Council Study Session
City Hall Council Chambers
August 28, 2023

AGENDA

1. **City Council Discussion of Agenda Items and Questions - 6 p.m.**
2. **Miscellaneous**
   a. Discussion with BCCS

      Joint meeting between Brooklyn Center Community Schools and the Council on Monday, October 23 4:00 pm to 5:30 pm. The purpose would be to build a strategic partnering relationship and to share strategic directions. The hope is to establish scheduled reoccurring joint meetings between the two elected bodies.
3. **Discussion of Work Session Agenda Item as Time Permits**
4. **Adjourn**

Council Study Session

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY:

SUBJECT: Discussion with BCCS

Background:

CITY COUNCIL MEETING
City Hall Council Chambers
August 28, 2023

AGENDA

1. Informal Open Forum with City Council - 6:45 p.m.

This is an opportunity for the public to address the City Council on items that are not on the agenda. It is limited to 15 minutes, it is not televised, and it may not be used to make personal attacks, air personality grievances, make political endorsements, or for political campaign purposes. Council Members will not enter into a dialogue with the presenter. Questions from the Council will be for clarification purposes only. It will not be used as a time for problem-solving or reacting to the comments made but, rather, for hearing the presenter for informational purposes only.

The first call will be for those that have notified the Clerk that they would like to speak during the open forum, and then ask if anyone connected to this meeting would like to speak. When called upon, please indicate your name and then proceed. Please be sure to state your name and address before speaking.

2. Invocation - Butler - 7 p.m.

3. Call to Order Regular Business Meeting

Attendees please turn off cell phones and pages during the meeting. A copy of the full meeting packet is available in the binder at the entrance to the Council Chambers.

4. Roll Call

5. Pledge of Allegiance

6. Approval of Agenda and Consent Agenda

These items are considered to be routine by the City Council and will be enacted by one motion. There isn't a separate discussion for these items unless a Councilmember so requests, then it is moved to the end of the Council Consideration Items.

a. Approval of Minutes

- Motion to approve the following meetings:

- 6/26/23 - Executive Session
- 7/10/23 - Executive Session
- 8/14/23 - Study Session
- 8/14/23 - Regular Session

b. Approval of Licenses

- Motion to approve the licenses as presented.

c. An Ordinance Amending Chapter 35 of the City Code of Ordinance Regarding Application Requirements for Land Disturbance Permits

- Motion to approve a first reading of the requested ordinance Amending Chapter 35 of the City Code of Ordinance Regarding Application Requirements for Land Disturbance Permits, and set a second reading for September 11, 2023.

7. Presentations/Proclamations/Recognitions/Donations

a. Proclamation of Recognition and Appreciation for Minnesota State Senator Susan Pha for her Dedication and Advocacy in Support of State Funding for the Brooklyn Center Community Center During the Minnesota 2023 Legislative Session

- Council read and approve proclamation of recognition and appreciation for Minnesota State Senator Susan Pha for her dedication and advocacy in support state funding for the City of Brooklyn Center Community Center during the Minnesota 2023 legislative session.

b. Proclamation of Recognition and Appreciation for Minnesota State Representative Samantha Vang for her Dedication and Advocacy in Support of State Funding for the Brooklyn Center Community Center during the Minnesota 2023 Legislative Session

- The City Council read and approves a proclamation of recognition and appreciation to Minnesota State Representative Samantha Vang for her dedication and advocacy in support of state funding for the Brooklyn Center Community Center during the Minnesota 2023 legislative session.

c. Resolution Expressing Recognition and Appreciation for the Over 35 Years of Dedicated Public Service of Recreation Deputy Director Joel Ericksen

- Motion to approve a resolution expressing recognition and appreciation for the over 35 years of public service of Recreation Deputy Director Joel Ericksen.

8. Public Hearings

a. An Ordinance Amending Chapter 19 of the Brooklyn Center City Code to Prohibit the Use of Cannabis and Hemp Products in Public Places

- Motion to:
Open the public hearing
Take public comment
Close the public hearing

- Motion to approve an ordinance amending Chapter 19 of the Brooklyn Center City Code to Prohibit the Use of Cannabis and Hemp Products in Public Places.

9. Planning Commission Items

a. Resolution Regarding Planning Commission Application No. 2023-003 Submitted by the City of Brooklyn Center for a Conditional Use Permit to Install a New Public Use Dynamic Messaging Sign (6301 Shingle Creek Parkway)

- Motion to adopt a resolution approving Planning Commission Application No. 2023-003 for a Conditional Use Permit to install a new public use Dynamic Messaging Sign (DMS) at 6301 Shingle Creek Parkway, based upon the findings of fact and submitted plans, and as amended by the conditions of approval in the resolution.

b. Resolution Regarding Planning Commission Application No. 2023-004 Submitted by the City of Brooklyn Center for a Conditional Use Permit to Install a New Public Use Dynamic Messaging Sign (6250 Brooklyn Boulevard)

- Motion to adopt a resolution approving Planning Commission Application No. 2023-004 for a Conditional Use Permit to install a new public use Dynamic Messaging Sign (DMS) at 6250 Brooklyn Boulevard, based upon the findings of fact and submitted plans, and as amended by the conditions of approval in the resolution.

c. Resolution Regarding Planning Commission Application No. 2023-005 Submitted by the City of Brooklyn Center for a Conditional Use Permit to Install a New Public Use Dynamic Messaging Sign (6500 Dupont Avenue North)

- Motion to adopt a resolution approving Planning Commission Application No. 2023-005 for a Conditional Use Permit to install a new public use Dynamic Messaging Sign (DMS) at 6500 Dupont Avenue North, based upon the findings of fact and submitted plans, and as amended by the conditions of approval in the resolution.

10. Council Consideration Items

a. An Ordinance Amending Chapter 23 of the Brooklyn Center City Code Regarding the Licensing of the Sale of Edible Cannabinoid Products within the City

- Motion to approve the first reading of an Ordinance amending Chapter 23 of the Brooklyn Center City Code regarding the licensing of the sale of edible cannabinoid products within the city and to hold a public hearing on September 11, 2023.

b. An Ordinance Amendments to the Franchise Agreement with Xcel Energy

- Motion to approve the first reading of an ordinance implementing an electric franchise fee on Northern States Power Company, a Minnesota corporation, D/B/A Xcel Energy, its successors and assigns for providing electric service within the City of Brooklyn Center.

- Motion to approve the first reading of an ordinance granting to Northern States Power Company, A Minnesota Corporation, D/B/A Xcel Energy, its successors and assigns, permission to construct, operate, repair and maintain in the City of Brooklyn Center, Minnesota, an electric distribution system and transmission lines, including necessary poles, lines, fixtures and appurtenances, for the furnishing of electric energy to the City, its inhabitants, and others, and to use the public grounds and public ways of the City for such purposes.

11. Council Report

12. Adjournment

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Barb Suciu, Assistant City Manager/City Clerk

SUBJECT: Approval of Minutes

Requested Council Action:

- *Motion to approve the following meetings:*
  - 6/26/23 - Executive Session
  - 7/10/23 - Executive Session
  - 8/14/23 - Study Session
  - 8/14/23 - Regular Session

Background:

In accordance with Minnesota State Statute 15.17, the official records of all meetings must be documented and approved by the governing body.

Budget Issues:

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

ATTACHMENTS:

Description	Upload Date	Type
6.26 Executive Session	8/22/2023	Backup Material
7.10 Executive Session	8/23/2023	Backup Material
8.14 Study Session	8/21/2023	Backup Material
8.14 Regular Session	8/21/2023	Backup Material

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

EXECUTIVE SESSION
JUNE 26, 2023
CITY HALL – COUNCIL CHAMBERS

1. CALL TO ORDER

The Brooklyn Center City Council met in Executive Session called to order by Mayor April Graves at 5:05 p.m.

2. ROLL CALL

Mayor April Graves and Councilmembers Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, Assistant City Manager/City Clerk Barb Suciu, and City Attorney Jason Hill.

Councilmember Butler arrived at 5:12 p.m.

3. CLOSED SESSION COUNCIL – ATTORNEY DISCUSSION

Closed session—pursuant to Minn. Stat. § 13D.05, subd. 3(b) to discuss the pending litigation, MDHR Ref. # 70468, with attorney representing the City of Brooklyn Center.

4. RECONVENE EXECUTIVE SESSION MEETING

Councilmember Jerzak moved and Councilmember Butler seconded to reconvene the Executive Session at 5:27 p.m.

Motion passed unanimously.

Mayor Graves asked for a motion to settle the Minnesota Department of Human Rights, #70468 complaint.

Councilmember Butler moved and Councilmember Jerzak seconded to reconvene the Executive Session at 5:27 p.m.

Motion passed unanimously.

5. ADJOURNMENT

Councilmember Jerzak moved and Councilmember Butler seconded to close the Executive Session at 5:36 p.m. Motion passed unanimously.

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

EXECUTIVE SESSION
JULY 10, 2023
CITY HALL – COUNCIL CHAMBERS

1. CALL TO ORDER

The Brooklyn Center City Council met in Executive Session called to order by Mayor April Graves at 5:01 p.m.

2. ROLL CALL

Mayor April Graves and Councilmembers Marquita Butler, Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, Assistant City Manager/City Clerk Barb Suciu, and City Attorney Jason Hill.

3. CLOSED SESSION COUNCIL – ATTORNEY DISCUSSION

Closed session-pursuant to Minn. Stat. § 13D.05, subd. 3(b) to discuss the pending litigation, MDHR Ref. # 70468, with the attorney representing the City of Brooklyn Center.

4. RECONVENE EXECUTIVE SESSION MEETING

Councilmember Jerzak moved and Councilmember Butler seconded to reconvene the Executive Session at 6:10 p.m.

Motion passed unanimously.

5. ADJOURNMENT

Councilmember Jerzak moved and Councilmember Butler seconded to close the Executive Session at 6:11 p.m.

Motion passed unanimously.

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

STUDY SESSION
AUGUST 14, 2023
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Study Session called to order by Mayor April Graves at 6:09 p.m.

ROLL CALL

Mayor April Graves and Councilmembers Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, City Clerk Barb Suciu, and City Attorney Jason Hill.

Councilmember Marquita Butler was absent.

CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

Councilmember Kragness pointed out that page seven of the July 24, 2023, Regular Session minutes has Lauri's name misspelled.

MISCELLANEOUS

Councilmember Lawrence-Anderson asked if the Council could prioritize the list of pending Work Sessions. She asked if the Finance Commission has been able to meet regarding a grant policy. City Manager Dr. Edwards stated the Finance Commission has not met, and staff is attempted to receive feedback via email. It will be brought back to the Council if the email chain is unsuccessful.

Councilmember Lawrence-Anderson asked for more information on the $175,000 grant mentioned in the weekly update that's intended for violence prevention.

Councilmember Lawrence-Anderson added she would like more information about community interveners, similar to a previous request by Mayor Graves.

Councilmember Lawrence-Anderson noted she would like the Council to have an opportunity to discuss the labor study with the Police Chief.

Councilmember Kragness stated the next Finance Commission meeting is August 30, 2023, to review general fund revenues. There could be an opportunity to discuss the grant policy at that

time.

Councilmember Jerzak noted it has been over 60 days since he requested information from Dr. Edwards regarding the Charter, required by 7.12. They need year-to-date budgets compared to actual expenses. Also, there is a potential deficit related to Opportunity Site spending. He requested a monthly budget update.

Dr. Edwards stated that staff anticipates a presentation for the Council regarding community interveners on September 11, 2023. As for the labor study, it will not be possible for a singular Department to present a plan as it requires input from multiple Departments. However, the Chief can provide his feedback on the labor study. Dr. Edwards added he would speak with the Director of Fiscal & Support Services about monthly reports.

Councilmember Jerzak explained the Council has to make an initial levy request, but the Council has to be more aware of the impact of community interveners before they can commit to funding the effort. Dr. Edwards stated the presentations on community interveners will be on September 11, 2023, which is well before a levy must be set. The program just started in the last few months, so there is very little data to present so far.

Mayor Graves asked which specific Work Session Items are most important to Councilmember Lawrence-Anderson. Councilmember Lawrence-Anderson stated the grant policy, discussion with Police Chief about the labor study, and Liquor Store #2.

Councilmember Jerzak noted The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act needs to be reviewed because a lot of the Resolution has budgetary implications. Mayor Graves pointed out the Implementation Committee also wanted to discuss the Resolution with the Council.

CITY COUNCIL/FINANCIAL COMMISSION MEETING ON AUGUST 30 AT 6 PM

DISCUSSION OF WORK SESSION AGENDA ITEMS AS TIME PERMITS

2023 LEGISLATIVE CHANGES REGARDING 4D PROGRAM AND PROPERTY TAX CLASSIFICATION

Dr. Edwards introduced the item and invited Jason Aarsvold, Ehlers representative, to continue the presentation.

Mr. Aarsvold explained legislation signed into law in 2023 has resulted in adjustments to the 4d tax classification rates, which apply to affordable housing and are set up specifically to be lower than market-rate housing to preserve and promote affordability.

Mr. Aarsvold stated property valuations are set through an extensive assessment process. The values for each property are converted to a “tax capacity” number using different tax classification

rates. Rates differ depending on the property type. Also, a property's tax capacity is used to calculate its total property tax using local tax rates. Other taxes may be included based on the property type.

Mr. Aarsvold showed a table with various types of tax rates for commercial, rental housing, affordable rental housing, non-homestead residential, and homestead residential. In Minnesota, owners of qualifying affordable rental housing are eligible for reduced property taxes through the Low-Income Rental Classification (LIRC), which is also known as "4d." To receive a property tax reduction, owners of developments that receive public financial assistance agree to limit rents and impose restrictions on tenant incomes.

Mr. Aarsvold noted the 4d classification rate applies only to affordable housing and is set up to be lower than market-rate housing to preserve and promote affordability. The current classification rate for 4d housing is 0.75% on the 1st $100,000 per-unit value and 0.25% on any value above $100,000 per unit. The legislative changes signed into law this year will lower the 4d property tax classification rate to a flat 0.25% on all market values for affordable housing projects. This revised classification relates to rental property and is now referred to as the 4d(1) tax classification rate. This change will be effective for the pay 2025 tax year.

Mr. Aarsvold added the recent changes will require any new 4d(1) property to obtain approval, by resolution from any city or town where the next tax capacity of 4d(1) property exceeds 2% of the total net tax capacity in the prior assessment year. The Department of Revenue is required to annually report to the Minnesota Housing Finance Agency (MHFA) all cities and towns where 4d(1) property exceeds the 2% total net tax capacity threshold. Based on calculations for the prior assessment year, the City of Brooklyn Center is over this 2% threshold.

Mr. Aarsvold showed an example of a tax capacity calculation for the Wangstad Commons Tax Capacity. With 54 units, the total tax capacity is $52,325. He then showed how the tax capacity is converted into the total taxes, including local and market value, which would be $76,116 for Wangstad Commons.

Mr. Aarsvold presented a table showing the impact of the tax capacity for various affordable rental buildings in Brooklyn Center. The total tax capacity is $717,465, including tax increment financing (TIF), and the City tax capacity would be $32,169,910. In 4d, the percentage would be 2.23 percent.

Mr. Aarsvold noted there are different calculations for non-TIF properties where there could be a potential impact. With the change to 4d, Brooklyn Center could potentially lose about $158,000 in tax capacity annually, which equates to $86,382 of the City's portion of taxes.

Mr. Aarsvold showed a table comparing the total taxes for Wangstad Commons with the current 4d class and the revised 4d class. The current calculation results in $76,116 for total taxes. However, the revised 4d class results in $37,576 for total taxes.

Mayor Graves asked why there was opposition to the 4d revisions. Mr. Aarsvold stated the League of Minnesota Cities took a stance against the change because there would be a disproportionate impact on certain cities. It also takes away some local control as most cities fall under the two percent threshold.

Councilmember Jerzak asked if the non-TIF impacts are in perpetuity because TIF districts generate less income for the length of the district. Mr. Aarsvold stated there are no time limits for being a 4d property as long as they continue to qualify. In existing TIF districts, there may be a change in term agreements to adjust for the tax generation.

Councilmember Jerzak stated he has concerns with property owners selling off affordable rental properties because the City would be stuck with the reduced tax base. Mr. Aarsvold stated if the new buyer were to maintain the requirements for a 4d project, they would continue to pay the discounted rate.

ADJOURNMENT

Mayor Graves closed the Study Session at 6:54 p.m.

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

REGULAR SESSION
AUGUST 14, 2023
CITY HALL – COUNCIL CHAMBERS

1. INFORMAL OPEN FORUM WITH CITY COUNCIL

CALL TO ORDER INFORMAL OPEN FORUM

The Brooklyn Center City Council met in Informal Open Forum called to order by Mayor April Graves at 6:54 p.m.

ROLL CALL

Mayor April Graves and Councilmembers Marquita Butler, Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, Assistant City Manager/City Clerk Barb Suciu, Office of Community Prevention, Health and Safety Director LaToya Turk, and City Attorney Jason Hill.

Mayor April Graves opened the meeting for the purpose of an Informal Open Forum.

Wade P. stated that the City is trying to change State and Federal laws. He suggested finding a group of mechanics or something to provide windshield wipers or bulbs to fix violations. The problems need to be corrected rather than ignored.

Mayor Graves stated that the City can't repeal State or Federal laws. However, they are working on a recommendation to not use minor traffic violations as an excuse to pull a vehicle over for a search.

Jeff L. noted that the City is down 16 officers. He asked where the unpaid wages are going. City Manager Reggie Edwards stated unspent dollars return to the general fund. Jeff L. suggested using the excess funds to provide fixes to cars with broken taillights and the like.

Councilmember Jerzak moved and Councilmember Butler seconded to close the Informal Open Forum at 6:51 p.m.

Motion passed unanimously.

Mayor Graves noted there would be a brief recess.

2. INVOCATION

Mayor Graves reconvened the meeting at 7:00 p.m.

Councilmember Lawrence-Anderson shared a quote from Napoleon Bonaparte, “Courage isn't having the strength to go on - it is going on when you don't have strength.” She then read a quote by Saint Francis Assisi, “Remember that when you leave this earth, you can take with you nothing that you have received-only what you have given: a full heart enriched by honest service, love, sacrifice, and courage.”

3. CALL TO ORDER REGULAR BUSINESS MEETING

The Brooklyn Center City Council met in Regular Session called to order by Mayor April Graves at 7:02 p.m.

4. ROLL CALL

Mayor April Graves and Councilmembers Marquita Butler, Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, Assistant City Manager/City Clerk Barb Suciu, Office of Community Prevention, Health and Safety Director LaToya Turk, and City Attorney Jason Hill.

5. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

Mayor Graves noted there were minor changes to a spelling error in the July 24, 2023, Regular Session minutes that were discussed during the Study Session. Also, Presentations/Proclamations/ Recognitions/Donations Item 7b. Legislative Appreciation was moved to a future meeting.

Councilmember Jerzak moved and Councilmember Butler seconded to approve the Agenda and Consent Agenda, as amended, and the following consent items were approved:

6a. APPROVAL OF MINUTES

1. July 10, 2023 – Study Session
2. July 10, 2023 – Regular Session
3. July 24, 2023 – Study Session
4. July 24, 2023 – Regular Session

6b. LICENSES

MECHANICAL

Air Express, Inc.	P.O. Box 490400, Blaine 55449
Air Force Mechanical, Inc.	2392 40th Street South, Waverly 55390

Blue Yeti Services LLC	4205 Branson St., Edina 55424
CB Mechanical LLC	15658 150th Ave, Foreston 56330
Davis Mechanical Systems Inc	21225 Hamburg Ave, Suite 3, Lakeville 55044
Erickson Plumbing Heating Cooling	1471 92nd Lane NE, Blaine 55449
GV Heating & Air Inc	5182 West Broadway, Crystal 55429
PB Services LLC	9410 Bataan St NE, Blaine 55449
Palen Kimball	1717 University Ave St. Paul 55104
Pember Companies, Inc	N4449 469th St., Menomonie 54751
Quality HVAC Solutions II	7501 Duluth St, Golden Valley 55427

RENTAL

INITIAL (TYPE IV – six-month license)

6907 Dupont Avenue N	Evang Luth Church of the Master

INITIAL (TYPE III – one-year license)

5332 Humboldt Avenue N	C A Morales & Z A Contreras

INITIAL (TYPE II – two-year license)

4201 Lakeside Avenue N, #205	Corbet Cheung
5442 James Avenue N	5707 Emerson Ave N
6318 Brooklyn Drive	Kayo Investment

RENEWAL (TYPE IV – six-month license)

3012 51st Avenue N	Sri Lakshmi Valiveti
2001 54th Avenue N	Serendipity Investment Llc
2406 Ericon Drive	G B Homes Llc
5325 Knox Avenue N	Maria Collaguazo
5712 Logan Avenue N	Penrod, LLC

6009 Aldrich Avenue N	Rre Ventures Llc
6009 Aldrich Avenue N	Rre Ventures Llc
6015 Dupont Avenue N	Home Sfr Borrower Llc
6213 Lee Avenue N	Emmanuel Benson & Kaibeh Benson
6501 Beard Avenue N	Fyr Sfr Borrower Llc
6800 Fremont Place N	Sharon Mcgary
7018 Irving Avenue N	Omar A & Ayanna Adams

RENEWAL (TYPE III – one-year license)

1112 Emerson Lane	Bodhi Emerson, LLC
3612 55th Avenue N	Lutheran Social Srvc Of Mn
5313 Northport Drive	Ih2 Property Illinois Lp

RENEWAL (TYPE II – two-year license)

5801 Xerxes Avenue N	Brooklyn Center Ah I
5304 Vincent Avenue N	Lou Yang & Pao G Vang
1323 67th Lane N	786 Homes-f23 Llc
5313 62nd Avenue N	Chao Vang
5701 Bryant Avenue N	Lin Shuang Llc

RENEWAL (TYPE I – three-year license)

6121 Brooklyn Boulevard	Sanctuary Brooklyn Ctr Lp
3900 51st Avenue N	Callaway Helbraun FamRev Tr
5323 Dupont Avenue N	A F Nelson & H M Nelson
5642 Logan Avenue N	Mnsf T3 Spe Llc
5715 Knox Avenue N	AS Properties, LLC
6800 Fremont Place N	Sharon Mcgary

SIGNHANGER

Spectrum Sign Systems	8786 West 35W Service Drive NE, Blaine 55449

HOSPITALITY ACCOMODATIONS

Brooklyn Center Hotel	BL23-0439 2200 Freeway Blvd

TEMPORARY ON-SALE LIQUOR LICENSE

St. Alphonsus Catholic Church Taste of Latin America September 23, 2023	7025 Halifax Avenue N

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

7a. ALTERNATIVE RESPONSE MODEL

City Manager Dr. Edwards introduced the item and invited Office of Community Prevention, Health and Safety Director LaToya Turk to continue the Staff presentation.

Ms. Turk explained responding to the mental health crisis through innovative public safety strategies is an evolution from reactive to proactive approaches, addressing root causes of social health determinants that impact wellness and safety. Integrating public health principles into public safety initiatives can lead to more resilient and safe communities. This approach goes beyond simply responding to incidents and focuses on promoting community well-being. Applying public health strategies to public safety involves a shift from reacting to incidents to proactively addressing risk factors and promoting protective factors that contribute to community safety.

Ms. Turk showed a graphic showing strategy such as prevention, intervention, recovery, and response. Prevention opportunities include school education and exposure opportunities. Intervention refers to real-time engagement while recovery includes connection to resources. Also, response is addressed through community responders.

Ms. Turk stated by addressing the root causes of safety concerns, prevention-focused approaches can lead to more resilient and thriving communities. This shift has the potential to significantly reduce crime and improve overall community well-being.

Ms. Turk stated key components of prevention in public safety include prevention through risk and protective factor analysis, early intervention and outreach programs, and community engagement and empowerment. Collaborative partnerships include understanding the role of law enforcement and public health agencies and multi-disciplinary teams for holistic solutions.

Ms. Turk pointed out there is an opportunity for Brooklyn Center to partner with Hennepin County

for an Alternative Response Team. The County has a current pilot program with Brooklyn Park. The Alternative Response Team (ART) includes a Senior Social Worker that will respond in real-time with a Community Paramedic from North Memorial Health. The team will be dispatched by the Hennepin County Sheriff's Office dispatch center. The ART team will respond to a variety of call types which the 911 caller defines as urgent and nonviolent.

Ms. Turk stated from there, the senior social worker will be responsible for completing a needs assessment and providing solution-focused interventions in person, referring for follow-up and complete documentation. This position is an onsite position officed out of the Brooklyn Center Police Department and will require travel throughout various cities in Hennepin County. The work hours for the pilot program in Brooklyn Park are Monday through Friday 10:00 a.m. – 6:30 p.m.

Ms. Turk noted there are a number of benefits for ART in Brooklyn Center. The program would help develop collaborative relationships with law enforcement, emergency departments, human services, and other community stakeholders/partners, conduct needs and risk assessments of adults, children, and adolescents in crisis in a client's home or community setting, and utilize solution-focused interventions and together with the individual in crisis, create a personalized crisis/safety plan that is culturally informed, and person-centered.

Ms. Turk added the ART program can facilitate immediate treatment planning, disposition, and coordination of recommendations and service coordination, coordinate placement into a facility that provides a higher level of care when an individual is assessed to be unsafe to remain in the community, facilitate immediate service coordination with community providers and connect individuals to new and existing supports.

Ms. Turk stated ART would also provide consultation, support, and resources to police officers when responding to behavioral health-related calls, document referrals received and case notes utilizing state and county systems, transport individuals in county vehicles to community providers to further stabilize as needed, and participate in community engagement events.

Ms. Turk explained benefits of alternative response teams are often context-dependent and can vary based on the specific program design, community demographics, and local resources. She pointed out the Brooklyn Center has the highest rate of disparities in the State, and the program could be extremely impactful. Ongoing research and data collection are crucial to assess the long-term impact and effectiveness of these initiatives.

Ms. Turk stated the potential long-term impact of a program such as ART includes a reduction in the use of force incidents, decreased criminalization of mental illness, improved mental health outcomes, enhanced community trust, increased community well-being, cost savings, preventative impact, better allocation of resources, holistic approaches, and reduced stigma.

Ms. Turk noted challenges and opportunities for ART would be overcoming stigma and resistance to change, resource allocation and funding considerations, and addressing socioeconomic disparities. The Hennepin County model is significantly cheaper than previously considered options. Brooklyn Center would only be responsible to cover the salary of the social worker, a

radio to use, and an office space.

Ms. Turk showed a chart showing mental health problems and welfare check calls by day and hour over two years, which was put together by the Brooklyn Center Police Department. There would likely be a different need for response hours than what is currently implemented in Brooklyn Park.

Ms. Turk added the work plan includes community policing and collaboration, violence prevention programs, mental health crisis response, opioid awareness, youth development initiatives, early intervention initiatives, safe house initiatives, and employment and economic opportunities.

Councilmember Butler asked if Brooklyn Center put out an RFP for the services. Ms. Turk stated the City did not do an RFP. Staff did look at other options for alternative response teams, but there was a huge disparity between the County program and other programs for meeting State and Federal requirements as well as costs.

Dr. Edwards added the current pilot program is not sufficient to meet the needs of Brooklyn Park, so partnering with the County would likely allow for two shifts to be shared between the two cities.

Councilmember Kragness asked what the cost would be to fund the program. Ms. Turk stated the responders would be County or North Memorial employees. The contract would be with Hennepin County. Currently, the idea is to implement a two-year pilot and then reassess. Brooklyn Park does have two teams now, and the city only covers the salary of the social workers while the County pays for the paramedics.

Dr. Edwards stated the teams would likely be contracted, whether it be through the County or not. The City does not currently have the skill to deploy the program without contractors.

Councilmember Kragness asked if they are aware the hours could change depending on which model is implemented. Ms. Turk stated there is an ongoing conversation about program details with the County, including the potential need for alternative hours. At first, the hours would have to be the same as Brooklyn Park to allow the teams to support one another. Changing the hours has the issue that more seasoned healthcare professionals are not interested in working evening hours.

Councilmember Jerzak explained Commissioner Lunde told him the whole board voted to include Brooklyn Center in the pilot program. Also, the intent of the program is to continue beyond the two-year pilot.

Councilmember Jerzak pointed out there are challenges with the population because they are allowed to refuse services and may pop up again and again. He asked if the details of the office location and who the employees would report to. Ms. Turk stated the office would be within the Police Department and would report to herself.

Mayor Graves asked if a similar position to Ms. Turk's is being hired for in Brooklyn Park. Ms. Turk confirmed that was true.

Councilmember Kragness stated the intention was to have them separate from law enforcement. Ms. Turk stated they will respond to the same radio as law enforcement. Housing them separately doesn't promote the collaboration necessary to have a successful alternative response.

Dr. Edwards pointed out other jurisdictions have alternative models that are housed separately from law enforcement. Ms. Turk explained some models that are housed separately respond alongside law enforcement rather than in place of law enforcement. Canopy in Minneapolis is an example, and they are contracted by Minneapolis.

Councilmember Jerzak noted Brooklyn Park has received the program well and has been interested in an additional shift. It doesn't make sense for someone to be officed somewhere they aren't supervised. Ms. Turk stated the response is intended to be a public health response that will complement the law enforcement response model that is already in place. The intention is to create a model that is appropriate for Brooklyn Center rather than to copy Brooklyn Park.

Councilmember Jerzak asked if Brooklyn Park is considered successful. Ms. Turk stated it is too early to make a statement either way.

Councilmember Butler noted there have been previous liaisons that are housed within the Police Department but report elsewhere. Dr. Edwards added Brooklyn Park has created a similar office to Brooklyn Center's Office of Community Prevention, Health and Safety, and they expect the new office to supervise the employee. Also, there is already a lack of resources within the Police Department, so it would be unwise to ask them to supervise another person and program.

Councilmember Lawrence-Anderson asked how Ms. Turk will be able to know how the program is doing if the position is housed in the Police Department. Ms. Turk stated there is a collaboration between the Office of Community Prevention, Health and Safety, and the Police Department. They are separate entities, but they are both ultimately the City. She speaks with the Police Chief daily. Putting the resource within the Police Department will only enhance the relationship between law enforcement and the community.

Councilmember Jerzak asked if law enforcement is on-board with the program and with the proposed reporting strategy. Ms. Turk stated she meets with law enforcement and the County weekly to address details such as reporting structure.

Councilmember Jerzak asked if law enforcement is on-board with the program and with the proposed reporting strategy. Ms. Turk stated she has been meeting with the Police Department regularly over the last six months, and there has been no opposition to the location of the employee's office.

7b. LEGISLATIVE APPRECIATION

This item was moved to a future meeting.

7c. CITY-WIDE SURVEY RESULTS

This item was addressed after Council Consideration Items 10b. An Ordinance Amending Chapter 19 of the Brooklyn Center City Code to Prohibit the Use of Cannabis and Hemp Products in Public Places (first reading) as the presenter was not present initially.

8. PUBLIC HEARINGS

None.

9. PLANNING COMMISSION ITEMS

None.

10. COUNCIL CONSIDERATION ITEMS

10a. RESOLUTION SUPPORTING AN APPLICATION TO THE MINNESOTA HOUSING FINANCE AGENCY TO RECEIVE 4D(1) CLASSIFICATION FOR CERTAIN PROPERTY IN THE CITY

Dr. Edwards introduced the item and invited Jason Aarsvold, Ehlers representative, to continue the presentation.

Mr. Aarsvold stated on May 8, 2023, the City Council and EDA approved the creation of a new TIF district and held a public hearing regarding the sale of land owned by the EDA for the Wangstad Commons housing development. On July 10, 2023, the EDA approved a TIF Assistance Agreement between the EDA and Wangstad Commons LLLP for the project.

Mr. Aarsvold explained the 4d classification rate applies only to affordable housing and is set up to be lower than market-rate housing to promote affordability. This revised classification relates to rental property and is now referred to as the 4d(1) tax classification rate. This change will be effective for the pay 2025 tax year. In addition, the legislation also says that in order to qualify for the 4d(1) classification rate, property owners must receive the approval of the city or town where the property is located in the net tax capacity of 4d property in that municipality is greater than 2% of the total net tax capacity of the municipality in the prior assessment year.

The Wangstad Commons project's financial feasibility and approved TIF assistance assume that the project will qualify for the 4d property tax classification rate. Based on calculations for the prior assessment year, Brooklyn Center is over this 2% threshold. Therefore, the Wangstad Commons project must receive City approval to qualify for the 4d(1) tax classification rate. The Minnesota Housing Finance Agency (MN Housing), as the body administering this program, indicates passage of a resolution supporting Wangstad Commons application for 4d(1) tax status is sufficient to constitute approval under the revised statute.

Councilmember Kragness moved and Mayor Graves seconded to adopt a Resolution Supporting

an Application to the Minnesota Housing Finance Agency to Receive 4d(1) Classification for Certain Property in the City.

Motion passed unanimously.

10b. AN ORDINANCE AMENDING CHAPTER 19 OF THE BROOKLYN CENTER CITY CODE TO PROHIBIT THE USE OF CANNABIS AND HEMP PRODUCTS IN PUBLIC PLACES (FIRST READING)

Dr. Edwards introduced the item and invited City Attorney Jason Hill to continue the presentation.

Mr. Hill stated the proposed ordinance prohibits public use of cannabis products, and the definition of "public use" is up to the City. Violation would be a petty misdemeanor. Mr. Hill noted the ordinance is broad and can be adjusted as needed.

Councilmember Butler asked what can be sold in stores currently and what is the current licensing process. Mr. Hill stated the Council has not made a decision. There is a draft licensing ordinance that is being reviewed by staff.

Councilmember Lawrence-Anderson asked if the edibles can be used indoors but smoking is still prohibited, be it tobacco or marijuana. Mr. Hill confirmed that this is correct.

Councilmember Jerzak noted his preference to keep the ordinance broad as it gives the City more options.

Mayor Graves asked if an establishment that does not sell cannabis wants to allow the use of cannabis, would that be allowed with the ordinance. Mr. Hill stated the ordinance basically says that cannabis can only be used at a private residence or private structure. The language is specifically pulled from the State Statute.

Mayor Graves stated the idea seems to be infringing upon business owners' purview. Mr. Hill stated the use would still be prohibited by the State. However, the State did not define public spaces. It would be ultimately a petty misdemeanor for someone to smoke cannabis in public.

Councilmember Lawrence-Anderson moved and Councilmember Jerzak seconded to approve the first reading of an ordinance amending Chapter 19 of the Brooklyn Center City Code to prohibit the use of cannabis and hemp in public places and schedule the second reading for August 28, 2023.

Motion passed unanimously.

Dr. Edwards pointed out that the staff is putting together a community education plan.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

7c. CITY-WIDE SURVEY RESULTS

Dr. Edwards introduced the item and invited Peter Leatherman, Morris Leatherman Company, to continue the presentation.

Mr. Leatherman explained 400 random households were sampled in Brooklyn Center. The data is projectable within five percent in 95 out of 100 cases. Telephone interviews were conducted between July 11 and July 28 of 2023. The average interview time was 18 minutes. The non-response level was 5.5 percent. 57 percent of households in Brooklyn Center only have a cell phone while 10 percent only have a landline.

Mr. Leatherman showed a graph depicting demographics in Brooklyn Center. 34 percent of households have lived in the community for more than 20 years. As for age, 29 percent of residents are aged 18 to 34. 61 percent of households are homeowners and 38 percent of the population is white. Also, 52 percent of households reported being financially stressed.

Mr. Leatherman added one percent of residents are non-binary and 49 percent are female. Precinct 6 included the largest proportion of residents at 21 percent. Precinct 2 was the lowest percentage at 13 percent.

Mr. Leatherman showed a quality of life graph compared with previous surveys. Throughout Minnesota, residents have a less favorable view of the quality of life. In Brooklyn Center, 67 percent of Brooklyn Center residents report a good quality of life, and 22 percent indicated only fair quality of life. Overall, Brooklyn Center is on par with the State's norm.

Mr. Leatherman showed a graph with the most liked components of Brooklyn Center which include close to family and friends, housing, close to job, and a peaceful community. The most serious issue reported was crime at 33 percent. However, 14 percent reported there were no serious issues.

Mr. Leatherman showed a graph showing the direction of the City over the past few years. The 2009 numbers show the impact of the recession, but Brooklyn Center is still moving in the right direction at 80 percent.

Mr. Leatherman stated more people reported feeling more welcome and more accepted, though those are not statistically significant. The opinions of youth, however, had a significant increase in being valued by the City. As for community characteristics, a majority of residents report the housing and shopping opportunities are about right. However, 44 percent of residents believe there are too few retail shopping opportunities.

Mr. Leatherman noted there was a decrease in positive feedback regarding general redevelopment. Nonetheless, a large majority still supports continued redevelopment and development incentives. Mr. Leatherman presented a graph that showed a majority of residents thought the code enforcement was about right. They were looking for more enforcement related to the appearance

of properties.

Mr. Leatherman showed a graph with City property tax comparison over the years. Brooklyn Center is unique in this aspect as they have the lowest percentage of reporting high taxes in 2023. Property taxes are a hot-button issue across the State. The norm in the metro is for 55 percent of residents to report high property taxes. In Brooklyn Center, only 39 percent of residents reported high property taxes.

Mr. Leatherman pointed out the overall assessment of the value of City services was favorable in two-thirds of cases. A majority favor property tax increases to maintain City service levels. However, a majority of residents oppose property tax increases to enhance current or additional offerings. The least favorable City services were street lighting, snow plowing, street maintenance, and drinking water. Mr. Leatherman noted the statistics for street repair are similar to other areas. However, the street lighting statistic is much more unfavorable in Brooklyn Center than in other areas.

Mr. Leatherman showed a graph with feedback on unsafe City areas. There has not been a statistically significant increase for that data point over the years. However, there was a statistically significant in those who report feeling safe while walking alone at night in their neighborhood at 79 percent. The norm in the first ring suburbs is 70 percent. Mr. Leatherman added one in five residents believe there is not enough patrolling and traffic enforcement.

Mr. Leatherman stated there was an overall positive response regarding the park system at around 80 percent.

Mr. Leatherman noted the view of the City's growing population diversity varied greatly over the years. Over time, the percentage of residents supporting population diversity has doubled. 84 percent believe the City is prepared for growing diversity, which is a significant increase from 2017. Also, 85 percent of people believe their voice is being heard in the community. The norm is about 69 percent, so Brooklyn Center is above average.

Mr. Leatherman stated 82 percent of residents approve of City Council, which is slightly higher than the norm. 80 percent of residents show favorable views of the staff, which is lower than the norm of the Twin Cities. However, there has been a huge increase in favorable views of staff since 2009. Mr. Leatherman stated 28 percent of residents had contacted City Hall over the past year. Of those, 80 percent or more had a positive experience.

Mr. Leatherman added 42 percent of residents get their information from the newsletter while 28 percent use the City website. The statistic varies greatly across cities. 59 percent want a physical information source, and there is a clear demographic divide. Overall, 88 percent of the community rate the communication of local issues favorably. The current norm is 75 percent. Brooklyn Center residents do feel informed and empowered in the City.

Councilmember Jerzak asked if residents generally approve of increases in inflation to maintain current services. Mr. Leatherman confirmed that was correct. It is a general consensus across the

State that desires lower taxes but understands the need for inflation adjustments. Most people support maintenance while few support enhancements of City services. More and more people would like more services, but they simply cannot afford to.
Councilmember Jerzak noted most taxes are out of control of the City. He asked if there was any discussion about City taxes in comparison to other taxes. Mr. Leatherman stated the survey specifically only asked for feedback on taxes that go directly to the City. However, a majority of people don't understand that their taxes go to multiple sources rather than one big pot of money.

Councilmember Lawrence-Anderson requested a comparison of the 2017 survey regarding the reason for the wrong track. Mr. Leatherman stated he didn't have a copy of the 2017 survey. However, the 43 percent of people reporting concern about crime as the reason for the wrong track is only 43 percent of the 16 percent of people that believe the direction of the City is on the wrong track. That translates to about 7 percent of the community saying the City is on the wrong track because of the response to crime.

City Clerk Barb Suciu stated she has a spreadsheet comparing all of the previous surveys, and she would provide a copy to Council.

Councilmember Kragness noted there was a high number of residents who have lived in the community for a while and plan to stay. There was also a favorable response from residents regarding community, feeling valued, and feeling welcomed.

Mayor Graves thanked Mr. Leatherman for the presentation.

11. COUNCIL REPORT

Councilmember Jerzak reported on his attendance at the following and provided information on the following upcoming events:

- Attended the Hmong Festival
- Attended the Health Fair
- Attended youth soccer night
- Visited multiple farmer's markets
- Reached out to several constituents
- Offered Council hours

Councilmember Kragness reported on her attendance at the following and provided information on the following upcoming events:

- Participated in Night to Unite
- Met with Dr. Edwards
- Met with Common Sense Consulting

Councilmember Lawrence-Anderson reported on her attendance at the following and provided information on the following upcoming events:

- Participated in Night to Unite
- Continues to volunteer at Farm Fresh on Wednesdays

- Attended Thursday's farmer's market
- Met with Dr. Edwards
- Attended youth soccer event hosted by Luther Automotive and the Parks and Recreation Department
- Met with Common Sense Consulting
- Attended Health Fair

Councilmember Butler reported on her attendance at the following and provided information on the following upcoming events:

- Met with Dr. Edwards
- Met with Common Sense Consulting
- Met with Mr. Langmore

Mayor Graves reported on his attendance at the following and provided information on the following upcoming events:

- Attended celebration hosted by the first lady of Brooklyn Park
- Met with Implementation Committee
- Also participated in other activities mentioned by the Council

12. ADJOURNMENT

Councilmember Butler moved and Councilmember Jerzak seconded the adjournment of the City Council meeting at 8:34 p.m.

Motion passed unanimously.

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Shannon Pettit, Deputy City Clerk

SUBJECT: Approval of Licenses

Requested Council Action:

- *Motion to approve the licenses as presented.*

Background:

The following businesses/persons have applied for City licenses as noted. Each business/person has fulfilled the requirements of the City Ordinance governing respective licenses, submitted appropriate applications, and paid proper fees. Applicants for rental dwelling licenses are in compliance with Chapter 12 of the City Code of Ordinances, unless comments are noted below the property address on the attached rental report.

Mechanical

Comfort Makers Mechanical Inc.
7018 Knox Ave N, Brooklyn Center 55430
Forced Air Inc. DBA Wenzel Heating & Air Conditioning
4145 Old Sible Hwy, Eagan 55122
Preventive Mechanical Service
1875 Buerkle Rd, White Bear Lake 55110

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

Strategic Priorities and Values:

Safe, Secure, Stable Community, Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type
Rental Criteria	6/20/2023	Backup Material

Rentals 8/22/2023 Backup Material

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-2
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 2 but not more than 5
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 5 but not more than 9
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 9
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	**Number of Units**	**Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Rental Licenses for Council Approval 8.28.23

Location Address	License Subtype	Renewal/Initial	Owner	Property Code Violations	License Type	Police CFS*	Final License Type**	Previous License Type***	Consecutive Type IV's
4201 Lakeside Ave N, #111	Condo	Initial	Yohannes Seyoum	3	Type II	N/A	Type II	N/A	N/A
6436 Dupont Ave N	Single	Initial	AA Homes LLC	5	Type II	N/A	Type II	N/A	N/A
3407 65th Ave N	Multiple Family 6 Bldgs 72 Units	Renewal	Soderberg Investments Llc Did not meet requirements	85 = 1.18 per unit	Type II	8/13/23 Disturbance	Type III	Type III	N/A
7256 Unity Ave N	Multiple Family 11 Bldgs 112 Units	Renewal	Unity Limited Partnership Met Requirements	172 = 1.54 per unit	Type III	4/23/23 Homicide 4/26/23 Weapons 10/3/22 Robbery 6/5/23 Disturbance	Type III	Type III	N/A
4214 Lakeside Ave	Two Family	Renewal	J E Shoultz & G R Shoultz	8	Type III	0	Type III	Type II	N/A
5349 Penn Ave N	Two Family	Renewal	A M Abdullahi & Y M Noor Did not meet requirements	7	Type III	0	Type III	Type IV	N/A
4207 Lakeside Ave N, #125	Condo	Renewal	Don R Stenberg	0	Type I	0	Type I	Type II	N/A
4207 Lakeside Ave N, #224	Condo	Renewal	Justus3 Llc	2	Type I	0	Type I	Type I	N/A
2813 64th Ave N	Single	Renewal	Everest Holdings, LLC Met Requirements	13	Type IV	0	Type IV	Type IV	2
3818 Burquest La	Single	Renewal	Ayan I Yusuf Did not meet requirements	5	Type II	0	Type III	Type III	N/A
4501 Winchester La	Single	Renewal	TM Odeniyi & K Odeniyi Met Requirements	4	Type II	0	Type II	Type IV	N/A
5312 Northport Dr	Single	Renewal	Hpa Us1 Llc	14	Type IV	0	Type IV	Type II	0
5555 Dupont Ave N	Single	Renewal	Maria Magdalena Velez Velez Met Requirements	18	Type IV	0	Type IV	Type III	0
6337 Bryant Ave N	Single	Renewal	Park Ave Homes Llc Met Requirements	3	Type II	0	Type II	Type IV	N/A
6437 Kyle Ave N	Single	Renewal	United Hmong Investment Llc	8	Type III	0	Type IV	Type IV	2
6501 Brooklyn Dr.	Single	Renewal	Dawn M Araya & Danilo Araya	21	Type IV	0	Type IV	Type IV	4

6761 Humboldt Ave N	Single	Renewal	Li-chwen Su	1	Type I	0	Type I	Type I	N/A
6777 Humboldt Ave N	Single	Renewal	A Ryvlin & T Ryvlin	0	Type I	0	Type I	Type I	N/A
6807 Scott Ave N	Single	Renewal	Gao Qiang Liu	6	Type III	0	Type III	Type I	N/A
6925 Scott Ave N	Single	Renewal	Hamdi M Omar	1	Type I	0	Type IV	Type IV	2
7000 Oliver Ave N	Single	Renewal	P E Enohnyaket/m Enohnyaket	6	Type III	0	Type III	Type II	N/A
7025 Newton Ave N	Single	Renewal	Stephen & Michelle Branham	6	Type III	0	Type III	Type I	N/A

*CFS = Calls for Service for renewal licenses only (Initial licences are not applicable to calls for service, and will be listed as N/A

**License type being issued

***Initial licenses will now show a Type I = 3 Year, Type II = 2 Year, Type III = 1 Year, Type IV = 6 months

All properties are current on City utilities and property taxes

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Elizabeth Heyman, Director of Public Works
BY: James Soltis, P.E., Assistant City Engineer

SUBJECT: An Ordinance Amending Chapter 35 of the City Code of Ordinance Regarding Application Requirements for Land Disturbance Permits

Requested Council Action:

- Motion to approve a first reading of the requested ordinance Amending Chapter 35 of the City Code of Ordinance Regarding Application Requirements for Land Disturbance Permits, and set a second reading for September 11, 2023.

