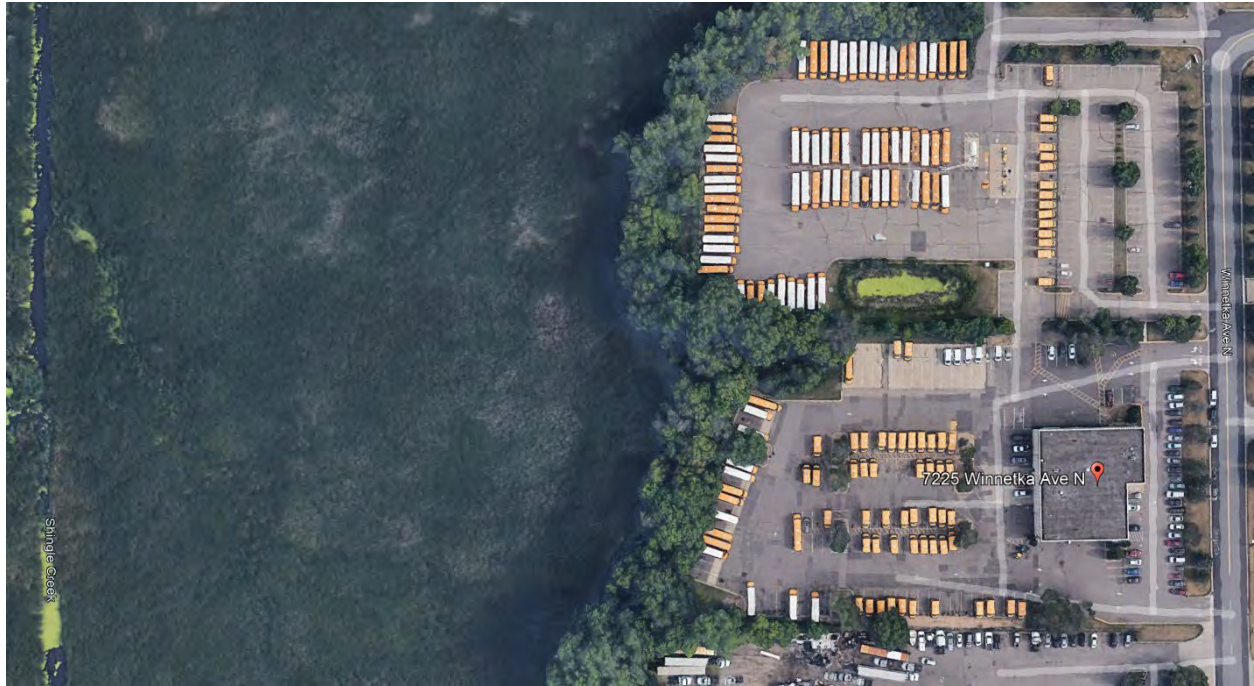
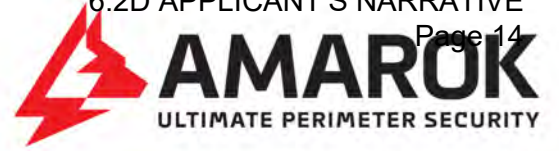
Property is zoned "I" General Industrial and is currently being utilized for parking of school buses for the local school districts to transport children to and front school and events. The property is enclosed by a fence, which is easily cut or scaled by those engaging in various criminal behavior.

The granting of this variance does not change or alter the use of the property. The purpose of the code is for the city to review and approve uses that enhance the city to residents and businesses, thus providing a high quality of life in the city to all who reside and work in Brooklyn Park. By granting the variance, the zoning code and planning remains intact with emphasis on keeping the city, businesses, and residents safe while providing a place of employment for residents, and tax revenue for the city by having a strong reputable business operate in the city of Brooklyn Park

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



ULTIMATE PERIMETER SECURITY



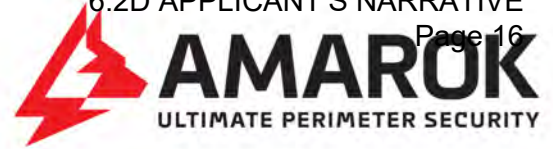
ULTIMATE PERIMETER SECURITY



The property has various characteristics which create circumstances unique to the property which are not created or no fault of the landowner. The property has unusual and unique geography of the properties which are created due to land location, shape, and relation to a public park. The shape along with the size of the property next to a wooded park, combined with the high demand and value of items to be stolen, provides a criminal a target with little to no risk of being detected and caught on the property.

The property is located off a busy road, which would allow for an easy getaway from a criminal in a variety of ways if fleeing from police. The amount of traffic on Bottineau Blvd and the surrounding roads such as 71st Ave N, 73rd Ave N allow for criminals to slip away to various hiding spots. Criminals can complete thefts with little to no concern of anyone seeing them due to the location of the property. One would have to drive down the street to see a vehicle even parked in front of the property, which happens infrequently late and overnight. The property set off a main road, Bottineau Blvd where traffic is unconcerned with who is doing what a street over in a business park. The business park itself creates a unique hardship as it tends to group together businesses which make a lucrative enticement for criminals. Police are not able to devote resources to patrolling a business park but rather expect and rely on businesses to handle their own security for deterring criminal activity.

The uniquely shaped property is bordered by a public park with numerous walking trails creating not only one but numerous ways to enter the property from the rear area and enter undetected. Even if police went by the property on Winnetka Avenue, it is possible to be and remain undetected when entering from the rear of the property. There is no ability to control entry to, from and near the park. The park provides the criminal with the ability to enter, exit, remain undetected, and even a place to hide stolen goods. This unhindered access provides criminals the ability to lay in wait for residents employed by FIRST STUDENT to enter the area for work, or leave after dropping children off, setting the employees up as a target of theft, or other malicious



activity posing a potential risk to their lives. Often when employees end a bus run for the day, it is dark and cold which leads to a criminal being unseen until they appear to cause harm. Thus, this natural park property is a criminal's dream as it provides easy access to enter and leave under the cloak of darkness undetected, as well as provide cover for other criminal acts that endanger FIRST STUDENT property and employees.

Criminals are not concerned with the endangerment of the children who ride the buses or the residents who drive the buses. Every time a criminal trespass onto the property, steals or damages a bus, a child is at risk. By stealing parts off the busses, the bus may not start, which leads to children not being able to be picked up at a school bus stop timely or at all, which in inclement weather such as rain, snow, ice, or extreme heat, leads to the possibility of a life-threatening illness to a child. When a bus does not arrive, children could walk off unattended which places them in harm from various situations including criminals who target children. Even buses that pick up the children and appear to be working could have unnoticed damage which could lead to a bus crash or fire, risking the lives of the children, innocent passerby, employees, and first responders. There are so many disastrous situations that children's lives are exposed when criminals can access property such as a bus lot, steal and possibly even be on the bus while the children are on the bus, or an employee enters the bus, it is of the utmost importance to take all steps necessary to ensure safety.

FIRST STUDENT is entrusted to safely transport children to and from school. FIRST STUDENT wants to be able to ensure parents their children are safe while on the bus and that FIRST STUDENT will be able to pick up children on all bus routes. The assurance to the employees is another aspect that bears consideration. No bus driver should be at risk coming or leaving work, or while driving a bus due to the criminal activity caused by others.

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

This is a business area where businesses operate, and local residents are employed. Granting the variance would not be detrimental but rather a positive for all as a reduction in and crime deterrent.

Rather, the installation of the proposed security system will ensure public health and safety as well as comfort and general welfare by effectively deterring crime. It is not exposed to the public so there is no danger or nuisance. To come in contact with the security system, one would have to intentionally trespass with criminal intent.

The AMAROK security system is the most effective, reliable, and safe perimeter security system. It is not to be confused with animal containment fences. Battery

charged electric security fencing is in no way intended to be harmful or injurious and is only meant to deter property breaches. The installation of the system will secure the property, increase the security of the surrounding properties resulting in higher property values and increasing tax revenue for the community.

Safely and effectively reducing criminal activity occurrence in an area also allows the city to redirect law enforcement resources towards more serious crimes other than property break-ins and theft. Cameras record crime and do not prevent it. Typical alarm systems only monitor buildings once the break-in has occurred. The purpose of the proposed installation is to be proactive rather than reactive.

4. Economic considerations alone do not constitute practical difficulties.

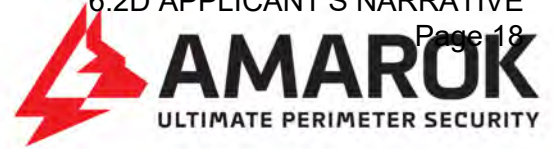
This is a safety issue and not a financial consideration. As FIRST STUDENT operates a business that transports children for local school districts funded by taxpayers. By denying the right to FIRST STUDENT the ability to secure the property, one risks children lives as well as the employee lives. FIRST STUDENT utilizes the AMAROK system at hundreds of sites to secure the buses, protect employees, keep the children they are entrusted to transport safe, and transport them to school.

FIRST STUDENT is the leading school transportation provider in North America and provides an essential service to the residents of Brooklyn Park. FIRST STUDENT has been operating for more than 20 years, is extremely proud of their reputation for safety would not consider implanting or use anything that could harm the residents, their employees, or the students whose care is entrusted to them every day.

5. There is inadequate access to direct sunlight for a solar energy system. There is more than adequate sunlight to utilize by the solar arrays to charge the 12V/DC batteries. The solar system does not power the system, only works to keep batteries charged. The amount of daily sunlight will more than adequately provide the ability to charge the batteries for the system.

FIRST STUDENT has installed this security fence at other sites across the United States and found that it is the most effective way of securing their business, property, employee, and student safety. The granting of the variance will not provide applicant with any special privilege that is denied to others in this district. Granting the variance will allow the Company to protect the business and its assets, alleviating the practical difficulty and resulting hardship that has not been caused by applicant.

The crime experienced in the area and the business are through no fault of the applicant. Applicant's actions have not contributed to this result in any way. Applicant is a business owner contributing to the tax base, providing a valuable service to the



community. The applicant should not be denied the right to protect the property and assets of the business as well as those who entrust their children's lives to the applicant.

Not granting the variance places an undue burden on FIRST STUDENT financially and poses no risk to anyone living nearby or in the area for legitimate, legal purposes. Therefore, we respectfully request that the variance be granted for FIRST STUDENT



Michael Pate
Director Government Relations

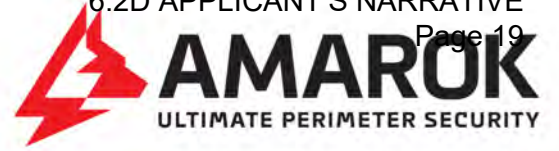
AMAROK, LLC
Mobile: (803) 422-3600
mpate@amarok.com
www.AMAROK.com



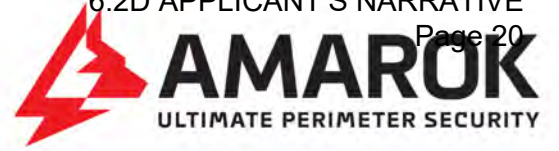
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Compliance Manager

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ULTIMATE PERIMETER SECURITY



ULTIMATE PERIMETER SECURITY



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ABOUT US

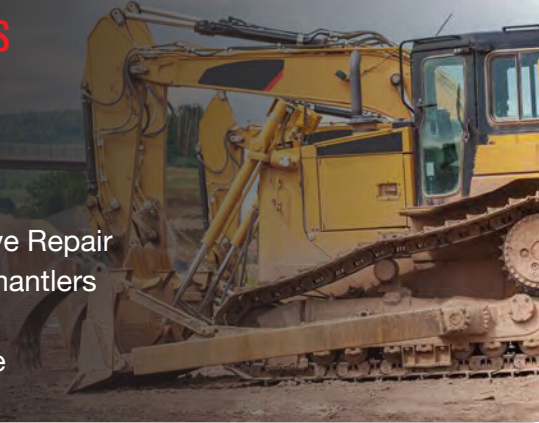
We are a perimeter security solution for businesses located on commercial, manufacturing, and industrial sites whose needs include the **protection of outdoor assets.**

6,000+
INSTALLATIONS

1,200+
JURISDICTIONS

TYPICAL CUSTOMERS

Trucking & Logistics
Distribution
Metal Recycling
Landscaping
Collision & Automotive Repair
Auto Auctions & Dismantlers
Equipment Rental
Truck Sales & Service



THERE ARE **4 STRATEGIC SEGMENTS** IN OUR RESPONSE TO COMMON CRITICAL TACTICS

DETER

Deterrence begins at the perimeter with **physical infrastructure and multilingual warning signs**, discouraging a criminal from attempting a breach at all.



Deterrence is a psychological battle, and when EGD wins, **crime is stopped before it happens.**

DEFEND

Stop unauthorized entry!

Physical Deterrent

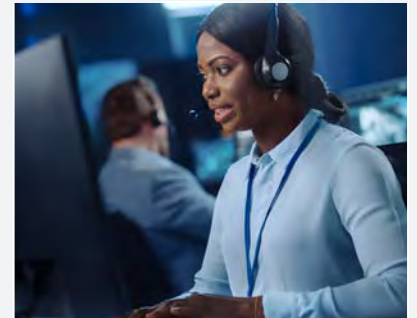
Built **ONLY** inside the existing non electrified perimeter barrier



If someone touches our system, they are trespassing

DETECT

Audible & monitored alarm system which activates when trespass is detected. System includes remote access to arm/disarm.



DEPLOY

If an activated alarm is **confirmed to be a trespasser**, responders are then contacted and deployed to examine.



MEDICALLY SAFE

Pulses: every 1.3 seconds

Duration: less than 0.0003 seconds



"The pulses emitted from AMAROK's electric fences, while unpleasant, are not dangerous."

—Mark Kroll, Ph.D.

Served on committees for ANSI standards, IEC standards, and ASTM standards

Adjunct Professor of Biomedical Engineering at the University of Minnesota and Cal Poly, San Luis Obispo

INTERNATIONALLY APPROVED

We meet standards set by the **International Electrotechnical Commission (IEC 60335-2-76)** and **ASTM (F3296-19)**.



International
Electrotechnical
Commission



THE ELECTRIC GUARDDOG™ POWERED BY AMAROK

HOW IT WORKS: CORE COMPONENTS

AMAROK OWNS AND MAINTAINS THE SECURITY SYSTEM

BATTERY
(DOES NOT EXCEED 12V DC)



SOLAR PANEL



ENERGIZER



ALARM PANEL,
KEYPAD &
CELL UNIT



ELECTRIC SECURITY FENCE

GREEN SECURITY

The system is powered by a 12-volt battery that is recharged by a solar panel, which is effective as well as **environmentally friendly**.



OSHA[®] Occupational Safety and Health Administration

We are certified compliant by a USA Nationally Recognized Testing Laboratory

“Nationally Recognized Testing Laboratories (NRTL) are third-party organizations recognized by OSHA (Occupational Safety and Health Administration) as having the capability to provide product safety testing and certification services ...”

NRTL certified means, “... the product met the requirements of an appropriate consensus-based product safety standard either by successfully testing the product itself, or by verifying that a contract laboratory has done so ...”

GREAT ADDITION
TO GREEN STRATEGY

NOT AFFECTED
BY POWER FAILURES

NOT CONNECTED
TO MAIN POWER

FAQ: WHY MUST OUR FENCE BE TALLER?



SAME HEIGHT AS EXISTING FENCE

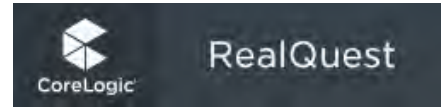


TALLER THAN EXISTING FENCE



Property Detail Report

For Property Located At :
**7225 WINNETKA AVE N, BROOKLYN PARK, MN
 55428-1621**



Owner Information

Owner Name: **C M GOTZIAN & SON INC**
 Mailing Address: **835 EAGLE LAKE RD N, BIG LAKE MN 55309-9485 R011**
 Vesting Codes: **//**

Location Information

Legal Description: **LOT 020 BROOKLYN GARDENS E 1/2**
 County: **HENNEPIN, MN** APN: **30-119-21-41-0003**
 Census Tract / Block: **268.07 / 7** Alternate APN:
 Township-Range-Sect: **11-21-30** Subdivision: **BROOKLYN GARDENS**
 Legal Book/Page: Map Reference: **119-21-30-SW-NE /**
 Legal Lot: **20** Tract #:
 Legal Block: School District: **279**
 Market Area: School District Name: **OSSEO**
 Neighbor Code: Munic/Township: **BROOKLYN PARK**

Owner Transfer Information

Recording/Sale Date: **/** Deed Type:
 Sale Price: 1st Mtg Document #:
 Document #:

Last Market Sale Information

Recording/Sale Date: **/** 1st Mtg Amount/Type: **/**
 Sale Price: 1st Mtg Int. Rate/Type: **/**
 Sale Type: 1st Mtg Document #:
 Document #: 2nd Mtg Amount/Type: **/**
 Deed Type: 2nd Mtg Int. Rate/Type: **/**
 Transfer Document #: Price Per SqFt:
 New Construction: Multi/Split Sale:
 Title Company:
 Lender:
 Seller Name:

Prior Sale Information

Prior Rec/Sale Date: **/** Prior Lender:
 Prior Sale Price: Prior 1st Mtg Amt/Type: **/**
 Prior Doc Number: Prior 1st Mtg Rate/Type: **/**
 Prior Deed Type:

Property Characteristics

Year Built / Eff:	1982 / 1984	Total Rooms/Offices	Garage Area:
Gross Area:		Total Restrooms:	Garage Capacity:
Building Area:		Roof Type:	Parking Spaces:
Tot Adj Area:		Roof Material:	Heat Type:
Above Grade:		Construction:	Air Cond:
# of Stories:		Foundation:	Pool:
Other Improvements:		Exterior wall:	Quality:
		Basement Area:	Condition:

Site Information

Zoning:		Acres:	4.86	County Use:	INDUSTRIAL (I)
Lot Area:	211,702	Lot Width/Depth:	x	State Use:	
Land Use:	INDUSTRIAL (NEC)	Res/Comm Units:	/	Water Type:	
Site Influence:				Sewer Type:	

Tax Information

Total Value:	\$1,283,400	Assessed Year:	2021	Property Tax:	\$42,185.74
Land Value:	\$723,200	Improved %:	44%	Tax Area:	279
Improvement Value:	\$560,200	Tax Year:	2022	Tax Exemption:	
Total Taxable Value:	\$1,283,400				

Why Are AMAROK Electric Security Fences Safe?

Mark W. Kroll, PhD, FACC, FHRS

24 July 2020

Electric security fences, that satisfy US and International regulations, are safe for human beings. These regulations have developed from over 100 years of experience and scientific testing.^{1,2} The pulses are extremely short and thus the brief, high current is not able to affect the heart (electrocute). The best analogy is to a strong static shock which can be painful but has never injured anyone. Strong static shocks can damage electronics — which responds almost instantly — but the human body is not harmed by such brief shocks. A strong static shock can have a peak current of 30 A (amperes) but is too short to be dangerous.³ Note that this is over 2x (twice) the peak current of an electric security fence.^{4,5} The peak current is irrelevant to safety for short shocks.⁶



Question 1:

I saw on the internet that 0.1 amperes (100 mA) is dangerous and that electric fences can have a peak current of over 10 A. Is that dangerous?

Answer: No. An AC current of over 0.1 A can be dangerous to humans but only if the shock lasts about 1 second or more.⁷ The AMAROK security fence pulse only lasts about 0.0001 seconds, so it is 10,000 times shorter than a danger shock.⁴

Question 2:

But still, that 10 amperes is 100 times as strong as the 100 mA danger level!

Answer: It is misleading to compare a peak current with an average current. Since the AMAROK security fence pulses only occur every 1.3 seconds, the average current is only 0.46 mA. Thus, the average current of an electric fence is 200 times less than the danger level. We rate AC currents by RMS (root-mean-square) which functions as an average.

Question 3:

How about wet conditions? How about children and wildlife?

Answer: The US and International Electric Fence Safety Standards assume a worst-case scenario of a barefoot child contacting the fence while standing on wet ground.^{8,9} Historical cases of tragic pediatric fatalities involved continuous AC (alternating current), and not the modern short DC (direct current) pulses satisfying today's safety standards.^{2,10} The same is true for wildlife.¹¹

Question 4:

What if the person has a pacemaker?

Answer: For technical reasons, this does not present a risk. The cardiology literature warns of various dangers for pacemaker patients; the electric fence is not included as a danger.¹²

References:

1. Dalziel CF. Electric fences—their hazards, types, regulations, and safe application. *Transactions of the American Institute of Electrical Engineers*. 1950;69(1):8-15.
2. Whittaker. Electric shock as it pertains to the electric fence. *Underwriter's Laboratories Bulletin of Research*. 1939;14:1-56.
3. International Electrotechnical Commission. Electromagnetic compatibility (EMC) - Part 4-2: Testing and measurement techniques - Electrostatic discharge immunity test. Vol IEC 61000-4-2: IEC.
4. Kroll M, Perkins P, Pratt H, Stuart E, Bury J, Panescu D. Safety of a High-Efficiency Electrical Fence Energizer. *Conf Proc IEEE Eng Med Biol Soc*. 2020;41:in press.
5. Kroll MW, Perkins PE, Panescu D. Electric fence standards comport with human data and AC limits. *Conf Proc IEEE Eng Med Biol Soc*. 2015;2015:1343-1348.
6. Kroll MW, Panescu D, Hirtler R, Koch M, Andrews CJ. Dosimetry for Ventricular Fibrillation Risk with Short Electrical Pulses: History and Future. . *Conf Proc IEEE Eng Med Biol Soc*. 2019;41:1788-1794.
7. Ferris LP, King BG, Spence PW, Williams HB. Effect of electric shock on the heart. *Electrical Engineering*. 1936;55(5):498-515.
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12. Santini L, Forleo GB, Santini M. Implantable devices in the electromagnetic environment. *Journal of Arrhythmia*. 2013;29(6):325-333.

Safety of a High-Efficiency Electrical Fence Energizer

Mark W. Kroll, PhD, *FIEEE*; Peter E. Perkins, MSEE, *LFIEEE*; Hugh Pratt, PhD;
Edward Stuart, *Member IEEE*; J. Bury, *Member IEEE*; Dorin Panescu, PhD, *FIEEE*

Introduction: Our primary goal was to evaluate the performance of a new high-efficiency electric fence energizer unit using resistive load changes. Our secondary goal was to test for compliance with the classical energy limits and the newer charge-based limits for output.

Methods: We tested 4 units each of the Nemtek Druid energizer with 2 channels each. We used a wide load-resistance range to cover the worst-case scenario of a barefoot child making a chest contact (400 Ω) up to an adult merely touching the fence (2 k Ω).
Results: The energy output was quite consistent between the 8 sources. Even at the lowest resistance, 400 Ω , the outputs were well below the IEC 60335-2-76 limit of 5 J/pulse. The charge delivered was also quite consistent. Even at the lowest resistance, 400 Ω , the outputs (679 \pm 23 μ C) were well below the proposed limits of 4 mC for short pulses.

Conclusions: The high-efficiency electric fence energizers satisfied all relevant safety limits. Charge, energy, voltage, and current outputs are consistent between channels and distinct units.

INTRODUCTION

Electric fence technology allows for economical and safe control of animals and humans as opposed to barbed or concertina wire which can cause injury. They use a painful brief shock intended to be well below the threshold for VF (ventricular fibrillation) and thus unable to electrocute a human being.[1] The traditional EFE (electric fence energizer) charged a capacitor and then dumped the capacitor energy into the primary of a transformer.[2] The secondary of the transformer then delivered its output to the electric fence wires. Such open-loop systems are affected by arcing (to vegetation or between wires) which can significantly reduce the charge delivered to the fence. Simply increasing the output is unacceptable due to safety concerns and there have been pediatric fatalities due to noncompliant fences.[3, 4] There are US and international safety standards governing EFEs.[5-7]

The traditional EFE output stages are not optimally efficient — in terms of energy and materials — due to the energy-material tradeoffs in the large capacitor and transformer output stage. The tested design (shown in Figure 1) uses diode current-steering to significantly reduce the size of the capacitor and transformer. The 30 μ F energy-storage capacitor and the 16 μ H series inductor give a resonant frequency of \sim 7 kHz or a period of \sim 60 μ s. This is significantly underdamped as there is minimal resistance in the circuit (300 m Ω from PC board tracings). A 2nd higher-frequency resonant circuit is formed by the inductor and the 12 μ F capacitor; this causes the 2nd peak superimposed onto the main discharge curve. The

diode across the transformer primary eliminates the longer low-amplitude reverse flow of current through the transformer and so keeps the output pulse shorter in duration as well as eliminating useless energy delivery cancelling charge from the main discharge pulse. See Figure 2. Since many present EFE standards still include the 5 J/pulse energy limit, reducing the delivered energy is important for regulatory reasons. This design is able to use smaller and lighter inductors and capacitors without having the charge cancellation that would be otherwise seen. Due to the classical misunderstanding that energy causes sensation, this monopolarity feature was often not appreciated in the past.[8, 9] While charge stimulates, energy is what makes burns, and thus a higher energy is useful for ablating vegetation shorts on an electric fence.