Background:

As part of the cities required National Pollutant Discharge Elimination System (NPDES) permit regulated by the United States Environmental Protection Agency and the Minnesota Pollution Control Agency (MPCA), the City of Brooklyn Center is obligated to develop and implement policies and ordinances to minimize the discharge of pollutants through its municipal separate storm sewer system (MS4).

Due to changes in the state regulations as part of the MPCA General Permit (MNR040000) the city is required to make revisions to the regulations and requirements with regard to land disturbance permitting. The City is already carrying out these practices, however they need to be codified in ordinances to be in compliance with our NPDES permit. To meet these requirements amendments to Chapters 35 of the City Code of Ordinances must occur.

Compliance with the NPDES permit program is crucial for protecting and improving the quality of our nation's waters, and failure to comply with the permit requirements could result in penalties and enforcement actions. Hence, it is imperative that the city revises our ordinances promptly to meet regulatory requirements and maintain environmental protection.

Budget Issues:

There are no budget issues to consider with this action.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Safe, Secure, Stable Community

ATTACHMENTS:

Description	Upload Date	Type
Ordinance	8/22/2023	Ordinance

CITY OF BROOKLYN CENTER

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING APPLICATION REQUIREMENTS FOR LAND DISTURBANCE PERMITS

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

Article I. Brooklyn Center City Code, Chapter 35, 35-7901 is amended by adding the following double-underlined language:

35-7901 Applicability.

No construction, reconstruction, development, redevelopment, grading, excavation, or other activity shall occur without first securing a permit from the Community Development Department if such activity causes a land disturbance of 10,000 square feet or more of land.

For certain construction activity, various other permits may also be required. The applicant of construction activity is responsible for obtaining any other required permits from the City and other State, Federal, or local governmental agencies having any authority over the work to be performed. Typically, such agencies may include, but are not limited to, Shingle Creek and West Mississippi Watershed Management Commissions, the U.S. Army Corps of Engineers, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Minnesota Department of Transportation, and the State Historical Preservation Office.

Article II. Brooklyn Center City Code, Chapter 35, Section 39-7903 is amended by adding the following double-underlined language and deleting the ~~stricken~~ language:

35-7903 Required Plans.

The applicant shall submit construction plans and supporting calculations. The submittals shall comply with the following requirements:

(a) The plans shall meet the requirements of the Shingle Creek and West Mississippi Watershed Management Commission's Rules and Standards, and the Minnesota Pollution Control Agency. ~~Construction Permit. Alternative treatment best management practices must be considered where any of the following apply:~~ Permanent stormwater management system designs, including calculations shall be provided with the plans.

~~1) Where industrial facilities are not authorized to infiltrate industrial stormwater under a National Pollutant Discharge Elimination System/State Disposal System Permit;~~

~~2) When receiving runoff from fueling and vehicle maintenance areas, unless the infiltration practices is designed to allow for spill control;~~

(b) ~~The infiltration practice shall be 10 feet away from all buildings, or;~~ When a land disturbance permit is required, a satisfactory erosion control and grading plan consistent with the Minnesota Stormwater Manual must be approved by the City Engineer before a grading or building permit is issued for construction.

(c) ~~The infiltration practice shall not be used within fifty (50) feet of a City or private well, unless specifically allowed by an approved wellhead protection plan.~~ The grading and erosion control plan must provide spot elevations of proposed grades in relation to existing grades on the subject property and adjacent land. Areas where the finished slope will be steeper than five units horizontal to one vertical shall be specifically noted. Also, location and type of erosion control devices shall be clearly labeled.

(d) ~~The plan shall provide 2-foot contour lines with spot elevations of proposed grades in relation to existing grades on the subject property and adjacent land. The location and type of erosion control devices shall be clearly labeled.~~ Every effort shall be made to minimize disturbance of existing ground cover. No grading or filling shall be permitted within 40 feet of the ordinary high water mark of a water body unless specifically approved by the City. To minimize the erosion potential of exposed areas, restoration of ground cover shall be provided within five days after completion of the grading operation.

(e) ~~The plan shall address the management of post-development runoff and means of assuring the long-term maintenance and operation of best management practices and storm water management structures, devices and methods.~~ Every effort shall be made during the grading permit application process to determine the full extent of erosion control required. However, the City Engineer may require additional controls to correct specific site related problems as normal inspections are performed.

(f) All erosion control noted on the approved plan shall be installed prior to the initiation of any site grading or construction. Noncompliance with the grading and erosion control plan shall constitute grounds for an order from the City to halt all construction.

(g) All grading and construction activity that requires a land disturbance permit shall comply with Minnesota Pollution Control Agency's General Permit to Discharge Stormwater Associated with Construction Activity No. MNR100001, the Minnesota Pollution Control Agency's General Permit to Discharge Stormwater Associated with Small Municipal Separate Storm Sewer Systems No. MNR040000, and the Minnesota Stormwater Manual.

Article VI. Severability. Should any section or part of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of the ordinance as a whole or any part other than the part declared invalid.

Article VII. Effective Date. This ordinance shall become effective after adoption and upon thirty days following its legal publication.

Adopted this ____ day of _____, 2023.

_____
April Graves, Mayor

ATTEST: _____
Barb Suciu, City Clerk

Date of Publication _____

Effective Date _____

(~~Strikeout~~ indicates matter to be deleted, double-underline indicates new matter.)

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Dr. Reggie Edwards, City Manager

SUBJECT: Proclamation of Recognition and Appreciation for Minnesota State Senator Susan Pha for her Dedication and Advocacy in Support of State Funding for the Brooklyn Center Community Center During the Minnesota 2023 Legislative Session

Requested Council Action:

- Council read and approve proclamation of recognition and appreciation for Minnesota State Senator Susan Pha for her dedication and advocacy in support state funding for the City of Brooklyn Center Community Center during the Minnesota 2023 legislative session.

Background:

In 2023, the City Council established its 2023 Legislative Priorities, supported state capital bonding, and passed Resolution No. 2023-10 supporting the authority to impose a local option sales tax fund to facilitate strategic investment in the Brooklyn Center Community Center.
During the 2023 Minnesota Legislative Session, Senator Susan Pha served as Vice Chair of the Capital Investment Committee and as a member of the Housing and Homeless Prevention Committees.
Senator Susan Pha successfully authored SF 1748 regarding state capital bonding for construction of the Brooklyn Center Community Center, which was secured in the Capital Investment bill for $5.1 million.
Senator Susan Pha successfully authored SF 761 regarding the Brooklyn Center authorization to seek use of a local sales and use tax for construction of the Brooklyn Center Community Center, which in aggregate may go up to, but not exceed $44 million.
The City Council and residents of Brooklyn Center recognize and appreciate Senator Susan Pha for her dedication and advocacy at the Minnesota Legislature on behalf of the City of Brooklyn Center.

Budget Issues:

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Enhanced Community Image, Safe, Secure, Stable Community, Customer Intimacy

ATTACHMENTS:

Description	Upload Date	Type

Proclamation	8/23/2023	Backup Material

PROCLAMATION OF RECOGNITION AND APPRECIATION FOR MINNESOTA STATE SENATOR SUSAN PHA FOR HER DEDICATION AND ADVOCACY IN SUPPORT OF STATE FUNDING FOR THE CITY OF BROOKLYN CENTER COMMUNITY CENTER DURING THE MINNESOTA 2023 LEGISLATIVE SESSION.

WHEREAS, Senator Susan Pha was elected to the Minnesota State Senator (District 38) in 2022; and

WHEREAS, During the 2023 Minnesota Legislative Session, Senator Susan Pha served as Vice Chair of the Capital Investment Committee and as a member of the Housing and Homeless Prevention Committees; and

WHEREAS, In 2023, the City Council established its 2023 Legislative Priorities, supported state capital bonding, and passed Resolution No. 2023-10, supporting the authority to impose a local option sales tax fund to facilitate strategic investment in the Brooklyn Center Community Center; and

WHEREAS, Senator Susan Pha successfully authored SF 1748 regarding state capital bonding for the Brooklyn Center Community Center, which was secured in the Capital Investment bill for $5.1 million; and

WHEREAS, Senator Susan Pha successfully authored SF 761 regarding the Brooklyn Center authorization to seek the use of a local sales and use tax for construction of the Brooklyn Center Community Center, which in aggregate may go up to, but not exceed $44 million; and

WHEREAS, Senator Susan Pha demonstrated sound judgment and kept the interest of the City of Brooklyn Center residents as a priority; and

WHEREAS, Senator Susan Pha's dedicated service, representation, and advocacy for the City of Brooklyn Center is greatly appreciated.

NOW, THEREFORE, I, April Graves, Mayor of the City of Brooklyn Center, on behalf of the Brooklyn Center City Council and residents of Brooklyn Center, do hereby recognize and appreciate Senator Susan Pha for her dedication and advocacy at the Minnesota Legislature on behalf of the City of Brooklyn Center.

August 28, 2023
Date

_____
Mayor

*ATTEST:*_____
City Clerk

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Dr. Reggie Edwards, City Manager

SUBJECT: Proclamation of Recognition and Appreciation for Minnesota State Representative Samantha Vang for her Dedication and Advocacy in Support of State Funding for the Brooklyn Center Community Center during the Minnesota 2023 Legislative Session

Requested Council Action:

- The City Council read and approves a proclamation of recognition and appreciation to Minnesota State Representative Samantha Vang for her dedication and advocacy in support of state funding for the Brooklyn Center Community Center during the Minnesota 2023 legislative session.

Background:

In 2023, the City Council established its 2023 Legislative Priorities, supported state capital bonding, and passed Resolution No. 2023-10 supporting the authority to impose a local option sales tax fund to facilitate strategic investment in the Brooklyn Center Community Center.
During the 2023 Minnesota Legislative Session, Representative Samantha Vang served as Chair of the Agriculture Finance and Policy Committee and as a member of the Environment and Natural Resources finance and Policy, Higher Education Finance and Policy and Legacy Finance Committees.
Representative Samantha Vang supported state capital bonding for construction of the Brooklyn Center Community Center, which was secured in the Capital Investment bill for $5.1 million.
Representative Samantha Vang successfully authored HF1014 regarding the Brooklyn Center authorization to seek use of a local sales and use tax for construction of the Brooklyn Center Community Center, which in aggregate may go up to, but not exceed $44 million.
The City Council and residents of Brooklyn Center recognize and appreciate Representative Samantha Vang for her dedication and advocacy at the Minnesota Legislature on behalf of the City of Brooklyn Center.

Budget Issues:

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Enhanced Community Image, Safe, Secure, Stable Community, Customer Intimacy

ATTACHMENTS:

Description	Upload Date	Type
Proclamation	8/23/2023	Backup Material

PROCLAMATION OF RECOGNITION AND APPRECIATION FOR MINNESOTA STATE REPRESENTATIVE SAMANTHA VANG FOR HER DEDICATION AND ADVOCACY IN SUPPORT OF STATE FUNDING FOR THE BROOKLYN CENTER COMMUNITY CENTER DURING THE MINNESOTA 2023 LEGISLATIVE SESSION

WHEREAS, Representative Samantha Vang was elected to the Minnesota State House of Representatives (District 38B) in 2018; and

WHEREAS, During the 2023 Minnesota Legislative Session, Representative Vang served as Chair of the Agriculture Finance and Policy Committee and as a member of the Environment and Natural Resources Finance and Policy, Higher Education Finance and Policy and Legacy Finance Committees; and

WHEREAS, In 2023, the City Council established its 2023 Legislative Priorities, supported state capital bonding, and passed Resolution No. 2023-10, supporting the authority to impose a local option sales tax fund to facilitate strategic investment in the Brooklyn Center Community Center.

WHEREAS, Representative Vang supported state capital bonding for the Brooklyn Center Community Center, which was secured in the Capital Investment bill for $5.1 million; and

WHEREAS, Representative Vang successfully authored HF1014 regarding the Brooklyn Center authorization to seek the use of a local sales and use tax for construction of the Brooklyn Center Community Center, which in aggregate may go up to, but not exceed $44 million; and

WHEREAS, Representative Vang demonstrated sound judgment and kept the interest of the City of Brooklyn Center residents as a priority; and

WHEREAS, Representative Samantha Vang's dedicated service, representation, and advocacy for the City of Brooklyn Center is greatly appreciated.

NOW, THEREFORE, I, April Graves, Mayor of the City of Brooklyn Center, on behalf of the Brooklyn Center City Council and residents of Brooklyn Center, do hereby recognize and appreciate Representative Samantha Vang for her dedication and advocacy at the Minnesota Legislature on behalf of the City of Brooklyn Center.

August 28, 2023
Date

Mayor

*ATTEST:*_____
City Clerk

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Cordell Wiseman, Park & Recreation Director

SUBJECT: Resolution Expressing Recognition and Appreciation for the Over 35 Years of Dedicated Public Service of Recreation Deputy Director Joel Ericksen

Requested Council Action:

- Motion to approve a resolution expressing recognition and appreciation for the over 35 years of public service of Recreation Deputy Director Joel Ericksen.

Background:

Deputy Director Joel Ericksen started working for the city part-time in 1985 and transitioned to full time in 1988. He has held many positions with Community and Recreation Services (CARS) which is now the Recreation Department.

Mr. Ericksen has been a great asset to the Recreation Department as well as the City of Brooklyn Center. Mr. Ericksen will be retiring October 30, 2023. We all wish him well in his retirement lifestyle. Congratulations Joe.

Budget Issues:

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Enhanced Community Image, Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type
Resolution	8/23/2023	Backup Material

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION EXPRESSING RECOGNITION AND APPRECIATION FOR THE OVER 35 YEARS OF DEDICATED PUBLIC SERVICE OF RECREATION DEPUTY DIRECTOR JOEL ERICKSEN

WHEREAS, Joel Erickson began working for the City of Brooklyn Center in March 1985, part-time as a Building Supervisor in the Parks and Recreation Department; and

WHEREAS, in 1988, Mr. Ericksen became a full-time employee as a Recreation Program Supervisor in Parks and Recreation Department; and

WHEREAS, in 2021, Mr. Ericksen was appointed the Interim Community and Recreation Services (CARS) Director during the transition of hiring a new director for the department; and

WHEREAS, in 2021, after and Director was hired, Mr. Ericksen was appointed the Deputy Recreation Director; and

WHEREAS, Mr. Ericksen managed the National Dudley Softball Tournament for 33 years which brought thousands of people from across the country each year to Brooklyn Center. Mr. Ericksen assisted in the revision of the Recreation Department which increased staffing, access and programs for the community of Brooklyn Center.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, upon recommendation of the City Manager, that we recognize the honorable retirement of Deputy Director Joel Ericksen on October 30, 2023, and express sincere appreciation for her dedicated public service. We wish Joel and his family the very best in the future.

August 28, 2023
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

RESOLUTION NO. _____

whereupon said resolution was declared duly passed and adopted.

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Jason Hill, City Attorney

SUBJECT: An Ordinance Amending Chapter 19 of the Brooklyn Center City Code to Prohibit the Use of Cannabis and Hemp Products in Public Places

Requested Council Action:

- *Motion to:*
  Open the public hearing
  Take public comment
  Close the public hearing

- *Motion to approve an ordinance amending Chapter 19 of the Brooklyn Center City Code to Prohibit the Use of Cannabis and Hemp Products in Public Places.*

Background:

The Cannabis Act legalized the possession and use of cannabis flower and cannabis products on August 1, 2023, meaning personal possession and use are generally no longer illegal under Minnesota law.

The penalty established for use of cannabis or hemp in a public place is a petty misdemeanor as provided for in the Cannabis Act. The Cannabis Act does not specially allow for use in public places to be a misdemeanor or other more severe penalty.

The City may, however, establish a fine for a petty misdemeanor offense. State statute allows a petty misdemeanor to carry a fine of up to $300. Attached is a draft ordinance that includes a fee of up to $200, but the Council may choose a different amount.

Budget Issues:

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Safe, Secure, Stable Community

ATTACHMENTS:

Description	Upload Date	Type
Ordinance	8/8/2023	Ordinance
Cover memo	8/21/2023	Cover Memo

CITY OF BROOKLYN CENTER

Please take notice that the City Council of the City of Brooklyn Center will hold a public hearing on Monday, August 28, 2023 at approximately 7:00 p.m. at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota. Said public hearing will include a second reading and proposed adoption of an ordinance prohibiting the use of cannabis and hemp products in public places within the City of Brooklyn Center. Meeting materials can be accessed by visiting the City of Brooklyn Center's website at: https://www.ci.brooklyn-center.mn.us/. A definite time for this ordinance to be considered cannot be given as it will depend on the progression of the agenda items.

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at (763) 569-3300 to make arrangements.

ORDINANCE NO. 2023-05

AN ORDINANCE AMENDING CHAPTER 19 OF THE BROOKLYN CENTER CITY CODE TO PROHIBIT THE USE OF CANNABIS AND HEMP PRODUCTS IN PUBLIC PLACES

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAINS AS FOLLOWS:

Section 1. Brooklyn Center City Code, Chapter 19 Table of Contents, is hereby amended by adding the following double-underlined language:

PROHIBITING USE OF CANNABIS AND HEMP PRODUCTS IN PUBLIC PLACES

Definitions 19-4000

Use of Cannabis and Hemp Prohibited in Public Places 19-4001

Penalties 19-4002

Section 2. Brooklyn Center City Code, Chapter 19, is hereby amended by adding Sections 19-4000 through 19-4002 as follows:

Section 19-4000. DEFINITIONS. For purposes of this section, the following definitions shall apply in the interpretation and enforcement of Sections 19-4000 through 19-4002.

1. "Cannabis flower," "cannabis products," "lower-potency hemp edibles," and "hemp-derived consumer products" shall have the definitions given to them in Minnesota Statutes, section 342.01, as it may be amended from time to time.

2. "Public place" is defined as any indoor or outdoor area that is used or held out for use by the public whether owned or operated by public or private interests. Pursuant to Minnesota Statutes, section 152.0263, subd. 5, "public place" does not include the following: (i) a private residence, including the person's curtilage or yard; (ii)

private property not generally accessible by the public; and (iii) the premises of an establishment or event licensed to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

Section 19-4001. USE OF CANNABIS AND HEMP PROHIBITED IN PUBLIC PLACES. No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place.

Section 19-4002. PENALTIES. A violation of this section shall be considered a petty misdemeanor notwithstanding any other penalty provision in the city code, and, upon conviction, the violator shall be punished by a fine not to exceed $200.

Section 3. Severability. Should any section or part of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of the ordinance as a whole or any part other than the part declared invalid.

Section 4. Effective Date. This Ordinance shall become effective after adoption and upon thirty (30) days following its legal publication.

Adopted this ___ day of _____, 2023.

_____
April Graves, Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

Kennedy & Graven CHARTERED

Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402

(612) 337-9300 telephone
(612) 337-9310 fax
http://www.kennedy-graven.com
Affirmative Action, Equal Opportunity Employer

MEMORANDUM

DATE: August 8, 2023

TO: Brooklyn Center City Council
Dr. Reginald Edwards, City Manager
Barbara Suciu, Assistance City Manager/City Clerk

FROM: Jason M. Hill, City Attorney
Joseph L. Sathe, Assistant City Attorney

RE: Prohibiting Use of Cannabis and Hemp in Public Places

The purpose of this memo is to provide an explanation of the proposed ordinance prohibiting use of cannabis and hemp products in public places.

I. Background

The Cannabis Act legalized the possession and use of cannabis flower and cannabis products on August 1, 2023, meaning personal possession and use are generally no longer illegal under Minnesota law.

The Cannabis Act makes use of cannabis illegal when operating a motor vehicle and at the following locations: public school or charter schools and buses; state correctional facilities; in a location where the smoke, aerosol or vapor from the use of cannabis could be inhaled by a minor; on federal property; and smoking or vaping with in a multifamily housing building. Additionally, owners of day care must disclose to parents if the proprietors permit use of cannabis outside of normal business hours.

As described further in this memo, the Cannabis Act allows cities to adopt an ordinance making use of cannabis and hemp products a petty misdemeanor in public places.

II. City Ordinance – Use In Public A Petty Misdemeanor

a. Definition of Public Place

In addition to the statewide prohibitions listed above, the Cannabis Act allows a local unit of government to prohibit use of cannabis flower, cannabis products, lower-potency hemp edibles, or

hemp-derived consumer products in a public place and allows the local unit of government to define what constitutes a "public place."

However, the definition of "public place" *cannot* include the following places: (1) a private residence, including the person's curtilage or yard; (2) private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or (3) the premises of an establishment or event licensed to permit on-site consumption.

The draft ordinance defines public place broadly to include "any indoor or outdoor area that is used or held out for use by the public whether owned or operated by public or private interests." The definition also excludes the places listed above that must be excluded.

b. Penalty Is A Petty Misdemeanor/Establishing A Fine.

The penalty established for use of cannabis or hemp in a public place is a petty misdemeanor as provided for in the Cannabis Act. The Cannabis Act does not specially allow for use in public places to be a misdemeanor or other more severe penalty.

The City may, however, establish a fine for a petty misdemeanor offense. State statute allows a petty misdemeanor to carry a fine of up to $300. The attached draft includes a fee of up to $200, but that can be changed if the Council chooses.

III. Additional Considerations

a. Medical Cannabinoid Exemption.

The attached draft prohibits the use of medical cannabis flower (because it is included in the definition of cannabis flower) and medical cannabinoids (because it is included in the definition of cannabis product) in public places.

The City could choose to exempt medical cannabinoid products from the prohibition, but still prohibit use of medical cannabis flower and the smoking, vaping, or inhalation of aerosol of medical cannabinoid products. This would still prohibit the smoking, vaping, or inhalation of aerosol of all cannabis within the City, while allowing patients registered with the state's medical cannabis program to use other medical cannabinoid products in public places.

b. *Different Definition of Public Place*

The definition of public place is very broad. If the Council desires, the definition of public place could be defined to be more limited. For example, instead of including all public and private locations, the definition could include only publicly owned places, streets, sidewalks, parks, etc.

IV. Conclusion

If the City Council desires to prohibit the use of cannabis and hemp products in public places, it can adopt the proposed ordinance.

The Council may also choose to provide direction to amend the language of the draft ordinance to exempt medical cannabinoids, choose a different definition of public place, or impose a different fee violating the prohibition of use of cannabis and hemp products in public places.

JMH/JLS

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Community Development Director
BY: Ginny McIntosh, City Planner and Zoning Administrator

SUBJECT: Resolution Regarding Planning Commission Application No. 2023-003 Submitted by the City of Brooklyn Center for a Conditional Use Permit to Install a New Public Use Dynamic Messaging Sign (6301 Shingle Creek Parkway)

Requested Council Action:

- Motion to adopt a resolution approving Planning Commission Application No. 2023-003 for a Conditional Use Permit to install a new public use Dynamic Messaging Sign (DMS) at 6301 Shingle Creek Parkway, based upon the findings of fact and submitted plans, and as amended by the conditions of approval in the resolution.

Background:

The City of Brooklyn Center ("the Applicant") is requesting approval of a Conditional Use Permit (CUP) to allow for installation of a new Dynamic Messaging Sign (DMS). Pursuant to City Code Section 35-6611, "DMS, as defined in Section 35-9200, are permitted in any District where public uses are permitted in accordance with the provisions in this Section," and, "notwithstanding Section 35-4301, a conditional use permit is required for DMS." The property under consideration, 6301 Shingle Creek Parkway ("the Subject Property"), is the site of City Hall and the Community Center and meets the definition of a "public use" as defined under Section 35-9200 of the City Code.

A public notice was published in the Brooklyn Center *Sun Post* on July 27, 2023, notification posted to the City's website, and notifications mailed to both residents and property owners located within 350 feet of the Subject Property.

As proposed, the long-standing bulletin-board sign would be replaced with a new freestanding sign with Dynamic Messaging Sign (DMS) component in generally the same location but approximately five (5) feet closer to Shingle Creek Parkway to accommodate a potential future expansion of the City's Community Center. This proposed replacement is part of a broader request to replace this sign as well as two other City signs located at the City's West and East Fire Stations, which are contemplated separately on the August 28, 2023 City Council agenda. The new signage would provide greater opportunities to provide up-to-date community messaging as opposed to the existing bulletin-style board, which requires City staff to physically replace text on the sign.

The signage, as proposed, would generally meet the allowances for freestanding and DMS signage as outlined in Sections 35-6609 (*Public Use Freestanding Signs*) and 35-6611 (*Dynamic Messaging Signs*), which specifies such requirements as minimum distancing from residential dwellings, maximum DMS square foot allowances, in addition to minimum standards for message changes, and the provision of

integrated dimming technology that automatically adjusts brightness dependent on ambient light conditions. City staff also reviewed the request against the standards outlined for Conditional Use Permits under City Code Section 35-7703 which address potential impacts on neighboring uses.

The Planning Commission ultimately held a public hearing for the aforementioned application at their meeting on August 10, 2023, and were generally supportive of the outlined request. City staff did not receive any public comments in advance of or at the scheduled public hearing. City staff were present at the meeting and in the role as "Applicant" to address any questions regarding the proposed sign.

The Commissioners addressed questions surrounding on-premises versus off-premises advertising of events and specifically called out the allowances for other organizations to utilize the City's DMS for their own events. City staff noted that off-premises advertising is not permitted under Chapter 35 of the City Code. Additional questions addressed minimum standards for DMS, including a provision that the sign cannot remain blank for longer than one (1) second in between message changes, and the messaging must remain constant for at least five (5) seconds, which is a change from the former code provisions which required a minimum of eight (8) seconds.

Following close of the public hearing, the Planning Commission elected to unanimously (5-0) recommend City Council approval of the requested Conditional Use Permit for the proposed DMS sign, which would be located at 6301 Shingle Creek Parkway.

A copy of the Planning Commission Report for Planning Commission Application No. 2023-003, dated August 10, 2023 and City Council resolution regarding the aforementioned request is included with this memorandum.

Budget Issues:

None to consider at this time.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Customer Intimacy

ATTACHMENTS:

Description	Upload Date	Type
Resolution - CUP DMS for 6301 Shingle Creek Parkway (08.28.2023)	8/21/2023	Resolution Letter
Staff Report and Exhibits - CUP DMS - 6301 Shingle Creek Pkwy (PC 08.10.2023)	8/21/2023	Backup Material

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2023-002 SUBMITTED BY LA PALMA PROPERTIES II LLC FOR APPROVAL OF AN AMENDMENT TO THE 2011 SHINGLE CREEK CROSSING PLANNED UNIT DEVELOPMENT AND APPROVAL OF A SITE AND BUILDING PLAN FOR AN APPROXIMATELY 2,678-SQUARE FOOT RESTAURANT AND DRIVE-THRU ON BUILDING SITE R WITHIN THE SHINGLE CREEK CROSSING PUD (1340 SHINGLE CREEK CROSSING)

WHEREAS, Planning Commission Application No. 2023-002, submitted by La Palma Properties II LLC ("the Applicant") requests review and consideration for approval of an amendment to the 2011 Shingle Creek Crossing Planned Unit Development plans and documents to allow for construction of an approximately 2,678-square foot restaurant and drive-thru on the approximately 1.03-acre Building Site R located within the Shingle Creek Crossing Planned Unit Development and commonly addressed as 1340 Shingle Creek Crossing ("the Subject Property"); and

WHEREAS, the Subject Property is situated in the PUD/C2 (Planned Unit Development/Commerce) District, and the underlying C2 (Commerce) District was effectively removed from the City's new Unified Development Ordinance, which became effective in January 2023; and

WHEREAS, the City's new Unified Development Ordinance contains provisions under Section 35-2103.e (*General Use Regulations*) for those Planned Unit Developments established prior to adoption of the new code in that, "Planned Unit Developments, and parcels zoned as a Planned Unit Development, in accordance with prior zoning regulations, shall remain subject to any and all agreements, conditions, and standards applicable to the Planned Unit Development," and "amendments shall be processed in accordance with the procedures identified for Planned Unit Developments in this UDO;" and

WHEREAS, City staff discussed the necessity of a separate use permit for the proposed drive-thru use, as was stipulated in the prior zoning regulations for the underlying C2 District, and as a proactive measure a public hearing notice was published in the Brooklyn Center *Sun Post* on April 27, 2023, mail notifications were sent to surrounding properties, and development proposal signage was installed on the Subject Property; and

WHEREAS, it was ultimately determined that the request to amend the 2011 Shingle Creek Crossing Planned Unit Development plans and documents sufficiently addressed the request for deviation from the approvals outlined under City Council Resolution Nos. 2014-075, 2014-076, and 2014-077 for Building Site R, which outlined an approximately 5,400-square foot restaurant pad site; and

RESOLUTION NO.

WHEREAS, similar amendments to the 2011 Shingle Creek Crossing Planned Unit Development for restaurant and drive-thru uses include Building Site B (1480 Shingle Creek Crossing), Building Site C (1520 Shingle Creek Crossing), and an earlier site and building plan approval for Building Site T (1330 Shingle Creek Crossing); and

WHEREAS, the City Council of the City of Brooklyn Center has amended the Shingle Creek Crossing Planned Unit Development numerous times since the adoption of City Council Resolution No. 2011-85, which was the first amendment to the previously approved 1999 Brookdale Mall Planned Unit Development and established the new Shingle Creek Crossing Planned Unit Development, Master Plan, and certain allowances and development standards that would govern over the PUD; and

WHEREAS, the proposal as contemplated under Planning Commission Application No. 2023-002 comprehends additional adjustments to the 2011 Shingle Creek Crossing Planned Unit Development Master Plan and Agreements that are considered a major amendment to the 2011 Shingle Creek Crossing Planned Unit Development as outlined under Section 35-8306 (*PUD Amendments*), including a ten (10) percent or greater change in the floor area in any one (1) structure; and

WHEREAS, the additional modifications to the Subject Property's parking spaces, provision for a drive-thru, and request to adhere to the underlying C2 (Commerce) District signage provisions as opposed to the adopted 2011 Shingle Creek Crossing Signage Guidelines, all require approval of an amendment to the 2011 Shingle Creek Crossing Planned Unit Development plans and documents; and

WHEREAS, the Planning Commission of the City of Brooklyn Center held a duly called public hearing on May 11, 2023, whereby a staff report and Assistant City Engineer's memorandum were presented, and public testimony regarding the requested amendments to the 2011 Shingle Creek Crossing Planned Unit Development and site and building plan for the approximately 2,678-square foot restaurant and drive-thru for the Subject Property known as Building Site R within the Shingle Creek Crossing Planned Unit Development and commonly addressed as 1340 Shingle Creek Crossing were received and considered by the Planning Commission; and

WHEREAS, the Planning Commission of the City of Brooklyn Center considered the aforementioned requests in light of all testimony received, including the guidelines for evaluating the aforementioned requests as contained in Section 35 of the City's Code, and more specifically Sections 35-2103.e (*General District Regulations-Existing Planned Unit Developments*), 35-7600 (*Site & Building Plan Approval*), 35-8306 (*PUD Amendments*), the 2011 Shingle Creek Crossing Architectural and Signage Guidelines, and in consideration of the goals and objectives of the City's 2040 Comprehensive Plan; and

WHEREAS, the Planning Commission of the City of Brooklyn Center considers the

amendment to the 2011 Shingle Creek Crossing Planned Unit Development and site and building plan requests to be an appropriate and reasonable request to the currently vacant Subject Property; and

WHEREAS, the Planning Commission of the City of Brooklyn Center finds the submitted plans for the Subject Property to be consistent with the General Development Plans for the overall Shingle Creek Crossing Planned Unit Development and intended use of the Subject Property, as it remains in general alignment with the plans last approved for Building Site R in 2014, which relocated the building from the middle of the parking lot and instead oriented the building to run parallel with Xerxes Avenue North, which at the time was supported by City staff for its greater walkability.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota to recommend that the requested amendment to the 2011 Shingle Creek Crossing Planned Unit Development plans and documents and site and building plan, as contemplated under Planning Commission Application No. 2023-002, be approved based subject to the considerations as outlined under Sections 35-7604 (*Site and Building Plan Approval Criteria*) and 35-8304 (*PUD Criteria*), and subject to the following conditions:

1. Any major changes or modifications made to the approved Planned Unit Development and site and building plan can only be made by an amendment, and as approved by the City Council.
2. The Applicant agrees to comply with all conditions or provisions noted in the Assistant City Engineer's review memorandum, dated April 26, 2023, and revise plan sets as necessary. Final grading, drainage, utility, and erosion control plans and any other site engineering related issues are subject to review and approval by the Assistant City Engineer, and prior to issuance of permits.
3. Building plans are subject to review and approval by the Building Official, and with respect to all applicable codes prior to the issuance of permits; and the final location or placement of any fire access or fire-related building code items shall be reviewed and approved by the Fire Inspector.
    a. A fire sprinkler system is required to be installed and shall be maintained and monitored on a consistent basis per City Code requirements.
    b. A SAC Determination shall be submitted by the Applicant to the Metropolitan Council and any associated fees paid at time of any permit issuance.
    c. Any reviews and approvals by the Hennepin County Health Department for the restaurant use.
4. The photometric plan, last updated April 25, 2023, shall be revised to comply with the illumination standards as detailed within Section 35-5400 (*Exterior Lighting*) of the City Code.
5. The Applicant shall install irrigation systems where necessary to facilitate maintenance of site landscaping and green areas, and irrigation shop drawings shall be submitted for review and approval prior to installation.

6. Any outside trash disposal facilities and rooftop or ground mechanical equipment shall be appropriately screened from view per the 2011 Shingle Creek Crossing Architectural Guidelines and City Code requirements, and a detail sheet provided.
7. Unless amended otherwise or under separate agreement, all existing provisions, standards, and variations provided under the 2011 Shingle Creek Crossing Development and any subsequent amendments shall remain in effect for the entire Shingle Creek Crossing Planned Unit Development.
    i. The Shingle Creek Crossing Planned Unit Development master plans and agreements shall be amended in advance of permit issuance to reflect the approximately 2,678-square foot restaurant and drive-thru on what is known as Building Site R within the Shingle Creek Crossing shopping center.
    ii. An allowance for Building Site R to comply with the wall and monument/freestanding signage provisions outlined within the City Code for the underlying C2 (Commerce) District, as opposed to the approved 2011 Shingle Creek Crossing Signage Guidelines.
8. A Performance Agreement with supporting financial guarantee approved by the City shall be executed upon any approval of the to-be submitted building permit for site improvements, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications, and standards.

May 22, 2023 _____
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Planning Commission Report
Meeting Date: August 10, 2023

- Application Filed: 7/11/2023
- Review Period (60-day) Deadline: 09/09/2023
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No.	2023-003
Applicant:	City of Brooklyn Center
Location:	6301 Shingle Creek Parkway, Brooklyn Center, MN 55430
Requests:	Conditional Use Permit to replace existing illuminated freestanding (monument) sign with installation of a Dynamic Message Sign (DMS)

REQUESTED ACTION

The City of Brooklyn Center ("the Applicant") is requesting review and consideration for issuance of a conditional use permit to allow for the installation of a new Dynamic Message Sign (DMS). Said sign would replace an existing freestanding sign located at the City of Brooklyn Center's City Hall and Community Center, and addressed as 6301 Shingle Creek Parkway ("the Subject Property"), that has been in place for decades. **Refer to Exhibit A.**

Pursuant to City Code Section 35-6611, "DMS, as defined in Section 35-9200, are permitted in any District where public uses are permitted in accordance with the provisions in this Section. Notwithstanding Section 35-4301, a conditional use permit is required for DMS." The Subject Property is currently owned by the City of Brooklyn Center and operates as a "public use" per the definitions section of the City's signage provisions, as outlined within the Unified Development Ordinance. "Public Uses" include, but are not limited to: school districts, municipalities, counties, states, or other governmental units, and any religious institutions such as churches, chapels, temples, synagogues, and mosques.

Dynamic Message Signs (DMS), as defined under City Code, are electrical or electromechanical signs on which a message may be placed that can be changed remotely or on-site through hard wire or wireless communications.

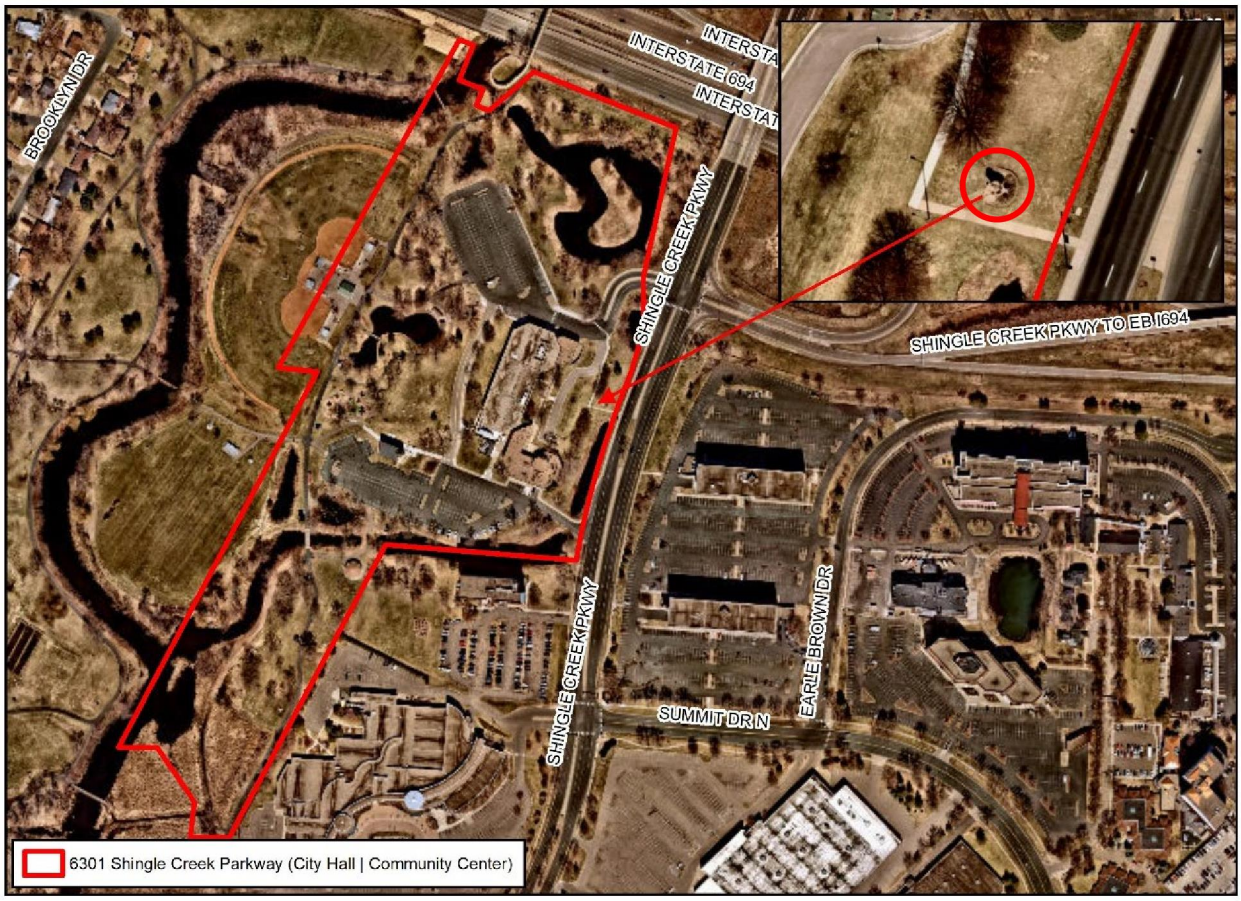
Due to the nature of the request, a public hearing is required. A public notice was published in the Brooklyn Center *Sun Post* on July 27, 2023 **(Exhibit B).** Properties located within the affected notification area were also mailed a notification of public hearing, and the notice was published to the City's website.

COMPREHENSIVE PLAN AND ZONING STANDARDS

2040 Future Land Use Plan:	Commercial Mixed-Use (C-MU)
Neighborhood:	Centennial
Current Zoning:	R1 (Low Density Residential) District
Surrounding Zoning:	North: Right-of-Way (I-694/94) East: MX-B (Business Mixed-Use) and MX-C (Commercial Mixed-Use) Districts

South: PUD/MX-C (Planned Unit Development/Commercial Mixed-Use) District
West: O (Public Open Space) District

Site Area: 27.66 acres total



Map 1. Existing Configuration of Subject Property (6301 Shingle Creek Parkway)

SIGN STANDARDS FOR FREESTANDING AND DMS SIGNGAGE (PUBLIC USES)



Image 1. Existing Illuminated Bulletin Board Sign—located along Shingle Creek Parkway (6301 Shingle Creek Parkway).

The submitted proposal for a Dynamic Message Sign (DMS) would be located in approximately the same location as the existing sign today, although approximately five (5) feet closer to Shingle Creek Parkway to accommodate potential future expansions to the City's community center (Image 1—Above). Site verification is necessary; however, it appears the existing sign is approximately 35 feet from the property line. For public uses, and as outlined under Section 35-6609.a (*Public Use Freestanding Signs*), one freestanding sign not to exceed 36 square feet in area and 10 feet in height is permitted in all Districts where public uses are permitted. An additional freestanding sign is permitted if the use abuts two or more streets. Properties entitled to an additional freestanding sign may erect an additional freestanding sign not to exceed 72 square feet in area and 15 feet in height.

Generally, no part of any freestanding sign shall project over or beyond the property line of the property where the sign is located and unless set back 10 feet from the street right-of-way line, the supporting column(s) of a freestanding sign in excess of 16 square feet shall not materially impede vision between a height of 2 ½ and 7 ½ feet above the centerline grade of the street. Freestanding signs located within the designated clear view triangle, as defined under Section 35-9200, shall have a minimum vertical clearance of 10 feet above the centerline grade of the intersecting streets.

Provisions to allow for Dynamic Messages Signage (DMS) and Public Uses appear to have been originally adopted by the City in 2013. Dynamic Message Signage (DMS) is permitted in any District where public uses are permitted in accordance with the provisions of the City Code and upon issuance of a conditional use permit. It should be noted that DMS signage is subject to certain conditions under Chapter 35-6611 (*Dynamic Message Signs*) of the City Code:

1) DMS are permitted on a freestanding sign aligned perpendicular to the adjacent arterial or collector street as specified in the City's Comprehensive Plan;
2) The message must remain constant for at least five seconds;
3) The sign may not remain blank for longer than one second in between message changes;
4) The area may not exceed an equivalent of 50% of each sign face area;
5) The sign shall be located no closer than 50 feet from any residential dwelling;
6) Signs within 500 feet of a residential dwelling that faces a residence shall display a static message between the hours of 9 p.m. and 7 a.m.;
7) The sign may not flash, blink, rotate, spin, contain full motion video, or create any other distraction to motorists;
8) If the sign malfunctions, it must automatically turn black;
9) Lighting intensity shall not exceed 5,000 nits in daytime and 500 nits at nighttime and as outlined within Table 35-6611(b), which outlines the DMS Sign Measurement Distance for Brightness; and
10) The sign must have dimming technology that automatically adjusts in brightness in direct correlation with ambient light conditions. Brightness shall not exceed 0.3 foot-candles above ambient light as measured from the preset distance depending on the sign size, and as indicated in the above-referenced table.

As proposed, the overall dimensions of the new sign are approximately 9 feet high by 9 feet wide (81 square feet); however, the designated sign area is approximately 9 feet by 7.66 feet (69 square feet). As proposed, the Dynamic Message portion of the sign (DMS) would be limited to an area of approximately 9 feet by 3 feet (27 square feet), which is below the maximum 50% sign area allocated for Dynamic Message. Both the proposed height, sign area, and DMS portion of the signage appears to meet the City's requirements with the interpretation that the Subject Property abuts two or more streets. Refer to Image 2 below.

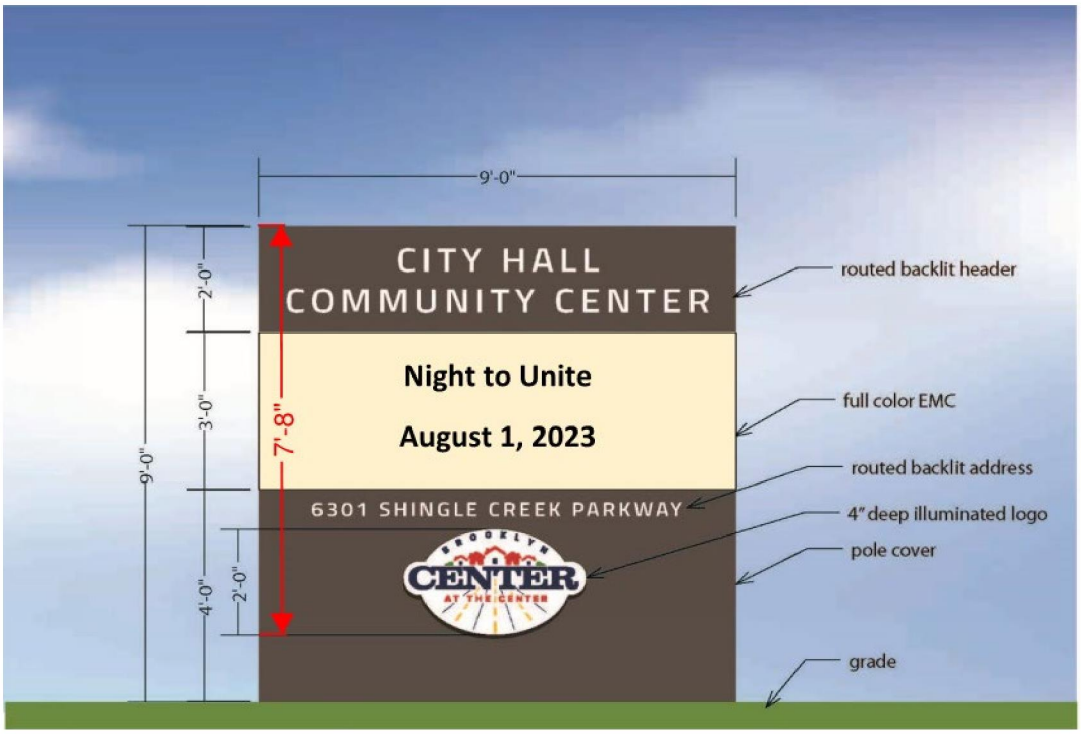


Image 2. Proposed Replacement Sign with Dynamic Message Component (6301 Shingle Creek Parkway).

CONDITIONAL USE PERMIT REVIEW

In addition to these specific sign standards, and pursuant to City Code Section 35-7703 (*Conditional Use Permit Criteria*), the following standards must be met in order to satisfy the issuance of a conditional use permit:

a. The conditional use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO;
b. The establishment, maintenance, or operation of the conditional use 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 conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish or impair property values within the neighborhood;
d. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
e. Adequate measures have been or will be taken to provide ingress, egress, and parking so designated as to minimize traffic congestion in the public streets;
f. Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses; and
g. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

The request for issuance of a conditional use permit for the proposed Dynamic Message Sign is part of a broader request by the City of Brooklyn Center ("the Applicant") to provide up-to-date community messaging and opportunities to reach the broader Brooklyn Center community, and is generally in accordance with the City's Unified Development Ordinance and signage provisions. The DMS

contemplated under this application is one of three total freestanding sign conversions the City of Brooklyn Center is seeking—the other locations being 6250 Brooklyn Boulevard (West Fire Station) and 6500 Dupont Avenue North (East Fire Station). As the existing sign is of older vintage, with limited opportunities for messaging, the proposed new sign will allow greater opportunities to keep the community informed as the Dynamic Message allows for numerous events and public information to be displayed as opposed to the existing bulletin board, which restricts the amount of information the City is able to display at any one time, and requires City staff to go out and manually insert text.

As the Subject Property containing City Hall and the Community Center alone is situated on approximately 27 acres of land, with over 40 acres of adjacent Centennial Park serving as a buffer from the single family residential neighborhoods to the west, Interstates 694/94 to the north, and multi-story office buildings (zoned Business-Mixed Use and Commercial Mixed-Use, respectively) to the east, City staff has minimal concerns regarding any potential negative impacts to surrounding property as long as the above noted regulations surrounding Dynamic Message are adhered to.

The nearest residential use is the Crest (6221 Shingle Creek Parkway), which is zoned Planned Unit Development/Commercial-Mixed Use (PUD/MX-C) District. With respect to the minimum distancing requirements for Dynamic Message Signs, the proposed replacement sign would be located over 500 feet from the northeast corner of the Crest I apartment building and is further screened with existing landscaping and the City Hall property.

In consideration of the additional standards in place for public use DMS, City Staff does not feel the proposed new DMS sign would be a detriment or safety risk to the general public welfare. Should there be issues with regard to brightness or the frequency of image changes via the DMS, these concerns or complaints would be addressed by City code enforcement, as is the case with all other issues that might arise with signage in the City.

APPROVAL CONDITIONS

City staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. PC2023-003 for issuance of a Conditional Use Permit for the proposed DMS sign located at 6301 Shingle Creek Parkway (the "Subject Property"):

1. The new Dynamic Messages Sign (DMS) shall comply with and meet all dimensional and illumination regulations and standards as set forth under Sections 35-6609 (*Public Uses—All Districts Where Public Uses Are Permitted)*, 35-6611 (*Dynamic Message Signs*), and 35-7700 (*Conditional Use Permits*)of the City Code of Brooklyn Center; and

2. No off-premise advertising is allowed by the DMS display.

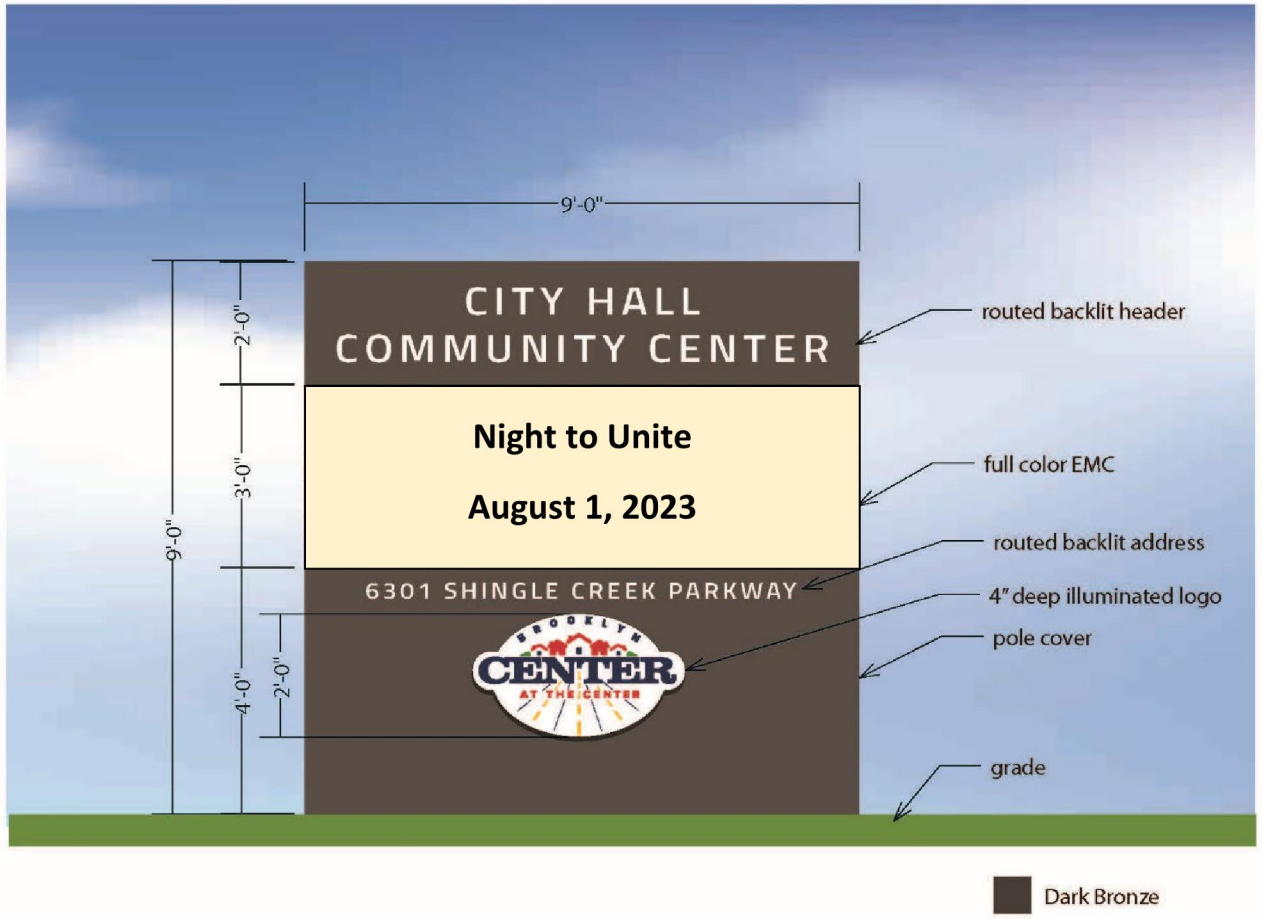
RECCOMENDATION

Based on the above-noted findings and conditions, City staff recommends:

The Planning Commission recommends City Council approval of the requested issuance of a Conditional Use Permit for a DMS sign for the Subject Property located at 6301 Shingle Creek Parkway, subject to the conditions as outlined above in the Approval Conditions and the associated resolution.

Attachments

Exhibit A – Planning Commission Application No. 2023-003 location map and sign rendering.
Exhibit B – Public Hearing Notice, dated July 27, 2023, as published in the Brooklyn Center *Sun Post*.



1 QTY INTERNALLY ILLUMINATED MONUMENT SIGN

LEROY SIGNS
6325 WELCOME AVE, N.
MINNEAPOLIS, MN 55429
Phone: 763-535-0080
ww.leroysigns.com

Customer
Brooklyn Center Fire

Location
Brooklyn Center, MN

Description
illuminated monument signage

Sales Person
Chris Clark

Date
04-20-2028

Scale
Scale: 3/8"=1'-0"

File / Rev
BCFFD_MS_V3C.ai

PRIMARY ELECTRICAL POWER TO SIGN TO BE BY OTHERS. ALL POWER TO BE 120 VOLT UNLESS OTHERWISE STATED

ELECTRICAL TO USE U.L. LISTED COMPONENTS AND SHALL MEET ALL N.E.C. STANDARDS

SIGN MUST BE GROUNDED IN COMPLIANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRIC CODE

IMPORTANT NOTICE:

This is a proprietary design of Leroy Signs, Inc., designed specifically for this project. It is illegal and unethical to distribute to any other entity for copy or use. This design cannot be used without the written consent of Leroy Signs, Inc.

CITY HALL SITE MAP



CITY OF BROOKLYN CENTER NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Planning Commission of the City of Brooklyn Center will hold an in-person public hearing on **Thursday, August 10, 2023**, at approximately 7:00 p.m. Meeting materials can be accessed by visiting the City of Brooklyn Center's website at: https://www.brooklyncentermn.gov/. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST: Issuance of Conditional Use Permits for new Dynamic Messaging Signage (DMS)

APPLICANT AND PROPERTY OWNER: City of Brooklyn Center

PROPERTY ADDRESS | PID: 6301 Shingle Creek Parkway (35-119-21-34-0003) | 6250 Brooklyn Boulevard (34-119-21-43-0066) | 6500 Dupont Avenue North (36-119-21-24-0037)

BRIEF STATEMENT OF CONTENTS OF PETITION(S): The Applicant is requesting review and consideration of proposals to replace existing signage with Dynamic Messaging Signage (DMS) at three City of Brooklyn Center-owned properties: (1) City Hall and the Community Center, (2) West Fire Station, and (3) East Fire Station.

Comments and questions may be forwarded to gmcintosh@brooklyncentermn.gov up until 4:30 pm on the day of the meeting, or by contacting Ginny McIntosh at (763) 569-3319. Your comments will be included in the record and addressed as part of the meeting. Alternatively, you may participate in the Planning Commission meeting via Webex at: logis.webex.com

Meeting Number (Access Code): 2632 820 7701
Password: BCPC08102023
By Phone: 1 (312) 535-8110
(Enter Access Code)

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at (763) 569-3300 to make arrangements.

Respectfully,
Ginny McIntosh
City Planner and Zoning Administrator

Published in the
Sun Post
July 27, 2023
1330264

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Community Development Director
BY: Ginny McIntosh, City Planner and Zoning Administrator

SUBJECT: Resolution Regarding Planning Commission Application No. 2023-004 Submitted by the City of Brooklyn Center for a Conditional Use Permit to Install a New Public Use Dynamic Messaging Sign (6250 Brooklyn Boulevard)

Requested Council Action:

- Motion to adopt a resolution approving Planning Commission Application No. 2023-004 for a Conditional Use Permit to install a new public use Dynamic Messaging Sign (DMS) at 6250 Brooklyn Boulevard, based upon the findings of fact and submitted plans, and as amended by the conditions of approval in the resolution.

Background:

The City of Brooklyn Center ("the Applicant") is requesting approval of a Conditional Use Permit (CUP) to allow for installation of a new Dynamic Messaging Sign (DMS). Pursuant to City Code Section 35-6611, "DMS, as defined in Section 35-9200, are permitted in any District where public uses are permitted in accordance with the provisions in this Section," and, "notwithstanding Section 35-4301, a conditional use permit is required for DMS." The property under consideration, 6250 Brooklyn Boulevard ("the Subject Property"), is the site of the City's West Fire Station and meets the definition of a "public use" as defined under Section 35-9200 of the City Code.

A public notice was published in the Brooklyn Center *Sun Post* on July 27, 2023, notification posted to the City's website, and notifications mailed to both residents and property owners located within 350 feet of the Subject Property.

As proposed, the existing monument sign, which only identifies the fire station and address, would be replaced with a new freestanding sign with Dynamic Messaging Sign (DMS) component in generally the same location as the existing sign. This proposed replacement is part of a broader request to replace this sign as well as two other City signs located at City Hall and the Community Center, and the East Fire Station, which are contemplated separately on the August 28, 2023 City Council agenda. The new signage would provide greater opportunities to provide up-to-date community messaging, as this is not possible with the existing sign.

The signage, as proposed, would generally meet the allowances for freestanding and DMS signage as outlined in Sections 35-6609 (*Public Use Freestanding Signs*) and 35-6611 (*Dynamic Messaging Signs*), which specifies such requirements as minimum distancing from residential dwellings, maximum DMS square foot allowances, in addition to minimum standards for message changes, and the provision of integrated dimming technology that automatically adjusts brightness dependent on ambient light

conditions. City staff also reviewed the request against the standards outlined for Conditional Use Permits under City Code Section 35-7703 which address potential impacts on neighboring uses.

The sign location was further reviewed for visibility concerns against the clear view triangle provisions as it would be located on a corner. Although the location appears to be outside the designated clear view triangle, site verification would be requested as part of any installation.

The Planning Commission ultimately held a public hearing for the aforementioned application at their meeting on August 10, 2023, and were generally supportive of the outlined request. City staff did not receive any public comments in advance of or at the scheduled public hearing. City staff were present at the meeting and in the role as "Applicant" to address any questions regarding the proposed sign.

The Commissioners, as with the other DMS signage proposals, addressed questions surrounding on-premises versus off-premises advertising of events and specifically called out the allowances for other organizations to utilize the City's DMS for their own events. City staff noted that off-premises advertising is not permitted under Chapter 35 of the City Code. Additional questions addressed minimum standards for DMS, including a provision that the sign cannot remain blank for longer than one (1) second in between message changes, and the messaging must remain constant for at least five (5) seconds, which is a change from the former code provisions which required a minimum of eight (8) seconds. Additional questions surrounding the "syncing" of messaging and overall control of the community messaging across the proposed DMS locations were also addressed.

Following close of the public hearing, the Planning Commission elected to unanimously (5-0) recommend City Council approval of the requested Conditional Use Permit for the proposed DMS sign, which would be located at 6250 Brooklyn Boulevard.

A copy of the Planning Commission Report for Planning Commission Application No. 2023-004, dated August 10, 2023 and City Council resolution regarding the aforementioned request is included with this memorandum.

Budget Issues:

None to consider at this time.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Customer Intimacy

ATTACHMENTS:

Description	Upload Date	Type
Resolution - CUP DMS for 6250 Brooklyn Blvd (08.28.2023)	8/21/2023	Resolution Letter
Staff Report and Exhibits - CUP DMS - 6250 Brooklyn Blvd (PC 08.10.2023)	8/21/2023	Backup Material

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2023-004 SUBMITTED BY THE CITY OF BROOKLYN CENTER FOR A CONDITIONAL USE PERMIT TO INSTALL A NEW PUBLIC USE DYNAMIC MESSAGING SIGN (6250 BROOKLYN BOULEVARD)

WHEREAS, Planning Commission Application No. 2023-004 was submitted by the City of Brooklyn Center ("the Applicant") for issuance of a conditional use permit to install a new Dynamic Messaging Sign (DMS) with a Public Use in the R1 (Low Density Residential) District and located at 6250 Brooklyn Boulevard ("the Subject Property"); and

WHEREAS, pursuant to City Code Section 35-6611, "DMS, as defined in Section 35-9200, are permitted in any District where public uses are permitted in accordance with the provisions in this Section" and, "notwithstanding Section 35-4301, a conditional use permit is required for DMS;" and

WHEREAS, the Applicant intends to replace the existing freestanding sign with the new Dynamic Messaging Sign (DMS) in approximately the same location; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota held a duly noticed and called public hearing on August 10, 2023, whereby a planning staff report was presented and public testimony regarding the conditional use permit request was received; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota considered the conditional use permit request in light of all testimony received, the guidelines and standards for evaluating a conditional use permit, and as outlined within Section 35-7703 (*Conditional Use Permits*) of the City's Unified Development Ordinance, and the request complies with the general goals and objectives of the City's 2040 Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota to recommend that Planning Commission Application No. 2023-004, submitted by the City of Brooklyn Center for a Dynamic Messaging Sign (DMS) at 6250 Brooklyn Boulevard, be approved based upon the following considerations:

a. The conditional use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO;
b. The establishment, maintenance, or operation of the conditional use 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 conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish or impair property values within the neighborhood;
d. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
e. Adequate measures have been or will be taken to provide ingress, egress, and parking so designated as to minimize traffic congestion in the public streets;
f. Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses; and
g. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

BE IT FURTHER RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, to recommend that Planning Commission Application No. 2023-004 be approved subject to the following conditions and considerations:

1. The new Dynamic Messaging Sign (DMS) shall comply with and meet all setback, dimensional, and illumination regulations and standards as set forth under Sections 35-7700 (*Conditional Use Permits*), 35-6200 (*Standards Applicable to All Signs*), 35-6609 (*Public Uses—All Districts Where Public Uses Are Permitted)*, and 35-6611 (*Dynamic Message Signs*) of the City Code of Brooklyn Center, including:

    a) DMS are permitted on a freestanding sign aligned perpendicular to the adjacent arterial or collector street as specified in the City's Comprehensive Plan;
    b) The message must remain constant for at least five seconds;
    c) The sign may not remain blank for longer than one second in between message changes;
    d) The area may not exceed an equivalent of 50% of each sign face area;
    e) The sign shall be located no closer than 50 feet from any residential dwelling;
    f) Signs within 500 feet of a residential dwelling that faces a residence shall display a static message between the hours of 9 p.m. and 7 a.m.;
    g) The sign may not flash, blink, rotate, spin, contain full motion video, or create any other distraction to motorists;
    h) If the sign malfunctions, it must automatically turn black;
    i) Lighting intensity shall not exceed 5,000 nits in daytime and 500 nits at nighttime and as outlined within Table 35-6611(b), which outlines the DMS Sign Measurement Distance for Brightness; and
    j) The sign must have dimming technology that automatically adjusts in brightness in direct correlation with ambient light conditions. Brightness shall not exceed 0.3 foot-candles above ambient light as measured from the preset distance depending on the sign size, and as indicated in the above-referenced table.

RESOLUTION NO.

2. No off-premise advertising is allowed by the DMS display.

August 28, 2023
Date

Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Planning Commission Report
Meeting Date: August 10, 2023

- Application Filed: 7/11/2023
- Review Period (60-day) Deadline: 09/09/2023
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No. 2023-004
Applicant: City of Brooklyn Center
Location: 6250 Brooklyn Boulevard, Brooklyn Center, MN 55429

Requests: Conditional Use Permit to replace existing freestanding (monument) sign with installation of a Dynamic Message Sign (DMS)

REQUESTED ACTION

The City of Brooklyn Center ("the Applicant") is requesting review and consideration for issuance of a conditional use permit to allow for the installation of a new Dynamic Message Sign (DMS). Said sign would replace an existing monument sign at the City of Brooklyn Center's West Fire Station, which is located at 6250 Brooklyn Boulevard ("the Subject Property"). **Refer to Exhibit A.**

Pursuant to City Code Section 35-6611, "DMS, as defined in Section 35-9200, are permitted in any District where public uses are permitted in accordance with the provisions in this Section. Notwithstanding Section 35-4301, a conditional use permit is required for DMS." The Subject Property is currently owned by the City of Brooklyn Center and operates as a "public use" per the definitions section of the City's signage provisions, as outlined within the Unified Development Ordinance. "Public Uses" include, but are not limited to: school districts, municipalities, counties, states, or other governmental units, and any religious institutions such as churches, chapels, temples, synagogues, and mosques.

Dynamic Message Signs (DMS), as defined under City Code, are electrical or electromechanical signs on which a message may be placed that can be changed remotely or on-site through hard wire or wireless communications.

Due to the nature of the request, a public hearing is required. A public notice was published in the Brooklyn Center *Sun Post* on July 27, 2023 **(Exhibit B).** Properties located within the affected notification area were also mailed a notification of public hearing, and the notice was published to the City's website.

COMPREHENSIVE PLAN AND ZONING STANDARDS

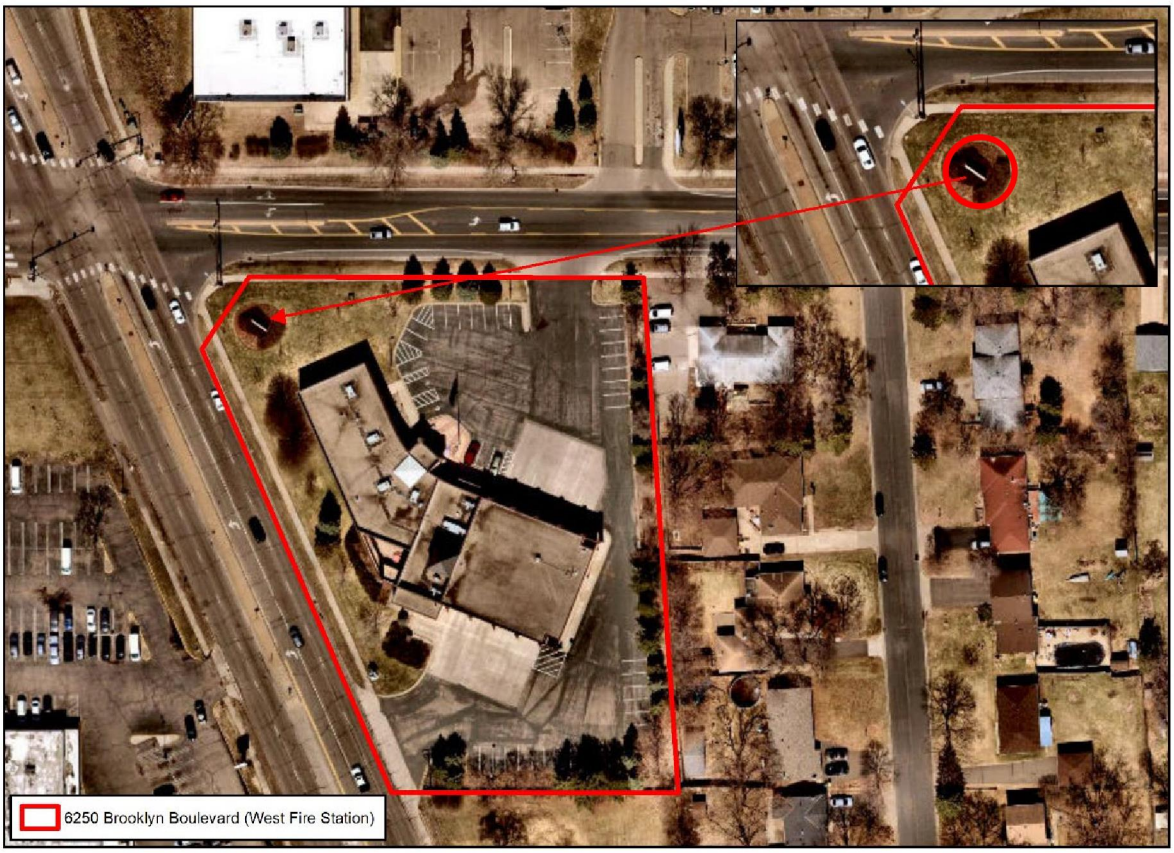
2040 Future Land Use Plan: PSP/Institutional (Public/Semi-Public and Institutional)

Neighborhood: Garden City

Current Zoning: R1 (Low Density Residential) District

Surrounding Zoning: North: PUD/C2 (Planned Unit Development/Commerce) District
East: R1 (Low Density Residential) District
South: MX-N2 (Neighborhood Mixed-Use) District
West: MX-N2 (Neighborhood Mixed-Use) District

Site Area: 2.16 acres total



Map 1. Existing Configuration of Subject Property (6250 Brooklyn Boulevard)

SIGN STANDARDS FOR FREESTANDING AND DMS SIGNGAGE (PUBLIC USES)



Image 1. Existing Freestanding Sign—located near the intersection of Brooklyn Boulevard and 63rd Avenue North.

As proposed, the existing freestanding sign would be replaced by the proposed Dynamic Message Sign (DMS). Given the existing berm and recent completion of the Phase II Brooklyn Boulevard reconstruction and modernization project, City staff reviewed the existing sign location for compliance with the clear view triangle provisions and it appears it is located just outside the defined 25-foot by 25-foot area as measured from the right-of-way line, which is to remain free from visual obstructions, and as outlined in

Section 35-9200 of the City Code. Site verification is necessary; however, it appears the existing sign is located approximately 15 feet from the nearest property line. For public uses, and as outlined under Section 35-6609.a (*Public Use Freestanding Signs*), one freestanding sign not to exceed 36 square feet in area and 10 feet in height is permitted in all Districts where public uses are permitted. An additional freestanding sign is permitted if the use abuts two or more streets. Properties entitled to an additional freestanding sign may erect an additional freestanding sign not to exceed 72 square feet in area and 15 feet in height.

Generally, no part of any freestanding sign shall project over or beyond the property line of the property where the sign is located and unless set back 10 feet from the street right-of-way line, the supporting column(s) of a freestanding sign in excess of 16 square feet shall not materially impede vision between a height of 2 ½ and 7 ½ feet above the centerline grade of the street. Freestanding signs located within the designated clear view triangle, as defined under Section 35-9200, shall have a minimum vertical clearance of 10 feet above the centerline grade of the intersecting streets.

Provisions to allow for Dynamic Message Signs (DMS) and Public Uses appear to have been originally adopted by the City in 2013. Dynamic Message Signs (DMS) are permitted in any District where Public Uses are permitted in accordance with the provisions of the City Code and upon issuance of a conditional use permit. It should be noted that DMS are subject to certain conditions under Chapter 35-6611 (*Dynamic Message Signs*) of the City Code:

1) DMS are permitted on a freestanding sign aligned perpendicular to the adjacent arterial or collector street as specified in the City's Comprehensive Plan;
2) The message must remain constant for at least five seconds;
3) The sign may not remain blank for longer than one second in between message changes;
4) The area may not exceed an equivalent of 50% of each sign face area;
5) The sign shall be located no closer than 50 feet from any residential dwelling;
6) Signs within 500 feet of a residential dwelling that faces a residence shall display a static message between the hours of 9 p.m. and 7 a.m.;
7) The sign may not flash, blink, rotate, spin, contain full motion video, or create any other distraction to motorists;
8) If the sign malfunctions, it must automatically turn black;
9) Lighting intensity shall not exceed 5,000 nits in daytime and 500 nits at nighttime and as outlined within Table 35-6611(b), which outlines the DMS Sign Measurement Distance for Brightness; and
10) The sign must have dimming technology that automatically adjusts in brightness in direct correlation with ambient light conditions. Brightness shall not exceed 0.3 foot-candles above ambient light as measured from the preset distance depending on the sign size, and as indicated in the above-referenced table.

As proposed, the overall dimensions of the new sign are approximately 9 feet high by 9 feet wide (81 square feet); however, the designated sign area is approximately 9 feet by 7.83 feet (70.5 square feet). As proposed, the Dynamic Message portion of the sign (DMS) would be limited to an area of approximately 9 feet by 3 feet (27 square feet), which is below the maximum 50% sign area allocated for Dynamic Message Signs. Both the proposed height, sign area, and DMS portion of the signage appears to meet the City's requirements with the interpretation that the Subject Property abuts two or more streets. Refer to Image 2 below.

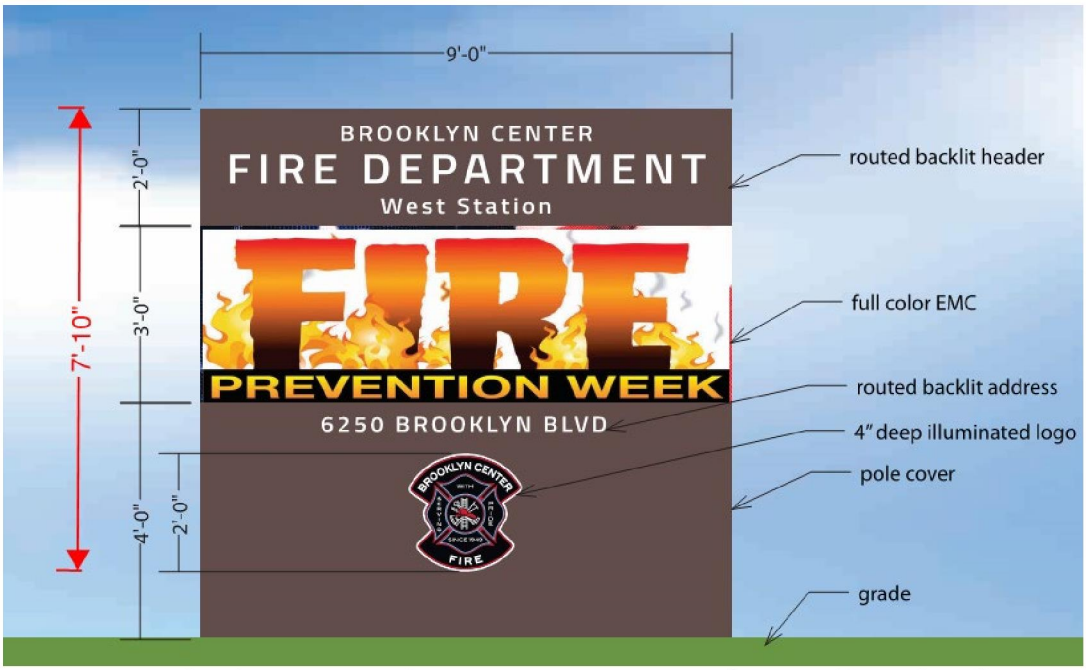


Image 2. Proposed Replacement Sign with Dynamic Message Component (6250 Brooklyn Boulevard).

CONDITIONAL USE PERMIT REVIEW

In addition to these specific sign standards, and pursuant to City Code Section 35-7703 (*Conditional Use Permit Criteria*), the following standards must be met in order to satisfy the issuance of a conditional use permit:

a. The conditional use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO;
b. The establishment, maintenance, or operation of the conditional use 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 conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish or impair property values within the neighborhood;
d. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
e. Adequate measures have been or will be taken to provide ingress, egress, and parking so designated as to minimize traffic congestion in the public streets;
f. Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses; and
g. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

The request for issuance of a conditional use permit for the proposed Dynamic Message Sign is part of a broader request by the City of Brooklyn Center ("the Applicant") to provide up-to-date community messaging and opportunities to reach the broader Brooklyn Center community, and is generally in accordance with the City's Unified Development Ordinance and signage provisions. The DMS contemplated under this application is one of three total monument sign conversions the City of Brooklyn

Center is seeking—the other locations being 6301 Shingle Creek Parkway (City Hall and Community Center) and 6500 Dupont Avenue North (East Fire Station). As the existing sign does not provide opportunities for messaging, the proposed new sign will allow greater opportunities to keep the community informed as the messaging capabilities allow for numerous events and public information to be displayed as opposed to the existing monument sign, which purely identifies the City of Brooklyn Center's West Fire Station along Brooklyn Boulevard.

The Subject Property containing the West Fire Station is situated on over two acres, and is located within a fully built out and highly trafficked area along Brooklyn Boulevard in Brooklyn Center. The Subject Property is in proximity to a strip mall (6215 Brooklyn Boulevard), situated to the west, and an Auto Zone (6300 Brooklyn Boulevard) and Sun Foods grocery store (6350 Brooklyn Boulevard) situated to the north. To the east lie low-density residential homes along 63rd Avenue North, and to the south are low-density residential homes that were recently re-zoned to MX-N2 (Neighborhood Mixed-Use) District. The property located directly south of the Subject Property (6234 Brooklyn Boulevard) is owned by the Economic Development Authority of the City of Brooklyn Center.

In reviewing the standards outlined under Section 35-6611, the nearest residential dwelling (3501 63rd Avenue North) is approximately 300 feet from the existing sign area when measured to the western edge of the residence, and assuming the current sign orientation is kept, would ***not*** face the residence.

In consideration of the additional standards in place for public use DMS, City Staff does not feel the proposed new DMS sign would be a detriment or safety risk to the general public welfare. Should there be issues with regard to brightness or the frequency of image changes via the DMS, these concerns or complaints would be addressed by City code enforcement, as is the case with all other issues that might arise with signage in the City.

APPROVAL CONDITIONS

City staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. PC2023-004 for issuance of a Conditional Use Permit for the proposed DMS sign located at 6250 Brooklyn Boulevard (the "Subject Property"):

1. The new Dynamic Messages Sign (DMS) shall comply with and meet all dimensional and illumination regulations and standards as set forth under Sections 35-6609 (*Public Uses—All Districts Where Public Uses Are Permitted)*, 35-6611 (*Dynamic Message Signs*), and 35-7700 (*Conditional Use Permits*)of the City Code of Brooklyn Center; and

2. No off-premise advertising is allowed by the DMS display.

RECOMMENDATION

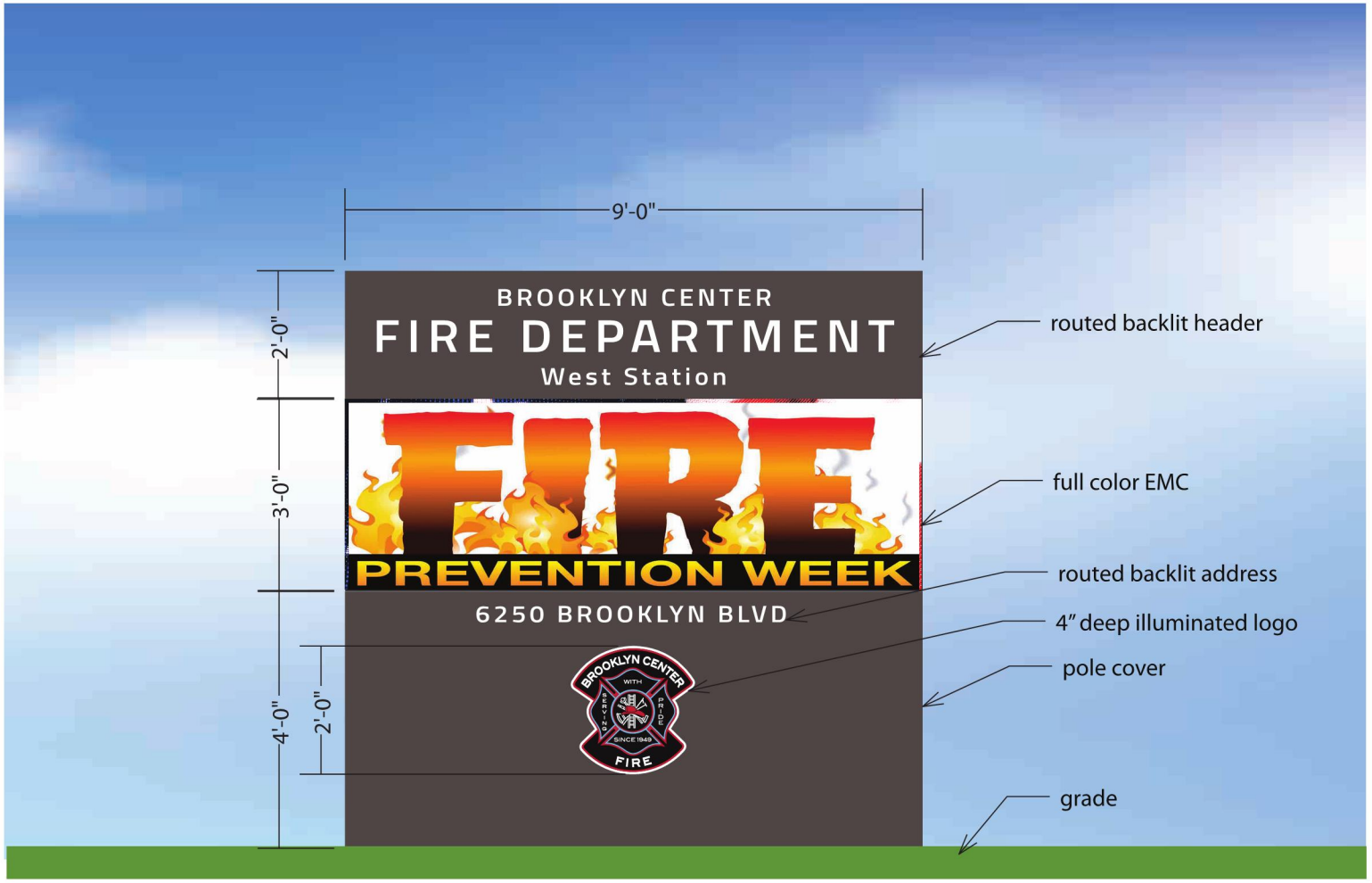
Based on the above-noted findings and conditions, City staff recommends:

The Planning Commission recommends City Council approval of the requested issuance of a Conditional Use Permit for a DMS sign for the Subject Property located at 6250 Brooklyn Boulevard, subject to the conditions as outlined above in the Approval Conditions and the associated resolution.

Attachments

Exhibit A – Planning Commission Application No. 2023-004 location map and sign rendering.
Exhibit B – Public Hearing Notice, dated July 27, 2023, as published in the Brooklyn Center *Sun Post*.

Exhibit A



1 QTY INTERNALLY ILLUMINATED MONUMENT SIGN

LEROY SIGNS
6325 WELCOME AVE, N.
MINNEAPOLIS, MN 55429
Phone: 763-535-0080
ww.leroysigns.com

Customer

Brooklyn Center Fire

Location

Brooklyn Center, MN

Description

illuminated monument signage

Sales Person

Chris Clark

Date

03-28-2028

Scale

Scale: 3/8"=1'-0"

File / Rev

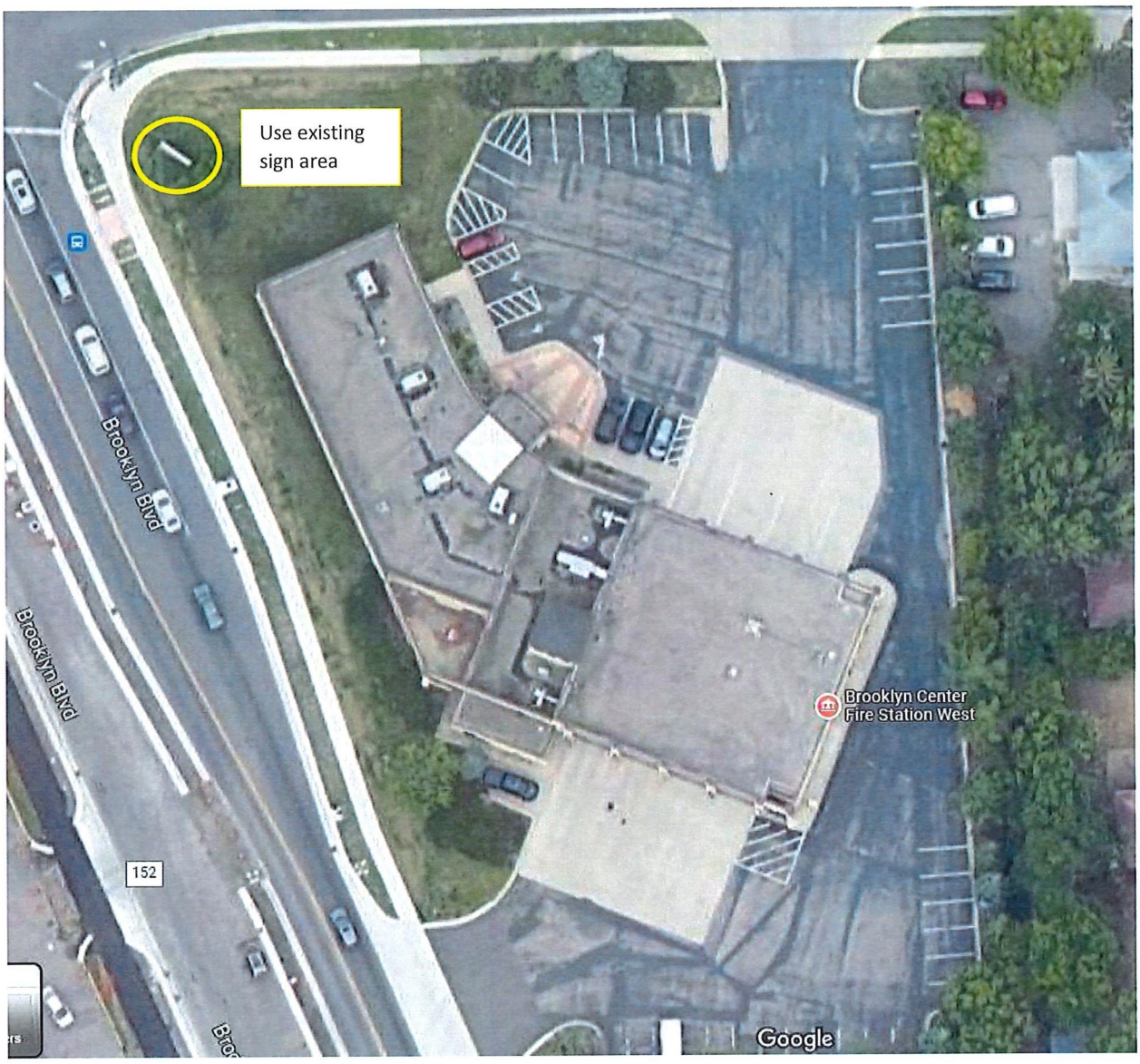
BCFFD_MS_V1A.ai

PRIMARY ELECTRICAL POWER TO SIGN TO BE BY OTHERS. ALL POWER TO BE 120 VOLT UNLESS OTHERWISE STATED

ELECTRICAL TO USE U.L. LISTED COMPONENTS AND SHALL MEET ALL N.E.C. STANDARDS

SIGN MUST BE GROUNDED IN COMPLIANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRIC CODE

WEST FIRE STATION SITE MAP



CITY OF BROOKLYN CENTER NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Planning Commission of the City of Brooklyn Center will hold an in-person public hearing on **Thursday, August 10, 2023**, at approximately 7:00 p.m. Meeting materials can be accessed by visiting the City of Brooklyn Center's website at: https://www.brooklyncentermn.gov/. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST: Issuance of Conditional Use Permits for new Dynamic Messaging Signage (DMS)

APPLICANT AND PROPERTY OWNER: City of Brooklyn Center

PROPERTY ADDRESS | PID: 6301 Shingle Creek Parkway (35-119-21-34-0003) | 6250 Brooklyn Boulevard (34-119-21-43-0066) | 6500 Dupont Avenue North (36-119-21-24-0037)

BRIEF STATEMENT OF CONTENTS OF PETITION(S): The Applicant is requesting review and consideration of proposals to replace existing signage with Dynamic Messaging Signage (DMS) at three City of Brooklyn Center-owned properties: (1) City Hall and the Community Center, (2) West Fire Station, and (3) East Fire Station.