The design objective is to deliver \geq 0.2 mC of charge as that is known to be disagreeable to adult humans.[8, 10-13] Another key objective is to keep the output energy < 2.5 J so that a 2-channel unit would still satisfy the 5 J total output allowed by international safety standards.[6]

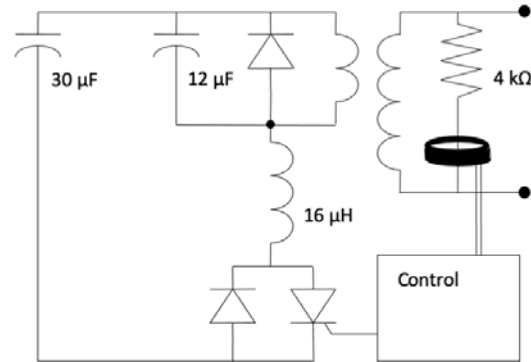


Figure 1. Output stage of tested energizer.

Feedback control also allows for significant energy efficiency gains. The design of a closed-loop EFE is non-trivial due to the load nonlinearities, transformer saturation, and the isolation of the high-voltages. The output load has capacitance, inductance, and transmission-line characteristics making modeling somewhat complex.[14, 15] With line distances > 1 km the input impedance of a linear electric fence approaches that of free space (377 Ω) with a reflected impedance near 0 Ω . In addition, arcing to vegetation introduces nonlinearities while

¹ M. W. Kroll is an Adjunct Professor of Biomedical Engineering at the University of Minnesota, Minneapolis, MN (e-mail: mark@kroll.name). Dr. Kroll is a consultant to Amarok. P. Perkins is an independent consultant. peperkinspe@cs.com Hugh Pratt, PhD, is Secretary of CPLSO

Edward Stuart (estuart@amarok.com) and J Bury (jbury@amarok.com) are employees of Amarok. D. Panescu is Chief Technical Officer, Vice President R&D, HeartBeam, Inc. (e-mail: panescu_d@yahoo.com).

arcing to ground (or to a return wire) can introduce negative dynamic resistance which makes traditional feedback control impossible.

We evaluated the performance of the Nemtek Druid™ units with APT (Adaptive Power Technology) whose loaded waveforms are given in Figure 2. Upon initialization, it charges the output capacitors to a level that are expected to approximately generate a 4 kV pulse after passing thru a pulse transformer. The actual voltage output is then measured, and this is used to calibrate the system and then the following pulses are delivered with peak voltages of 8.5-9.5 kV for a largely open circuit. In case of arcing, the voltage waveform is distorted from that seen in Figure 2 and the system recognizes this and reduces the peak voltage until the arcing ceases. This feature was not tested in our study.

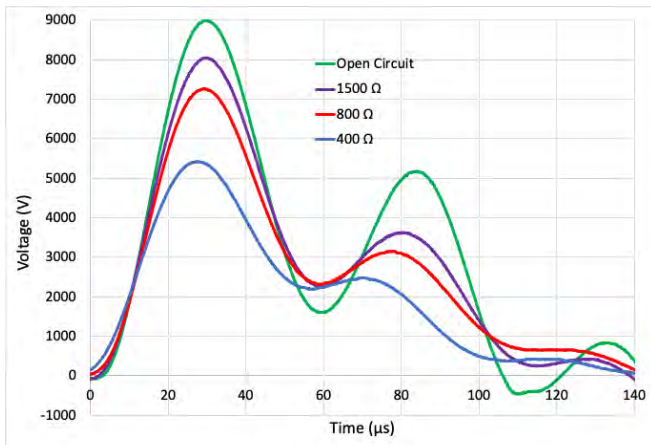


Figure 2. Typical output voltage waveforms for various loads.

For a closed-loop design a feedback signal from the energizer's output terminals is required. Although a simple resistor voltage-divider network can provide an accurate feedback signal, this is not practical due to isolation specifications which are required by the electric fence safety standards. The units tested sampled the output voltage by running it thru a high-voltage non-inductive 4 kΩ resistor. The current thru the resistor was, in turn, sampled by a current transformer (black ring in Figure 1) to provide isolated feedback to the control circuitry.

Present EFE safety standards are based on a 5-joule energy limit per pulse. However, since energy heats while charge stimulates, newer safety standards, for general applications, are now being based on the delivered charge.[16] For example, the proposed level for "low risk of fibrillation" is 4 mC. The charge is more dependent on the load resistance and thus we sought to evaluate this technology vs. the newer charge limits. We used a wide load-resistance range to cover the worst-case scenario of a barefoot child making a chest contact (400 Ω) up to an adult merely touching the fence (2 kΩ).[17]

Our primary goal was to evaluate the performance of the new high-efficiency feedback-controlled EFE units with load changes. Our secondary goal was to test for compliance with the classical energy limits and the newer charge-based limits for output.

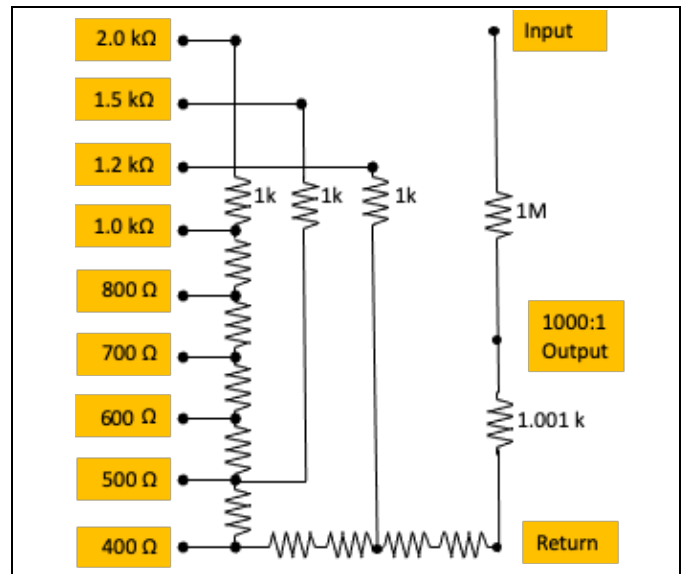


Figure 3. Voltage divider and load resistors. Unlabeled resistors are 100 Ω.

METHODS

We constructed a 1000:1 voltage divider using a 1 MΩ high-voltage low inductance Ohmite (Warrenville, Ohio, USA) MOX-3N resistor with a 30 kV pulse rating in series with 1001 Ω. The load resistance was selectable over 400, 500, 600, 700, 800, 1k, 1.2k, 1.5k, and 2 kΩ by use of the schematic shown in Figure 3. The load resistances were made up from Ohmite model OY series 100 Ω and 1 kΩ noninductive ceramic resistors rated for 20 kV and 70 J of capacitive discharge. Series trimming was done with smaller-value carbon resistors. The open circuit voltage was measured by removing the jumper going to a load resistor. Since the tested EFEs all had a 4 kΩ output resistor, the output-stage transformer was never truly operating into an open-circuit load.

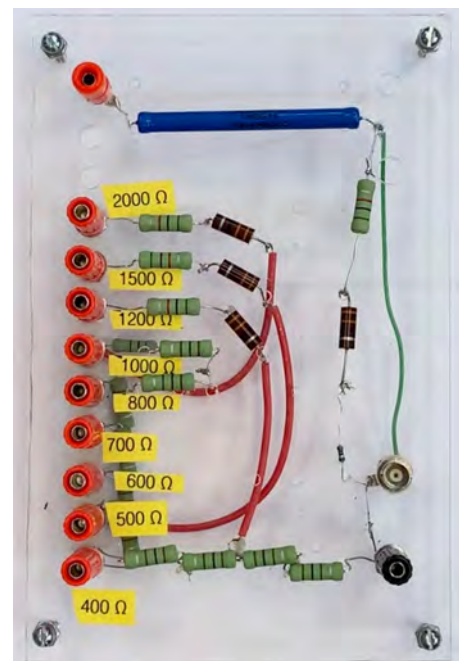


Figure 4. Voltage divider and load resistors.

All resistance values were verified to be within 1% with a Flexzion VC8145 5-digit meter which was in turn calibrated to a Vishay (0.1% 500 Ω precision resistor.) Voltage values were recorded by a calibrated Siglent SDS1202X digital storage oscilloscope sampling at 1 ns intervals.

A total of 4 Nemtek Druid™ EFE units were tested. Since each unit has 2 individual outputs, there were 8 sources tested in total. E.g. 1030/1. For determination of the peak voltage and current, the instantaneous voltages were boxcar averaged over 200 samples (200 ns duration) to reduce noise artifact.

RESULTS

The energy per pulse output was quite consistent between the 8 sources as shown in Figure 5. Even at the lowest resistance, 400 Ω, the outputs were well below the IEC 60335-2-76-limit of 5 J/pulse. At the standard test load of 500 Ω, the output was 2.23 ± 0.05 J and thus far from the 2.5 J limit ($p < 0.001$).

There is a consistent transition seen between 1 kΩ and 1.2 kΩ as the system shifts from open loop to feedback control. For loads ≤ 1.1 kΩ, the output voltage is limited passively by the maximum energy in the main storage capacitor.

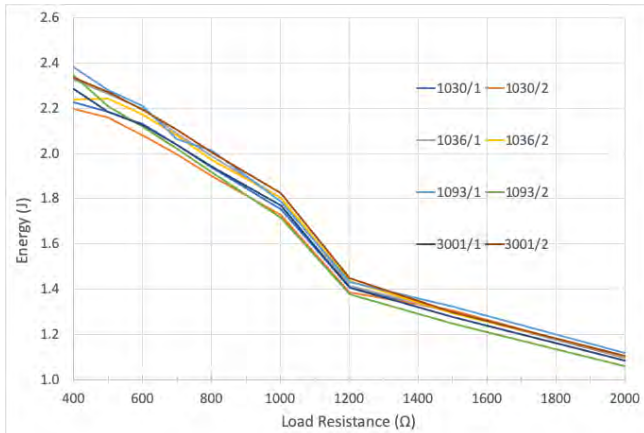


Figure 5 Energy per pulse as function of load resistance.

The charge delivered was quite consistent between the 8 sources as shown in Figure 6. Even at the lowest resistance, 400 Ω, the outputs were well below the proposed new limits of 4 mC/pulse.[16] At the standard test load of 500 Ω, the output was 0.60 ± 0.03 mC.

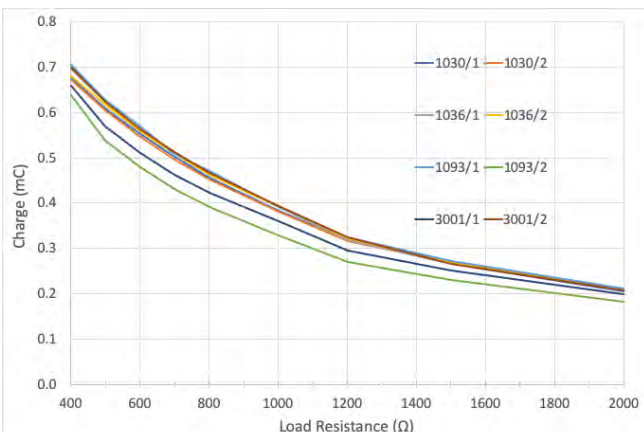


Figure 6 Charge per pulse as function of load resistance.

The peak voltage delivered was also quite consistent between the 8 sources as shown in Figure 7. None exceeded the specified 9.7 kV maximum even with an open circuit. Again, there is a consistent control transition seen between 1 kΩ and 1.2 kΩ as control shifts from passive to active feedback. The feedback adjustment converged very rapidly and appeared to settle typically within a single 2nd pulse after a load change.

Linear regression modeling found that the peak voltage was roughly modeled as an internal 9154 ± 58 V source in series with a 224 ± 54 Ω equivalent series resistance. At the standard test load of 500 Ω, the output was 5999 ± 79 V.

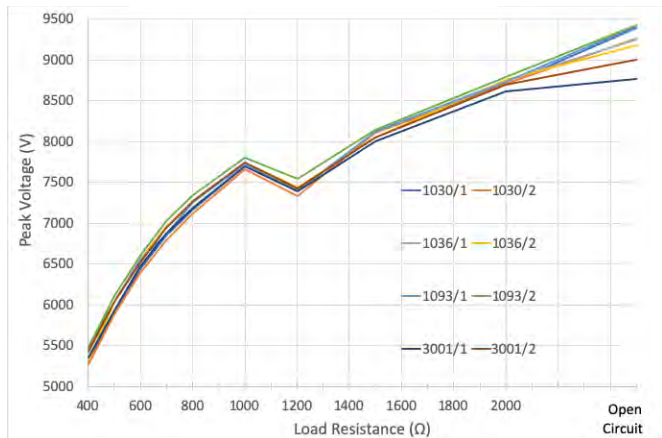


Figure 7. Peak voltage as function of load resistance.

The peak current delivered was impressively consistent between the 8 sources as shown in Figure 8. At the standard test load of 500 Ω, the output was 12.00 ± 0.16 A.

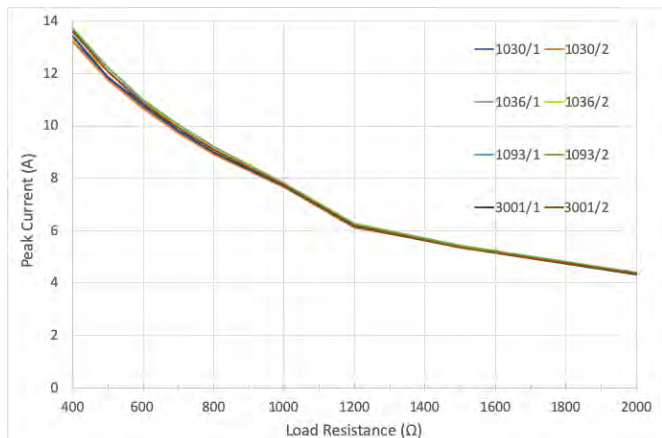


Figure 8. Peak current as function of load resistance.

DISCUSSION

We believe that this is the first paper to examine the performance and safety of advanced high-efficiency digital feedback-controlled electric fence energizers. All units tested satisfied all relevant safety limits. Charge, energy, voltage, and current outputs were consistent between both channels and distinct units.

The ubiquitous electric fence is essential to modern agriculture and has saved a great many lives by reducing the number of livestock automobile collisions.[18-22] They also provide safe protection against criminal activity. Modern safety

standards such as IEC 60335-2-76 and UL 69 have certainly played a role in this positive result.[5, 23] However, the safety standards are essentially based on energy and power (RMS current) considerations, which have limited direct relationship to cardiac effects.

Upcoming safety standards, for short pulses, will be based on the more scientific charge.[16] With great prescience, UL researcher Whittaker proposed a charge-based limit, of 4 mC, back in 1939.[24] Because of electrocutions from AC electric fences, impulse-generating electric fence energizers became very popular in the 1930. Many government agencies and standards organizations then adopted charge limits to levels deemed safe.[1] The Underwriter's Laboratories (USA) proposed 4 mC as a safe impulse.[24] The Industrial Commission of Wisconsin (a USA state important for dairy production) and the U.S. National Bureau of Standards adopted 3 mC as the safe level. Most countries adopted 3 mC as the safe level including Finland, Denmark, Great Britain, and France.[1] Sweden used a 2.5 mC level and the C.E.E (IEC predecessor) also proposed 2.5 mC.[1] The IEC 60335 standard replaced the various country standards and eventually dropped the charge-based limit in 1989 in favor of a pure-energy limit.

Thus, the international standards community once had scientifically-sound *charge-based* limits for electrical impulses. Unfortunately, this understanding was somehow lost and the impulse limits became associated with the less-relevant energy and power.[16]

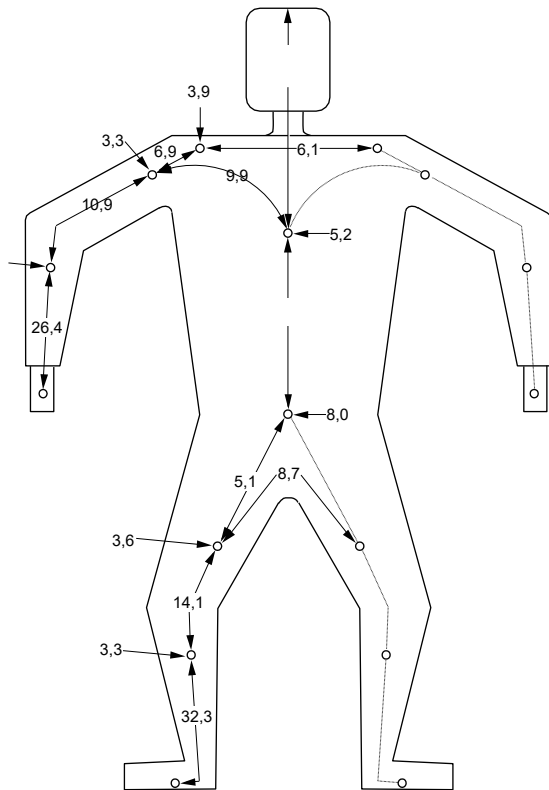


Figure 9. Body part contributions to resistance.

Based on the 37% contribution of the arm to the typical body resistance, we discounted the median 775 Ω high-voltage impedance to 488 Ω as given by our Figure 9 taken from IEC 60479-1.[6] To include the worst-case scenario of a barefoot child contacting a fence at chest height, we further deducted the 9.9% (for shoulder to center-trunk) so the resistance would be 409 Ω and thus we elected to test down to a 400 Ω load.

LIMITATIONS

We did not evaluate the performance of these units with capacitive or inductive loads. We did not evaluate the performance with long lines.

CONCLUSIONS

The digitally controlled feedback electric fence energizer tested satisfied all relevant safety limits. Charge, energy, voltage, and current outputs are consistent between channels and distinct units.

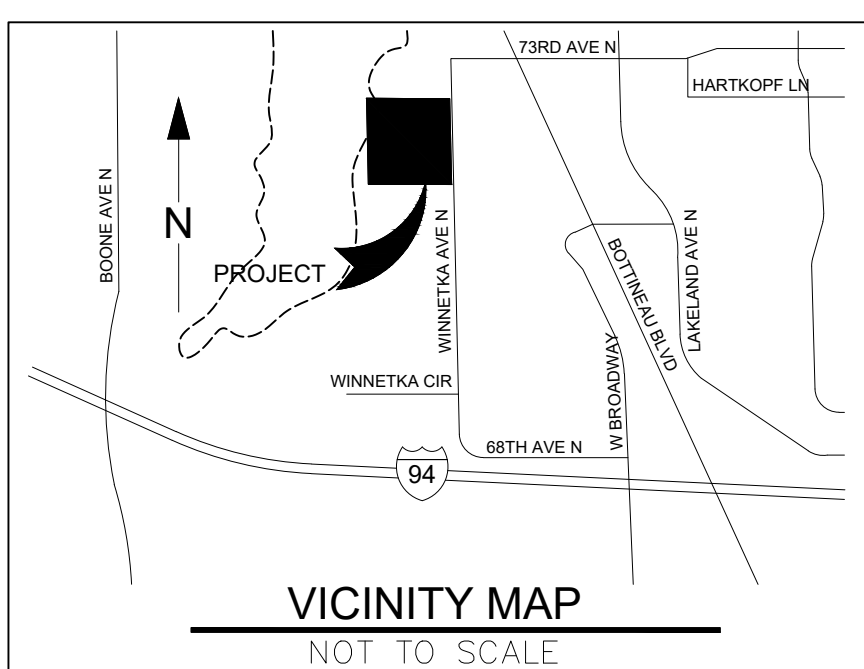
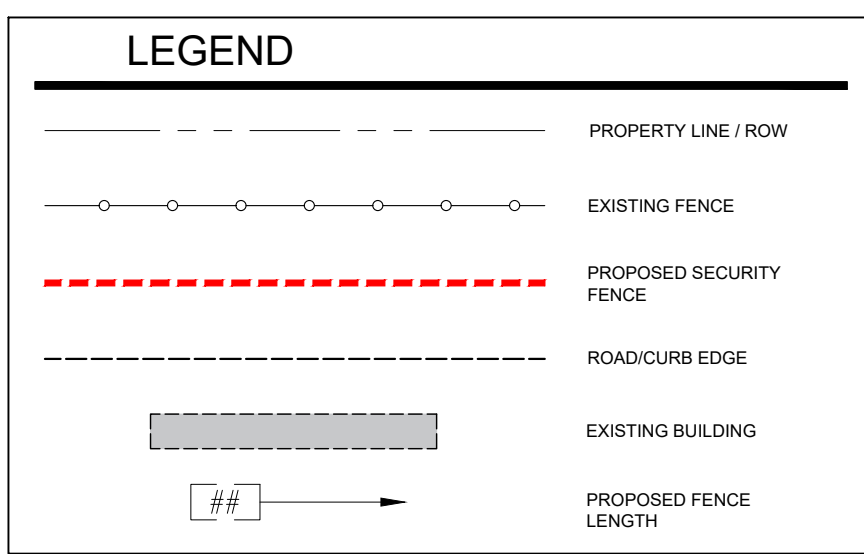
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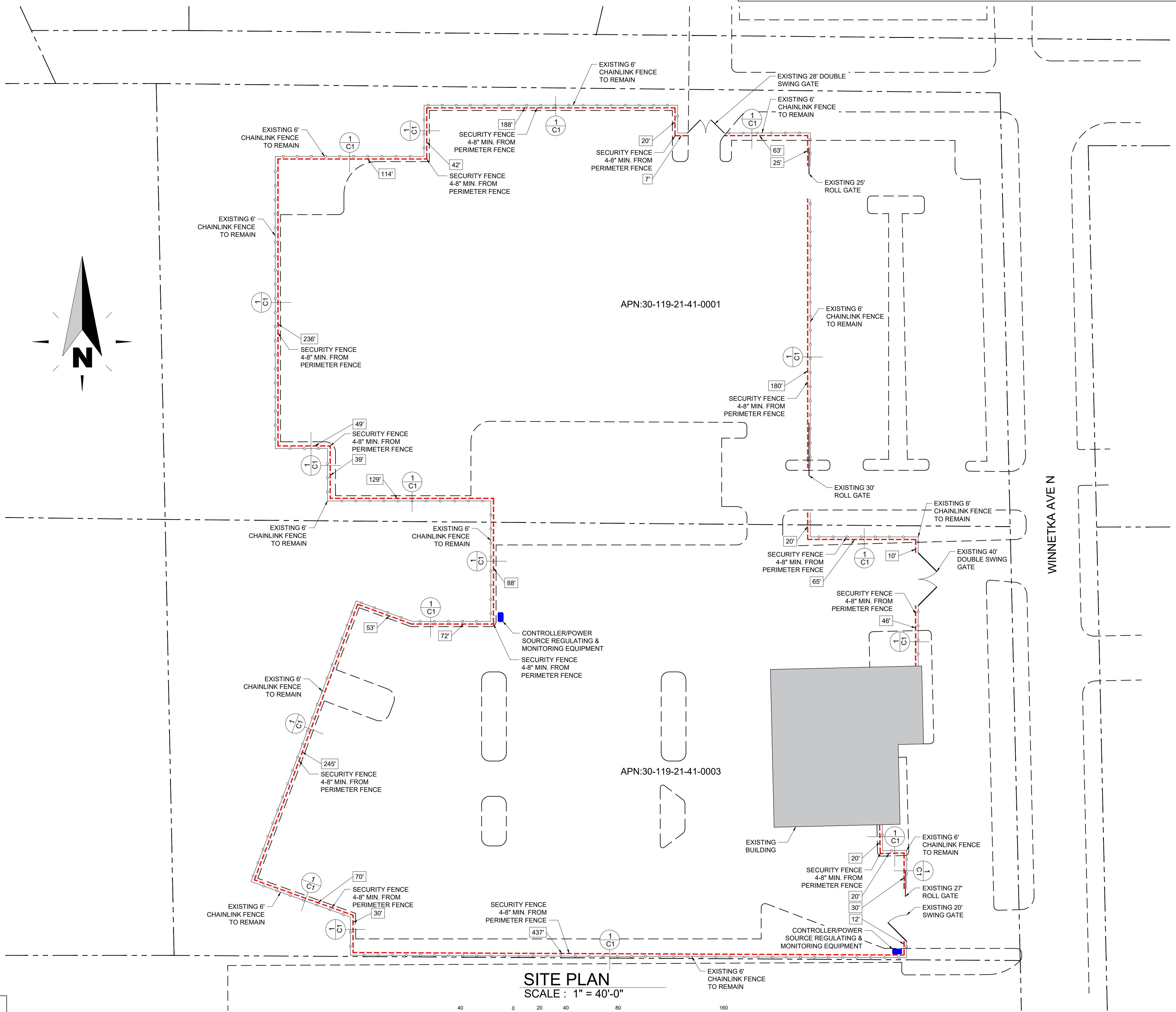
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PROPERTY OWNER C M GOTZIAN & SON INC 835 EAGLE LAKE RD N BIG LAKE, MN 55309	PROPERTY OWNER LAIDLAW TRANSIT INC PO BOX 80615 INDIANAPOLIS, IN 46280
PROJECT DATA APN: 30-119-21-41-0003 ZONING: INDUSTRIAL ACRES: 4.86	PROJECT DATA APN: 30-119-21-41-0001 ZONING: INDUSTRIAL ACRES: 4.85

SITE PLAN REQUEST TO AUTHORIZE A SECURITY FENCE FOR: FIRST STUDENT 7225 WINNETKA AVE N BROOKLYN PARK, MN 55428



#	DATE / DESCRIPTION

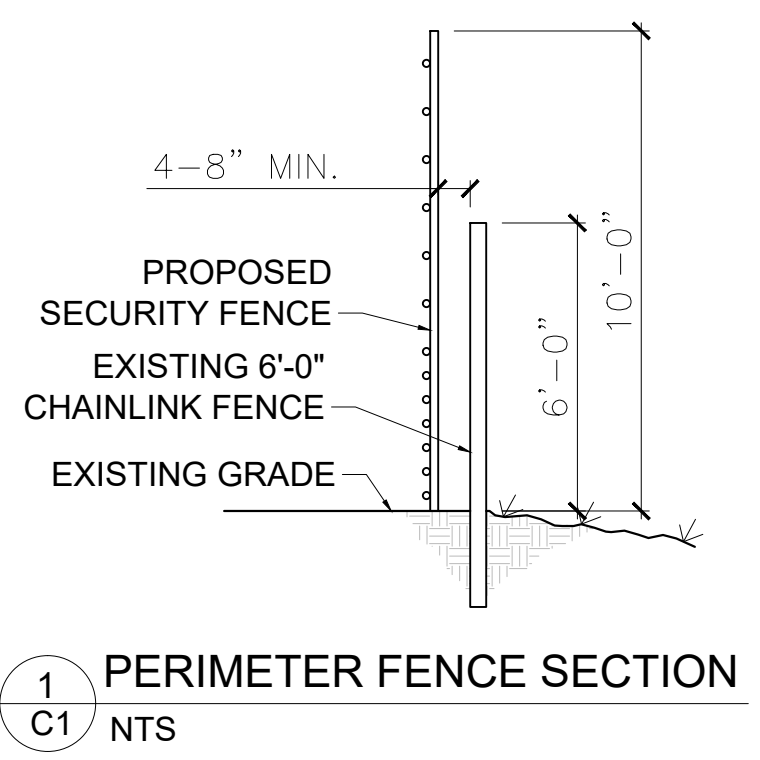


NOTES

POLE LOCATIONS:
 STEEL POLES: TO BE LOCATED APPROXIMATELY ON EACH SIDE OF GATE(S) & EVERY 90° (OR GREATER) TURN IN FENCE LINE.
 FIBERGLASS/INTERMEDIATE POLES: TO BE LOCATED APPROXIMATELY EVERY 30'

DISCLAIMER:
 POLE LOCATIONS MAY SLIGHTLY DEVIATE FROM STIPULATIONS ABOVE DUE TO ON-SITE CONDITIONS

STORM DRAIN:
 NO STORM DRAIN IS BEING PROPOSED AS PART OF THIS PROJECT



*PROPOSED LOCATION OF ELECTRONICS ONLY, SUBJECT TO CHANGE BASED ON SITE CONDITIONS.