Comments and questions may be forwarded to gmcintosh@brooklyncentermn.gov up until 4:30 pm on the day of the meeting, or by contacting Ginny McIntosh at (763) 569-3319. Your comments will be included in the record and addressed as part of the meeting. Alternatively, you may participate in the Planning Commission meeting via Webex at: logis.webex.com

Meeting Number (Access Code): 2632 820 7701
Password: BCPC08102023
By Phone: 1 (312) 535-8110
(Enter Access Code)

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at (763) 569-3300 to make arrangements.

Respectfully,
Ginny McIntosh
City Planner and Zoning Administrator

Published in the
Sun Post
July 27, 2023
1330264

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Community Development Director
BY: Ginny McIntosh, City Planner and Zoning Administrator

SUBJECT: Resolution Regarding Planning Commission Application No. 2023-005 Submitted by the City of Brooklyn Center for a Conditional Use Permit to Install a New Public Use Dynamic Messaging Sign (6500 Dupont Avenue North)

Requested Council Action:

- Motion to adopt a resolution approving Planning Commission Application No. 2023-005 for a Conditional Use Permit to install a new public use Dynamic Messaging Sign (DMS) at 6500 Dupont Avenue North, based upon the findings of fact and submitted plans, and as amended by the conditions of approval in the resolution.

Background:

The City of Brooklyn Center ("the Applicant") is requesting approval of a Conditional Use Permit (CUP) to allow for installation of a new Dynamic Messaging Sign (DMS). Pursuant to City Code Section 35-6611, "DMS, as defined in Section 35-9200, are permitted in any District where public uses are permitted in accordance with the provisions in this Section," and, "notwithstanding Section 35-4301, a conditional use permit is required for DMS." The property under consideration, 6500 Dupont Avenue North ("the Subject Property"), is the site of the City's East Fire Station and meets the definition of a "public use" as defined under Section 35-9200 of the City Code.

A public notice was published in the Brooklyn Center *Sun Post* on July 27, 2023, notification posted to the City's website, and notifications mailed to both residents and property owners located within 350 feet of the Subject Property.

As proposed, the existing monument sign, which only identifies the fire station and address, would be replaced with a new freestanding sign with Dynamic Messaging Sign (DMS) component in generally the same location as the existing sign. This proposed replacement is part of a broader request to replace this sign as well as two other City signs located at City Hall and the Community Center, and the West Fire Station, which are contemplated separately on the August 28, 2023 City Council agenda. The new signage would provide greater opportunities to provide up-to-date community messaging, as this is not possible with the existing sign.

The signage, as proposed, would generally meet the allowances for freestanding and DMS signage as outlined in Sections 35-6609 (*Public Use Freestanding Signs*) and 35-6611 (*Dynamic Messaging Signs*), which specifies such requirements as minimum distancing from residential dwellings, maximum DMS square foot allowances, in addition to minimum standards for message changes, and the provision of integrated dimming technology that automatically adjusts brightness dependent on ambient light

conditions. City staff also reviewed the request against the standards outlined for Conditional Use Permits under City Code Section 35-7703 which address potential impacts on neighboring uses.

The sign location was further reviewed for visibility concerns against the clear view triangle provisions as it would be located on a corner. Although the location appears to be outside the designated clear view triangle, site verification would be requested as part of any installation. In reviewing the standards outlined for DMS under Section 35-6611, it was determined that the nearest residential dwelling is located approximately 122 feet from the existing sign area. If the orientation of the sign is kept, the DMS component would need to switch to static messaging between the hours of 9 p.m. and 7 a.m. to meet requirements for DMS facing a residence located within 500 feet.

The Planning Commission ultimately held a public hearing for the aforementioned application at their meeting on August 10, 2023, and were generally supportive of the outlined request. City staff did not receive any public comments in advance of or at the scheduled public hearing. City staff were present at the meeting and in the role as "Applicant" to address any questions regarding the proposed sign.

The Commissioners, as with the other DMS signage proposals, addressed questions surrounding on-premises versus off-premises advertising of events and specifically called out the allowances for other organizations to utilize the City's DMS for their own events. City staff noted that off-premises advertising is not permitted under Chapter 35 of the City Code. Additional questions addressed minimum standards for DMS, including a provision that the sign cannot remain blank for longer than one (1) second in between message changes, and the messaging must remain constant for at least five (5) seconds, which is a change from the former code provisions which required a minimum of eight (8) seconds. Additional questions surrounding the "syncing" of messaging and overall control of the community messaging across the proposed DMS locations were also addressed.

Following close of the public hearing, the Planning Commission elected to unanimously (5-0) recommend City Council approval of the requested Conditional Use Permit for the proposed DMS sign, which would be located at 6500 Dupont Avenue North.

A copy of the Planning Commission Report for Planning Commission Application No. 2023-005, dated August 10, 2023 and City Council resolution regarding the aforementioned request is included with this memorandum.

Budget Issues:

None to consider at this time.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Customer Intimacy

ATTACHMENTS:

Description	Upload Date	Type
Resolution - CUP DMS for 6500 Dupont Ave N (08.28.2023)	8/21/2023	Resolution Letter

Staff Report and Exhibits - CUP DMS - 6500 Dupont Ave N (08.28.2023)	8/21/2023	Backup Material

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2023-005 SUBMITTED BY THE CITY OF BROOKLYN CENTER FOR A CONDITIONAL USE PERMIT TO INSTALL A NEW PUBLIC USE DYNAMIC MESSAGING SIGN (6500 DUPONT AVENUE NORTH)

WHEREAS, Planning Commission Application No. 2023-005 was submitted by the City of Brooklyn Center ("the Applicant") for issuance of a conditional use permit to install a new Dynamic Messaging Sign (DMS) with a Public Use in the R1 (Low Density Residential) District and located at 6500 Dupont Avenue North ("the Subject Property"); and

WHEREAS, pursuant to City Code Section 35-6611, "DMS, as defined in Section 35-9200, are permitted in any District where public uses are permitted in accordance with the provisions in this Section" and, "notwithstanding Section 35-4301, a conditional use permit is required for DMS;" and

WHEREAS, the Applicant intends to replace the existing freestanding sign with the new Dynamic Messaging Sign (DMS) in approximately the same location; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota held a duly noticed and called public hearing on August 10, 2023, whereby a planning staff report was presented and public testimony regarding the conditional use permit request was received; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota considered the conditional use permit request in light of all testimony received, the guidelines and standards for evaluating a conditional use permit, and as outlined within Section 35-7703 (*Conditional Use Permits*) of the City's Unified Development Ordinance, and the request complies with the general goals and objectives of the City's 2040 Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota to recommend that Planning Commission Application No. 2023-005, submitted by the City of Brooklyn Center for a Dynamic Messaging Sign (DMS) at 6500 Dupont Avenue North, be approved based upon the following considerations:

a. The conditional use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO;
b. The establishment, maintenance, or operation of the conditional use 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 conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish or impair property values within the neighborhood;
d. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
e. Adequate measures have been or will be taken to provide ingress, egress, and parking so designated as to minimize traffic congestion in the public streets;
f. Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses; and
g. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

BE IT FURTHER RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, to recommend that Planning Commission Application No. 2023-005 be approved subject to the following conditions and considerations:

1. The new Dynamic Messaging Sign (DMS) shall comply with and meet all setback, dimensional, and illumination regulations and standards as set forth under Sections 35-7700 (*Conditional Use Permits*), 35-6200 (*Standards Applicable to All Signs*), 35-6609 (*Public Uses—All Districts Where Public Uses Are Permitted)*, and 35-6611 (*Dynamic Message Signs*) of the City Code of Brooklyn Center, including:

    a) DMS are permitted on a freestanding sign aligned perpendicular to the adjacent arterial or collector street as specified in the City's Comprehensive Plan;
    b) The message must remain constant for at least five seconds;
    c) The sign may not remain blank for longer than one second in between message changes;
    d) The area may not exceed an equivalent of 50% of each sign face area;
    e) The sign shall be located no closer than 50 feet from any residential dwelling;
    f) Signs within 500 feet of a residential dwelling that faces a residence shall display a static message between the hours of 9 p.m. and 7 a.m.;
    g) The sign may not flash, blink, rotate, spin, contain full motion video, or create any other distraction to motorists;
    h) If the sign malfunctions, it must automatically turn black;
    i) Lighting intensity shall not exceed 5,000 nits in daytime and 500 nits at nighttime and as outlined within Table 35-6611(b), which outlines the DMS Sign Measurement Distance for Brightness; and
    j) The sign must have dimming technology that automatically adjusts in brightness in direct correlation with ambient light conditions. Brightness shall not exceed 0.3 foot-candles above ambient light as measured from the preset distance depending on the sign size, and as indicated in the above-referenced table.

RESOLUTION NO.

2. No off-premise advertising is allowed by the DMS display.

August 28, 2023
Date

Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Planning Commission Report
Meeting Date: August 10, 2023

- Application Filed: 7/11/2023
- Review Period (60-day) Deadline: 09/09/2023
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No. 2023-005
Applicant: City of Brooklyn Center
Location: 6500 Dupont Avenue North, Brooklyn Center, MN 55430

Requests: Conditional Use Permit to replace existing freestanding (monument) sign with installation of a Dynamic Message Sign (DMS)

REQUESTED ACTION

The City of Brooklyn Center ("the Applicant") is requesting review and consideration for issuance of a conditional use permit to allow for the installation of a new Dynamic Message Sign (DMS). Said sign would replace an existing monument sign at the City of Brooklyn Center's East Fire Station, which is located at 6500 Dupont Avenue North ("the Subject Property"). **Refer to Exhibit A.**

Pursuant to City Code Section 35-6611, "DMS, as defined in Section 35-9200, are permitted in any District where public uses are permitted in accordance with the provisions in this Section. Notwithstanding Section 35-4301, a conditional use permit is required for DMS." The Subject Property is currently owned by the City of Brooklyn Center and operates as a "Public Use" per the definitions section of the City's signage provisions, as outlined within the Unified Development Ordinance. "Public Uses" include, but are not limited to: school districts, municipalities, counties, states, or other governmental units, and any religious institutions such as churches, chapels, temples, synagogues, and mosques.

Dynamic Message Signs (DMS), as defined under City Code, are electrical or electromechanical signs on which a message may be placed that can be changed remotely or on-site through hard wire or wireless communications.

Due to the nature of the request, a public hearing is required. A public notice was published in the Brooklyn Center *Sun Post* on July 27, 2023 **(Exhibit B).** Properties located within the affected notification area were also mailed a notification of public hearing, and the notice was published to the City's website.

COMPREHENSIVE PLAN AND ZONING STANDARDS

2040 Future Land Use Plan: Parks, Recreation, Open Space

Neighborhood: Firehouse

Current Zoning: R1 (Low Density Residential) District

Surrounding Zoning: North: R1 (Low Density Residential) District
East: O (Public Open Space) District
South: R1 (Low Density Residential) District
West: R1 (Low Density Residential) District

Site Area: 3.74 acres total



Map 1. Existing Configuration of Subject Property (6500 Dupont Avenue North).

SIGN STANDARDS FOR FREESTANDING AND DMS SIGNGAGE (PUBLIC USES)



Image 1. Existing Freestanding Sign—located near the intersection of Dupont Avenue North and 65th Avenue North.

As proposed, the existing freestanding sign would be replaced by the proposed Dynamic Message Sign (DMS). Given the existing berm, City staff reviewed the existing sign location for compliance with the clear view triangle provisions and it appears it is located outside the defined 25-foot by 25-foot area as measured from the right-of-way line, which is to remain free from visual obstructions, and as outlined in

Section 35-9200 of the City Code. Site verification is necessary; however, it appears the existing sign is located approximately 13 feet from the nearest property line. For public uses, and as outlined under Section 35-6609.a (*Public Use Freestanding Signs*), one freestanding sign not to exceed 36 square feet in area and 10 feet in height is permitted in all Districts where public uses are permitted. An additional freestanding sign is permitted if the use abuts two or more streets. Properties entitled to an additional freestanding sign may erect an additional freestanding sign not to exceed 72 square feet in area and 15 feet in height.

Generally, no part of any freestanding sign shall project over or beyond the property line of the property where the sign is located and unless set back 10 feet from the street right-of-way line, the supporting column(s) of a freestanding sign in excess of 16 square feet shall not materially impede vision between a height of 2 ½ and 7 ½ feet above the centerline grade of the street. Freestanding signs located within the designated clear view triangle, as defined under Section 35-9200, shall have a minimum vertical clearance of 10 feet above the centerline grade of the intersecting streets.

Provisions to allow for Dynamic Message Signs (DMS) and Public Uses appear to have been originally adopted by the City in 2013. Dynamic Message Signs (DMS) are permitted in any District where Public Uses are permitted in accordance with the provisions of the City Code and upon issuance of a conditional use permit. It should be noted that DMS are subject to certain conditions under Chapter 35-6611 (*Dynamic Message Signs*) of the City Code:

1) DMS are permitted on a freestanding sign aligned perpendicular to the adjacent arterial or collector street as specified in the City's Comprehensive Plan;
2) The message must remain constant for at least five seconds;
3) The sign may not remain blank for longer than one second in between message changes;
4) The area may not exceed an equivalent of 50% of each sign face area;
5) The sign shall be located no closer than 50 feet from any residential dwelling;
6) Signs within 500 feet of a residential dwelling that faces a residence shall display a static message between the hours of 9 p.m. and 7 a.m.;
7) The sign may not flash, blink, rotate, spin, contain full motion video, or create any other distraction to motorists;
8) If the sign malfunctions, it must automatically turn black;
9) Lighting intensity shall not exceed 5,000 nits in daytime and 500 nits at nighttime and as outlined within Table 35-6611(b), which outlines the DMS Sign Measurement Distance for Brightness; and
10) The sign must have dimming technology that automatically adjusts in brightness in direct correlation with ambient light conditions. Brightness shall not exceed 0.3 foot-candles above ambient light as measured from the preset distance depending on the sign size, and as indicated in the above-referenced table.

As proposed, the overall dimensions of the new sign are approximately 9 feet high by 9 feet wide (81 square feet); however, the designated sign area is approximately 9 feet by 7.75 feet (69.75 square feet). As proposed, the Dynamic Message portion of the sign (DMS) would be limited to an area of approximately 9 feet by 3 feet (27 square feet), which is below the maximum 50% sign area allocated for Dynamic Message Signs. Both the proposed height, sign area, and DMS portion of the signage appears to meet the City's requirements with the interpretation that the Subject Property abuts two or more streets. Refer to Image 2 below.



Image 2. Proposed Replacement Sign with Dynamic Message Component (6500 Dupont Avenue North).

CONDITIONAL USE PERMIT REVIEW

In addition to these specific sign standards, and pursuant to City Code Section 35-7703 (*Conditional Use Permit Criteria*), the following standards must be met in order to satisfy the issuance of a conditional use permit:

a. The conditional use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO;
b. The establishment, maintenance, or operation of the conditional use 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 conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish or impair property values within the neighborhood;
d. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
e. Adequate measures have been or will be taken to provide ingress, egress, and parking so designated as to minimize traffic congestion in the public streets;
f. Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses; and
g. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

The request for issuance of a conditional use permit for the proposed Dynamic Message Sign is part of a broader request by the City of Brooklyn Center ("the Applicant") to provide up-to-date community messaging and opportunities to reach the broader Brooklyn Center community, and is generally in accordance with the City's Unified Development Ordinance and signage provisions. The DMS

contemplated under this application is one of three total freestanding sign conversions the City of Brooklyn Center is seeking—the other locations being 6301 Shingle Creek Parkway (City Hall and Community Center) and 6250 Brooklyn Boulevard (West Fire Station). As the existing sign does not provide opportunities for messaging, the proposed new sign will allow greater opportunities to keep the community informed as the messaging capabilities allow for numerous events and public information to be displayed as opposed to the existing monument sign, which purely identifies the City of Brooklyn Center's East Fire Station located along Dupont Avenue North.

The Subject Property containing the East Fire Station is situated on almost four acres, and is partially comprised of the City's Firehouse Park (i.e. parking lot, baseball field). An additional 4.25 acres to the east of the Subject Property makes up the remainder of what is known as Firehouse Park. The areas to the north and south are comprised primarily of low-density residential homes, and the area to the west is home to Brooklyn Center Middle and High School, located at 6500 Humboldt Avenue North. A long-standing facility building for CenturyLink (Lumen), and formerly Northwestern Bell Telephone Company, is located kitty-corner from the Subject Property and sign area.

In reviewing the standards outlined under Section 35-6611, the nearest residential dwelling (1007 65th Avenue North) is approximately 122 feet from the existing sign area when measured to the northwestern edge of the residence. The new sign would be installed in the same general sign area—assuming the orientation is maintained, and given that the sign area is located within 500 feet of a residence, the Applicant will need to ensure a static message is displayed between the hours of 9 p.m. and 7 a.m., and as outlined in the above-referenced Section 35-6611.

In consideration of the additional standards in place for public use DMS, City Staff does not feel the proposed new DMS sign would be a detriment or safety risk to the general public welfare, provided consideration is made for the residential properties to the south and adherence to the DMS regulations is maintained. Should there be issues with regard to brightness or the frequency of image changes via the DMS, these concerns or complaints would be addressed by City code enforcement, as is the case with all other issues that might arise with signage in the City.

APPROVAL CONDITIONS

City staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. PC2023-005 for issuance of a Conditional Use Permit for the proposed DMS sign located at 6500 Dupont Avenue North (the "Subject Property"):

1. The new Dynamic Messages Sign (DMS) shall comply with and meet all dimensional and illumination regulations and standards as set forth under Sections 35-6609 (*Public Uses—All Districts Where Public Uses Are Permitted)*, 35-6611 (*Dynamic Message Signs*), and 35-7700 (*Conditional Use Permits*)of the City Code of Brooklyn Center; and

2. No off-premise advertising is allowed by the DMS display.

RECOMMENDATION

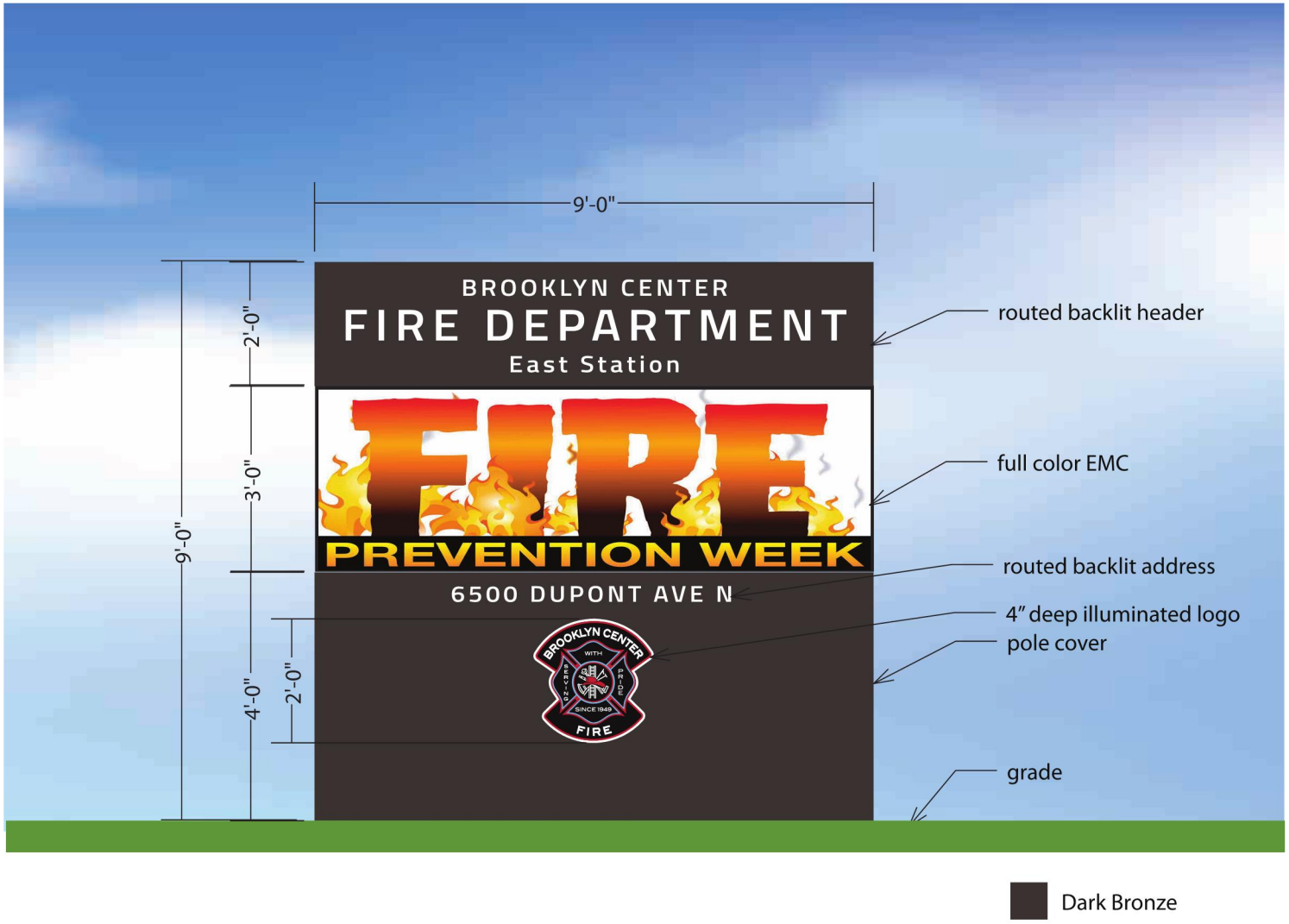
Based on the above-noted findings and conditions, City staff recommends:

The Planning Commission recommends City Council approval of the requested issuance of a Conditional Use Permit for a DMS sign for the Subject Property located at 6500 Dupont Avenue North, subject to the conditions as outlined above in the Approval Conditions and the associated resolution.

Attachments

Exhibit A – Planning Commission Application No. 2023-005 location map and sign rendering.
Exhibit B – Public Hearing Notice, dated July 27, 2023, as published in the Brooklyn Center *Sun Post*.

Exhibit A



1 QTY INTERNALLY ILLUMINATED MONUMENT SIGN

LEROY SIGNS
6325 WELCOME AVE, N.
MINNEAPOLIS, MN 55429
Phone: 763-535-0080
ww.leroysigns.com

Customer

Brooklyn Center Fire

Location

Brooklyn Center, MN

Description

illuminated monument signage

Sales Person

Chris Clark

Date

04-14-2028

Scale

Scale: 3/8"=1'-0"

File / Rev

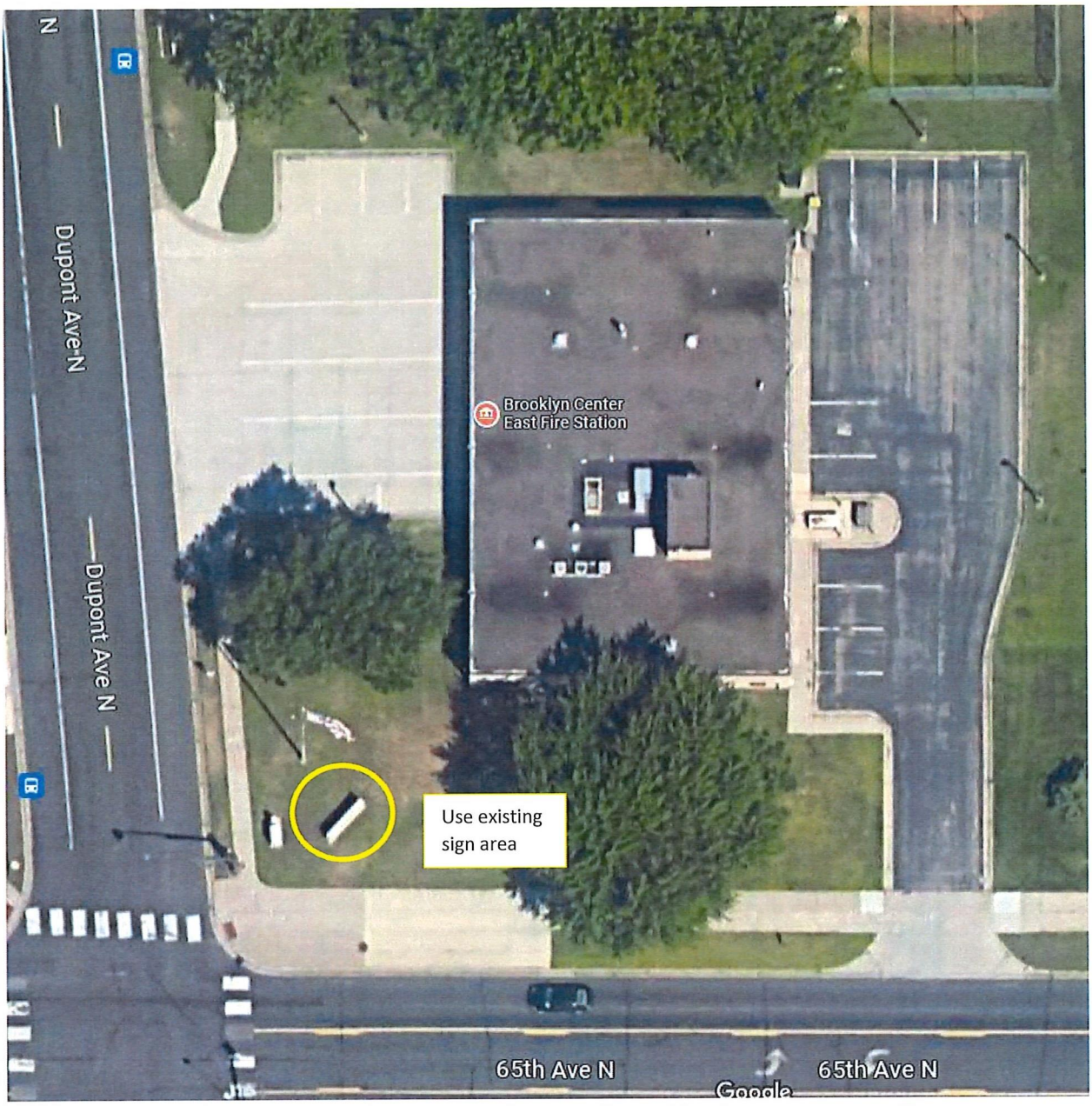
BCFFD_MS_V2B.ai

PRIMARY ELECTRICAL POWER TO SIGN TO BE BY OTHERS. ALL POWER TO BE 120 VOLT UNLESS OTHERWISE STATED

ELECTRICAL TO USE U.L. LISTED COMPONENTS AND SHALL MEET ALL N.E.C. STANDARDS

SIGN MUST BE GROUNDED IN COMPLIANCE WITH ARTICLE 600 OF THE NATIONAL ELECTRIC CODE

EAST FIRE STATION SITE MAP



CITY OF BROOKLYN CENTER NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Planning Commission of the City of Brooklyn Center will hold an in-person public hearing on **Thursday, August 10, 2023**, at approximately 7:00 p.m. Meeting materials can be accessed by visiting the City of Brooklyn Center's website at: https://www.brooklyncentermn.gov/. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST: Issuance of Conditional Use Permits for new Dynamic Messaging Signage (DMS)

APPLICANT AND PROPERTY OWNER: City of Brooklyn Center

PROPERTY ADDRESS | PID: 6301 Shingle Creek Parkway (35-119-21-34-0003) | 6250 Brooklyn Boulevard (34-119-21-43-0066) | 6500 Dupont Avenue North (36-119-21-24-0037)

BRIEF STATEMENT OF CONTENTS OF PETITION(S): The Applicant is requesting review and consideration of proposals to replace existing signage with Dynamic Messaging Signage (DMS) at three City of Brooklyn Center-owned properties: (1) City Hall and the Community Center, (2) West Fire Station, and (3) East Fire Station.

Comments and questions may be forwarded to gmcintosh@brooklyncentermn.gov up until 4:30 pm on the day of the meeting, or by contacting Ginny McIntosh at (763) 569-3319. Your comments will be included in the record and addressed as part of the meeting. Alternatively, you may participate in the Planning Commission meeting via Webex at: logis.webex.com

Meeting Number (Access Code): 2632 820 7701
Password: BCPC08102023
By Phone: 1 (312) 535-8110
(Enter Access Code)

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at (763) 569-3300 to make arrangements.

Respectfully,
Ginny McIntosh
City Planner and Zoning Administrator

Published in the
Sun Post
July 27, 2023
1330264

Kennedy & Graven
CHARTERED

Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402

(612) 337-9300 telephone
(612) 337-9310 fax
http://www.kennedy-graven.com
Affirmative Action, Equal Opportunity Employer

MEMORANDUM

DATE: August 8, 2023

TO: Brooklyn Center City Council
Dr. Reginald Edwards, City Manager
Barbara Suciu, Assistance City Manager/City Clerk

FROM: Jason M. Hill, City Attorney

RE: Edible Cannabinoid Licensing Ordinance

In follow-up to the City Council's recent work session discussion, the purpose of this memorandum is to provide a draft of an ordinance creating a licensing framework related to the sale of edible cannabinoid products ("THC Edibles) until licensing and regulation of hemp products occurs at the state level.

The attached licensing ordinance does the following:

- Requires a business to obtain a city-issued license prior to offering edible cannabinoids for sale.

- Establishes one licensing period effective from the date of issuance until March 1, 2025, or until the state issues a license for the sale of lower-potency hemp edibles, whichever occurs first.

- Exempts edible cannabinoid products that only contain cannabinoil ("CBD") from the license requirement.

- On-site consumption may only occur at businesses licensed for on-sale liquor consumption.

- The business cannot be within 500 feet of a "Youth Oriented Facility", which is defined as "a public or private elementary, middle, or high school, a state-licensed child or day care program with more than ten children, and any City park."

The proposed ordinance is largely modeled after the City's tobacco licensing ordinance.

If the City Council desires, it could consider the following alternatives:

- Allowing licenses only for exclusive liquor stores and tobacco shops.
- Amend the distance restrictions.

JMH

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of _____, 2023, at 7:00 p.m. or as soon thereafter as the matter may be heard during the a City Council meeting at City Hall, 6301 Shingle Creek Parkway to consider an ordinance amending Chapter 23 of the City Code regarding the licensing of the sale of edible cannabinoid products within the City of Brooklyn Center. Meeting materials can be accessed by visiting the City of Brooklyn Center's website at: https://www.ci.brooklyn-center.mn.us/. A definite time for this ordinance to be considered cannot be given as it will depend on the progression of the agenda items.

Auxiliary aids for handicapped persons are available upon request at least 96 hours in advance. Please notify the City Clerk at 763-569-3306 to make arrangements.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 23 OF THE BROOKLYN CENTER CITY CODE REGARDING THE LICENSING OF THE SALE OF EDIBLE CANNABINOID PRODUCTS WITHIN THE CITY

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

Section 1. Brooklyn Center City Code, Chapter 23 Table of Contents, is hereby amended by adding the following double-underlined language:

EDIBLE CANNABINOID PRODUCTS

Purpose and Intent..... 23-2700

Definitions 23-2701

License 23-2702

Restrictions 23-2703

Allowed Sales and Prohibited Actions 23-2704

Signage 23-2705

Storage 23-2706

Compliance Checks and Inspections 23-2707

Violations and Penalties 23-2708

Exceptions and Defenses 23-2709

Section 2. Brooklyn Center City Code, Section 23-003.5, subd. 2 is hereby amended by adding the following double-underlined language, with the remaining language of Section 23-003.5, subd. 2 remaining unchanged:

> Subdivision 2. Criminal History License Background Investigations. The Brooklyn Center Police Department is hereby required, as the exclusive entity within the City, to do a criminal background investigation on the applicants for the following licenses within the city:
>
> Tobacco Sales, Sections 23-101 through 23-108
> Pawnbrokers, Sections 23-601 through 23-630
> Secondhand Goods Dealers, Sections 23-650 through 23-678
> Taxicabs, Sections 23-701 through 23-712
> Saunas or Sauna Baths, Sections 23-1600 through 23-1615
> Massage Parlors, Sections 23-1700 through 23-1720
> Rap Parlors, Conversation Parlors, Adult Encounter Groups, Adult Sensitivity Groups, Escort Services, Model Services, Dating Services or Hostess Services, Sections 23-1800 through 23-1815
> Charitable Gambling, Sections 23-1900 through 23-1904
> Currency Exchanges, Sections 23-2201 through 23-2205
> Edible Cannabinoid Products, Sections 23-2700 through 23-2709

Section 3. Brooklyn Center City Code, Section 23-006.05 is hereby amended by adding the following double-underlined language and removing the ~~stricken~~ language:

Section 23-006.05. PAYMENT PROPERTY TAXES REQUIRED. No license shall be granted or renewed for tobacco related products; bowling alleys; entertainment; filling stations; pawnbrokers; secondhand goods dealers; motor vehicle dealerships; saunas and sauna baths; massage parlors; rap parlors, conversation parlors, adult encounter groups, adult sensitivity groups, escort services, model services, dancing services, or hostess services; hospitality accommodations; ~~or~~ amusement devices; or Edible Cannabinoid Products for operation on any property on which taxes, assessments, or other financial claims of the state, county, school district, or city are due, delinquent, or unpaid. In the event a suit has been commenced under Minnesota Statutes, Section 278.01 through 278.03, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one (1) year after becoming due.

Section 4. Brooklyn Center City Code, Chapter 23, is hereby amended by adding Sections 23-2700 through 23-2709 to read in their entirety as follows:

Edible Cannabinoid Products

Section 23-2700. PURPOSE AND INTENT

A. Minnesota Statutes, section 151.72 expressly allows the sale of certain products that are intended to be eaten or consumed as a beverage by humans and which contain a cannabinoid in combination with food ingredients ("Edible Cannabinoid Products"), including Edible Cannabinoid Products which contain tetrahydrocannabinol ("THC").

B. 2023 Session Law Chapter 63 (the "Cannabis Act") both amended regulations for Edible Cannabinoid Products and established a framework for adult-use cannabis in the state of Minnesota. The Cannabis Act established the Office of Cannabis Management ("OCM") effective July 1, 2023, and the OCM will eventually issue licenses for all cannabis products and edible hemp products, such as Edible Cannabinoid Products, but does not currently require a business to obtain a license to sell Edible Cannabinoid Products.

C. The City enacted Ordinance No. _____, an interim ordinance establishing a temporary prohibition on the sale of Edible Cannabinoid Products, which has expired, thereby leaving a regulatory gap between when businesses can begin selling Edible Cannabinoid Products in the City and when businesses will be required to obtain a state-level license to sell edible hemp products.

D. The City recognizes that, based on the most reliable and up-to-date scientific evidence, the introduction of Edible Cannabinoid Products containing THC presents a potential threat to the public health, safety, and welfare of the residents of the City and has determined the establishing a licensing framework for Edible Cannabinoid Products is in the best interest of the City and its residents.

E. State law does not preempt municipalities from adopting and enforcing local ordinances to regulate retailers of Edible Cannabinoid Products including, but not limited to, establishing business licensing requirements. The Cannabis Act directs the OCM to draft administrative rules and model ordinances related to cannabis and hemp products, which may address Edible Cannabinoid Products, but the timing and details of those regulations are uncertain. Therefore, the City Council determines it is appropriate to adopt the regulations in this ordinance without delay.

F. In making these findings and enacting this ordinance, it is the intent of the City to facilitate responsible retail activities associated with Edible Cannabinoid Products by allowing legal sale and access without promoting increases in use, and to discourage violations of Edible Cannabinoid Products-related laws, especially those which prohibit or discourage the marketing, sale, or distribution of Edible Cannabinoid Products to persons under the age of 21 years.

G. A licensing requirement for retail establishments that desire to sell Edible Cannabinoid Products will not unduly burden legitimate business activities of such retailers who sell or distribute Edible Cannabinoid Products to adults, but will allow the City to effectively regulate the operation of lawful businesses, limit access to

persons under the age of 21 years, and discourage violations of Edible Cannabinoid Product-related laws.

Section 23-2701. DEFINITIONS. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of Sections 23-2701 through 23-2709, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

A. "Compliance checks" means the system the City uses to investigate and ensure that those authorized to sell covered products are following and complying with the requirements of Sections 23-2701 through 23-2709. Compliance checks shall involve the use of persons who have reached the age of 17, with parental or guardian consent if under the age of 18 years, but who are under the age of 21 as authorized by Sections 23-2701 through 23-2709. Compliance checks shall also mean the use of persons who have reached the age of 17, with parental or guardian consent if under the age of 18 years, but who are under the age of 21 who attempt to purchase covered products for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to covered products.

B. "Edible Cannabinoid Product" has the same meaning as is contained in Minnesota Statutes, section 151.72, subdivision 1 (f). For purposes of this Section, Edible Cannabinoid Product shall not include any Exempt Product as defined in this Section.

C. "Exclusive Liquor Store" means an establishment that meets the definition of exclusive liquor store in Minnesota Statutes, section 340A.101, subdivision 10.

D. "Exempt Product" means an Edible Cannabinoid Product that contains less than trace amounts of THC and which is not marketed or otherwise labeled as containing THC. For example, an Edible Cannabinoid Product labeled and marketed as containing cannabinoil ("CDB") but containing "0% THC" or being "THC Free" would be considered an Exempt Product.

E. "Moveable place of business" means any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not fixed-address storefront or other permanent type of structure authorized for sales transactions.

F. "Retail Establishment" means any place of business where Edible Cannabinoid Products are available for sale to the general public. Retail establishments shall include, but are not limited to, exclusive liquor stores, grocery stores, convenience stores, tobacco stores, hemp stores, CBD stores, restaurants, and any other business offering Edible Cannabinoid Products for sale at retail. Retail establishments shall not include home occupations. Only businesses that are in compliance with all

applicable federal, state, and local laws, rules, regulations, and ordinances, including zoning regulations, may be considered a retail establishment.

G. "Sale" means any transfer of goods for money, trade, barter or other consideration.

H. "Self-service merchandising" means open displays of Edible Cannabinoid Products in any manner where any person shall have access to the Edible Cannabinoid Products without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the covered products between the customer and the licensee or employee. Self- service sales are interpreted as being any sale where there is not an actual physical exchange of the covered product between the clerk and the customer.

I. "Vending machine" means any mechanical, electric or electronic, or other type of device that dispenses tobacco, tobacco products or tobacco-related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the covered product.

J. "Youth Oriented Facility" means a public or private elementary, middle, or high school, a state-licensed child or day care program with more than ten children, and any City park.

Section 23-2702. LICENSE

A. License Required. No person shall directly or indirectly or by means of a vending machine or similar device keep for retail sale, sell at retail, or otherwise dispense any Edible Cannabinoid Product at any place in the City of Brooklyn Center unless a license therefor shall first have been obtained as provided in Sections 23-2701 through 23-2709. The City will only issue an Edible Cannabinoid Product license to a retail establishment located within the City. No license shall be required to sell or offer for sale any Exempt Product.

B. Application. An application for a license to sell Edible Cannabinoid Products shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. If the City Clerk determines that an application is incomplete, the application shall be returned to the applicant with notice of the information necessary to make the application complete. Upon receipt of a completed application, the City Clerk shall forward the application to the police department for investigation. The police department shall conduct an investigation of the applicant and application regarding the fitness of the applicant to hold a license pursuant to the standards set forth in Sections 23-

2701 through 23-2709, and report the results of its investigation to the City Clerk within 30 days of receipt of the application.

C. Action. The City Clerk shall forward the application for consideration by the City Council at tis next regularly scheduled City Council meeting. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary.

D. Fees. No application for a license under Sections 23-2701 through 23-2709 shall be accepted until the appropriate license or investigation fee is paid in full. The fee(s) shall be established by the City Council by resolution from time to time.

E. Transfers. All licenses issued under Sections 23-2701 through 23-2709 shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.

F. Moveable place of business. No license shall be issued to a moveable place of business. Only fixed-location businesses shall be eligible to be licensed under Sections 23-2701 through 23-2709.

G. Term. All licenses issued under this Section shall be valid until March 1, 2025, or until the license holder is issued a license by the State of Minnesota Office of Cannabis Management for the sale of lower-potency hemp edibles, whichever occurs first.

Section 23-2703. RESTRICTIONS.

A. The following shall be grounds for denying the issuance of a license under Sections 23-2701 through 23-2709.

1. The applicant is under 21 years of age.

2. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to Edible Cannabinoid Products.

3. The applicant has had a license to sell Edible Cannabinoid Products revoked or suspended within the past five years.

4. The applicant fails to provide any information required on the application, or provides false or misleading information.

5. The applicant is prohibited by federal, state, or other local law, ordinance, or regulation from holding such a license.

6. The applicant does not meet all applicable zoning requirements.

7. The applicant proposes to sell Edible Cannabinoid Products in a manner that does not comply with this chapter or Minnesota Statutes, section 151.72.

8. The applicant proposes to sell Edible Cannabinoid Products for any premises that is not a retail establishment or proposed to sell Edible Cannabinoid Products in a manner that does not comply with this Section.

9. The applicant proposes to sell Edible Cannabinoid Products within 500 feet of a Youth Oriented Facility.

B. No license may be issued:

1. To any applicant who has fees or charges to the City or Hennepin County that are due and unpaid.

2. For any premises for which property taxes or City utility charges are due and unpaid.

Section 23-2704. ALLOWED SALES AND PROHIBITED ACTIONS.

A. Sales of Edible Cannabinoid Products must be made in accordance with the following:

1. In accordance with all requirements on Minnesota Statutes, section 151.72, including, but not limited to, the requirement that the licensee verify the age of all customers.

2. Must include a face-to-face exchange of an Edible Cannabinoid Product between the licensee or licensee's employee and the customer. Licensee may not engage in sales over the phone, via the internet or other remote means, and may not delivery Edible Cannabinoid Products or engage in curbside pickup of Edible Cannabinoid Products.

3. For on-site consumption if the following conditions are met:

a. The Edible Cannabinoid Product being offered is intended to be consumed as a beverage;

b. The licensee is also licensed under Minnesota Statutes, section 340A for on-sale liquor; and

c. The licensee meets all other requirements and conditions for on-site consumption of Edible Cannabinoid Products provided in Minnesota Statues, section 151.72, subdivision 3 (f).

B. It shall be a violation of Sections 23-2701 through 23-2709 for any person to sell or offer to sell any Edible Cannabinoid Product:

1. By a vending machine;

2. By self-service displays;

3. By means of sampling or providing covered products free of charge or at a nominal cost; or

4. By any other means, to any person, in any other manner or form prohibited by state or local law, ordinance provision, or other regulation.

C. No person shall sell any Edible Cannabinoid Product to any person under the age of 21.

Section 23-2705. SIGNAGE. At each location where Edible Cannabinoid Products are sold, the licensee shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person attempting to purchase Edible Cannabinoid Products in accordance with Minnesota Statutes, section 151.72, subdivision 5c.

Section 23-2706. STORAGE. All Edible Cannabinoid Products must be stored in compliance with Minnesota Statutes, section 151.72.

Section 23-2707. COMPLIANCE CHECKS AND INSPECTIONS. All licensed premises shall be open to inspection by the City police or other authorized City official during regular business hours. From time to time, but at least twice per year, the City shall conduct compliance checks by engaging persons over the age of 17 years, with written permission from a parent or guardian for persons under the age of 18 years, but less than 21 years to enter the licensed premise to attempt to purchase covered products. Persons under the age of 21 used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. No person used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check shall answer all questions about the person's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which the person is asked.

Section 23-2708. VIOLATIONS AND PENALTIES.

A. Licensees responsible. All licensees are responsible for the actions of their employees in regard to the sale of Edible Cannabinoid Products on the licensed premises and the sale of a covered product by an employee shall be considered a sale by the licensee for the purposes of constituting a license violation under this Section.

B. Misdemeanor prosecution. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of Sections 23-2701 through 23-2709.

C. Administrative penalties.

1. Licensees. If a licensee or employee of a licensee sells covered products to a person under the age of 21 years, or violates any other provision of Sections 23-2701 through 23-2709, the licensee shall be charged an administrative penalty of $200. An administrative penalty of $500 shall be imposed for a second violation at the same location within 24 months after the initial violation. For a third or subsequent violation at the same location within 24 months after the initial violation, an administrative penalty of $750 shall be imposed, and the licensee's authority to sell covered products at that location shall be suspended for not less than 30 days. Upon a fourth violation, the license will be revoked.

2. Other individuals. Other individuals, found to be in violation of Sections 23-2701 through 23-2709 shall be charged an administrative fine of $50.00.

3. Statutory penalties. If the administrative penalties authorized to be imposed by Minnesota Statutes, Section 461.12, as it may be amended from time to time, differ from those established in this Section, then the more severe penalty shall prevail.

D. License revocation or suspension. In addition to misdemeanor prosecution and administrative penalties, violation of Section 23-2701 through 23-2709 is grounds for revocation or suspension under Section 23-006.

Section 23-709. EXCEPTIONS AND DEFENSES. Nothing in this Section shall prevent the providing of an Edible Cannabinoid Product to a person under the age of 21 as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied upon proof of age.

Article III. This Ordinance shall become effective after adoption and upon thirty (30) days following its legal publication.

Adopted this __ day of _____, 2023.

_____
April Graves, Mayor

ATTEST: _____
Barbara Sucio, Assistant City Manager/City Clerk

Date of Publication _____

Effective Date _____

(~~Strikeout~~ indicates matter to be deleted, <u>double underline</u> indicates new matter.)

Council Regular Meeting

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Elizabeth Heyman, Director of Public Works

SUBJECT: An Ordinance Amendments to the Franchise Agreement with Xcel Energy

Requested Council Action:

- Motion to approve the first reading of an ordinance implementing an electric franchise fee on Northern States Power Company, a Minnesota corporation, D/B/A Xcel Energy, its successors and assigns for providing electric service within the City of Brooklyn Center.

- Motion to approve the first reading of an ordinance granting to Northern States Power Company, A Minnesota Corporation, D/B/A Xcel Energy, its successors and assigns, permission to construct, operate, repair and maintain in the City of Brooklyn Center, Minnesota, an electric distribution system and transmission lines, including necessary poles, lines, fixtures and appurtenances, for the furnishing of electric energy to the City, its inhabitants, and others, and to use the public grounds and public ways of the City for such purposes.

Background:

The recommended Council action looks to update Brooklyn Center's existing agreement with Xcel Energy, that is set to expire in December 8, 2023, and ensure that the City has flexibility to change franchise fee amounts as needed in the future.

The right of way along city streets and alleys is public property. To connect homes and properties to gas, electric, telephone and other services, companies must run distribution lines on the public right of way. Communities negotiate franchise agreements with utility companies to identify the conditions under which those companies are allowed to use public property to provide service to local residents and businesses. Also, utility companies pay a fee to cities — negotiated through a franchise agreement — in exchange for use of the public right of way. This agreement and ordinance pertain to how the City manages this relationship specifically with Xcel Energy.

The recommended amendments would modify two resolutions adopted by the City Council on December 8, 2003, and modify an ordinance amendment adopted on September 12, 2016. These 2003 and 2016 Council actions set the existing Franchise Agreement and franchise fee rates with Xcel Energy.

The recommended franchise ordinances continue to allow the City to revise franchise fees or pursue additional franchise fees in the future. In addition, the franchise agreement does not limit the City's ability to utilize franchise fees as a funding mechanism in the future as a replacement for the existing Special Assessment Policy. The franchise agreement was reviewed by the City Attorney to ensure the City retains the flexibility to support a move away from special assessments if the City Council supported this change in

policy in the future.

Proposed Franchise Fee Ordinance Revisions

The changes to the existing Xcel franchise ordinances include:

- Removal of the majority of the fee provisions from the franchise ordinance/agreement to the stand-alone fee ordinance. This will make it less cumbersome to change fees in the future as it would only require the amendment of the fee ordinance and not both ordinances.
- Addition of a continuation provision at Section 2.6 of the franchise ordinance. This allows for the short-term extension of the franchise at the end of the term in the event the parties need additional time to prepare the new franchise.
- Removal of the bond requirements in Section 3.4. This brings the ordinance in line with City Code and was a priority for Xcel Energy.
- Addition of mapping information in Section 3.8.
- Generally amended language to cite and coordinate with State administrative rules.
- In the indemnification provision in Section 6.1, tied a "hazardous" request from the City to industry standards as opposed to Xcel unilaterally making that determination.

Proposed Process and Next Steps

It is recommended that the City Council conduct the first reading of the ordinance at the August 28, 2023 City Council Meeting and consider the adoption of the ordinance amendments to the Franchise Agreement with Xcel Energy. If the Council proceeds, the next steps are to hold a second reading of the ordinance and conduct a Public Hearing at the September 11, 2023 City Council Meeting.

Budget Issues:

There are no budget issues to consider.

Inclusive Community Engagement:

NA

Antiracist/Equity Policy Effect:

NA

Strategic Priorities and Values:

Safe, Secure, Stable Community

ATTACHMENTS:

Description	Upload Date	Type
DOCSOPEN-#896800-v1-Electric_Franchise_Ordinance	8/22/2023	Ordinance
DOCSOPEN-#896799-v1-Electric_Franchise_Fee_Ordinance	8/22/2023	Ordinance

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of August, 2023, at 7:00 p.m. or as soon thereafter as the matter may be heard during the regular City Council meeting at City Hall, 6301 Shingle Creek Parkway to consider an ordinance granting Northern States Power Company a franchise to construct, operate, repair and maintain an electric distribution system and transmission lines in Brooklyn Center and to use public ways and grounds for such purposes.

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please notify the City Clerk at 763-569-3306 to make arrangements.

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF BROOKLYN CENTER, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

1.1 **City.** The City of Brooklyn Center, County of Hennepin, State of Minnesota.

1.2 **City Utility System.** Facilities used for providing public utility service owned or operated by the City or agency thereof, including sewer, storm sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

1.3 **Commission.** The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all, or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.

1.4 **Company.** Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy its successors and assigns, including all successors or assignees that own or operate any part or parts of the Electric Facilities subject to this Franchise.

1.5 **Electric Facilities.** Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the purpose of providing electric energy for public use.

1.6 **Notice**. A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 401 Nicollet Mall, 8th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Clerk, 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.

1.7 **Ordinance**. This electric franchise ordinance, also referred to as the Franchise.

1.8 **Public Ground.** Land owned or otherwise controlled by the City for park, open space or similar purpose, which is held for use in common by the public.

1.9 **Public Way.** Any street, alley, walkway or other public right-of-way within the City.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 Grant of Franchise. City hereby grants Company, for a period of twenty (20) years from the date this Ordinance is passed and approved by the City, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Ways and, as may be provided by separate instrument, Public Grounds of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this Ordinance.

2.2 Effective Date; Written Acceptance. This Franchise shall be in force and effect from and after passage of this Ordinance and its publication as required by law. The City, by Council resolution, may revoke this Franchise if Company does not file a written acceptance with the City within 90 days after publication.

2.3 Service and Rates. The service to be provided and the rates to be charged by Company for electric service in City are subject to the jurisdiction of the Commission. The area within the City in which Company may provide electric service is the area approved by the Commission pursuant to the provisions of Minnesota Statutes, Section 216B.40.

2.4 Publication Expense. The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company within thirty (30) days.

2.5 Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the

default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used, or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this Franchise or for such other relief as may be permitted by law or equity.

2.6 Continuation of Franchise. If the City and Company are unable to agree on the terms of a new franchise by the time this Franchise expires, this Franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the City or Company serves written Notice to the other party of its intention to allow the Franchise to expire, but in no event shall this Franchise continue for more than one year after expiration of the 20-year term set forth in Section 2.1.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 Location of Facilities. Electric Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Electric Facilities may be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance, location and relocation of Electric Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this Franchise. Company may abandon underground Electric Facilities in place, provided at the City's request, Company at its own expense will remove abandoned Electric Facilities interfering with a City improvement project.

3.2 Field Locations. Company shall provide field locations for its underground Electric Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3 Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee, subject to Section 9.1 of this Franchise. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Electric Facilities. In such event Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second working day thereafter, Company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and in accordance with Minnesota Rules, part 7819.1100, and shall maintain any paved surface in good condition for one (1) year thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and

complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five (5) days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby shall not require Company to post a construction performance bond, certificate of insurance, letter of credit or other security in favor of the City as a condition of the City's permission to install, replace or maintain facilities in a Public Way or Public Ground.

3.5 Avoid Damage to Electric Facilities. Nothing in this Ordinance relieves any person, including Company, from liability arising out of the failure to exercise reasonable care to avoid damaging Electric Facilities while performing any activity.

3.6 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Grounds and Public Ways upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Electric Facilities.

3.7 Shared Use of Poles. Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities upon terms and conditions acceptable to Company whenever such use will not interfere with the use of such poles or towers by Company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the City shall pay for any added cost incurred by Company because of such use by City.

3.8 Mapping Information. Company shall provide mapping information for any of its underground Electric Facilities in accordance with Minnesota Rules, parts 7819.4000 and 7819.4100.

SECTION 4. RELOCATIONS.

4.1 Relocation of Electric Facilities in Public Ways. In accordance with Minnesota Rules, part 7819.3100, Company shall relocate its Electric Facilities at its own expense, with due regard for seasonal working conditions, when it is necessary to prevent interference in connection with: (1) a public project involving Public Ways; (2) the public health or safety, or (3) the safety and convenience of travel over the Public Ways. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. If a relocation is ordered within five years of a prior relocation of the same Electric Facilities, which was made at Company expense, the City shall reimburse Company for non betterment costs on a time and material basis, provided that

if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 Relocation of Electric Facilities in Public Ground. City may require Company, at Company's expense, to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities substantially impair the existing or proposed public use of the Public Ground. Such relocation shall comply with applicable City ordinances.

4.3 Projects with Federal Funding. City shall not order Company to remove or relocate its Electric Facilities when a Public Way is vacated, improved or realigned for a right-of-way project or any other project which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation are first paid to Company. The City is obligated to pay Company only for those portions of its relocation costs for which City has received federal funding specifically allocated for relocation costs in the amount requested by the Company, which allocated funding the City shall specifically request. Relocation, removal or rearrangement of any Company Electric Facilities made necessary because of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended.

4.4 No Waiver. The provisions of this Franchise shall not be construed to waive or modify any rights obtained by Company for installations within a Company easement or prescriptive right established before the applicable Public Ground or Public Way was established, or Company's rights under state or county permit.

SECTION 5. TREE TRIMMING.

Company may trim all trees and shrubs in the Public Grounds and Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any Electric Facilities installed hereunder, provided that Company shall save the City harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the City.

SECTION 6. INDEMNIFICATION.

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Electric Facilities located in the Public Grounds and Public Ways. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. Nothing herein shall be deemed to constitute a waiver by City of any defenses, immunities, or limitations on liability under Minnesota Statutes, Chapter 466. The City

shall not be indemnified if the injury or damage results from the performance in a proper manner, or acts reasonably deemed hazardous according to industry standards, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

6.2 Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City and Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The City shall give Company at least two (2) weeks prior written notice of a proposed vacation of a Public Way. The City and Company shall comply with Minnesota Rules, part 7819.3200 and applicable ordinances consistent with law. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Electric Facilities, shall not operate to deprive Company of its rights to operate and maintain such Electric Facilities. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 9. FRANCHISE FEE.

9.1 **Fee Schedule**. During the term of the Franchise hereby granted, and in lieu of any permit or other fees being imposed on Company, the City may impose on Company a franchise fee by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class.

If the City elects to amend the existing franchise fee, it shall notify Company. The fee shall be set forth in a separate ordinance and not be adopted until at least 90 days after Notice enclosing such proposed ordinance has been served upon the Company by certified mail. If the City and Company are unable to agree on a franchise fee or on any terms related thereto, Section 2.5 shall constitute the sole process for solving such dispute regarding fee amount and associated amendment to the separate franchise fee ordinance. City and Company expressly reserve all rights concerning franchise fees and related issues and this paragraph is not intended, and shall not be construed, as a waiver of any such rights.

SECTION 10. PROVISIONS OF ORDINANCE.

10.1 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2 Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties, and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT PROCEDURE.

Either party to this Franchise may at any time propose that the Ordinance be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 90 days after the date of final passage by the City of the amendatory ordinance and its publication as required by law.

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.

This Franchise supersedes Ordinance No.'s 97-09 and 2003-24, the previous electric franchise and amendment granted to Company or its predecessor.

Adopted this ____ day of _____ 2023.

_____
April Graves, Mayor

ATTEST: _____
Barb Suciu, City Clerk

Date of Publication:_____

ACCEPTED: This Franchise Ordinance, as amended, is accepted and the undersigned agrees to be bound by its terms and conditions.

Dated: _____, 2023.

NORTHERN STATES POWER COMPANY D/B/A XCEL ENERGY

By: _____

Its: _____

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of _____, 2023, at 7:00 p.m. or as soon thereafter as the matter may be heard during the regular City Council meeting at City Hall, 6301 Shingle Creek Parkway to consider an electric franchise fee ordinance.

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please notify the City Clerk at 763-569-3306 to make arrangements.

ORDINANCE NO. _____

AN ORDINANCE IMPLEMENTING AN ELECTRIC FRANCHISE FEE ON NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY, ITS SUCCESSORS AND ASSIGNS FOR PROVIDING ELECTRIC SERVICE WITHIN THE CITY OF BROOKLYN CENTER

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Code of the City of Brooklyn Center is hereby amended to include reference to the following Special Ordinance.

Subdivision 1. Purpose. The Brooklyn Center City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide electric services within the City of Brooklyn Center.

(a) Pursuant to City Ordinance _____, a Franchise Agreement ("Franchise") between the City of Brooklyn Center ("City") and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy ("Company"), its successors and assigns, the City has the right to impose a franchise fee on the Company, its successors and assigns, in an amount and fee design as set forth in Section 9 of the Northern States Power Company Franchise and in Subdivision 9 of this Ordinance.

Subdivision 2. Franchise Fee Statement. A franchise fee is hereby imposed on the Company, its successors and assigns, under its electric franchise in accordance with the schedule attached here to and made a part of this Ordinance, commencing with the Xcel Energy's _____, 20__ billing month.

This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this Ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the

appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the City will control.

Subdivision 3. Payment. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amounts specifically permitted by this Ordinance. The time and manner of collecting the franchise fee is subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company's applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers.

Subdivision 4. Surcharge. The City recognizes that the Minnesota Public Utilities Commission may allow Company to add a surcharge to customer rates of city residents to reimburse Company for the cost of the fee.

Subdivision 5. Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The "same or greater equivalent amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Subdivision 5, the foregoing conditions will be waived to the extent of such written consent.

Subdivision 6. Enforcement. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Franchise Agreement.

Subdivision 7. Effective Date of Franchise Fee. The effective date of this Ordinance shall be after its publication and ninety (90) days after the sending of written notice enclosing a copy of this adopted Ordinance to the Company by certified mail. Collection of the fee shall commence as provided above. Upon the effective date of this Ordinance, Ordinance No.'s 2003-22 and 2016-09 shall be repealed and replaced by this Ordinance.

Subdivision 8. Fee Review. The City Council may review this Ordinance from time to time to determine whether to continue, terminate or modify the fee. If the Council deems it to be in the City's

best interest to continue the fee in its current form, no Council action is necessary. If the Council deems it to be in the City's best interest to terminate or modify the fee, the Council shall give Company at least ninety (90) days written notice prior to the proposed change. Subject to the City's rights under Minnesota law, the City shall obtain the consent of Company to any proposed increase in the fee but may unilaterally decrease or terminate the fee.

Subdivision 9. Fee Schedule. The franchise fee shall be in an amount determined by applying the following schedule per customer premise/per month based on service to retail customers within the City:

Class	Amount per month per premises
Residential	$1.60 per month
Small C & I – Non-Demand	$4.00 per month
Small C & I – Demand	$22.00 per month
Large C & I	$100.00 per month
Public Street Lighting	$13.00 per month
Municipal Pumping – Non-Demand	$13.00 per month
Municipal Pumping – Demand	$13.00 per month

Franchise fees are submitted to the City on a quarterly basis as follows:

January – March collections due by April 30.
April – June collections due by July 31.
July – September collections due by October 31.
October – December collections due by January 31.

Adopted this ____ day of _____ 2023.

_____
April Graves, Mayor

ATTEST: _____
Barb Suciu, City Clerk

Date of Publication:_____

Economic Development Authority
City Hall Council Chambers
August 28, 2023

AGENDA

1. Call to Order

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet, including EDA (Economic Development Authority), is available to the public. The packet ring binder is located at the entrance of the council chambers.

2. Roll Call

3. Approval of Consent Agenda

The following items are considered to be routine by the Economic Development Authority (EDA) and will been acted by one motion. There will be no separate discussion of these items unless a Commissioner so requests, in which event the item will be removed from the consent agenda and considered at the end of Commission Consideration Items.

a. Approval of Minutes

- Motion to approve the June 26, 2023, minutes.

4. Commission Consideration Items

a. Resolution Approving the Micro-Facade Grant Award to Brothers Taqueria

- Motion to approve a resolution approving the award of grants under the Micro-Grant Facade Program.

b. Resolution Approving the Micro-Facade Grant Award to Que Viet

- Motion to approve a resolution approving the award of grants under the Micro-Grant Facade Program.

5. Adjournment

Economic Development Authority

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Reggie Edwards, Deputy City Manager
BY: Barb Suciu, City Clerk

SUBJECT: Approval of Minutes

Requested Council Action:

- Motion to approve the June 26, 2023, minutes.

Background:

Budget Issues:

N/A

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

ATTACHMENTS:

Description	Upload Date	Type
6.26 EDA Minutes	8/23/2023	Backup Material

MINUTES OF THE PROCEEDINGS OF THE
ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN CENTER
IN THE COUNTY OF HENNEPIN AND THE
STATE OF MINNESOTA

REGULAR SESSION
JULY 10, 2023
CITY HALL – COUNCIL CHAMBERS

1. CALL TO ORDER

The Brooklyn Center Economic Development Authority (EDA) met in Regular Session called to order by President April Graves at 8:01 p.m.

2. ROLL CALL

President April Graves and Commissioners Marquita Butler, Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, Community Development Director Jesse Anderson, Assistant City Manager/City Clerk Barb Suciu, and City Attorney Jason Hill.

3. APPROVAL OF AGENDA AND CONSENT AGENDA

Commissioner Lawrence-Anderson moved and Commissioner Jerzak seconded to approve the Agenda and Consent Agenda.

Motion passed unanimously.

4. COMMISSION CONSIDERATION ITEMS

4a. APPROVAL OF A TIF ASSISTANCE AGREEMENT BETWEEN THE EDA AND WANGSTAD COMMONS LLLP

Executive Director Reggie Edwards introduced the item and invited Community Development Director Jesse Anderson to continue the staff presentation.

Community Development Director Jesse Anderson explained since 2019, The EDA has been working with JO Companies to develop four EDA-owned parcels at 61st Avenue N and Brooklyn Boulevard. The proposed project includes a 54-unit low-income housing tax credit (LIHTC) rental project. In June of 2022, the EDA entered into an option agreement with the developer to sell the EDA-owned land and approved a resolution of support to provide Tax Increment Financing (TIF) for the project.

Mr. Anderson noted on May 8, 2023, the City Council and EDA approved the creation of a new

TIF district and held a public hearing regarding the sale of land owned by the EDA for the project. At the time, it was noted that one more step in the process was necessary to formally grant TIF assistance for the project. That last step is the approval of a TIF Assistance Agreement between the EDA and Wangstad Commons LLLP (JO Companies).

Jason Aarsvold, EDA Project Manager with Ehlers, explained the land will be transferred to Wangstad Commons for $1. Both contributions are necessary for the project's financial feasibility. Based on the revised property tax class rate, Ehlers recalculated the PAYGO note amount by assuming the project still receives 17 years of TIF assistance. This calculation results in a revised PAYGO TIF note amount of $248,000 for the project paid from 90% of increment in the district, which was reduced by a recent 4d legislative change. The note will include interest at six percent.

Mr. Aarsvold pointed out the TIF agreement includes conveyance of EDA-owned land for $1, the developer will maintain income requirements of 30%, 50%, and 60% area median income (AMI), and a look-back provision. As always, the developer must obtain all necessary City approval and pay City fees.

Mr. Aarsvold added the developer will also pay for the legal and financial advisory costs associated with the TIF portion of the transaction. The developer cannot transfer the property to an unrelated entity without the consent of the EDA, and the developer will pay property taxes and maintain customary insurance.

Commissioner Jerzak asked if the 4d legislative change could be impacted in the future by a change in political leadership. Mr. Aarsvold stated the City is protecting itself in the event of a reduction, and it would be the responsibility of the developer.

Commissioner Lawrence-Anderson asked for the breakdown of units by AMI. Johnny Opara, President and CEO of JO Companies explained that 16 units will be at 30% AMI while the rest of the units will be between 50 and 60% AMI.

President Graves asked if JO Companies has any plans to sell the building. Mr. Opara stated any building JO Companies develops with a long-term focus and will retain the building for management.

President Graves asked why the 4d legislation change occurred. Mr. Aarsvold stated the request came from the affordable housing community. It has taken a number of years to be put into place.

Commissioner Butler moved and Commissioner Jerzak seconded to adopt the Resolution Authorizing a TIF Assistance Agreement and Related Documents.

Motion passed unanimously.

5. ADJOURNMENT

Commissioner Butler moved and Commissioner Jerzak seconded the adjournment of the Economic Development Authority meeting at 8:13 p.m.

Motion passed unanimously.

Economic Development Authority

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Vong Thao

SUBJECT: Resolution Approving the Micro-Facade Grant Award to Brothers Taqueria

Requested Council Action:

- *Motion to approve a resolution approving the award of grants under the Micro-Grant Facade Program.*

Background:

On April 26, the Brooklyn Center Economic Development Authority approved the creation of a Micro-grant Facade Improvement Program, and provided $50,000 in EDA funds to support the program.

As part of the 2021 budget, the Brooklyn Center City Council identified a strategic Council Priority to promote beautification and cleanliness. The goal of the strategy was to put into effect new programs and approaches to improve the look and quality of the City. On of the activities under this priority that was identified was to explore and implement a program to incentivize businesses to invest in beatification strategies. The EDA budget included $50,000 to fund such a program.

The purpose of the Micro-grant Façade Improvement Program is to support businesses with exterior improvements, beautification and repairs. The intention is to encourage and assist businesses with improving the exterior of properties while improving the public realm, beautifying businesses, improving public safety and maintaining cleanliness. The Program Policies and Procedures are attached to this report.

Grant proceeds would be able to be used for the following purposes:

- Installation, repair or replacement of exterior signage including, monument signs on the property and wall signs affixed to the building
- Exterior lighting
- Exterior painting
- Repair and /or replacement of windows and exterior doors
- Masonry repairs and tuck pointing
- Art installations and wall murals, with an approved maintenance plan
- Canopy and/or awning installation or repair
- Pedestrian improvements, which improve access for persons with disabilities.
- Permanent site improvements (walks, patios, courts)
- Trash and mechanical enclosures
- Parking area repairs and improvements (including the addition of bicycle facilities)
- Security cameras, as approved by the Brooklyn Center Police Department
- Fences
- Materials for any of the above identified items

In 2023, the EDA has since received two applications, totaling $10,000 of requested funds. Staff has reviewed the applications based on the information provided. All of the applications meet the minimum requirements for program eligibility.

The Applicant is listed below

Brothers Taqueria- New Signage

Budget Issues:

EDA has allocated $50,000 budget to the Micro-Grant Facade Improvement Program for 2023. A full approval of all 2023 funding requests would result in a total cost of $10,000. With the $10,000 of grant funding owners' equity of $45,000 will go into the projects. Through every grant dollar funded there are Four Dollars and Fifty Cents of owners' equity being reinvested back into commercial properties in City of Brooklyn Center.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Businesses awarded are considered small businesses (under 25 employees), and/or is owned by a woman or person of color.

Strategic Priorities and Values:

ATTACHMENTS:

Description	Upload Date	Type
Resolution Brothers Taqueria	8/24/2023	Backup Material
Brothers Taqueria Agreement	8/24/2023	Backup Material

THE BROOKLYN CENTER ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN CENTER

RESOLUTION NO. 2023-__

RESOLUTION APPROVING THE AWARD OF GRANTS UNDER THE MICRO-GRANT FACADE PROGRAM

WHEREAS, the Economic Development Authority of Brooklyn Center, Minnesota (the "Authority") was created pursuant to Minnesota Statutes, sections 469. 090 through 469 .1082 to exercise its powers to promote and protect economic development within the City of Brooklyn Center ("City"); and

WHEREAS, on April 26, 2021, the Authority exercised its authority to establish the Micro-Grant Fa9ade Program ("Program") to promote local businesses and economic development by encouraging the improvement of business facades within the City; and

WHEREAS, businesses have applied for grants under the Program and the Authority desires to award the grants for use in accordance with the guidelines established for the Program and the terms and conditions of the agreement established for the Program, which is attached hereto as Exhibit A ("Grant Agreement").

NOW, THEREFORE, BE IT RESOLVED, by the Economic Development Authority of Brooklyn Center, Minnesota Board of Commissioners ("Board") as follows:

1. The Board hereby awards $5,000 in grants under the Program to the following businesses and in the following amounts:

Business	Grant Amounts
Brothers Taqueria	$5,000

2. The businesses shall utilize the grant funds in accordance with the Program guidelines and the Grant Agreement.
3. Staff are hereby authorized to enter into Grant Agreements with the businesses in substantially the form as attached, issue the grants, and to otherwise take such actions as may be necessary to carry out the Program.

The foregoing resolution was introduced by EDA Commissioner and duly seconded by EDA Commissioner . The following commissioners voted in favor of the resolution: . The following voted against: . The following were absent: . Whereupon the resolution was adopted.

ADOPTED: August 28, 2023

_____ _____

President Executive Director

ATTEST: _____

City Clerk

EXHIBIT A
Grant Agreement

[attached hereto]

MICRO FAÇADE GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is made effective as of August 28, 2023, by and between [Que Viet a Minnesota [Corporation] (the "Grantee"), and the Economic Development Authority of Brooklyn Center, a public body corporate and politic under the laws of Minnesota ("Lender").

RECITALS

A. Grantor has duly established its Micro-Facade Grant Program (the "Program") and has approved policy and guidelines for said Program (the "Program Guidelines").

B. Grantee has submitted an application for a grant (the "Grant Application") pursuant to the Program Guidelines, and Grantor has approved a grant to the Grantee in the maximum principal amount of $5,000 (the "Grant") to pay a portion of the costs of qualifying expenditures under the Grant Guidelines as set forth in the Grant Application, in connection with Grantee's business located at 6100 Brooklyn Blvd in the City of Brooklyn Center, Minnesota (the "City") (the "Grant Activities").

C. The Grantor and Grantee have negotiated the terms of the Grant, and now desire to memorialize such terms in this Agreement.

ACCORDINGLY, to induce Grantor to make the Grant to Grantee, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Grant Amount. Subject to and upon the terms and conditions of this Agreement, the Program Guidelines, and the Grant Application (together, the "Grant Documents"), Grantor agrees to grant to Grantee the sum of Five Thousand and no/100ths Dollars ($_5,000_) and provide Grantee with computer hardware and software. Proceeds of the Grant shall be disbursed for the Grant Activities approved pursuant to the Grant Documents in accordance with Section 2 hereof.

2. Disbursement of Grant Proceeds.

(a) All Grant proceeds shall be paid to Grantee in accordance with the terms and conditions of the Grant Documents. Notwithstanding anything to the contrary herein, any costs of the Grant Activities exceeding the amount to be reimbursed under this Agreement shall be the sole responsibility of the Grantee.

(b) On the date of closing on the Grant, Grantor shall direct Brothers Taqueria to distribute Grant proceeds to the Grantee for façade improvement. The disbursement of proceeds of the Grant will be made subject to the conditions precedent that prior to or as of the date of disbursement:

(i) The Grantor has received from Grantee, without expense to Grantor, an executed copy of this Agreement;

(ii) Grantee is in compliance with the terms of the Grant Documents.

3. Representations and Warranties. Grantee represents and warrants to Grantor that:

(a) Grantee is duly authorized and empowered to execute, deliver, and perform this Agreement and to receive the Grant from Grantor.

(b) The execution and delivery of this Agreement, and the performance by Grantee of its obligations under the Grant Documents, do not and will not materially violate or conflict with any applicable provision of law and do not and will not materially violate or conflict with, or cause any default or event of default to occur under, any material agreement binding upon Grantee.

(c) The execution and delivery of this Agreement has been duly approved by all necessary action of Grantee, and this Agreement has in fact been duly executed and delivered by Grantee and constitutes its lawful and binding obligation, legally enforceable against it.

(d) Grantee warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Grant proceeds and that any duly authorized representative of Grantor shall, with reasonable advance notice, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of Grantee pertaining to the Grant until the completion of all closeout procedures and the final settlement and conclusion of all issues arising out of this Grant.

(e) Grantee warrants that to the best of its knowledge, it has fully complied with all applicable state and federal laws reasonably relevant to this Agreement and will continue to comply throughout the terms of this Agreement. If at any time Grantee receives notice of noncompliance from any governmental entity, Grantee agrees to take any necessary action to comply with the state or federal law in question.

(f) Grantee warrants that it will use the proceeds of the Grant made by Grantor solely for the Grant Activities, and Grant funds have been utilized and providing evidence in the form of paid invoices, statements, or similar.

(g) Grantee acknowledges that Grant funds may only be used for eligible expense under the Program Guidelines. If it is determined by an audit or review that Grant funds have been misspent, Grantee shall be liable to Grantor for the amount deemed to have been misspent.

4. No Business Subsidy. The parties agree that the Grant is not a business subsidy as defined in Minnesota Statutes, Sections 116J.993 to 116J.995, as amended (the "Business Subsidy Act"), because the assistance is in an amount less than $150,000.

5. Event of Default by Grantee. The following shall be Events of Default under this Agreement:

(a) failure to complete any part of the Grant Activities by December 31, 2024;

(b) any representation or warranty made by Grantee herein is false when made;

(c) any material breach or failure of Grantee to perform any material term or condition of this Agreement not specifically described as an Event of Default in this Agreement and such breach or failure continues for a period of thirty (30) days after Grantor has given written notice to Grantee specifying such default or breach, unless Grantor agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Grantor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Grantee within the applicable period and is being diligently pursued until the Event of Default is corrected, but no such extension shall be given for an Event of Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder).

6. Grantor's Remedy upon Grantee's Default. Upon an Event of Default by Grantee and after provision by Grantor of written notice, Grantor shall have the right to suspend or terminate its performance under this Agreement. In addition, Grantee will be ineligible for future grants under the Program.

7. Indemnification.

(a) Grantee shall and does hereby agree to indemnify against and to hold Grantor, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage that it may incur under or by reason of this Agreement, and of and from any and all claims and demands whatsoever that may be asserted against Grantor by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein.

(b) This indemnification and hold harmless provision shall survive the execution, delivery, and performance of this Agreement and the payment by Grantor of any portion of the Grant.

(c) Nothing in this Agreement shall constitute a waiver of or limitation on any immunity from or limitation on liability to which Grantee is entitled under law.

8. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Agreement may be waived, amended, or modified only by a writing signed by

Grantee and Grantor. No delay in the exercise of any power, right, or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right, or remedy.

(b) Assignment. This Agreement shall be binding upon the parties, their successors, and assigns. All rights and powers specifically conferred upon Grantor may be transferred or delegated by Grantor to any of its successors and assigns. Grantee's rights and 4 obligations under this Agreement may be assigned only when such assignment is approved in writing by Grantor; except that if such assignment is made to an affiliate or subsidiary of Grantee, Grantee may assign any of its rights or obligations to such affiliate or subsidiary upon written notice to the Grantor.

(c) Governing Law. This Agreement is made and shall be governed in all respects by the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

(d) Severability. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications that can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby.

(e) Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To Grantor: Economic Development Authority of Brooklyn Center
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430
Attn: Executive Director

To Grantee: Que Viet
6100 Brooklyn Blvd
Brooklyn Center, MN 55429

Attn: Khoa Lam

(f) Termination. Upon the date of receipt by the Grantor of Grantee's written report on Grantee's expenditure of Grant proceeds as described in paragraph 3
(f) of this Agreement, this Agreement shall terminate and neither party shall have any further obligation to the other.

(g) Entire Agreement. This Agreement, together with the Grant Documents, which are incorporated by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to this Agreement, superseding

all prior or contemporaneous proposals, communications, and understandings, whether oral or written, concerning the Grant.

(h) Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

IN TESTIMONY WHEREOF, each of the parties hereto has caused these presents to be effective as of the day and year first above written.

Que Viet
By: _____

Name: _____
Its: [Khoa Lam]

ECONOMIC DEVELOPMENT AUTHORITY OF BROOKLYN CENTER

By: _____

Name: _____
Its: President

By: _____

Name: _____
Its: Executive Director

MICRO FAÇADE GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is made effective as of August 28, 2023, by and between [Brothers Taqueria a Minnesota [Corporation] (the "Grantee"), and the Economic Development Authority of Brooklyn Center, a public body corporate and politic under the laws of Minnesota ("Lender").

RECITALS

A. Grantor has duly established its Micro-Facade Grant Program (the "Program") and has approved policy and guidelines for said Program (the "Program Guidelines").

B. Grantee has submitted an application for a grant (the "Grant Application") pursuant to the Program Guidelines, and Grantor has approved a grant to the Grantee in the maximum principal amount of $_5,000 (the "Grant") to pay a portion of the costs of qualifying expenditures under the Grant Guidelines as set forth in the Grant Application, in connection with Grantee's business located at 6056 Shingle Creek Parkway in the City of Brooklyn Center, Minnesota (the "City") (the "Grant Activities").

C. The Grantor and Grantee have negotiated the terms of the Grant, and now desire to memorialize such terms in this Agreement.

ACCORDINGLY, to induce Grantor to make the Grant to Grantee, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Grant Amount. Subject to and upon the terms and conditions of this Agreement, the Program Guidelines, and the Grant Application (together, the "Grant Documents"), Grantor agrees to grant to Grantee the sum of Five Thousand and no/100ths Dollars ($_5,000_) and provide Grantee with computer hardware and software. Proceeds of the Grant shall be disbursed for the Grant Activities approved pursuant to the Grant Documents in accordance with Section 2 hereof.

2. Disbursement of Grant Proceeds.

(a) All Grant proceeds shall be paid to Grantee in accordance with the terms and conditions of the Grant Documents. Notwithstanding anything to the contrary herein, any costs of the Grant Activities exceeding the amount to be reimbursed under this Agreement shall be the sole responsibility of the Grantee.

(b) On the date of closing on the Grant, Grantor shall direct Brothers Taqueria to distribute Grant proceeds to the Grantee for façade improvement. The disbursement of proceeds of the Grant will be made subject to the conditions precedent that prior to or as of the date of disbursement:

(i) The Grantor has received from Grantee, without expense to Grantor, an executed copy of this Agreement;

(ii) Grantee is in compliance with the terms of the Grant Documents.

3. Representations and Warranties. Grantee represents and warrants to Grantor that:

(a) Grantee is duly authorized and empowered to execute, deliver, and perform this Agreement and to receive the Grant from Grantor.

(b) The execution and delivery of this Agreement, and the performance by Grantee of its obligations under the Grant Documents, do not and will not materially violate or conflict with any applicable provision of law and do not and will not materially violate or conflict with, or cause any default or event of default to occur under, any material agreement binding upon Grantee.

(c) The execution and delivery of this Agreement has been duly approved by all necessary action of Grantee, and this Agreement has in fact been duly executed and delivered by Grantee and constitutes its lawful and binding obligation, legally enforceable against it.

(d) Grantee warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Grant proceeds and that any duly authorized representative of Grantor shall, with reasonable advance notice, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of Grantee pertaining to the Grant until the completion of all closeout procedures and the final settlement and conclusion of all issues arising out of this Grant.

(e) Grantee warrants that to the best of its knowledge, it has fully complied with all applicable state and federal laws reasonably relevant to this Agreement and will continue to comply throughout the terms of this Agreement. If at any time Grantee receives notice of noncompliance from any governmental entity, Grantee agrees to take any necessary action to comply with the state or federal law in question.

(f) Grantee warrants that it will use the proceeds of the Grant made by Grantor solely for the Grant Activities, and Grant funds have been utilized and providing evidence in the form of paid invoices, statements, or similar.

(g) Grantee acknowledges that Grant funds may only be used for eligible expense under the Program Guidelines. If it is determined by an audit or review that Grant funds have been misspent, Grantee shall be liable to Grantor for the amount deemed to have been misspent.

4. No Business Subsidy. The parties agree that the Grant is not a business subsidy as defined in Minnesota Statutes, Sections 116J.993 to 116J.995, as amended (the "Business Subsidy Act"), because the assistance is in an amount less than $150,000.

5. Event of Default by Grantee. The following shall be Events of Default under this Agreement:

(a) failure to complete any part of the Grant Activities by December 31, 2024;

(b) any representation or warranty made by Grantee herein is false when made;

(c) any material breach or failure of Grantee to perform any material term or condition of this Agreement not specifically described as an Event of Default in this Agreement and such breach or failure continues for a period of thirty (30) days after Grantor has given written notice to Grantee specifying such default or breach, unless Grantor agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Grantor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Grantee within the applicable period and is being diligently pursued until the Event of Default is corrected, but no such extension shall be given for an Event of Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder).

6. Grantor's Remedy upon Grantee's Default. Upon an Event of Default by Grantee and after provision by Grantor of written notice, Grantor shall have the right to suspend or terminate its performance under this Agreement. In addition, Grantee will be ineligible for future grants under the Program.

7. Indemnification.

(a) Grantee shall and does hereby agree to indemnify against and to hold Grantor, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage that it may incur under or by reason of this Agreement, and of and from any and all claims and demands whatsoever that may be asserted against Grantor by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein.

(b) This indemnification and hold harmless provision shall survive the execution, delivery, and performance of this Agreement and the payment by Grantor of any portion of the Grant.

(c) Nothing in this Agreement shall constitute a waiver of or limitation on any immunity from or limitation on liability to which Grantee is entitled under law.

8. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Agreement may be waived, amended, or modified only by a writing signed by

Grantee and Grantor. No delay in the exercise of any power, right, or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right, or remedy.

(b) Assignment. This Agreement shall be binding upon the parties, their successors, and assigns. All rights and powers specifically conferred upon Grantor may be transferred or delegated by Grantor to any of its successors and assigns. Grantee's rights and 4 obligations under this Agreement may be assigned only when such assignment is approved in writing by Grantor; except that if such assignment is made to an affiliate or subsidiary of Grantee, Grantee may assign any of its rights or obligations to such affiliate or subsidiary upon written notice to the Grantor.

(c) Governing Law. This Agreement is made and shall be governed in all respects by the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

(d) Severability. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications that can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby.

(e) Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To Grantor: Economic Development Authority of Brooklyn Center
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430
Attn: Executive Director

To Grantee: Brothers Taqueria
6056 Shingle Creek Parkway
Brooklyn Center, MN 55430

Attn: Jorge

(f) Termination. Upon the date of receipt by the Grantor of Grantee's written report on Grantee's expenditure of Grant proceeds as described in paragraph 3
(f) of this Agreement, this Agreement shall terminate and neither party shall have any further obligation to the other.

(g) Entire Agreement. This Agreement, together with the Grant Documents, which are incorporated by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to this Agreement, superseding

all prior or contemporaneous proposals, communications, and understandings, whether oral or written, concerning the Grant.

(h) Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

IN TESTIMONY WHEREOF, each of the parties hereto has caused these presents to be effective as of the day and year first above written.

Brothers Taqueria
By: _____

Name: _____
Its: [Jorge]

ECONOMIC DEVELOPMENT AUTHORITY OF BROOKLYN CENTER

By: _____

Name: _____
Its: President

By: _____

Name: _____
Its: Executive Director

Economic Development Authority

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Community Development Director
BY: Vong Thao

SUBJECT: Resolution Approving the Micro-Facade Grant Award to Que Viet

Requested Council Action:

- *Motion to approve a resolution approving the award of grants under the Micro-Grant Facade Program.*

Background:

On April 26, the Brooklyn Center Economic Development Authority approved the creation of a Micro-grant Facade Improvement Program, and provided $50,000 in EDA funds to support the program.

As part of the 2021 budget, the Brooklyn Center City Council identified a strategic Council Priority to promote beautification and cleanliness. The goal of the strategy was to put into effect new programs and approaches to improve the look and quality of the City. On of the activities under this priority that was identified was to explore and implement a program to incentivize businesses to invest in beatification strategies. The EDA budget included $50,000 to fund such a program.

The purpose of the Micro-grant Façade Improvement Program is to support businesses with exterior improvements, beautification and repairs. The intention is to encourage and assist businesses with improving the exterior of properties while improving the public realm, beautifying businesses, improving public safety and maintaining cleanliness. The Program Policies and Procedures are attached to this report.

Grant proceeds would be able to be used for the following purposes:

- Installation, repair or replacement of exterior signage including, monument signs on the property and wall signs affixed to the building
- Exterior lighting
- Exterior painting
- Repair and /or replacement of windows and exterior doors
- Masonry repairs and tuck pointing
- Art installations and wall murals, with an approved maintenance plan
- Canopy and/or awning installation or repair
- Pedestrian improvements, which improve access for persons with disabilities.
- Permanent site improvements (walks, patios, courts)
- Trash and mechanical enclosures
- Parking area repairs and improvements (including the addition of bicycle facilities)
- Security cameras, as approved by the Brooklyn Center Police Department
- Fences
- Materials for any of the above identified items

In 2023, the EDA has since received two applications, totaling $10,000 of requested funds. Staff has reviewed the applications based on the information provided. All of the applications meet the minimum requirements for program eligibility.

The Applicant is listed below
Que Viet- Parking Lot improvement

Budget Issues:

EDA has allocated $50,000 budget to the Micro-Grant Facade Improvement Program for 2023. A full approval of all 2023 funding requests would result in a total cost of $10,000. With the $10,000 of grant funding owners' equity of $45,000 will go into the projects. Through every grant dollar funded there are Four Dollars and Fifty Cents of owners' equity being reinvested back into commercial properties in City of Brooklyn Center.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Businesses awarded are considered small businesses (under 25 employees), and/or is owned by a woman or person of color.

Strategic Priorities and Values:

ATTACHMENTS:

Description	Upload Date	Type
Resolution Que Viet	8/24/2023	Backup Material
Agreement Que Viet	8/24/2023	Backup Material

THE BROOKLYN CENTER ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN CENTER

RESOLUTION NO. 2023-__

RESOLUTION APPROVING THE AWARD OF GRANTS UNDER THE MICRO-GRANT FACADE PROGRAM

WHEREAS, the Economic Development Authority of Brooklyn Center, Minnesota (the "Authority") was created pursuant to Minnesota Statutes, sections 469. 090 through 469 .1082 to exercise its powers to promote and protect economic development within the City of Brooklyn Center ("City"); and

WHEREAS, on April 26, 2021, the Authority exercised its authority to establish the Micro-Grant Fa9ade Program ("Program") to promote local businesses and economic development by encouraging the improvement of business facades within the City; and

WHEREAS, businesses have applied for grants under the Program and the Authority desires to award the grants for use in accordance with the guidelines established for the Program and the terms and conditions of the agreement established for the Program, which is attached hereto as Exhibit A ("Grant Agreement").

NOW, THEREFORE, BE IT RESOLVED, by the Economic Development Authority of Brooklyn Center, Minnesota Board of Commissioners ("Board") as follows:

1. The Board hereby awards $5,000 in grants under the Program to the following businesses and in the following amounts:

Business	Grant Amounts
Que Viet	$5,000

2. The business shall utilize the grant funds in accordance with the Program guidelines and the Grant Agreement.

3. Staff are hereby authorized to enter into Grant Agreements with the businesses in substantially the form as attached, issue the grants, and to otherwise take such actions as may be necessary to carry out the Program.

The foregoing resolution was introduced by EDA Commissioner and duly seconded by EDA Commissioner . The following commissioners voted in favor of the resolution: . The following voted against: . The following were absent: . Whereupon the resolution was adopted.

ADOPTED: August 28, 2023

_____ _____

President Executive Director

ATTEST: _____

City Clerk

EXHIBIT A
Grant Agreement

[attached hereto]

MICRO FAÇADE GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is made effective as of August 28, 2023, by and between [Que Viet a Minnesota [Corporation] (the "Grantee"), and the Economic Development Authority of Brooklyn Center, a public body corporate and politic under the laws of Minnesota ("Lender").

RECITALS

A. Grantor has duly established its Micro-Facade Grant Program (the "Program") and has approved policy and guidelines for said Program (the "Program Guidelines").

B. Grantee has submitted an application for a grant (the "Grant Application") pursuant to the Program Guidelines, and Grantor has approved a grant to the Grantee in the maximum principal amount of $5,000 (the "Grant") to pay a portion of the costs of qualifying expenditures under the Grant Guidelines as set forth in the Grant Application, in connection with Grantee's business located at 6100 Brooklyn Blvd in the City of Brooklyn Center, Minnesota (the "City") (the "Grant Activities").