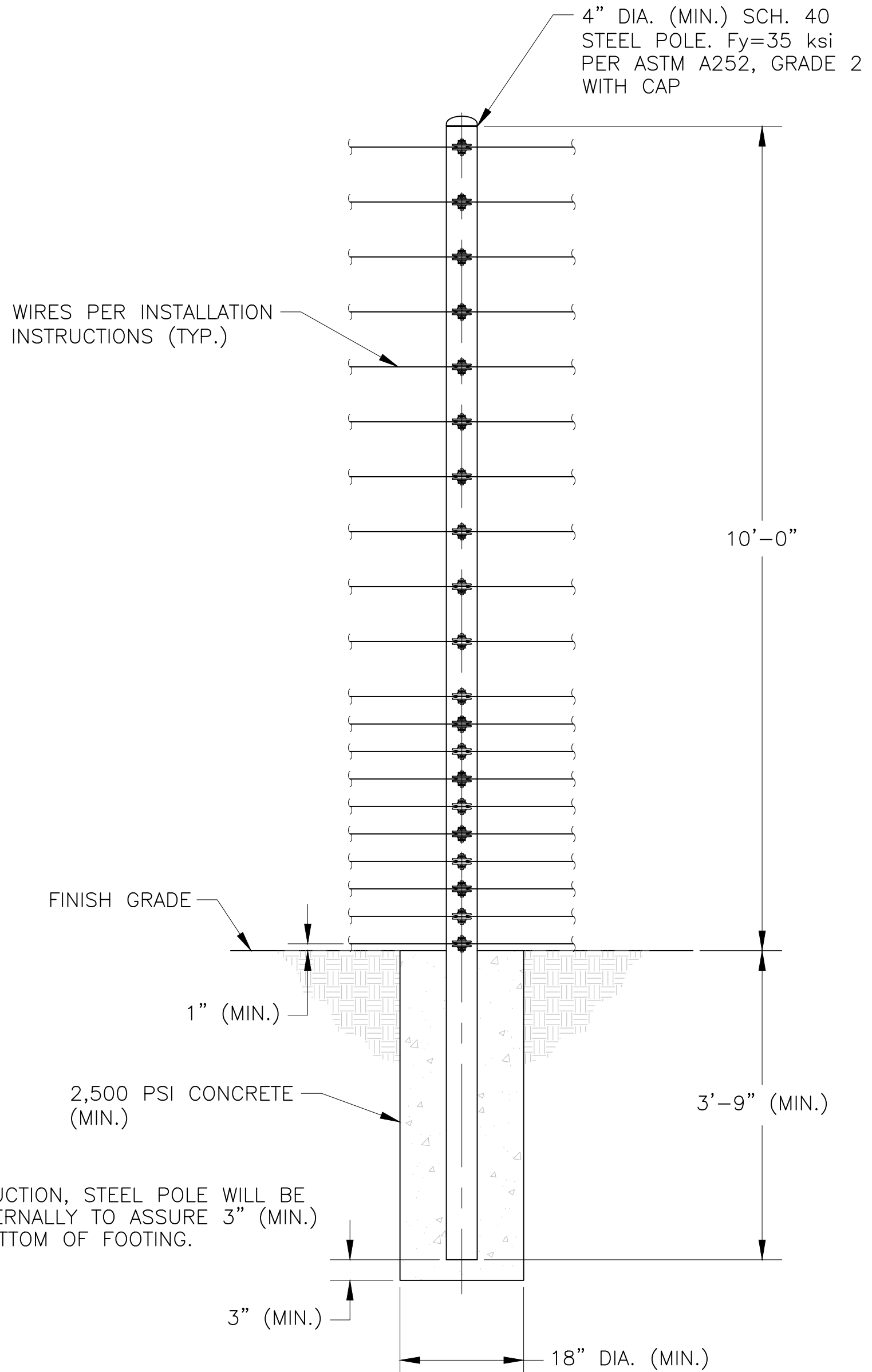
PROJECT:
 FIRST STUDENT
 7225 WINNETKA AVE N
 BROOKLYN PARK, MN 55428

SHEET TITLE: SITE PLAN

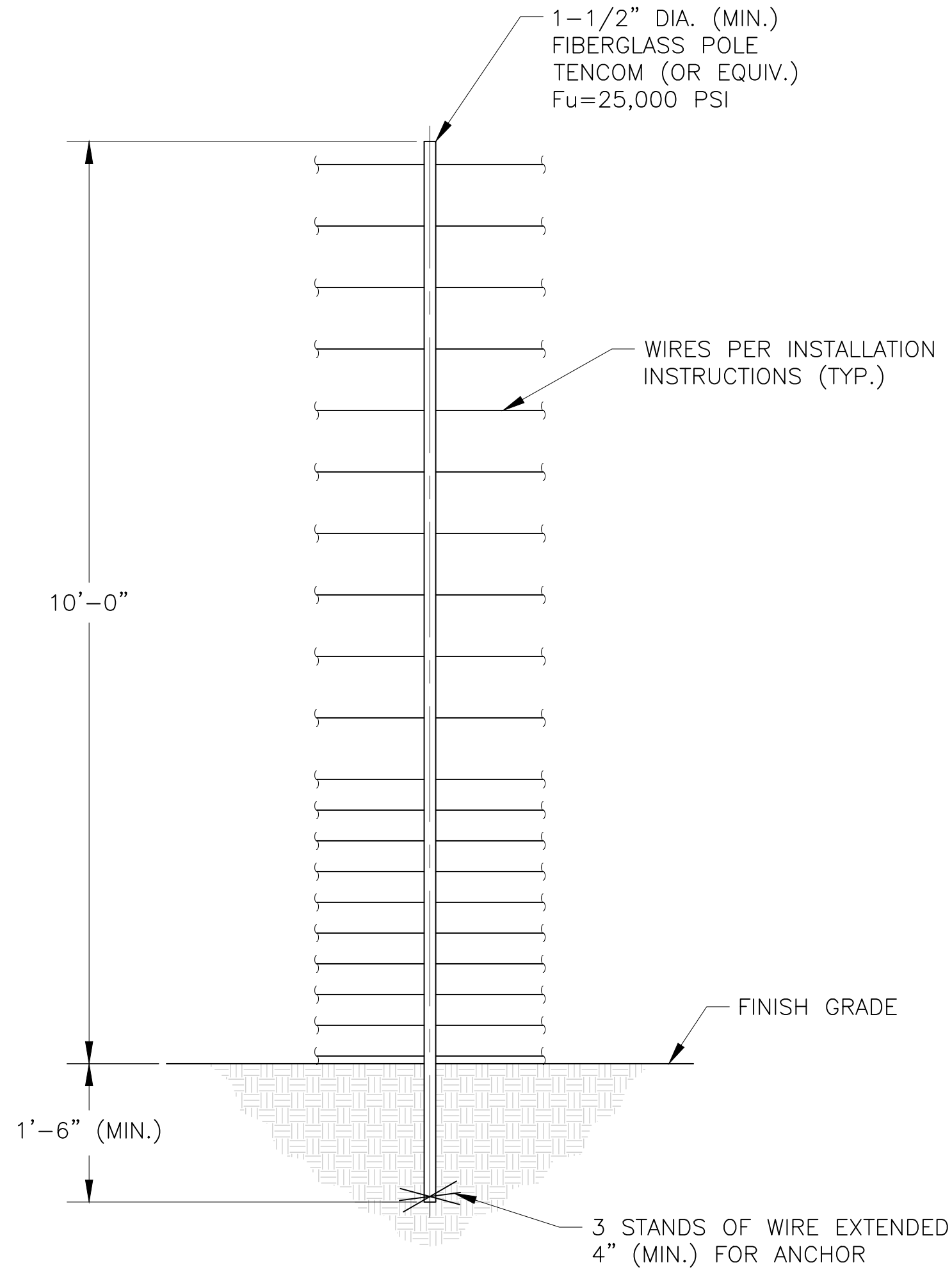
APPLICANT: AMAROK
 550 ASSEMBLY ST 5TH FL
 COLUMBIA SC 29201
 803-404-6189

DATE: 7/5/2023
DRAWN BY: RLR
SCALE: SEE PLAN

SHEET
C1
 of 3



STEEL POLE DETAIL
SCALE: NONE
(STRUCTURAL)



FIBERGLASS POLE DETAIL
SCALE: NONE
(NON-STRUCTURAL, NON-LOAD BEARING WIRE SEPARATOR)

RAPID TIGHTENERS
RAPID TIGHTENERS ARE INSTALLED IN EVERY SECTION - BETWEEN 6" INCHES AND 3 FEET FROM A FIBERGLASS POLE - TOWARD THE CENTER OF THE RUN.

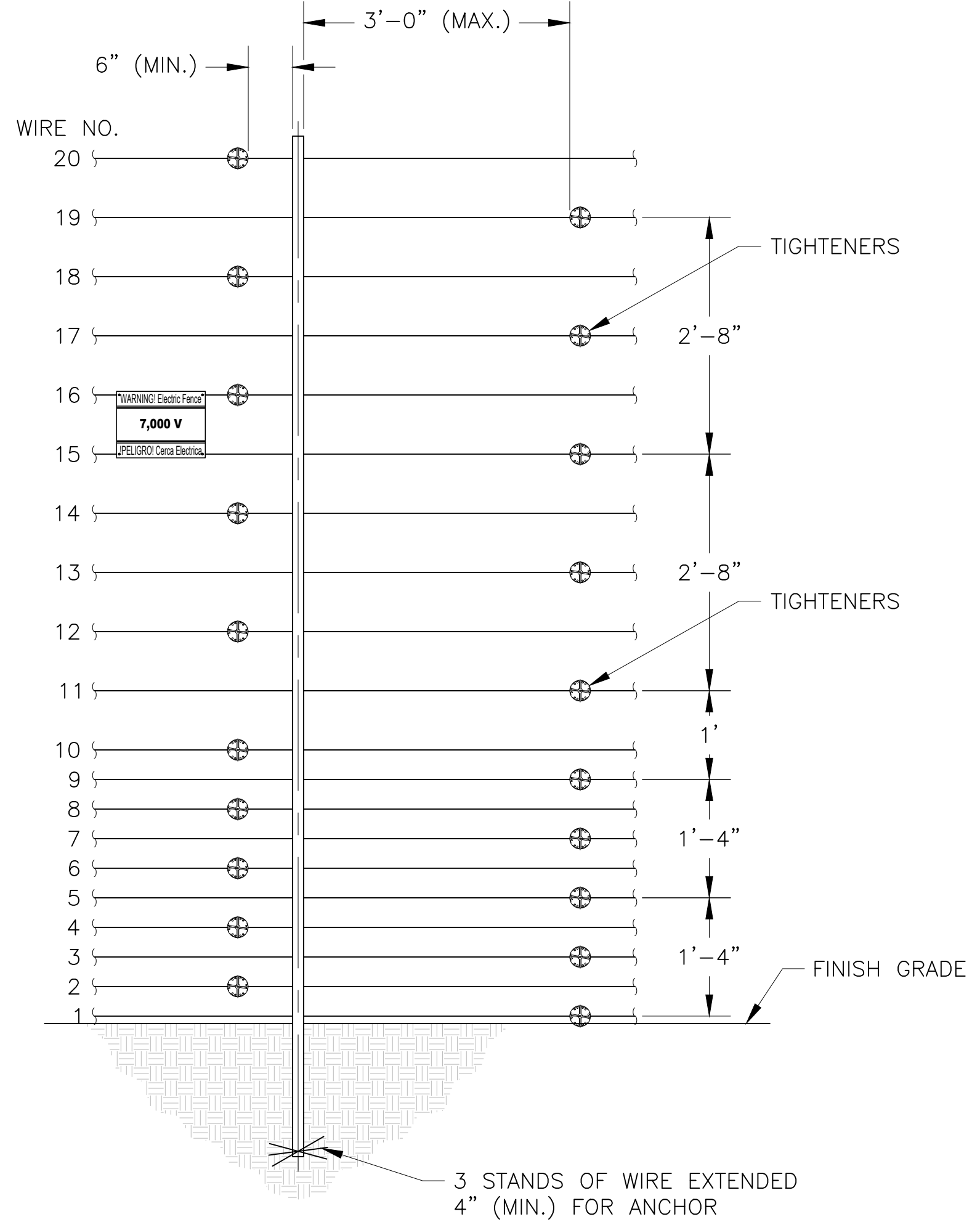
THE TIGHTENERS ARE ALTERNATED ON OPPOSITE SIDES OF THE POLE TO PREVENT GROUNDS FROM HITTING WIRES WITH CURRENT.

WIRE SHOULD BE WRAPPED TWO OR THREE TIMES AROUND EACH TIGHTENER.

WARNING SIGNS
WARNING SIGNS MUST BE INSTALLED EVERY 30 FEET, WHICH IS THE MAXIMUM DISTANCE BETWEEN SIGNS.

ALL WARNING SIGNS SHOULD BE MOUNTED EITHER BETWEEN WIRES 15 & 16 OR AT BEST VISIBLE HEIGHT.

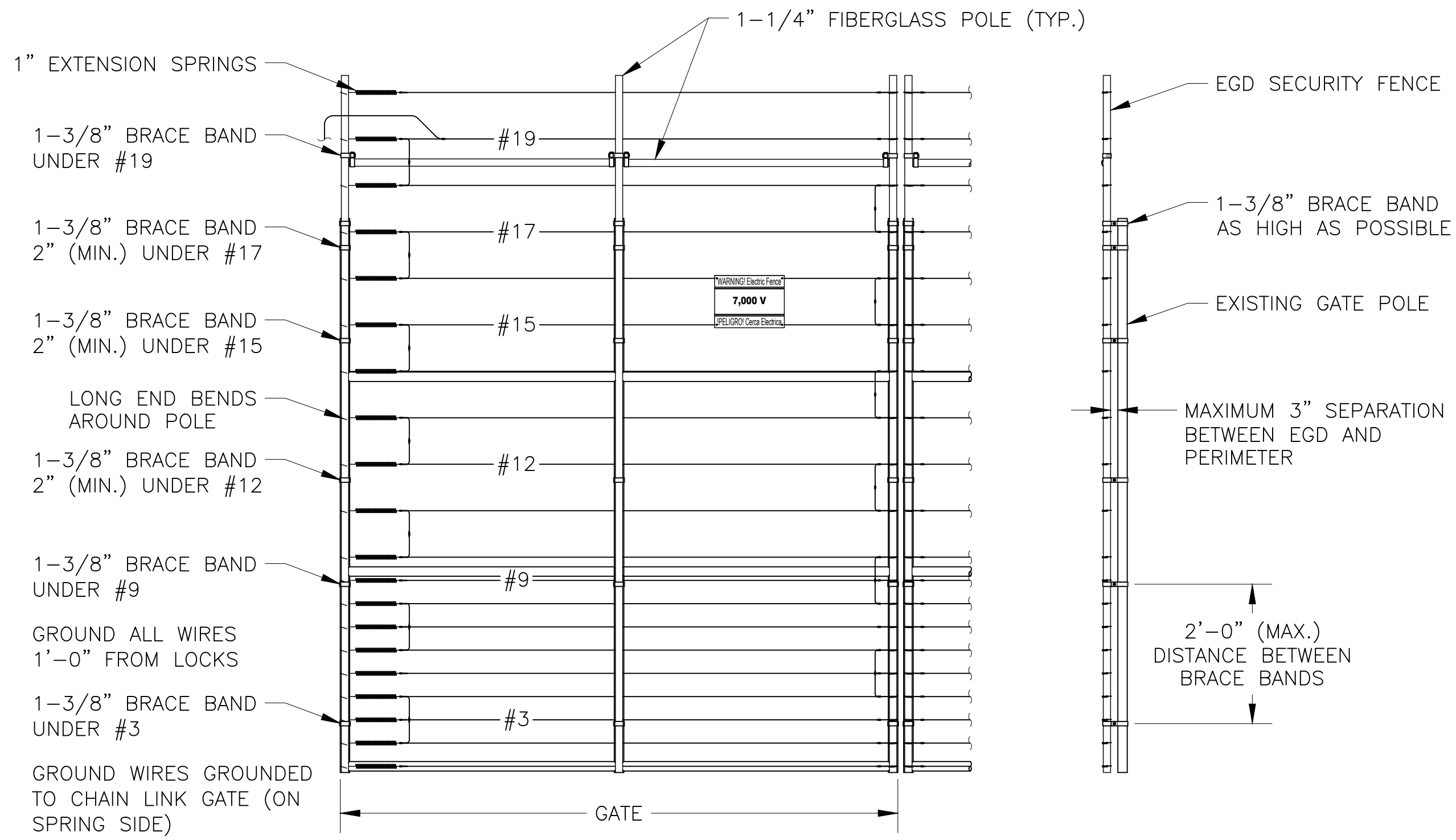
IF INSTALLED BEHIND A SOLID FENCE, WARNING SIGNS SHOULD ALSO BE PLACED ON OR ABOVE THE PERIMETER FENCE.



WIRE CONNECTIONS
SCALE: NONE
(FIBERGLASS POLE)

NOTE:
DURING CONSTRUCTION, STEEL POLE WILL BE SUPPORTED EXTERNALLY TO ASSURE 3" (MIN.) SPACE FROM BOTTOM OF FOOTING.

- GATE DETAIL NOTES:**
- BRACE BANDS ARE INSTALLED AS HIGH AS POSSIBLE UNDER #3 AND #9, 2" (MIN.) UNDER #12, #15, AND #17, UNDER #19 AND AS HIGH ON THE GATE AS POSSIBLE. MAXIMUM DISTANCE OF 2" BETWEEN BRACE BANDS.
 - SPRINGS ARE LOCATED ON HINGE SIDE OF SWING GATE AND REAR OF SLIDE GATE.
 - ALL CONTACTS MUST INCLUDE SPRINGS.
 - ALL CONTACTS MUST HAVE BOLT THROUGH FIBERGLASS (NO SET SCREWS).
 - ALL BRACE BANDS HOOKED TO CHAIN LINK MUST HAVE SET SCREW.
 - EVERY GATE PANEL MUST HAVE A SIGN.
 - ALL GATE CONTACTS MUST BE SECURE IN A MANNER THAT ENSURES CONTACT WILL EASILY BE MADE.
 - GATE MOUNTS WILL NOT IMPACT THE FUNCTIONALITY OF THE GATE.



DOUBLE PANEL GATE
GATE DETAIL
SCALE: NONE

SIDE VIEW



WARNING SIGNS SHALL BE PLACED AT EACH ENTRANCE OF THE PROPERTY AND MAX 30 FEET ON CENTER THEREAFTER

EXAMPLE WARNING SIGN @ 9"x12"

#	DATE / DESCRIPTION



PROJECT:
FIRST STUDENT
7225 WINNETKA AVE N
BROOKLYN PARK, MN 55428

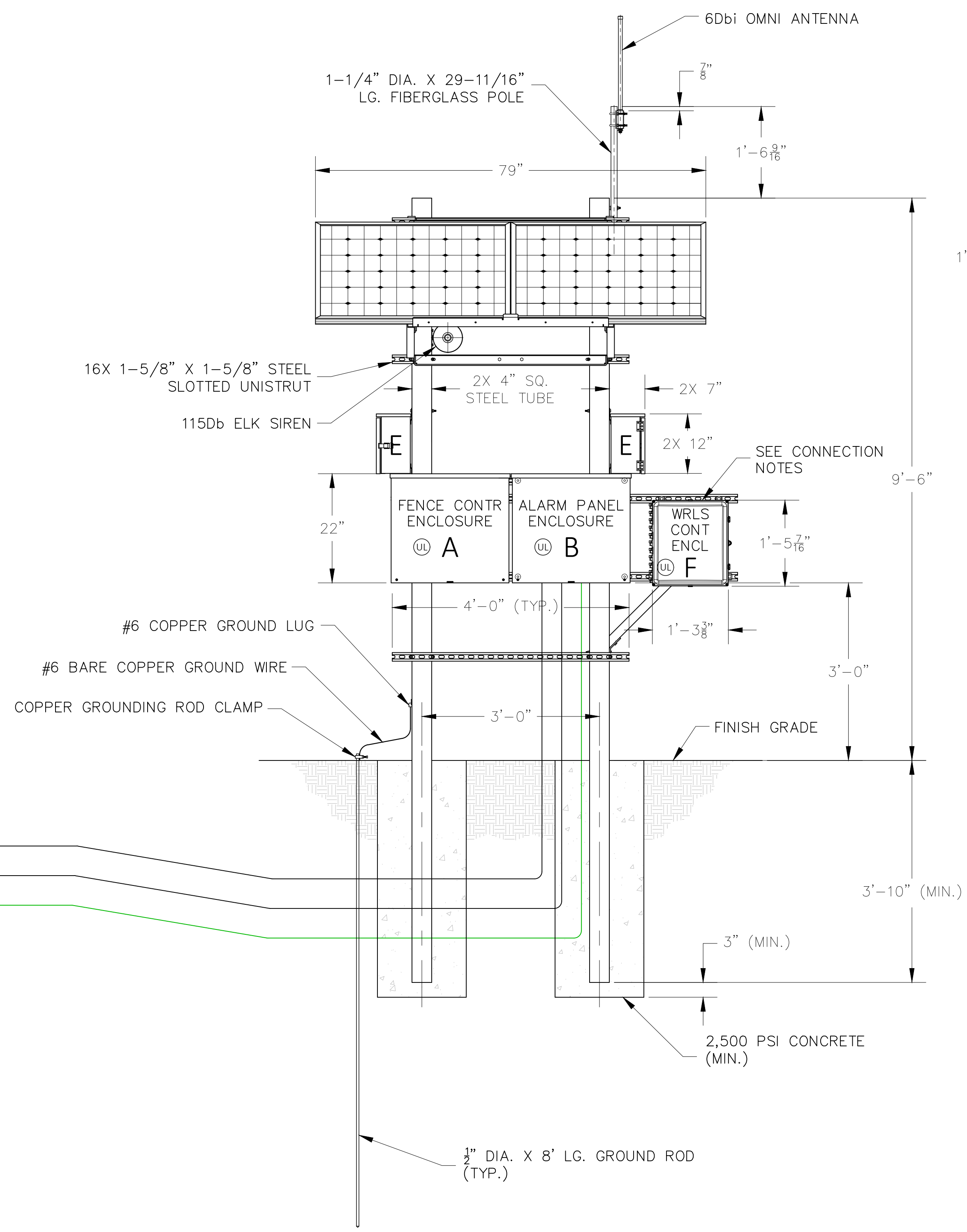
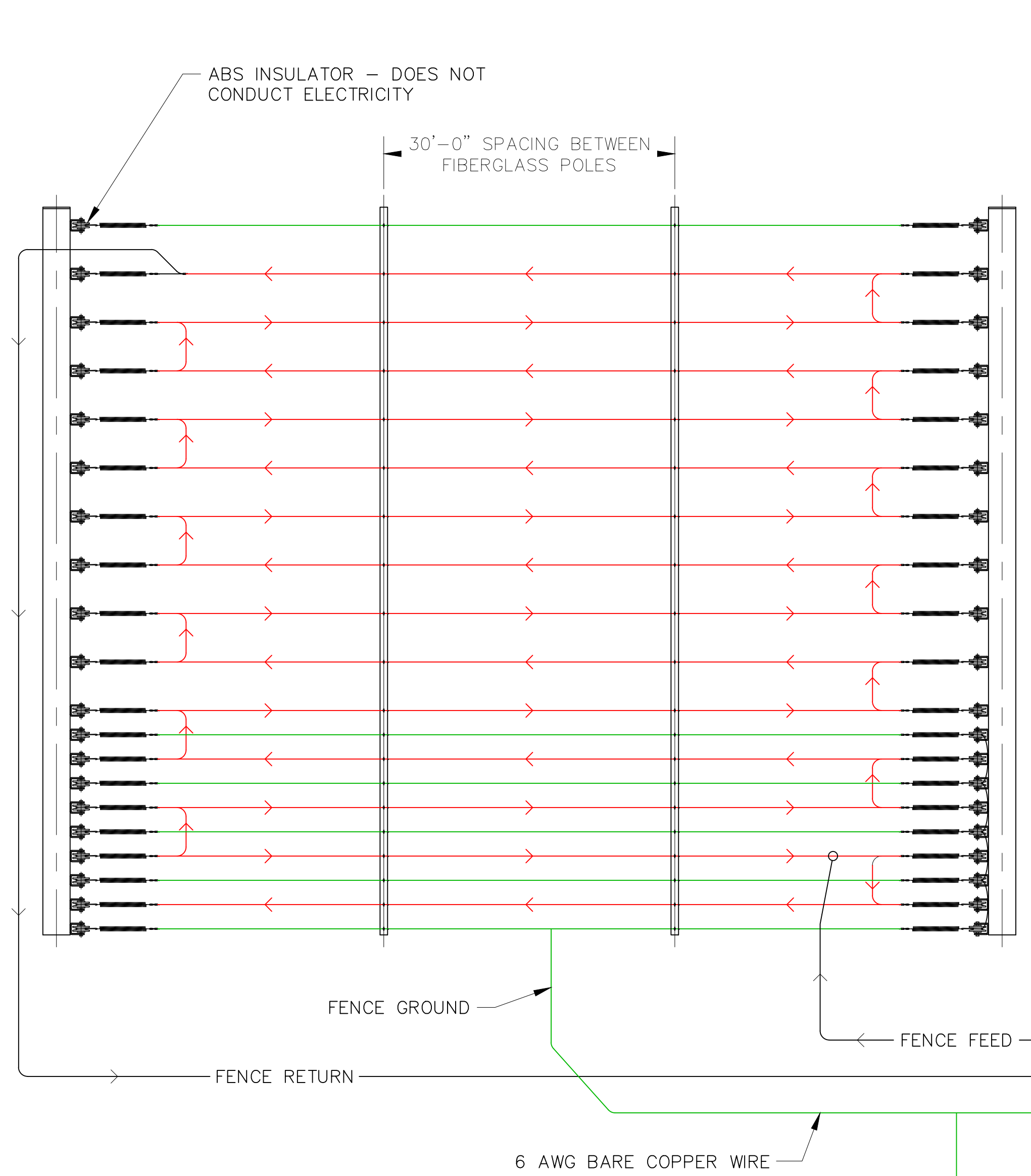
SHEET TITLE: TYPICAL DETAILS