C. The Grantor and Grantee have negotiated the terms of the Grant, and now desire to memorialize such terms in this Agreement.

ACCORDINGLY, to induce Grantor to make the Grant to Grantee, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Grant Amount. Subject to and upon the terms and conditions of this Agreement, the Program Guidelines, and the Grant Application (together, the "Grant Documents"), Grantor agrees to grant to Grantee the sum of Five Thousand and no/100ths Dollars ($_5,000_) and provide Grantee with computer hardware and software. Proceeds of the Grant shall be disbursed for the Grant Activities approved pursuant to the Grant Documents in accordance with Section 2 hereof.

2. Disbursement of Grant Proceeds.

(a) All Grant proceeds shall be paid to Grantee in accordance with the terms and conditions of the Grant Documents. Notwithstanding anything to the contrary herein, any costs of the Grant Activities exceeding the amount to be reimbursed under this Agreement shall be the sole responsibility of the Grantee.

(b) On the date of closing on the Grant, Grantor shall direct Brothers Taqueria to distribute Grant proceeds to the Grantee for façade improvement. The disbursement of proceeds of the Grant will be made subject to the conditions precedent that prior to or as of the date of disbursement:

(i) The Grantor has received from Grantee, without expense to Grantor, an executed copy of this Agreement;

(ii) Grantee is in compliance with the terms of the Grant Documents.

3. Representations and Warranties. Grantee represents and warrants to Grantor that:

(a) Grantee is duly authorized and empowered to execute, deliver, and perform this Agreement and to receive the Grant from Grantor.

(b) The execution and delivery of this Agreement, and the performance by Grantee of its obligations under the Grant Documents, do not and will not materially violate or conflict with any applicable provision of law and do not and will not materially violate or conflict with, or cause any default or event of default to occur under, any material agreement binding upon Grantee.

(c) The execution and delivery of this Agreement has been duly approved by all necessary action of Grantee, and this Agreement has in fact been duly executed and delivered by Grantee and constitutes its lawful and binding obligation, legally enforceable against it.

(d) Grantee warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Grant proceeds and that any duly authorized representative of Grantor shall, with reasonable advance notice, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of Grantee pertaining to the Grant until the completion of all closeout procedures and the final settlement and conclusion of all issues arising out of this Grant.

(e) Grantee warrants that to the best of its knowledge, it has fully complied with all applicable state and federal laws reasonably relevant to this Agreement and will continue to comply throughout the terms of this Agreement. If at any time Grantee receives notice of noncompliance from any governmental entity, Grantee agrees to take any necessary action to comply with the state or federal law in question.

(f) Grantee warrants that it will use the proceeds of the Grant made by Grantor solely for the Grant Activities, and Grant funds have been utilized and providing evidence in the form of paid invoices, statements, or similar.

(g) Grantee acknowledges that Grant funds may only be used for eligible expense under the Program Guidelines. If it is determined by an audit or review that Grant funds have been misspent, Grantee shall be liable to Grantor for the amount deemed to have been misspent.

4. No Business Subsidy. The parties agree that the Grant is not a business subsidy as defined in Minnesota Statutes, Sections 116J.993 to 116J.995, as amended (the "Business Subsidy Act"), because the assistance is in an amount less than $150,000.

5. Event of Default by Grantee. The following shall be Events of Default under this Agreement:

(a) failure to complete any part of the Grant Activities by December 31, 2024;

(b) any representation or warranty made by Grantee herein is false when made;

(c) any material breach or failure of Grantee to perform any material term or condition of this Agreement not specifically described as an Event of Default in this Agreement and such breach or failure continues for a period of thirty (30) days after Grantor has given written notice to Grantee specifying such default or breach, unless Grantor agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Grantor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Grantee within the applicable period and is being diligently pursued until the Event of Default is corrected, but no such extension shall be given for an Event of Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder).

6. Grantor's Remedy upon Grantee's Default. Upon an Event of Default by Grantee and after provision by Grantor of written notice, Grantor shall have the right to suspend or terminate its performance under this Agreement. In addition, Grantee will be ineligible for future grants under the Program.

7. Indemnification.

(a) Grantee shall and does hereby agree to indemnify against and to hold Grantor, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage that it may incur under or by reason of this Agreement, and of and from any and all claims and demands whatsoever that may be asserted against Grantor by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein.

(b) This indemnification and hold harmless provision shall survive the execution, delivery, and performance of this Agreement and the payment by Grantor of any portion of the Grant.

(c) Nothing in this Agreement shall constitute a waiver of or limitation on any immunity from or limitation on liability to which Grantee is entitled under law.

8. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Agreement may be waived, amended, or modified only by a writing signed by

Grantee and Grantor. No delay in the exercise of any power, right, or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right, or remedy.

(b) Assignment. This Agreement shall be binding upon the parties, their successors, and assigns. All rights and powers specifically conferred upon Grantor may be transferred or delegated by Grantor to any of its successors and assigns. Grantee's rights and 4 obligations under this Agreement may be assigned only when such assignment is approved in writing by Grantor; except that if such assignment is made to an affiliate or subsidiary of Grantee, Grantee may assign any of its rights or obligations to such affiliate or subsidiary upon written notice to the Grantor.

(c) Governing Law. This Agreement is made and shall be governed in all respects by the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

(d) Severability. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications that can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby.

(e) Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To Grantor: Economic Development Authority of Brooklyn Center
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430
Attn: Executive Director

To Grantee: Que Viet
6100 Brooklyn Blvd
Brooklyn Center, MN 55429

Attn: Khoa Lam

(f) Termination. Upon the date of receipt by the Grantor of Grantee's written report on Grantee's expenditure of Grant proceeds as described in paragraph 3
(f) of this Agreement, this Agreement shall terminate and neither party shall have any further obligation to the other.

(g) Entire Agreement. This Agreement, together with the Grant Documents, which are incorporated by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to this Agreement, superseding

all prior or contemporaneous proposals, communications, and understandings, whether oral or written, concerning the Grant.

(h) Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

IN TESTIMONY WHEREOF, each of the parties hereto has caused these presents to be effective as of the day and year first above written.

Que Viet
By: _____

Name: _____
Its: [Khoa Lam]

ECONOMIC DEVELOPMENT AUTHORITY OF BROOKLYN CENTER

By: _____

Name: _____
Its: President

By: _____

Name: _____
Its: Executive Director

MICRO FAÇADE GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is made effective as of August 28, 2023, by and between [Brothers Taqueria a Minnesota [Corporation] (the "Grantee"), and the Economic Development Authority of Brooklyn Center, a public body corporate and politic under the laws of Minnesota ("Lender").

RECITALS

A. Grantor has duly established its Micro-Facade Grant Program (the "Program") and has approved policy and guidelines for said Program (the "Program Guidelines").

B. Grantee has submitted an application for a grant (the "Grant Application") pursuant to the Program Guidelines, and Grantor has approved a grant to the Grantee in the maximum principal amount of $_5,000 (the "Grant") to pay a portion of the costs of qualifying expenditures under the Grant Guidelines as set forth in the Grant Application, in connection with Grantee's business located at 6056 Shingle Creek Parkway in the City of Brooklyn Center, Minnesota (the "City") (the "Grant Activities").

C. The Grantor and Grantee have negotiated the terms of the Grant, and now desire to memorialize such terms in this Agreement.

ACCORDINGLY, to induce Grantor to make the Grant to Grantee, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Grant Amount. Subject to and upon the terms and conditions of this Agreement, the Program Guidelines, and the Grant Application (together, the "Grant Documents"), Grantor agrees to grant to Grantee the sum of Five Thousand and no/100ths Dollars ($_5,000_) and provide Grantee with computer hardware and software. Proceeds of the Grant shall be disbursed for the Grant Activities approved pursuant to the Grant Documents in accordance with Section 2 hereof.

2. Disbursement of Grant Proceeds.

(a) All Grant proceeds shall be paid to Grantee in accordance with the terms and conditions of the Grant Documents. Notwithstanding anything to the contrary herein, any costs of the Grant Activities exceeding the amount to be reimbursed under this Agreement shall be the sole responsibility of the Grantee.

(b) On the date of closing on the Grant, Grantor shall direct Brothers Taqueria to distribute Grant proceeds to the Grantee for façade improvement. The disbursement of proceeds of the Grant will be made subject to the conditions precedent that prior to or as of the date of disbursement:

(i) The Grantor has received from Grantee, without expense to Grantor, an executed copy of this Agreement;

(ii) Grantee is in compliance with the terms of the Grant Documents.

3. Representations and Warranties. Grantee represents and warrants to Grantor that:

(a) Grantee is duly authorized and empowered to execute, deliver, and perform this Agreement and to receive the Grant from Grantor.

(b) The execution and delivery of this Agreement, and the performance by Grantee of its obligations under the Grant Documents, do not and will not materially violate or conflict with any applicable provision of law and do not and will not materially violate or conflict with, or cause any default or event of default to occur under, any material agreement binding upon Grantee.

(c) The execution and delivery of this Agreement has been duly approved by all necessary action of Grantee, and this Agreement has in fact been duly executed and delivered by Grantee and constitutes its lawful and binding obligation, legally enforceable against it.

(d) Grantee warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Grant proceeds and that any duly authorized representative of Grantor shall, with reasonable advance notice, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of Grantee pertaining to the Grant until the completion of all closeout procedures and the final settlement and conclusion of all issues arising out of this Grant.

(e) Grantee warrants that to the best of its knowledge, it has fully complied with all applicable state and federal laws reasonably relevant to this Agreement and will continue to comply throughout the terms of this Agreement. If at any time Grantee receives notice of noncompliance from any governmental entity, Grantee agrees to take any necessary action to comply with the state or federal law in question.

(f) Grantee warrants that it will use the proceeds of the Grant made by Grantor solely for the Grant Activities, and Grant funds have been utilized and providing evidence in the form of paid invoices, statements, or similar.

(g) Grantee acknowledges that Grant funds may only be used for eligible expense under the Program Guidelines. If it is determined by an audit or review that Grant funds have been misspent, Grantee shall be liable to Grantor for the amount deemed to have been misspent.

4. No Business Subsidy. The parties agree that the Grant is not a business subsidy as defined in Minnesota Statutes, Sections 116J.993 to 116J.995, as amended (the "Business Subsidy Act"), because the assistance is in an amount less than $150,000.

5. Event of Default by Grantee. The following shall be Events of Default under this Agreement:

(a) failure to complete any part of the Grant Activities by December 31, 2024;

(b) any representation or warranty made by Grantee herein is false when made;

(c) any material breach or failure of Grantee to perform any material term or condition of this Agreement not specifically described as an Event of Default in this Agreement and such breach or failure continues for a period of thirty (30) days after Grantor has given written notice to Grantee specifying such default or breach, unless Grantor agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Grantor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Grantee within the applicable period and is being diligently pursued until the Event of Default is corrected, but no such extension shall be given for an Event of Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder).

6. Grantor's Remedy upon Grantee's Default. Upon an Event of Default by Grantee and after provision by Grantor of written notice, Grantor shall have the right to suspend or terminate its performance under this Agreement. In addition, Grantee will be ineligible for future grants under the Program.

7. Indemnification.

(a) Grantee shall and does hereby agree to indemnify against and to hold Grantor, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage that it may incur under or by reason of this Agreement, and of and from any and all claims and demands whatsoever that may be asserted against Grantor by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained herein.

(b) This indemnification and hold harmless provision shall survive the execution, delivery, and performance of this Agreement and the payment by Grantor of any portion of the Grant.

(c) Nothing in this Agreement shall constitute a waiver of or limitation on any immunity from or limitation on liability to which Grantee is entitled under law.

8. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Agreement may be waived, amended, or modified only by a writing signed by

Grantee and Grantor. No delay in the exercise of any power, right, or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right, or remedy.

(b) Assignment. This Agreement shall be binding upon the parties, their successors, and assigns. All rights and powers specifically conferred upon Grantor may be transferred or delegated by Grantor to any of its successors and assigns. Grantee's rights and 4 obligations under this Agreement may be assigned only when such assignment is approved in writing by Grantor; except that if such assignment is made to an affiliate or subsidiary of Grantee, Grantee may assign any of its rights or obligations to such affiliate or subsidiary upon written notice to the Grantor.

(c) Governing Law. This Agreement is made and shall be governed in all respects by the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

(d) Severability. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications that can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby.

(e) Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To Grantor: Economic Development Authority of Brooklyn Center
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430
Attn: Executive Director

To Grantee: Brothers Taqueria
6056 Shingle Creek Parkway
Brooklyn Center, MN 55430

Attn: Jorge

(f) Termination. Upon the date of receipt by the Grantor of Grantee's written report on Grantee's expenditure of Grant proceeds as described in paragraph 3
(f) of this Agreement, this Agreement shall terminate and neither party shall have any further obligation to the other.

(g) Entire Agreement. This Agreement, together with the Grant Documents, which are incorporated by reference, constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to this Agreement, superseding

all prior or contemporaneous proposals, communications, and understandings, whether oral or written, concerning the Grant.

(h) Headings. The headings appearing at the beginning of the several sections contained in this Agreement have been inserted for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

IN TESTIMONY WHEREOF, each of the parties hereto has caused these presents to be effective as of the day and year first above written.

Brothers Taqueria
By: _____

Name: _____
Its: [Jorge]

ECONOMIC DEVELOPMENT AUTHORITY OF BROOKLYN CENTER

By: _____

Name: _____
Its: President

By: _____

Name: _____
Its: Executive Director

Council/EDA Work Session
City Hall Council Chambers
August 28, 2023

AGENDA

ACTIVE DISCUSSION ITEMS

1. Concept Review for 6010 Earle Brown Drive and Discussion on Potential Changes to MX-B District to Allow for Places of Religious Assembly.

   - Consider a concept proposal for 6010 Earle Brown Drive, which would ultimately require an ordinance amendment to the MX-B (Business Mixed-Use) District to allow for places of religious assembly, and provide feedback.

2. Review and Discussion of a Community Benefits Agreement Template and Equity Development Framework, Draft Appendices to the Opportunity Site Master Plan.

   - Review and provide feedback on two draft appendices to the Opportunity Site Master Plan – a Community Benefits Agreement Template, and Equity Development Framework.

3. Resolution Amendment - The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act

   The City Council deliberate and direct staff regarding amendment of Resolution No. 2021-73 - The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act.

PENDING LIST FOR FUTURE WORK SESSIONS

1. Upcoming Items
   - Memorial Policy
   - Special Assessment Policy/Franchise Fees *(referred to Financial Commission)*
   - Beautification and Public Art Commission
   - Liquor Store 2
   - Organizational Chart-Budget work sessions
   - New and Repeat Type IV Rental License Review *(referred to Housing Commission)*
   - Food Truck Ordinance/License
   - Emerald Ash Borer Policy Review (*referred to Park & Rec Commission November)*
   - Opioid Settlement
   - ARPA Funds
   - Grants: Revenues & Expenses
   - Purchasing Policy
   - Commercial Vacant Building Fees
   - Interveners Impact
   - Revisit Resolution 2021-73

Council/EDA Work Session

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Community Development Director
BY: Ginny McIntosh, City Planner and Zoning Administrator

SUBJECT: Concept Review for 6010 Earle Brown Drive and Discussion on Potential Changes to MX-B District to Allow for Places of Religious Assembly.

Requested Council Action:

- Consider a concept proposal for 6010 Earle Brown Drive, which would ultimately require an ordinance amendment to the MX-B (Business Mixed-Use) District to allow for places of religious assembly, and provide feedback.

Background:

Trinity International Fellowship, a non-denominational ministry based out of Liberia, has expressed interest in purchasing 6010 Earle Brown Drive, which has long been home to MinMor Industries. The Subject Property was originally approved for use as a bank and drive-thru in 1988, but was purchased by Minmor LLC in 2008. The Subject Property has been marketed on and off for sale or lease for a few years now.

City staff and the architect working with Trinity International Fellowship held numerous conversations surrounding the intended use of the Subject Property and potential impacts to the overarching MX-B District. City staff outlined numerous concerns and considerations as part of these discussions. As City staff determined there was no path forward for the use at the Subject Property under current City Code provisions, the architect, in conversation with Trinity International Fellowship, requested City Council weigh in on the proposal in the form of a concept review work session.

Concept Review for 6010 Earle Brown Drive

The concept review process is an opportunity for the City Council to review a development concept prior to a formal proposal from an applicant, and provide comments, ask questions, and indicate whether or not the City would generally be open to the project. Concept reviews also provide insight to City staff and the applicant as to the City Council's level of interest, and any specific concerns related to a project.

A concept review is considered advisory and is non-binding to the City and the applicant. No formal action can be taken at a work session, and the Council is not being asked to vote on the proposal. If the applicant chooses to submit a formal application to the City to proceed, it would be subject to the full City review process, as with any other application.

The Subject Property located at 6010 Earle Brown Drive was originally approved under Planning Commission Application No. 88019 as an approximately 20,000-square foot City-County Federal Credit Union location and drive-thru. At the time of approval, the Subject Property was zoned C2 (Commerce) District—"financial institutions" and "office buildings" were considered permitted uses within this District.

The staff report on file contemplated the parking requirements under this application assuming a mix of retail and office use for a total of 118 on-site parking spaces.

In 2008, MinMor Industries purchased the Subject Property. MinMor Industries provides print, design, and manufacturing services and primarily works in the printing, packaging, and promotions industries under its numerous companies (i.e. Mello Smello, OlymPak, Kidcentives, Mission Nutrition, and Safety Stop). Given MinMor's reduced office presence at this location, the Subject Property has been for sale or lease off and on for a few years now.

Trinity International Fellowship provided a narrative (attached), which notes an existing membership of between 180 to 250 members since opening their local chapter in 2018. The narrative further indicates plans to purchase the Subject Property for use as a, "sanctuary for services, gathering and meeting spaces, spaces for youth ministry, a food shelf to assist those in need, and offices for ministry staff and community outreach." Although there were conversations about providing on-site daycare, no formal request was outlined in the narrative. Further discussions with City staff outline plans to expand the existing building towards Highway 100 to allow for future membership growth. A multi-phase expansion plan is included with the memo as reference and further breaks down the potential usage of the building.

City staff reviewed the narrative and provided plans, which would accommodate an approximately 1,200 square foot sanctuary, bookstore, food shelf, office space, and group meeting rooms as part of an initial Phase I remodel. As noted, the Subject Property was approved in 1988 with 118 on-site parking spaces. Assuming an assembly use (1 parking space for every 3 seats/persons), the Subject Property would only accommodate an additional growth of likely less than 100 new members before minimum parking needs would no longer be met on-site.

Assuming an existing membership of 250, a minimum of 84 parking spaces would be required—this does not account for parking needs for church staff (e.g. bookstore, office spaces, food shelf), other visitors, and those receiving potential services. The total building occupant load outlined for the ***existing*** building today is noted as 426 occupants. If City staff calculated parking needs purely off occupant load and assumed 100% assembly use (which is not the case), a minimum of 142 on-site parking spaces would be required to serve the existing building, which is 24 more parking spaces than are currently available.

The proposed full Phase II expansion as presented would more than double the building occupancy load from 426 occupants to 928 occupants. Again, if City staff calculated off building occupant load and assumed 100% assembly use (again, which is not the case), a minimum of 310 on-site parking spaces would be required if the building were expanded. The submitted Phase II expansion plans again contemplate a dedicated food shelf, book store, pastoral offices, group meeting rooms, a further expanded approximately 5,300-square foot sanctuary with stage, classrooms, and a basement dedicated for a children's play area, nursery, and classrooms (e.g. young children, pre-school, toddlers).

These parking concerns were relayed by City staff who noted constraints to the future use of the property as envisioned. City staff further inquired on the Northern States Power (NSP) powerline that appears to run along the Subject Property and noted that any proposed plans to expand would require additional review depending on the width of the easement and any restrictions. Although there are two existing curb cut access points off Earle Brown Drive, City staff addressed concerns surrounding ingress and egress as the Subject Property is located off the intersection of Earle Brown Drive and Summit Drive (4-way stop) and it is assumed all traffic would be concentrated at this intersection given Earle Brown Drive is a loop road.

Amendments to MX-B (Business Mixed-Use) District | Other Considerations

"Places for Religious Assembly" are permitted through approval of a Conditional Use Permit (CUP) in the

City's R1 (Low Density Residential), R2 (Medium Low Density Residential), C (Commerce—Service/Office), and I (General Industry) Districts. The majority of existing religious assembly uses are predominantly located within the City's R1 Districts. Only one religious assembly use is located within the I District.

City staff reviewed the City's Unified Development Ordinance (Chapter 35) and the only perceived path forward for Trinity International Fellowship to purchase the Subject Property and occupy the space for religious assembly would be for the City Council to amend the Unified Development Ordinance to allow for "places for religious assembly," as it is currently prohibited as a use in the MX-B District. In keeping with the other districts, City staff assumes the path would be via approval of a Conditional Use Permit.

City staff reviewed other potential options, such as re-zoning the Subject Property; however, the property is entirely surrounded by other MX-B District-zoned properties. The MX-C (Commercial Mixed-Use) District is located to the south of the Subject Property, off Summit Drive; however, this District also prohibits "places for religious assembly" as a use. The only other alternately zoned properties are located across Earle Brown Drive (i.e. Lux Apartments, Ecumen Memory Care); however, these properties are zoned PUD/Mixed (Planned Unit Development/Mixed Use) District and were specifically approved for multi-family/senior housing uses. "Spot zoning" a property is generally prohibited.

The majority of the City's MX-B District is located just north of Interstates 94/694 and off the intersection of Shingle Creek Parkway and Freeway Boulevard, although there are also MX-B zoned properties off Earle Brown Drive. City staff counted a total of 38 properties across the City that are zoned with the MX-B District designation. Although some properties feature multi-tenant type buildings, other properties have standalone buildings. Many of the MX-B properties appear to be located off either loop roads (e.g. Earle Brown Drive, James Circle North), or cul-de-sacs (67th Avenue North).

The MX-B District's purpose, as outlined in the City's Unified Development Ordinance, is to, "accommodate land for a mix of business and light industrial uses, with allowances for supporting retail/service uses. This designation encourages redevelopment or development of commercial, office, general business, and light industrial uses in coordination with supportive retail/commercial uses towards encouraging a more dynamic and connected experience for workers. This land does not plan for residential uses, but may include limited live-work opportunities as established through supporting official controls."

Permitted uses within the MX-B District include uses like: medical and health uses, animal hospitals, commercial animal establishments, brewpubs, micro-wineries, and micro-distilleries, office uses, automobile and truck repair and service stations, manufacturing, assembly, and processing of products, artisan production and sales, wholesale trade, and business/trade/post-secondary schools, but *not* public and private elementary and secondary schools.

Assembly uses, such as places of religious assembly, tend to have higher parking demands than other types of uses, such as industrial, which typically have lower parking demands relative to the overall square footage of building, due in part to lower employment densities. For example, "places of religious assembly," and other assembly type uses (e.g. theatres, stadiums, arenas, and dance halls) require, "1 parking space for every three seats/persons." Industry and wholesales uses require a minimum of one (1) space for every two (2) employees based on maximum shift or one (1) space for every 800 square feet of gross floor area. Medical and dental clinics, which are permitted in the MX-B District, require a minimum of three (3) spaces for each doctor or dentist, plus one (1) space for every two (2) employees or one space for each 150 square feet of gross floor area. Office buildings require a minimum of three (3) parking spaces for every 1,000 square feet of gross floor area.

Depending on the existing use, the conversion of a building could also trigger a "change of use" under the Building Code, which requires additional considerations, including but not limited to: installation of panic hardware, fire separation/protection measures, or installation of an elevator/lift (dependent on occupancies).

Policy Considerations

The City Council is being asked to consider a concept proposal for 6010 Earle Brown Drive, which would ultimately require an amendment to the MX-B (Business Mixed-Use) District to allow for "places for religious assembly," which is currently prohibited within this District.

Issues for the City Council to consider:

- Are there aspects of the site layout, architecture, or form of the presented site plan for 6010 Earle Brown Drive (Subject Property) that are concerning to the Council?

- Is the development plan in keeping with the City's 2040 future land use plan and long-range vision for the area?
    - Approximately 5.02% of the City of Brooklyn Center has a 2040 future land use designation of "Business Mixed-Use." This does not include approximately 15 acres of land located at 1297 Shingle Creek Crossing (Former Sears property) that was recommended last year for a recommended comprehensive plan amendment re-designation to Business Mixed-Use, which would bring the total acreage under this designation to approximately 5.3%.

- Does the proposed amendment to the MX-B (Business Mixed-Use) District forward the City's strategic priorities?
    - The City's priority of "Resident Economic Stability" notes that the, "economic stability of residents is essential to vibrant neighborhoods and to retail, restaurant, and business growth. We will lead by supporting collaborative efforts of education, business, and government sectors to improve income opportunities for residents." Further, the City's values statement of "Operational Excellence," notes that the City will, "commit ourselves to deliver quality services in a cost effective and efficient manner. We will be good stewards of the limited resources made available to use by the citizens we serve."
        - Certain classes of property are considered "exempt" and are therefore not subject to property taxes. These typically include, but are not limited to: religious uses (e.g. churches/houses of worship), certain institutions of public charity (e.g. 501(c)(3) organizations), schools (e.g. public, charter schools), cemeteries/burial grounds, and property used for public purposes (e.g. City Hall, Fire Station). It is important to note that while a property may become "tax exempt," the burden does not disappear—rather, it is shifted to other tax payers within the City.

          Although there are other factors to consider and the potential impacts unknown at this time, in reviewing the City's MX-B properties, it was determined that the majority of MX-B District properties appear to be classified for tax rate purposes as "Industrial Preferred" or "Commercial Preferred," which tax at a higher rate than other property types. Dependent on interest, there could be implications to the overall tax base that would need to be accounted for in future City budget years.

Budget Issues:

None to consider at this time; however, as noted above, there may be future implications to the overall tax base in the future.

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Resident Economic Stability, Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type
City of Brooklyn Center Zoning Map - MX-B District	8/22/2023	Backup Material
Narrative_Trinity International Fellowship	8/22/2023	Backup Material
Site Floor Plans_6010 Earle Brown Drive	8/22/2023	Backup Material

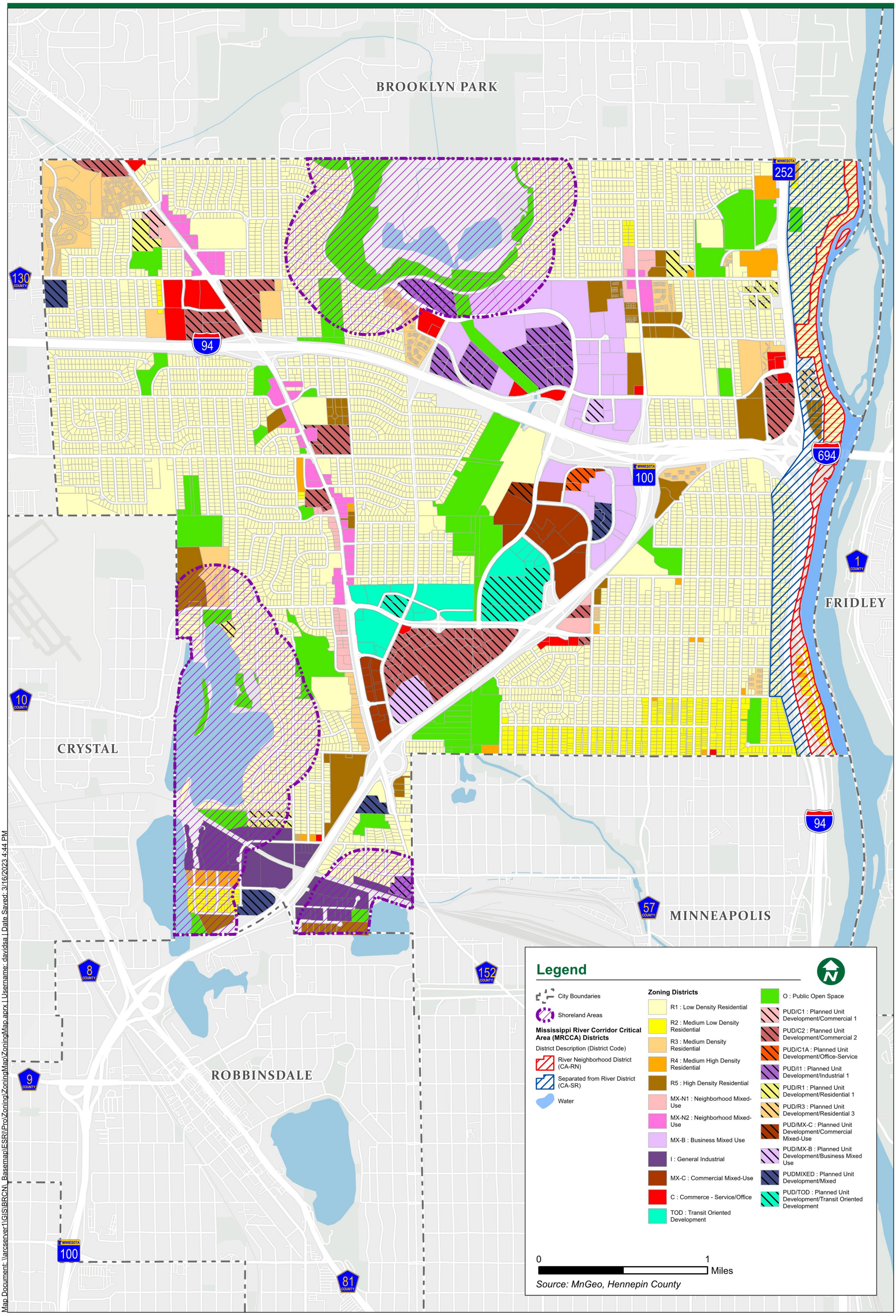
Brooklyn Center Zoning Map

Brooklyn Center, MN

Shoreland and MRCCA Areas

March 2023

BOLTON & MENK



Map Document: \\arcserver1\GIS\BRCN_Basemap\ESRI\Pro\Zoning\ZoningMap\ZoningMap.aprx | Username: davidsa | Date Saved: 3/16/2023 4:44 PM

Trinity International Fellowship, a non-denominational ministry, has made a remarkable impact since its establishment in 1999. With its mega central headquarters in Monrovia, Liberia, and branches spanning across three different nations, the ministry has witnessed continuous growth, boasting an impressive membership of over 12,000 active individuals. In 2018, a new chapter began as Trinity International Fellowship planted its roots in Brooklyn Center, Minnesota, where it quickly gained traction and now serves a thriving community of 180 to 250 members.

The ministry's commitment to serving the community is evident as it seeks to expand its reach by purchasing the property located at 6010 Earle Brown Drive. This campus will consist of a Sanctuary for services, gathering and meeting spaces, spaces for youth ministry, a food shelf to assist those in need, and offices for ministry staff and community outreach. With the goal of aiding the poor, assisting the homeless, and promoting community development, Trinity International Fellowship aims to make a lasting impact through the teachings of Jesus Christ. Plans are underway to invest millions of dollars in constructing a facility that aligns with the architectural vision and gains approval from the city council, further solidifying the ministry's commitment to their mission.

One of the driving factors behind choosing Brooklyn Center as the ministry's location is its vibrant diversity. Trinity International Fellowship thrives in the multi-cultural atmosphere, embracing the richness that comes from various backgrounds and traditions. Since their arrival in 2018, the congregants have been actively involved in fellowship, helping those in need and distributing food and clothing. Led by the dedicated Senior Pastor, Nyenatee S. Davis, who is not only a minister but also a doctorate student at the University of Minnesota and a successful entrepreneur, the ministry's impact extends beyond the Sunday sermons.

Trinity International Fellowship stands as a beacon of light, radiating passion and purpose. Their teachings encompass all aspects of life, empowering believers to apply the principles of the Gospel and effect societal change. With a deep-rooted desire to witness transformation and impact, the ministry equips its members with the necessary tools to delve into the Word of God, fostering profound understanding. Their success is not measured solely by numbers, but by the countless souls won through their unwavering dedication. Trinity International Fellowship humbly acknowledges that all the glory belongs to God alone, as it continues to shine brightly in its pursuit of sharing the Gospel.

GENERAL NOTES:

1. BWK. CR. TO DEMO EXISTING WOOD SIGN & EXISTING TREES IN NEW ENTRY DRIVE. F & I 6'-0 HIGH SNOW FENCE AS SHOWN ON BOULEVARD TO DEFINE CONSTRUCTION LIMITS.
2. ALL CONTRACTORS SEE SHEET A4 FOR BUILDING & SURROUNDING AREA.
3. PAVING CR. TO SEE ALTERNATES FOR BIDDING EMPLOYEE PARKING LOT.
4. ALL CONTRACTORS ARE RESPONSIBLE FOR REPLACEMENT/REPAIR OF ADJACENT PROPERTY OUTSIDE OF PROPERTY LINE/CONSTRUCTION LIMITS.
5. BWK. CR. IS RESPONSIBLE FOR ALL EROSION CONTROL AS DICTATED BY BUILDING OFFICIALS.
6. CONC. CR. TO SAWCUT/DEMO EXISTING CONC. CURB @ STREET FOR NEW POURED CONC. APRON.
7. ALL CONTRACTORS TO REPAIR STREET TO SATISFY CITY @ UTILITY CONNECTIONS.
8. PAVING CR. TO PAINT ALL STRIPES 4" WIDE TRAFFIC STRIPES TYPICAL INCLUDING 3 HC SYMBOLS & TRAFFIC ARROWS AS NOTED.
9. CARP. CR. TO F & I (3) HC SIGNS ON POST AS NOTED.
10. CONC. CR. TO F & I 6612 CURB TYPICAL.
11. BWK. CR. TO F & I 4" TOPSOIL TO ENTIRE SITE.
12. CONC. CR. TO LAYOUT ALL CURBS FOR APPROVAL OF ARCHITECT PRIOR TO POURING.
13. ALL CONTRACTORS TO NOTE NEW CONTOUR LINES ARE SHOWN ON LANDSCAPE PLAN SHT. A2.
14. BWK. CR. TO STRIP EXISTING BOULEVARD TO TOPSOIL FOR LANDSCAPE CR. TO APPLY NEW SOD. LANDSCAPE CR. TO HAND RAKE/TILL AREA.
15. SIGNAGE CR. TO F & I THE FOLLOWING DIRECTIONAL SITE SIGNS (SEE SPEC). 6 TOTAL
   - (1) ENTER ONLY
   - (2) DRIVE-UP TELLERS ↑
   - (3) EMPLOYEE PARKING ONLY →
   - (4) AFTER HOURS TELLER
   - (5) EXIT ONLY
   - (6) EXIT ↑
16. ELEC. CR. TO STUB OUT CONDUIT FOR FUTURE SIGN.

DEVELOPMENT SUMMARY

LOT AREA	2.8(±) ACRES
3 STORIES PLUS BASEMENT	20,000 SF
B2 OCCUPANCY	
CONSTRUCTION TYPE II-N - SPRINKLED FOR 3RD STORY	
AUTOMATIC FIRE PROTECTION SYSTEM	
PARKING 115 STALLS @ 9'-0" x 20'-0"	
3 HANDICAP @ 12'-0" x 20'-0"	
118	

+000-0 EXISTING GRADE

+000-0 NEW GRADE

STATE HIGHWAY NO. 100

EARLE BROWN DRIVE

1 A3 SITE PLAN
1" = 20'-0"

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA
DATE REG. NO.

BUETOW & ASSOCIATES
ARCHITECTS & ENGINEERS
ST. PAUL, MINNESOTA

NO. DATE REVISION

north

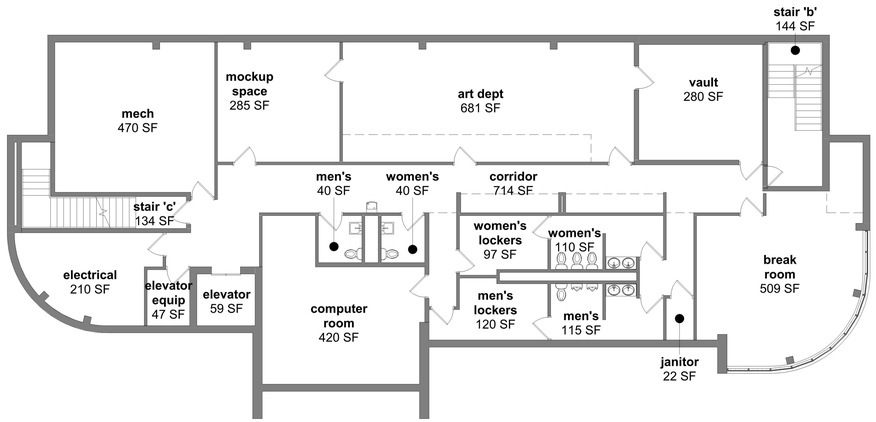
3/7/89

SITE PLAN

CITY-COUNTY FEDERAL CREDIT UNION

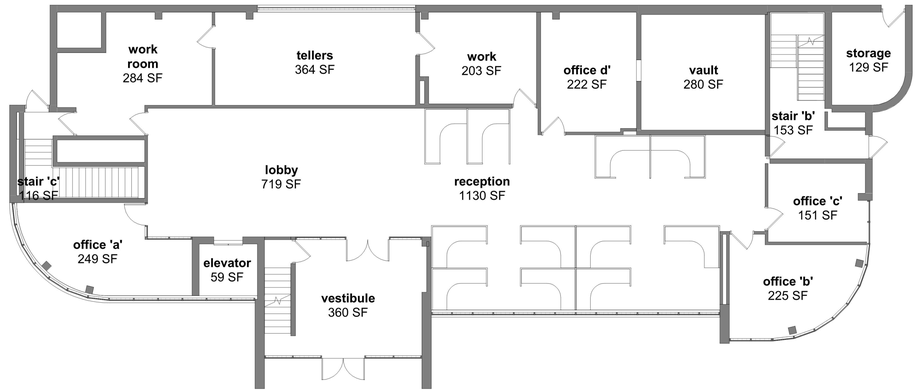
8724

A3



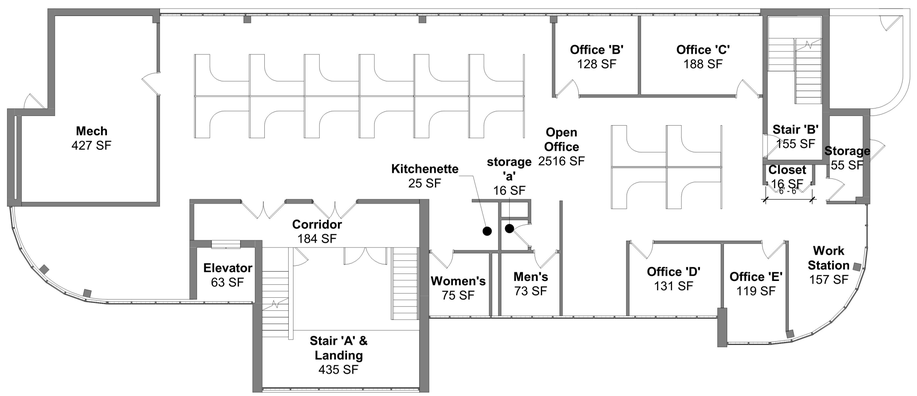
1 G-100 EXISTING - BASEMENT

SCALE: 1" = 10'-0"



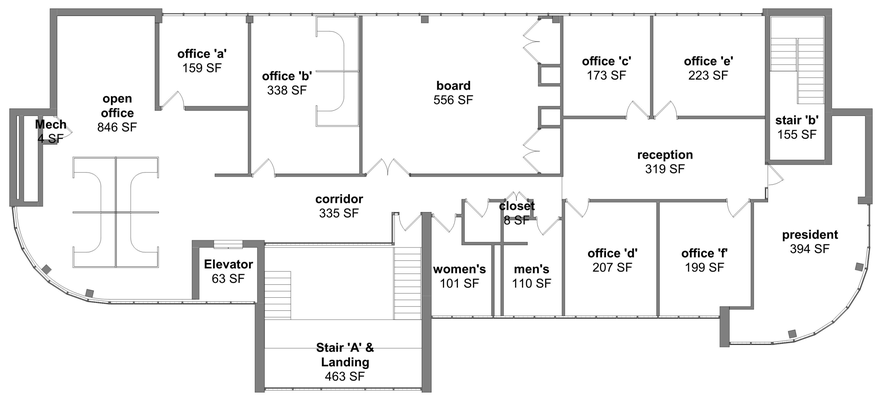
2 G-100 EXISTING - MAIN FLOOR

SCALE: 1" = 10'-0"



3 G-100 EXISTING SECOND FLOOR

SCALE: 1" = 10'-0"



4 G-100 EXISTING THIRD FLOOR

SCALE: 1" = 10'-0"

VANMAN
architects and builders
6701 W 23RD STREET
ST. LOUIS PARK, MN 555426
(763) 541-9552
FAX: (763) 541- 9857
www.vanmanab.com

Remodel:

TRINITY INTERNATIONAL

6010 Earle Brown Drive
Minneapolis, MN 55430

ISSUE DATE: NOT FOR CONSTRUCTION

#	DATE	DESCRIPTION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA

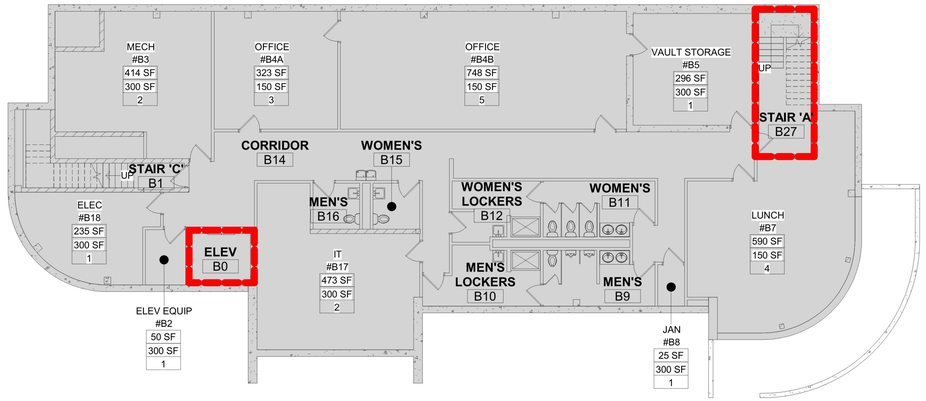
PRINT NAME: HOLLY BURLEY
SIGNATURE:
DATE: 8.16.21 REGISTRATION #55239

COPYRIGHT © 2021

EXISTING PLANS

G-100

A2142



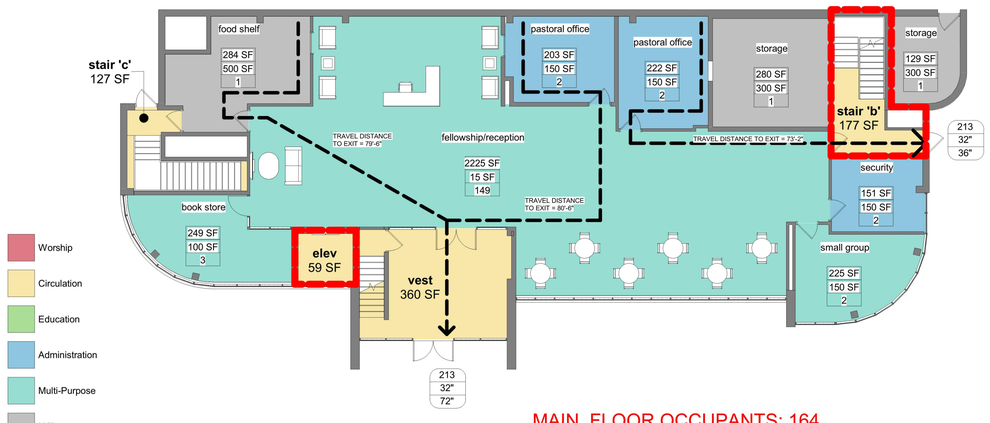
*No proposed work on this floor

BASEMENT FLOOR OCCUPANTS: 20
426 TOTAL OCCUPANTS

1 G-101

BASMENT FLOOR

SCALE: 3/32" = 1'-0"



MAIN FLOOR OCCUPANTS: 164
426 TOTAL OCCUPANTS

2 G-101

MAIN FLOOR

SCALE: 3/32" = 1'-0"

CODE SUMMARY ANALYSIS

2021 MINNESOTA STATE BUILDING CODE AND 2020 MINNESOTA ACCESSIBILITY CODE

CHAPTER 3 - USE AND OCCUPANCY CLASSIFICATION
SECTION 306 - Assembly Group A-3 (Place of Religious Worship)

CHAPTER 4 - SPECIAL DETAILED REQUIREMENTS

SECTION 410.5.3.4 - Technical Production Areas: Stairways are permitted exits

CHAPTER 5 - GENERAL BUILDING HEIGHTS AND AREAS
SECTION 503 General Building Height and Area Limitations

Construction Type: II-B
Occupancy Group: A-3
Sprinkled

Table 504.3 and 504.4 Allowable Height and Stories = 75' (3 stories)

Table 506.2 Allowable Area = 35,625 sf

ALLOWABLE AREA:
- Based on Minnesota Building Code 2020 Table 506.2

	Allowed	Proposed
$A_w = \{A_t + [NS \times I_f]\}$		
A_t = Tabular Area per story in accordance with Table 506	28,500 SF	
I_f = Frontage Increase per Section 506.2		
$I_f = [F/P - 0.25] \times W/30$ (F=352; P=352; W=30)		
$I_f = [352/352 - 0.25] \times 30/30 = 0.75$	0.75	
NS = Tabular allowable area factor in accordance with Table 506.2 for nonsprinklered building (regardless of whether the building is sprinklered.	9,500 SF	
Total Allowable Area (per story)	35,625 SF	22,920 SF
Total Existing Building Floor Area	22,920 SF	
Proposed Additional Floor Area	N/A	
Total Floor Area	22,920 SF	

CHAPTER 6 - TYPES OF CONSTRUCTION

SECTION 602 Construction Classification
Type II-B (Section 602.2)

Table 601 - Fire-Resistance Rating Requirements for Building Elements (hours)

Structural Frame	**0 HR**
Bearing Walls	**0 HR**
Nonbearing Walls and Partitions	**0 HR**
Floor Construction	**0 HR**
Roof Construction	**0 HR**

CHAPTER 8 - INTERIOR FINISHES
TABLE 803.13 INTERIOR WALL AND CEILING FINISH REQUIREMENTS

Corridors	Class B
Exit Access	Class B
Rooms and Enclosed spaces	Class C

Class C = Flame spread index 76-200 = Smoke developed index 0-450
Class B = Flame spread index 26-75 = smoke developed index 0-450

CHAPTER 9 - FIRE PROTECTION SYSTEMS

SECTION 903 Automatic Sprinkler System
** Existing system to Remain*

SECTION 906 Portable Fire Extinguishers

906.3 Portable Fire Extinguishers
Semi-Recessed fire extinguisher cabinets provided.
Building owner to furnish and maintain extinguishers.
- Required maximum travel distance not to exceed 75'-0"
(see plan for proposed locations)

SECTION 907 Fire Alarm System
*Provided in accordance with 907.2.1

CHAPTER 10 - MEAN OF EGRESS

SECTION 1004 OCCUPANT LOAD

1004.1 Design Occupant Load

Table 1004.5 Maximum Floor Area Allowances per Occupant

Assembly without fixed seats	
-Concentrated (chairs only - not fixed)	= 7 net
-Unconcentrated (tables & chairs, meeting & stage)	= 15 net
Business Areas, Kitchenette	= 150 gross
Educational - Classroom Areas/Sound Booth	= 20 net
Accessory storage/mechanical areas	= 300 gross
Educational - Classroom Areas/ Sound Booth	= 20 net

SECTION 1005 Means of Egress Sizing

Table 1005.3.1 & 1005.3.2 Other egress components (With Sprinkler System)
Exception: Building includes Automatic Sprinkler System and Emergency Voice/Alarm communication system.
Inches per occupant = 0.15 @ Egress Components (Doors)
Inches per occupant = 0.30 @ Stairways

SECTION 1006 Number of Exits and Exit Access Doorways

1006.2 Exit or exit access doorways required:
2 exits required when occupant load exceeds 49
426 Total Occupants

Table 1006.2.1 Common Path of Egress Travel: Shall not excced 75 feet

SECTION 1017 Exit Access Travel Distance

Table 1017.2 Exit Access Travel Distance:
A Occupancy, maximum travel distance = 250'-0"

SECTION 1018 Aisles
1018.2.1 Aisles and aisle accessways
Plan designed to comply with Section 1029.