APPLICANT: AMAROK
550 ASSEMBLY ST 5TH FL
COLUMBIA SC 29201
803-404-6189

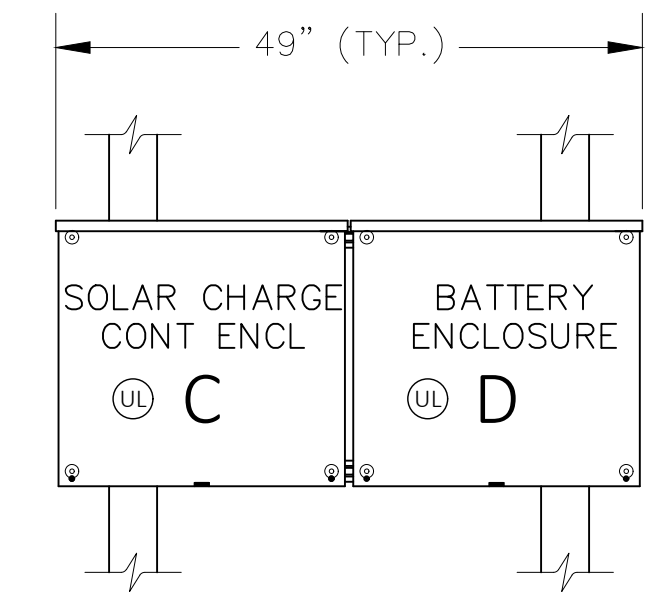
DATE: 7/5/2023
DRAWN BY: RLR
SCALE: SEE PLAN

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of 3

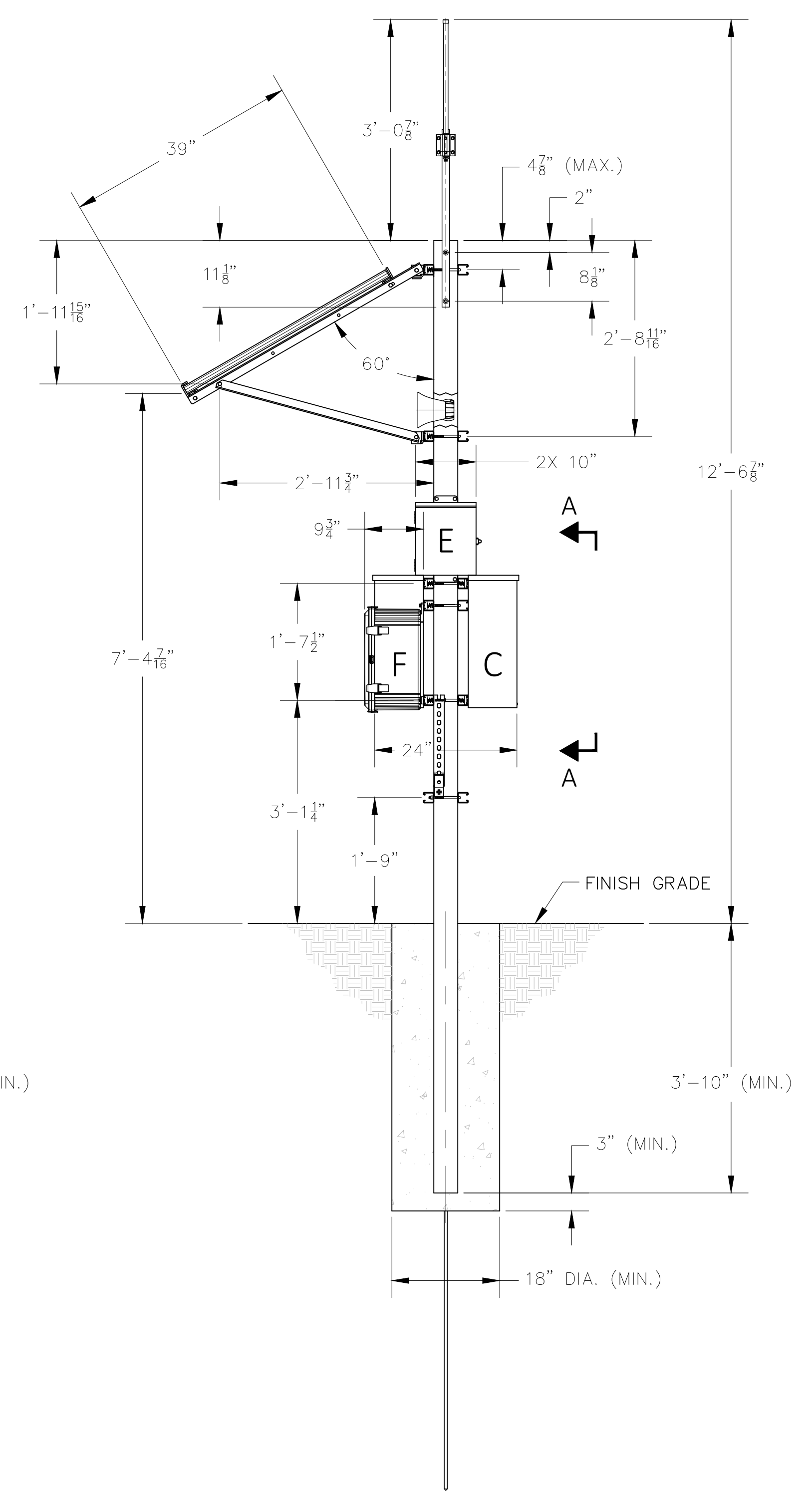
WIRE RUN DETAILS & OUTSIDE MOUNTED ELECTRONICS/CONTROLLER WITH STEEL POLE DETAIL



FRONT ELEVATION



VIEW A-A
(KEYPAD ENCLOSURES REMOVED FOR CLARITY)



RIGHT SIDE ELEVATION

ASSEMBLY WEIGHT CHART

DESCRIPTION	WEIGHT (LBS.)
SOLAR PANELS	61.6
SOLAR PANEL MTG. KIT	27.0
UNISTRUT	108.8
OMNI ANTENNA ASSEMBLY	3.59
SIREN	1.5

ELECTRONICS ARMATURE

LOCATION	DESCRIPTIVE NAME
MAIN GATE	HEAD-END ELECTRONICS

CONNECTION NOTES:

- A: FENCE CONTROLLER ENCLOSURE - HOUSES THE FENCE ENERGIZER OR EQUIVALENT. THIS BOX CONNECTS TO "B" / ALARM PANEL ENCLOSURE USING THE APS WHIP / 10 CONDUCTOR CABLE. ENCLOSURE WEIGHT 22 LBS. (MAX.).
- B: ALARM PANEL ENCLOSURE - HOUSES THE ALARM CONTROL PANEL. THIS BOX INTERCONNECTS TO "A" / FENCE CONTROLLER ENCLOSURE USING THE APS WHIP / 10 CONDUCTOR CABLE AND "C" / SOLAR CHARGE CONTROLLER USING TWO CONDUCTOR CABLE. ENCLOSURE WEIGHT 21 LBS. (MAX.).
- C: SOLAR CHARGE CONTROLLER ENCLOSURE - HOUSES POWER ELEMENTS FOR SOLAR CHARGE CONTROLLER AND DISCONNECTS FOR SOLAR, BATTERY, AND LOAD CONNECTIONS. POWER UP PROCEDURE: TURN ON BATTERY BREAKER FIRST, THEN TURN ON SOLAR BREAKER. THE ELECTRONICS POWER IS CONTROLLED BY BY THE LOAD BREAKER. ENCLOSURE WEIGHT 25 LBS. (MAX.).
- D: BATTERY ENCLOSURE - HOUSES THE BATTERIES AND INTERCONNECTS TO "C" / SOLAR CHARGE CONTROLLER ENCLOSURE USING TWO CONDUCTOR 14G AND 10G THWN WIRES. ENCLOSURE WEIGHT 50 LBS. (MAX.).
- E: KEYPAD ENCLOSURE - HOUSES THE KEYPAD. THIS BOX INTERCONNECTS TO "A" USING 10 CONDUCTOR / 18 AWG WIRE. ENCLOSURE WEIGHT 12 LBS. (MAX.).
- F: WIRELESS CONTROLLER ENCLOSURE - HOUSES THE WIRELESS RADIO CONTROLLER AND RELAYS. CONNECTS TO "C" / SOLAR CHARGE CONTROLLER ENCLOSURE USING TWO CONDUCTOR 14G THWN WIRES. ENCLOSURE WEIGHT 21 LBS. (MAX.).

GENERAL NOTE:

EQUIPMENT ARRANGEMENT AND ELEVATION SHOWN ARE FOR REFERENCE ONLY. ACTUAL EQUIPMENT ARRANGEMENT, SHAPE, SIZE, LOCATION, AND QUANTITY ARE CUSTOMER SITE SPECIFIC AND CAN VARY FROM DRAWING DEPICTION.

NOTES:

MOUNT 4 SILVER BOXES TO A PAIR OF HSS TUBE 4"x4"x10GA. (0.134" WALL THICKNESS) ASTM A500 GRADE B OR C 55KSI YIELD (MIN.) STEEL POLES. BOTTOM OF THE LOWEST BOX MUST BE A MINIMUM OF 3 FEET ABOVE GROUND LEVEL. THE SUPPORT POLES MUST BE EMBEDDED AT A MINIMUM OF 3'-10" BELOW GROUND LEVEL.

#	DATE / DESCRIPTION



PROJECT:
FIRST STUDENT
7225 WINNETKA AVE N
BROOKLYN PARK, MN 55428
SHEET TITLE: TYPICAL DETAILS

APPLICANT: AMAROK
550 ASSEMBLY ST 5TH FL
COLUMBIA SC 29201
803-404-6189

DATE: 7/5/2023
DRAWN BY: RLR
SCALE: SEE PLAN

SHEET
C3
of 3

City of Brooklyn Park Request for Council Action			
Agenda Item:	6.3	Meeting Date:	October 23, 2023
Agenda Section:	Land Use Actions	Originating Department:	Community Development
Resolution:	X	Prepared By:	Erin McDermott, Associate Planner
Ordinance:	N/A		
Attachments:	6	Presented By:	Paul Mogush, Planning Director
Item:	6317 Welcome Ave - Conditional Use Permit, #23-111 for an auto oriented repair service on a property zoned BP – Business Park		

City Manager’s Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-____ APPROVING A CONDITIONAL USE PERMIT FOR AN AUTO ORIENTED REPAIR FACILITY AT 6317 WELCOME AVENUE.

Overview:

The property owner, Caspian Tigers, LLC. has been operating auto oriented repair services out of this property, as well as the adjacent property to the south which is under the same ownership. This application is to bring the subject property into compliance, as there has never been a Conditional Use Permit issued to this site for the operation of an auto oriented repair service. The property to the south was issued a Conditional Use Permit in 1989 (CUP #1989-3442), at which time the properties were under separate ownership. The site plan provided by the applicant indicates there are 18 tenancies in this building.

This property has been the subject of joint enforcement efforts of the Environmental Health Division, and the Brooklyn Park Police Department, who recommended conditions be added to increase safety impacts on the neighborhood. The primary safety concern impacting the surrounding neighborhood is on-street parking, which is posing concerns about the safety of children living in the neighborhood as they walk to and from Fair Oaks Elementary school, a public school a block to the north of the subject property. Additional concerns with this property is the impact of outdoor storage of junk vehicles and tires, which are both a public nuisance and an eyesore, as well as negative traffic impacts with the delivery of vehicles as many tow companies are leaving vehicles to be repaired on the street which can hinder traffic and impedes the vision of motorists navigating Welcome Ave. City staff is working with the property owner to mitigate the impacts on this neighborhood through the CUP process.

There is no development proposed at this time. The applicant is in the process of working with the Environmental Health team to bring this property into compliance. The existing structures are sufficient for the intended use of vehicle repair and body work.

Planning Commission

This item was heard at the October 11, 2023, Planning Commission Regular Meeting, at which a public hearing was held. No members of the public were present for the meeting, but two comments were submitted via email and presented to the Planning Commission. The comments submitted are presented as Attachment F Resident Submission. The Planning Commission voted unanimously (8-0) in favor of recommending approval of this application.

Previous Approvals

This parcel was created by the subdivision named “Coopers Industrial Park” in 1969 and was developed through site plan review in 1980. Auto oriented repair was a conditional use at the time of development, at which time there was no conditional use approved for this structure.

Current Conditions

The subject property is 1.83 acres and is located west of Welcome Avenue, north of 63rd Avenue, and south of 65th Avenue. This property is adjacent to the Towns Edge Village development, which was developed in 1972.

Future Land Use Plan	Business Park
Current Zoning	Business Park
Proposed Zoning	No Change
Neighborhood	Lakeland Park
Site Area	1.83 acres
Conforms to:	
Land Use Plan	Yes
Zoning Code	Yes
Notification	53 Public Hearing Notices mailed Posted in the Sun Post Neighborhood emails sent
Timeline (MN §15.99)	
60-day	October 15, 2023
120-day	December 14, 2023

Land Use/Zoning and Overlay

The site is zoned Business Park and is within the Lakeland Park neighborhood. The future land use for the property is Business Park.

Conditional Use Permit

Auto Oriented Repair services are a conditional use in the Business Park zoning district (§ 152.342.01). Conditional uses must be reviewed against the standards of the Code (§ 152.035). The use is evaluated below:

(D) Review Standards. The request may address the following factors, although the City Council, the Planning Commission, and city staff has the authority to request additional information from the applicant concerning operational factors pertaining to the proposed use or to retain experts with the consent and at the expense of the applicant concerning operational factors, when necessary to establish performance conditions to effect the intent of this chapter.

(1) Comprehensive Plan. Compliance with the Comprehensive Plan, public facilities and capital improvement plans, and all sections of the City Code.

The Future Land Use of the Brooklyn Park 2040 Comprehensive Plan guides the property as Business Park. The Business Park uses include light industrial, with medium and high intensity uses. The Comprehensive Plan lists the focus of this land use as job creation. The intent is to minimize negative impacts on residential neighborhoods. Auto oriented repair service is consistent with the Comprehensive Plan.

(2) Traffic. The generation and characteristics of the traffic associated with the use and its impact on the traffic volumes of and safety associated with driveway location on adjacent roads, sidewalks and trail connections.

Vehicular access to the site is available from two points along Welcome Avenue, the first on the north side of the property, and the second from a shared access point on the adjacent property to the south.

(3) Parking. The characteristics of the parking area of the use, including the number and design of parking spaces, landscaping, traffic circulation, drainage, and lighting. The city may require additional parking above that required in § 152.140 through 152.146.

The code does not prescribe a number of parking spaces needed for auto oriented repair services, however, to remain consistent with the approvals of the adjacent property, the parking of vehicles requiring repair services is prohibited on site overnight. The provided site plan, and original approvals show this property has 70 parking spaces, which would grant 3.8 spaces per tenancy.

There have been numerous complaints regarding on-street parking related to the tenants of this property, to resolve this issue and preserve the public health and safety of this neighborhood, a condition of no street parking has been highly recommended by both the Engineering Division and Police Department. The applicant provided a copy of a towing agreement that was put in place July 31, 2023 with a local towing service they are contracting with to resolve the ongoing on-street parking issue.

- (4) ***City services.*** The provision of adequate public facilities and services to the site where the use is proposed and the ability of the existing infrastructure to absorb the additional demand for city services.

As this request is to continue operating existing businesses, there is no additional need for public services, and compliance with CUP conditions will reduce staff time spent at this property.

- (5) ***Screening and landscaping.*** The ability to screen and buffer incompatible off-site impacts of the proposed use on adjacent property and the surrounding neighborhood. The city may require additional landscaping or screening above that required in the specific zoning district.

This site is nonconforming with current standards, however, with no proposed physical improvements to the site there is no request for improvements for landscaping or screening at this time.

- (6) ***Architectural standards.*** The degree that the site or building associated with the proposed use meets or exceed the architectural design and landscaping standards for the district in which it is located. The city may require additional architectural standards above those required in the specific zoning district.

This site is nonconforming with current standards, however, with no proposed physical improvements to the site there is no request for improvements to architectural standards at this time.

- (7) ***Other sections of the city code.*** The applicant may be required to submit additional information demonstrating that the development is able to comply with any other applicable section of this chapter or the city code.

There are no additional code sections against which to review this CUP request.

The required findings of § 152.035 have been addressed and Staff recommends approval of the CUP request.

Pedestrian Connections

Pedestrian circulation is required when properties meet certain criteria, such as traffic volumes, roadway connections from a neighborhood to commercial area, and in business districts. This does not meet the criteria set for required locations, as this property is located firmly within an Industrial development (§ 152.131) and no sidewalk is required at this time.

Lighting, Landscaping and Screening

No development is proposed with this application and the Code requirements for lighting (§ 152.110) and landscaping and screening (§ 152.370) are consistent with the original approvals of this site.

Grading and Drainage

No development is proposed with this application, there are no known compliance issues regarding grading and drainage on this site.

Conditions of Approval

Staff recommends the adoption of Resolutions 23-___ Approving a Conditional Use Permit for an Auto Oriented Repair Service at 6317 Welcome Avenue North with the following conditions:

1. All vehicles parked on this property must be parked on a paved surface.
2. Outdoor storage of tires and parts is not permitted.
3. The storage of vehicles for the sole purpose of salvage or recycling of parts is prohibited.
4. Parking of any vehicles associated with the business must be on site. On-street parking is prohibited. Double parking of vehicles is prohibited.
5. Deliveries and vehicle drop-offs must occur within designated loading areas on the property, on-street loading or deliveries are prohibited.
6. All vehicular repairs must occur within the building, screened from public view.
7. Vehicle sales are prohibited on this property.
8. The property must remain compliant with the property maintenance code.
9. The property must remain compliant with all fire safety protocols.
10. Tenancies must be clearly marked with business names, hours and contact number.
11. All previously approved conditional use permits are hereby rescinded and replaced with this conditional use permit.

Primary Issues/Alternatives to Consider:

1. Approve the Conditional Use Permit as presented.
2. Approve the Conditional Use Permit with modifications.
3. Deny the Conditional Use Permit based on certain findings.

Budgetary/Fiscal Issues: N/A

Attachments:

- 6.3A RESOLUTION – AUTO ORIENTED REPAIR
- 6.3B LOCATION MAP
- 6.3C PLANNING COMMISSION MINUTES
- 6.3D 6301 WELCOME CUP
- 6.3E APPLICANT SUBMISSION
- 6.3F RESIDENT SUBMISSIONS

RESOLUTION #2023-

RESOLUTION APPROVING A CONDITIONAL USE PERMIT
FOR AN AUTO ORIENTED REPAIR FACILITY AT 6317 WELCOME AVENUE

Planning Commission File #23-111

WHEREAS, Caspian Tigers, LLC has made application for a Conditional Use Permit under the provisions of Chapter 152 of the City Code on property legally described as:

Lot 5 Block 1 of Coopers Industrial Park, Hennepin County, Minnesota.

WHEREAS, the proposed development is consistent with the purposes of the Zoning District and the Comprehensive Plan; and

WHEREAS, the matter has been referred to the Planning Commission public hearing and 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 a Conditional Use Permit is hereby approved for an auto oriented repair facility on the above described parcel, subject to the following:

1. All vehicles parked on this property must be parked on a paved surface.
2. Outdoor storage of tires and parts is not permitted.
3. The storage of vehicles for the sole purpose of salvage or recycling of parts is prohibited.
4. Parking of any vehicles associated with the business must be on site. On-street parking is prohibited. Double parking of vehicles is prohibited.
5. Deliveries and vehicle drop-offs must occur within designated loading areas on the property, on-street loading or deliveries are prohibited.
6. All vehicular repairs must occur within the building, screened from public view.
7. Vehicle sales are prohibited on this property.
8. The property must remain compliant with the property maintenance code.
9. The property must remain compliant with all fire safety protocols.
10. Tenancies must be clearly marked with business names, hours and contact number.
11. All previously approved conditional use permits are hereby rescinded and replaced with this conditional use permit.

The petitioner shall be required to record a copy of this resolution with the Hennepin County Recorder and to pay all fees for said recording. Proof of said recording shall be filed promptly with the City.



UNAPPROVED MINUTES

MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION Regular Meeting – October 11, 2023

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, Borer, Fraser, Gaye-Bai, Kiekow, Turner, Udomah, and Wako; Planning Director Mogush; and Associate Planner McDermott.

Those arrived late: Council Liaison McGarvey.

Those not present were: Principal Planner Turnquest.

3. EXPLANATION BY CHAIR

4. APPROVAL OF AGENDA

MOTION WAKO, SECOND GAYE-BAI, TO APPROVE THE OCTOBER 11, 2023 AGENDA.

FURTHER DISCUSSION: PLANNING CHAIR CAVIN NOTED THAT ITEM 6.B WILL BE REMOVED FROM THE AGENDA AS THE APPLICANT HAS WITHDRAWN THEIR REQUEST.

MOTION CARRIED UNANIMOUSLY.

5. CONSENT AGENDA

A. Minutes – September 13, 2023

Commissioner Turner noted that she arrived 12 minutes late to the last meeting.

MOTION GAYE-BAI, SECOND FRASER, TO APPROVE THE OCTOBER 11, 2023 CONSENT AGENDA WITH THE NOTED ADDITION.

MOTION CARRIED UNANIMOUSLY.

6. PUBLIC HEARING

A. 6317 Welcome – Conditional Use Permit, #23-111 for an auto orientated repair service on a property zoned BP – Business Park.

Associate Planner McDermott introduced the application for a Conditional Use Permit for an auto orientated repair service on the property located at 6317 Welcome Avenue. She reviewed the zoning and adjacent zoning. She noted that the City has received numerous complaints related to parking of vehicles to be repaired at this site on Welcome Avenue and along the private street serving the townhome development to the east. She commented that the west section of Welcome Avenue is posted as no parking. She reviewed the site plan showing the existing conditions. She stated that this location would be an appropriate location for this use and

explained that this CUP would bring the violations into compliance. She stated that comments were received and provided to the Commission related to the parking frustrations. She explained that the CUP would provide more enforcement and methods to deal with issues of noncompliance should that continue.

Commission Chair Cavin opened the public hearing.