SECTION 1029 Assembly
1029.2 Assembly main exit.
Group A Occupancies that have an occupant load of greater than 300 shall be provided with a main exit. The main exit shall be sufficient width to accommodate not less than one-half the occupant load, but such width shall not be less than the total required width of all means of egress leading to the exit.
(See 1/G-101 to show number of occupants exiting the Assembly space)

1029.8 Common path of egress travel
The common path of egress travel shall not exceed 30 feet from any seat to a point where an occupant has a choice of two paths of egress travel to two exits.

1029.8.1 Path through adjacent row
Where one of the two paths of travel is across the aisle through a row of seats to another aisle, there shall be not more than 24 seats between the two aisles, and the minimum clear width between rows for the row between the two aisles shall be 12 inches plus 0.6 inch for each additional seat above seven in the row between aisles.
Note: All elevated seating to have fixed seating with automatic self rising seats.
Note: 22" CLEAR is provided for all aisles in the elevated seating area when the seat is the raised position.

1029.9.1 Minimum aisle width
1. 48" for aisle stairs having seating on each side.
2. 36" for aisles having seating on only one side.
3. 23" between an aisle stair handrail or guard and seating where the aisle is subdivided by a handrail.

1029.17.3 Sightline-constrained guard heights
A minimum height of 26" shall be provided where the floor elevation is more than 30" above the floor below.

PLUMBING FIXTURE CALCULATIONS

CHAPTER 29 - PLUMBING SYSTEMS

PLUMBING FIXTURE COUNT:
- 2020 International Building Code (Table 2902.1)

426 TOTAL OCCUPANTS: 213 Male & 213 Female

WATER CLOSETS REQUIRED:

MALE = 1 Water Closet per 150 Occupants
213 Male Occupants = 2 Water Closets Required
7 Water Closets Provided
(4 toilets and 3 urinals)

FEMALE = 1 Water Closet per 65 Occupants
213 Female Occupants = 4 Water Closets Required
8 Water Closets Provided

LAVATORIES REQUIRED:
Occupancy A-3
"Places of Worship" = 1 per 200

213 Males = 2 Lavatories Required,
5 Lavatories Provided
213 Females = 2 Lavatories Required,
5 Lavatories Provided

DRINKING FOUNTAINS REQUIRED:
1 Drinking Fountain Required per 1,000
1 Drinking Fountains Required
1 Dual-Ht Drinking Fountain Provided w/ bottle filler
1 Childrens Height Drinking Fountain Provided

OTHER:
1 Service Sink Required, **1 Service Sinks Provided**

MINNESOTA ACCESSIBILITY CODE 2020

SECTION 1105 - ACCESSIBLE ENTRANCES

1105.1 Public Entrances
At least 60% of all public entrances shall be accessible - this is provided

SECTION 1106 - PARKING AND PASSENGER LOADING FACILITIES

Table 1106.1 Accessible Parking Spaces
Proposed work is restricted to interior space
118 parking stalls proved

SECTION 1108 - SPECIAL OCCUPANCIES

Table 1108.2.2.1 Accessible Wheelchair spaces
6 Required
6 Provided
1108.2.3 Companion seat - Provided as required

CODE SYMBOL LEGEND:

1,000 / 15 / 67	ROOM FLOOR AREA (SF) / OCCUPANT LOAD FACTOR / OCCUPANT LOAD
179 / 26.85" / 33"	OCCUPANTS EXITING / REQ'D WIDTH / DOOR WIDTH PROVIDED
104 →	OCCUPANTS EXITING THIS AREA
	1 HOUR FIRE BARRIER

KEYNOTES:

1. SEMI-RECESSED FIRE EXTINGUISHER CABINET LOCATION, VERIFY LOCATION WITH LOCAL FIRE MARSHAL. OWNER TO PROVIDE AND SERVICE PORTABLE FIRE EXTINGUISHER. SEE DETAIL 12/A-401
2. DRINKING FOUNTAIN (DUAL HEIGHT) SEE DETAIL 18/A-403
3. BARRIER-FREE TOILET ROOM
4. JANITOR SINK
5. FIRE DEPARTMENT CONNECTION - HORN & STROBE ABOVE
6. SPRINKLER RISER ROOM
7. MAX. OCCUPANCY CODE SIGNAGE AS REQ'D BY CODE
8. FIRE DEPARTMENT KNOX BOX. INSTALL 5'-0" AFF - VERIFY LOCATION W/ CITY OF MINNETONKA

VANMAN
architects and builders
6701 W 23RD STREET
ST. LOUIS PARK, MN 555426
(763) 541-9552
FAX: (763) 541- 9857
www.vanmanab.com

Remodel:

TRINITY INTERNATIONAL

6010 Earle Brown Drive
Minneapolis, MN 55430

ISSUE DATE: NOT FOR CONSTRUCTION

#	DATE	DESCRIPTION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA

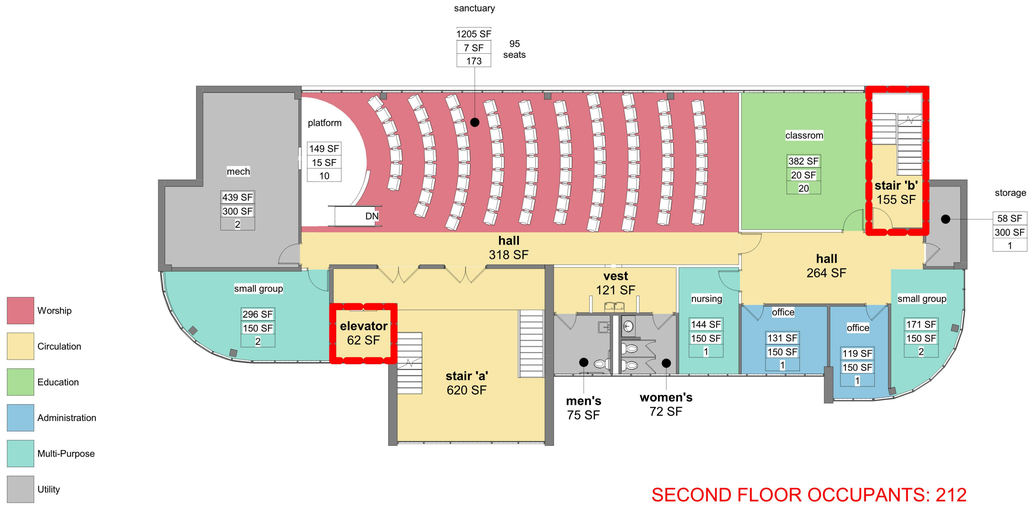
PRINT NAME: HOLLY BURLEY
SIGNATURE:
DATE: 8.16.21 REGISTRATION #55239

COPYRIGHT © 2021

CODE ANALYSIS & REFERENCE PLAN (PHASE I)

G-101

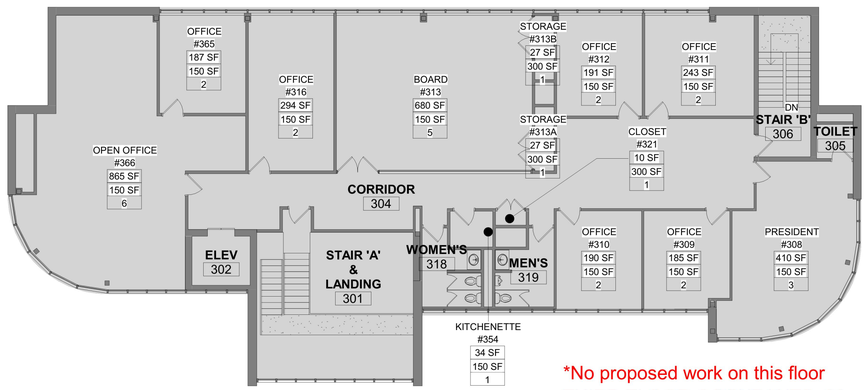
A2142



SECOND FLOOR OCCUPANTS: 212
426 TOTAL OCCUPANTS

2 G-102 SECOND FLOOR

SCALE: 3/32" = 1'-0"



*No proposed work on this floor

THIRD FLOOR OCCUPANTS: 30
426 TOTAL OCCUPANTS

1 G-102 THIRD FLOOR

SCALE: 3/32" = 1'-0"

VANMAN
architects and builders
6701 W 23RD STREET
ST. LOUIS PARK, MN 555426
(763) 541-9552
FAX: (763) 541- 9857
www.vanmanab.com

Remodel:

TRINITY INTERNATIONAL

6010 Earle Brown Drive
Minneapolis, MN 55430

ISSUE DATE: NOT FOR CONSTRUCTION

#	DATE	DESCRIPTION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA

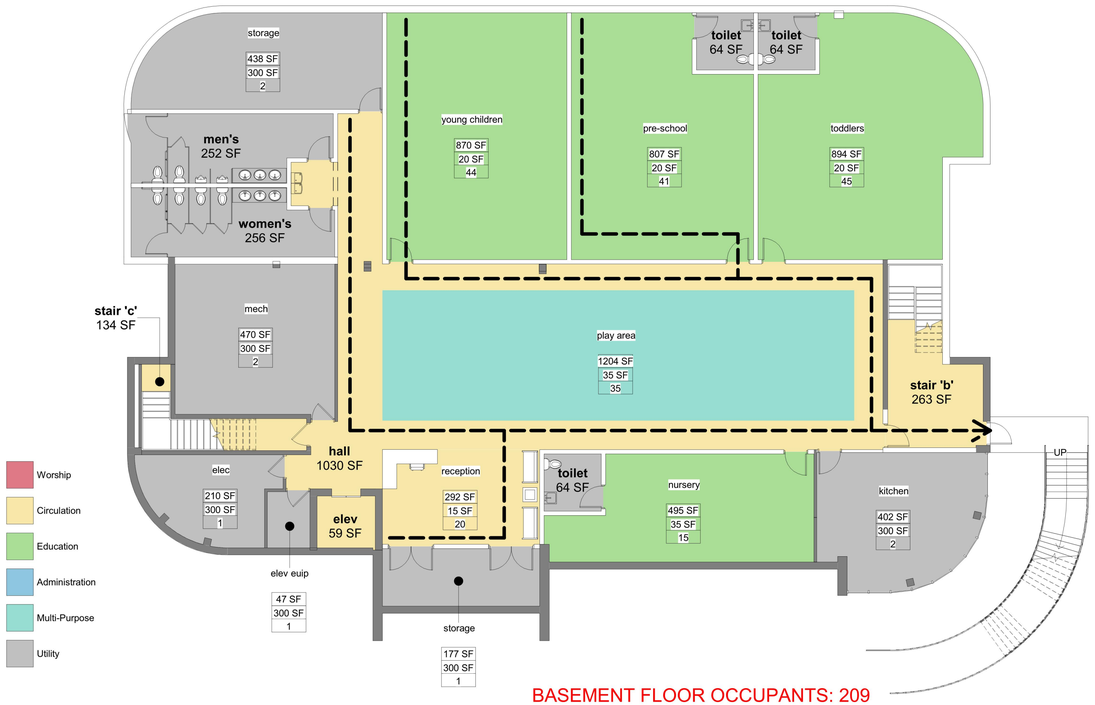
PRINT NAME: HOLLY BURLEY
SIGNATURE:
DATE: 8.16.21 REGISTRATION #55239

COPYRIGHT © 2021

CODE ANALYSIS & REFERENCE PLAN (PHASE I)

G-102

A2142

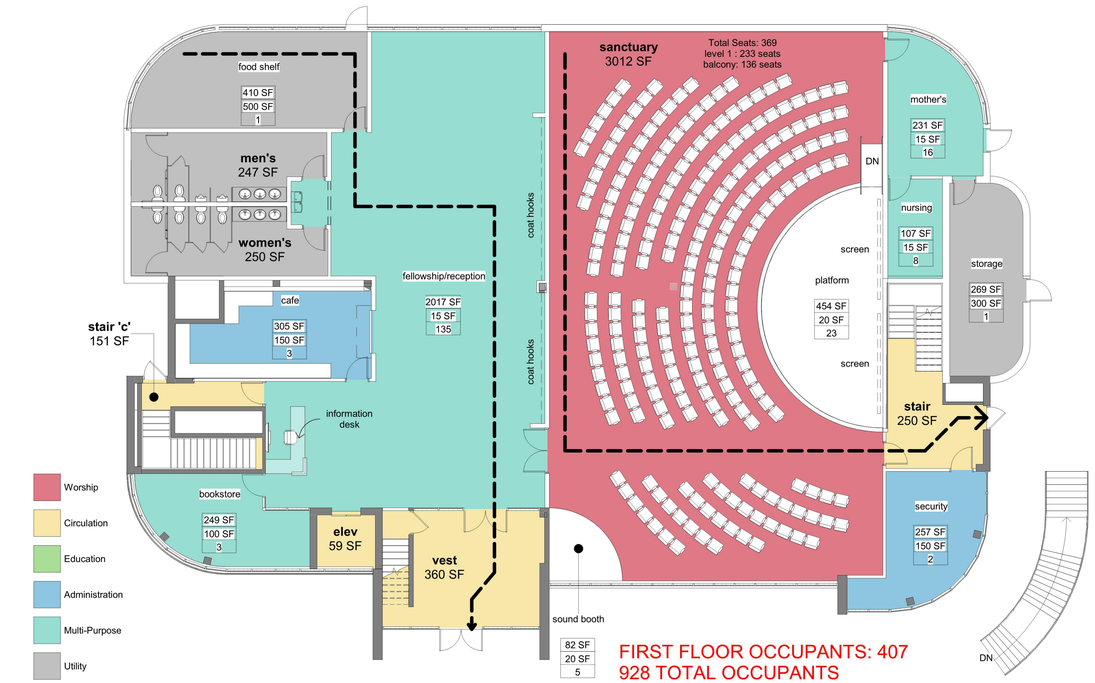


BASEMENT FLOOR OCCUPANTS: 209
928 TOTAL OCCUPANTS

1 G-103

BASEMENT

SCALE: 1" = 10'-0"



FIRST FLOOR OCCUPANTS: 407
928 TOTAL OCCUPANTS

2 G-103

MAIN FLOOR

SCALE: 1" = 10'-0"

CODE SUMMARY ANALYSIS

2021 MINNESOTA STATE BUILDING CODE AND 2020 MINNESOTA ACCESSIBILITY CODE

CHAPTER 3 - USE AND OCCUPANCY CLASSIFICATION
SECTION 306 - Assembly Group A-3 (Place of Religious Worship)

CHAPTER 4 - SPECIAL DETAILED REQUIREMENTS

SECTION 410.5.3.4 - Technical Production Areas: Stairways are permitted exits

CHAPTER 5 - GENERAL BUILDING HEIGHTS AND AREAS
SECTION 503 General Building Height and Area Limitations

Construction Type: II-B
Occupancy Group: A-3
Sprinkled

Table 504.3 and 504.4 Allowable Height and Stories = 75' (3 stories)

Table 506.2 Allowable Area = 35,625 sf

ALLOWABLE AREA:
- Based on Minnesota Building Code 2020 Table 506.2

$A_a = \{ A_t + [NS \times I_f] \}$

A_t = Tabular Area per story in accordance with Table 506	28,500 SF
I_f = Frontage Increase per Section 506.2	
$I_f = [F/P - 0.25] W/30$ (F=424; P=424; W=30)	
$I_f = [424/424 - 0.25] 30/30 = 0.75$	0.75
NS = Tabular allowable area factor in accordance with Table 506.2 for nonsprinklered building (regardless of whether the building is sprinklered.	9,500 SF
Total Allowable Area (per story):	35,625 SF

ALLOWABLE AREA BY FLOOR:	Allowed	Proposed
Basement: Total Allowable Area (per story)	35,625 SF	9,300 SF
First Floor: Total Allowable Area (per story)	35,625 SF	9,685 SF
Second Floor: Total Allowable Area (per story)	35,625 SF	9,385 SF
Third Floor: Total Allowable Area (per story)	35,625 SF	9,385 SF
TOTAL FLOOR AREAS:		
Total Existing Building Floor Area	22,920 SF	
Proposed Additional Floor Area	14,835SF	
Total Floor Area	37,755 SF	

CHAPTER 6 - TYPES OF CONSTRUCTION

SECTION 602 Construction Classification
Type II-B (Section 602.2)

Table 601 - Fire-Resistance Rating Requirements for Building Elements (hours)

Structural Frame	**0 HR**
Bearing Walls	**0 HR**
Nonbearing Walls and Partitions	**0 HR**
Floor Construction	**0 HR**
Roof Construction	**0 HR**

CHAPTER 8 - INTERIOR FINISHES
TABLE 803.13 INTERIOR WALL AND CEILING FINISH REQUIREMENTS

Corridors	Class B
Exit Access	Class B
Rooms and Enclosed spaces	Class C

Class C = Flame spread index 76-200 = Smoke developed index 0-450
Class B = Flame spread index 26-75 = smoke developed index 0-450

CHAPTER 9 - FIRE PROTECTION SYSTEMS

SECTION 903 Automatic Sprinkler System
** Existing system to Remain*

SECTION 906 Portable Fire Extinguishers

906.3 Portable Fire Extinguishers
Semi-Recessed fire extinguisher cabinets provided.
Building owner to furnish and maintain extinguishers.
- Required maximum travel distance not to exceed 75'-0"
(see plan for proposed locations)

SECTION 907 Fire Alarm System
"Provided in accordance with 907.2.1

CHAPTER 10 - MEAN OF EGRESS

SECTION 1004 OCCUPANT LOAD

1004.1 Design Occupant Load

Table 1004.5 Maximum Floor Area Allowances per Occupant

Assembly without fixed seats	
-Concentrated (chairs only - not fixed)	= 7 net
-Unconcentrated (tables & chairs, meeting & stage)	= 15 net
Business Areas, Kitchenette	= 150 gross
Educational - Classroom Areas/Sound Booth	= 20 net
Accessory storage/mechanical areas	= 300 gross
Educational - Classroom Areas/ Sound Booth	= 20 net

SECTION 1005 Means of Egress Sizing

Table 1005.3.1 & 1005.3.2 Other egress components (With Sprinkler System)
Exception: Building includes Automatic Sprinkler System and Emergency Voice/Alarm communication system.
Inches per occupant = 0.15 @ Egress Components (Doors)
Inches per occupant = 0.30 @ Stairways

SECTION 1006 Number of Exits and Exit Access Doorways

1006.2 Exit or exit access doorways required:
3 exits required
928 Total Occupants

Table 1006.2.1 Common Path of Egress Travel: Shall not exceed 75 feet

SECTION 1017 Exit Access Travel Distance

Table 1017.2 Exit Access Travel Distance:
A Occupancy, maximum travel distance = 250'-0"

SECTION 1018 Aisles
1018.2.1 Aisles and aisle accessways
Plan designed to comply with Section 1029.

SECTION 1029 Assembly
1029.2 Assembly main exit.
Group A Occupancies that have an occupant load of greater than 300 shall be provided with a main exit. The main exit shall be sufficient width to accommodate not less than one-half the occupant load, but such width shall not be less than the total required width of all means of egress leading to the exit.
(See 1/G-101 to show number of occupants exiting the Assembly space)

1029.8 Common path of egress travel
The common path of egress travel shall not exceed 30 feet from any seat to a point where an occupant has a choice of two paths of egress travel to two exits.

1029.8.1 Path through adjacent row
Where one of the two paths of travel is across the aisle through a row of seats to another aisle, there shall be not more than 24 seats between the two aisles, and the minimum clear width between rows for the row between the two aisles shall be 12 inches plus 0.6 inch for each additional seat above seven in the row between aisles.
Note: All elevated seating to have fixed seating with automatic self rising seats.
Note: 22" CLEAR is provided for all aisles in the elevated seating area when the seat is the raised position.

PLUMBING FIXTURE CALCULATIONS

CHAPTER 29 - PLUMBING SYSTEMS

PLUMBING FIXTURE COUNT:
- 2020 International Building Code (Table 2902.1)

928 TOTAL OCCUPANTS: 464 Male & 464 Female

WATER CLOSETS REQUIRED:

MALE = 1 Water Closet per 150 Occupants
464 Male Occupants = 4 Water Closets Required
15 Water Closets Provided
(8 toilets and 7 urinals)

FEMALE = 1 Water Closet per 65 Occupants
464 Female Occupants = 7 Water Closets Required
15 Water Closets Provided

LAVATORIES REQUIRED:
Occupancy A-3
"Places of Worship" = 1 per 200

464 Males = 3 Lavatories Required,
12 Lavatories Provided
464 Females = 3 Lavatories Required,
12 Lavatories Provided

DRINKING FOUNTAINS REQUIRED:
1 Drinking Fountain Required per 1,000
1 Drinking Fountains Required
1 Dual-Ht Drinking Fountain Provided w/ bottle filler
1 Childrens Height Drinking Fountain Provided

OTHER:
1 Service Sink Required, **1 Service Sinks Provided**

MINNESOTA ACCESSIBILITY CODE 2020

SECTION 1009.1 - ACCESSIBLE MEANS OF EGRESS

Accessible means of egress shall comply with this section. Accessible spaces shall be provided with not less than one accessible means of egress. Where more than one means of egress is required by Section 1006.2 or 1006.3 from any accessible space, each accessible portion of the space shall be served by not less than two accessible means of egress.

3.Accessible means of egress is not required for alterations to existing buildings.

SECTION 1105 - ACCESSIBLE ENTRANCES

1105.1 Public Entrances
At least 60% of all public entrances shall be accessible - this is provided

SECTION 1106 - PARKING AND PASSENGER LOADING FACILITIES

Table 1106.1 Accessible Parking Spaces
Proposed work is restricted to interior space
118 parking stalls provided

SECTION 1108 - SPECIAL OCCUPANCIES

Table 1108.2.2.1 Accessible Wheelchair spaces
6 Required
6 Provided
1108.2.3 Companion seat - Provided as required

VANMAN
architects and builders
6701 W 23RD STREET
ST. LOUIS PARK, MN 555426
(763) 541-9552
FAX: (763) 541- 9857
www.vanmanab.com

Remodel:

TRINITY INTERNATIONAL
6010 Earle Brown Drive
Minneapolis, MN 55430

ISSUE DATE: NOT FOR CONSTRUCTION

#	DATE	DESCRIPTION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA

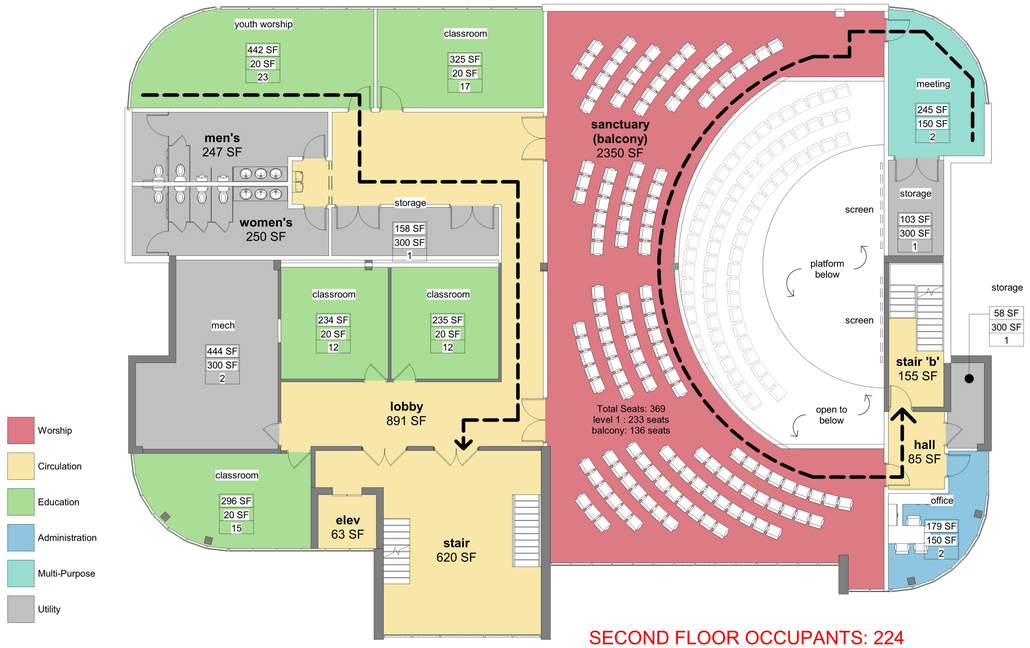
PRINT NAME: HOLLY BURLEY
SIGNATURE:
DATE: 8.16.21 REGISTRATION #55239

COPYRIGHT © 2021

CODE ANALYSIS & REFERENCE PLAN PHASE II

G-103

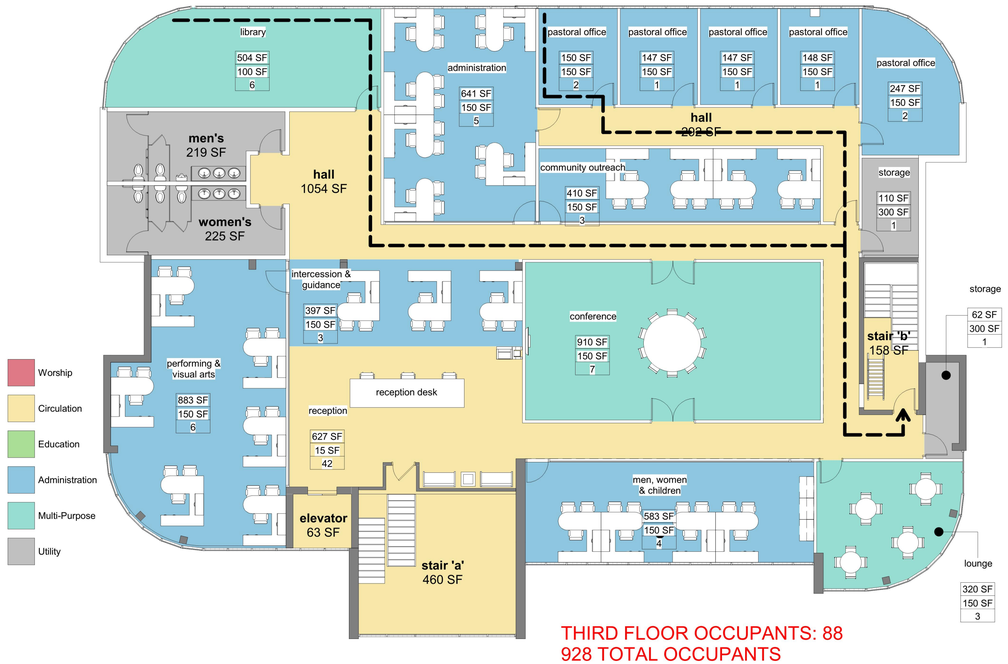
A2142



SECOND FLOOR OCCUPANTS: 224
928 TOTAL OCCUPANTS

1 G-104 SECOND FLOOR

SCALE: 1" = 10'-0"



THIRD FLOOR OCCUPANTS: 88
928 TOTAL OCCUPANTS

2 G-104 THIRD FLOOR

SCALE: 1" = 10'-0"

VANMAN
architects and builders
6701 W 23RD STREET
ST. LOUIS PARK, MN 555426
(763) 541-9552
FAX: (763) 541- 9857
www.vanmanab.com

Remodel:

TRINITY INTERNATIONAL

6010 Earle Brown Drive
Minneapolis, MN 55430

ISSUE DATE: NOT FOR CONSTRUCTION

#	DATE	DESCRIPTION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA

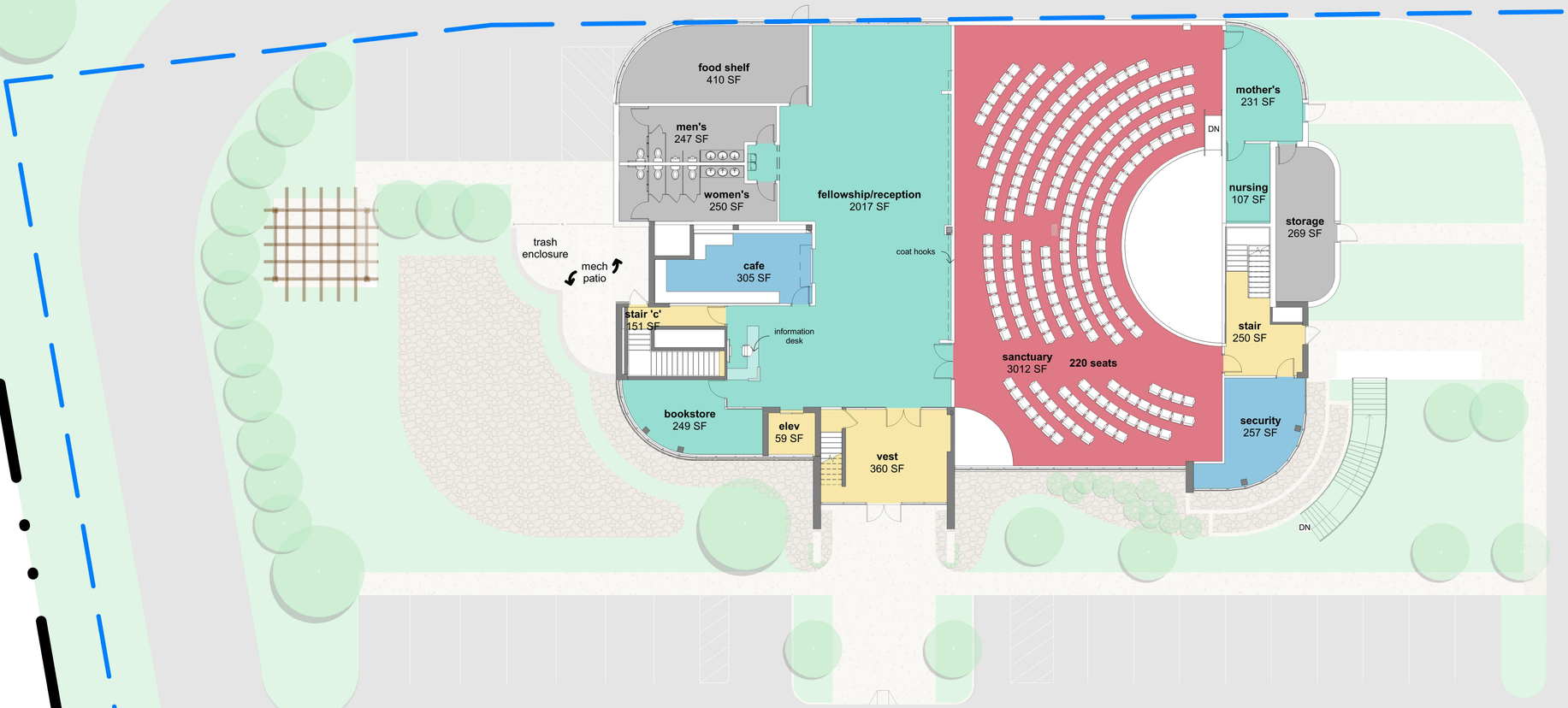
PRINT NAME: HOLLY BURLEY
SIGNATURE:
DATE: 8.16.21 REGISTRATION #55239

COPYRIGHT © 2021

CODE ANALYSIS & REFERENCE PLAN (PHASE II)

G-104

A2142



TRINITY INTERNATIONAL

PHASE 2 - SITE - OPTION 'B'

VANMAN
architects and builders

COPYRIGHT © 2022

Council/EDA Work Session

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Jesse Anderson, Community Development Director

SUBJECT: Review and Discussion of a Community Benefits Agreement Template and Equity Development Framework, Draft Appendices to the Opportunity Site Master Plan.

Requested Council Action:

- Review and provide feedback on two draft appendices to the Opportunity Site Master Plan – a Community Benefits Agreement Template, and Equity Development Framework.

Background:

Since 2019, City staff have been working on progressing a Master Plan for the 80-acre Opportunity Site. From the beginning this Master Plan intended to shift development expectations within the Opportunity Site towards community serving in their process and outcomes. As such, buildout of the Opportunity Site is intended to be a collaborative endeavor between the City and developers who seek to join the City in improving quality of life for all who call the Brooklyn Center home. In July 2021 Council adopted the Opportunity Site Infrastructure Framework. In November 2022 Council affirmed the Opportunity Site Public Realm Framework. The full Master Plan will be coming before Council for consideration and adoption later this year.

Community-derived Guiding Principles of the Master Plan are:

- Create a vibrant and distinctive destination for the community and region
- Embrace the growing diversity of the community
- Consider sustainability in the design of development
- Produce places that bring the community together

Towards this end, two appendices have been development within the Master Plan, to inform future development design and deliverables of project within the footprint of the Opportunity Site. Because much of the Opportunity Site is owned by the City, the City has many controls over the process and outcomes that future development must adhere to.

Community Benefits Agreement Template: A Community Benefits Agreement (CBA) is a legal contract between the City of Brooklyn Center (via the City's Economic Development Authority) and the development team of a private development project, that outlines how the development will deliver a series of benefits to the broader community. CBAs are legally binding documents signed by both the City and the developer, which both entities can enforce.

The CBA Template will be a development tool presenting a collection of community-identified benefits that City staff and a development team can appropriately tailor on a project-by-project basis. Upon final negotiated

selection of benefits, the tool provides a legal CBA template that the development team will be required to complete and include with the official development application.

There are five benefits categories included within the CBA Template**:**

Category 1: Housing and Residential Communities
Category 2: Economic Development and Employment Opportunities
Category 3: Transportation and Connectivity
Category 4: Public Realm, Public Space, and Public Life
Category 5: Sustainability, Resilience, and the Natural Environment

Equity Development Framework: This Equity Development Framework is an actionable tool and process of assessing private development projects through the lens of the Opportunity Site Master Plan Principles and practices of equitable development and environmental justice. The framework is intended to be used primarily by City staff for informing and evaluating a proposed development project within the Opportunity Site, during the design process prior to formal development application. It will be expressed to prospective early in the development design phase that the equity framework will be used to assess development projects. It is expected this Framework tool would be shared with prospective developers prior to site design, and may be done collaboratively between city staff and prospective developers. A completed Framework will be required with the official development application.

There are six categories of Equitable Development:

Category 1: Livability
Category 2: Community Power & Engagement
Category 3: Economic & Land Use
Category 4: Housing
Category 5: Transportation
Category 6: Environment

Completion of the CBA Template and Equity Development Framework are intended to be completed for any proposed development within city-owned land within the Opportunity Site, or that requires public subsidy, including but not limited to land write downs, fee waiver, city sponsored grants, TIF, and tax abatement. While the city can't require it for privately developed land without public subsidy, City staff will *recommend* that these development projects also complete these tools with a development application.

City Community Development staff will be responsible for working with Opportunity Site developers on the completion of these tools.

Draft copies of the CBA Template and Equity Development Scorecard are included as attachments for Council consideration and feedback

Next Steps:

Budget Issues:

Council feedback on these two Master Plan components will inform their finalization, and completion of the Master Plan. Staff intend to bring the Master Plan to Council for consideration and adoption later this year.

Inclusive Community Engagement:

These items will support the community-driven development vision of the Opportunity Site, allowing for ongoing alignment with intended development goals.

Antiracist/Equity Policy Effect:

These items seek to promote equitable, community-serving outcomes of development within the Opportunity Site, as identified in the Master Plan Principles & Goals.

Strategic Priorities and Values:

Targeted Redevelopment

ATTACHMENTS:

Description	Upload Date	Type
Draft CBA Template	8/22/2023	Backup Material
Draft Equity Scorecard	8/22/2023	Backup Material

Opportunity Site Master Plan

Appendix 4 – Community Benefits Agreement Template DRAFT

I. Intro

The buildout of the Opportunity Site is intended to be a collaborative endeavor between the City and developers who seek to join the City in improving quality of life for all who call the Brooklyn Center home. To ensure equitable distribution of the benefits of development and to minimize unfavorable consequences to the community, the City of Brooklyn Center requires the use of a Community Benefits Agreement for all new development within the Opportunity Site that includes public subsidy or participation, including but not limited to: land write downs, fee waiver, city sponsored grants, TIF, and tax abatement..

A Community Benefits Agreement (CBA) is a legal contract between the City of Brooklyn Center (via the City's Economic Development Authority) and the development team of a private development project, that lays out how the proposed development will deliver a series of benefits to the broader community. CBAs are legally binding documents signed by both the City and the developer, which both entities can enforce. The City views these documents as the culmination of collaborative negotiations and partnership between the city and development team to realize the goals of the Opportunity Site as outlined in the Opportunity Site Master Plan [*link once ready*].

Towards this end, the City has created this CBA development tool with a template collection of community-identified benefits that City Staff and the development team can appropriately tailor on a project-by-project basis.

II. CBA Development and Approval Process.

The City recognizes that not all listed benefits are practical or necessary for every development project. However, it is the expectation that city staff and the development team partner in good faith to mutually identify a reasonable set of community benefits that can be delivered by the project. A CBA is required for any project that includes public subsidy or public participation. A draft CBA is necessary for any development application sent to the city to be considered "complete".

Creation of a draft CBA will be conducted by city staff on behalf of the City's Planning and Housing Commissions. A joint meeting of the Commissions to review and approve a draft CBA is necessary to include the CBA with the development team's development application. The City Council will then have final review and approval power as part of the standard development review process.

Upon City approval, the CBA will go into effect and be enforced according to the conditions outlined in the CBA.

DRAFT

CBA Template Tool Overview

I. Select and Customize Benefits

Each CBA should be crafted in a well-balanced manner that leverages the private investment of a development project towards meeting City and community goals, while respecting the position and capacities of any one project.

To these ends, city staff and the development team should consider the following when identifying and negotiating project benefits:

1. **What is the anticipated project use type and programming?**
    a. Consider project land use type(s), anticipated residential units, anticipated commercial intensity and jobs, project footprint and scale, economic impacts, location within the opportunity site, developer background and history,

2. **How does the project intend to meet expressed local goals and policies? How can it be leveraged to more explicitly reflect these goals and policies?**
    a. Consider guidance from the Comprehensive Plan, Opportunity Site Master Plan, the Opportunity Site Public Realm Plan (JXTA).

3. **How does the project meet City/local development and design standards? How can it be leveraged to exceed the standards?**
    a. Consider policies such as the Unified Development Ordinance and the TOD Zoning district.

4. **How does the project intend to reflect community values? How can it be leveraged to more explicitly reflect these values?**
    i. Diversity and Inclusivity
    ii. Affordability
    iii. Health and Wellness
    iv. Fiscal Responsibility
    v. Flexibility
    vi. Community Pride
    vii. Environmental Sustainability
    viii. Local Benefit
    ix. Counteracting Displacement

5. **How feasible are desired benefits? Will the development team be able to deliver identified benefits? Which benefits are "non-negotiable" expectations for this project?**
    a. Consider questions such as:
        i. *Burden*. Is delivery of the benefit overly burdensome?
        ii. *Proportionality*. Is the scale of the project proportional to benefit?
        iii. *Feasibility*. Are selected benefits feasibly produced by the developer?
        iv. *Compatibility/Reality*. Are selected benefits realistic/compatible with similar projects?

DRAFT

Using the CBA Template Tool

1. Complete the Project Summary section below.
2. Review and select benefits based on project type, context, and other considerations.
3. Customize selected benefits as appropriate.
4. Once confirmed, integrate selected benefits into formal CBA document(s). An example template is provided at this end of this tool.

It is anticipated that the review, selection, and customization of benefits will be an iterative process during the planning and design process of a development project. As such, collaborative completion of this CBA Template should be seen as part of the project planning & design phase of the development project.