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

Commissioner Kiekow acknowledged that this would be an appropriate location for this type of business, but it does not appear the business has been attempting to be a good neighbor. He asked how the City would ensure the applicant complies with the conditions of the CUP and does not continue to be a nuisance.

Associate Planner McDermott commented that the conditions of the CUP have to be complied with and if they are not, the CUP could be brought forward for revocation. She stated that if the CUP is revoked the business would need to stop its operations. She stated that the City works to find a way to bring sites into compliance rather than requiring the business to stop its operations. She stated that the conditions of the CUP would provide the specific conditions that the business needs to comply with and noted that an additional agreement was provided that would allow vehicles parked on-street to be towed.

Kyle Malkerson commented that he is a minority owner of the LLC that owns the property.

Reshal Malik commented that he represents the other owner of the LLC.

Commissioner Kiekow asked the number of businesses that operate within this property.

Mr. Malkerson replied that there are 20 or 22 businesses on the property.

Commissioner Kiekow asked the type of business that the tenants are engaged in.

Mr. Malkerson replied that are auto repair, auto detailers, wholesalers, screen printers, and places for manufacturing items such as chicken houses. He noted that each bay is between 1,200 to 2,700 square feet with their own door, drive in door, and bathroom.

Commissioner Kiekow commented that it seems the issue arising because of the auto repair businesses and asked how those concerns will be addressed.

Mr. Malik commented that they have enforced towing heavily on the property. He stated that in the past two months they have towed 20 to 25 cars. He stated that things are improving, and they are confident that they can operate within the rules.

Commissioner Kiekow commented that the backside of the property appears to be in disarray. He asked what would happen if a tenant does not follow the rules.

Mr. Malik explained the process they would follow with a tenant that could lead to eviction of that tenant.

Commissioner Kiekow noted that violations would be issued to the property owner and not the tenant.

Mr. Malkerson acknowledged that and noted that they have notified some tenants that their lease would not be renewed in order to mitigate these issues.

Commissioner Borer asked if there is not adequate parking for vehicles for the repair businesses which is causing the parking on the street.

Mr. Malkerson acknowledged that concern and explained that they have been working to limit to only one auto repair use per side, noting that there are four angles to the property. He believed that would mitigate some of the parking problems. He stated that as the leases phase out they would accept only one auto repair shop to every eight units, noting that there are 30 units in total.

Commissioner Gaye-Bai commented that he did live on that street and therefore is aware of these issues. He noted that one side of the street is marked no parking and therefore when vehicles park on the other side they often block the townhome driveways.

Mr. Malkerson understood that and noted that they are going to be much more stringent on lease renewals that include the City ordinances.

Commissioner Gaye-Bai commented that the photos provided show that the street can be blocked. He stated that perhaps staff should be added to monitor the parking issue.

Commissioner Wako referenced the photos that show vehicles parked on both sides of the street and referenced the problems that can create for snowplowing in the winter. He asked why those vehicles are parked on the road and the parking that is available on the site.

Mr. Malkerson replied that there are 186 parking stalls, and the majority of those businesses are able to maintain their parking within their leased areas, even for the auto repair businesses. He acknowledged that some of the businesses have accepted too much business and therefore they are working with those businesses to find other locations as they have outgrown that space. He noted that they would be moving forward with limited auto repair uses and focus on those businesses that can follow the rules.

Mr. Malik commented that they have provided lease terminations to two of the auto repair tenants, so those businesses will vacate prior to January 2024.

Commissioner Wako asked if there are vehicles left on the street overnight.

Mr. Malkerson replied that some of those vehicles are left overnight and that is why they are trying to eliminate those tenants. He explained that they want to be a good neighbor and a site that follows the rules rather than creating more work for the City.

Commissioner Udomah commented that his concern is related to safety as this appears to be going on for quite a while. He asked what took so long to address this issue.

Mr. Malkerson commented that this property was purchased in 2021 and they are working hard to improve the site and address tenants that were at the site when they purchased the property.

He noted that some of those tenants were not adhering to the lease terms and/or City Ordinance and therefore they are terminating those leases and trying to relocate those businesses.

Mr. Malik commented that he began with the company in April and once he was aware of this issue, they began to tow vehicles and issue lease termination notices.

Mr. Malkerson commented that the new ownership had the opportunity to address these tenants that were problematic. He noted that they are working to help the businesses find new locations and let their leases expire rather than evicting them as the clients are local residents. He believed that they are working to rebuild the site in a responsible manner.

Commissioner Udomah commented that his issue was with the lax manner in which the ordinance was enforced and would like more reassurance that the business will be a better steward for the area. He understood that business can grow and get busy, which is a good thing, but that cannot inconvenience others in that area. He wanted to ensure that if this were approved, the issues would not continue to happen.

Commissioner Fraser commented that it sounds like the ownership is working to mitigate the challenges, recognizing the concern with parking. She asked about the steps the owners would take to ensure the parking rules are enforced and abided by.

Mr. Malik replied that they will limit the auto uses at the property, reiterating that two of those businesses will be leaving in January 2024. He noted that they have been towing vehicles and would continue to do so. He stated that if businesses continue to violate, they would continue with their enforcement abilities in the lease as well which could lead to eviction and/or legal actions. He noted that these spaces are under market rent which is affordable for people starting their businesses.

Commissioner Fraser asked if that has been communicated to the tenants.

Mr. Malik confirmed that these rules have been communicated to the tenants and they have enforced towing. He stated that the tenants understand that this is not allowed and is not going to continue to happen.

Mr. Malkerson commented that they like to avoid the legal route as that adds cost and does not benefit anyone involved. He stated that this path forward has provided the tenants a month or two additional to find a new space. He stated that they are not going to allow outdoor storage of car parts, damaged cars, or trailers of equipment. He commented that there are good tenants at the property, and they are phasing out the bad apples.

Commissioner Borer asked if the CUP has been in place before.

Associate Planner McDermott replied that in the past there were three parcels under common ownership and a CUP was issued for the property at 6301 to allow auto uses. She stated that over the years the properties have remained under common ownerships and the City previously did not conduct proactive code sweeps and therefore the expansion of auto related uses was not caught. She stated that there were complaints about the parking which led to the no parking posting on one side of the street. She confirmed that this CUP would provide an additional layer

of enforcement. She noted that the applicant has been very responsive in working with City staff and the Police Department to address these issues.

Commissioner Turner stated that as they think about additional enforcement that could occur, perhaps some mitigation strategies could be built to build a relationship with the townhome HOA. She encouraged the applicants to reach out and build a relationship with the HOA.

The applicants confirmed that they would be interested in being a part of that neighborhood committee and would welcome the invitation.

Commissioner Kiekow asked if this could be tabled for three months to allow the applicants to prove they are doing what they say they will do. He noted that they could work to come into compliance and then review the request.

Associate Planner McDermott replied that under the review rules, the City has 60 days to respond to a request. She noted that could be extended by 60 days but they are already on the tail end of that extension window and this needs to move forward with a decision by the City Council prior to December 8th.

Commissioner Borer asked how these issues would be addressed if this were to be denied.

Associate Planner McDermott replied that the City would continue its code enforcement process that would require all auto repair operations cease on the northern portion of the site but noted that those businesses could remain in operation at 6301 Welcome.

Commission Chair Cavin appreciated the applicants attempting to be good neighbors and for answering some tough questions tonight.

MOTION FRASER, SECOND WAKO, TO RECOMMEND APPROVAL OF A CONDITIONAL USE PERMIT FOR AN AUTO ORIENTATED REPAIR SERVICE, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.

FURTHER DISCUSSION: COMMISSIONER KIEKOW COMMENTED THAT THIS SITE IS ON THE CITY RADAR AND ENCOURAGED THE APPLICANTS TO FOLLOW THROUGH.

COMMISSIONER WAKO REFERENCED THE LETTER FROM RESIDENTS MENTIONING VEHICLES WITHOUT PLATES SITTING ON THE STREET FOR MORE THAN ONE WEEK, PREVENTING TRASH TRUCKS FROM COMING THROUGH. HE HOPED THAT THE APPLICANT WOULD ENSURE THAT DOES NOT HAPPEN AGAIN.

MOTION CARRIED UNANIMOUSLY.

B. 169 Logistics – Variance #23-116 for a second monument sign.

Item removed from agenda.

C. 610 Corridor – Zoning Text Amendment #23-112 adopting a zoning text and map amendment to adopt the Mixed Use and Pedestrian Priority Overlay Districts.

RESOLUTION #1989-198

RESOLUTION GRANTING CONDITIONAL USE PERMIT #1989-3442
FOR AUTO BODY REPAIR
DAN PETTIS
6301 WELCOME AVENUE NORTH

WHEREAS, application has been made for a Conditional Use Permit under the provisions of Section 366 and 364.02 of the City Code on property legally described as:

Lots 5 and 6, Block 1, COOPER'S INDUSTRIAL PARK, Hennepin County, Minnesota.

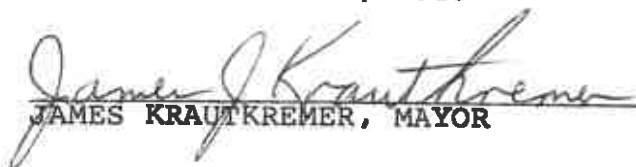
WHEREAS, the effect of the proposed use upon the health, safety and welfare of surrounding lands, existing and anticipated traffic conditions and its effect on property values in the neighborhood has been considered,

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

1. It is hereby determined that the proposed development is in harmony with the general purposes and interest of the Zoning Ordinances of the City.
2. The Conditional Use Permit is granted to Dan Pettis (Detail Collision Center) in accordance with the conditions set forth in Exhibit Z which is made a part of this resolution by reference and is on file and can be examined in the City Clerk's Office. This property is subject to the terms set forth in Exhibit Z.
3. That the petitioner shall be required to record a copy of this resolution with the Hennepin County Recorder and/or Registrar of Titles and to pay all fees for said recording and shall file proof of said recording with the City. The building permit shall not be issued until or unless the recording is made within one year from the date of this approval.

The foregoing resolution was introduced by Council Member Slack and duly seconded by Council Member Enge.
 The following voted in favor of the resolution: Krautkremer, Engh, Slack, Marshall, Gustafson, Enge and Stromberg.
 The following voted against: None.
 The following were absent: None.
 Whereupon the resolution was adopted.

ADOPTED: JULY 24, 1989


 JAMES KRAUTKREMER, MAYOR

CERTIFICATE

STATE OF MINNESOTA
 COUNTY OF HENNEPIN
 CITY OF BROOKLYN PARK

I, the undersigned, being the duly qualified and acting 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 July 24, 1989.

WITNESS my hand officially as such Clerk and the corporate seal of the City this 25th day of July, 1989.


 MYRNA MAIKKULA, CITY CLERK

(SEAL)

REQUEST FOR COUNCIL ACTION

AGENDA SECTION:	PLANNING	MEETING DATE: 7-24-89
ITEM:	PETTIS, DAN, C.U.P. #1989-3442 for auto body repair at 6301 Welcome Ave. No.	AGENDA NO: 5.2
		ORIGINATING DEPARTMENT: COMMUNITY DEVELOPMENT
		BY: T. Bakritges

BACKGROUND INFORMATION FOR 7-24-89:

The applicant is requesting a Conditional Use Permit to operate an automobile repair business in 3,900 square feet of an existing building on Welcome Avenue North in the Cooper's Industrial Park.

The main issue here is the many exposed garbage dumpsters being seen from 63rd Avenue North. The trash enclosure can be constructed within the berm so the view of the enclosure structure would not greatly affect any of the business owners and the motoring public on 63rd Avenue North. This one large enclosed dumpster could serve all the individual businesses facing 63rd Avenue North. Creating this central facility minimizes traffic conflicts with the dumpster location and directly improves the view of the building from 63rd Avenue North.

2-323 8:45
The Planning Commission unanimously recommended approval.

ACTION REQUESTED BY THE CITY COUNCIL ON 7-24-89:

MOTION *Slack* / SECOND *Enge* TO WAIVE THE READING AND ADOPT RESOLUTION #1989-*48* APPROVING CONDITIONAL USE PERMIT #1989-3442 FOR AUTO BODY REPAIR AT 6301 WELCOME AVENUE NORTH FOR DAN PETTIS (DETAIL COLLISION CENTER).

mpu

RESOLUTION #1989-**RESOLUTION GRANTING CONDITIONAL USE PERMIT #1989-3442
FOR AUTO BODY REPAIR
DAN PETTIS
6301 WELCOME AVENUE NORTH**

WHEREAS, application has been made for a Conditional Use Permit under the provisions of Section 366 and 364.02 of the City Code on property legally described as:

Lots 5 and 6, Block 1, COOPER'S INDUSTRIAL PARK, Hennepin County, Minnesota.

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 property values in the neighborhood has been considered,

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

- 1. It is hereby determined that the proposed development is in harmony with the general purposes and interest of the Zoning Ordinances of the City.**
- 2. The Conditional Use Permit is granted to Dan Pettis (Detail Collision Center) in accordance with the conditions set forth in Exhibit Z which is made a part of this resolution by reference and is on file and can be examined in the City Clerk's Office. This property is subject to the terms set forth in Exhibit Z.**
- 3. That the petitioner shall be required to record a copy of this resolution with the Hennepin County Recorder and/or Registrar of Titles and to pay all fees for said recording and shall file proof of said recording with the City. The building permit shall not be issued until or unless the recording is made within one year from the date of this approval.**

EXHIBIT Z

**CONDITIONAL USE PERMIT #1989-3442
FOR AUTO BODY REPAIR
DAN PETTIS (DETAIL COLLISION CENTER)
6301 WELCOME AVENUE NORTH**

This Conditional Use Permit #1989-3442 was approved by the City Council on July 24, 1989, subject to the following terms:

REQUIRED PLANS

1. This Conditional Use Permit #1989-3442 for an auto body repair facility as shown on site plans dated September 28, 1979, stamped as Received by the City of Brooklyn Park Planning Commission May 4, 1989, and marked "Exhibit A". "Exhibit A" is attached to this permit and made a part hereto.

BONDS, ESCROWS AND DIRECT PAYMENTS

2. A cash bond in the amount of \$2,000.00 must be posted with the City. The cash bond or letter of credit must be dated to expire the same as the development contract and shall have a maintenance clause guaranteeing work for one year after acceptance. This bond guarantees that the developer will construct or install the following:
 - A. A separate fireproof three-sided enclosure six feet in height on a concrete pad with an exterior finish that shall match the finish of the building and secured with a chainlink gate with wooden slats, or a metal gate, located to the south of the building. The trash enclosure can be constructed within the berm.
 - a. The interior of the dumpster area will have to be constructed of masonry, and;
 - b. The sides and bottom of the dumpster enclosure must be treated with an epoxy finish per Health Department requirements.

EXHIBIT Z, Page 2 of 4
Dan Pettis, C.U.P. #1989-3442

REQUIRED DOCUMENTS

3. A Developer's Contract relating to the items covered in the developer's bond shall be signed by the developer and shall be marked as "Exhibit B". "Exhibit B" is attached to this permit and made a part hereof.

GENERAL CONDITIONS

4. It shall be the developer's responsibility to keep active and up to date the developers contract and financial surety (letters of credit, bonds, etc.). These documents must remain active until the developer has been released from any further obligation by City Council motion received in writing from the Engineering Division.
5. Signage shall be limited to a wall sign on the south elevation. This wall sign shall not exceed ten percent of the bay's wall area and the signage shall be individual letters, with permanent lettering which is affixed to the exterior wall of a building and has a sign face which is parallel to the building wall. This wall sign shall not project more than twelve inches from the surface to which it is attached nor shall it extend beyond the top of the building wall. No freestanding signs or off-site signage shall be permitted. (Signage on the garage door must be removed based on the Sign Ordinance Section 356.)
6. The site shall not be allowed to have streamers, balloons, searchlights, pennants, pinwheels, or other attention-attracting devices. No signs shall be allowed to flash, blink, rotate or electronically display advertising.
7. Any exposed roofing equipment shall be screened
8. The property shall not allow the storage of wrecked, abandoned or junked automobiles, or the sale or display of used cars.
9. No automobiles to be serviced shall be parked during non-business hours in the parking lot on Welcome Avenue North.
10. No sales or rentals of motor vehicles, trailers, campers, boats and the like shall be permitted.

EXHIBIT Z, Page 3 of 4
Dan Pettis, C.U.P. #1989-3442

11. The storage of all paints, solvents and other hazardous materials associated with auto body repair and servicing shall be approved by the City Fire Department.
12. No artificial elevation of vehicles on raised platforms or the like shall occur on the site.
13. If a fence is to be erected on the site for security purposes, the location shall be approved by the Planning Division.
14. All common interior walls from Detail Collision Center to other occupancies must be one hour rated separations (each to occupancy to B-2 occupancy).
15. Front office areas must be a one-hour rated separation from repair area (B-2 to H-2 occupancy).
16. Flammable liquid storage/mixing room must meet requirements of Uniform Building Code or flammable liquids must be stored in an approved safety cabinets.
17. Forced air furnace in repair area must meet Uniform Building Code requirements.
18. Air make up system must provide minimum air flow for building as called for in uniform building and mechanical codes.
19. All applicable City ordinances not specifically covered herein shall become a part of this Conditional Use Permit.
20. Section 365.02 g. of the City Code (abandonment, revocation, cancellation) is marked as "Exhibit C" and made a part of this permit.
21. The undersigned agrees to provide a copy of this document to any or all purchasers and/or lessees who would continue to use the property for the purpose stated in Article #1.

The undersigned declares he has fully examined this Conditional Use Permit and all exhibits attached hereto, and agrees to all the conditions set forth. This approval will expire one year from the date of City Council approval unless all of the conditions have been met, and valid building permits are in force. In no case shall the property be used for the use in which this permit is approved until all of the conditions have been met by the petitioner and are inspected by the City.

EXHIBIT Z, Page 4 of 4
Dan Pettis, C.U.P. #1989-3442

By _____

Title _____

Witness _____

Witness _____

MEMORANDUM

ITEM 4.A.

DATE: JUNE 30, 1989

TO: PLANNING COMMISSION

FROM: THOMAS C. BAKRITGES, ASSOCIATE PLANNER *Thomas C. Bakritges*

SUBJECT: PETTIS DAN, C.U.P. #1989-3442 for auto body repair at
6301 Welcome Avenue North

At the June 7, 1989, Planning Commission Meeting the applicant requested that this item be continued until the July 5, 1989, meeting. This would give the applicant enough time to read and understand all the conditions within the Staff Report. Staff is of the opinion that this item needs no further review due to a number of important concerns that were pointed out by staff and the Planning Commission.

RECOMMENDATION

Staff continues to recommend approval of C.U.P. #1989-3442 for auto body repair at 6301 Welcome Avenue North for Dan Pettis per the conditions of the Staff Report.

TCB:mp

STAFF REPORT



PUBLIC HEARING DATE: June 7, 1989

ITEM 4 B.

REQUEST

CASE NUMBER: 1989-3442

APPLICANT: PETTIS, DAN

PROPOSED REQUEST: Conditional Use Permit for Auto Body Repair

LOCATION OF REQUEST: 6301 Welcome Avenue North

SITE DATA

SIZE: 3.5 + Acres

DENSITY: N/A

PRESENT ZONING: I-1 (Limited Industrial)

CONTIGUOUS LAND USE:
 N - Industrial
 E - Single and Two-Family Residential
 W - Industrial
 S - Crystal Airfield (Metropolitan Airport Commission)

PARK DEDICATION: N/A

ANALYSIS

CONFORMANCE TO ADOPTED LAND USE PLAN: Yes - Comprehensive Plan Shows Industrial

STAFF RECOMMENDATION: APPROVAL

PLANNING STAFF REPORT

Page 2

PETTIS, DAN, Conditional Use Permit #1989-3442 for Auto Body Repair at 6301 Welcome Avenue North**PROPOSAL:**

The applicant is requesting a Conditional Use Permit to operate an automobile repair business in 3,900 square feet of an existing building on Welcome Avenue North in the Cooper's Industrial Park.

Detail Collision Center repaints cars, trucks and vans and does repair work, including small and large collision repairs.

PLANNING CONSIDERATIONS:

Auto body shops are typically not a particularly attractive or desirable land use, since much of the activity or evidence of activity -- i.e. stored cars, car parts -- is often visible from the street. The applicant (Detail Collision Center) has assured Staff that all vehicles are stored inside at night for the safety of the customer's property and for the preservation of aesthetic value of the site.

A letter from Detail Collision Center dated May 4, 1989, stated that they like to appear as professional on the outside as any other business and that they want to have a positive impact on the multi-dwellings and private homes in the surrounding area.

The main issue here is the many exposed garbage dumpsters being seen from 63rd Avenue North. There is not an easy solution to this problem. Denial of the Conditional Use Permit (which Staff does not recommend) will not prevent a permitted use to operate out of that bay. The best solution is to build a separate fire-proof trash enclosure located south of the building. The trash enclosure can be constructed within the berm so the view of the enclosure structure would not greatly affect any of the business owners and the motoring public on 63rd Avenue North. This one large enclosed dumpster could serve all the individual businesses facing 63rd Avenue North. Staff is of the opinion that this would improve the view from the motoring public from 63rd Avenue North.

Creating this central facility minimizes traffic conflicts with the dumpster location and directly improves the view of the building from 63rd Avenue North. This location would not impact the surrounding properties or the business owners within that area.

PLANNING STAFF REPORT

Page 3

PETTIS, DAN, Conditional Use Permit #1989-3442**RECOMMENDATION:**

Staff recommends approval of Conditional Use Permit #1989-3442 for Dan Pettis for an auto body repair shop at 6301 Welcome Avenue North with the following conditions:

1. Site and floor plans as shown on plans dated "Planning Commission May 4, 1989".
2. Signage shall be limited to a wall sign on the south elevation. This wall sign shall not exceed ten percent of the wall area and the signage shall be individual letters, with permanent lettering which is affixed to the exterior wall of a building and has a sign face which is parallel to the building wall. This wall sign shall not project more than twelve inches from the surface to which it is attached nor shall it extend beyond the top of the building wall. No free-standing signs or off-site signage shall be permitted. (Signage on the garage door must be removed based on the Sign Ordinance.)
3. There shall be no flags, pennants, pinwheels, temporary or mobile signs, or any other attention attracting devices on the site.
4. Any exposed roofing equipment shall be screened.
5. The property shall not allow the storage or depository of wrecked, abandoned or junked automobiles, or for the sale or display for sale of used cars.
6. No automobiles to be serviced shall be parked during non-business hours in the parking lot on Welcome Avenue North.
7. No sales or rentals of motor vehicles, trailers, campers, boats and the like shall be permitted.
8. All trash, waste materials and obsolete automobile parts shall be a separate fire-proof trash enclosure located to the south of the building. Said enclosure shall be architecturally compatible with the building.
9. The storage of all paints, solvents and other hazardous

PLANNING STAFF REPORT

Page 4

PETTIS, DAN, Conditional Use Permit #1989-3442

materials associated with auto body repair and servicing shall be approved by the City Fire Department.

10. No artificial elevation of vehicles on raised platforms or the like shall occur on the site.
11. If a fence is to be erected on the site for security purposes, the location shall be approved by the Planning Division.
12. All common interior walls from Detail Collision Center to other occupancies must be one hour rated separations (each to occupancy to B-2 occupancy).
13. Front office areas must be a one hour rated separation from repair area (B-2 to H-2 occupancy).
14. Flammable liquid storage/mixing room must be meet requirements of uniform building code or flame liquids must be stored in an approved safety cabinets.
15. Forced air furnace in repair area must meet uniform building code requirements.
16. Air make up system must provide minimum air flow for building as called for in uniform building and mechanical codes.

Respectfully Submitted,



Thomas C. Bakritges
Associate Planner

TCB:baz

DATE: MAY 15, 1989
TO: PLANNING COMMISSION
ATTN: GARY BERG
FROM: JOE FAUST, FIRE INSPECTOR *JF*
SUBJECT: DETAIL COLLISION CENTER

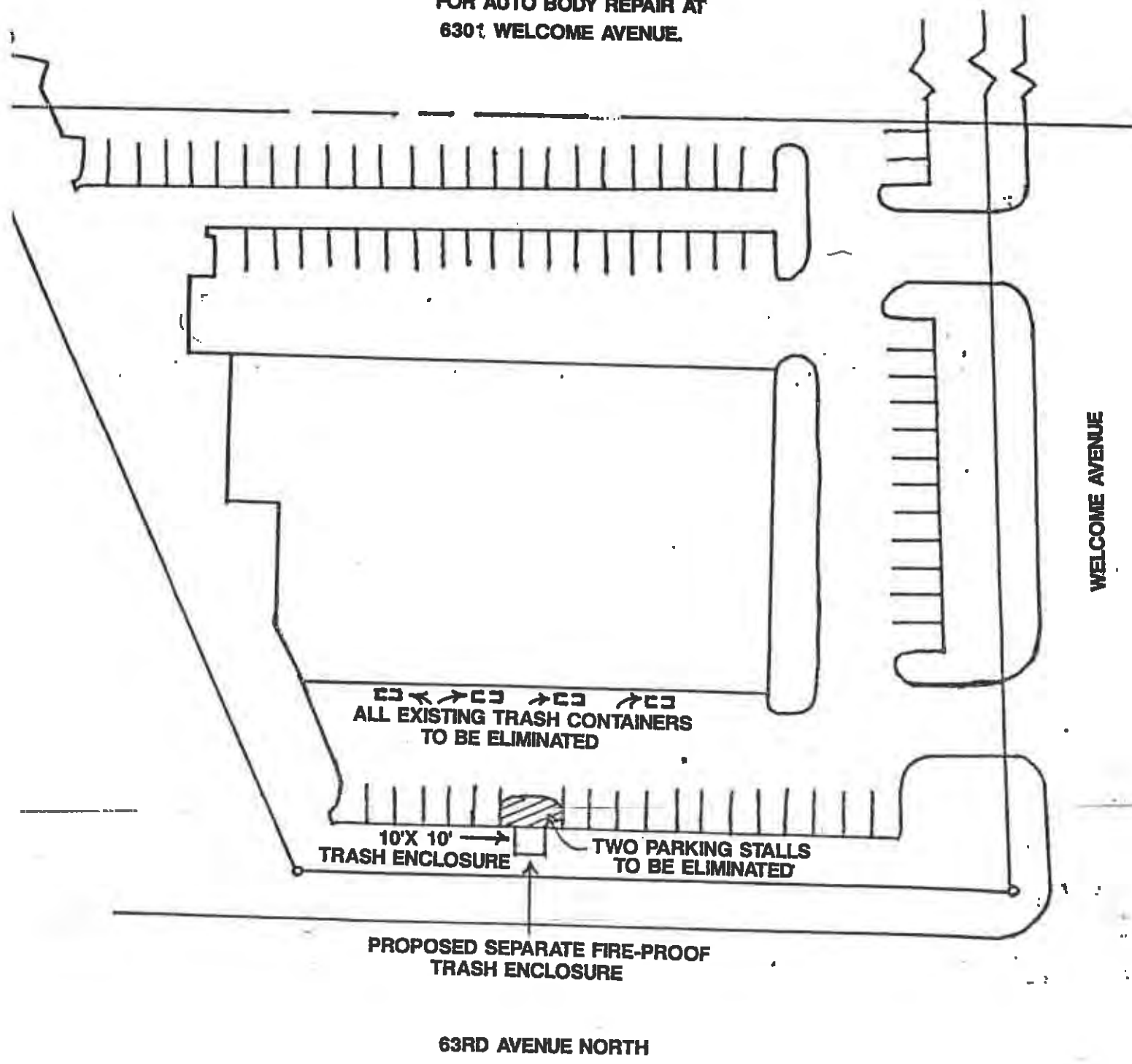
1. All common interior walls from Detail Collision to other occupancies must be one-hour rated separations (H2 occupancy to B2 occupancy).
2. Front office areas must be a one-hour rated separation from repair area (B2 to H2 occupancy).
3. Flammable liquids storage/mixing room must meet requirements of Uniform Building Code or flammable liquids must be stored in approved safety cabinets.
4. Forced air furnace in repair area must meet Uniform Building Code requirements.
5. Air make-up system must provide minimum air flow for building as called for in Uniform Building and Mechanical Codes.

hds

DETAIL

PLANNING STAFF RECOMMENDATION

FOR: DAN PETTIS, C.U.P. #1989-3442
FOR AUTO BODY REPAIR AT
6301 WELCOME AVENUE.



← → ← → ← → ← →
ALL EXISTING TRASH CONTAINERS
TO BE ELIMINATED

10'X 10' →
TRASH ENCLOSURE

←
TWO PARKING STALLS
TO BE ELIMINATED

PROPOSED SEPARATE FIRE-PROOF
TRASH ENCLOSURE

63RD AVENUE NORTH

WELCOME AVENUE

STATEMENT OF USE

To the City Council of Brooklyn Park:

We, the owners of Detail Collision Center, operate a business of auto body repair in the city of Brooklyn Park. Our business hours will be 7:00 a.m. to 5:30 p.m., Monday thru Friday. We will have four people working this shift with staggered starting times.

In compliance with our Lease Agreement and to assist in maintaining the building and grounds as an attractive complex, we will be storing vehicles that are damaged inside our shop. Vehicles that require repainting only may be stored outside during shop hours, however they will be stored inside at night.

It is our goal as a business owner in Brooklyn Park to keep our area neat and clean. We realize the positive impact this has on our business and the multiple dwellings and private homes in our area.

Thank you.

San Petto

5-4-89

Mr. Patch,
Re; Fresh Air Makeup for shop work area.

As per our conversation dated Tuesday April 11, 1989 we were able agree on a deferred date for the second phase of the air handling system required for Detail Collision Center located at 6301 Welcome Ave. No. Units 27&28.

The Second Phase or part is to supply 3/4 CFM make up air for approx. 3000 Sq. feet of shop space or 2250 CFM.

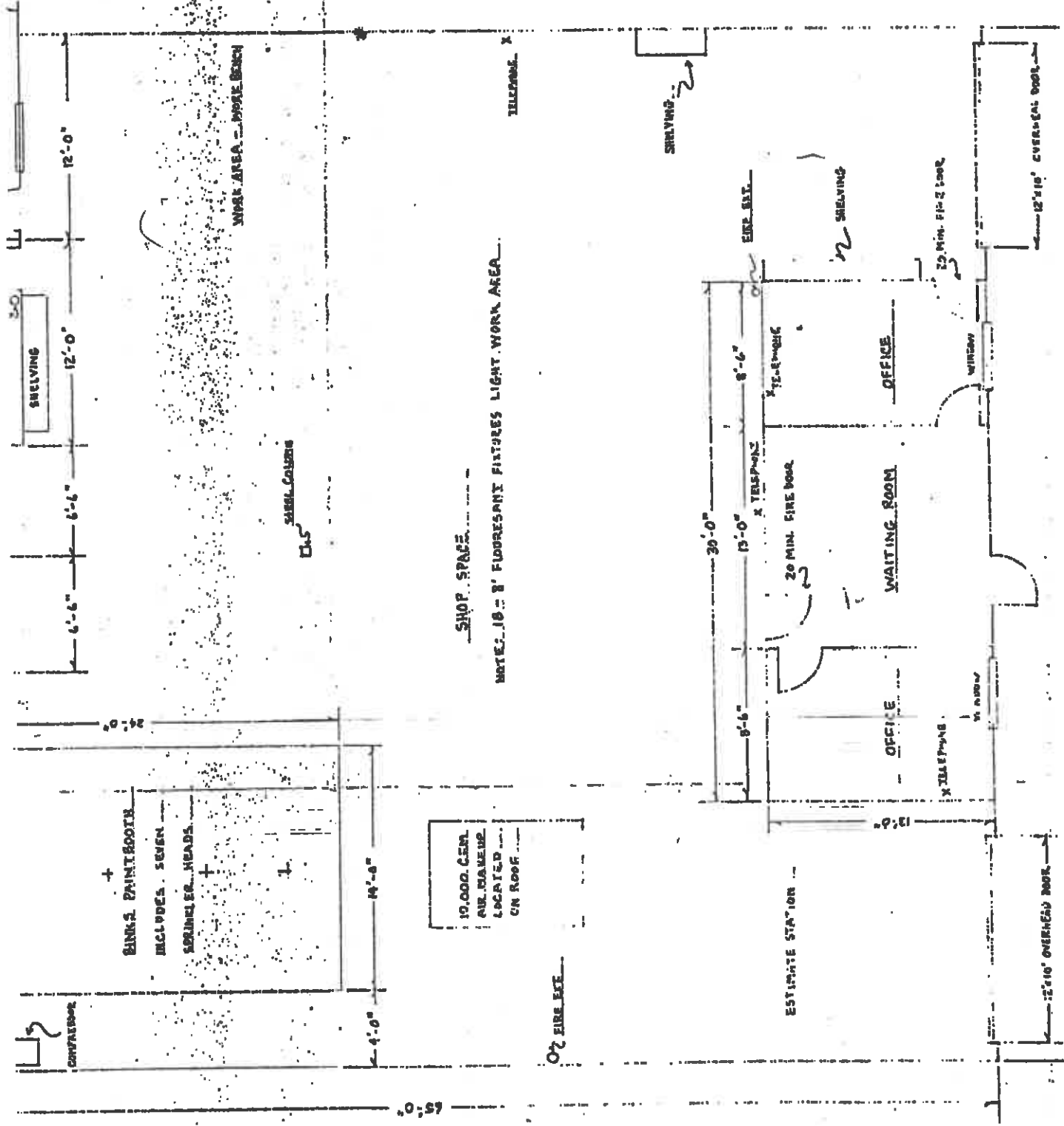
Detail Collision has agreed that as of September 1 1989 we will have applied for the necessary permits to begin construction and also agree to have the work completed by September 30 1989.

SIGNED Don Pettis OWNER

SIGNED Jack T. Durant OWNER

DATED April 19, 1989

FLOOR PLAN
DETAIL COLLISION CTR.
6301 WELCOME AVE. NO.
UNITS 27:28
SCALE: 3/8" = 1'-0"



SIGNAGE FOR FRONT WILL CONSIST OF UPPER CASE LETTERS. LETTERS ARE PAINTED. BRONZ TO CORRESPOND TO OUR LEASE AGREEMENT. THIS SIGN SHALL READ: DETAIL COLLISION CENTER. SIGNAGE IS CENTERED OVER ENTRANCE.

SHOP SPACE
NOTE: 10 - 8' FLUORESCENT FIXTURES LIGHT WORK AREA

10,000 GAL. AIR DAMPED LOCATED IN ROOF

O₂ FIRE EYE

**UNAPPROVED
MINUTES**

REGULAR BROOKLYN PARK PLANNING COMMISSION MEETING

JUNE 7, 1989

PETTIS, DAN; Conditional Use Permit #1989-3442 for Auto Body Repair at 6301 Welcome Avenue North

This hearing was on the consent agenda; therefore, the reading of the Staff Report was waived.

The hearing was opened to the public.

Dan Pettis, stated that he agreed with the Staff Report.

No one else appeared in favor or in opposition and the hearing was closed to the public and comments confined to the Planning Commission members.

MOTION JOHNSON, SECOND FEES, TO RECOMMEND APPROVAL OF C.U.P. #1989-3442 AT FOR AUTO BODY REPAIR AT 6301 WELCOME AVENUE NORTH FOR DAN PETTIS PER THE CONDITIONS OF THE STAFF REPORT.

Ms. Feess questioned who was going to build the trash enclosure.

Mr. Berg responded that with the C.U.P. the property owner has to sign off which is intended to make him aware of all conditions and requirements for improvements attached to the site.

Ms. Feess questioned the applicant if they understand that they will have to build a trash enclosure.

Mr. Pettis responded negatively.

~~Mr. Berg~~ questioned the applicant if they had read the Staff Report.

The applicant replied, no.

~~Mr. Berg~~ stated that the Staff Report should be read for the applicant to hear all the conditions and to give his response accordingly.

Mr. Miller agreed.

The Staff Report was read by Mr. Berg.

The applicant responded that everything required under the conditions listed in the Staff Report are completed with the exception of the construction of the trash enclosure. He added that he believes he is being pegged to do this work for not only himself but for all of the other tenants in the building.

PETTIS, DAN, Conditional Use Permit #1989-3442 cont...

Mr. Berg responded that it is City policy to bring all sites up to speed with the current standards. He also reminded the applicant that this permit is granted to the property and not to Mr. Pettis.

Ms. Feess questioned the applicant if he would like addl. time to read & understand all the conditions within the Staff Report.

Mr. Pettis responded affirmatively.

Mr. Johnson then withdrew his motion.

MOTION JOHNSON, SECOND FEESS TO CONTINUE C.U.P. #1989-3442 FOR AUTO BODY REPAIR AT 6301 WELCOME AVENUE NORTH FOR DAN PETTIS UNTIL THE 7-5-89 PUBLIC HEARING.

Mr. Miller asked if there were any other questions.

Mr. Jack Grand, 5649 Maryland, Crystal, stated that he is a partner of Mr. Pettis' and that he was confused over what happened. He also questioned if the trash enclosure problem is directed to his business or if it is for the entire complex.

Mr. Berg stated it is for the entire building & that the problem is on the 63rd Avenue side. He added that a defined area for the trash enclosure will dress up the aesthetics of the complex & the public image on the 63rd Avenue side of the building.

Mr. Johnson added that this condition is a message to the landlord to provide an enclosure along the south side of the building.

Mr. Grand questioned if this meant that Detail Collision is not being singled out.

Ms. Feess responded that his assumption is correct.

Mr. Grand posed a second question that since the Brooklyn Park Fire Inspector, Mr. Faust, was in that they upgraded their facility to all the standards as required by the Fire Department however, he questioned whether the two other body shops in the Complex are currently up those standards. He understands that there was a complaint in the building in regard to fumes from the painting operations in which he feels that Detail Collision was being singled out. He also stated that the source of the problem was not his business but the business that is located adjacent to the person who filed the complaint.

Mr. Miller then called for the question.

MOTION CARRIED UNANIMOUSLY.

- 1 -

REGULAR BROOKLYN PARK PLANNING COMMISSION MEETING

July 5, 1989

UNAPPROVED
MINUTES

PETTIS, DAN, Conditional Use Permit #1989-3442 for Auto Body Repair at 6301 Welcome Avenue North

Mr. Clark stated that this item was continued from the June 7, 1989, Planning Commission meeting to give the applicant enough time to read and understand all the conditions within the Staff Report.

Mr. Clark further stated that the main issue here is the many exposed garbage dumpsters being seen from 63rd Avenue North. He added that one solution is to build a separate fire-proof trash enclosure located south of the building. The trash enclosure can be constructed within the berm so the view of the enclosure structure would not impact any of the business owners and the motoring public on 63rd Avenue North.

The hearing was opened to the public.

The applicant was not present. No one else appeared in favor or in opposition and the hearing was closed to the public and comments confined to the Planning Commission members.

MOTION MILLER, SECOND CLEMENSON, TO MOVE THIS ITEM TO THE END OF THE AGENDA.

MOTION CARRIED UNANIMOUSLY.

This item was again opened to public at the conclusion of the meeting.

MOTION JOHNSON, SECOND CLEMENSON, TO CONTINUE THIS ITEM TO THE AUGUST 2, 1989, PLANNING COMMISSION MEETING.

Mr. Clark stated that the Planning Commission should act on this item because the auto body repair shop is existing at this point.

UNAPPROVED
MINUTES

PETTIS, DAN, Conditional Use Permit #1989-3442 (Continued)

MOTION JOHNSON, SECOND CLEMENSON, TO WITHDRAW THE MOTION OF CONTINUANCE OF THIS ITEM TO THE AUGUST 2, 1989, PLANNING COMMISSION MEETING.

MOTION SPAHN, SECOND FEESS, TO RECOMMEND APPROVAL OF DAN PETTIS, CONDITIONAL USE PERMIT #1989-3442 FOR AUTO BODY REPAIR AT 6301 WELCOME AVENUE NORTH PER THE STAFF REPORT.

MOTION CARRIED UNANIMOUSLY.

Caspian Tigers, LLC (“Applicant”) is the owner of 6317 Welcome Avenue North, Brooklyn Park, MN. (hereinafter “the property”) The property is located near the Northwest Corner of Welcome Avenue North and 63rd Avenue. Caspian Tigers, LLC also owns the adjacent commercial property at 6301 Welcome Avenue North to the South of 6301 Welcome Avenue North. The real estate located immediately East of 6317 and 6301 Welcome Avenue North is comprised of high-density residential townhomes. The property is rented out primarily to auto repair businesses and has been operated as such for many years.

Applicant has recently been made aware that the existing zoning of the property requires a Conditional Use Permit for compliant use of the property and makes this application accordingly.

The property contains a commercial cement block-built flat roof structure. There are eighteen (18) rentable units in the building.

Each unit is granted three (3) reserved parking spots. There are One Hundred Forty (140) available parking places surrounding the building that are available for permitted lease by each of the tenants. A few long tenured current tenants are occupying four (4) dedicated parking spaces. As these leases expire or terminate in the future, new tenants will be offered three (3) dedicated parking spaces to conform with the newer tenants.

In addition to the available parking places are four (4) ADA reserved and posted parking places.

Current management of the property budgets to maintain an inventory of 14 - 15 available additional permitted parking places that are leased from time to time by the tenants for short term overflow situations.

Ownership/management has a contract with Tyson’s towing to monitor the lot in the evening to remove any unpermitted vehicles parked on the property. Tyson’s is also charged with monitoring the property daily to remove any unpermitted vehicles from the ADA reserved parking places. To date, management reports that the available number of parking places has been sufficient for the orderly operation of the tenants’ respective businesses.

It is expected that there will be vehicles towed to the tenants’ respective units from time to time in the ordinary course of their operations. It is difficult to provide an estimate of the towing volume to the property as it is irregular in nature.

The commercial property located at 6301 Welcome Avenue, Brooklyn Park, MN is identical to the 6317 property in its construction, tenant mix and allocation of parking spaces. The real estate located at 6301 Welcome Avenue, Brooklyn Park has received an Auto Repair Conditional Use Permit of record for that property.

The property as built and improved is designed for auto repair services. Indeed, auto repair services, or similar uses, are the intended and targeted type of tenant for the property. Applicant will suffer significant hardship and diminution of real property value if an Auto Repair Conditional Use Permit is not granted. Applicant aspires to bring the property into full compliance with the applicable regulations of the City of Brooklyn Park and respectfully submits this application accordingly. Applicant further submits that receipt of an Auto Repair Conditional Use Permit will not bring about any negative change to the neighborhood because the historical non-compliant use of the property has not presented any impairment to the neighboring properties' use and enjoyment of those properties. An Auto Repair Conditional Use Permit will simply remove the property from a non-compliant status.

LEASE

This Lease (“Lease”) dated as of this **11th day of August 2023**, by and between **Caspian Tigers, LLC** (“Landlord” or “Lessor”) and **Tenant Name** (“Tenant” or “Lessee”).

WHEREAS, in consideration of the Rent hereinafter defined, and the covenants contained herein, Landlord and Tenant hereby agree as follows:

1. Basic Lease Information/Definitions.

1.1	<u>Premises</u>	Approximately Unit Sqft of rentable square feet of an 47,855 sq ft building located at 6301-6317 Welcome Ave N, Brooklyn Park, MN 55429 as depicted on Exhibit A attached hereto and incorporated herein by reference.				
1.2	<u>Commencement Date</u>	09/01/2023				
1.3	<u>Term</u>	12 months unless sooner terminated or extended pursuant to the terms and conditions of this Lease. The Termination Date is 08/31/2024 .				
1.4	<u>Base Rent</u>	Base Rent shall be the following amounts for the following periods of time: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Period Covered</u></th> <th style="text-align: left;"><u>Monthly Base Rent</u></th> </tr> </thead> <tbody> <tr> <td>9/1/2023 - 08/31/2024</td> <td>\$0.00</td> </tr> </tbody> </table>	<u>Period Covered</u>	<u>Monthly Base Rent</u>	9/1/2023 - 08/31/2024	\$0.00
<u>Period Covered</u>	<u>Monthly Base Rent</u>					
9/1/2023 - 08/31/2024	\$0.00					
1.5	<u>Tenant’s CAM Pro Rata Share</u>	0.00% @ \$0.00 sqft See Section 3.3. Monthly Amount is \$0.00				
1.6	<u>Security Deposit</u>	\$0.00				
1.7	<u>Tenant’s Notice Address</u> <u>Email Address</u> <u>Phone Number</u>	Tenant Address See Section 18 Phone Email				
1.8	<u>Landlord’s Notice Address</u>	Caspian Tigers, LLC 7401 Bush Lake Rd See Section 18 Edina, MN 55439				
1.9	<u>Insurance Requirement</u>	\$1,000,000 public liability, bodily injury and property damage combined policy. See Section 10.				
1.10	<u>Utilities</u>	Landlord will pay electric, gas and water utilities directly to the provider. Landlord may request pro rata share of electric during peak seasonal use.				

2. Premises.

Landlord hereby leases to Tenant the Premises for the Term pursuant to the terms and conditions of this Lease. Tenant and Landlord agree the number of square feet of rentable space of the Premises is approximate. Landlord or Tenant may elect for a professional architect to verify the rentable square foot of the Premises for purposes of this Lease. Upon verification of the number of square feet of rentable space of the Premises, if the calculation varies from the square footages herein, Landlord and Tenant shall execute an amendment to this Lease setting forth the number of square feet of rentable space of the Premises. Upon such verification, if the number of square feet of rentable space in the Premises and/or the Building differs from the number set forth in Section 1.1 and,

as a result thereof, Tenant has paid a larger or smaller portion of the Base Rent, Operating Expenses that Tenant is required to pay hereunder, Tenant shall pay to Landlord any shortage or Landlord shall refund to Tenant any overpayment.

3. Rent.

3.1. Rent. Tenant shall pay to Landlord the Base Rent identified in Section 1.5 of this Lease in advance of the first day of each calendar month during the Term mailed to **7401 Bush Lake Road, Edina, MN 55439** or such other location as Landlord shall advise Tenant of from time to time, and Base Rent checks shall be made payable to "**Caspian Tigers, LLC**". Should the Term commence or terminate on a day other than the first day or the last day of a calendar month, Landlord and Tenant agree that Base Rent for the first and last month of the Term shall be prorated and Base Rent for the remaining months shall be due and payable on the first of the month as provided above. Base Rent plus all other sums due and owing pursuant to this Lease shall be collectively called "Rent."

3.2. Month-to-Month Tenancy. If Tenant should remain in possession of the Leased Premises after the expiration of the Term of this Lease, without the execution of a new Lease or the written consent of Landlord, then Tenant shall be deemed to be occupying the Leased Premises as a tenant from month-to-month, subject to all the covenants and obligations of this Lease, except that as liquidated damages by reason of such holding over, the monthly amounts payable by Tenant under this Lease shall be increased to one hundred twenty percent (120%) of the monthly amounts payable in the last month of the stated Term.

3.3. Method of Payment of Rent. Rent and Additional Charges to be paid to Landlord shall be paid by electronic funds transfer debit transactions through wire transfer, ACH or direct deposit of immediately available federal funds and shall be initiated by Tenant for settlement on or before the applicable Payment Date in each case (or, in respect of Additional Charges, as applicable, such other date as may be applicable hereunder); provided, however, if the Payment Date is not a Business Day, then settlement shall be made on the preceding Business Day. Landlord shall provide Tenant with appropriate wire transfer, ACH and direct deposit information in a Notice from Landlord to Tenant. If Landlord directs Tenant to pay any Rent or any Additional Charges to any party other than Landlord, Tenant shall send to Landlord, simultaneously with such payment, a copy of the transmittal letter or invoice and a check whereby such payment is made or such other evidence of payment as Landlord may reasonably require.

3.4. Late Payment. If any installment of Rent or any other sums due from Tenant is not received by Landlord within 5 days following the due date, Tenant will pay to Landlord a late charge equal to 5% of such overdue amount or \$150, whichever is greater. Landlord and Tenant hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord would incur as a result of such late payment.

3.5. Common Area Expenses, Taxes and Insurance.

(i) "Additional Rent" shall mean that amount which is equal to Tenant's Pro Rata Share, as identified in Section 1.6 of this Lease, of the Expenses, and Taxes for the Building. "Expenses" shall mean all expenses, costs and disbursements paid or incurred by Landlord in connection with the ownership, management, maintenance, insuring, operation, replacement and repair of the Premises, Building and Property, provided, however, that any costs or expenses associated with capital improvements shall be amortized over the useful life of such capital items. "Taxes" shall mean all taxes, assessments and fees accruing and/or assessed during the Term in connection with the Property, the property of Landlord located therein, or the rents collected there from, by any governmental entity based upon the ownership, leasing, renting or operation of the Property, including all costs and expenses of protesting any such taxes, assessments or fees.

(ii) For each year during the Term, Tenant shall pay Tenant's Pro Rata Share of Expenses and Taxes as "Additional Rent." Prior to each calendar year, or as soon as reasonably possible thereafter, Landlord shall estimate and notify Tenant of the estimated amount of Additional Rent due for such year, and Tenant shall pay Landlord one-twelfth (1/12) of such estimate on the first day of each month during such year. After the end of each calendar year, Landlord shall deliver to Tenant a report setting forth the actual Expenses and Taxes for such calendar year and a statement of the amount of Additional Rent that Tenant has paid and is payable for such year. Within thirty (30) days after receipt of such report, Tenant shall pay to Landlord the amount of the actual Additional Rent due for such calendar year minus any payments of Additional Rent made by Tenant for such year. If Tenant's estimated payments of Additional Rent exceed the amount due Landlord for such calendar year, Landlord shall apply such excess as a credit against Tenant's other obligations under this Lease or promptly refund such excess to Tenant if the Term has already expired. Tenant's obligation to pay any component of Additional Rent shall survive the expiration or sooner termination of the Term. **Tenant's estimated Additional Rent which they shall pay along with their Base Rent beginning on the Commencement Date is \$0.00.**

4. Security Deposit.

Upon execution of this Lease, to secure the faithful performance by Tenant of all the terms and conditions of this Lease, Tenant shall pay to Landlord the Security Deposit identified in Section 1.6 of this Lease. Tenant understands: (a) that the Security Deposit or any portion thereof may be applied to the curing of any Default as hereinafter defined, without prejudice to any other remedy or remedies which Landlord may have on account thereof, and upon such application, Tenant shall pay Landlord on demand the amount so applied which shall be added to the Security Deposit so the same may be restored to its original amount; (b) that should the Premises be conveyed by Landlord, the Security Deposit or any portion thereof not previously applied may be turned over to Landlord's grantee and if the same be turned over, Tenant hereby releases Landlord from any and all liability with respect to the Security Deposit and/or its application or return, and Tenant agrees to look to such grantee for such application or return; (c) that Landlord shall not be obligated to hold said Security Deposit as a separate fund, but may commingle the same with its other funds; and (d) that upon expiration of the Term and surrender of the Premises, the sum deposited or the part or portion thereof not previously applied shall be returned to Tenant without interest no later than thirty (30) days after the expiration of the Term or any renewal or extension thereof.

5. Use.

The Premises shall be used and occupied only for the operation of a car detailing business by **Tenant Name**. Tenant, at its sole cost and expense, shall comply with all statutes, laws, ordinances, orders, rules, regulations and requirements of the federal, state and local governments and of the Board of Fire Underwriters and changes thereto affecting the Premises or applicable to the use of the Premises.

6. Utilities and Taxes.

Tenant agrees to pay when due all utility charges agreed to in Section 1.10 incurred in connection with its use and occupancy of the Premises, including, but not limited to telephone and internet and to immediately transfer all utility accounts into its own name and to make all required deposits on the Commencement Date. Tenant shall at all times keep the Premises adequately heated to prevent the water pipes from freezing. Landlord shall not be liable for any interruption or failure in supply of any utility to the Premises. Landlord shall pay all city, county, or state real estate taxes and special assessments assessed against the Property, herein "Taxes".

7. Condition of Premises.

Tenant hereby accepts the Premises and any equipment therein in their condition existing as of the Lease Commencement Date or the date that Tenant takes possession of the Premises, whichever is earlier.

8. Maintenance and Repairs.

8.1 Landlord's Obligations. Landlord shall maintain and keep in good condition and repair the Building and the Property. Additionally the Landlord shall have the obligation for any repairs or replacement to heating and air conditioning units after the Tenant has expended five hundred dollars (\$500) in any one calendar year for repairs, provided that the Tenant has provided Landlord with proof of annual maintenance contracts for the maintenance of the heating, ventilating, and air conditioning equipment and further provided that such equipment and further provided that such replacement is not due to negligence of Tenant.

8.2 Tenant's Obligations. Tenant shall, at its own cost and expense, maintain the Premises in good repair and in a neat and clean, first-class condition, including making all necessary repairs and replacements including but not limited to the Premises lighting, electrical and plumbing fixtures and equipment, all doors (overhead or otherwise), glass and windows, all interior walls, partitions, including the regular painting thereof, all exterior entrances to the Premises, and levelers located in the Premises or otherwise located in the Building for Tenant's sole use; and excluding however those components of the premises for which Landlord is expressly responsible under Section 8.1. Tenant shall further, at its own cost and expense, repair or restore any damage or injury to all or any part of the Building or any part or all of the Property caused by Tenant or Tenant's agents, employees, invitees, licensees, visitors or contractors, including but not limited to any repairs or replacements necessitated by (i) the construction or installation of improvements to the Premises by or on behalf of Tenant, and (ii) the moving of any property into or out of the Premises. If Tenant fails to make such repairs or replacements promptly, Landlord may, at its option, upon prior reasonable notice to Tenant (except in an emergency) make the required repairs and replacements and the costs of such repair or replacements shall be charged to Tenant as Additional Rent and shall become due and payable by Tenant plus an administrative fee equal to fifteen percent (15%) of such costs.

9. Alterations.

Tenant shall not make any alterations, additions, modifications or improvements to or affecting the structure of the Premises or Building without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.

10. Insurance.

10.1. Liability Coverage. During the Term, Tenant will carry, at its own expense, public liability insurance, in a form and with a company satisfactory to Landlord, a bodily injury and property damage combined single limit policy of at least \$1,000,000 or in such greater amounts as Landlord may from time to time reasonably require. All such insurance policies shall name Landlord and Landlord's agent as additional insureds and shall contain a provision that the same may not be canceled or materially modified without giving Landlord at least thirty (30) days prior written notice. In addition, such policies or certificates evidencing that such policies are in effect, shall be delivered to Landlord at the commencement of the Term and renewals shall be delivered at least ten (10) full days prior to the expiration or cancellation of any such policy. If Tenant fails to comply with its covenant to maintain insurance as provided herein, Landlord may, at its option, cause insurance as aforesaid to be issued and, in such event, Tenant shall pay the premiums for such insurance as Additional Rent hereunder.

10.2. Indemnity. Landlord shall not be liable to Tenant for and Tenant does hereby release Landlord and its respective agents and employees from liability for any injury, loss or damages to Tenant or to any other person or property occurring upon the Property unless caused by Landlord's gross negligence or willful misconduct. Tenant agrees to indemnify, defend, and hold Landlord, Landlord's officers, directors, stockholders, employees and agents (collectively "Landlord Group") harmless against and from any and all liability, loss, costs, damages, expenses, including reasonable attorneys' fees, claims and demands, that may be brought against Landlord Group, for or on account of any damages, loss or injury to persons or property in or about the Property during the Term, or during any occupancy by Tenant prior to the Commencement Date or for any damages, loss or injury to persons or property caused by Tenant whatsoever, unless caused by Landlord's gross negligence or willful misconduct. "Tenant" shall include Tenant, its employees, agents, servants, invitees, licensees, contractors and subcontractors. This indemnification shall survive the expiration or earlier termination of this Lease.

11. Assignment and Subletting.

Tenant may not assign this Lease or any interest herein or sublet the whole or any part of the Premises or permit the same to be occupied by anyone other than Tenant, without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion.

12. Subordination/Estoppel Certificates.

Tenant accepts this Lease, and the tenancy created hereunder, subject and subordinate to any underlying leases, mortgages, deed of trust, leasehold mortgages or other security interests now or hereafter a lien upon or affecting the Premises or any part thereof. Tenant shall, at any time hereafter, on request, execute any instruments that may be required by any mortgage, mortgagee, deed of trust, trustee, or underlying owner or Landlord hereunder to subordinate Tenant's interest hereunder to the lien of any such mortgages, deed or deeds of trust or underlying lease. Tenant agrees at any time and from time to time upon five (5) business days prior notice by Landlord to execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which Rent and other charges have been paid in advance, if any, and stating whether or not Landlord is in default in performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, and such other matters as Landlord may request, it being intended that any such statement hereunder may be relied upon by any third party not a party to this Lease. The failure of Tenant to execute any such instruments, leases or documents shall constitute a Default hereunder.

13. Default.

If (a) Tenant shall fail to pay the Rent or other charges due hereunder within five (5) days after the same shall be due, or (b) Tenant shall fail to perform any of the other terms, conditions or covenants of this Lease to be performed or observed by Tenant for more than thirty (30) days after written notice of such default has been given to Tenant, or (c) Tenant shall abandon the Leased Premises by failing to use and occupy the same for more than thirty (30) consecutive days, or (d) Tenant or any guarantor of this Lease shall be adjudged bankrupt or insolvent or shall make an assignment for the benefit of creditors, or (e) a receiver or trustee of Tenant property or that of any guarantor of this Lease shall be appointed and such receiver or trustee, as the case may be, shall not be discharged within thirty (30) days after such appointment, or (f) an execution or attachment is levied against Tenant's property or that of any guarantor of this Lease, or (g) this Lease shall by operation of law devolve upon or pass to any person or persons other than Tenant (except with Landlord's express prior written consent), or (h) Tenant shall fail to keep its own vehicles or its clients vehicles or any other personal property inside the defined outside storage area, then in any such case, Landlord may, upon notice to Tenant, recover possession of and re-enter the Leased Premises without affecting Tenant's liability for past Rent and other charges due or future Rent and other charges to accrue hereunder.

In the event of any such default, the entire Rent and all other sums payable hereunder for the balance of the Term shall immediately become due and payable as if by the terms of this Lease they were payable in advance, and Lessor may immediately proceed to distrain, collect, confess judgment or bring action for said Rent and other sums, as being in arrears, or may file a proof of claim in any bankruptcy or insolvency proceedings for such Rent and other sums, or Lessor may institute any other proceedings to enforce payment thereof.

In the event of any such default, Lessor shall be entitled to recover from Lessee, in addition to Rent and other charges equivalent to Rent, all other damages sustained by Lessor on account of the breach of this Lease, including, but not limited to, the expenses and attorneys' fees incurred by Lessor in enforcing the terms and provisions hereof and in re-entering and recovering possession of the Leased Premises and for the cost of repairs, alterations and brokerage and attorneys' fees connected with the re-letting of the Leased Premises. As an alternative, at the election of Lessor, Lessor shall have the right by written notice given to Lessee to declare this Lease terminated without any further rights or obligations on the part of Lessor or Lessee (other than Lessee's obligation for Rent and other charges due and owing through the date of termination), so that Lessor may re-let the Leased Premises without any right on the part of Lessee to any credit or payment resulting from any re-letting of the Leased Premises. In case of a default under this Lease, Lessor may, in addition to terminating this Lease, or in lieu thereof, pursue such other remedy or combination of remedies and recover such other damages for breach of tenancy and/or contract as available at law or otherwise.

The rights and remedies of Lessor under this Lease shall be cumulative and the exercise of any of them shall not be exclusive of any other right or remedy provided by this Lease or allowed by law, and the waiver by Lessor of any breach of any covenant of this Lease shall be limited to the particular instance and shall not operate or be deemed to waive any future breach of the same or any other covenant on the same or any other occasion, nor operate as a waiver of Lessor's right to enforce the payment of subsequent installments of rental or any of Lessor's rights under this Lease by such remedies as may be appropriate.

No extension of time, forbearance, neglect or waiver on the part of Lessor with respect to any one or more of the covenants, terms or conditions of this Lease, shall be construed as a waiver of any of the other covenants, terms or conditions of this Lease, or as an estoppel against Lessor. After the service of a notice or the commencement of a suit or after final judgment for possession of the premises, Lessor may receive and collect any Rent due and apply the same as and for use and occupancy, and the payment and receipt thereof shall not waive or affect any such notice, suit or judgment.

Lessor shall have the right at any time, after ten (10) days written notice to Lessee (or without notice in case of emergency or in case any fine, penalty, interest or cost may otherwise be imposed or incurred) to make any payment or perform any act required of Lessee under any provision of this Lease, and in exercising such right, to incur necessary and incidental costs and expense, including reasonable counsel fees. Nothing herein shall imply any obligation on the part of Lessor to make any payment or perform any act required of Lessee, and this exercise of the right to do so shall not constitute a release of any obligation or a waiver of any default. All payments made and all costs and expenses incurred in connection with any exercise of such right shall be reimbursed to Lessor by Lessee within ten (10) days after such payment, together with interest at the Default Interest Rate (as hereinafter defined), from the respective dates of the making of such payment or the incurring of such costs and expenses. In the event of non-payment thereof, Lessor shall have the rights and remedies it would have hereunder or by law in the case of non-payment of Rent.

All costs, expenses and reasonable attorneys' fees that may be incurred or paid by either party in enforcing the covenants and agreements of this Lease, shall be the sole responsibility of the non-prevailing party in such an action.

Should Lessor default in the performance of its repair obligations or any other obligation to be performed by Lessor under this Lease, Lessee may serve upon Lessor a notice specifying the default and requiring performance by Lessor within a period of time set forth in such notice, which shall not be less than thirty (30) days after receipt of said written notice (except that such cure period specified in the notice shall be automatically extended for an additional period of time reasonably necessary to cure such default, if such default cannot be cured within such cure period provided that Lessor commences the process of curing such default within said cure period and continuously and diligently prosecutes such cure to completion).

14. Surrender/Hold Over.

Tenant shall vacate the Premises at the expiration date or other termination of this Lease and shall remove all goods and effects not belonging to Landlord and shall surrender possession of the Premises and all fixtures and systems thereof in good repair, reasonable wear and tear excepted. If Tenant holds over and remains in possession of the Premises or any part thereof after the Expiration Date or the sooner termination of the Term or Tenant's right to possession hereunder, Tenant shall be deemed to hold the Premises as a tenant at sufferance, subject to all of the terms, conditions and covenants of this Lease, except that Gross Rent payable during such holdover period shall be an amount equal to one hundred fifty percent (150%) of the installments of Gross Rent payable at the time of such

expiration or earlier termination. The provisions of this paragraph do not waive Landlord's right of re-entry or right to regain possession by actions at law or in equity or by any other rights hereunder.

15. Destruction, Fire or Other Casualty.

In case of damage to the Premises by fire or other casualty, Tenant shall give immediate notice thereof to Landlord, and Landlord, to the extent that insurance proceeds respecting such damage are subject to and, in fact, are under the control and use of Landlord, shall thereupon cause such damage to all property owned by Landlord to be repaired as promptly as possible at the expense of Landlord, due allowance being made for delay which may arise by reason causes beyond Landlord's control, and to the extent that the Premises are rendered untenable, the Rent shall proportionately abate, provided the damage above mentioned occurred without the fault or neglect of Tenant, Tenant's servants, employees, agents, contractors, licensees, invitees or visitors. Notwithstanding the foregoing, if such damage is due to the fault or neglect of Tenant or any of other said persons, the damage may be repaired by Landlord at Tenant's expense and there shall be no apportionment or abatement of Rent. In the event the damage shall be so extensive to the Premises as to render it uneconomical, in Landlord's opinion, to restore for the use of Tenant, or Landlord shall decide not to repair or rebuild the Premises, this Lease, at the option of Landlord, shall be terminated upon written notice to Tenant and the Rent shall, in such event, be paid to or adjusted as of the date of such damage and Tenant shall thereupon vacate the Premises and surrender same to Landlord, provided that no such termination shall release Tenant from any liability to Landlord arising from such damage or from any breach of the obligations imposed on Tenant hereunder.

16. Eminent Domain.

If the entire Premises shall be substantially taken for public purposes, or in the event Landlord shall convey or lease the Premises to any public authority under threat of condemnation or taking, this Lease shall thereupon terminate. In the event of a taking, lease or condemnation, whether or not there is a termination hereunder, Tenant shall have no claim against Landlord other than an adjustment of Rent to the date of taking, lease or condemnation, and Tenant shall not be entitled to any portion of any amount that may be awarded as damages or paid as a result or in settlement of such proceedings or threat. Notwithstanding the foregoing, Tenant may pursue its own claim against the condemning authority for any damages or award permitted under the laws of the State of Minnesota, to be paid to Tenant without diminution or reduction of the award, judgment or settlement received by Landlord.

17. Relocation.

Landlord shall have the right to relocate Tenant from the Premises to comparable alternative space in the Building (the "Replacement Premises") upon 90 days' prior written notice to Tenant. In the event of such relocation, Landlord shall make reasonable good faith efforts to coordinate with Tenant a mutually acceptable plan for such relocation, and Landlord shall be responsible for the third party costs incurred to accomplish the physical relocation of Tenant. If the Replacement Premises have greater square footage than the original Premises, there shall be no adjustment in Tenant's Gross Rent however. If, however, the Replacement Premises has less square footage than the Premises, Landlord shall appropriately adjust both Tenant's Gross Rent.

18. Notice.

Any notices required to be served in accordance with the terms of this Lease shall be in writing and delivered to Tenant at the address identified in Section 1.7 and to Landlord at the address identified in Section 1.8. Either party may at any time designate by written notice to the other a change in the above addresses or addressees. All notices, demands and requests shall be deemed sufficiently served or given for all purposes hereunder at the time such notice, demand or request shall be mailed by United States Postal Service registered mail, return receipt requested, or deposited with a reputable overnight courier, at the time such notice, demand or request shall be deposited with the overnight courier.

19. Miscellaneous.

If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law. All headings in this Lease are intended for convenience or reference only and are not to be deemed or taken as a summary of the provisions to which they pertain or as a construction thereof. Except as otherwise provided, the covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord, Tenant, and their respective heirs, distributees, executors, administrators, grantees, successors and assigns. This Lease contains all agreements of the parties with respect to any matters contained herein. No prior agreement, proposal or understanding pertaining to any such matter

binding unless expressly incorporated herein. This Lease may be modified only in writing and signed by the parties in interest at the time of the modification. This Lease shall be governed by and construed in all respects in accordance with the laws of the State of Minnesota.

20. Parking.

Use of the common parking areas shall be subject to such rules as Landlord may promulgate from time to time. Landlord shall have the right to allocate parking spaces among Tenant and other tenants in Landlord’s reasonable discretion. Tenant shall not use or permit the use of the parking area for the overnight storage of automobiles or other vehicles without the prior written approval of Landlord. Parking and use of exterior spaces are also subject to change based on communication from the City or other governmental agencies.

21. Financial Statements.

Tenant agrees to provide Landlord, from time to time, with its most recently prepared annual financial statements, along with historical financial statements if requested. Tenant shall provide Landlord with all requested financial statements within 15 days of Lessors written request.

IN WITNESS WHEREOF, Landlord and Tenant have signed and sealed this Lease as of the day and year first above written by their duly authorized partner or officer, as the case may be.

LANDLORD:

TENANT:

By: Caspian Tigers, LLC

By:

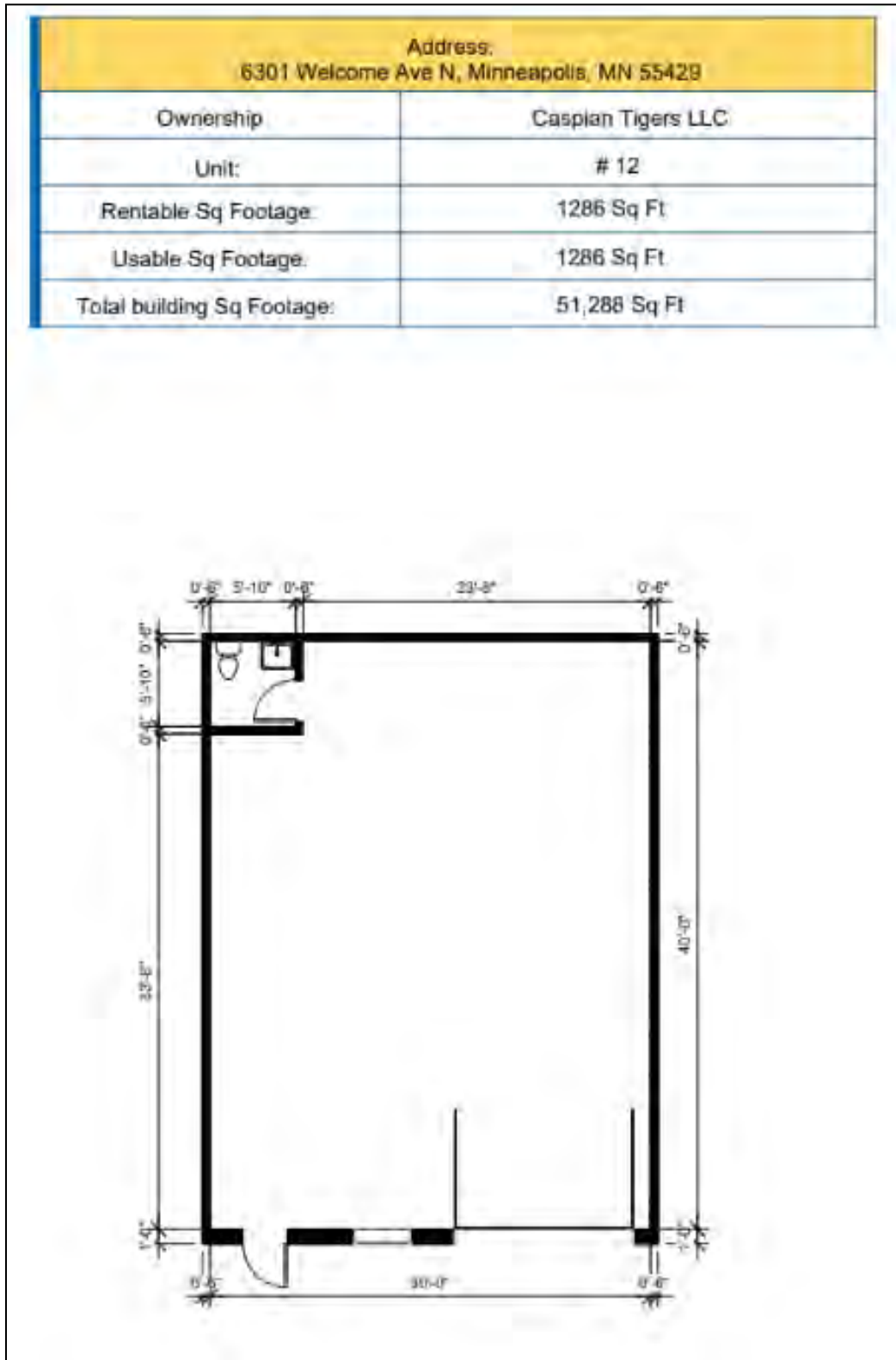
Name:

Name:

Its:

Its:

EXHIBIT A
FLOOR PLANS



AGREEMENT TO HANDLE PRIVATE PROPERTY IMPOUNDS

This agreement is entered this 31ST day of July, 2023
between Tyson's Towing & Transport and: Caspian Tigers, LLC

The physical address of the property to which binding agreement refers is as follows:

6301-6317 Welcome Ave
City: Brooklyn Park State: MN Zip Code: 55429

This binding agreement gives Tyson's Towing & Transport, the authority to enter upon said property and remove any vehicles which is deemed unauthorized, abandoned, illegally parked or inoperable per the terms of this agreement and as shown on the attached addendum dated: July 31ST 2023

The exclusive use of Tyson's Towing Transport, by the party named above shall commence on the 31ST Day of July, 2023 and the contract shall remain in full force until canceled by either party. *To cancel services by either party, a 30 day written notice must be given by the party 30 days in advance of cancellation of services.*

Tyson's Towing & Transport, acts an independent contractor and will assume all liabilities for damages incurred as a result of the removal and storage of such vehicles.

Tyson's Towing & Transport, will assume all responsibilities in the notification of law enforcement agencies in reporting the impoundment of such vehicles.

Tyson's Towing & Transport, does hereby indemnify and hold the property owners, management company, and it's employees harmless from any and all losses, damages, causes of action, court proceedings, or liabilities whatsoever resulting directly or indirectly from the actions of Tyson's Towing & Transport, pursuant to this agreement,

If any part of this agreement is determined by a court of law to be unenforceable, the remaining parts of this agreement will remain in force.

This binding agreement shall be subject to cancellation by either party upon a thirty (30) day written notice delivered by fax or Certified U.S. Mail .

Any changes in parking enforcement procedures, such as placing the property on a temporary hold, additional vehicles allowed to park, or enforcement times not included on the original binding agreement and/or addendum must be faxed or delivered Certified U.S. Mail for verification purposes.

Tyson's Towing & Transport not offering free services or products. Offering gifts is against the State of Minnesota law and Tyson Towing & Transport will not condone any such actions.

Tyson Towing & Transport. will follow all laws and statutes set by the State of Minnesota and any additional Local laws set forth in any ordinance of each municipality.

I certify that I am authorized to execute this binding agreement on behalf of the property owner, and/or Management Company with Tyson Towing & Transport, I also proclaim that Tyson Towing Inc. has not offered any gifts, free services, free products, commissions or the promise of any gifts for the use of their services.

X _____
Authorized Signature Phone Number

Printed Name and Title Company Name

X _____
Witness Printed Name and Title

X _____
Agent For Printed Name and Title

Agreed effective date: _____ Day of _____, _____.

Tyson's Towing & Transport
560 Randolph Ave, Suite # 200
St. Paul, MN 55102
Phone (612) 978-3705
Tysonstowing25@gmail.com

Addendum to Contract Dated: 7/31/2023

This form will be used to enter account data our database. Be sure that complete and accurate information is provided. Use a separate addendum for each physical address under contract

Property Name: _____

Street: _____

City (mailing address): _____ Zip: _____

Legal Jurisdiction (City or County name): _____

First Contact: _____ Phone: _____

Second Contact: _____ Phone: _____

Security Contact: _____ Phone: _____

Fax #: _____ Email Address: _____

Account Type-(Circle One) P(Patrol) L(Limited Patrol)

(For Limited Patrol) Start Enforcement Time: _____ am/pm

Stop Enforcement Time: _____ am/pm

Contract Start Date/Time: _____ / _____

Gate Codes (IN) _____ (OUT) _____

Can Residents/Tenants call to have a vehicle removed from their assigned spaces?(Yes or No): _____

Is signature required? (Yes or No): Assigned Parking: _____

Security /Courtesy Patrol Request: _____

Apartment Communities: Do you want a photograph of the reason the vehicle was towed:

Q _____ Vehicle taking up two (2) parking spaces. (Parking line stripe must be down center of vehicle)

R _____ For sale vehicle. Vehicle is parked on front row facing the street displaying a for sale sign. (Shopping Centers Only) Tow immediately.

RI _____ For sale vehicle to be removed after a 24 hour warning is given.

S _____ Reserved / Assigned parking space. Vehicle parked in a reserved or assigned parking space, could have resident/tenant or guest permit and be towed.

T _____ Hashed out space. Vehicle is parked in a non-parking space that has been hashed out that is primarily used for pedestrian access.

U _____ No parking at any time. Vehicle is parked on property when posted for "NO PARKING FOR ANYONE AT ANYTIME".

V _____ Spotter Removal. Vehicle may be towed if observed by a spotter watching the parking lot.

W _____ Non customer. Vehicle operator is not a customer of this business located on the property.

X _____ Parked on the sidewalk. Vehicle is parked on the sidewalk.

Y _____ Double parked behind another vehicle.

Z _____ Vehicle parked in Manager's or maintenance space. Could be permitted resident/tenant or guest.

Acceptance

Property Representative

Witness

Date: _____

BROOKLYN PARK MINNESOTA

TOTAL NUMBER OF UNITS 30
TOTAL SQUARE FEET 48,000

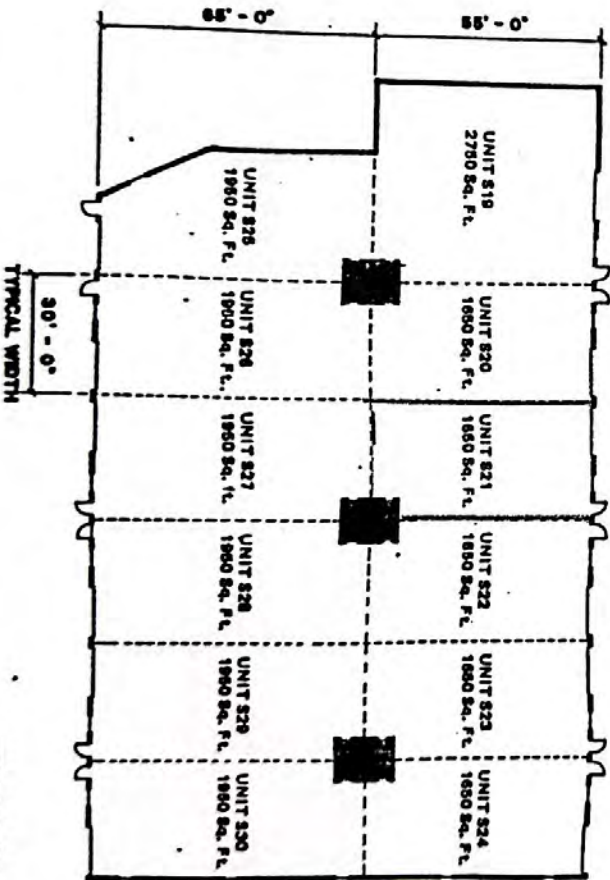
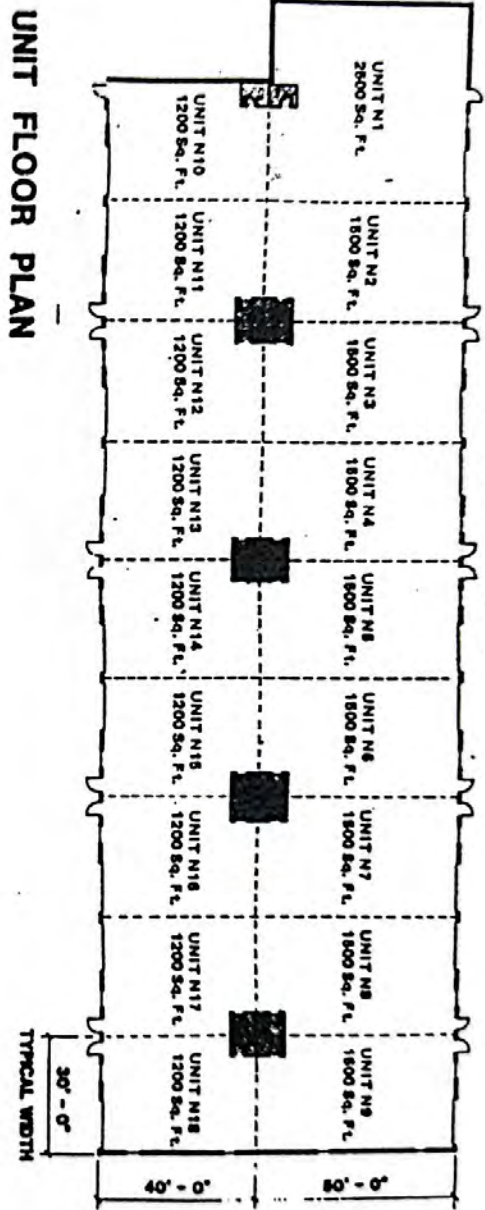


EXHIBIT A

THE C. CHASE COMPANY

Real Estate Brokerage and Consulting

Erin McDermott

From: Lois Finke <>
Sent: Tuesday, October 10, 2023 1:32 PM
To: Planning
Subject: Case #: 23-111 - Project Name: 6317 Welcome Avenue

Attn: City of Brooklyn Park Planning Commission

I and my husband are residents at 6321 Vera Cruz Lane North, Brooklyn Park and received a notice of an upcoming public hearing regarding a Conditional Use Permit for the operation of Auto Oriented Repair Service located at 6317 Welcome Ave.

Vera Cruz Lane, one block east of Welcome where the Service is located, is a private road. Our Association is responsible for the upkeep of that road. The more the traffic on our road, the quicker the roadway deteriorates and repairs are necessary. Vehicles have been driving down our quiet, private road where children are at play. Also, frequently there have been vehicles parked in the overflow parking area at the north end of Vera Cruz Lane. That usage is for residents of Towns Edge Village Association only.

The excess of vehicles traveled and parked in the area around Welcome, 65th Avenue, Vera Cruz Lane and even 63rd Avenue has often caused school buses to drive down Vera Cruz Lane when they can't get through Welcome Avenue into the school located on 65th Avenue. All of this is very bothersome and cost residents in the area to pay for repairs to roadways.

I would vote for the operation to cease.

Lois Finke
6321 Vera Cruz Lane North
Brooklyn Park, MN 55429-2043

Erin McDermott

From: Lauren Cole
Sent: Friday, October 6, 2023 4:47 PM
To: Planning
Subject: Case 23-111

Project 6317 welcome .

These are just a few of the picture from the last few days down welcome ave . The car shop parks on the no parking side of the street during the day making it even harder for when people are dropping off their kids at school with the buses on top of them parking their car in front of homeowners homes sometimes blocking the driveways. We've had incidents where we needed tree work done And we needed cars moved and no one has any idea who's cars? These are because there's no plates or tags. Some of them are on flat tires. They leave them there for weeks on in when we have asked them to move them they have been very rude and disrespectful. We've had one guy swear at us a numerous occasions , because there is no sidewalks the kids have to walk in the street and they have to walk in the middle of the street because these cars are so close. They can't walk along the edge we've had days where our garbage hasn't been picked up because we have to put the garbage at the end of the corner and the garbage truck can't get through , or get close enough for the arm to pick up the trash we've had the cars parked on our grass ruining our sprinkling system. Homeowners can't even park outside of their house if they want to have party or guest and the city ordinance prohibits all of this that they're doing , but yet they keep being allowed to do it. I know a lot of the homeowners would be totally fine if we had no parking on both sides of the street from 7 to 7 or permit parking but one of these kids is going to get hit the cars aren't locked so they're getting broken into and things are being taken out and left on the street , there's been numerous fights because the car shops aren't licensed people so they're just fixing it and they break at the end of the block and they come back and they fight and yell we have to call the police daily to have them come out and take the cars. We've had them unload flatbeds of cars in our street . . We have homeowner wanting to sell there homes because of the cars and how junky the street looks . If the city has an ordinance that says the cars on the street must be registered to that area or you cannot park across from a driveway or the car must be operable or they can't be there over 24 hours. Why is this not being enforced on this street? The car obviously has a flat tire or the cars obviously don't have plates. The cars are not registered but they're allowed to be there week two weeks on end. Why isn't the city enforcing these ordinance or allowing the police to enforce these ordinance and told these cars or ticket these cars the home and the police need the city to back them up on this
6400 welcome ave brooklyn park,mn

Lauren Cole

















City of Brooklyn Park Request for Council Action

Agenda Item:	7.1	Meeting Date:	October 23, 2023
Agenda Section:	General Action Items	Originating Department:	Finance
Resolution:	X	Prepared By:	Chris Kuecker, Accountant
Ordinance:	N/A		
Attachments:	4	Presented By:	Jason Newby, Environmental Health Manager; LaTonia Green, Director of Finance
Item:	Adopt Resolution for Proposed Special Assessments for Certain Delinquent Utility Charges; Abatements Costs for Weed Cutting, Tree Removal, Nuisance Abatements, And Fire Inspection Fees; Administrative Penalty Citations; Various Costs Associated with Rental Housing Cases; and Administrative Fees		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2023-____ LEVYING TAX FOR PROPOSED DELINQUENT UTILITY CHARGES, ABATEMENT COSTS FOR WEED CUTTING, TREE REMOVAL, NUISANCE ABATEMENTS, FIRE INSPECTION FEES, ADMINISTRATIVE PENALTY CITATIONS, VARIOUS COSTS ASSOCIATED WITH RENTAL HOUSING CASES, AND ADMINISTRATIVE FEES.

Overview:

Each year, the City has outstanding charges for utility charges; abatements costs for weed cutting, tree removal, nuisance abatements, and fire inspection fees; administrative penalty citations; various costs associated with rental housing cases; and administrative fees that the City is not able to collect from the property owner. The only action that can be taken to collect these charges is to assess the amounts in question and certify these charges to the property taxes of the property owners. Minnesota State Statute 44.075 Subd. 3 allows for the assessment of delinquent utility bills. Minnesota State Statute 429.101 allows for the assessment of delinquent weed cutting, tree removal, and nuisance abatement charges. The City Charter, Section 14.19, allows for the assessment of delinquent administrative citations. Minnesota Statute 336.012 allows for assessment of delinquent fire inspection fees. In addition, notices of this public hearing have been mailed to the affected parties.

For 2023, we have identified the following amounts for possible certification to the property taxes in 2024. Data for 2021 and 2022 is provided below for comparison:

Description	2021		2022		2023	
	Number	Dollar Amount	Number	Dollar Amount	Number	Dollar Amount
Abatements	51	28,674.51	56	20,912.79	39	16,822.95
Citations	200	33,135.00	249	55,840.00	260	53,900.00
Utility Accounts	3059	1,681,757.31	3037	1,690,147.79	3593	2,082,917.26
Tree removal	1	4,425.00	1	3,600.00	2	4,450.00
Hydrant Maintenance	2	1,307.00	0	-	0	-
Administrative Fees	3205	48,075.00	3197	50,590.31	3764	56,460.00

At that October 09, 2023, public hearing, the properties listed below contested their special assessments and staff was instructed to provide the City Council with additional information. Below are staff updates on the online system and those specific properties contested. Staff recommendation for each situation is stated below.

2920 80th Cir N – Utility Bill

Customer was mailed a standard delinquent letter in June 2023. No contact from the customer until they presented at the Council meeting on 10/9/2023. The water usage is normal. Staff attempted to contact the customer on 10/10/23 and left a voice message. The customer called back to discuss a payment plan. He did not want any contact information for assistance as he has a new job where he is earning enough to make payments. After explaining the penalty process and the certification process, he decided he will make whatever payments he can before Nov 16th and will pay the rest with his property taxes like he normally does. As a courtesy one set of previous penalties was reversed in accordance with the Finance Department's policy. Staff recommends that the charges be certified if not paid by November 16, 2023. The account history is attached.

8004 Lad Parkway N – Utility Bill

Customer was mailed a standard delinquent letter in June 2023. No contact from the customer until they presented at the Council meeting on 10/9/2023. The water usage is normal. Staff attempted to contact the customer on 10/10/23 and left a voice message. The customer called back and was given contact information for financial assistance. She indicated that she would call to see what help she can get. The penalty and certification process were explained, and the customer had no other questions. As a courtesy one set of previous penalties was reversed in accordance with the Finance Department's policy. Staff followed up with the customer on 10/11/2023 to see if she was able to get any assistance. The customer indicated that they are still trying. Staff followed up with the customer again on 10/18/23 with a voice message to see if she was successful or needs anything further. Staff recommends that the charges be certified if not paid by November 16, 2023. The account history is attached.

8431 Brunswick Ave N – Utility Bill

Customer was mailed a standard delinquent letter in July 2023. No contact from the customer until they appeared but did not stay to speak at the Council meeting on 10/9/2023. The water usage is normal. The customer had already paid the delinquent charges. Staff spoke to the customer and explained that the full payment of delinquent charges automatically removes the pending assessment. This property is removed from the assessment roll. The account history is attached.

8023 Dupont Ct N – Utility Bill

Customer was mailed a standard delinquent letter in June 2023. No contact from the customer until they e-mailed bp-cert@brooklynpark.org with her intent to appeal to the council on the pending assessment of delinquent Utilities. The water usage is normal. Staff attempted to call the customer; no voicemail was available. Staff e-mailed the customer with a request to contact them to discuss her concerns. No reply was received. Staff followed up with the customer again on 10/18/23 via e-mail. Contact information for financial assistance was provided. Staff recommends that the charges be certified if not paid by November 16, 2023. The account history is attached.

8023 Dupont Ct. N – Citations for Long Grass & Weeds, Junk & Debris, Inoperable Vehicles, and Property Maintenance.

The property owner emailed Environmental Health staff to appeal the pending assessment. Staff emailed the homeowner to advise on next steps. This case originated as a complaint and remains open as an active info request the City Council receives weekly updates. Inspections confirmed violations related to a large amount of junk and debris, inoperable vehicles, long grass, and deteriorating and missing fascia and soffits on house. After multiple inspections, engagement with a resident, extensions and correction orders issued failed to gain voluntary compliance, citations were issued. Staff spoke to the homeowner shortly after the citations were issued and were informed that the occupant staff was working with, and contributing the exterior violations, was no longer residing there. To date, the homeowner continues to work with staff and the property is improving. The homeowner is working on securing a contractor to complete the property maintenance issues and then the case will be closed. Staff recommends that the charges be certified if not paid by November 16, 2023. The case history is attached.

7810 West River Rd N – Utility Bill

The property owner has retained an attorney to assist in collecting an insurance claim for a water leak. The attorney e-mailed bp-cert@brooklynpark.org with the intent to appeal to the Council on the pending assessment of delinquent Utilities. The attorney addressed a letter directly to the council. A copy of the letter is attached. This matter was referred to legal counsel and staff was directed to contact the resident's attorney. The attorney was informed that staff advises that the delinquent bill be certified as stated in the letter to the customer as it allows additional time to resolve the matter with the insurance company and pay with the property taxes due in May and October. Penalties on the most recent bill have been waived. The leak repair was confirmed on 7/31/23. The water usage has returned to normal. Staff recommends that the charges be certified if not paid by November 16, 2023. The account history is attached.

2900 84th Ave N – Utility Bill

3632 103rd Trail N – Utility Bill

516 Brookdale Dr N - Utility Bill

8208 Kentucky Ave N - Utility Bill

The property owner attended the Council meeting on 10/9/2023 to appeal the pending assessment on the above 4 rental properties for delinquent utility services but did not stay to speak. Customer was mailed a standard delinquent letter in June 2023 for each property. The property 3632 103rd Trail N had an Irrigation pipe burst in October 2022, but it did not cause excessive usage. The water usage is normal on all four properties. Staff contacted the customer on 10/11/23. Staff spoke to the customer regarding the account balances and was informed that a payment plan could be given if needed. The customer did not respond with a request for a payment plan. As a courtesy one set of previous penalties on each account was reversed in accordance with the Finance Department's policy. Contact information was given for financial assistance; however, this is rental property and financial assistance is unlikely to be approved. A Transaction Statements and Consumption Trend Reports were sent to the customer. The customer mentioned a leak at 516 Brookdale Dr N in 2019. A leak adjustment was given in 2020. The customer indicated that they would call back to discuss after reviewing the information. No call back has been received. Staff recommends that the charges be certified if not paid by November 16, 2023. The account histories for each property are attached.

2875 Brookdale Drive – Police Citation, False Alarm

The current owner of the property contacted the city in response to the notice they received to certify the unpaid citation. They indicated the ownership for the property changed in 2022 and the current owner never received the invoice. Staff will correct the property records and the invoice will be sent to the current owner. The amount will be removed from the assessment roll.

8504 West River Rd N – Citation for Long Grass & Weeds, Junk & Debris

The property owner e-mailed bp-cert@brooklynpark.org with their intent to appeal to the Council on the pending assessment. This case originated as a complaint. Inspections confirmed violations related to junk and debris (fence panels, sheet metal, and couch) in the backyard, and long grass and weeds, and waste containers stored in public view. Correction orders were issued as well as door hangers informing the property owner to gain voluntary compliance. Staff spoke to the homeowner shortly after the first inspection as they were requesting to keep the items outside in the backyard until next year's bulky waste clean-up in 2023. Informed owner of other options to remove these items as waiting a year was not an option. A citation was issued for junk and debris stored outside and long grass and weeds. The case was closed shortly after staff worked again with the homeowner and offered multiple extensions to bring the property into compliance. The homeowner requested to appeal the citations after compliance was achieved and staff instructed them that the next opportunity was during the certification process in October 2023. Staff recommends that the charges be certified if not paid by November 16, 2023. The case history is attached.

We continue to receive and post payments on these accounts daily. Payments will be accepted up through 4:30 p.m. on November 16, 2023. Accounts paid by this date will be removed from the certification list. Accounts not paid by this date will be certified to Hennepin County. The amount certified includes the outstanding amount plus interest for fourteen (14) months at the rate of 4% annum, a \$35.00 administrative fee, and a Hennepin County service charge of \$2.50.

An administrative fee of \$15.00 was included on each account that received a notice of a delinquent account. This fee was approved at the November 13, 2018 Council meeting.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

- 7.1A RESOLUTION
- 7.1B UTILITY BILLING DOCUMENTATION (*LIMITED DISTRIBUTION – Available for viewing at the City Clerk's office*)
- 7.1C CASE SUMMARY 8023 Dupont Ct N (*LIMITED DISTRIBUTION – Available for viewing at the City Clerk's office*)
- 7.1D CASE SUMMARY 8504 West River Rd N (*LIMITED DISTRIBUTION – Available for viewing at the City Clerk's office*)

RESOLUTION #2023-

RESOLUTION LEVYING TAX FOR PROPOSED DELINQUENT UTILITY CHARGES, ABATEMENT COSTS FOR WEED CUTTING, TREE REMOVAL, NUISANCE ABATEMENTS, FIRE INSPECTION FEES, ADMINISTRATIVE PENALTY CITATIONS, VARIOUS COSTS ASSOCIATED WITH RENTAL HOUSING CASES, AND ADMINISTRATIVE FEES

WHEREAS, pursuant to proper notice duly given as required by law, Council has met, and heard, and passed upon all objections to the proposed assessment for delinquent utilities, weed cutting, tree removal, utility invoices, administrative citations, nuisance abatement charges and fire inspection fees.

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

1. That pursuant to Minnesota Statutes and the City Code of the City of Brooklyn Park, the delinquent utility bills, weed cutting charges, utility invoices, administrative penalty citations, nuisance abatement charges, and fire inspection fees shall be levied against the properties and collected as other taxes are collected, and remitted to the City of Brooklyn Park. All properties involved and the amounts to be certified are on file with the City Clerk.
2. That such proposed assessment, hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included with the exception of the house and garage roof tract of land is hereby found to be benefited by the delivered services in the amount of the assessment levied against it, and that each property shall have the entire amount, plus interest for (14) months at the rate of 4% PER annum, and a \$35.00 administrative fee added to their assessment, and a Hennepin County administration service charge of \$2.50.
3. That the owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole or any part of the assessment on such property from the adoption of this resolution until November 16, 2023.
4. That the City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County, and such assessments shall be collected and paid in the same manner as other municipal taxes.

City of Brooklyn Park Request for Council Action

Agenda Item:	7.2	Meeting Date:	October 23, 2023
Agenda Section:	General Action Items	Originating Department:	Administration
Resolution:	N/A	Prepared By:	Devin Montero, City Clerk
Ordinance:	N/A		
Attachments:	1	Presented By:	Dennis Secara, Charter Commission Chair
Item:	Set Public Hearing Date for November 27, 2023 to Consider The Recommendation Of The Brooklyn Park Charter Commission To Amend Charter Chapter 7, Section 7.07 Of The Home Rule City Charter		

City Manager's Proposed Action:

MOTION _____, SECOND _____, SET PUBLIC HEARING DATE FOR NOVEMBER 27, 2023 TO CONSIDER THE RECOMMENDATION OF THE BROOKLYN PARK CHARTER COMMISSION TO AMEND CHARTER CHAPTER 7, SECTION 7.07 OF THE HOME RULE CITY CHARTER.

The effect of this motion will be to set the public hearing to discuss changes to the City Charter. The proposed ordinances must be published in the official newspaper two weeks before the public hearings can be held.

Overview:

At the July 31, 2023 Council Work Session, staff shared with the Council they had seen an increase in participation at one-day, smaller scale community events like concerts, movies in the park, and Brooklyn Park Night Out, and were receiving requests to increase the number of these type of family-oriented events.

Events continued to build upon this direction until the pandemic. Following the pandemic, several events were modified or needed to be recreated from scratch after one or two years without being held.

Staff engaged a Community Events Task Force to help with the 2022 events calendar. The Task Force developed the following parameters they would like to see implemented in events:

- Increase opportunities to gather and create shared sense of community.
- Use performances and food to authentically celebrate different cultures of Brooklyn Park at events.
- Collaborate with community groups in city-wide events.

The vision is to celebrate Brooklyn Park by providing events and opportunities for residents to come together and celebrate our community.

Staff began planning for 2024 and were seeking input from the Council on possible changes for event offerings and discussion about the resources needed to provide expanded events.

The City Attorney's recommendation for the Council was to consider amending the City Charter to include a statement allowing the use of City funds for certain events and believed there could be a benefit to adding a statement with more specificity.

It was the consensus of the Council to forward the issue to the Charter Commission for a recommendation.

At the September 13, 2023 Charter Commission meeting, Chair Secara presented the issue to the Commissioners for discussion. He stated the current wording in the Charter did not authorize the City to use funds for such events. After discussions, it was the consensus of the Commissioners for the City Attorney to provide a proposed amendment to Charter Section 7.07.

At the October 11, 2023 Charter Commission meeting, the Commissioners discussed the City Attorney's proposed language to Charter Section 7.07 related to community events and amended the proposed language. The commissioners felt "community events" in the proposed language would cover the cultural events, festivals, and celebrations.

The Charter Commission voted unanimously to recommend the amendment to Chapter 7, Section 7.07, to the City Council for approval.

Primary Issues/Alternatives to Consider:

The following is a routine timetable:

October 23	Council set the public hearing
November 2	Public Hearing Notice and text of proposed ordinance is published
November 27	Public hearing and First Reading of Ordinance Held
December 11	Second Reading of Ordinance Held
December 21	Ordinance Published in Newspaper
March 19, 2024	Ordinance becomes effective (90 days after passage and publication)

Publication must be the exact language the Council will vote on.

Budgetary/Fiscal Issues: N/A

Attachments:

7.2A PUBLIC HEARING NOTICE

PUBLIC HEARING NOTICE
CITY OF BROOKLYN PARK

NOTICE IS HEREBY GIVEN that the Brooklyn Park City Council will hold a public hearing in the City Hall Council Chambers, 5200 - 85th Avenue North, Brooklyn Park, MN on Monday, November 27, 2023, at 6:00 p.m. or as soon thereafter as possible.

The purpose of the public hearing will be to consider recommendations of the Brooklyn Park Charter Commission to amend Charter Chapter 7, Section 7.07 of the Home Rule City Charter as follows:

ORDINANCE #2023-

AN ORDINANCE AMENDING CHARTER CHAPTER 7, SECTION 7.07 OF THE
HOME RULE CITY CHARTER

~~Text with strikeouts is proposed for deletion.~~
Text with underline is proposed for insertion.

The City of Brooklyn Park does ordain:

Section 1. Chapter 7, Section 7.07 of the City Charter is amended to read as follows:

SECTION 7.07 PUBLIC PURPOSE EXPENDITURES

The City Council shall establish a Public Purpose Expenditure Policy, which shall be drafted by the City Manager and reviewed and approved by the City Council annually. In establishing, reviewing, and approving the Policy, the City Council shall consider whether the expenditures to be authorized by the Policy: 1) benefits the community as a whole; 2) are directly related to governmental functions; and, 3) primarily benefit the public interest, not a private interest. In establishing, reviewing, and approving the Policy, the City Council shall consider the opinion of the City Attorney and statewide sources of authority, which may include judicial determinations, state Attorney General opinions, and findings of the Office of the State Auditor.

The City Council may provide in the Public Purpose Expenditure Policy that public funds may be expended to establish, implement, and operate an employee recognition program and an employee preventive health and wellness program for city employees. The nature and scope of any such programs must be set forth in the Public Purpose Expenditure Policy.

The City Council may provide in the Public Purpose Expenditure Policy that public funds may be expended for community events.

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Agenda Item:	10.1	Meeting Date:	October 23, 2023
Agenda Section:	Closed Session	Originating Department:	Operations & Maintenance
Resolution:	N/A	Prepared By:	Jim Thomson, City Attorney
Ordinance:	N/A		
Attachments:	N/A	Presented By:	Jim Thomson Jay Stroebe, City Manager Dan Ruiz, O&M Director Rick Luckow, Utility Manager
Item:	Close the Meeting Pursuant to MS Section 13D.05, Subdivision 3(b) to Discuss Attorney/Client Privilege Matters Relating to Potential PFAS Litigation and Settlements and 3M and Dupont		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO CLOSE THE MEETING PURSUANT TO MINNESOTA STATUTES, SECTION 13D.05 SUBDIVISION 3(b) TO DISCUSS ATTORNEY/CLIENT PRIVILEGE MATTERS RELATING TO POTENTIAL PFAS LITIGATION AND SETTLEMENTS WITH 3M AND DUPONT.

Overview: N/A

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A