Project Summary

Project Name: _____

Project Address: _____

Development Team: _____

_____

Project Program Summary: _____

_____

_____

_____

_____

Public Subsidy or Involvement Summary: _____

_____

_____

_____

_____

_____

DRAFT

CATEGORY 1: HOUSING AND RESIDENTIAL COMMUNITIES

Benefit Type and Information			Applicable Project Types					Opportunity Site Values								
Category	Benefit	Benefit Rationale	Residential Projects	Mixed-Use Projects	Commercial Projects	Industrial Projects	Government Action	Diversity and Inclusivity	Affordability	Health and Wellness	Fiscal Responsibility	Flexibility	Community Pride	Environmental Sustainability	Local Benefit	Counteracting Displacement
CATEGORY 1: HOUSING AND RESIDENTIAL COMMUNITIES	1.1: X% of total new housing units will be affordable at Y% of AMI.	Affordable housing at appropriate price points is necessary to ensure Brooklyn Center residents and families can continue to live and thrive within the city. The exact affordability/AMI levels will be based on project feasibility on a case-by-case basis, using the Opportunity Site Housing Policy as a guide (located in Appendix X of the Opportunity Site Master Plan)	●	●				✚	✚						✚	✚
	1.2: Delivery of housing types that meet underserved needs in community as identified in the Opportunity Site Housing Policy.	Many types of housing are underrepresented in Brooklyn Center's housing stock, which is dominated by single family residential. Additional housing needs include multi-bedroom rental and owner-occupied housing, such as senior, accessible, and affordable ownership options, and supportive housing for veterans, people experiencing homelessness, or other vulnerable populations.	●	●				✚	✚			✚			✚	✚
	1.3: Development of housing types that support mixed use and mixed income communities	Housing types that support walkable, transit-oriented, mixed use communities are needed to advance the vision of a new downtown district for the city, including the support of local retail and the activation of public spaces. This housing should be developed for a range of rents/mortages and incomes, to ensure that the area is not dominated by one income tier, further concentrating either poverty or wealth.	●	●				✚	✚			✚	✚		✚	✚

DRAFT

CATEGORY 2: ECONOMIC DEVELOPMENT AND EMPLOYMENT OPPORTUNITIES

Benefit Type and Information			Applicable Project Types					Opportunity Site Values								
Category	Benefit	Benefit Rationale	Residential Projects	Mixed-Use Projects	Commercial Projects	Industrial Projects	Government Action	Diversity and Inclusivity	Affordability	Health and Wellness	Fiscal Responsibility	Flexibility	Community Pride	Environmental Sustainability	Local Benefit	Counteracting Displacement
CATEGORY 2: ECONOMIC DEVELOPMENT AND EMPLOYMENT OPPORTUNITIES	2.1: Delivery of X% and Y type of affordable commercial space for small, local, and disadvantaged businesses	Supporting small businesses and entrepreneurs in Brooklyn Center includes ensuring that new and renovated business district have space affordable to local business owners, either via purchase or rent. Exact needs will be highly dependent on the type, size, and location of space.		●	●	●		✚	✚		✚				✚	✚
	2.2: Creation of opportunities for good jobs for residents of the city, such as those that pay a living wage and/or offer opportunities for career advancement	Access to job opportunities, through wages and career advancement, has been repeatedly identified as a need by the community. This will include both the location of jobs like this in the community, as well as potentially supportive training, placement, and retention services as needed.		●	●	●		✚	✚		✚				✚	✚
	2.3: Contractor hiring requirements for construction phase of project, including DBEs and WBEs Minneapolis example	Contractor hiring – including both public infrastructure and private development projects – is another potential source of employment for residents. This may include exploration of options for both local hiring mandates and changes in bidding and procurement processes.	●	●	●	●	✓	✚	✚			✚			✚	✚
	2.4: Job placement, training, and retention services as applicable, including those prioritizing local hiring	As noted above, the presence of good jobs in the community may not be enough to ensure they are accessible to residents. Partnerships with job-related services can help bridge gaps and disparities in employee recruitment, hiring, and retention.					✓	✚	✚			✚			✚	✚

DRAFT

CATEGORY 3: TRANSPORTATION AND CONNECTIVITY

Benefit Type and Information			Applicable Project Types					Opportunity Site Values								
Category	Benefit	Benefit Rationale	Residential Projects	Mixed-Use Projects	Commercial Projects	Industrial Projects	Government Action	Diversity and Inclusivity	Affordability	Health and Wellness	Fiscal Responsibility	Flexibility	Community Pride	Environmental Sustainability	Local Benefit	Counteracting Displacement
CATEGORY 3: TRANSPORTATION AND CONNECTIVITY	3.1: Connection to public pedestrian and bicycle amenities	The Opportunity Site master plan includes an overall approach to enhancing the pedestrian and bicycle network, which should be advanced as applicable with individual public and private development projects. Additionally, bicycle and pedestrian facilities and amenities, like street furniture and bicycle storage, should be enhanced at a site-specific level, where consistent with the overall master plan.	●	●	●	●	✓			✚	✚	✚	✚	✚	✚	

DRAFT

CATEGORY 4: PUBLIC REALM, PUBLIC SPACE, AND PUBLIC LIFE

Benefit Type and Information			Applicable Project Types					Opportunity Site Values								
Category	Benefit	Benefit Rationale	Residential Projects	Mixed-Use Projects	Commercial Projects	Industrial Projects	Government Action	Diversity and Inclusivity	Affordability	Health and Wellness	Fiscal Responsibility	Flexibility	Community Pride	Environmental Sustainability	Local Benefit	Counteracting Displacement
CATEGORY 4: PUBLIC REALM, PUBLIC SPACE, AND PUBLIC LIFE	4.1: Affordable access for residents to recreational attractions	Public and publicly accessible recreational facilities and activities on the Opportunity Site should be designed and priced so that people are not regularly excluded due to cost or other barriers. If needed, this may include special accommodations or pricing based on income and/or residency in the city, in comparison to general admission.	●	●	●	●	✓	+	+	+			+	+	+	+
	4.2: Delivery of community-serving amenities	The development and programming of indoor and outdoor public amenities on the Opportunity Site should consider the needs and preferences of residents, including recreational, entertainment, natural, artistic, cultural, or other elements that benefit the community. The priority will be for amenities that support a welcoming environment for everyone and support the diversity of cultures and people in the city, like a recreation center, skate park, bowling alley, botanical garden, dog park, and/or multipurpose areas.	●	●	●	●	✓	+	+		+	+		+	
	4:3: Youth-oriented recreational opportunities to meet community needs	The development of facilities, programs, partnerships, and other resources that provide healthy, safe, and supervised options and opportunities aimed at children and youth have been consistently identified as a priority for the site. These may include education-focused elements, such as trade schools, daycares, or after school programs.	●	●	●	●	✓	+		+		+	+		+	

DRAFT

Benefit Type and Information			Applicable Project Types					Opportunity Site Values								
Category	**Benefit**	**Benefit Rationale**	**Residential Projects**	**Mixed-Use Projects**	**Commercial Projects**	**Industrial Projects**	**Government Action**	**Diversity and Inclusivity**	**Affordability**	**Health and Wellness**	**Fiscal Responsibility**	**Flexibility**	**Community Pride**	**Environmental Sustainability**	**Local Benefit**	**Counteracting Displacement**
	4.4: Support and/or provision of programming for recreation, culture, arts, youth activities, etc.	Intentional programming will help enliven public and private spaces and engage people in meaningful activities and community-building within the Opportunity Site. This may include uses such as sports facilities, theaters, music venues, dance, and other entertainment uses in collaboration with partners who can support goals through existing, expanded, enhanced, or new offerings for residents.	●	●	●	●	✓	✚				✚	✚		✚	
	4.5: Presence of multicultural event spaces that are affordable and accessible to the community	Locations for multicultural events have been repeatedly identified as a need. Where feasible, this may include indoor and outdoor spaces suitable for informal gatherings to formal events and meetings with well-designed areas for food preparation, sound systems, and other meeting essentials that may be required.	●	●	●	●	✓	✚				✚	✚		✚	
	4.6: Inclusion of exterior project art, and/or resources to construct and maintain art in the public ROW, (e.g. art dedication fee)	Public art provides a distinctive way to enhance building and site design, support local cultural and artistic identity, and create unique places. Public art placement may be incorporated in a building or site design, or at locations in the public realm which align with the city's beautification and public art plan recommendations.					✓	✚				✚	✚		✚	

DRAFT

CATEGORY 5: SUSTAINABILITY, RESILIENCE, AND THE NATURAL ENVIRONMENT

Benefit Type and Information			Applicable Project Types					Opportunity Site Values								
Category	**Benefit**	**Benefit Rationale**	**Residential Projects**	**Mixed-Use Projects**	**Commercial Projects**	**Industrial Projects**	**Government Action**	**Diversity and Inclusivity**	**Affordability**	**Health and Wellness**	**Fiscal Responsibility**	**Flexibility**	**Community Pride**	**Environmental Sustainability**	**Local Benefit**	**Counteracting Displacement**
CATEGORY 5: SUSTAINABILITY, RESILIENCE, AND THE NATURAL ENVIRONMENT	5.1: Utilization of sustainable models of energy generation and usage, to reduce project's carbon footprint and increase sustainability	On-site energy generation through solar, wind, geothermal, or other technologies may benefit one or more properties in the district. The development and installation will be dependent on placement, size, and technical feasibility, and likely involve coordination with external partners and utilities; where on-site generations are inviable, the purchase of off-site sustainable energy may be an appropriate alternative.	●	●	●	●	✓			✚				✚	✚	
	5.2: Green building and site design using sustainable, energy efficient materials and processes	Sustainable materials, design, and construction can support sustainability both in the initial stages of project development an on an ongoing basis via efficient operations and maintenance. There may be some tradeoffs in terms of higher up-front costs that can be offset with subsidy and/or life cycle cost analysis; district systems may also be a possibility.	●	●	●	●	✓			✚				✚	✚	
	5.3: Systems management that priorities reuse and/or recycling of resources where feasible	Reuse and recycling of resources effectively reduces the total amount used, supporting overall sustainability. This may include reuse and/or recycling of construction or industrial waste, closed loop systems, greywater reclamation, or other similar systems. There may be a need to offset higher up-front costs for system installation. On the retail side, this could also include community-serving thrift stores or reuse centers.	●	●	●	●	✓		✚		✚			✚	✚	

DRAFT

Benefit Type and Information			Applicable Project Types					Opportunity Site Values								
Category	Benefit	Benefit Rationale	Residential Projects	Mixed-Use Projects	Commercial Projects	Industrial Projects	Government Action	Diversity and Inclusivity	Affordability	Health and Wellness	Fiscal Responsibility	Flexibility	Community Pride	Environmental Sustainability	Local Benefit	Counteracting Displacement
	5.4: Sustainable stormwater management strategies including those that incorporate community amenities, that exceed watershed requirements.	Sustainable stormwater management practices may include bioswales/bioretention, plants/trees campus, green roofs, permeable pavement, rain cisterns/collectors, sand/organic filters or other similar strategies. Where possible, these may be combined with stacked functions of community open space and enhanced public realm. District systems for multiple properties may increase efficiency and share costs.	●	●	●	●	✓			✚	✚	✚		✚	✚	
	5.5: Urban agriculture, community gardening, and/or other sustainable food systems that benefit and involve the community	Urban agriculture and community gardening can support healthy food production, provide an amenity for local gardeners, and efficiently use space. This may also include indoor gardens/aquaponics that can produce food year-round, as well as cooperative food stores and markets. Planning for these facilities may require a maintenance plan to ensure they are managed effectively. On the retail side, this could include cooperative food stores or markets.	●	●	●	●	✓	✚	✚	✚	✚		✚	✚	✚	✚

DRAFT

CBA TEMPLATE

This **Project Name** Community Benefits Agreement ("[**Project CBA**]") is made and executed on this [Date], by and between the **City of Brooklyn Center** as defined herein ("**BC**") and [**Developer Name**], as defined herein ("**DEV**") (**COM** and **DEV** each a "**Party**", and collectively the "**Parties**"), for the benefit of the residents of Brooklyn Center, as related to the construction by [**Developer/Contractor**] of a new product/project (the "**Project**") on a portion of the Project Site (as hereinafter defined).

RECITALS

WHEREAS, **DEV**, through its coalition members, has identified a number of significant needs of residents in the vicinity of the Project Site and more broadly residents of Brooklyn Center; and

WHEREAS, the **[Developer/Contractor]** will build the **[Project]** on a portion of the X-acre Opportunity Site located at **[Address]** (the "Project Site"); and

WHEREAS, BC and DEV desire to address some of the significant needs of local residents through this **Project CBA**.

NOW THEREFORE, in consideration of the above premises and mutual covenants and agreements herein set forth, DEV and BC do hereby agree to execute this **Project CBA** as follows:

DRAFT

I Definitions

1 Affordable housing

2 Deeply affordable housing

3 Area median income (AMI)

II Responsibilities

1 Category 1: Housing and Residential Communities

2 Category 2: Economic Development and Employment Opportunities

3 Category 3: Transportation and Connectivity

4 Category 4: Public Realm, Public Space, and Public Life

5 Category 5: Sustainability, Resilience, and the Natural Environment

III Monitoring, Timelines, and Enforcement

IV BC Support Obligations

V Expenses/Terminations

I. Overview of Equity Development Framework

The Brooklyn Center Opportunity Site is 80 acres in the heart of the city, and the future location of a new downtown. Much of the site is publicly owned, meaning that the City of Brooklyn Center is a major stakeholder on new development in this area. The City deeply engaged the public during the Master Plan visioning and planning process, with the aim to establish a development process that delivers substantial public benefits. Through this, the City of Brooklyn Center aims to achieve equity and inclusivity within the Opportunity Site land use, parks and open space, and access and mobility.

Land use and Infrastructure play a foundational role in promoting and ensuring equity. Equitable and inclusive design is community focused, and considers what features stakeholders need to thrive.

The buildout of the Opportunity Site is intended to be a collaborative endeavor between the City and developers who seek to join the City in improving quality of life for all who call the Brooklyn Center home. To ensure equitable distribution of development outcomes and to minimize unfavorable consequences to the community, the City of Brooklyn Center requires the completion of this Equity Development Framework for all new development within the Opportunity Site that includes public subsidy or participation, including but not limited to: land write downs, fee waiver, city sponsored grants, TOF, and tax abatement.

Centering equity and inclusion expectations at the outset of the development process intends to yield better outcomes for everyone involved. This tool therefore provides a community-informed framework towards ensuring new development is an integral piece of progress for those who have historically been excluded from decision-making processes, suffered disparities in health and wealth, and given few to no opportunities.

II. Framework Purpose

This Equity Development Framework is an actionable process of assessing private development projects through the lens of the Opportunity Site Master Plan Principles, and practices of equitable development and environmental justice.

This framework is intended to be used primarily by city staff for evaluating a proposed development project within the Opportunity Site, during the design process. However, it is expected that the Framework is a collaborative and iterative process with prospective developers. It should be expressed to prospective developers that the equity framework will be used to assess development projects.

The Equity Development Framework is to be included for City consideration with development applications in the Opportunity Site.

III. Private Development Expectations

To ensure new development furthers the City and Master Plan vision of the Opportunity Site, all development is expected to adhere to the following expectations:

- **Land Use:** Land use in the Opportunity Site is primarily guided as Transit Oriented Development (TOD). The TOD district supports opportunities for transit-supportive and transit-oriented development, development patterns that supports walking, biking, and vibrant pedestrian activity.

- **Open Spaces:** Open spaces in the Opportunity Site contribute to and integrate with a systems-approach of the public realm, streets, trails, plazas, parks, and pedestrian areas. These spaces must be inclusive, and promote healthy living, gathering, social gathering, and environmental responsibility. New private spaces must connect to the larger system, while creating an "inside out" community that allows for year-round outdoor usage.

- **Access and Connectivity:** Access and Connectivity within the Opportunity Site contributes to a multimodal transportation system, is well connected to the region, and reduces the need to own a car by providing safe, affordable, convenient, and accessible options. Development shall prioritize pedestrians by supporting a safe and comfortable environment to walk and bike.

IV. Opportunity Site Goals for Equity & Inclusion

To ensure new development furthers City and Master Plan goals of equity and inclusion in the Opportunity Site, all development is expected to adhere to the following expectations and values. These values form the basis and organization of the framework.

- **Livability:** Livability is a combination of acknowledging the past and present harms, while working to create a better future for all. The intersection between livability and development can become the bedrock for restorative, regenerative, and healthy outcomes of historically marginalized people; promotes inclusion and belonging; and places intention and focus on the community through history, power and wellness.

- **Community Power and Engagement**: Equitable engagement and power come from practices where those community members most affected, connect with and co-create the planning and design outcomes. Community members should include BIPOC communities along with immigrants, low-wealth people, renters, families, those with disabilities, senior citizens, and other historically marginalized communities.

- **Economic and Land Use**: Equitable economic development must include and prioritize opportunities like local investment, ownership, and access to quality jobs, to drive long-term, community wealth building. Upward mobility and economic justice helps economic resiliency and strength of marginalized communities and businesses through a stronger economy at the local and neighborhood levels.

- **Housing**: Affordable, quality, and stable housing is a fundamental element of just and sustainable housing practices. When people have the housing they need, they can better make important choices regarding food, health and wellbeing, childcare, and education without sacrificing livability or quality of life.

DRAFT

- **Transportation**: Physical connections to the greater community through a diversity of modal options are important to provide residents options to navigate across the neighborhood. As such, all development should be oriented to all forms of movement, including public transit, walking, bicycling, and micromobility.

- **Environment**: Equitable environmental practices must include protecting and supporting the land, water, and air. Environmental justice and community health must be a priority of new development, with the goal to promote, sustain, and regenerate the health, wellbeing, and thriving of people and places.

V. Using the Framework Card

Step #1: Fill out the Project information page. Then turn to page 5.

Step #2: Customize each Equitable Development Category's categories according to the project, as not all criteria may apply. Tailor this Framework to be relevant to your specific purpose(s) and location within the Opportunity Site. Feel free to take notes in empty spaces and add, change, or put NA (not applicable) that do not apply to the project.

Framework assessment criteria is separated into "Process" and "Outcome" steps.

Step #3: Use the "Glossary" section to clear up any questions of content or definition. The "Bibliography" and "Other Resources" sections contain links to supporting documents.

Step #4: Hold conversations with your group around each category , and include notes for comments or recommendations for each applicable category to inform design or project outcome revisions. It is expected that this Framework tool may be completed iteratively, and multiple times prior to a development application submission.

Step #5: Upon final completion of this Framework, City staff will include the completed framework with their formal staff report for a development application. While there is no specific "threshold" of Framework completion, City Planning Commission and Council will consider Framework comments as they consider a development application.

DRAFT

Project Information Section

Project Name _____

Location of Project _____

Lead or Primary Developer _____

Developer Contact Information _____

Other Key Stakeholders _____

Brief Description of the Project _____

_____

Public Investments

_____

_____

Developer/applicant anticipated community benefits

_____

_____

_____

Comments Summary

- Summarize key comments and recommendations from each applicable section used below

Category	Summary of Comments & Recommendations
Livability	
Community Power & Engagement	
Economic & Land Use	
Housing	
Transportation	
Environment	

DRAFT

EQUITY DEVELOPMENT FRAMEWORK

LIVABILITY	
Process Considerations	**Outcome Considerations**
The project has taken proactive steps with community leaders to understand local histories, and cultural and environmental assets of the area to repair, honor, and integrate these legacies with an anti-displacement lens into the project and development process.	The developer is committed to co-creating a set of mutual agreements at the start of the project and has committed to accountability measures and long-term neighborhood relationship building beyond the design and construction of the project to address any negative outcomes and embrace community ideas.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
Building from history gained from community and research, the developer has worked with community leaders and government agencies to understand the current demographics, languages, natural and human assets, and other key features of the project area to ensure development enhances the valued attributes of the area and aligns with the vision of historically and systemically marginalized people most impacted by the project.	The project design integrates physical or programmatic elements that enhance networks of community care and encourage social interaction and belonging by creating or restoring spaces for residents to connect, heal and build power with each other.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
The project design seeks to establish or enhance welcoming and inclusive community access to green spaces and public gathering areas to enhance the physical, emotional, and spiritual wellbeing of current residents.	The project considers opportunities for community ownership of material and natural assets, including housing and retail units.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**

DRAFT

Community Power and Engagement	
Process Considerations	**Outcome Considerations**
The developer involves local historically and systemically marginalized community members during the ideation phase of and throughout the planning and implementation processes to establish and ensure priorities and criteria guide the project.	Project design promotes social connectedness for a stronger community- social connections, education, health, arts, culture, and safety.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
The developer is working with the community to identify potential negative impacts and the planning process and project is actively oriented to avoid or mitigate those potential harms before the project is finalized or construction begins.	Development connects to, highlights, and respects community characteristics, local history, points of interest, and key features.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
Project information, materials, and meetings are communicated and available in real time in multiple formats, presentation styles, and languages that are representative of the impacted community.	
Applicable (circle one): Y N N/A **Comments & Recommendations**	

Economic and Land Use	
Process Considerations	**Outcome Considerations**
Local community is given preference when hiring consultants, contractors, and developers for project.	New capital or investment opportunities are created to promote small business development, arts/cultural-based businesses, and entrepreneurial opportunities, especially BIPOC-, immigrant-, or women-owned businesses. Lease agreements give priority to neighborhood business opportunities.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
The project will ensure that there is a community-supported plan to maintain neighborhood affordability and avoid cultural and physical displacement.	Design contributes to distinct identities of local cultural heritage through the presence, preservation, or addition of architectural assets, utilizing principles of Universal Design where able and appropriate.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
The project involves or supports a diverse range of businesses and enterprises owned by people of color to sustain a strong economic base and provide job opportunities for the community. Economic impacts are data-driven, and show anticipated positive economic outcomes driven catalyzed by the project.	Project uses local workforce/education programs to connect residents to long term employment within the project and any business, organization, or property management company occupying the final development.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**

DRAFT

Housing	
Process Considerations	**Outcome Considerations**
The project positively reflects local housing needs as outlined in the Opportunity Site Housing Policy.	Project increases the number of affordable units to people at 30% - 50% of Area Median Income.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
Developer commits to make units attainable via reasonable screening criteria and security deposits, and does not discriminate based on a resident's source of income.	Project supports a range of household types or life stages that are dignified, safe, and designed with durable materials. All new or renovated housing is built or retrofitted with energy efficiency to reduce utility bills for the residents, and is free from environmental hazards.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
Developer commits to respectful and relational management practices that create safety from landlord harassment, including advance notice and right to cure for any resident facing eviction, and a stated just cause for the non renewal of any lease.	Housing is located near amenities (health and social services, transportation, education, and quality job opportunities) that promote walkability, livability, and community.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**

Transportation	
Process Considerations	**Outcome Considerations**
Development minimizes car-oriented design by providing and increasing safe, attractive, and convenient access for pedestrian, bicycle, transit, and car sharing systems.	Presence of GPS, other wayfinding systems, and mapping information for pedestrians, bicyclists, and transit users is provided. Transit information must be available in the predominant languages used in Brooklyn Center, with multi-language signage.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
Surface parking is limited, and all parking facilities accommodate bicycle daily use and secure storage and do not limit access of pedestrians.	The project supports public realm and streetscape quality by including features such as as shade trees, trash cans, places to sit, and pedestrian-scale lighting.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
When located adjacent transit stops, clear and safe connections to transit is provided.	Building frontage design contributes to a safe, accessible and welcoming neighborhood streetscape by adding green spaces and public art, including public art created by local community artists.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**

Environment	
Process Considerations	**Outcome Considerations**
Developer demonstrates an understanding of environmental justice and knows the local historical impact of environmental racism and takes direction from historically and systemically marginalized people to ensure a new legacy of environmental sustainability, economic prosperity and social vitality.	Both new development and repairs and improvements of existing structures use environmentally responsible, resource- and energy-efficient materials that support the health of the environment, local economy and the project's occupants and users. In addition to using environmentally-friendly and energy-efficient materials, both new buildings and buildings identified for renovation meets or exceeds Minnesota's Sustainable Building 2030 Standards to measure and track energy and water consumption.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
Development promotes or maintains access to public green space with clear and safe physical and/or visual connections.	Development not only remediates past pollution and meets environmental standards on clean air, water and soil, but actively restores and improves environmental systems and habitats in the project area. The project landscaping uses native plants and grasses, while removing and/or discouraging invasive plant species, utilizing integrated, visible stormwater BMPs where possible.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**
Development is aligned with state, regional, and local climate resiliency goals and takes measures to reduce adverse climate impacts. The project creates opportunities for green industry to thrive in Brooklyn Center.	Building and public space design reflects distinct identities of local cultural heritage through the presence, preservation, or addition of architectural assets.
Applicable (circle one): Y N N/A **Comments & Recommendations**	**Applicable (circle one):** Y N N/A **Comments & Recommendations**

DRAFT

VI. Glossary and Resources

- links to city resources and dev app forms
- Opp site links

Terms

- Affordable
  - Affordable housing is defined as when a household spends 30% or less of its monthly income on housing costs.
- Area Median Income (AMI)
  - The median income for a specific area, which means that half of the people there earn above that, and half earn below. Income categories included: Extremely low income = 30% AMI; Very-low income = 50% AMI; Low-income = 60% AMI; and moderate income = 80% AMI
- Accessibility
  - In Minnesota, at least 5% of rental units that are Type A must be accessible per ANSI A117.1 Section 1003 of the 2020 Minnesota Accessibility Code.
- Community Members
  - Includes community-based organizations, neighborhoods, and cultural groups.
- Community Engagement
  - Community engagement involves residents or stakeholders, especially those who are excluded and isolated, in collective action to create a healthy community. Impacts of effective community engagement may include community healing, reclaiming a healthy identity, reconnecting with culture and spirituality, building relationships, and embracing individual and collective power.
- Community Wealth Building
  - Community wealth building aims at improving the ability of communities and individuals to increase asset ownership, anchor jobs locally, expand the provision of public services, and ensure local economic stability.
- Community Power
  - True decision-making power is given to communities that live, work, or have cultural connections to the land in the areas that will be impacted by the project.
- Cultural Heritage
  - An expression of the ways of living developed by a community and passed on from generation to generation, including customs, practices, places, objects, artistic expressions and values. Cultural Heritage is often expressed as either Intangible or Tangible Cultural Heritage.
- Displacement
  - Developers, banks, and government start to re-invest in disinvested neighborhoods, new and different businesses open, and higher income households move in. Current lower income residents can no longer afford housing and/or lose businesses and cultural resources that were important to the character and social networks of their communities.

DRAFT

- Economic Justice
    - Encompasses the moral principles which guide us in designing our economic institutions. To free each person to engage creatively in the unlimited work beyond economics, that of the mind and the spirit.
- Environmental Impact
    - Possible adverse effects caused by a development, industrial, or infrastructural project or by the release of a substance in the environment.
- Environmental Justice
    - Environmental justice is the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.
- Equity
    - Just and fair inclusion where all can participate and prosper.
- Equitable Development
    - Happens when low-income communities and communities of color participate in and benefit from investments that shape their neighborhoods and regions, creating healthy, vibrant communities of opportunity.
- Green Industry
    - Green industry does not harm the environment and provides products or services related to renewable energy, increased energy efficiency, clean transportation and fuels, agriculture and natural (water) resource conservation, and pollution prevention or environmental cleanup.
- BIPOC
    - Black, Indigenous, and people of color.
- Living Wage
    - The amount of income needed to provide a decent standard of living. It should pay for the cost of living in any location.
- Livability
    - The sum of the factors that add up to an individual, family, and/or community's quality of life - including the built and natural environments; economic prosperity; social stability; equity and capital; educational opportunity; and cultural, entertainment and recreation possibilities.
- Public Sector
    - Government-controlled organizations, infrastructure, services, and efforts.
- Private Sector
    - Organizations, services, and efforts owned, controlled, or managed by private individuals or enterprises.
- Restorative
    - Restorative development explicitly acknowledges and seeks to repair the harms of structural racism through projects that proactively redirect power and benefits to historically and systemically marginalized communities to heal on their own terms and define their own futures.
- Regenerative

DRAFT

- Regenerative development intentionally seeds processes and practices that create health, wealth and community power in ways that are renewed, cultivated and sustained over time.

- Transit-oriented Development (TOD)
  - Transit-oriented development creates compact, mixed-use communities near transit where people enjoy easy access to jobs and services.
- Universal Design
  - Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.
- Upward Mobility
  - The capacity or facility for rising to a higher social or economic position.

DRAFT

Council/EDA Work Session

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Dr. Reggie Edwards, City Manager

SUBJECT: Resolution Amendment - The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act

Requested Council Action:

The City Council deliberate and direct staff regarding amendment of Resolution No. 2021-73 - The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act.

Background:

In May 2021, the City Council adopted a resolution (RESOLUTION NO. 2021-73) for the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act (see attached).

In 2023, the City Council directed staff schedule agenda item for the discussion and possible amendment of the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act.

Staff has provided the a draft amended resolution to the Council for the following two purposes:

1. Serve as a starting point for Council's deliberation
2. Provide draft amendments pertaining to the practical, efficient, and effective operationalizing of resolution

Staff did not recommend amendments to overall policy or the underlying spirit of the original resolution.

Attached is a copy of the original resolution and staff's draft amended resolution that pertaining to operationalizing the original resolution.

Budget Issues:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Enhanced Community Image, Inclusive Community Engagement, Safe, Secure, Stable Community, Customer Intimacy, Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type

Original Adopted Resolution 2021-73	8/22/2023	Cover Memo
Draft Amended Resolution 2021-73 (Operational Version)	8/22/2023	Cover Memo

Member Butler introduced the following resolution and moved its adoption:

RESOLUTION NO. 2021-73

RESOLUTION ADOPTING THE DAUNTE WRIGHT AND KOBE DIMOCK"
HEISLER COMMUNITY SAFETY AND VIOLENCE PREVENTION ACT

WHEREAS, the City of Brooklyn Center ("City',) can create a safer, healthier, more just, and more thriving community by promoting a diversity of responses to our community' s safety needs that do not rely solely on our armed law enforcement officers; and

WHEREAS, many approaches have proven to be safe and effective for responding to non-moving traffic offenses, low-level violations, to people with mental health needs or disabilities, and to other similar situations that do not involve armed law enforcement officers; and

WHEREAS, creating alterative responses in these situations will allow our law enforcement officers to focus their time, training, and expertise on serious threats to the immediate safety of our residents; and

WHEREAS, relying on our aimed law enforcement officers as first responders in these situations has in some circumstances resulted in escalation, harm, and the tragic and potentially avoidable loss of life for our residents, including Daunte Wright and Kobe Dimock-Heisler; and

WHEREAS, a diversity of approaches will improve overall public safety, better address the root causes of many systemic issues, promote racial justice, better protect vulnerable members of our community, and more efficiently allocate public resources while recognizing there is still work to be done to address policing mindset and culture; and

WHEREAS, the residents of Brooklyn Center have demanded change in our City and will help co-create new approaches to health and safety in our community, and this Act affirms our commitment to an intentional, inclusive and collaborative process that involves City leadership and the community working together to fully implement the intent this Act; and

WHEREAS, the City Council will be drawing upon the best aspects of many different existing models and polices from all across the country in order to adapt them for our City with the help of residents, experts and data analysis, and the City is committing to all of these measures in a single, unified Act to deliver true transformational change for our community; and

WHEREAS, the City Council is committed to putting in the work necessary to bring about changes as quickly as possible in how the City provides public safety while recognizing that some of these measures will take longer to implement than others, and that additional work remains to be done to create a healthier and more equitable community even beyond this Act.

NOW, THEREFORE, the City Council of the City of Brooklyn Center, Minnesota, resolves as follows:

1. Act Adopted. The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act ("Act") is hereby adopted for the City.

2. Co1mnunity Response Department. The City will create an unarmed Community Response Department to respond to all incidents where a City resident is primarily experiencing a medical, mental health, disability-related, or other behavioral or social need, including by the creation of a Community Response Department consisting of trained medical and mental health professionals, social workers; 01· other staff and volunteers, and by a dispatch system routing appropriate calls to the Community Response Depa1tment and not to the Police Department; and by any other appropriate changes in ordinance practices or policies,

3. Traffic Enforcement Department. The City will create an unarmed civilian Traffic Enforcement Department to enforce all non-moving traffic violations in the City, including by creating the civilian Traffic Enforcement Department and by any other appropriate changes in ordinance, practices 01· policies, including restricting or eliminating the types of traffic offenses enforced by the City's armed law enforcement patrol officers.

4. Department of Community Safety and Violence Prevention. The City will create a new Department of Community Safety and Violence Prevention (the "department") that will be responsible for overseeing all city agencies and city efforts regarding community health and public safety, and ensuring a well-coordinated, public health-oriented approach throughout om· city that relies upon a diversity of evidence-based approaches to public safety, and with a Director who has appropriate credentials and experience including public health expe1tise,

and that at minimum the following existing and to-be-created City agencies will all rep01t directly to the department and be subject to the authority of its Director: the Police Department, the Fire Department, the Traffic Enforcement Depa1tment, and the Community Response Department.

5, Community Safety and Violation Prevention Committee. The City will create a permanent Community Safety and Violence Prevention Committee. The Director will provide the Mayo1 · with a list of candidates to serve on the committee and the Mayor will recommend candidates to the City Council for appointment. A majority of the committee members must be City residents with direct experience being arrested, detained, or having other similar contact with Brooklyn Center Police, 01 · have had direct contact with one 01 · more of the other services to be provided by the new Department. The City Council may appoint City staff to se1ve as liaisons to the committee, but no City staff member will have a vote on the committee. The committee will: review and make recommendations regarding the policing response to recent protests; review the current collective bargaining agreement between the City and the Police Depa1tment and make recommendations prior to the renegotiation of the agreement and before its final approval; recommend the City Council create a separate and permanent civilian oversight committee for the new Department; review Chapter 19 of the City Code and make recommendations with regard to repealing or amending provisions or penalties therein, including fines and fees; and periodically make any other recommendations to the City Council related to initiating programs or policies to improve community health in the City.

6. Use of Force. The City will review and update its policies, practices and training to more appropriately regulate the use of force by its aimed law enforcement officers including, for example, by requiring de-escalation, exhaustion of reasonable alternatives before using deadly force, prohibitions on using deadly force in ce1tain situations including firing upon moving vehicles, prohibiting certain uses of force or other policing tactics during First Amendment protests and assemblies, and additional revisions as needed.

7. Citation and Summons for Low Level Offenses. To immediately prevent any further harm and to better protect the peace and safety of all City residents while this Act is being fully implemented, the City Council directs the City Manager to implement f01thwith a citywide "citation and summons" policy requiring officers to issue citations only, and prohibiting custodial arrests or consent searches of persons or vehicles, for any non-moving traffic infraction, non-felony offense, or non-felony warrant, unless otherwise required by law, and the Implementation Committee will make recommendations regarding making these policy changes pe1manent and/or modifying them as needed, including by appropriate changes in ordinance, practices or policies.

8. Implementation Committee. The City will create a Community Safety and Violence Prevention Implementation Committee ("Implementation Committee"), including residents from the City and other local, state and national expe1ts in public health-oriented approaches to community safety, to be chaired by the Mayor, and with members recommended by the Mayor and confirmed by the City Council, that will propose amendments, ordinances,

resolutions, policies, guidelines or other recommendations for the review, adoption and/or implementation by City Council or City staff, as appropriate, that would fully implement the will and intent of City Council as expressed in this Act. The City Council may appoint City staff to serve as liaisons to the Implementation Committee, but City staff shall not have a vote on the committee. The Implementation Committee shall provide its recommendations directly to the City Council.

9. Community Involvement. The Implementation Committee will ensure the community has the opportunity to review and comment upon the all implementation plans, including by making periodic progress reports in open City Council meetings monthly, or more frequently upon the Council's request; that the Implementation Committee is empowered to explore external sources of funding to implement the Act and that the City may retain additional counsel, temporary staff, and consultants as reasonable and necessary to enable the Implementation Committee to complete its work; and the Implementation Committee will present recommendations to City Council for initial consideration not later than 180 days from the date of this Act.

10. Implementation and Staff Supp01t. The directives contained in this Act shall be carded out in compliance with the law and the City Chatter. The City Attorney, City Manager, Chief of Police and other City personnel are authorized and directed to provide all necessary assistance and support to all committees created pursuant to this Act, including by supplying the committees with any and all data necessary to perform their duties, including confidential 01· private data as requested with appropriate protections, and budgetary, staffing or other

information, and assisting with the crafting of amendments, ordinances, or policies as requested by the Implementation Committee, This Act authorizes, to the greatest extent possible, the implementation of the measures identified herein without further policy approvals from the City Council. To the extent additional approvals are needed, or legal barriers are identified, in the implementation of tl

the Implementation Committee, the City Manage

Mike Elliott, Mayor

those issues to the City Council's attention for fu1ther direction 01· action as needed,

May 15, 2021
Date

ATTEST: M\'---- "--
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
Graves
and upon vote being taken thereon, the following voted in favor thereof:
Butler, Elliott, Graves, Ryan
and the following voted against the same:
Lawrence-Anderson·
whereupon said resolution was declared duly passed and adopted.

RESOLUTION NO. 2021-73 (Amended 2023-01)

RESOLUTION ADOPTING THE DAUNTE WRIGHT AND KOBE DIMOCK"
HEISLER COMMUNITY SAFETY AND VIOLENCE PREVENTION ACT

WHEREAS, the City of Brooklyn Center ("City',) can create a safer, healthier, more just, and more thriving community by promoting a diversity of responses to our community' s safety needs that do not rely solely on our armed law enforcement officers; and

WHEREAS, many approaches have proven to be safe and effective for responding to non-moving traffic offenses, low-level violations, to people with mental health needs or disabilities, and to other similar situations that do not involve armed law enforcement officers; and

WHEREAS, creating alterative responses in these situations will allow our law enforcement officers to focus their time, training, and expertise on serious threats to the immediate safety of our residents; and

WHEREAS, relying on our aimed law enforcement officers as first responders in these situations has in some circumstances resulted in escalation, harm, and the tragic and potentially avoidable loss of life for our residents, including Daunte Wright and Kobe Dimock-Heisler; and

WHEREAS, a diversity of approaches will improve overall public safety, better address the root causes of many systemic issues, promote racial justice, better protect vulnerable

DRAFT

members of our community, and more efficiently allocate public resources while recognizing there is still work to be done to address policing mindset and culture; and

WHEREAS, the residents of Brooklyn Center have demanded change in our City and will help co-create new approaches to health and safety in our community, and this Act affirms our commitment to an intentional, inclusive and collaborative process that involves City leadership and the community working together to fully implement the intent this Act; and

WHEREAS, the City Council will be drawing upon the best aspects of many different existing models and polices from all across the country in order to adapt them for our City with the help of residents, experts and data analysis, and the City is committing to all of these measures in a single, unified Act to deliver true transformational change for our community; and

WHEREAS, the City Council is committed to putting in the work necessary to bring about changes as quickly as possible in how the City provides public safety while recognizing that some of these measures will take longer to implement than others, and that additional work remains to be done to create a healthier and more equitable community even beyond this Act.

NOW, THEREFORE, the City Council of the City of Brooklyn Center, Minnesota, resolves as follows:

DRAFT

1. **Amend the Adopted** Act ~~Adopted~~. The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act ("Act") is hereby adopted for the City.

2. Community Alternative Response government unit ~~Department.~~ The City will create an unarmed Community Alternative Response government unit ~~Department~~ to respond to all incidents where a City resident is primarily experiencing a medical, mental health, disability-related, or other behavioral or social need. ~~, including by the creation of a~~ The Community Alternative Response government unit ~~Department~~ shall provide ~~consisting of~~ trained medical and mental health professionals, social workers or other staff and volunteers. ~~, and by a~~ Services provided by the Community Alternative Response government unit shall be dispatched by the Hennepin County 911 call system. ~~system routing appropriate calls to the Community Response Government Unit Department and not to the Police Department; and by any other appropriate changes in ordinance practices or policies,~~

3. Non-Moving Traffic Violation Enforcement government unit ~~Department~~. The City will create an unarmed ~~civilian~~ Non-Moving Traffic Violation Enforcement government unit ~~Department~~ to enforce all non-moving traffic violations in the City. ~~, including by creating the civilian Traffic Enforcement Department and by any other appropriate changes in ordinance, practices or policies, including restricting or eliminating the types of traffic offenses enforced by the City's armed law enforcement patrol officers.~~

4. Community Prevention, Health, and Safety government unit ~~Department of Community~~

DRAFT

~~Safety and Violence Prevention.~~ The City will create a new government unit ~~Department~~ of Community Prevention, Health, and Safety ~~and Violence Prevention~~ (the "government unit ~~Department~~") that will be responsible for coordinating with ~~overseeing~~ all city agencies and citywide efforts regarding community prevention, health and public safety and ensuring a well-coordinated, public health-oriented approach throughout our city that relies upon a diversity of evidence-based prevention and intervention approaches to public safety, and with a Director who has appropriate credentials and experience including public health expertise, community prevention and intervention in public safety, and that at minimum the following will have oversight of governmental units of Community Alternative Response and Non-Moving Traffic Violation Enforcement ~~existing and to-be-created City agencies will all report directly to the Department and be subject to the authority of its Director: the Police Department, the Fire Department, the Traffic Enforcement Department , and the Community Response Department.~~

5. Community Health, Safety and Violence ~~Violation~~ Prevention Commission ~~Committee~~. The City will create a permanent Community Safety and Violence Prevention Commission ~~Committee~~. The Director will provide the Mayor with a list of candidates to serve on the Commission ~~Committee~~ and the Mayor will recommend candidates to the City Council for appointment. A majority of the Commission ~~Committee~~ members must be a majority of City residents with direct experience being arrested, detained, or having other similar contact with ~~Brooklyn Center~~ Police, or have had direct contact with one or more of the other services to be provided by the new government unit ~~Department~~. The Director of ~~Department of~~ Community Prevention, Health, and Safety government unit ~~and Violence Prevention~~ shall

DRAFT

serve as liaison to the Commission and with collaboration of all related city governmental units (i.e. police, recreation, fire, community development, etc.).

~~The City Council may appoint City staff to serve as liaisons to the committee, but no City staff member will have a vote on the committee.~~ The Commission ~~committee~~ will review and make recommendations regarding the policing response to ~~recent~~ protests; review the current collective bargaining agreement between the City and the Police Department and make recommendations prior to the renegotiation of the agreement ~~and before its final approval~~; recommend the City Council create a separate and permanent civilian oversight committee for the new Government Unit ~~Department~~; review Chapter 19 of the City Code and make recommendations with regard to repealing or amending provisions or penalties therein, including fines and fees; and periodically make any other recommendations to the City Council related to initiating programs or policies to improve community health and safety in the City.

DRAFT

6. Use of Force. The City will review and update its policies, practices and training to more appropriately regulate the use of force by its aimed law enforcement officers including, for example, by requiring de-escalation, exhaustion of reasonable alternatives before using deadly force, prohibitions on using deadly force in certain situations including firing upon moving vehicles, prohibiting certain uses of force or other policing tactics during First Amendment protests and assemblies, and additional revisions as needed.

7. Citation and Summons for Low Level Offenses. To immediately prevent any further harm and to better protect the peace and safety of all City residents while this Act is being fully implemented, the City Council directs the City Manager to implement forthwith a citywide "citation and summons" policy requiring officers to issue citations only, and prohibiting custodial arrests or consent searches of persons or vehicles, for any non-moving traffic infraction, non-felony offense, or non-felony warrant, unless otherwise required by law, and the Implementation Committee will make recommendations regarding making these policy changes permanent and/or modifying them as needed, including by appropriate changes in ordinance, practices or policies.

8. Implementation Committee. The City will create a Community Safety and Violence Prevention Implementation Committee ("Implementation Committee"), including residents from the City and other local, state and national expe1ts in public health-oriented approaches to community safety, to be chaired by the Mayor, and with members recommended by the Mayor and confirmed by the City Council, that will propose amendments, ordinances,

DRAFT

resolutions, policies, guidelines or other recommendations for the review, adoption and/or implementation by City Council or City staff, as appropriate, that would fully implement the will and intent of City Council as expressed in this Act. The City Council may appoint City staff to serve as liaisons to the Implementation Committee, but City staff shall not have a vote on the committee. The Implementation Committee shall provide its recommendations directly to the City Council.

9. Community Involvement. The Implementation Committee will ensure the community has the opportunity to review and comment upon the all implementation plans, including by making periodic progress reports in open City Council meetings monthly, or more frequently upon the Council's request; that the Community Health, Safety and Violence Prevention Commission is empowered to assist the City in exploring external sources of funding to implement the Act. ~~that the Implementation Committee is empowered to explore external sources of funding to implement the Act~~ and that the City may retain additional counsel, temporary staff, and consultants as reasonable and necessary to enable the Implementation Committee to complete its work; and the Implementation Committee will present recommendations to City Council for initial consideration not later than 180 days from the date of this Act.

10. Implementation and Staff Support. The directives contained in this Act shall be carded out in compliance with the law and the City Charter. The City Attorney, City Manager, Chief of Police and other City personnel are authorized and directed to provide all necessary assistance and support to all committees created pursuant to this Act, including by supplying the committees with any and all data necessary to perform their duties, including confidential or

DRAFT

private data as requested with appropriate protections, and budgetary, staffing or other information, and assisting with the crafting of amendments, ordinances, or policies as requested by the Implementation Committee.

This Act authorizes, to the greatest extent possible, the implementation of the measures identified herein without further policy approvals from the City Council. To the extent additional approvals are needed, or legal barriers are identified, in the implementation of these measures or the recommendations of the Implementation Committee, the City Manager or City Attorney are directed to bring those issues to the City Council's attention for further direction or action as needed.

DRAFT

_____
Mayor

_____
Date

ATTEST:_____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

whereupon said resolution was declared duly passed and adopted.

Council/EDA Work Session

DATE: 8/28/2023

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Dr. Reggie Edwards, City Manager

SUBJECT: Upcoming Items

Requested Council Action:

- Memorial Policy
- Special Assessment Policy/Franchise Fees *(referred to Financial Commission)*
- Beautification and Public Art Commission
- Liquor Store 2
- Organizational Chart-Budget work sessions
- New and Repeat Type IV Rental License Review *(referred to Housing Commission)*
- Food Truck Ordinance/License
- Emerald Ash Borer Policy Review (*referred to Park & Rec Commission November)*
- Opioid Settlement
- ARPA Funds
- Grants: Revenues & Expenses
- Purchasing Policy
- Commercial Vacant Building Fees
- Interveners Impact
- Revisit Resolution 2021-73

Background:

Budget Issues:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values: