

AGENDA
CITY COUNCIL STUDY SESSION
July 9, 2018
6:00 PM

City Council Chambers

A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

1. Call to Order - 6:30 p.m.

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

2. Miscellaneous

3. Discussion of Work Session Agenda Item as Time Permits

4. Adjourn

**CITY COUNCIL
MEETING**

City of Brooklyn Center
July 9, 2018

AGENDA



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

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

2. Invocation - 7 p.m.

3. Call to Order Regular Business Meeting

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

4. Roll Call

5. Pledge of Allegiance

6. Approval of Agenda and Consent Agenda

The following items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the consent agenda and considered at the end of Council Consideration Items.

- a. Approval of Minutes
- b. Licenses
- c. Resolution Approving a Transfer of Funds from the General Fund and the Municipal Liquor Store Fund to the Capital Improvements Fund
- d. Resolution Approving Transfer of Funds from the Earle Brown Heritage Center Operating Fund to Earle Brown Heritage Center Capital Fund
- e. Resolution Accepting Work Performed and Authorizing Final Payment, Project Nos. 2016-01, 02, 03, 04 and 12, Palmer Lake West Area Street and Utility Improvements

7. Presentations/Proclamations/Recognitions/Donations

- a. Resolution Accepting CenterPoint Energy Community Partnership Grant

8. Public Hearings

- a. An Ordinance Amending Ordinance No. 2016-08 Regarding Council Salaries

for 2019-2020.

- Motion to open Public Hearing
- Take public input
- Motion to close Public Hearing
- Motion to adopt Ordinance

b. An Ordinance Amending Chapter 1 of the City Code of Ordinances Regarding Animals

- Motion to open Public Hearing
- Take public input
- Motion to close Public Hearing
- Motion to adopt Ordinance

9. Planning Commission Items

a. Planning Commission Application No. 2018-010, Submitted by Linda McGinty (The Luther Company, LLLP), Requesting Issuance of an Interim Use Permit for the Off-Site Storage of New Vehicles (Located at 5900 Shingle Creek Parkway)

-Motion to adopt resolution.

b. Planning Commission Application No. 2018-011, Submitted by Lux Apartments, LLC, Requesting Approval of an Amendment to the 1992 Planned Unit Development Plans and Documents and Site Improvements to Allow for the Conversion of a Former Senior Living Facility to Market Rate Apartments (Located at 6100 Summit Drive North)

- Motion to approve resolution.

10. Council Consideration Items

a. Type IV - 6 Month Provisional Rental License for 7131 Halifax Ave N

b. Resolution Approving a Type IV-6 Month Provisional Rental License for 5351 Irving Ave N

11. Council Report

12. Adjournment

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Rozlyn Tousignant, Deputy City Clerk

SUBJECT: Approval of Minutes

Recommendation:

It is recommended that the City Council consider approving the minutes for the June 25, 2018 Study Session, Regular Session, and Work Session.

Background:

All minutes are considered draft until approved by the City Council.

Requested Council Action:

Budget Issues:

1. June 25, 2018 Study Session
2. June 25, 2018 Regular Session
3. June 25, 2018 Work Session

Strategic Priorities and Values:

Operational Excellence

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
JUNE 25, 2018
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Study Session called to order by Mayor Tim Willson at 6:00 p.m.

ROLL CALL

Mayor Tim Willson and Councilmembers Marquita Butler, April Graves, Kris Lawrence-Anderson, and Dan Ryan were present. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Community Development Director Meg Beekman, Planner and Zoning Administrator Ginny McIntosh, Police Chief Tim Gannon, City Attorney Troy Gilchrist, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

None.

MISCELLANEOUS

None.

DISCUSSION OF WORK SESSION AGENDA ITEMS AS TIME PERMITS

**YOUTH ART CONTEST DISCUSSION – COMMUNITY DEVELOPMENT DIRECTOR
MEG BEEKMAN**

Councilmember Graves asked how many applications have been submitted for the contest. Ms. Beekman stated she doesn't have those numbers but she will get them and update the Councilmembers. Councilmember Graves suggested spreading the word about the art contest by mouth may be more powerful than using social media to advertise it.

It was the majority consensus of the City Council to move forward with staff recommendations.

ADJOURNMENT

Councilmember Ryan moved and Councilmember Butler seconded to close the Study Session at 6:18 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

REGULAR SESSION
JUNE 25, 2018
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 Tim Willson at 6:45 p.m.

ROLL CALL

Mayor Tim Willson and Councilmembers Marquita Butler, April Graves, Kris Lawrence-Anderson, and Dan Ryan were present. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Community Development Director Meg Beekman, Planner and Zoning Administrator Ginny McIntosh, Police Chief Tim Gannon, Fire Chief Lee Gatlin, City Attorney Troy Gilchrist, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

Mayor Tim Willson opened the meeting for the purpose of Informal Open Forum.

Melina Garcia, 6913 France Avenue North, addressed the City Council. She stated she and others have seen pan handlers moving into the residential area of her neighborhood at the corner of her block. She stated he has been seen laying on the median and leaving garbage around and she is concerned he is not of sound mental mind and/or under the influence.

Dave Hreha, 4811 63rd Avenue North, addressed the City Council. He stated the City re-sodded the corner outside his house a few years ago and since it has grown uncontrollable weeds and he would like to request the City have it re-sodded. He stated he will pay for anything he needs to in order to get it fixed.

April Heckard, 6907 France Avenue North, addressed the City Council. She stated the City did some construction in front of her house that left a lot of holes in her yard. She contacted the City about this issue but she is still hasn't received a call back and would like to know when her yard will be repaired.

Councilmember Ryan moved and Councilmember Graves seconded to close the Informal Open Forum at 6:55 p.m.

Motion passed unanimously.

2. INVOCATION

Councilmember Butler recited a quote by Maya Angelou as the Invocation.

3. CALL TO ORDER REGULAR BUSINESS MEETING

The Brooklyn Center City Council met in Regular Session called to order by Mayor Tim Willson at 7:00 p.m.

4. ROLL CALL

Mayor Tim Willson and Councilmembers Marquita Butler, April Graves, Kris Lawrence-Anderson, and Dan Ryan were present. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Community Development Director Meg Beekman, Planner and Zoning Administrator Ginny McIntosh, Police Chief Tim Gannon, City Attorney Troy Gilchrist, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

5. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

Councilmember Graves moved and Councilmember Lawrence-Anderson seconded to approve the Agenda and Consent Agenda as submitted, and the following consent items were approved:

6a. APPROVAL OF MINUTES

1. June 11, 2018 – Study/Work Session
2. June 11, 2018 – Regular Session

6b. LICENSES

MECHANICAL

2 Cool 2 Heat, LLC

A ABC Appliance & Heating Inc.

dba: Total Comfort

Appliance Connections Inc.

Bonfe Plumbing & Heating & Air Services, Inc.

Custom Refrigeration

Freedom Heating & Air

K&S Heating A/C & Plumbing Inc.

Larson Plbg

852 86th LN NW, Coon Rapids

8818 7th Ave N,
Golden Valley

12850 Chestnut Blvd, Shakopee

455 Hardman Ave, South St. Paul

640 Mendelssohn Ave N, Golden
Valley

888 County Rd D West, Ste. 205,
New Brighton

4205 HWY 14W,
Rochester

3095 162nd La NW, Andover

Legacy Mechanical Services
McQuillan Bros Plumbing, Heating & AC
Northern Air Heating and Cooling
OT Heating & Cooling LLC

Perfection Heating & Air Inc.
Riccar Heating & A/C

Royalton Heating & A/C

Select Mechanical

Treated Air Company
United Heating & A/C Inc.
Westair Inc.

1717 120th St NE, Monticello
1711 MN 36 E, Maplewood
888 County Rd D W, New Brighton
10020 Dogwood St NW #A3, Coon
Rapids
1770 Gervais Ave, Maplewood
2387 Station Parkway
NW, Andover
4120 85th Ave N,
Brooklyn Park
6219 Cambridge Street, St. Louis
Park
9954 166th Ct SE, Becker
1295 Hackamore Road, Medina
11184 River Road NE,
Hanover

AMUSEMENT DEVICE

Mendota Valley Amusement, Inc.
Mendota Valley Amusement, Inc.

6110 Brooklyn Blvd
6845 Shingle Creek Parkway

GARBAGE HAULER

Curbside Waste
Walz Brothers Sanitation

4025 85th Ave N, Brooklyn Park
P.O. Box 627, Maple Grove

RENTAL

INITIAL (TYPE III – one-year license)
5542 Irving Avenue N

Doug Wahl

RENEWAL (TYPE III – one-year license)
1302 69th Avenue N
4216 Lakebreeze Avenue
2012 55th Avenue N

Myra Chazin
Daniel Tan
Invitation Homes
(Missing cpted)

5600 Colfax Avenue N
6618 Colfax Avenue N
6642 Dupont Avenue N
6724 France Avenue N
4214 Lakeside Avenue

Thai Vang
Khemraj Changrawatie
Kevin Motarjemi
Jessica Stoll
James & Gloria Shoultz
(Missing 1 ARM Meeting)

6424 Marlin Drive

Charles Jing Bright
(Missing cpted)

7224 Noble Avenue N

Quoc Ai Nguyen

RENEWAL (TYPE II – two-year license)
3501 47th Avenue N

Todd Burmeister

3224 62nd Avenue N
1300 68th Lane N
5333 Dupont Avenue N
5712 Northport Drive
6900 Quail

Michael Mills
Grant and Pam Osgood
RHA 3, LLC
Cindy & Raymond Scherbing
Michael Johnson

RENEWAL (TYPE I – three-year license)

5200 France Avenue N
5930 Aldrich Avenue N
6001 Emerson Avenue N
5325 France Avenue N
1549 Humboldt Place N
5740 Logan Avenue N
6000 Vincent Avenue N

Christian Knutson
Lori Kay Stevenson
Keith Carrico
David Goeske
ShoeMiller Properties LLC
Lin Shuang LLC
Patricia Slatosky

6c. RESOLUTION NO. 2018-126 APPOINTING ELECTION JUDGES FOR 2018 ELECTIONS

6d. RESOLUTION NO. 2018-127 AUTHORIZING THE ECONOMIC DEVELOPMENT AUTHORITY TO SUBMIT A MINNESOTA INVEST FUND APPLICATION ON BEHALF OF GET BIZZY, INC.

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

7a. PRESENTATION BY SHANNON FULL, PRESIDENT/CEO OF TWIN WEST CHAMBER OF COMMERCE

This item will be rescheduled as Shannon Full was not available this evening.

8. PUBLIC HEARINGS

8a. ORDINANCE NO. 2018-06 AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES TO ESTABLISH A NEW SECTION 35-420 TO ALLOW AUTOMOBILE DEALERSHIP OFF-SITE VEHICLE STORAGE AS AN INTERIM USE IN THE I-1, I-2, AND C-2 ZONING DISTRICTS

Planner and Zoning Administrator Ginny McIntosh introduced the item, discussed the history, and stated the purpose of the proposed ordinance.

Councilmember Ryan asked what the time limit would be for this permit. Ms. McIntosh stated it is on a case-to-case basis. She stated the Luther Auto Dealership has the 5900 Shingle Creek Parkway site which is part of the Opportunity Site.

City Manager Curt Boganey explained that the ordinance being discussed tonight is not specific to any site or permit.

Councilmember Graves moved and Councilmember Lawrence-Anderson seconded to open the Public Hearing.

Motion passed unanimously.

No one appeared to address this item.

Councilmember Lawrence-Anderson moved and Councilmember Butler seconded to close the Public Hearing.

Motion passed unanimously.

Councilmember Lawrence-Anderson moved and Councilmember Ryan seconded to adopt ORDINANCE NO. 2018-06 Amending Chapter 35 of the City Code of Ordinances to Establish a New Section 35-420 to Allow Automobile Dealership Off-Site Vehicle Storage as an Interim Use in the I-1, I-2, and C-2 Zoning Districts.

Motion passed unanimously.

8b. ORDINANCE NO. 2018-07 AMENDING CHAPTER 25 OF THE CODE OF ORDINANCES REGARDING MEDIAN SAFETY

Police Chief Tim Gannon introduced the item, discussed the history, and stated the purpose of the proposed ordinance.

Mayor Willson stated over the past two years due to concerns and outreach from citizens, they have looked at other cities that address this issue and have not found anything that has held up in court. He stated the City Attorney has drafted a narrow and specific document that he is confident the courts will accept. He noted they found a lot of case law which had been thrown out in the past because they were vague in sites.

Councilmember Lawrence-Anderson moved and Councilmember Butler seconded to open the Public Hearing.

Motion passed unanimously.

Melina Garcia, 6913 France Avenue North, addressed the City Council. She stated she has been living in Brooklyn Center since 2011 and noted she has seen an increase in panhandlers on the medians. She noted the City is a leader in the auto industry and she doesn't think it looks good. She asked if the ordinance is passed and she sees this issue in her area, what type of resolution could she expect.

Mayor Willson stated she can call 911 and state it's a non-emergency but that way her concerns will be documented.

Ms. Garcia asked what she can do about signs that were zip-tied to the signs on the corners around her neighborhood.

Mayor Willson stated she can go online and make a complaint on the website or call 911 and note it is a non-emergency call. Mr. Boganey stated also calling City Hall she will be routed to the appropriate person who can help her.

April Heckard, 6907 France Avenue North, addressed the City Council. She asked where the definition of high traffic they used for the ordinance comes from. Mayor Willson stated it is from traffic studies.

Ms. Heckard noted her neighborhood shouldn't be high traffic but she notes a lot of cars coming and going through the night. She stated there is a panhandler who showed up a few weeks ago and is there all day and night right on the other side of her yard. She doesn't like that the panhandlers can see her coming and going and knows her daily schedule, she stated she chose her neighborhood because it was comfortable and safe for her daughter and no longer feels safe.

Susan Arneson, 3818 57th Avenue North, addressed the City Council. She asked if there will be signage posted on the medians if this ordinance is passed.

Mayor Willson stated some of the roads owned by Hennepin County have already been putting up signs on their streets.

Mr. Boganey stated they are not sure about that, he stated it will be discussed if the ordinance is passed this evening. He stated they are hoping that citations and letting people know it is not allowed will be enough action but following that if it continues to be an issue then they would probably look at posting signs.

Timothy Haroldson, 1207 72nd Avenue North, addressed the City Council. He stated White Bear Lake has an ordinance that pertains to this issue, he stated the boarder of Maplewood and White Bear Lake you can see the panhandlers only on the Maplewood side. He stated there are a few medians that wouldn't be covered by this ordinance and noted if this passes they may want to keep an eye out for those places and increased panhandlers there.

Mr. Boganey stated this ordinance won't solve all the problems, but it is intended to help.

City Attorney Troy Gilchrist stated courts have stated public walkways are free space and people can be there so the courts are struggling with how to focus on safety concerns without breaching the public's rights of expression.

Councilmember Lawrence-Anderson stated she has in cases told business owners about any panhandlers on their property and in most cases, they address the issue.

Councilmember Ryan moved and Councilmember Butler seconded to close the Public Hearing.

Motion passed unanimously.

Councilmember Ryan moved and Councilmember Graves seconded to adopt ORDINANCE NO. 2018-07 Amending Chapter 25 of the Code of Ordinances Regarding Median Safety

Motion passed unanimously.

9. PLANNING COMMISSION ITEMS

9a. PLANNING COMMISSION APPLICATION NO. 2018-009, SUBMITTED BY NEAL THAO OF NOBLE ACADEMY, REQUESTING APPROVAL OF A SITE PLAN FOR A DRIVEWAY EXPANSION (LOCATED AT 6201 NOBLE AVENUE NORTH)

Planner and Zoning Administrator Ginny McIntosh provided an overview of Planning Commission Application No. 2018-009 and advised the Planning Commission recommended approval of the applications at its June 14, 2018 meeting.

Ms. McIntosh answered questions of the City Council regarding the request for approval of a site plan for a driveway expansion (located at 6201 Noble Avenue North).

Councilmember Ryan stated he wanted to clarify that there wouldn't be any bus storage onsite. Ms. McIntosh stated that is correct, the school contracts the buses and that business stores the buses offsite. Councilmember Ryan asked if the applicant will need to restore the landscaping to its original stated after expanding the sidewalk. Ms. McIntosh stated that is correct.

Councilmember Butler asked if residents were happy with the result of the site plans when they left the Planning Commission meeting. Ms. McIntosh stated not all of them were pleased and noted some are here tonight.

Councilmember Lawrence-Anderson stated her kids went to Odyssey School a long time ago. She stated they played on the hill and it will not be the same without it. She stated she is not in support of removing the hill.

Councilmember Butler stated she is uneasy about approving this site plan due to the large number of residents being opposed to this project. She stated she agrees with Councilmember Lawrence-Anderson and is not in support of the site plan.

Mayor Willson stated he understands that residents are not happy about the hill being removed for the bus lane to be installed, but noted the applicant owns the land and he doesn't see any legal reasons in which the city can't approve the application.

Councilmember Ryan asked if it would be appropriate to allow the residents present tonight to speak to their concerns and hold a brief open hearing. Mayor Willson stated that would be fine and asked for a motion to open a public hearing.

Councilmember Graves moved and Councilmember Butler seconded to open the Public Hearing.

Motion passed unanimously.

Ann Dahlin, 6208 Perry Avenue North, addressed the City Council. She stated they are in favor of the school but their concerns are that the developer left the residents out of the picture. She stated this is not a small upgrade and she stated in her research using a staggered drop off and pick up has worked well and she doesn't see the need to do any work on the hill or green space.

Marcos Carmona, 6202 Perry Avenue North, addressed the City Council. He stated his concern is the negative impact this project has on the green area around the school and their neighborhood.

Jerry Dahlin, 6208 Perry Avenue North, addressed the City Council. He stated they are against the revised plan and also are against the entire plan in general. He noted they were blindsided and it was not brought up until 10 days ago and they have been acting ever since.

Kerry Dahlin, 6208 Perry Avenue North, addressed the City Council. She stated the developers don't want to destroy the area, its green and beautiful and the school doesn't know what they are getting rid of.

Councilmember Ryan asked how the traffic flow was in the past. Ms. Dahlin explained they would pull in off 63rd turn onto Noble and pull through the drive through at the front door and then turn right onto Noble and make a circle.

Mohammed Remtula, 6220 Perry Avenue North, addressed the City Council. He stated he wants to thank the City for all they do.

Mr. Vang, contractor for the applicant, addressed the City Council. He apologized for the residents' feeling side-blinded by the project. He stated it was not intentional; they were following the process laid out by the City. He stated the hill on Perry Avenue will remain as it was once it is re-sodded. He noted the other hill will have some minor modifications but it will not change much. He addressed the concerns regarding traffic during the day and stated they will be gating the 63rd exit so when school is out, traffic is not coming and going.

Councilmember Ryan asked if they can make the turn for the bus lane on the original plan wider. Ms. McIntosh stated it would be tight. She stated per the fire inspection it will need a 20-foot wide turn.

Councilmember Lawrence-Anderson stated she is familiar with the space and charter schools and the way it was running before was fine with a staggered pick-up and drop-off schedule for the buses. She stated she can't support the green space and hill being removed.

Councilmember Graves asked how long they think the project will take to completed. Mr. Vang stated they hope to be done by mid-August.

City Attorney Gilchrist addressed the Mayor's statement regarding the fact the property belongs to the applicant and the City Council doesn't have much recourse to deny the applicant the right to do whatever on that land unless it doesn't meet a City Code or Ordinance. He noted the scope of discretion narrows as the City Council gets closer to the administrative levels.

Councilmember Ryan asked if they could place conditions on the permit, limiting the amount of green space and hill that the applicant can remove. City Attorney Gilchrist stated they can place a condition that states the applicant will work with staff to minimize impact on that space, but noted that doesn't guarantee anything.

Marcos Carmona, Jr., 6202 Perry Avenue N, addressed the City Council. He stated he noticed the applicant is building the outside classroom in a location where children will have to cross the parking lot to get to it. He stated he doesn't think that is safe and that it contradicts the applicant's main reason for putting in the new bus lane, safety of the children.

Councilmember Ryan moved and Councilmember Graves seconded to close the Public Hearing.

Motion passed unanimously.

Councilmember Graves moved and Mayor Willson seconded to approve Planning Commission Application No. 2018-009, Submitted by Neal Thao of Noble Academy, Requesting Approval of a Site Plan for a Driveway Expansion (Located at 6201 Noble Avenue North).

Councilmember Lawrence-Anderson and Councilmember Butler voted against the same. Motion passed.

Councilmember Ryan moved and Mayor Willson seconded to amend the approval of Planning Commission Application No. 2018-009, Submitted by Neal Thao of Noble Academy, Requesting Approval of a Site Plan for a Driveway Expansion (Located at 6201 Noble Avenue North), to direct staff to work with applicant to minimize the effect on the hill and green space on the property.

Councilmember Lawrence-Anderson and Councilmember Butler voted against the same. Motion passed.

10. COUNCIL CONSIDERATION ITEMS

10a. CONSIDERATION OF TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSES

Mayor Willson explained the streamlined process that will now be used to consider Type IV 6-Month Provisional Rental Licenses.

Mayor Willson polled the audience and asked whether anyone was in attendance to provide testimony on any of the rental licenses as listed on tonight's meeting agenda. Seeing no one coming forward, Mayor Willson called for a motion on Agenda Items 10a1 through 10a10.

- 10a1. RESOLUTION NO. 2018-128 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 7240 WEST RIVER RD**
- 10a2. RESOLUTION NO. 2018-129 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 3106 64TH AVENUE NORTH**
- 10a3. RESOLUTION NO. 2018-130 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE 5410 GIRARD AVENUE**
- 10a4. RESOLUTION NO. 2018-131 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 5302 HUMBOLDT AVENUE NORTH**
- 10a5. RESOLUTION NO. 2018-132 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 6765 HUMBOLDT AVENUE NORTH**
- 10a6. RESOLUTION NO. 2018-133 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 7031 HUMBOLDT AVENUE**
- 10a7. RESOLUTION NO. 2018-134 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 6413 JUNE AVENUE NORTH**
- 10a8. RESOLUTION NO. 2018-135 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 7030 REGENT AVENUE NORTH**
- 10a9. RESOLUTION NO. 2018-136 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 6424 SCOTT AVENUE NORTH**
- 10a10. RESOLUTION NO. 2018-137 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 4734 TWIN LAKE AVENUE**

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to approve the issuance of a Type IV six-month provisional rental license and mitigation plan for the following and adopt RESOLUTION NO. 2018-128 Approving a Type IV Rental License for 7240 West River Road; RESOLUTION NO. 2018-129 Approving a Type IV Rental License for 3106 64th Avenue North; RESOLUTION NO. 2018-130 Approving a Type IV Rental License for 5410 Girard Avenue North; RESOLUTION NO. 2018-131 Approving a Type IV Rental License for 5302 Humboldt Avenue North; RESOLUTION NO. 2018-132 Approving a Type IV Rental License for 6765 Humboldt Avenue North; RESOLUTION NO. 2018-133 Approving a Type IV Rental License for 7031 Humboldt Avenue North; RESOLUTION NO. 2018-134 Approving a Type IV Rental License for 6413 June Avenue North; RESOLUTION NO. 2018-135 Approving a Type IV Rental License for 7030 Regent Avenue North; RESOLUTION NO. 2018-136 Approving a Type IV Rental License for 6424 Scott Avenue North; and RESOLUTION NO. 2018-137 Approving a Type IV Rental License for 4734 Twin Lake Avenue, with the requirement that the mitigation plans and all applicable ordinances must be strictly adhered to before renewal licenses would be considered.

Motion passed unanimously.

11. COUNCIL REPORT

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

- June 20, 2018: Neighborhood Meeting
- June 21, 2018: Earle Brown Days Parade
- June 30, 2018: Saturday night fireworks

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

- June 26, 2018: MAC Meeting
- June 29, 2018: Volunteering, selling tickets

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

- June 16, 2018: Juneteenth Celebration and Tator Days Festival
- June 20, 2018: Neighborhood Meeting
- June 21, 2018: Earle Brown Days Parade
- June 23, 2018: Earle Brown Days Family Festival

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

- June 20, 2018: Neighborhood Meeting
- June 21, 2018: Earle Brown Days Parade
- June 23, 2018: Earle Brown Days Family Festival

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

- June 11, 2018: Returned from US Conference of Mayors
- June 15, 2018: Meeting with Mr. Boganey
- June 19, 2018: Rotary Meeting
- June 20, 2018: Neighborhood Meeting
- June 21, 2018: Earle Brown Days Parade
- June 22, 2018: Meeting with Saint Alfonso Group Assembly

12. ADJOURNMENT

Councilmember Ryan moved and Councilmember Graves seconded adjournment of the City Council meeting at 9:30 p.m.

Motion passed unanimously.

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

WORK SESSION
JUNE 25, 2018
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council/Economic Development Authority (EDA) met in Work Session called to order by Mayor/President Tim Willson at 9:49 p.m.

ROLL CALL

Mayor/President Tim Willson and Councilmembers/Commissioners Marquita Butler, April Graves, Kris Lawrence-Anderson, and Dan Ryan were present. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Community Development Director Meg Beekman, Planner and Zoning Administrator Ginny McIntosh, City Attorney Troy Gilchrist, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

**FORMER JERRY'S FOOD SITE CONCEPT REVIEW AND DISCUSSION –
COMMUNITY DEVELOPMENT DIRECTOR MEG BEEKMAN**

Community Development Director Meg Beekman provided an overview on this item.

Mr. Laux addressed the City Council/EDA. He stated he is here tonight to see if the plan he has for putting a charter school into the old Jerry Foods Site is something the City Council/EDA might be interested in allowing. He stated his company has created 5 charter schools to date and another school is looking for a building and he thought this site would be a great fit to build it into their 6th school. He explained how he got started in the business of building charter schools and why he enjoys it. He explained they do a lease aid model so the money for the building doesn't come from the budget of the school. He stated the school would be K-8th grade. He stated he sees the other space around the school being used as a daycare potentially, a dental office or anything the City feels fits with their vision. He stated he needs a building ready for a school year set to start in July so he is very limited on time for this project and is just looking for an informal idea if the City would be open to this type of business in that location so he can move forward either way.

Mayor/President Willson stated the Jerry Foods site has a long history and despite attempts to do so, the owner of the property wouldn't sell it to the City. He stated he is both amazed and happy that they have been able to secure a purchase agreement for the property. Mayor/President Willson asked if the property will stay on the tax rolls.

Mr. Laux stated he anticipates it will, unless the charter school decided to form an ABC corporation, which he noted is unlikely.

Councilmember/Commissioner Ryan stated he is skeptical about this project due to the fact that this plan is not in the Comp Plan. He noted he sees the value of charter schools but he doesn't see this space being what he envisions for that site. He stated he thinks there may be a place for a charter school in the next phase of the Opportunity Site plans.

Mayor/President Willson stated he wouldn't want to rule out this type of development in lieu of waiting another 20 years before something else comes along to be built in that space. He stated he likes that they are putting something there, creating jobs, paying taxes, and likes what they would be doing for the community.

Councilmember/Commissioner Graves asked if he can disclose any information on the type of school or who the tenant might be. Mr. Laux stated he can't disclose at this time but he knows who the tenant would be and noted they have great curriculum.

Councilmember/Commissioner Lawrence-Anderson stated she is intrigued and stated when thinking about the Comp Plan because they are going to be building more homes it would be nice to have a daycare in the neighborhood. She stated she doesn't think there are many currently. She stated she would be very interested to learn more about what they have planned for this site.

The majority consensus of the City Council/EDA was that they are open to seeing more information from Mr. Laux in the future about this site plan.

ADJOURNMENT

Councilmember/Commissioner Lawrence-Anderson moved and Councilmember/Commissioner Butler seconded adjournment of the City Council/Economic Development Authority Work Session at 10:27 p.m.

Motion passed unanimously.

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Rozlyn Tousignant, Deputy City Clerk

SUBJECT: Licenses

Recommendation:

It is recommended that the City Council consider approval of the following licenses on July 9, 2018.

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.

GARBAGE HAULER

Allied Waste Services of North America LLC	8661 Rendova Street NE, Circle Pines
Darling Ingredients, Inc	9000 382nd Avenue, Blue Earth
Farmers Union Industries	P.O. Box 26, Redwood Falls
LePage & Sons Inc.	23602 University Avenue NW, Bethel

MECHANICAL

All appliance Installation Plus	P.O. Box 133, Cambridge
Anderson's Residential Heating	1628 County Road 10 #34, Spring Lake Park
Crown Mechanical	1670 S. Robert St. #132, West St. Paul
H2C Inc. Heating Cooling & Plumbing	820 N. Concord Street, South St. Paul
Homeworks Plumbing, Heating Air	1230 Eagan Industrial Road, Suite 117, Eagan
Metro Heatings & Cooling LLC	1220 Cope Ave E, Maplewood
Owens Companies Inc.	930 E. 80th St, Bloomington
Residential Heating and Air	1815 E. 41st St, Suite A, Minneapolis

SIGN HANGER

G K and M Enterprises Inc.	1517 94th Lane NE, Blaine
Jones Sign Company	1711 Scheuring Road, De Pere, WI 54115
Spectrum Sign Systems, Inc.	8786 West 35W Service Drive NE, Blaine
VEO Sign LLC	6353 Martin Ave NE, Ostego

TRANSIENT ACCOMODATIONS - LEVEL I

Quality Inn 1600 James Cir N

Requested Council Action:

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Safe, Secure, Stable Community

COUNCIL ITEM MEMORANDUM

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

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	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

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

Budget Issues:

There are no budget issues to consider.

Rental Licenses for Council Approval on July 9, 2018

Property Address	Dwelling Type	Renewal or Initial	Owner	Property Code Violations	License Type	Police CFS *	Final License Type **	Previous License Type ***
1706 Amy La	Single Family	Initial	Sesan Ogunniran	1	I	N/A	I	
6816 Fremont Pl N	Single Family	Initial	Ali Sajaad	7	III	N/A	III	
Beard Avenue Apartments 6101 Beard Ave N	1 Bldg 24 Units	Renewal	Keven Riley (Missing 2 ARM Meetings)	24 (1/Unit)	II	1 (.04/Unit)	III	III
3815 52nd Ave N	Single Family	Renewal	Jeffrey Sandberg	3	II	0	II	I
4806 69th Ave N	Single Family	Renewal	Properous Property	1	I	1	I	II
1500 72nd Ave N	Single Family	Renewal	Thomas Le	3	II	0	II	II
6831 Drew Ave N	Single Family	Renewal	David Gardner	2	II	0	II	I
2331 Ericon Dr	Single Family	Renewal	Scott Terhaar	2	II	0	II	I
6532 France Ave N	Single Family	Renewal	Chen Zhou	5	III	0	III	II
4806 Howe La	Single Family	Renewal	Prosperous Property, LLC	1	I	0	I	I
5720 Logan Ave N	Single Family	Renewal	Jeniffer Kuria	1	I	0	I	II
2812 Ohenry Rd	Single Family	Renewal	Mains'l Properties	2	II	0	II	I
6342 Orchard Ave N	Single Family	Renewal	Art Zink	0	I	1	I	IV
6700 Perry Ave N	Single Family	Renewal	PWS Holdings, LLC	0	I	0	I	I
5115 Twin Lake Blvd E	Single Family	Renewal	Ruth E. Cioni	0	I	0	I	I

* CFS = Calls For Service for Renewal Licenses Only (Initial Licenses are not applicable to calls for service and will be listed N/A.)

** License Type Being Issued Type I = 3 Year Type II = 2 Year Type III = 1 Year

*** Initial licenses will not show a previous license type

All properties are current on City utilities and property taxes

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Approving a Transfer of Funds from the General Fund and the Municipal Liquor Store Fund to the Capital Improvements Fund

Recommendation:

It is recommended that the City Council consider adoption of the attached resolution authorizing the transfer of \$149,630 from the General fund and \$185,707 from the Municipal Liquor Store fund to the Capital Improvements fund.

Background:

In January 2014, the City Council adopted a Capital Project Funding Policy which provided for recurring funding sources for the City's 15 year Capital Improvement Plan (CIP). The respective funding sources and the transfer calculations are as follows:

1. The audited year-end Unassigned Fund Balance within the General fund that exceeds 52% of the next year's General fund operating budget.
2. The audited year-end cash balance of the Municipal Liquor Stores fund that exceeds three and one half (3.5) months of the operating budget and one year of the capital budget.

Calculations of the amounts have been attached.

Requested Council Action:

Budget Issues:

The approval of these transfers should have no effects on the General or Municipal Liquor Store funds, as the transfers are of excess funds and/or cash balances.

Strategic Priorities and Values:

Safe, Secure, Stable Community

In January 2014, the City Council adopted a Capital Project Funding Policy which provided for recurring funding sources for the City's 15 year Capital Improvement Plan (CIP). The respective funding sources and the transfer calculations are as follows:

- 1) The audited year-end Unassigned Fund Balance within the General fund that exceeds 52% of the next year's General fund operating budget:

2017 Audited - General Fund Ending Fund Balance	\$ 11,355,203	
General Fund - 2016 Nonspendable Fund Balance	<u>(105,634)</u>	
General Fund - 2017 Unassigned Fund Balance		11,249,569
2018 Budget - General Fund Operations	21,346,036	
Excess Funds Percentage	<u>52%</u>	
Policy - Target Fund Balance		<u>11,099,939</u>
Recommended Transfer		<u>\$ 149,630</u>

- 2) The audited year-end cash balance of the Municipal Liquor Stores fund that exceeds three and one half (3.5) months of the operating budget and one year of the capital budget:

2017 Audited - Municipal Liquor Stores Cash Balance		\$ 2,027,330
2018 Budget - Cost of Goods Sold	4,695,247	
2018 Budget - Operating Expenses	<u>1,447,459</u>	
Total 2018 Operating Budget	6,142,706	
Calculated - 3.5 Months of Operating Budget	1,791,623	
2018 Budget - Capital Budget	<u>50,000</u>	
Policy - Target Cash Balance		<u>1,841,623</u>
Recommended Transfer		<u>\$ 185,707</u>

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TRANSFER OF FUNDS FROM THE GENERAL FUND AND THE MUNICIPAL LIQUOR STORE FUND TO THE CAPITAL IMPROVEMENTS FUND

WHEREAS, the City Council of the City of Brooklyn Center has adopted a Capital Projects Funding Policy; and

WHEREAS, the audited year-end Unassigned fund balance within the General fund exceeded 52% of the next year's General fund operating budget; and

WHEREAS, the audited year-end cash balance within the Municipal Liquor Stores fund exceeded the combination of three and one half months of the following years operating budget plus the following years capital budget; and

WHEREAS, the excess funds as calculated by the terms of the Capital Projects Funding Policy may be transferred from the General and Municipal Liquor Stores funds to the Capital Improvements fund.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, that a transfer of \$335,337 is made into the Capital Improvements fund, with \$149,630 from the General fund and \$185,707 from the Municipal Liquor Stores fund.

July 9, 2018

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.

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Approving Transfer of Funds from the Earle Brown Heritage Center Operating Fund to Earle Brown Heritage Center Capital Fund

Recommendation:

It is recommended that the City Council consider adoption of a resolution authorizing the transfer of \$325,000 from the operating fund of the Earle Brown Heritage Center to the Capital Fund of the facility.

Background:

At the end of each fiscal year the cash balance in the Earle Brown Heritage Center (EBHC) operating fund is subjected to an analysis according to a formula in the cash reserve policy for the facility. The formula requires that the EBHC operating fund hold in cash the equivalent of the monthly average amount of cash deposits held for events booked at the facility plus one and one half times the average of cash disbursements per month.

At the end of 2017, the cash balance in the EBHC operating fund was \$1,574,083. The required cash reserve calculated using the formula was \$1,233,382. The difference of \$340,701 is available for transfer to the capital fund of the EBHC.

Staff recommends moving \$325,000 of that amount available from the operating fund to the EBHC Capital fund. The attached resolution authorizes such a transfer.

Requested Council Action:

Budget Issues:

The approval of these transfers should have no effects on the EBHC operating fund, as the transfers are of excess funds and/or cash balances.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING TRANSFER OF FUNDS FROM THE EARLE BROWN HERITAGE CENTER OPERATING FUND TO EARLE BROWN HERITAGE CENTER CAPITAL FUND

WHEREAS, a formula was developed to calculate an annual transfer of money from operations of the Earle Brown Heritage Center (EBHC) to a capital fund for use in maintaining, renovating and upgrading the EBHC facilities; and

WHEREAS, the calculation of funding available at the end of 2017 indicated a balance of \$340,701 available; and

WHEREAS, \$325,000 may be transferred from EBHC Operations to EBHC Capital and such change may be done without harm to the EBHC operating fund.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a transfer of \$325,000 from the operating fund of the Earle Brown Heritage Center to the EBHC Capital Fund be and hereby is approved.

July 9, 2018
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.

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: Doran Cote, Public Works Director

FROM: Mike Albers, City Engineer

SUBJECT: Resolution Accepting Work Performed and Authorizing Final Payment, Project Nos. 2016-01, 02, 03, 04 and 12, Palmer Lake West Area Street and Utility Improvements

Recommendation:

It is recommended that the City Council approve the resolution accepting work performed and authorizing final payment, Improvement Project Nos. 2016-01, 02, 03, 04 and 12, Palmer Lake West Area Street and Utility Improvements.

Background:

On March 14, 2016, the City Council awarded Project Nos. 2016-01, 02, 03 and 04 to Kuechle Underground, Inc. of Kimball, Minnesota for the construction of the Palmer Lake West Area Street and Utility Improvements. Kuechle Underground, Inc. has successfully completed the construction work and is requesting final payment for the project.

Requested Council Action:

Budget Issues:

The original contract amount with Kuechle Underground, Inc. for the project improvements was \$5,584,536.81. The total value of work certified for final payment is \$5,185,540.10. The total project cost including contingencies/administration/engineering/legal is \$5,875,037.85 and was completed 13.9 percent under budget in the amount of \$945,798.36. The attached resolution provides a summary of the final amended costs and funding sources for the project.

Strategic Priorities and Values:

Key Transportation Investments

Member
moved its adoption:

introduced the following resolution and

RESOLUTION NO. _____

RESOLUTION ACCEPTING WORK PERFORMED AND AUTHORIZING
FINAL PAYMENT, PROJECT NOS. 2016-01, 02, 03, 04 AND 12, PALMER
LAKE WEST AREA STREET AND UTILITY IMPROVEMENTS

WHEREAS, pursuant to a written contract signed with the City of Brooklyn
Center, Minnesota, Kuechle Underground, Inc. of Kimball, Minnesota has completed the
following improvements in accordance with said contract:

Improvement Project Nos. 2016-01, 02, 03, 04 and 12, Palmer Lake West Area
Street and Utility Improvements

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
Brooklyn Center, Minnesota, that

1. Final payment shall be made on Improvement Project Nos. 2016-01, 02, 03,
04 and 12, Palmer Lake West Area Street and Utility Improvements, taking
the contractor's receipt in full. The total amount to be paid for said
improvements under said contract shall be \$5,185,540.10.
2. The estimated project costs and revenues are hereby amended as follows:

COSTS	<u>As Original Award</u>	<u>As Final</u>
Contract	\$5,584,536.81	\$ 5,185,540.10
Lighting	\$ 100,799.40	\$ 100,799.40
Contingency	\$ 454,000.00	\$ 13,990.04
Subtotal Construction Cost	\$6,139,336.21	\$ 5,300,329.54
Admin/Legal/Engr.	\$ 681,500.00	\$ 574,708.31
Total Estimated Project Cost	\$6,820,836.21	\$ 5,875,037.85

RESOLUTION NO. _____

REVENUES	<u>As Original Award</u>	<u>As Final</u>
Street Assessment	\$ 832,616.00	\$ 832,616.00
Storm Drainage Assessment	\$ 249,745.00	\$ 249,745.00
Sanitary Sewer Utility	\$1,214,549.60	\$1,127,382.11
Water Utility Fund	\$1,321,771.40	\$1,143,770.60
Storm Drainage Utility Fund	\$1,158,462.48	\$1,001,621.01
Street Light Utility	\$ 119,799.40	\$ 111,144.15
Street Reconstruction Fund	\$1,857,530.33	\$1,301,793.07
Capital Projects Fund	\$ 44,258.00	\$ 41,347.25
CenterPoint Energy	\$ 21,404.00	\$ 19,666.00
School Access Imp. Agreement	\$ 0.00	\$ 41,388.00
Miscellaneous	\$ 700.00	\$ 4,564.66
Total Estimated Revenue	\$6,820,836.21	\$5,875,037.85

July 9, 2018

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.

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Doran Cote, Public Works Director

SUBJECT: Resolution Accepting CenterPoint Energy Community Partnership Grant

Recommendation:

It is recommended that the City Council consider approval of a resolution accepting CenterPoint Energy Community Partnership Grant.

Background:

CenterPoint Energy has awarded grants to cities served by the company through the Community Partnership Grant Program. In 2018, the program will award grants for up to \$2,500, giving priority to applications focusing on safety equipment or safety-related projects.

The equipment or project must be used for safety initiatives in the community. Grant program funds will be used to leverage local funds. Examples of eligible safety equipment include: multi-gas breathing apparatus, fire fighting equipment, thermal imaging cameras, extraction tools, self-contained breathing apparatus, portable positive pressure oxygen kits, specialized rescue vehicles and equipment, emergency communication equipment, defibrillators, civil defense outdoor warning sirens and traffic control equipment. Items excluded are supplemental, routine and/or ongoing City budget expenses, law enforcement weapons or restraints and events and memorials.

The City currently has 3-800 MHz radios for Public Works supervisors. Staff would like to add six additional radios for the Public Works Director, dispatch and four Public Works Crew Leaders. The radios would be programmed for interoperability with Police and Fire and our neighboring community Public Works Departments. The total price of six additional radios is \$16,624.13.

On May 1, 2018, the City applied for a CenterPoint Energy Community Partnership Grant to assist with the purchase of the 6-800 MHz radios. On May 14, 2018, the City was advised that a grant in the amount of \$2,000 had been awarded to the City for the radio purchase. CenterPoint Energy representatives would like to present the check to the City Council for formal acceptance of the grant.

Requested Council Action:

Budget Issues:

The total price of six additional radios is \$16,624.13. The CenterPoint Energy Community Partnership Grant is for \$2,000. Staff has requested a donation from American Legion Post #630 as well as Sons of American Legion Post #630. The Emergency Preparedness budget also has \$3,000 for this type of equipment. The remaining funding would come from savings in other Public Works budgets.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION ACCEPTING CENTERPOINT ENERGY COMMUNITY PARTNERSHIP GRANT

WHEREAS, CenterPoint Energy has awarded grants to cities served by the company through the Community Partnership Grant Program; and

WHEREAS, in 2018 the program will award grants for up to \$2,500, giving priority to applications focusing on safety equipment or safety-related projects; and

WHEREAS, on May 1, 2018, the City applied for a CenterPoint Energy Community Partnership Grant to assist with the purchase of 6-800 MHz radios; and

WHEREAS, on May 14, 2018, the City was advised that a grant in the amount of \$2,000 had been awarded to the City for the radio purchase.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the \$2,000 CenterPoint Energy Community Partnership Grant is hereby accepted.

July 9, 2018

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.

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: An Ordinance Amending Ordinance No. 2016-08 Regarding Council Salaries for 2019-2020.

Recommendation:

It is recommended that the City Council consider adopting the second reading of an ordinance setting salaries for the Mayor and City Council for the 2019 and 2020 fiscal years at two percent above their previous compensation levels.

Background:

Every two years the Financial Commission is required by the City Council Code of Policies to review the salaries for the Mayor and City Council and recommend any changes that may seem appropriate. The Financial Commission has reviewed the salaries in comparison to a specified group of comparison cities as outlined by policy. The data on comparison with those cities for the years 2013 through 2018 is attached.

The Financial Commission met on Thursday, May 17, 2018 to review the attached information and make their recommendation. Following a discussion the Commission unanimously recommended that the Mayor and City Council salaries increase by two percent for 2019 and 2020. The Commission cited that the two percent increases were consistent with recent staff wage adjustments. The Commission also suggested an increase would show appreciation to the City Council for the time spent attending meetings and their belief that the City has functioned well over the past two years.

The first reading of the attached ordinance was approved on June 11, 2018. Subsequently, notice of a public hearing on the ordinance was published in the Sun Post newspaper on June 22, 2018 as required by law. Following input from the public, it is requested that the Council vote on the new ordinance establishing 2017 and 2018 salaries. Minnesota Statutes require that such an ordinance be adopted prior to the general election and be effective following that election. The ordinance will become effective January 1, 2019.

This item was first read on June 4, 2018; published in the official newspaper on June 21, 2018; and is offered this evening for a second reading and Public Hearing.

Requested Council Action:

- Motion to open Public Hearing
- Take public input
- Motion to close Public Hearing
- Motion to adopt Ordinance

Budget Issues:

Under the recommended proposal, the wage adjustments for the Mayor and City Council will increase in total by \$1,001 for 2019 and an additional \$1,021 for 2020. If approved, these amounts will be incorporated in the 2019 and 2020 budgets.

Strategic Priorities and Values:

Operational Excellence

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the 9th day of July 2018, at 7 p.m. or as soon thereafter as the matter may be heard at the City Hall, 6301 Shingle Creek Parkway, to consider An Ordinance Amending Ordinance 2016-08 Regarding Council Salaries for 2019-2020.

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. _____

AN ORDINANCE AMENDING ORDINANCE NO. 2016-08 REGARDING COUNCIL SALARIES FOR 2019-2020.

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

Section 1. City of Brooklyn Center Ordinance No. 2016-08 which amended the amount of the annual compensation to be paid to the Mayor and Council Members to become effective January 1, 2017, is hereby amended.

Section 2. Effective January 1, 2019, the annual salary for the Mayor shall be \$12,572 and the annual salary for Council Members shall be \$9,625.

Section 3. Effective January 1, 2020, the annual salary for the Mayor shall be \$12,823 and the annual salary for Council Members shall be \$9,817.

Section 4. This ordinance shall be effective after adoption and thirty days following its legal publication.

Adopted this _____ day of _____, 2018.

Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

(Underline indicates new matter.)

415.11 SECOND TO FOURTH CLASS CITIES; GOVERNING BODY SALARIES.

Subdivision 1. **Set by ordinance.** Notwithstanding the provisions of any general or special law, charter, or ordinance, the governing body of any statutory or home rule charter city of the second, third or fourth class may by ordinance fix their own salaries as members of such governing body, and the salary of the chief elected executive officer of such city, in such amount as they deem reasonable.

Subd. 2. **After next election.** No change in salary shall take effect until after the next succeeding municipal election.

Subd. 3. **Temporary reductions.** Notwithstanding subdivision 2 or a charter provision to the contrary, the governing body may enact an ordinance to take effect before the next succeeding municipal election that reduces the salaries of the members of the governing body. The ordinance shall be in effect for 12 months, unless another period of time is specified in the ordinance, after which the salary of the members reverts to the salary in effect immediately before the ordinance was enacted.

History: *Ex1967 c 42 s 1,2; 1976 c 44 s 34; 2009 c 152 s 17*

SECTION II – GENERAL POLICIES

2.05 Policy and Procedure on Mayor and Council Member Total Compensation

1. Need for Policy

The community is entitled to a clearly articulated, written description of the policy and procedure for establishing the total compensation of local elected officials.

2. Policy

- A. Service on the City Council is a civic obligation and an honor. The total compensation of the Mayor and Council Members should, therefore, not encourage candidacies based on monetary rather than public service objectives. However, the compensation of Brooklyn Center elected officials shall be fair and equitable in order to attract qualified candidates for local elective office.
- B. The propriety of the compensation levels of the Mayor and Council Members shall be evaluated through comparisons with compensation paid to similar officials within the seven county metropolitan area.
- C. The compensation levels of elected officials should be regularly reviewed and adjusted to ensure compliance with the objectives of this policy and to avoid the need for drastic or sudden compensation adjustments.
- D. Compensation set pursuant to this policy and procedure shall be deemed to be total compensation for elected officials of the City with the exception of expense reimbursement which shall be the same as provided all other City employees.

3. Procedure

- A. The City Manager shall biennially prepare a compensation report that contains an analysis of the compensation paid to elected officials of Minneapolis-St. Paul Area Metropolitan cities having a population within 10,000 of the City of Brooklyn Center that are generally fully developed {Such grouping shall include the cities of Richfield, Roseville, Maplewood, Fridley, Shoreview, White Bear Lake, Crystal, New Hope, and Golden Valley, in addition to the City of Brooklyn Center.} The report shall compute the average and median amounts paid to Mayors and Council Members and correlate survey results to the current compensation of Brooklyn Center elected City officials. The City Manager shall assemble such additional information on compensation of City elected officials as may be requested to assist the Commission and Council in their review of elected official's compensation.
- B. The City Manager shall submit the compensation report to the City Council and the Financial Commission prior to June 1, for information pertaining to the applicable calendar year.

SECTION II – GENERAL POLICIES

City Council Code of Policies

- C. The Financial Commission shall biennially review the City Manager's compensation report and discuss possible budgetary and public perception impacts of the indicated changes. Prior to July 1 of the same year, the Commission shall recommend to the City Council that the compensation of the Mayor and Council Members either remain the same or be changed to some specific amount in the manner prescribed by law.
- D. Consistent with the City Charter, Section 2.07, the Mayor and Council Members may, after conducting public hearings, set their compensation by ordinance. No change in compensation shall be in effect until January 1, following the next succeeding general election.

4. Authority

The authority for establishing compensation for the Mayor and Council Members is found in Minnesota Statutes 415.11 and the City of Brooklyn Center Charter, Section 2.07.

Reference: City Council Resolution No. 98-91; City Council Minutes 1/10/94



City of Brooklyn Center
Comparative Mayor and Council Wages

City	2010 Census Population	2013		2014		2015		2016		2017		2018	
		Mayor	Council	Mayor	Council	Mayor	Council	Mayor	Council	Mayor	Council	Mayor	Council
Maplewood	38,018	\$ 12,855	\$ 11,314	\$ 13,241	\$ 11,654	\$ 13,241	\$ 11,654	\$ 13,618	\$ 11,986	\$ 13,479	\$ 11,864	\$ 13,958	\$ 12,286
Richfield	35,228	10,383	8,059	10,591	8,220	10,379	8,070	10,379	8,070	11,350	8,809	12,012	9,323
Roseville	33,660	9,300	7,020	9,300	7,020	9,300	7,020	9,300	7,020	9,300	7,020	9,300	7,020
Brooklyn Center	30,104	11,501	8,805	11,846	9,070	11,846	9,070	11,846	9,070	12,083	9,251	12,325	9,436
Fridley	27,208	10,525	8,143	10,691	8,279	10,689	8,270	10,689	8,270	10,689	8,779	10,689	8,779
Shoreview	25,043	9,156	6,792	9,156	6,792	9,348	6,936	9,348	6,936	9,540	7,080	9,540	7,080
White Bear Lake	23,797	7,680	5,400	7,680	5,400	9,600	7,500	9,600	7,500	9,600	7,500	9,600	7,500
Crystal	22,151	10,515	8,089	10,620	8,170	10,620	8,170	10,620	8,170	10,620	8,170	10,620	8,170
Golden Valley	20,371	11,619	8,696	11,619	8,696	11,619	8,696	12,207	9,136	12,207	9,136	12,825	9,598
New Hope	20,339	11,180	8,060	11,570	8,450	11,801	8,619	12,037	8,791	12,338	9,011	12,646	9,236
Average	27,592	\$ 10,471	\$ 8,038	\$ 10,631	\$ 8,175	\$ 10,844	\$ 8,400	\$ 10,964	\$ 8,495	\$ 11,121	\$ 8,662	\$ 11,352	\$ 8,843
Median	26,126	\$ 10,520	\$ 8,075	\$ 10,656	\$ 8,249	\$ 10,654	\$ 8,220	\$ 10,655	\$ 8,220	\$ 11,019	\$ 8,794	\$ 11,351	\$ 9,008

Brooklyn Center as a % of:

Average	109%	110%	110%	111%	111%	109%	108%	108%	107%	109%	107%	109%	107%
Median	115%	109%	109%	111%	110%	111%	110%	111%	110%	110%	105%	109%	105%

Notes:

Golden Valley: Pays per diem of \$50 per extra meeting, which is capped at a maximum of \$150 per month.
Also provides city-owned tablet for Mayor/Council member use, which eliminated paper packets.

New Hope Members also receive \$25 per EDA meeting and have a city issued iPad with data plan

Maplewood: Members are provided a city iPad if needed.

Fridley: Members are provided a City issued laptop.
Members are eligible for health insurance, with the same contributions as full-time employees.
Council wage is the blended rate of: At Large (\$8,779) and Council (\$7,761).

Crystal: Members are provided a technology allowance, which will not exceed \$250 annually.

**City of Brooklyn Center
Proposed Mayor and City Council Compensation for 2019-20**

		Proposed 2019			Proposed 2020		
Current Compensation		1% Increase 2019	2% Increase 2019	3% Increase 2019	1% Increase 2020	2% Increase 2020	3% Increase 2020
Mayor	\$ 12,325	\$ 12,448	\$ 12,572	\$ 12,695	\$ 12,573	\$ 12,823	\$ 13,076
Council Member	\$ 9,436	\$ 9,530	\$ 9,625	\$ 9,719	\$ 9,626	\$ 9,817	\$ 10,011
Total Cost	\$ 50,069	\$ 50,570	\$ 51,070	\$ 51,571	\$ 51,075	\$ 52,092	\$ 53,118
Difference Year		\$ 501	\$ 1,001	\$ 1,502	\$ 506	\$ 1,021	\$ 1,547
Total Difference					\$ 1,006	\$ 2,023	\$ 3,049

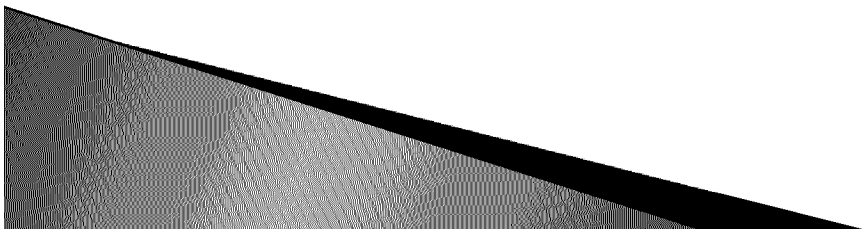
City Council Salaries 2019–20

Public Hearing

City of Brooklyn Center
City Council Meeting
July 9, 2018

Background

- ▶ Minnesota State law – allows the governing body to set their own salaries by ordinance. Change must take effect after the succeeding municipal election.
- ▶ City Council code – every two years Financial Commission to make a recommendation following a review of comparison cities.
- ▶ May 17, 2018 – Financial Commission recommended the Mayor and Council salaries increase by two percent for 2019 and two percent for 2020.
- ▶ Public hearing required (change in ordinance)



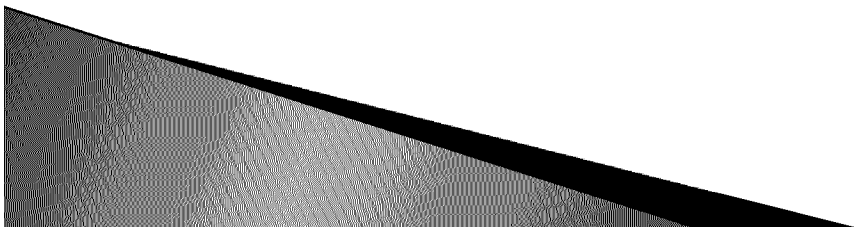
Comparative Salaries

City	2010 Census Population	2016		2017		2018	
		Mayor	Council	Mayor	Council	Mayor	Council
Maplewood	38,018	\$ 13,618	\$ 11,986	\$ 13,479	\$ 11,864	\$ 13,958	\$ 12,286
Richfield	35,228	10,379	8,070	11,350	8,809	12,012	9,323
Roseville	33,660	9,300	7,020	9,300	7,020	9,300	7,020
Brooklyn Center	30,104	11,846	9,070	12,083	9,251	12,325	9,436
Fridley	27,208	10,689	8,270	10,689	8,779	10,689	8,779
Shoreview	25,043	9,348	6,936	9,540	7,080	9,540	7,080
White Bear Lake	23,797	9,600	7,500	9,600	7,500	9,600	7,500
Crystal	22,151	10,620	8,170	10,620	8,170	10,620	8,170
Golden Valley	20,371	12,207	9,136	12,207	9,136	12,825	9,598
New Hope	20,339	12,037	8,791	12,338	9,011	12,646	9,236

Average	27,592	\$ 10,964	\$ 8,495	\$ 11,121	\$ 8,662	\$ 11,352	\$ 8,843
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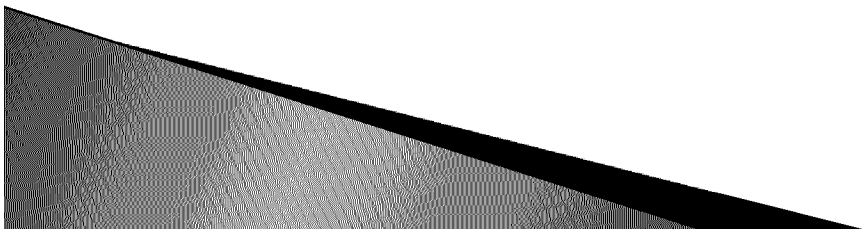
Brooklyn Center as a % of:

Average	109%	108%	107%	109%	107%	109%	107%
Median	115%	111%	110%	110%	105%	109%	105%



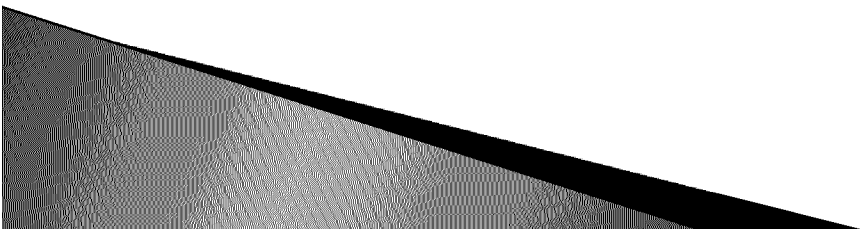
Proposed 2019–20 Compensation

		Proposed 2019			Proposed 2020		
	Current Compensation	1% Increase 2019	2% Increase 2019	3% Increase 2019	1% Increase 2020	2% Increase 2020	3% Increase 2020
Mayor	\$ 12,325	\$ 12,448	\$ 12,572	\$ 12,695	\$ 12,573	\$ 12,823	\$ 13,076
Council Member	\$ 9,436	\$ 9,530	\$ 9,625	\$ 9,719	\$ 9,626	\$ 9,817	\$ 10,011
Total Cost	\$ 50,069	\$ 50,570	\$ 51,070	\$ 51,571	\$ 51,075	\$ 52,092	\$ 53,118
Difference Year		\$ 501	\$ 1,001	\$ 1,502	\$ 506	\$ 1,021	\$ 1,547
Total Difference					\$ 1,006	\$ 2,023	\$ 3,049



Next Steps

- ▶ Conduct public hearing on proposed Mayor and City Council salaries for 2019 and 2020
- ▶ Consideration of Ordinance Amending No. 2016-08 Regarding Council Salaries for 2019-2020



COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: Doran Cote, Public Works Director

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: An Ordinance Amending Chapter 1 of the City Code of Ordinances Regarding Animals

Recommendation:

It is recommended that the City Council approve an Ordinance Amending Chapter 1 of the City Code of Ordinance Regarding Animals.

Background:

In October 2017, a resident contacted the City with concerns about wild turkeys roosting in yards within the City. City staff has discussed these concerns with staff at the Minnesota Department of Natural Resources (DNR) and Three Rivers Park District. Their guidance is as follows:

- Residents should not feed wildlife on their property and encourage neighbors to not feed as well. Feeding tends to increase activity and congregate birds at a higher density. Turkeys can get habituated to feeding and can become a nuisance.
- It is recommended that residents haze the turkeys repeatedly if they become a problem. This usually works well and is the recommended method for dealing with turkey related issues.
- Winter is the time of year when turkeys flock up and may pose a greater nuisance. Wild turkeys disperse as the season moves along and food sources are depleted.
- The City could look into creating a wildlife feeding ordinance to assist in educating the public and enforce violations as they come to light.

The DNR's website has some additional information for living with turkeys: http://www.dnr.state.mn.us/livingwith_wildlife/turkeys/index.html.

Staff has also contacted neighboring cities to see how they deal with turkey related issues. The cities of Robbinsdale and Crystal don't have any sort of wild turkey management and Brooklyn Park has a basic Wildlife Management Plan. Several other cities have incorporated wild turkeys into their no-feeding wildlife policy.

Staff identified the following three options that could be used to address turkey related items. Option 1 is to educate residents how to avoid common turkey problems on their property; Option 2 is to update the City's feeding ordinance and Option 3 is to develop a turkey management plan. At the April 23, 2018, City Council Work Session, staff was directed to pursue Option 2, along with the other options.

City staff has been working with the City Attorney to revise the ordinance to address the feeding of wild animals. Consistent with the City Charter, a first reading to establish a date for a second reading and public hearing to consider the proposed ordinance is requested for July 9, 2018.

Requested Council Action:

- Motion to open Public Hearing
- Take public input
- Motion to close Public Hearing
- Motion to adopt Ordinance

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Safe, Secure, Stable Community

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the 9th day of July, 2018, at 7:00 p.m. or as soon thereafter as the matter may be heard at City Hall, 6301 Shingle Creek Parkway, to consider an ordinance related to feeding wild animals.

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 1 OF CITY CODE OF ORDINANCES
REGARDING ANIMALS

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

Article I. Brooklyn Center City Code, Section 1-101 is amended by adding a new definition as follows:

Section 1-101. DEFINITIONS. The following terms, when used in this ordinance, have the meanings ascribed to them:

9. Wild Animal. Wild animal means any animal that is not normally domesticated in the state including, but not limited to, raccoons, turkeys, coyotes, foxes, deer, feral cats, skunks, and waterfowl.

Article II. Brooklyn Center City Code, Section 1-200 is amended as follows:

Section 1-200. FEEDING OF ~~DEER~~ WILD ANIMALS PROHIBITED. No person may place, or permit to be placed on the ground or within ~~four (4)~~ five (5) feet of the ground surface, any grain, fruit, nuts, fodder, salt licks, or any other food, including feed for birds, which may reasonably be expected to result in ~~deer~~ wild animal feeding, ~~unless such items are screened or protected in a manner that prevents deer from feeding on them,~~ except as follows:

1. Feeding programs or efforts undertaken by the City in accordance with its ~~deer~~ wildlife management plan;
2. Veterinarians, City Animal Control Officers, or county, state or federal game officials who, in the course of their duties, have ~~deer~~ wild animals in their custody; or
3. Any food placed upon the property for the purpose of trapping or otherwise taking ~~deer~~ wild animals where such trapping or taking is pursuant to a permit issued by the Department of Natural Resources;

4. Planting of seeds or plants for the purpose of establishing or maintaining a lawn or garden, covering gardens or plants with straw for the purpose of providing protection during winter months or when establishing new lawns, or using straw bales for erosion control-;
5. The presence of living food sources, such as fruit trees or other live vegetation, in their natural state; or
6. Feeding of small birds using self-enclosed feeding devices or containers where the access to the feed is located at least 5 feet above the ground. If a person is not physically able to place the bird feeding materials at that height, a lower height is permitted, provided the feeding occurs in a way that does not promote the feeding of other wild animals.

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

Adopted this ____ day of _____, 2018.

Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

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

Public Hearing

An Ordinance Amending Chapter 1 of the City Code of Ordinances Regarding Animals

City Council Meeting
July 9, 2018

Strategic Priorities - Safe, Secure, Stable Community



Existing Deer Management Plan

- Long-Term Deer Population Management Plan was adopted by the City Council on October 27, 2003. (General Policies 2.93)
- The City reviews current deer populations within the City against the deer management plan.
 - Deer populations are to be kept under 20 per square mile.
 - City Ordinance 1-200 prohibits the Feeding of Deer.



Wild Turkeys

- In October 2017, the City was contacted with concerns about wild turkeys roosting in yards within the City.



General Guidance on Wild Turkeys

- Guidance from the DNR and Three Rivers Park District is predominantly education;
 - Residents should not feed wildlife on their property and encourage neighbors to not feed as well. Feeding tends to increase activity and congregate birds at a higher density. Turkeys can get habituated to feeding and can become a nuisance.
 - Residents should haze the turkeys repeatedly if they become a problem. This usually works well and is the recommended method for dealing with turkey related issues.
 - Winter is the time of year when turkeys flock and pose a greater nuisance. Wild turkeys disperse as the season moves along and food sources are depleted.
- Staff has also contacted neighboring cities to see how they deal with turkey related issues. The Cities of Robbinsdale and Crystal don't have any sort of wild turkey management and Brooklyn Park has a basic Wildlife Management Plan.
- Several options presented at April 23, 2018 Council Work Session
- Ordinance adopted on first reading on June 11, 2018

Summary of Ordinance Revisions

- Section 1-101: Add definition for Wild Animal
 - Wild animal means any animal that is not normally domesticated in the state including, but not limited to, raccoons, turkeys, coyotes, foxes, deer, feral cats, skunks, and waterfowl.
- Section 1-200. FEEDING OF DEER PROHIBITED:
changed to FEEDING OF WILD ANIMALS PROHIBITED

Summary of Ordinance Revisions cont.

- Revisions include;
 - Raising food source to five (5) feet from four (4) feet
 - Adding exemptions for
 - Living food sources i.e. fruit trees, vegetables
 - Small bird feeders with limited access

Requested Council Action

- Motion to open Public Hearing
- Take public input
- Motion to close Public Hearing
- Motion to adopt Ordinance

City Council Meeting
July 9, 2018

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman

FROM: Ginny McIntosh

SUBJECT: Planning Commission Application No. 2018-010, Submitted by Linda McGinty (The Luther Company, LLLP), Requesting Issuance of an Interim Use Permit for the Off-Site Storage of New Vehicles (Located at 5900 Shingle Creek Parkway)

Recommendation:

The Planning Commission recommends a motion to issue an Interim Use Permit that would allow for the off-site storage of new, operable vehicles on a portion of the City's EDA-owned 5900 Shingle Creek Parkway.

Background:

The Luther Company, LLLP, approached the City in February 2018, stating that they had a need to store new vehicles for a period of up to two years. The impetus for the storage is related to the construction of a new Mazda and Mitsubishi Dealership at 4435 68th Avenue North, which would displace the current storage capacity being used by their adjacent dealerships.

At City Council Work Sessions on March 26th and April 9th, discussion was held regarding the implementation of an Interim Use Permit process that would allow for the off-site storage of new vehicles for a specific period of time. City Council directed staff to draft language and conditions that would mitigate any negative impacts from the off-site storage, and bring a draft ordinance back to Council for review and consideration.

A draft ordinance was presented to the Planning Commission on April 9th, and the Applicant and City staff were available to answer questions of the Commissioners relating to Luther's off-site vehicle storage needs and the then-proposed amendment to Chapter 35 (Zoning Ordinance) of the City Code of Ordinances. It was at this time that the Planning Commission provided input on the draft ordinance, and suggested revisions to address specific concerns related to screening, minimum distances from residential properties, limiting the number of vehicles to the specific needs of the auto dealerships located within the City, and the orderly placement of vehicles. The topics of signage, dealership staff presence on site, and the location of suitable sites were also discussed. Staff subsequently made revisions to the proposed ordinance language based on the Planning Commission's input.

The proposed ordinance to amend Chapter 35 of the City Code of Ordinances and establishment of a new Section 35-420 to allow automobile dealerships to store vehicles off-site as an Interim Use in the I-1, I-2, and C-2 Zoning Districts was reviewed by Planning Commission as part of a public hearing on May 17, 2018. The Planning Commission determined that the proposed language would adequately mitigate any potentially negative impacts that might relate to the allowance of temporary off-site storage of vehicles, and voted unanimously (6-0) in favor of the proposed ordinance.

City Council unanimously approved the first reading of the ordinance at its May 29, 2018, meeting and

directed staff to schedule a public hearing for June 25, 2018. A public hearing notice was published in the Brooklyn Center *Sun Post* on June 7, 2018. The City Council conducted its second reading and public hearing on June 25, 2018, and unanimously approved the requested ordinance amendment.

In anticipation of the proposed amendment to Chapter 35 relating to the off-site storage of vehicles by automobile dealerships, Ordinance No. 2018-005 was prepared as a means to regulate automobile dealership off-site vehicle storage in the short term. This ordinance was adopted on May 29, 2018, and was intended to bridge the length of time it would take for an ordinance amendment regarding the interim storage of off-site vehicles to come into effect following adoption of an ordinance amendment to Chapter 35 of the City Code of Ordinances.

As part of the Interim Ordinance adoption, a short term lease agreement was also approved between the Economic Development Authority and the Applicant (the Luther Company, LLLP) under EDA Resolution No. 2018-06, with the understanding that the Applicant would be undergoing this process. If the City Council approves the Interim Use Permit, the Applicant will need to negotiate a longer-term lease with the EDA to cover the use of the Subject Property for the duration of the IUP. It should be noted that the EDA has entered into a Preliminary Development Agreement (PDA) with a developer that encompasses the Subject Property, and nothing in the approval of this IUP or a lease for the use of the Subject Property should be construed to supersede the developers rights to access or develop the Subject Property as described by the PDA.

Given City Council's adoption of an Interim Use Permit process for the off-site storage of new vehicles under Chapter 35 of the City Code of Ordinances, the Applicant submitted an application to the City for consideration of a request to allow for the off-site storage of new, operable vehicles on a portion of what is known as the City's "Opportunity Site" and identified as 5900 Shingle Creek Parkway.

As Interim Use Permit requests require the scheduling of a public hearing, a notice was published in the Brooklyn Center *Sun Post* on June 14, 2018. This request was reviewed by the Planning Commission at their meeting on June 28, 2018. As part of the review for the proposed request, the Commissioners asked questions of the Applicant relating to the length of time vehicles would be stored for, the proposed layout of the site, and the impact of any approval on the anticipated redevelopment of the Opportunity Site.

Linda McGinty, on behalf of the Luther Company, LLLP ("the Applicant"), indicated that the submitted site plan would allow for the storage of approximately 750 vehicles and noted that they had been in contact with the City of Brooklyn Center Police Department to work through approval of an Access, Security, and Lighting Plan.

The Planning Commission received no other comments from the public, and unanimously (6-0) recommended City Council approval of the requested issuance of an Interim Use Permit for the off-site storage of new vehicles on a portion of 5900 Shingle Creek Parkway.

Following the Planning Commission meeting, City staff was contacted by HealthPartners Dental Clinic, located at 5901 John Martin Drive in Brooklyn Center, and located to the north of the proposed off-site vehicle storage location. It was identified at this time that HealthPartners staff and customers had been utilizing a portion of the Subject Property for a number of years as parking and that there might be an easement. In conversing with HealthPartners' Attorney, it was ultimately determined that there was indeed a parking and access easement for use by HealthPartners Dental Clinic and that access to this easement was to be maintained.

City Staff, representatives of the Applicant, including Linda McGinty, and representatives of HealthPartners, met on site of the Subject Property on July 3, 2018, to review the recorded easement documentation and map and the proposed site plan for the off-site storage of vehicles by the Applicant. In discussion, it was

determined that the proposed gate would be moved to the south, as well as the fence line, to maintain HealthPartners access and use of the parking easement area. The relocation of the fencing would have two impacts to the Applicant's proposed IUP site plan.

First, accommodating the parking easement area for HealthPartners results in the loss of a row of parking for the Applicant's vehicles. The Applicant has requested that they be allowed access to an additional row of parking along the western perimeter of the as-proposed off-site vehicle parking area. This would push the proposed fencing along the western edge of the leased area approximately 54 feet closer to Shingle Creek Crossing.

The Applicant is requesting a second alteration to the proposed plan that was reviewed by the Planning Commission. Due to the fence line being moved to the south to accommodate the HealthPartners easement, the Applicant would be losing access to one of the drive aisles, which would necessitate tandem parking of one row of parking. The ordinance states that "Vehicles shall be stored in an orderly fashion with drive aisles, allowing vehicles to enter and exit the site without having to move other vehicles". This requirement would be met within the leased area with the exception of this one row of parking. Cars in this row would be double parked.

Staff has included language within the attached City Council resolution to reflect these alterations to the plan. A revised site plan, reflecting these alterations, is forthcoming, and will be provided during the review of the request at the City Council meeting on July 9, 2018. A copy of the City Council resolution and Planning Commission Report dated June 28, 2018, are included for review.

Requested Council Action:

-Motion to adopt resolution.

Budget Issues:

None to consider at this time.

Strategic Priorities and Values:

Enhanced Community Image

Member
moved its adoption:

introduced the following resolution and

RESOLUTION NO.

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-010 SUBMITTED BY LINDA MCGINTY OF THE LUTHER COMPANY, LLLP, FOR ISSUANCE OF AN INTERIM USE PERMIT FOR THE OFF-SITE STORAGE OF NEW VEHICLES (LOCATED AT 5900 SHINGLE CREEK PARKWAY)

WHEREAS, Planning Commission Application No. 2018-010, submitted by Linda McGinty of the Luther Company, LLLP (“the Applicant”) requests issuance of an interim use permit that would allow for the off-site storage of new vehicles for sale or lease at Brooklyn Center Luther auto dealerships on a portion of a City of Brooklyn Center Economic Development Authority-owned property located at 5900 Shingle Creek Parkway (“Subject Property”) and as outlined in the provided site plan noted as Exhibit A; and

WHEREAS, the Subject Property is situated in the C2 (Commerce) District and pursuant to new City Code Section 35-420, adopted by City Council on June 25, 2018, allows for the off-site storage of vehicles for automobile dealerships as an Interim use in the I-1, I-2, and C-2 Zoning Districts under certain conditions; and

WHEREAS, the Applicant has submitted such application to the City of Brooklyn Center for official consideration under Planning Application No. 2018-010; and

WHEREAS, the Planning Commission held a duly noticed and called public hearing on June 28, 2018, whereby a planning staff report was presented and public testimony regarding the interim use permit were received; and

WHEREAS, the Planning Commission considered the interim use permit request in light of all testimony received, the guidelines and standards for evaluating this interim use permit contained in new City Code Section 35-420 of the City’s Zoning Ordinance, and subsequently recommended a unanimous recommendation to City Council for approval; and

WHEREAS, following the recommendation for approval by the Planning Commission, the City was made aware of an existing parking and access easement located along the north end of the Subject Property and recorded as Document No. 2127956, which is intended for use by the adjacent-to-the-north HealthPartners Dental Clinic located at 5901 John Martin Drive for additional parking; and

WHEREAS, following conversations with City staff and the adjacent to the north HealthPartners Dental Clinic, the Applicant will revise the site plan to maintain the parking and access easement and reflect a request by the Applicant to expand the western perimeter of the off-site parking area to account for the loss of parking along the northern perimeter of the parking area and to allow one row of vehicles to be tandem parked.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that Planning Commission Application No. 2018-010, submitted by Linda McGinty of the Luther Company, LLLP, may be approved based upon the following considerations and as outlined in the Planning Commission Report dated June 28, 2018:

- A. The proposed use will conform to the regulations of the City’s Zoning Ordinance.

RESOLUTION NO.

- B. The date or event that will terminate the use can be identified with certainty as for a period of two years with a potential one year extension and will be clearly outlined in the lease agreements to be agreed upon by the Applicant and the City of Brooklyn Center Economic Development Authority.
- C. The allowance of off-site storage on the Subject Property will not impose additional costs to the public and the public will not be required to take on the property in the future as it is under ownership by the City of Brooklyn Center Economic Development Authority.
- D. The Applicant agrees to the conditions the City Council imposes on the use, including the continued access by HealthPartners Dental Clinic, located at 5901 John Martin Drive, to parking along the north property line of the Subject Property as outlined within Document No. 2127956, and will operate in full conformance with the provisions of new Section 35-420 and the lease agreements in place.

BE IT FURTHER RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that Planning Commission Application No. 2018-010 may be approved subject to the following conditions and considerations:

1. **Site Plan Review:** The site plans are subject to review and approval by City staff with respect to applicable codes prior to the issuance of any required permits.
 - a. Any major changes or modifications made to the submitted site plan for off-site vehicle storage on the leased portion of the Subject Property (5900 Shingle Creek Parkway) can only be made by an amendment to the approved Interim Use Permit, as approved by the City Council.
 - b. The Applicant shall verify that the proposed site has met City Code requirements relating to fencing, lighting, parking, building and fire code requirements.
 - i. Per the City Fire Inspector, vehicles shall be parked in an orderly fashion to allow for fire truck access, and vehicles shall not be used to create a blockade at the gate.
 - ii. The Applicant shall work with the City Fire and Police Departments to provide necessary security information and/or access to the leased portion of the Subject Property in case of emergency.
2. **Agreements:**
 - a. The Applicant shall ensure necessary short-term and long-term lease agreements are in place. All conditions and terms of use for the lease agreement are to be followed in conjunction with the approval and issuance of an Interim Use Permit.
 - b. Per Recorded Document No. 2127956, there is an existing parking agreement in place along the north property line for use by adjacent-to-the north HealthPartners Dental Clinic (5901 John Martin Drive) that is to remain undisturbed as part of the approval and whose access is to remain intact from John Martin Drive.
 - c. The Applicant shall provide an Access, Security, and Lighting Plan to the City, subject to the review and approval of the Chief of Police and City Planner.
3. **Facilities and Equipment:**
 - a. Any lighting will be in accordance with Section 35-712 (*Lighting*) of the City Zoning Ordinance. Per City staff, a photometric plan, and fixture specifications may be required to confirm compliance of any new and/or replaced lighting.

RESOLUTION NO.

- b. Any spills or leaks found on site shall be mitigated immediately. When warranted, the State duty officer shall be notified.
 - c. Prior to spring melt, inlet protection measures shall be provided to prevent the accumulation of trash in the snow storage pile from reaching the storm sewer system.
4. **Signage:** Per Section 35-420 (*Interim Use Permits*), no signage, other than no trespassing and minimal directional signage internal to the site, shall be permitted on the leased area of the Subject Property.

July 9, 2018

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: June 28, 2018

- Application Filed: 05/22/2018
- Review Period (60-day) Deadline: 07/21/2018
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No. 2018-010
Applicant: Linda McGinty (The Luther Company, LLLP)
Location: 5900 Shingle Creek Parkway
Request: Interim Use Permit for Off-Site Vehicle Storage

INTRODUCTION

Linda McGinty, on behalf of the Luther Company, LLLP ("the Applicant") is requesting consideration and approval of plans that would allow for the issuance of an Interim Use Permit for a portion of the property located at 5900 Shingle Creek Parkway ("the Subject Property"). The Subject Property is currently vacant and considered part of the City's "Opportunity Site," and is under ownership by the City of Brooklyn Center Economic Development Authority (EDA).

The Luther Company approached the City in February, stating that they had a need to store vehicles for a period of up to two years. The impetus for the storage is related to the construction of a new Mazda and Mitsubishi Dealership at 4435 68th Avenue North, which would displace the current storage capacity being used by their adjacent dealerships. This storage issue has resulted in the construction of the new dealership being delayed until a new storage location can be identified.

At the March 26th City Council Work Session, staff brought forward a request from the Luther Company (the "Applicant") to allow the short term storage of dealership vehicles off-site on the Subject Property. As off-site storage was not yet allowed under the Zoning Code, and in order to facilitate the allowance of temporary off-site storage, Staff proposed an Interim Use Permit process, which would allow off-site storage through issuance of an Interim Use Permit for a specific period of time. The City Council directed staff to draft language and conditions that would mitigate any negative impacts from the off-site storage, and bring a draft ordinance back to Council for review and consideration.

At the April 9, 2018, City Council Work Session, staff brought a draft ordinance to the City Council for review. Council directed staff to bring the ordinance to the Planning Commission for review and consideration. Representatives from the Luther Company were present at the meeting to discuss their request in more detail.

At their April 12, 2018, meeting, staff presented the draft ordinance and topic of discussion to the Planning Commission. The Commission provided input on the draft ordinance, and suggested revisions to address specific concerns related to screening, distance from residential property, limiting the number of vehicles to the specific needs of the auto dealerships located within the City, and the orderly placement of vehicles. The topics of signage, dealership staff presence on site, and the location of suitable sites were also discussed. Staff subsequently made revisions to the proposed ordinance language based on the Planning Commission's input.

On May 17, 2018, the Planning Commission considered the proposed ordinance

amendment and conducted a public hearing on Planning Commission Application No. 2018-008, for approval of the proposed amendment to Chapter 35 of the City Code of Ordinances to establish a new Section 35-420 to allow automobile dealership off-site vehicle storage as an Interim Use in the I-1, I-2, and C-2 Zoning Districts under certain conditions.

The Planning Commission considered the proposed ordinance and reviewed the language contained therein as part of the public hearing process. The Planning Commission determined that the proposed language would adequately mitigate any potentially negative impacts that may be related to the allowance of temporary off-site storage of vehicles, and voted unanimously (6-0) in favor of the proposed ordinance.

The proposed ordinance was brought to City Council for a first reading on May 29, 2018, and a second reading and public hearing was scheduled for June 25, 2018. Following a review of the proposed Interim Use Permit ordinance for the off-site storage of new vehicles, City Council voted unanimously (5-0) in favor of the ordinance amendment. No comments or objections were received prior to or during the meeting on June 25, 2018.

Ordinance No. 2018-005, which was prepared as a means to regulate automobile dealership off-site vehicle storage in the short-term, was also adopted on May 29, 2018. This was in anticipation of the proposed amendment to Chapter 35 relating to the off-site storage of new vehicles by automobile dealerships (Exhibit A) and the length of time it takes for an ordinance to come into effect after its adoption.

As part of the Interim Ordinance adoption, a short term lease agreement was also approved between the Economic Development Authority and the Applicant under EDA Resolution No. 2018-06 (Exhibit B), with the understanding that the Applicant (The Luther Company, LLLP) would be undergoing this process. Assuming the Applicant's request to store vehicles off-site is approved, the City of Brooklyn Center Economic Development Authority would require a long term lease agreement to be in place.

Requests for issuance of an Interim Use Permit require that a public hearing be scheduled. An Affidavit of Publication was received, confirming publication of a public hearing notice in the Brooklyn Center *Sun Post* on June 14, 2018 (Exhibit C), and mail notices were sent to neighboring property owners.

COMPREHENSIVE PLAN AND ZONING STANDARDS

Land Use Plan: RB - Retail Business

Neighborhood: Central

Current Zoning: C2 (Commerce) District

Surrounding Zoning: North: C2 (Commerce) District
East: C2 (Commerce) District
South: PUD-C2 (Planned Unit Development-Commerce) District
West: Open Space (Shingle Creek) | R5 (Multiple Family Residence) District

Site Area: Approximately 23.2 acres—the Applicant would not utilize the entire site and

would be located away from Shingle Creek Parkway per the submitted site plan and previously approved short term lease agreement.

INTERIM USE PERMIT | SITE PLAN REVIEW

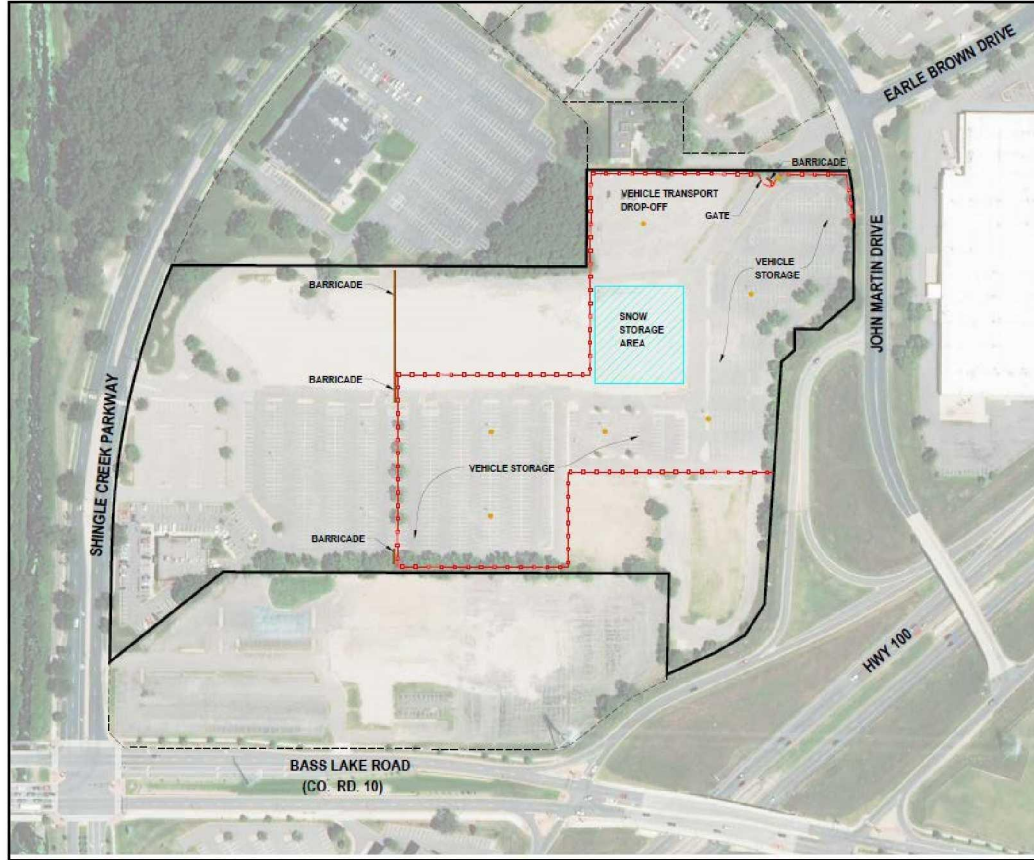


Image 1. Proposed Off-Site Vehicle Storage Site Layout (5900 Shingle Creek Parkway)

The Applicant is requesting approval of an Interim Use Permit that would allow Luther to store new vehicles from their Brooklyn Center dealership locations off-site, as indicated above in Image 1 and attached (Exhibit D). According to the newly adopted Section 35-420 (*Interim Use Permits*) of the City's Zoning Ordinance,

"An application for an interim use permit for the off-site storage of vehicles shall be processed in accordance with Section 35-220 (Special Use Permits), except that the following additional standards shall also be considered;

- a. The proposed use must conform to the regulations of this Chapter;*
- b. The date or event that will terminate the use can be identified with certainty;*
- c. Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and*
- d. The applicant agrees to the conditions the City Council imposes on the use."*

Per the additional *Standards of Interim Use Permits*, an Interim Use Permit may be granted by the City Council after demonstration by evidence that all of the following standards are met (Exhibit E):

1. *The proposed use must conform to the regulations of this Chapter.*

Per Chapter 35 (*Zoning Ordinance*), and per the requirements of the recently adopted Section 35-420 (*Interim Use Permits*), Interim Use Permits for off-site vehicle storage are only allowed in the I-1 (Industrial Park) District, I-2 (General Industry) District, and C-2 (Commerce) Districts, and cannot abut or sit directly across a city or county right-of-way from a residentially-zoned (R1 through R7) District. The Subject Property is zoned C-2 (Commerce) District. Although an R-5 (Multiple Family Residence) District property, Gateway Commons, is located to the west, the property is not directly located on Shingle Creek Parkway and is buffered by a section of linear open space along Shingle Creek. As proposed, the storage area would also be located away from Shingle Creek Parkway on a portion of the 23.2 acre Subject Property.

As required in the application, the Applicant originally indicated that up to approximately 1,100 new vehicles could be stored on site, however, this figure is likely to be lower as the application was initially submitted with a site plan that reflected a larger site area than was approved by City Council as part of the short term lease agreement. As vehicles must be stored in an orderly fashion and in parking spaces, the total amount of vehicle storage would be limited.

The Applicant would be restricted to transporting vehicles Monday through Saturday from 8 a.m. to 9 p.m., and would be limited to one access point (via John Martin Drive) per the lease agreement and submitted site plan, as noted above in Image 1. This access point would require use of a gate. All other potential interior access points to the leased area of the Subject Property would require installation of a barricade. This would be the responsibility of the Applicant. As proposed, the Applicant intends to install a six-foot high galvanized metal fence around the perimeter of the leased area of the Subject Property.

2. *The date or event that will terminate the use can be identified with certainty.*

Per the Applicant, the requested use of the Subject Property, located at 5900 Shingle Creek Parkway, would be for a period of two years, with a possible one year extension. The short term lease agreement, which was approved on May 29, 2018, by the City of Brooklyn Center EDA, notes that a long-term lease for Luther's continued use of the Subject Property ("Leased Premises") would be required upon obtaining an Interim Use Permit for the off-site storage of vehicles.

The short and long term lease agreements contain term clauses that outline the effective date under which the Interim Use Permit would commence and terminate. Provisions outlining the conditions under which a lease agreement can be terminated, rent payments, and use restrictions are also covered. The use restrictions specifically identify the Applicant's compliance obligations, allowable access points to the Subject Property, security and lighting requirements, and the terms of site use.

3. *Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.*

The City's Economic Development Authority currently maintains ownership and control of the Subject Property site. Although the necessity of a long-term lease agreement is subject to approval of the requested Interim Use Permit for off-site vehicle storage, the short-term lease agreement notes that the Applicant would be responsible, at its own cost, for securing and lighting the Subject Property ("Leased Premises"). In addition, an Access, Security, and Lighting plan is to be submitted to the City and is subject to the review and approval of the Chief of

Police. Any lighting would need to meet the requirements of the Zoning Code and would therefore require review by the City Planner. The agreement further outlines that additional security measures may require implementation if so identified by the Chief of Police.

In addition, provisions regarding maintenance and repair of the Subject Property note that the Applicant would be required to keep the Subject Property in a clean and orderly condition during the term of the lease, including the removal of any materials, debris, or refuse on the Subject Property. Any damage inflicted on the property by the Applicant would be the responsibility of the Applicant at its own cost. Improvements or additions to the Subject Property, other than those expressly outlined in the agreement, would require the written consent of the Brooklyn Center EDA. Any utility costs associated with the use of the Subject Property (e.g., lighting) would be the responsibility of the Applicant. As part of the agreements, the Applicant will also need to agree to maintain commercial general liability insurance during the entire term of the lease agreement.

As the City of Brooklyn Center EDA has entered into a preliminary development agreement with a developer that encompasses the Subject Property, any approval of an Interim Use Permit to store vehicles off-site at the Subject Property would supersede the developer's rights to access the Subject Property. Any approval of an Interim Use Permit will require the Applicant to cooperate with the developer and allow them to conduct any due diligence as it relates to soil sampling and testing. Furthermore, any approval of an Interim Use Permit will require that the Applicant agree to not store any "hazardous substances" on the Subject Property, as defined in the lease agreements.

4. *The Applicant agrees to the conditions the City Council imposes on the use.*

Approval of an Interim Use Permit for the off-site storage of operable new vehicles for sale or lease at Luther's Brooklyn Center dealerships would require that the Applicant agree to the conditions of approval imposed under the Interim Use Permit in addition to any short or long-term lease agreements in place. To provide clarity, the approval conditions outlined as part of any favorable Interim Use Permit approval would be in line with the conditions of the lease agreements.

Based on staff findings, staff recommends Planning Commission recommendation of the requested Interim Use Permit for the off-site storage of new, operable vehicles for the portion of 5900 Shingle Creek Parkway ("the Subject Property") as identified in the submitted site plan; subject to the Applicant complying with the comments outlined in the Approval Conditions below.

INTERIM USE PERMITS APPROVAL CONDITIONS:

Staff recommends the following conditions be attached to any positive recommendation on the approval of Application No. 2018-010 for the designated portion of 5900 Shingle Creek Parkway (Subject Property):

- 1. Site Plan Review:** The site plans are subject to review and approval by City staff with respect to applicable codes prior to the issuance of any required permits.
 - a. Any major changes or modifications made to the submitted site plan for off-site vehicle storage on the leased portion of the Subject Property (5900 Shingle Creek Parkway) can only be made by an amendment to the approved Interim Use Permit, as approved by

the City Council.

- b. The Applicant shall verify that the proposed site has met City Code requirements relating to fencing, lighting, parking, building and fire code requirements.
 - i. Per the City Fire Inspector, vehicles shall be parked in an orderly fashion (i.e., in parking spaces and not in drive aisles), and vehicles shall not be used to create a blockade at the gate.
 - ii. The Applicant shall work with the City Fire and Police Departments to provide necessary security information and/or access to the leased portion of the Subject Property in case of emergency.

2. Agreements:

- a. The Applicant shall ensure necessary short-term and long-term lease agreements are in place. All conditions and terms of use for the lease agreement are to be followed in conjunction with the approval and issuance of an Interim Use Permit.
- b. The Applicant shall provide an Access, Security, and Lighting Plan to the City, subject to the review and approval of the Chief of Police and City Planner.

3. Facilities and Equipment:

- a. Any lighting will be in accordance with Section 35-712 (*Lighting*) of the City Zoning Ordinance. Per City staff, a photometric plan, and fixture specifications may be required to confirm compliance of any new and/or replaced lighting.
- b. Any spills or leaks found on site shall be mitigated immediately. When warranted, the State duty officer shall be notified (Exhibit F).
- c. Prior to spring melt, inlet protection measures shall be provided to prevent the accumulation of trash in the snow storage pile from reaching the storm sewer system (Exhibit F).

- 4. **Signage:** Per Section 35-420 (*Interim Use Permits*), no signage, other than no trespassing and minimal directional signage internal to the site, shall be permitted on the leased area of the Subject Property.

RECOMMENDATION

Based on staff findings, staff recommends Planning Commission recommendation of the requested Interim Use Permit for the off-site storage of new, operable vehicles for the portion of 5900 Shingle Creek Parkway ("the Subject Property") as identified in the submitted site plan; subject to the Applicant complying with the comments outlined in the Approval Conditions below.

Should the Planning Commission accept this recommendation, the Commission may elect to adopt the draft resolution which memorializes the findings in granting approval of an Interim Use Permit for the off-site storage of new, operable vehicles, subject to the Applicant complying with the above-mentioned conditions of approval.

Attachments

Exhibit A- Ordinance No. 2018-05 (*An Interim Ordinance Regulation Automobile Dealership Off-Site Vehicle Storage*), adopted May 29, 2018.

Exhibit B- EDA Resolution No. 2018-06, adopted May 29, 2018.

Exhibit C- Affidavit of Publication for Notice of Hearing (5900 Shingle Creek Parkway), published June 14, 2018, in

Brooklyn Center Sun Post.

Exhibit D- Application Submittal by the Linda McGinty on behalf of the Luther Group, LLLP, dated May 22, 2018.

Exhibit E- An Ordinance Amending Chapter 35 to Allow Automobile Dealership Off-Site Vehicle Storage as an Interim Use.

Exhibit F- Review Memorandum, prepared by Assistant City Engineer Andrew Hogg, dated March 5, 2018.

CITY OF BROOKLYN CENTER

ORDINANCE NO. 2018-05

AN INTERIM ORDINANCE REGULATING AUTOMOBILE DEALERSHIP
OFF-SITE VEHICLE STORAGE

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

Article I. Legislative Findings. The City Council of the City of Brooklyn Center (“City”) hereby finds and determines as follows:

- a. The City Council has the authority under Minnesota Statutes, section 462.355, subdivision 4 to adopt an interim ordinance to regulate or impose restrictions on uses if it has scheduled a hearing for the purpose of considering an amendment to its official controls;
- b. The adoption of an interim ordinance does not require a public hearing and is not subject to the City’s standard ordinance adoption process as it is in the nature of an emergency ordinance in that waiting the several weeks before it went into effect would undermine the purpose and authority to adopt an interim ordinance;
- c. The City Council is in the process of considering an amendment to Chapter 35 of the Brooklyn Center City Code (“Code”) to establish a new Section 35-420 to allow the off-site storage of new vehicles by an automobile dealership in certain zoning districts with the issuance of an interim use permit;
- d. The City Council has schedule a public hearing on the proposed amendment to the Code before its Planning Commission on June 14, 2018; and
- e. The City Council determines that it is in the best interests of the public, and in furtherance of its efforts to promote economic development within the City, to adopt interim regulations on the off-site storage of vehicles by automobile dealerships while the ordinance proposing to establish permanent regulations on the off-site storage of vehicles works its way through the standard ordinance adoption process.

Article II. Interim Regulations. During the term of this interim ordinance, the City may, by issuance of a certificate of compliance, allow the off-site storage of new vehicles by an automobile dealership on property (“Property”) owned by the City or by the Economic Development Authority of Brooklyn Center, Minnesota (“EDA”) within the I-1, I-2, or C-2 districts subject to compliance with all of the following requirements and restrictions:

- a. The automobile dealership must enter into a temporary lease agreement with the City or the EDA for use of its Property for the storage of the vehicle that, at a minimum, address each of the following:

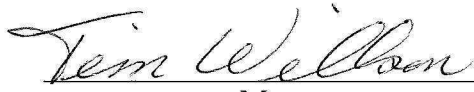
ORDINANCE NO. 2018-05

1. Security for the Property, including how access to the Property will be controlled;
 2. The area on the Property that may be used for the storage of vehicles;
 3. The length of the temporary lease and that the use of the Property for vehicle storage may only occur upon issuance of a certificate of compliance and must cease if the proposed amendment to the Code to allow the use is not adopted or if the automobile dealership fails to obtain an interim use permit under the amended Code within 60 days from the date the amendment goes into effect; and
 4. Any particular restrictions on how the Property is accessed;
- b. Only operable new vehicles that are available for sale or lease to customers as part of the automobile dealership's business operations may be stored on the Property;
 - c. Vehicles may only be brought to or removed from the Property Monday through Saturday, between the hours of 8:00 a.m. and 6:00 p.m.;
 - d. No signage, other than minimal directional signage internal to the site, shall be permitted on the Property;
 - e. No vehicle repairs, sales, cleaning or detailing shall occur on the Property;
 - f. Only employees or contractors of the automobile dealership shall be allowed on the Property related to the storage use;
 - g. Vehicles shall be stored on the Property in an orderly fashion with drive aisles, allowing vehicles to enter and exit the Property without having to move other vehicles; and
 - h. An approval issued pursuant to this interim ordinance is not transferable.

Article III. Effective Date and Term. This interim ordinance shall go into effect immediately upon adoption and shall remain in effect for 120 days or upon the effective date of the proposed amendment to the Code addressing the off-site storage of vehicles by an automobile dealership if adopted, whichever occurs first.

Article IV. Penalty. A violation of this interim ordinance is punishable as a misdemeanor.

Adopted this 29th day of May, 2018.


Mayor

ATTEST: 
City Clerk

Commissioner Marquita Butler introduced the following resolution and moved its adoption:

EDA RESOLUTION NO. 2018-06 _____

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A
SHORT-TERM LEASE WITH LUTHER AUTOMOTIVE GROUP

WHEREAS, the Economic Development Authority of the City of Brooklyn Center, Minnesota ("EDA") owns the property located at 5900 Shingle Creek Parkway, Brooklyn Center, Minnesota, legally described as Lot 1, Block 1, Brookdale Square 2nd Addition, Hennepin County, Minnesota ("Property"); and

WHEREAS, Luther Automotive Group ("Luther") desires to enter into a short-term lease with the EDA to use the parking lot portion of the Property for storage of its new vehicles in accordance with the interim ordinance adopted by the City Council of the City of Brooklyn Center ("City") to temporarily allow the off-site storage of vehicles by an automobile dealership on property owned by the City or the EDA; and

WHEREAS, the EDA determines that the storage of new vehicles by Luther is a reasonable use of the Property and will serve to address Luther's immediate need to secure off-site vehicle storage to facilitate the construction of its new facility within the City; and

WHEREAS, the proposed lease has a limited term as the City Council considers whether to amend its code to make the off-site storage of vehicles an allowed use in the City; and

WHEREAS, if the City Council agrees to amend its code, the EDA understands that Luther will likely seek approval to enter into a longer-term lease for the Property.

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

1. The Board hereby approves entering into a short-term lease with Luther to allow it to temporarily store its new vehicles on the Property.
2. EDA staff and officials are authorized to further negotiate the terms of the short-term lease and the President and Executive Director are authorized to execute the lease once it is in a form acceptable to the City Attorney.

EDA RESOLUTION NO. 2018-06

May 29, 2018

Date



President

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

Kris Lawrence-Anderson

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

Tim Willson, Marquita Butler, April Graves, Kris Lawrence-Anderson, Dan Ryan
and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

**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 a public hearing on Thursday, June 28, 2018, at approximately 7:00 p.m., at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota. 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: Interim Use Permit to allow for the Off-Site Storage of New Vehicles

PETITIONER: Linda McGinty (The Luther Company, LLLP)

PROPERTY NAMED IN THE PETITION: 5900 Shingle Creek Parkway, Brooklyn Center, MN 55430

PROPERTY ID: 02-118-21-24-0020

PROPERTY OWNER: Economic Development Authority of Brooklyn Center, Minnesota

LEGAL DESCRIPTION: Lot 1, Block 1, Brookdale Square 2nd Addition, Hennepin County, Minnesota

BRIEF STATEMENT OF CONTENTS OF PETITION:

The Applicant is requesting approval of an Interim Use Permit that would allow the Luther Company to store new vehicles at 5900 Shingle Creek Parkway. These vehicles would be for sale at their respective Brooklyn Center Luther dealerships. This request would be for a period of up to two years, with a possible one year extension.

Questions, comments, statements of support or objections should be directed to City Planner/ Zoning Administrator Ginny McIntosh at (763) 569-3319 or email to gmcintosh@ci.brooklyn-center.mn.us.

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

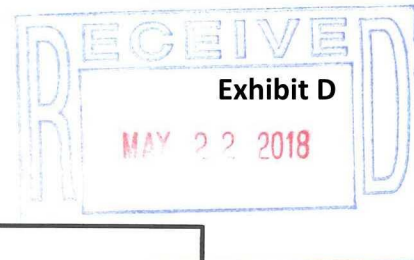
City Planner / Zoning Administrator

Published in the

Brooklyn Center Sun Post

June 14, 2018

825338



Planning Application

City Use _____
Date Received: _____
Date Application Complete: _____
Letter of Completeness: _____
Application No. _____

A preliminary meeting with the Planning and/or Engineering Staff is required prior to the submission of a Planning Application. No application will be accepted prior to such meeting. City Staff shall have five (5) business days to review applications for completeness. The 60-day statutory review period does not begin until staff determines the application is complete.

Application Request (Mark all that Apply)

☐	Site & Building Plan (\$750)	☐	Planned Unit Development (\$1800)	☐	Subdivision Approval (\$300)
☐	Rezoning (\$1050)	☐	PUD Amendment (\$700)	☐	Appeal (\$200)
☐	Variance (\$200)	☒	Special Use Permit (\$200)	☐	Determination (\$200)

Applicant Information:

Name: Linda McGinty on behalf of The Luther Company, LLLP Signature Linda McGinty
Address: 3701 Alabama Avenue South, Saint Louis Park, MN 55416
Office Phone: 952-258-8800 Cell: 612-708-7149
Email: linda.mcinty@lutherauto.com FAX: 952-258-8900

Owner Information* (if different from Applicant):

Name: Economic Development Authority Brooklyn Center Signature _____
Address: 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430
Office Phone: _____ Cell: _____
Email: _____ FAX: _____

The fee title owner of the property must sign this Application to make it official

Please provide a general description of your Application Request: _____

Interim use for the storage of approximately 1100 automobiles.

Address/Location of Property: 5900 Shingle Creek Parkway - PID 0211821240020

Legal Description of Property: Lot 1, Block 1, Brookdale Square 2nd Addition

The applicant requests processing of this application and agrees to pay to the City of Brooklyn Center, within fifteen (15) days after mailing or delivery of the billing statement, the actual costs incurred by the City for Engineering, Planning and Legal expenses reasonably and necessarily required by the City for the processing of the application. Such costs will be in addition to the application fee described herein. Withdrawal of the application will not relieve the applicant of the obligation to pay costs incurred prior to withdrawal.

Application Fee \$ _____ Acct No. 10100-4403 Receipt No. _____



May 22, 2018
Meg Beekman
City of Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430

Re: Lease of 5900 Shingle Creek Parkway

Dear Ms. Beekman,

The Luther Company, LLLP sincerely requests the use of 5900 Shingle Creek Parkway for a lease of 2 years with a possible 1 year extension. The following are requested details:

1. The maximum number of vehicles that can be stored on this site is 1058.
2. The purpose of this off-site location is to substitute for the storage property that will become Luther Brookdale Mazda Mitsubishi. We must move those vehicles in order to start that construction project.
3. Vehicles will be brought to and from this site daily, Monday-Saturday, 8am-9pm.
4. The quickest route from our dealerships (non-rush hour) is east on Hwy. 694 to South on Shingle Creek Parkway, then either to John Martin Dr. and into the lot, or further South on Shingle Creek Parkway to the curb just South of the Minnesota School of Business property. The attached diagram titled, Vehicle Storage Exhibit- Expanded, demonstrates these 2 routes. An alternate route (not marked on the plan), is East on 69th Ave. to South on Shingle Creek Parkway.
5. The attached diagram titled, Vehicle Storage Exhibit, shows the portion of the property to be used for vehicle storage. Vehicles will be parked on asphalt and in marked stalls.
6. We are investigating site security measures including the potential for lighting, onsite security, and access control (barricades, gates, fences, etc). The site will be routinely inspected by The Luther Companies and its security vendor to ensure the appropriate security measures function as originally intended. These security measures will not affect access to any of the neighboring properties. Entry points will be controlled with locked gates.

We sincerely appreciate the potential opportunity to utilize this property which will positively impact the City of Brooklyn Center and our businesses.

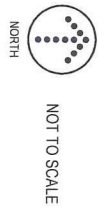
Respectfully submitted,

Linda McGinty
Vice President Real Estate
The Luther Company, LLLP



SITE NOTES

- 
 PROPOSED VEHICLE PATH
- 
 LUTHER MAZDA MITSUBISHI
BROOKDALE HONDA
BROOKDALE TOYOTA
BROOKDALE CHEVROLET
PROPOSED STORAGE LOT
- 



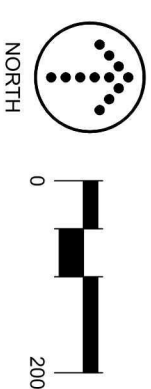
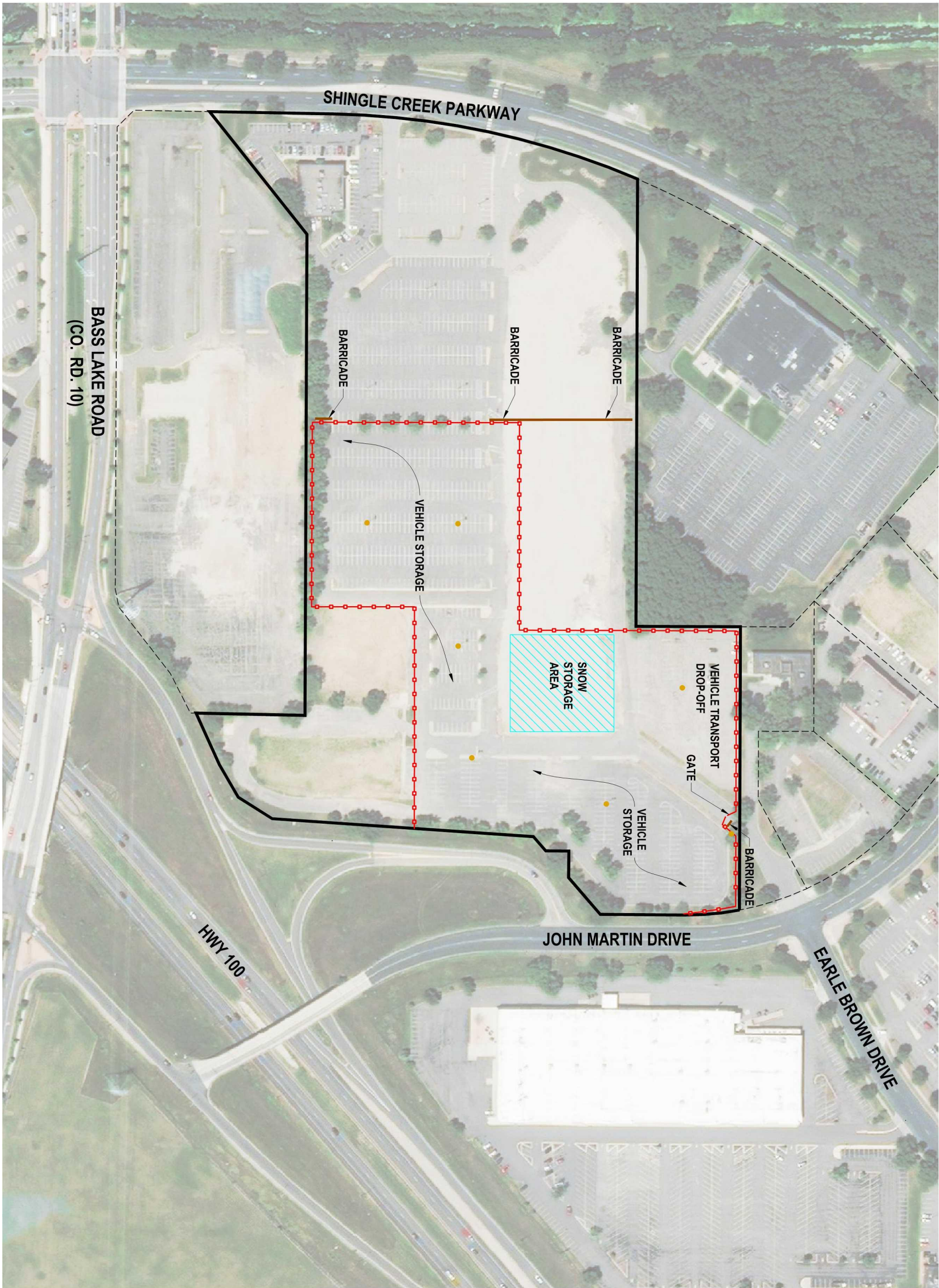
VEHICLE STORAGE EXHIBIT - EXPANDED

5900 SHINGLE CREEK PARKWAY • Brooklyn Center, MN
• 05.21.2018

LANDFORM

LEGEND

- PROPOSED FENCE
- PROPOSED BARRICADE
- EXISTING LIGHT POLE
- SNOW STORAGE AREA



SITE PLAN

LAND FORM
in collaboration with:
THE LUTHER COMPANY, LLLP

TEMPORARY VEHICLE STORAGE FACILITY · BROOKLYN CENTER, MN
06.20.2018



Highway 100

John Martin Dr

County Road 10

Shingle Creek Pkwy

Shingle Creek Pkwy

CITY OF BROOKLYN CENTER

Cash Receipt

Receipt Date 5/22/2018

Receipt Number 137350

KATH Y DICKSON

SPECIAL USE PERMIT

10100-4403 200.00

KATH Y DICKSON

Total Receipt Amount 200.00

148156 15:49:24

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of _____, 2018, at 7:00 p.m. or as soon thereafter as the matter may be heard at City Hall, 6301 Shingle Creek Parkway, to consider an ordinance related to allowing the automobile dealership off-site storage of new vehicles as an interim use.

Auxiliary aids for handicapped persons are available upon request at least 96 hours in advance. Please notify the personnel coordinator at 763-569-3303 to make arrangements.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 35 TO ALLOW AUTOMOBILE
DEALERSHIP OFF-SITE VEHICLE STORAGE AS AN INTERIM USE

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

Article I. Brooklyn Center City Code, Chapter 35 is hereby amended to establish a new Section 35-420 as follows:

Section 35-420. AUTOMOBILE DEALERSHIP OFF-SITE VEHICLE STORAGE.

1. Interim Use. Notwithstanding anything to the contrary in this Code, the off-site storage of new vehicles by an automobile dealership is allowed in the following zoning districts with the issuance of an interim use permit: I-1, I-2, C-2. No interim use permit for automobile dealership off-site storage shall be issued for a site that abuts or is directly across a city or county right-of-way from a residentially zoned (R1 through R7) property.
2. Application. An application for an interim use permit for the off-site storage of vehicles may only be submitted by an automobile dealership located within the city. Said application shall, in addition to the information required on the application form, include the following information:
 - a. A description of the proposed vehicle storage that includes:
 - (i) The maximum number of vehicles to be stored at the off-site location;
 - (ii) An explanation of the purpose for the number of vehicles needing to be stored at the off-site location;
 - (iii) An estimate of how often vehicles will be brought to and removed from the off-site location and the times and days of the week such activities are proposed to occur;
 - (iv) The route to be used to transport vehicles between the automobile

dealership and the off-site location, including how the property will be accessed; and

- (v) A map showing the portion of the property to be used for vehicle storage and showing how the vehicles are to be parked on the property;

b. The proposed length of time the property will be used for vehicle storage; and

c. Proof of ownership of the property or a copy of the proposed lease allowing use of the property for vehicle storage;

3. Issuance. An application for an interim use permit for the off-site storage of vehicles shall be processed in accordance with Section 35-220, except that the following additional standards shall also be considered:

a. The proposed use must conform to the regulations in this Chapter;

b. The date or event that will terminate the use can be identified with certainty;

c. Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and

d. The applicant agrees to the conditions the City Council imposes on the use.

4. Conditions. The City Council may impose any conditions on the interim use permits it issues as it deems are necessary or expedient to protect the public health, safety or welfare, or to ensure the use will not impose additional costs on the public if it is necessary or expedient to take the property in the future. Every interim use permit shall identify the date or event that will terminate the permit. The applicant shall either expressly agree in writing to the conditions imposed on the interim use permit or shall be deemed to have agreed to all such conditions without exception or reservation if the applicant undertakes the use allowed by the permit.

5. Performance Standards. In addition to any conditions placed on an interim use permit by the City Council, the following restrictions shall apply to all interim use permits issued to an automobile dealership for off-site vehicle storage:

a. Use of the off-site location shall be limited to the storage of operable new vehicles that are available for sale or lease to customers as part of the automobile dealership's business operations;

b. Any vehicles stored shall be sold or leased at the automobile dealership located in the city;

c. Any off-site location shall conform to Section 35-711 of the Zoning Code, Parking Lot Screening;

- d. No vehicle repairs, sales, cleaning or detailing shall occur at the off-site location;
- e. Only employees or contractors of the automobile dealership shall be allowed on the off-site location;
- f. No signage, other than minimal directional signage internal to the site, shall be permitted on the off-site location;
- g. The portion of the storage site designated for vehicle storage shall only be located on an approved paved parking lot;
- h. Vehicles shall only be stored in the designated portion of the storage site and according to the parking plan approved as part of the interim use permit;
- i. Vehicles shall be stored in an orderly fashion with drive aisles, allowing vehicles to enter and exit the site without having to move other vehicles;
- j. The days and hours during which vehicles may be brought to or removed from the site shall be limited to the days and hours approved in the interim use permit;
- k. The routes used to transport vehicles to and from the site shall be limited to the routes approved in the interim use permit;
- l. An interim use permit issued pursuant to this section is not transferable; and
- m. The use must comply with all applicable provisions of this Code.

6. Renewal. Use of the off-site storage site shall cease, and all vehicles shall be immediately removed, upon the termination or revocation of the interim use permit, or the transfer of the automobile dealership. An automobile dealership issued an interim use permit may apply for a renewal interim use permit, which shall be submitted no fewer than 90 days prior to the termination of the existing permit, and processed in the same manner as a new application.

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

Adopted this ____ day of _____, 2018.

Tim Willson, Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

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

MEMORANDUM

DATE: June 25, 2018

TO: Ginny McIntosh, City Planner/ Zoning Administrator

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: Interim Use Permit to Allow for off Site Storage

Public Works Department staff reviewed the following documents submitted for review on May 22, 2018, for an Interim Use Permit to Allow for Off Site Storage at 5900 Shingle Creek Parkway:

- Site Plans dated June 20, 2018

Interim Use Permit Comments

1. Applicant shall immediately mitigate any spills or leaks found on site, and notify the State duty officer as warranted.
2. Prior to spring melt; provide inlet protection measures to prevent trash in snow storage pile from reaching the storm sewer system.

The aforementioned comments are provided based on the information submitted by the applicant at the time of this review. Other guarantees and site development conditions may be further prescribed throughout the project as warranted and determined by the City.

The Luther Company, LLLP



REQUEST:

- (1) Interim Use Permit for Off-Site Vehicle Storage at 5900 Shingle Creek Parkway

Item 9.a

City Council Meeting of 07/09/2018

Background and Request

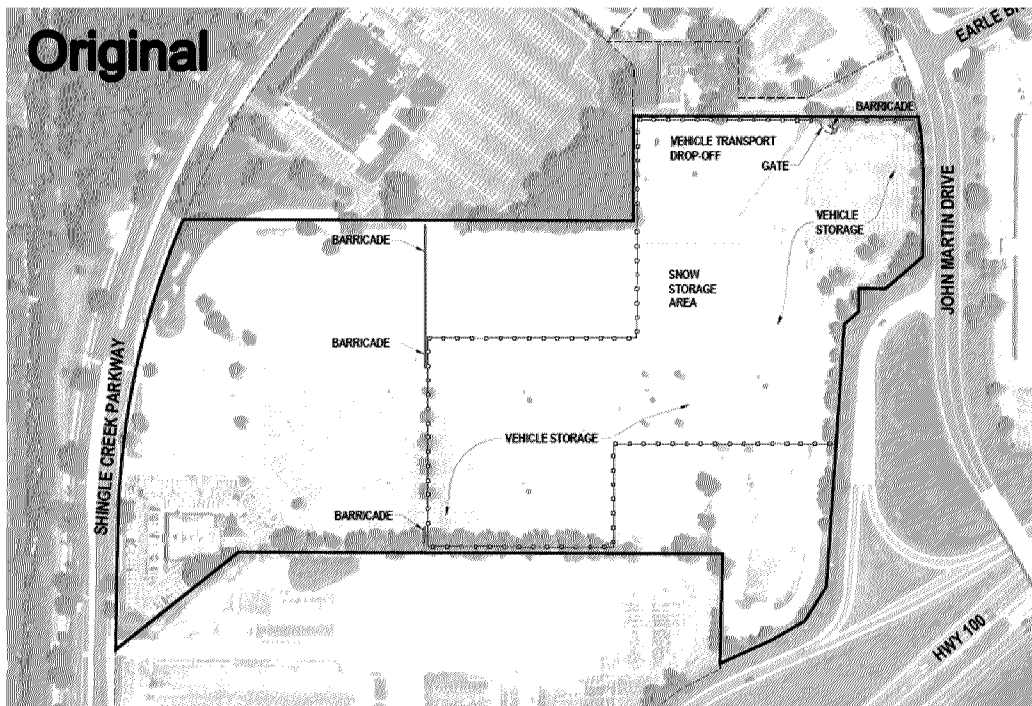
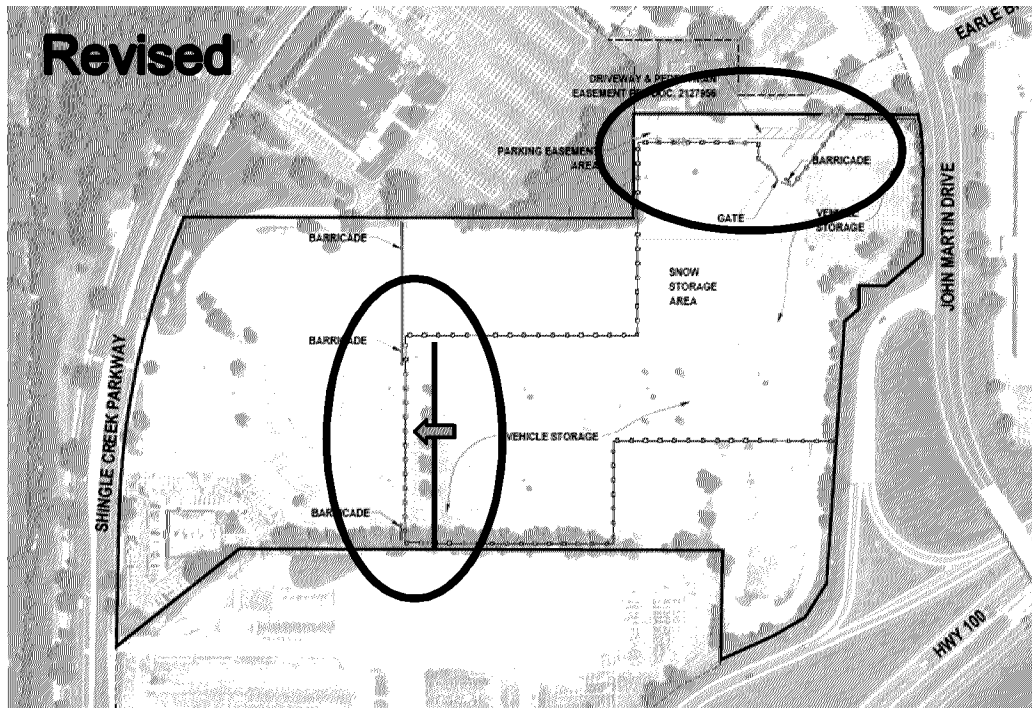
- The Luther Company, LLLP, approached the City in February 2018, stating that they had a need to store new vehicles for a period of up to two years. The impetus for the storage is related to the construction of a new Mazda and Mitsubishi Dealership at 4435 68th Avenue North, which would displace the current storage capacity being used by their adjacent dealerships.
- City Council and Planning Commission, through a series of work sessions, public hearings, etc., approved of a process to allow for the off-site storage of new vehicles on a temporary basis. This process required an amendment to Chapter 35 of the City Code of Ordinances (Zoning Code).
 - City Council unanimously approved the first reading of this ordinance at its May 29, 2018, meeting and directed staff to schedule a public hearing for June 25, 2018.
 - A public hearing notice was published in the Brooklyn Center *Sun Post* on June 7, 2018. The City Council conducted its second reading and public hearing on June 25, 2018, and unanimously approved the requested ordinance amendment.
- **This Ordinance lays out the requirements for a complete application:**
 - Number of vehicles to be stored
 - Purpose of off-site storage
 - Route, frequency, times, and days vehicles will be brought on and off site
 - Requested duration of storage
- As an Interim Use Permit request requires formal approval through Planning Commission and City Council, conditions may be placed on the approval of an Interim Use Permit, including:
- Performance Standards
 - Use of the site limited to storage only of new and operable vehicles
 - Vehicles stored must be sold or leased in the City
 - Screening requirements
 - Signage limitations
 - Storage on approved hard surfaces only
 - Vehicles must be stored in an orderly fashion

Background and Request (Cont.)

- In anticipation of the proposed amendment to Chapter 35 relating to the off-site storage of vehicles by automobile dealerships, Ordinance No. 2018-005 was prepared as a means to regulate automobile dealership off-site vehicle storage in the short term. This ordinance was adopted on May 29, 2018, and was intended to bridge the length of time it would take for an ordinance amendment regarding the interim storage of off-site vehicles to come into effect following adoption of an ordinance amendment to Chapter 35 of the City Code of Ordinances.
- As part of the Interim Ordinance adoption, a short term lease agreement was also approved between the Economic Development Authority and the Applicant (the Luther Company, LLLP) under EDA Resolution No. 2018-06, with the understanding that the Applicant would be undergoing this process /request for issuance of an Interim Use Permit.
- The Luther Company, LLLP, submitted a Planning Commission Application requesting review of a request for issuance of an Interim Use Permit for the off-site storage of approximately **750 vehicles**.
- A public hearing notice was published in the Brooklyn Center *Sun Post* on June 14, 2018, and mailing notices were sent.

Planning Commission Review

- A public hearing was scheduled for and a review was held for the requested Interim Use Permit at the Planning Commission meeting on June 28, 2018.
- As part of the review for the proposed request, the Commissioners asked questions of the Applicant relating to the length of time vehicles would be stored for, the proposed layout of the site, and the impact of any approval on the anticipated redevelopment of the Opportunity Site.
- The Applicant has been in touch with the Brooklyn Center Police Department and was in the process of working through approval of an Access, Security, and Lighting Plan, which is a requirement of issuance of an Interim Use Permit.
- **The Planning Commission received no other comments from the public, and unanimously (6-0) recommended City Council approval of the requested issuance of an Interim Use Permit for the off-site storage of new vehicles on a portion of 5900 Shingle Creek Parkway.**
- On June 29, 2018, City staff was contacted by HealthPartners Dental Clinic, located at 5901 John Martin Drive in Brooklyn Center, and located to the north of the proposed off-site vehicle storage location. It was identified at this time that HealthPartners staff and customers had been utilizing a portion of the Subject Property for a number of years as parking and that there might be an easement.
 - It was ultimately determined that there was a parking and access easement for use by HealthPartners Dental Clinic and that access to this easement was to be maintained.
- City Staff, representatives of the Applicant, including Linda McGinty, and representatives of HealthPartners, met on site of the Subject Property on July 3, 2018, to review the recorded easement documentation and map and the proposed site plan for the off-site storage of vehicles by the Applicant.



Luther Off-Site Vehicle Site Plan (5900 Shingle Creek Pkwy)

- Plans revised on July 5th
- Notable changes include:
 - North fence line shifted one parking row and drive aisle south to comply with existing parking and access easement
 - Gate and barricade shifted south
 - Driveway, pedestrian and parking easement are called out
 - West fence line shifted one parking row and drive aisle west for loss of parking on north (this is a request from Applicant)

Recommendation

Based on the aforementioned findings the Planning Commission recommends City Council adopt the resolution regarding the recommended disposition of Planning Application No. 2018-010, submitted by the Luther Company, LLLP, for issuance of:

1. An Interim Use Permit for the off-site storage of approximately 750 new vehicles at 5900 Shingle Creek Parkway
- Approval of the aforementioned requests are subject to the Applicant complying with conditions of approval as outlined in the attached City Council Resolution and the revised site plans provided on July 5, 2018.
 - The revised site plans reflect the presence of an access and parking easement along the north property line and an adjustment to the west perimeter of the fenced area.

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman

FROM: Ginny McIntosh

SUBJECT: Planning Commission Application No. 2018-011, Submitted by Lux Apartments, LLC, Requesting Approval of an Amendment to the 1992 Planned Unit Development Plans and Documents and Site Improvements to Allow for the Conversion of a Former Senior Living Facility to Market Rate Apartments (Located at 6100 Summit Drive North)

Recommendation:

It is recommended that the City Council, following consideration of this planning application item, adopt the resolution regarding the disposition of Planning Commission Application No. 2018-011, submitted by Lux Apartments, LLC., for the requested amendment to the 1992 Planned Unit Development plans and documents and site improvements that would allow for the conversion of a former senior living facility to market rate apartments for the property located at 6100 Summit Drive North.

Approval of the aforementioned requests would be subject to conformance with the outlined approval conditions as noted in the attached City Council resolution, including, but not limited to the Applicant submitting an application for Site and Building Plan approval to further detail the requested site improvements (e.g., additional on-site surface parking), wall signage, and proposed addition of three dwelling units. Approval by City Council of a site and/or building plan would be required prior to the implementation of these requests.

Background:

City staff met with the Applicant in May 2018 to discuss the Subject Property, known as Earle Brown Terrace, or Earle Brown Commons, and the redevelopment of the senior living facility to market rate apartments. It was conveyed to City staff at this time that the building was under-occupied and would be closing. It is to staff's understanding that all residents have since been relocated out of Earle Brown Terrace senior living facility.

The building is located on approximately 3.3 acres and consists of the historic Minnesota Highway Patrol office building (also known as the "Summit Bank Building") and an 11-story building, constructed in 1987. These buildings are connected via an interior walkway connection and the Subject Property features a two-level parking ramp. The former senior living facility offered independent and "catered" (assisted) living, dining and other services, including a beauty salon.

As is proposed under Planning Commission Application No. 2018-011, the intent of the Applicant's requests are to determine whether the City will allow the Applicant to convert the existing buildings into market-rate, multi-family residential units at a reduced parking ratio, as the Subject Property was never constructed to the minimum required two (2) parking stalls per dwelling unit necessary for residential uses as required under Chapter 35 (Zoning Ordinance) of the City Code of Ordinances. Additionally, the Applicant has made requests to permit additional wall signage allowance on the south elevation of the existing 11-story building, and an allowance for three additional dwelling units to be constructed in the future.

As the requests require an amendment to the existing Planning Unit Development plans and documents originally approved in 1992, in addition to the requested site improvements, a public hearing notice was published in the Brooklyn Center *Sun Post* on June 14, 2018, and mailing notices were sent. On June 28, 2018, the Planning Commission conducted a public hearing on the Applicant's requests. No public comments were provided either prior to or during the meeting. The Applicant, Lux Apartments, LLC, was in attendance and answered questions from the Commissioners regarding its anticipated use of the property as market rate apartments, the requested parking ratio of approximately 1.7 parking spaces per dwelling unit, encroachments to the minimum required 15-foot green strip for the proposed surface parking, and the anticipated locations of the three additional dwelling units.

City staff reiterated to the Planning Commission that these approvals will require that the Applicant return to the City for formal site and building plan approvals prior to implementation of the requested site improvements, additional wall signage allowance, and request to construct three additional dwelling units.

As the Subject Property is still under ownership by OGC Earle Brown, LLC, the Applicant is of the understanding that, should they receive approval from the City of Brooklyn Center Planning Commission and City Council, that they will be required to submit full plan sets detailing drainage, grading, stormwater and erosion control, wall signage plans, and architectural plans for any exterior construction of additional units as part of a Planning Commission application submittal for building and site plan review through the City's Community Development Department.

The requests outlined in the attached application, and as addressed in the Planning Commission Report dated June 28, 2018, are intended to provide the Applicant the comfort necessary to close on the purchase of the Subject Property. This would also allow the Applicant to proceed with plans for interior demolition and renovations while working through the preparation of building, site, and signage plans, and submittal of said plans for future consideration by the City's Planning Commission and City Council.

Copies of the Planning Commission Report, dated June 28, 2018, and City Council resolution are attached as reference.

Requested Council Action:

- Motion to approve resolution.

Budget Issues:

None to consider at this time.

Strategic Priorities and Values:

Targeted Redevelopment

Member
moved its adoption:

introduced the following resolution and

RESOLUTION NO.

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-011 SUBMITTED BY LUX APARTMENTS, LLC, FOR AN AMENDMENT TO THE 1992 PLANNED UNIT DEVELOPMENT PLANS AND DOCUMENTS AND SITE IMPROVEMENTS TO ALLOW FOR THE CONVERSION OF A FORMER SENIOR LIVING FACILITY TO MARKET RATE APARTMENTS (LOCATED AT 6100 SUMMIT DRIVE NORTH)

WHEREAS, the City Council approved site and building plans for the construction of an 11-story, 140-unit apartment complex submitted under Planning Commission Application No. 86027 through City Council Resolution Nos. 86-120 and 86-121 on July 28, 1986, which approved an amendment to the comprehensive plan to allow for mixed use developments including high density, high-rise residential and general commerce in addition to service/office uses in the general area of Earle Brown Farm and site and building plan approval of the apartment complex; and

WHEREAS, the City Council of Brooklyn Center approved Resolution No. 92-234 dated September 28, 1992, which approved the rezoning of two R-7 zoned parcels of land for the establishment of a mixed-use Planned Unit Development, including the Subject Property formerly known as Earle Brown Commons apartment building, and more recently as Earle Brown Terrace senior living facility, and located at 6100 Summit Drive North; and

WHEREAS, the Planning Commission held a duly called public hearing on June 28, 2018, whereby a staff report and public testimony regarding the requested Planned Unit Development amendment and site improvements were received and considered by the Planning Commission, and the Planning Commission gave proper consideration of the Planned Unit Development amendment and site improvements by utilizing the guidelines for evaluating such requests as contained in Sections 35-230 (*Plan Approval*) and 35-355 (*Planned Unit Development*) of the City's Zoning Ordinance and the City's Comprehensive Plan; and

WHEREAS; in light of all testimony received, the Planning Commission of the City of Brooklyn Center, Minnesota, determined that Planning Application No. 2018-011, submitted by Lux Apartments, LLC, may be approved based upon the following considerations:

- a) The request for amendment to the 1992 Planned Unit Development plans and documents is consistent with the initial approval of the PUD under City Council Resolution No. 92-234, in that the intent is for the Subject Property to remain as a multi-family residential property and is compatible with the standards, purposes, and intent of the Planned Unit Development section of the City's Zoning Ordinance.

RESOLUTION NO.

- b) The proposal for an amendment to the 1992 Planned Unit Development will allow for the continued utilization of the land in question in a manner that is compatible with, complementary to, and of comparable intensity to adjacent land uses and those previously housed within the buildings on the Subject Property, as well as those permitted on the surrounding land.

This is with the exception that the additional land necessary to install parking on-site, which was never fully implemented and therefore did not meet the City's minimum off-street parking requirement ratio of two (2) parking stalls per dwelling unit as outlined in the original site and building plan approval under City Council Resolution No. 86-121 due to the subdivision of the Subject Property and establishment of a mixed PUD under City Council Resolution 92-234, be allowed at a ratio of approximately 1.7 off-street parking spaces per dwelling unit, and the allowance of three additional dwelling units, for a total of 143 dwelling units, be permitted, subject to obtaining separate site and building plan approval.

- c) The proposed internal site organization, circulation, and parking facilities for the as proposed market rate apartments would be improved by providing the additional parking necessary for continued use of the buildings as multi-family residential.

AND WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota did determine that the guidelines for evaluating the Planned Unit Development amendment and site improvements, as contained in Sections 35-230 and 35-355 of the City's Zoning Ordinance, have been met, and the proposal is therefore, in the best interest of the community, subject to the Applicant complying with the identified conditions of approval as noted below.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Brooklyn Center, Minnesota, that Planning Application No. 2018-011, submitted by Lux Apartments, LLC, which requests approval of an amendment to the Planned Unit Development plans and documents of 1992, and would allow for the as proposed parking ratio of approximately 1.7 parking spaces per dwelling unit based upon a total allowance of 143 dwelling units, and a wall sign allowance of up to 350-square feet on the south elevation of the existing eleven-story building on the Subject Property located at 6100 Summit Drive North, may be approved subject to the Applicant submitting a complete building, site plan and wall sign package for formal site and building plan approval by City Council and per the following conditions:

1. **PUD Amendment/Site Improvement Review:** This approval and all plans are subject to final review and approval through the formal submittal of a complete building and site

RESOLUTION NO.

plan package to the City for approval by Planning Commission and City Council. No exterior construction or alteration to the site, including the installation of additional parking, installation of wall signage on the south elevation of the 11-story building, construction of additional units, etc., shall be permitted until the Applicant has received approval for the yet to be submitted site and building plans and issuance of building and/or sign permits.

All requested alterations will need to be approved by City staff with respect to applicable codes prior to the issuance of permits, and fire related building code items shall be reviewed and approved by the Fire Chief.

- a. Any major changes or modifications made to this request can only be made by an amendment to the approved Planned Unit Development plans and documents and as approved by the City Council.
- b. Any exterior improvements to the existing two buildings or additions to the buildings will need to meet the City's Architectural Design Guidelines, which requires that at least 50-percent of each elevation (face) of the buildings be constructed of Class I materials, with the remainder constructed of Class II materials.
- c. The Applicant shall provide written verification to City staff as to whether the historic former Minnesota State Patrol office building (also known as the "Summit Bank Building") is subject to any design considerations as part of state or federal historic society designation prior to performing any interior or exterior work.

2. **Agreements:**

- a. The existing PUD agreement with the City of Brooklyn Center shall be revised to reflect these and any future approvals. This agreement is to be reviewed and approved by the City Attorney prior to the issuance of building permits. The agreement shall further assure compliance with the development plans submitted with this application.
- b. A Performance Agreement with supporting financial guarantee approved by the City shall be executed upon any approval of the to-be submitted complete plan set, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications and standards comprehended under the yet to be approved site and building plans.
- c. The Developer shall submit an as built survey of the property, improvements and utility service lines prior to release of any Performance Agreement financial guarantee.

3. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memo, dated June 25, 2018.

- a. Final grading, drainage, utility and erosion control plans and any other site engineering related issues are subject to review and approval by the City Engineer as part of the yet to be submitted complete building, site plan, and wall signage package for City site and building plan approval

RESOLUTION NO.

and prior to the issuance of permits.

4. **Landscaping:** The Applicant shall provide an updated landscape plan with planting schedule that meets the minimum requirements as identified under the City's Landscape Point System Policy for multi-family residential uses and in consideration of the site requirements identified by the Assistant City Engineer. All landscaped areas shall include approved irrigation systems to facilitate site maintenance.
5. **Lighting:** The Applicant shall provide a lighting plan that identifies all existing and proposed lighting for the parking lots and building. The lighting plan shall include a site-wide photometric plan that is in conformance with the lighting provisions as noted under the City Zoning Ordinance and in consideration of the City's Architectural Design Guidelines. Fixture specifications shall be provided prior to issuance of any building permits.
6. **Signage:** The Applicant shall submit a Sign Permit Application for any proposed signage (e.g., wall, freestanding) as part of the development proposal.
 - a. A wall sign allowance of up to 350-square feet, and to be located on the south elevation of the 11-story building, is approved.
 - a. Approval of said wall sign allowance is subject to the review and approval of detailed sign plans as part of the City's building and site plan review process through Planning Commission and City Council.
 - b. The wall sign on the south elevation of the building is to utilize backlighting (halo-lighting) as a means of illumination and shall be complementary to the architectural styles and building materials used on both buildings on the Subject Property.
 - b. All other signage not approved otherwise is subject to Chapter 34 of the City Code of Ordinances and shall be approved under separate sign permits.

July 9, 2018

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: June 28, 2018

- Application Filed: 05/29/2018
- Review Period (60-day) Deadline: 08/27/2018
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No.2018-011

Applicant: Lux Apartments, LLC

Location: 6100 Summit Drive North (PID: 35-119-21-44-0012)

Request: (1) Amendment to Planned Unit Development plans and documents, and (2) Site Improvements to Allow for the Conversion of a Former Senior Living Facility to Market Rate Apartments

INTRODUCTION

Lux Apartments, LLC (the "Applicant") is requesting review and consideration of an amendment to the 1992 Planned Unit Development (PUD) plans and documents and approval of site improvements that would allow for the improvements necessary to proceed with the conversion of a former senior living facility to market rate apartments (Exhibit A).

As part of the application process, a public hearing notice was published in the Brooklyn Center *Sun Post* on June 14, 2018, and notices were mailed to surrounding property owners (Exhibit B).



Image 1. Subject Property Location (6100 Summit Drive North)

BACKGROUND

City staff met with the Applicant in May 2018 to discuss the Subject Property, known as Earle Brown Terrace, or Earle Brown Commons, and the redevelopment of the senior living facility to market rate apartments. It was then conveyed to City staff that the building was under-occupied and would be closing. It is to staff's understanding that all residents have, as of this report, been relocated out of Earle Brown Terrace senior living facility.

The building is located on approximately 3.3 acres and consists of the historic Minnesota Highway Patrol office building (also known as the "Summit Bank Building") and an 11-story building, constructed in 1987. These buildings are connected via an interior connection and feature a two-level parking ramp. The former senior living facility offered independent and "catered" (assisted) living, dining and other services, including a beauty salon.

As is proposed under Planning Commission Application No. 2018-011, the intent of the Applicant's requests is to determine whether the City will allow the Applicant to convert the existing buildings into market-rate, multi-family residential units at a reduced parking ratio, as the Subject Property was never constructed to the minimum required two (2) parking stalls per dwelling unit necessary for residential uses. Additionally, the Applicant has made requests to permit for an additional wall signage allowance on the south elevation of the existing 11-story building, and allow for three additional units to be constructed in the future.

It should be noted that these approvals will require that the Applicant return to the City for site and building plan approvals. As the Subject Property is still under ownership by OGC Earle Brown, LLC, the Applicant is of the understanding that, should they receive approval from the City of Brooklyn Center Planning Commission and City Council, that they will be required to submit full plan sets detailing drainage, grading, stormwater and erosion control, wall signage plans, and architectural plans for any of the site improvements or exterior construction of additional units as part of Planning Commission application submittal for building and site plan review through the City's Community Development Department. The requests outlined in the attached application and as addressed in the staff report are intended to provide the Applicant the comfort necessary to close on the purchase of the Subject Property.

AMENDMENT TO PLANNED UNIT DEVELOPMENT

In 1986, under Planning Commission Application No. 86007, the Subject Property received plat approval to re-subdivide land surrounding Earle Brown Farm. This land was at that time zoned I-1 (Industrial Park) District and was bounded by Summit and Earle Brown Drives. Planning Commission Application No. 86010, approved by City Council under Resolution No. 86-121, resulted in the re-zoning of approximately 7.1 acres, of which included the Subject Property, from I-1 to R-7 (Multiple Family Residence) District. Approval of site and building plans for an 11-story, 140-unit apartment complex with a brick exterior, one story lounge, and connecting parking ramp were approved under Planning Commission Application No. 86027 on July 17, 1986, by Planning Commission, and on July 28, 1986, by City Council.

This approval was as part of a previously recommended amendment by City Council to the Brooklyn Center Comprehensive Plan "to allow mixed use development, including high-rise, high-density residential development on the land in and around the Earle Brown Farm." The 2030 Brooklyn Center Comprehensive Plan identifies the Subject Property's existing and future use as "MF" or high density multi-family residential.

In 1992, under Planning Commission Application No. 92013, the Subject Property and the property to the south (6001 Earle Brown Drive) were re-zoned from R7 (Multiple Family Residence) District to PUD-Mixed (Exhibit C). This re-zoning was partially in order to help facilitate the development of neighboring 6001 Earle Brown Drive into a senior housing facility, which was to be located in three buildings or “houses.” Today, this property is home to the Ecumen Prairie Lodge.

As part of the PUD approval, staff comments at that time noted that the Earle Brown Commons (Terrace) senior living facility project was, “clearly intended to be a two phase development with the second phase to be another high rise building, attached to the phase one building at the property line. With the proposal of the Evergreens residential care facility (now known as Ecumen Prairie Lodge), phase two of the Earle Brown Commons (Terrace) is being abandoned.”

Building Review

As proposed under this Application, the Applicant would be requesting approval for the addition of three dwelling units, for a total of 143 units. No architectural renderings or construction plans have been received; therefore, the Applicant is aware that any construction of additional units will require the Applicant to submit a separate Planning Commission application for construction of the additional units as part of building and site plan approval. As part of this request, any future units will require that the Applicant follow the Citywide Architectural Design Guidelines, including, but not limited to, a minimum 50% Class I building material ratio and remaining Class II building material ratio on each elevation (face) for any new additions.

Per discussions with Earle Brown Heritage Center (EBHC) Manager Bruce Ballanger, City staff will request that, as part of any approvals under this application, that the Applicant provide verification that the historic former Minnesota Highway Patrol office building (also known as the “Summit Bank Building”) is not subject to any state or federal historic designations. EBHC Manager Ballanger did clarify that, while the Earle Brown Heritage Center carries state historical preservation society designation, he is unsure as to the status of the former Highway Patrol office building located on Summit Drive North. The former Minnesota Highway Patrol office building was previously home to the patrol’s jail, Earle Brown’s office, and a shooting range. It was more recently used as a reception and office area for the Earle Brown Terrace senior living facility.

Given that the original intent was for Earle Brown Commons (Terrace) to be expanded into a second phase, staff is aware that the existing dining room wing and connection between the historic building and 11-story building is set approximately four (4) feet from the property line. This has been acknowledged and there are no plans to expand this wing.

Access and Parking

Construction of the Ecumen Prairie Lodge (6001 Earle Brown Drive) in 1992 resulted in the Subject Property losing the majority of its proof-of-parking spaces, which would have been located on the phase two parcel (now the site of Ecumen Prairie Lodge). As residential units require a minimum of two parking spaces per unit, the Subject Property would have required a total of 280 parking spaces for 140 units. At the time of PUD consideration in 1992, there were 173 parking spaces on-site, including 140 spaces in the two-level parking ramp.

The Applicant has noted in their submittal the presence of 171 parking stalls. The Applicant is requesting to install an additional 73 parking stalls on-site of the Subject Property. Construction of these spaces would provide for a total of 244 parking spaces (approximately 1.7 parking spaces per dwelling unit),

leaving the Subject Property 36 spaces shy of the 280 spaces necessary for the original 140 units, or 42 spaces shy of the minimum 286 spaces necessary for the as requested 143 units. As has been indicated by the Applicant, the addition of parking on site would result in less than one-half acre of increased impervious surface. The total anticipated disturbance would need to be confirmed by the Assistant City Engineer as part of a future building and site plan submittal.

Per the Zoning Code, no parking shall be permitted within 15 feet of the street right-of-way, and this area shall be maintained as a green strip. Installation of the additional parking would result in the encroachment of some new surface parking spaces and a turnaround into the 15-foot green strip area along the south and east entrances to the Subject Property. Although the submitted site plan does not fully detail the extent of encroachment, it appears the existing parking ramp structure already encroaches slightly at three points.

The proposal notes that the minimum required 24-foot wide drive aisles would be achieved for 90-degree two way parking with the exception of the uphill drive to the upper parking ramp, which is noted at 23.2 feet in width. 90-degree parking spaces would need to meet the minimum 8 foot, 8 inch width and 18-foot length requirements per the City's Zoning Code. The Applicant will also need to provide sufficient accessible parking and loading spaces to comply with the 2015 Minnesota Accessibility Code requirements near the main entrances to the buildings.

Landscaping

The project submittal includes a preliminary landscape plan and planting schedule, which would need to be confirmed for compliance with the Landscape Point System Policy and identified recommendations per the Assistant City Engineer at time of site plan submittal. Although City Code does not have any specific requirements on landscaping, the City has operated under and held new and redeveloped areas to complying with the City's adopted Landscape Point System policy, which assigns points to a given site based on the acreage of a development. The point system requires multi-family residential sites to provide a specific amount or number of landscaping units, and is based on the maximum percentage of certain materials (i.e., 50% shade trees; 40% coniferous trees; 35% decorative trees; and 25% shrubs).

As part of the updated building and site plan package submittal for building and site plan approval, the Applicant shall provide an updated landscape plan noting the schedule for the approximately 3.3 acre site. The updated landscape plan should take into account existing plantings as well as any additional requirements per the Assistant City Engineer (below).

Engineering Review

Per Assistant City Engineer Andrew Hogg's memorandum dated June 25, 2018, and his review of the conceptual site plans dated May 29, 2018, approval of the aforementioned requests are subject to the Applicant submitting a complete site plan package for final building and site plan approval, as the submitted grading plan only outlines directional flows (Exhibit D).

The submitted conceptual plans will need to be revised prior to this submittal to reflect required documentation as identified in the Zoning Code under Section 35-230 (*Plan Approval*) and Section 35-235 (*Permit for Land Disturbing Activities*). As part of these conditions, Assistant City Engineer Hogg indicated that pedestrian connections to existing sidewalks and bicycle parking facilities be reflected in the updated site plan package.

Additionally, any stormwater runoff shall be treated on-site, in rain gardens, swales, and any other

water quality Best Management Practices (BMPs) shall include pre-treatment. The proposed run off rates submitted as part of the required site and building plan approval will require that they be equal to or below the existing runoff rates.

Signage

As part of the PUD amendment request, the Applicant has also indicated a desire to install wall signage on the south elevation of the 11-story building. Per Section 34-140.3.C.2 (*Residential Districts*) of the City Sign Ordinance,

- *Multiple family dwelling may have one wall sign per building not to exceed 10 square feet in area.*
- *Cluster developments or complexes in R3 through R7 districts involving not less than 36 dwelling units shall be entitled to one of the following options at each major entrance not to exceed a total of two entrances:*
 - a. *One freestanding sign no greater than 36 square feet in area and extending not more than 10 feet above ground level.*
 - b. *Two identical freestanding signs located at opposite sides of the entrance each not greater than 18 square feet in area and each not more than five feet above ground level.*

As proposed, the Applicant would be requesting an allowance of up to 350-square feet of wall signage on the south elevation of the building (facing towards Highway 100) to be better in line with the wall signage on the neighboring multi-story office buildings and hotel. As an example, the Embassy Suites Hotel (6300 Earle Brown Drive) and surrounding office buildings to the west and east, which possess a C1A zoning designation, are permitted wall signage on each wall, “provided the aggregate area of such signs does not exceed 10-percent of the area of the wall supporting the signs.”

Approval of the requested additional wall sign allowance would be in addition to the standard allowances outlined in Chapter 34 of the City Code (*Sign Ordinance*) and above. As part of any approval of the requested 350-square foot signage allowance, detailed plans noting the location, dimensions, lighting, etc., will need to be provided as part of the building and site plan approval process. As has been discussed with the Applicant, City staff has requested that any approval for the increased sign area include a provision that said wall sign on the south elevation utilize backlighting (halo lighting) and be complementary aesthetically to both buildings located on the Subject Property.

Based on staff findings, staff recommends Planning Commission recommendation of the amendment to the 1992 Planned Unit Development plans and documents to allow for the as proposed parking ratio of approximately 1.7 parking spaces per dwelling unit based upon a total allowance of 143 dwelling units, and a wall sign allowance of up to 350-square feet on the south elevation of the 11-story building, on the Subject Property located at 6100 Summit Drive North, subject to the Applicant submitting a complete building and site plan package for formal site and building plan approval by the City of Brooklyn Center and complying with the Approval Conditions as noted below.

APPROVAL CONDITIONS

Staff recommends the following conditions be attached to any positive recommendation on the approval of the amended 1992 Planned Unit Development plans and documents and aforementioned site improvements to allow for the conversion of a former senior living facility to market rate apartments:

1. **PUD Amendment/Site Improvement Review:** This approval and all plans are subject to final review and approval through the formal submittal of a complete building and site plan package to the City for formal site and building plan approval. No exterior construction or alteration to the site, including the installation of additional parking, installation of wall signage on the south elevation of the 11-story building, construction of additional units, etc., shall be permitted until the Applicant has received approval for the yet to be submitted site and building plans and issuance of building and/or sign permits.

All requested alterations will need to be approved by City staff with respect to applicable codes prior to the issuance of permits, and fire related building code items shall be reviewed and approved by the Fire Chief.

- a. Any major changes or modifications made to this request can only be made by an amendment to the approved Planned Unit Development plans and documents as approved by the City Council.
- b. Any exterior improvements to the existing two buildings or additions to the buildings will need to meet the City's Architectural Design Guidelines, which requires that at least 50-percent of each elevation (face) of the buildings be constructed of Class I materials, with the remainder constructed of Class II materials.
- c. The Applicant shall provide written verification to City staff as to whether the historic former Minnesota State Patrol office building (also known as the "Summit Bank Building") is subject to any design considerations as part of state or federal historic society designation prior to performing any interior or exterior work.

2. **Agreements:**

- a. The existing PUD agreement with the City of Brooklyn Center shall be revised to reflect these and any future approvals. This agreement is to be reviewed and approved by the City Attorney prior to the issuance of building permits. The agreement shall further assure compliance with the development plans submitted with this application.
- b. A Performance Agreement with supporting financial guarantee approved by the City shall be executed upon any approval of the to-be submitted complete building and site plan package, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications and standards comprehended under the yet to be approved site and building plans.
- c. The Developer shall submit an as built survey of the property, improvements and utility service lines prior to release of any Performance Agreement financial guarantee.

3. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memo, dated June 25, 2018 (Exhibit D).

- a. Final grading, drainage, utility and erosion control plans and any other site engineering related issues are subject to review and approval by the City Engineer as part of the yet to be submitted complete building and site plan package for City site and building plan approval and prior to

the issuance of permits.

4. **Landscaping:** The Applicant shall provide an updated landscape plan with planting schedule that meets the minimum requirements as identified under the City's Landscape Point System Policy for multi-family residential uses and in consideration of the site requirements identified by the Assistant City Engineer. All landscaped areas shall include approved irrigation systems to facilitate site maintenance.
5. **Lighting:** The Applicant shall provide a lighting plan that identifies all existing and proposed lighting for the parking lots and building. The lighting plan shall include a site-wide photometric plan that is in conformance with the lighting provisions as noted under the City Zoning Ordinance and in consideration of the City's Architectural Design Guidelines. Fixture specifications shall be provided prior to issuance of any building permits.
6. **Signage:** The Applicant shall submit a Sign Permit Application for any proposed signage (e.g., wall, freestanding) as part of the development proposal.
 - a. One wall sign allowance of up to 350-square feet, and to be located on the south elevation of the 11-story building is approved.
 - a. Approval of said wall sign is subject to the review and approval of detailed sign plans as part of the City's building and site plan review process through Planning Commission and City Council.
 - b. The wall sign on the south elevation of the building is to utilize backlighting (halo-lighting) as a means of illumination and shall be complementary to the architectural styles and building materials used on both buildings on the Subject Property.
 - b. All other signage not approved otherwise is subject to Chapter 34 of the City Code of Ordinances and shall be approved under separate sign permits.

RECOMMENDATION

Based on the above-noted findings, staff recommends the Planning Commission recommends:

The Planning Commission recommends City Council approval of the requested amendment to the 1992 Planned Unit Development plans and documents for the Subject Property located at 6100 Summit Drive North, subject to the Applicant submitting a Planning Commission application for building and site plan approval and a complete building, site plan, and wall sign package for review and approval by the City of Brooklyn Center and complying with the Approval Conditions as noted above.

Future approval of a building and site plan for the Subject Property would allow for the as proposed parking ratio of approximately 1.7 parking spaces per dwelling unit based upon a total allowance of 143 dwelling units, and a wall sign allowance of up to 350-square feet on the south elevation of the 11-story building.

Should the Planning Commission accept these recommendations, the Commission may elect to adopt the resolution to be provided prior to the scheduled Planning Commission meeting on June 28, 2018.

Attachments

Exhibit A- City Submittal for 6100 Summit Drive North by Lux Apartments, LLC, and CivilSite Group dated May 29, 2018.

Exhibit B- Public Hearing Notice for 6100 Summit Drive North, published by Brooklyn Center *Sun Post*, dated June 14, 2018.

Exhibit C- Planning Commission Application No. 92013 Planning Commission Information Sheet, dated September 17, 1992.

Exhibit D- Review Memo, prepared by Assistant City Engineer Andrew Hogg, dated June 25, 2018.



Planning Application

City Use

Date Received: _____

Date Application Complete: _____

Letter of Completeness: _____

Application No. _____

A preliminary meeting with the Planning and/or Engineering Staff is required prior to the submission of a Planning Application. No application will be accepted prior to such meeting. City Staff shall have five (5) business days to review applications for completeness. The 60-day statutory review period does not begin until staff determines the application is complete.

Application Request
(Mark all that Apply)

☒	Site & Building Plan (\$750)	☐	Planned Unit Development (\$1800)	☐	Subdivision Approval (\$300)
☐	Rezoning (\$1050)	☒	PUD Amendment (\$700)	☐	Appeal (\$200)
☐	Variance (\$200)	☐	Special Use Permit (\$200)	☐	Determination (\$200)

Applicant Information:

Name: Lux Apartments, LLC Signature: [Signature]
 Address: 6401 Camden Ave. N. Brooklyn Center MN 55430
 Office Phone: 763-746-4020 Cell: 952-221-2723
 Email: Eric@SASapartments.com FAX: 763-561-8017

Owner Information* (if different from Applicant):

Name: OGC Earle Brown, LLC Signature: [Signature]
 Address: 2177 Youngman Ave St Paul MN 55116
 Office Phone: 651-332-8502 Cell: 612 889 0292
 Email: jw@hcs.coakgrovers.com FAX: —

The fee title owner of the property must sign this Application to make it official

Please provide a general description of your Application Request: _____

See attached

Address/Location of Property: 6100 Summit Dr. N. Brooklyn Center, MN 55430

Legal Description of Property: Registered land survey No. 1603 Hennepin County MN Tract A PFD 35-119-21-44-0012

The applicant requests processing of this application and agrees to pay to the City of Brooklyn Center, within fifteen (15) days after mailing or delivery of the billing statement, the actual costs incurred by the City for Engineering, Planning and Legal expenses reasonably and necessarily required by the City for the processing of the application. Such costs will be in addition to the application fee described herein. Withdrawal of the application will not relieve the applicant of the obligation to pay costs incurred prior to withdrawal.

Application Fee \$ _____ Acct No. 10100-4403 Receipt No. _____

Planning Commission Recommendation

Dates of PC Consideration	Legal Notice Published	Notices Mailed	Action Taken	Approved Resolution No.

____ Approved ____ Denied this _____ day of _____ 20 _____,
subject to the following conditions:

Chairman

City Council Action

Dates of Council Consideration	Legal Notice Published	Notices Mailed	Action Taken	Approved Resolution No.	Performance Bond Received

____ Approved ____ Denied this _____ day of _____ 20 _____,
with the following amendment:

Clerk/Planning Commission Secretary

PUD Amendment proposal for 6100 Summit Drive North, Brooklyn Center, MN :

Would like to amend the PUD for Earle Brown Terrace to successfully redevelop the site into market rate apartments which was the original purpose of that property. In order to successfully position this property as market rate apartments we request the PUD be amended in the following ways:

- 1) Memorialize zoning as a market rate multifamily property allowed for 143 units. Which includes construction of three additional units potentially to be created at a later date subject to applicable permits and approvals. There are no current plans for the construction of those units.
- 2) Allow for a larger sign allowance for visibility along highway 100/694 and along Brooklyn Blvd. Signage would be consistent with surrounding properties including Embassy Suites and the neighboring office properties. We request an additional signage allowance of up to 350 sq. ft. in addition to the standard entrance sign allowances subject to applicable permits and approvals.
- 3) Amend parking requirements to 244 to satisfy actual resident need while preserving aesthetic appeal from highway 100/694.

• wall signage
• elevation / box noting where (similar examples)
- where L halo, neon, backboard)

Parking:

We request approval for construction of an additional 73 surface parking spaces to be deemed adequate to provide off street parking for residents of a market rate apartment building. All constructed parking areas will include landscape features, screening and/or fencing consistent with the surrounding area.

We believe this amount is adequate at a 1:1.7 ratio and serves our residents and their guests effectively.

Our internal parking study of three of our similar properties with no garages located in Brooklyn Center, St. Louis Park, and Hopkins, all inner-ring suburbs of Minneapolis, clearly identify parking requirements to adequately serve our residents.

Property one: Hopkins; 150 one bedroom units. Survey conducted at 1:14 AM when most residents are home indicated 172 vehicles parked for 150 one bedroom units.

A 1.14 ratio on a per unit and per bedroom basis.

Property two: St. Louis Park; 120 units, approximately 70 one bedrooms and 50 two bedroom units. Close in unit mix to the subject property. Survey conducted at 1:57 AM 142 cars parked in the lot.

A 1.18 ratio on a per unit basis

A .83 ratio on a per bedroom basis

Property three: Brooklyn Center; 72 units, approximately 24 one bedroom units and 48 two bedroom units. A higher percentage of two bedrooms than the subject property. Survey conducted at 2:30 AM. 123 vehicles for 72 units.

A 1.71 ratio on a per unit basis

A 1.025 ratio on a per bedroom basis.

Subject property: 143 units, approximately 83 one bedrooms, 58 two bedrooms and 2 studios. Proposed parking of 244 spaces.

A 1.7 ratio on a per unit basis

A 1.21 ratio on a per bedroom basis.

The subject property is also in close proximity to public transportation as well as surrounding office buildings that have substantial parking spaces available, specifically in evening hours when businesses are closed. Preliminary discussions have been made regarding these properties and use agreements for our residents and their guests for additional parking availability if needed.

Similarly located cities on proximity to Minneapolis have determined that adequate parking for multifamily can be based on a per bedroom basis, such as St. Louis Park:

Multi-family	One space per bedroom. 10% of the required parking shall be permitted for use as guest parking. Multi-family residential developments shall not be eligible for a transit or Planned Unit Development reduction in required parking.
--------------	--

<https://www.stlouispark.org/business/zoning-code-241>

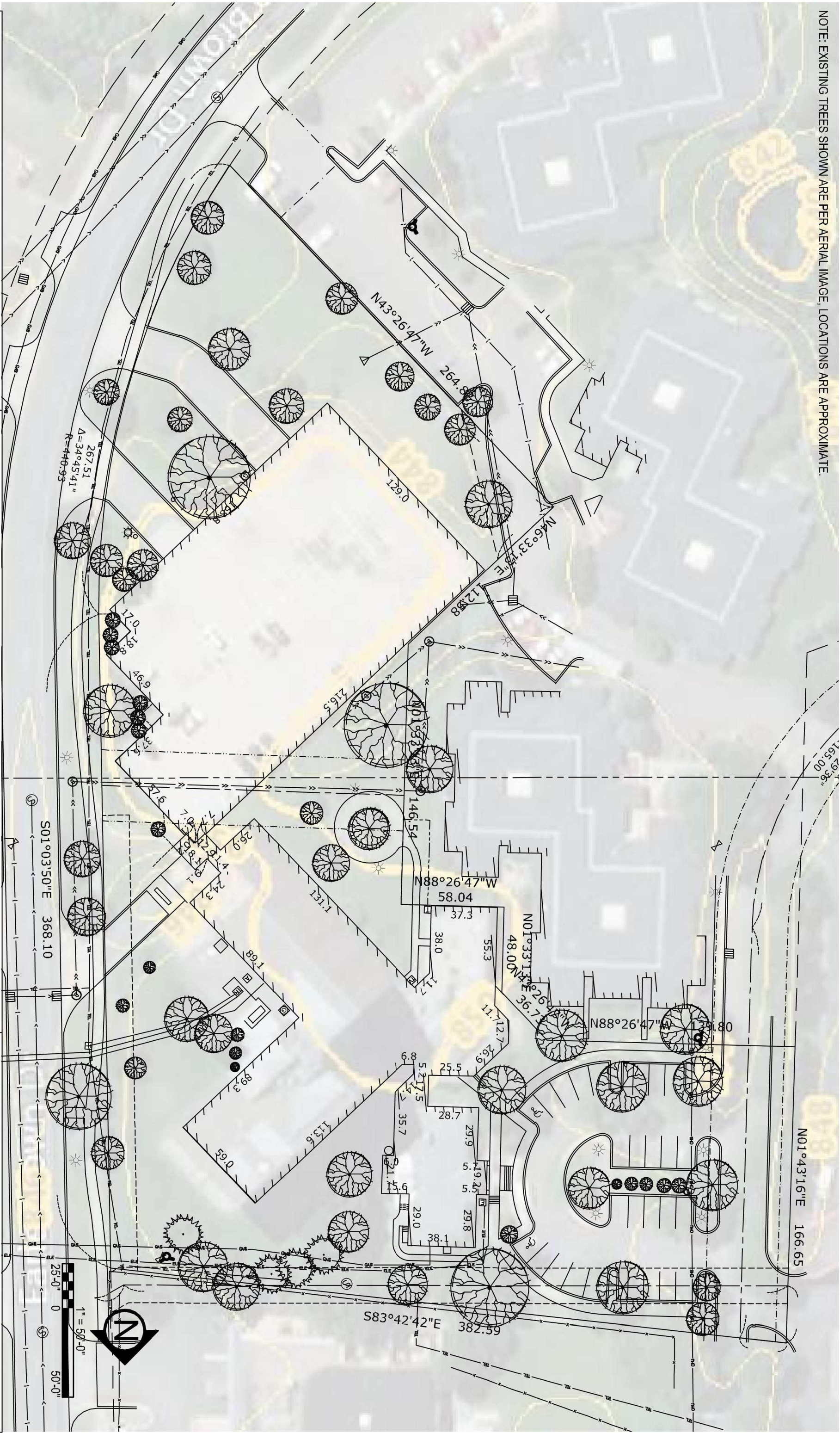
Richfield has a similar guideline as Brooklyn Center with qualifying language highlighted below:

Subd. 2. Minimum parking. Two off-street parking spaces shall be provided for each dwelling unit. The Council, at its discretion, may reduce the minimum required parking to not less than 1.25 parking spaces per unit for multifamily structures with ten (10) or more units, after consideration of factors including but not limited to the present or future availability of transit services, shared parking, pedestrian orientation, and occupancy characteristics. In addition, the Council may further reduce the parking requirement for senior housing complexes. (Amended, Bill No. 2011-19)

https://library.municode.com/mn/richfield/codes/code_of_ordinances?nodeId=APXBRIZOCO_S527HINSREDIMR_527.11DIPAREMUMIST

The proposed parking at the subject property surpasses the per bedroom basis of similar properties in our portfolio in similar locations and is on the high end on a per unit basis. Based on reasonable discretion and the availability of shared parking and public transportation we are confident that the proposed 244 parking spaces will adequately serve future residents at the property.

NOTE: EXISTING TREES SHOWN ARE PER AERIAL IMAGE, LOCATIONS ARE APPROXIMATE.



6100 SUMMIT DRIVE, BROOKLYN CENTER, MN 55430

CivilSite
G R O U P

4831 W. 35TH ST., #200
ST. LOUIS PARK, MN 55416
952.250.2003 / 763.213.394
www.CivilSiteGroup.com

Project Number: 18165
Issue Date: 05/29/18

Revision Number:
Revision Date:

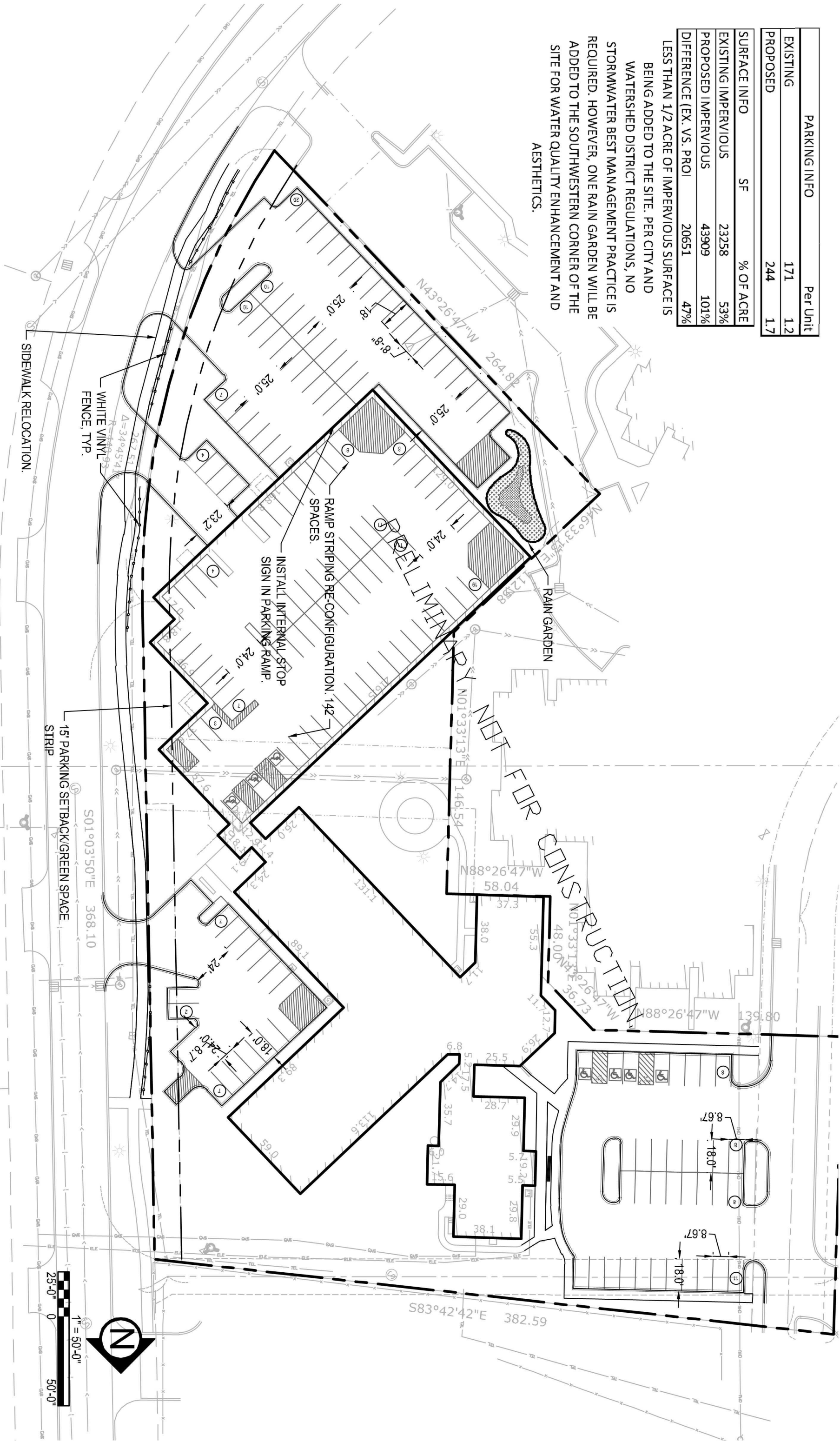
EXISTING CONDITIONS

C0.0

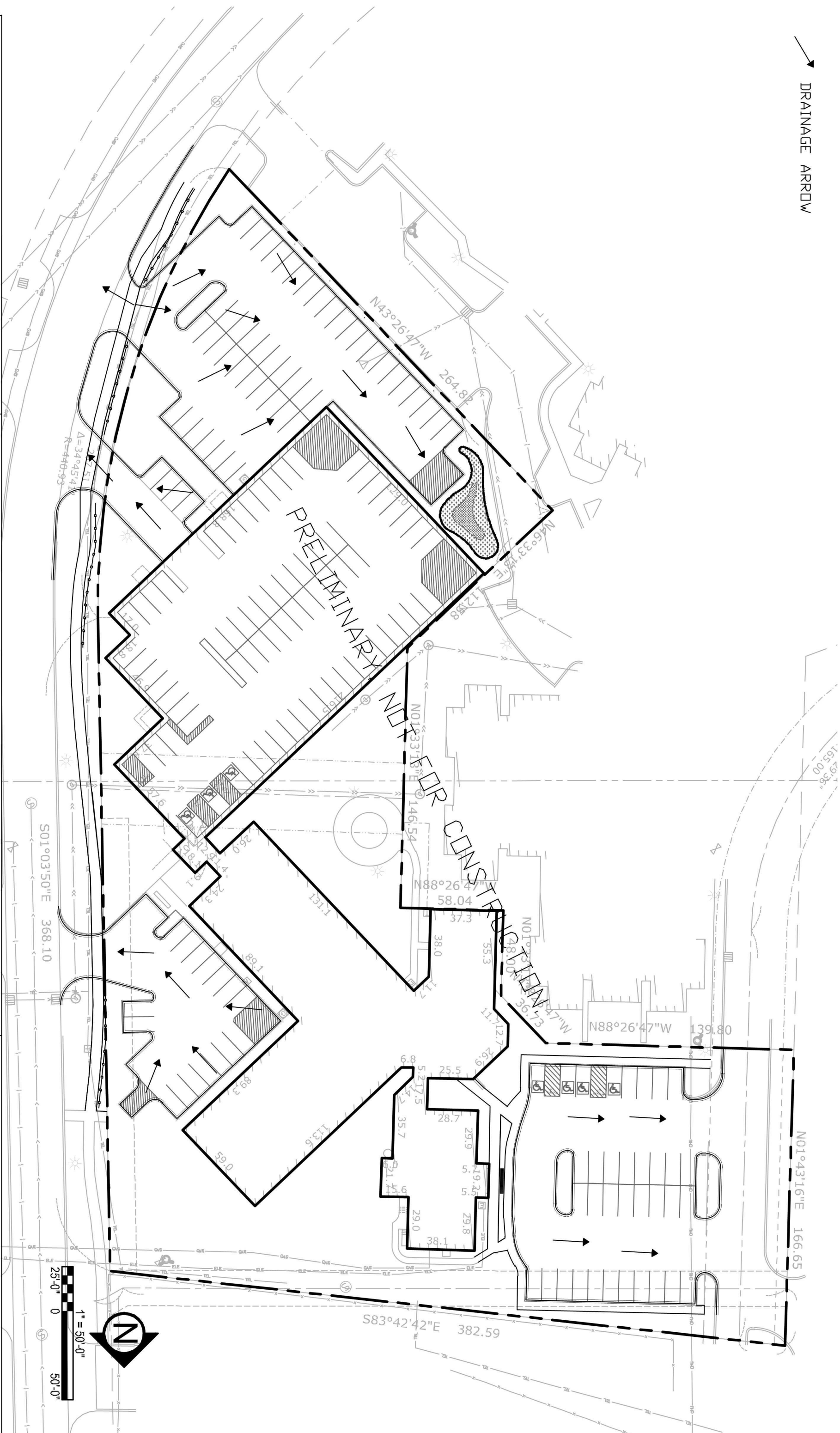
PARKING INFO		Per Unit	
EXISTING		171	1.2
PROPOSED		244	1.7

SURFACE INFO	SF	% OF ACRE
EXISTING IMPERVIOUS	23258	53%
PROPOSED IMPERVIOUS	43909	101%
DIFFERENCE (EX. VS. PRO)	20651	47%

LESS THAN 1/2 ACRE OF IMPERVIOUS SURFACE IS BEING ADDED TO THE SITE. PER CITY AND WATERSHED DISTRICT REGULATIONS, NO STORMWATER BEST MANAGEMENT PRACTICE IS REQUIRED. HOWEVER, ONE RAIN GARDEN WILL BE ADDED TO THE SOUTHWESTERN CORNER OF THE SITE FOR WATER QUALITY ENHANCEMENT AND AESTHETICS.



DRAINAGE ARROW



6100 SUMMIT DRIVE, BROOKLYN CENTER, MN 55430

Civisite
G R O U P

4931 W. 35TH ST., #200
ST. LOUIS PARK, MN 55416
952.250.2003 / 763.213.394
www.CivilSiteGroup.com

Project Number:
Issue Date:

18165
05/25/18

Revision Number:
Revision Date:

GRADING PLAN

C2.0

COMMENTS	
SITE AREA (SF)	142,095
SITE AREA (ACRE)	3.3
MULTIFAMILY DEVELOPMENT 2 ACRES @ 90 PTS PER ACRE & 1.3 ACRES @ 75 POINTS PER ACRE	
POINTS REQUIRED	278 ACRES @ 75 POINTS PER ACRE

PLANTING TYPE	MINIMUM SIZE	POINTS PER PLANTING	PLANTINGS	TYPE POINTS	% OF POINTS	MAX % OF POINTS	COMMENTS
SHADE TREES (DECIDUIOUS, MAPLE, LINDEN, ASH, OAK, LOCUST, ETC.)	2.5" DIAMETER	10	16	160	50%	50%	AMOUNT OF EACH SPECIES TBD, ALL PLANTINGS TO MEET MINIMUM SIZE REQUIREMENT
CONIFEROUS TREES (PINE, SPRUCE, CEDAR)	5' HEIGHT	6	10	60	19%	40%	AMOUNT OF EACH SPECIES TBD, ALL PLANTINGS TO MEET MINIMUM SIZE REQUIREMENT
DECORATIVE TREES (RUSSIAN OLIVES, RADIANT CRAB, CANADA RED CHERRY, ETC.)	1" DIAMETER	1.5	14	21	7%	35%	AMOUNT OF EACH SPECIES TBD, ALL PLANTINGS TO MEET MINIMUM SIZE REQUIREMENT
SHRUBS (DOGWOOD, SPIREA, MOCKORANGE, JUNIPER, ARBORVITAE, ETC.)	12" DIAMETER	0.5	161	80.5	25%	25%	AMOUNT OF EACH SPECIES TBD, ALL PLANTINGS TO MEET MINIMUM SIZE REQUIREMENT
NEW PLANTINGS TOTAL		321.5					
Meets requirement?		YES					
NOTES:							
1. An existing tree survey has not been completed for this property. This table shows new plantings only.							
2. Plan is preliminary and not for construction.							

PLANT SCHEDULE - ENTIRE SITE

SYM	QUANT.	COMMON NAME	BOTANICAL NAME	SIZE	ROOT	COMMENTS
DECIDUOUS TREES						
PE	7	PRINCETON ELM	Ulmus americana 'Princeton'	2.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
SHL	8	SKYLINE HONEYLOCUST	Gleditsia triacanthos 'Skycole'	2.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
SWO	3	Swamp White Oak	Quercus bicolor	2.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
ORNAMENTAL TREES						
SFC	16	SPRING SNOW FLOWERING CRAB	Malus 'Spring Snow'	1.5" CAL.	B&B	STRAIGHT LEADER, FULL FORM
EVERGREEN TREES						
BHS	5	BLACK HILLS SPRUCE	Picea glauca 'Densata'	6' ht.	B&B	STRAIGHT LEADER, FULL FORM
CBS	5	COLORADO SPRUCE	Picea pungens	6' ht.	B&B	STRAIGHT LEADER, FULL FORM
SHRUBS - CONIFEROUS & EVERGREEN						
NCB	6	NORTHERN CHARM BOXWOOD	Buxus 'Wilson'	24" HT.	CONT.	
CAC	35	COMPACT AMERICAN CRANBERRY	Viburnum trilobum 'Bailey Compact'	24" HT.	CONT.	
TGA	16	TECHNY GLOBE ARBORVITAE	Thuja occidentalis 'Techny Globe'	24" HT.	CONT.	
AFD	17	ARTIC FIRE DOGWOOD	Cornus sericea 'Farrow'	24" HT.	CONT.	
TY	33	TAUNTONS YEW	Taxus x media 'Tauntonii'	24" HT.	CONT.	
PERENNIALS & GRASSES						
KFG	143	KARL FOERSTER GRASS	Calamagrostis x acutiflora "Karl Foerster"	#1	CONT.	
MFG	198	MEXICAN FEATHER GRASS	Stipa tenuissima 'Pony Tails'	#1	CONT.	

LANDSCAPE NOTES:

- WHERE SHOWN, SHRUB & PERENNIAL BEDS SHALL BE MULCHED WITH 4" DEPTH (MINIMUM AFTER INSTALLATION AND/OR TOP DRESSING OPERATIONS) OF SHREDED CYPRESS MULCH.
- ALL TREES SHALL BE MULCHED WITH SHREDED CYPRESS MULCH TO OUTER EDGE OF SAUCER OR TO EDGE OF PLANTING BED, IF APPLICABLE. ALL MULCH SHALL BE KEPT WITHIN A MINIMUM OF 2" FROM TREE TRUNK.
- IF SHOWN ON PLAN, RANDOM SIZED LIMESTONE BOULDERS COLOR AND SIZE TO COMPLIMENT NEW LANDSCAPING. OWNER TO APPROVE BOULDER SAMPLES PRIOR TO INSTALLATION.
- PLANT MATERIALS SHALL CONFORM WITH THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND SHALL BE OF HARDY STOCK, FREE FROM DISEASE, DAMAGE AND DISFIGURATION. CONTRACTOR IS RESPONSIBLE FOR MAINTAINING PLUMPNESS OF PLANT MATERIAL FOR DURATION OF ACCEPTANCE PERIOD.
- UPON DISCOVERY OF A DISCREPANCY BETWEEN THE QUANTITY OF PLANTS SHOWN ON THE SCHEDULE AND THE QUANTITY SHOWN ON THE PLAN, THE PLAN SHALL GOVERN.
- CONDITION OF VEGETATION SHALL BE MONITORED BY THE LANDSCAPE ARCHITECT THROUGHOUT THE DURATION OF THE CONTRACT. LANDSCAPE MATERIALS PART OF THE CONTRACT SHALL BE WARRANTED FOR ONE (1) FULL GROWING SEASONS FROM SUBSTANTIAL COMPLETION DATE.
- ALL AREAS DISTURBED BY CONSTRUCTION ACTIVITIES SHALL RECEIVE 4" LAYER TOPSOIL LOAM AND SOD AS SPECIFIED UNLESS OTHERWISE NOTED ON THE DRAWINGS.
- COORDINATE LOCATION OF VEGETATION WITH UNDERGROUND AND OVERHEAD UTILITIES, LIGHTING FIXTURES, DOORS AND WINDOWS. CONTRACTOR SHALL STAKE IN THE FIELD FINAL LOCATION OF TREES AND SHRUBS FOR REVIEW AND APPROVAL BY THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
- ALL PLANT MATERIALS SHALL BE WATERED AND MAINTAINED UNTIL ACCEPTANCE.
- REPAIR AT NO COST TO OWNER ALL DAMAGE RESULTING FROM LANDSCAPE CONTRACTOR'S ACTIVITIES.
- SWEEP AND MAINTAIN ALL PAVED SURFACES FREE OF DEBRIS GENERATED FROM LANDSCAPE CONTRACTOR'S ACTIVITIES.
- REPAIR AT NO COST TO THE OWNER IRRIGATION SYSTEM DAMAGED FROM LANDSCAPE CONSTRUCTION ACTIVITIES.
- PROVIDE SITE WIDE IRRIGATION SYSTEM DESIGN AND INSTALLATION. SYSTEM SHALL BE FULLY PROGRAMMABLE AND CAPABLE OF ALTERNATE DATE WATERING. THE SYSTEM SHALL PROVIDE HEAD TO HEAD OR DRIP COVERAGE AND BE CAPABLE OF DELIVERING ONE INCH OF PRECIPITATION PER WEEK. SYSTEM SHALL EXTEND INTO THE PUBLIC RIGHT-OF-WAY TO THE EDGE OF PAVEMENT/BACK OF CURB.
- CONTRACTOR SHALL SECURE APPROVAL OF PROPOSED IRRIGATION SYSTEM INLCUDING PRICING FROM OWNER, PRIOR TO INSTALLATION.

PLANNING COMMISSION INFORMATION SHEET

Application No. 92013

Applicant: Evergreen Development Group

Location: Earle Brown Drive (east leg) and Summit Drive

Request: Rezoning/Site and Building Plan - PUD/Mixed Use

The applicant requests rezoning and site and building plan approval for a mixed use planned unit development on the two R7 zoned parcels of land at the northeast quadrant of the intersection of Summit Drive and the east leg of Earle Brown Drive. One of these parcels contains the Earle Brown Commons apartment building. The other parcel is presently vacant and is the subject of an assisted living senior housing facility to be contained in three one story buildings or "houses", each containing approximately 30 residents. The property is bounded on the north by the Earle Brown Heritage Center, on the east and south by Earle Brown Drive, on the southwest by Summit Drive, and on the west by Brookdale Corporate Center III office building. The applicant's representative, Mr. Janis Blumentals, has submitted arguments relating to the Guidelines for Evaluating Rezoning and development plans for the three building complex. In addition, the owner/operators of The Evergreens at Earle Brown Farm have submitted a three page description of their operation and the facility. (These written materials are attached for the Commission's review.) We will proceed first with a review of the rezoning issue.

Rezoning

A Planned Unit Development/Mixed Use zoning designation of the property constitutes a rezoning of the property from its present R7 designation. As such, it is subject to the rezoning evaluation policy and review guidelines contained in Section 35-208 of the City's Zoning Ordinance (attached). A review of those guidelines, the applicant's arguments, and staff response follow:

a) Is there a clear and public need or benefit?

Applicant: "The proposed use for this site is a Residential Care Facility. The best building type for this use is one story smaller buildings that do not require any stairs or elevators and at the same time give that intimate, residential surroundings for the tenants. As one story buildings are not permitted in R-7 zone this rezoning is required.

"There is a public need for such a residential care because this delays or eliminates the need for expensive nursing home care in many cases."

Staff: The R7 zoning district allows two and one-half through five story apartments as a permitted use, provided they are part of an integral development with high rise buildings permitted in the R7 zone. This one story development of assisted housing is not

comprehended. We would agree that such a facility will meet a public need and will nicely complement the elderly housing available in the Earle Brown Commons high rise.

b) Is the proposed zoning consistent with and compatible with surrounding land use classifications?

Applicant: "As we are talking about rezoning to PUD, we have to talk about the proposed use and not about the proposed zoning.

"This part of the City is a mixed use area:
The site is located next to senior housing and beyond this housing is Earle Brown Heritage Center. Across the streets are office buildings, child care, medical clinic and retail. With the senior housing, medical clinic and Earle Brown Farm, this site is very compatible for residential care use."

Staff: The land use of an assisted living facility for elderly residents in addition to the existing high rise elderly housing at the Earle Brown Commons is compatible, both visually and in terms of activity levels, with the Heritage Center, high and low rise office buildings, and retail centers nearby. This is an area of mixed land uses, not of "consistent" uses. The residential uses might be more consistent with the park west of Shingle Creek Parkway, but it can probably survive here. Visually, the Evergreens building treatments will be very consistent with the Earle Brown Heritage Center to the north.

c) Can all permitted uses in the proposed zoning district be contemplated for development of the subject property?

Applicant: "As the proposed zone is PUD, the basis for rezoning to PUD in this case will be only one specific use - residential care."

Staff: It may be appropriate to point out at this time that Planned Unit Developments are only to be approved in areas designated in the City's Comprehensive Plan for redevelopment. That is not the case in this instance. The proposed use is not a redevelopment and, now that the Farm has been renovated, there is little prospect for redevelopment in this area. We have discussed with the City Attorney whether the existing ordinance provision is mandatory or whether it can be amended. He has indicated that the limitation to an area designated for redevelopment is not mandatory, but may have been intended to limit the applicability of PUDs. He has advised that a provision requiring planned unit developments to simply be consistent with the Comprehensive Plan may be as effective in controlling the application of the PUD option, without limiting it to areas of redevelopment. We would recommend consideration of an ordinance amendment to this effect, concurrent with consideration of this PUD proposal.

- d) Has there been substantial physical or zoning classification changes in the area since the subject property was zoned?

Applicant: "There has not been any physical or zoning changes and this proposed use should be considered as a complementary use that will complete the Earle Brown Farm homestead."

Staff: Two changes have occurred. The Earle Brown Farm has been renovated into the Heritage Center and the area containing mostly high rise office buildings south of the freeway has been rezoned from I-1 to C-1A. Neither of these changes has so changed the area as to make elderly housing or a residential care facility less compatible than before.

- e) In the case of City-initiated rezoning proposals, is there a broad public purpose evident?

Applicant: "Not applicable."

Staff: Not applicable.

- f) Will the subject property bear fully the ordinance development restrictions for the proposed zoning district?

Applicant: "The purpose of PUD district is to promote flexibility in land development and redevelopment, preserve aesthetically significant and environmentally sensitive site features, conserve energy and ensure a high quality of design.

"The proposed use together with the proposed site development fulfills the purpose of PUD district as outlined in the Zoning Ordinance and quoted above."

Staff: An ordinance compliance issue presented by the proposed PUD is the resulting setback of the one story congregate dining wing of the Earle Brown Commons. The building is presently on the south property line and 4' from the west property line. These substandard setbacks (20' is the minimum side yard setback in the R7 zoning district) reflect the fact that when the Earle Brown Commons was proposed, it was intended to be a two phase development with the second phase to be another high rise building, attached to the phase one building at the property line. With the proposal of the Evergreens residential care facility, phase two of the Earle Brown Commons is being abandoned. One of the elements of the Planned Unit Development agreement is to acknowledge the substandard setback of the Earle Brown Commons building and, thus, that property is included in the rezoning proposal. Under the Building Code, no openings may be allowed in the Commons building less than 3' from the property line and no windows may be allowed less than 20' from the property line. The development agreement

with the Commons will, therefore, have to be amended to require building modifications to close the existing windows on the south and west walls of the congregate dining area in the Commons building before issuance of permits for the Evergreens project.

- g) Is the subject property generally unsuited for uses permitted in the present zoning district, with respect to size, configuration, topography or location?

Applicant: "This site is suited for any multi residential use but R-7 zone restricts the use and eliminates the use of one story buildings. This proposed rezoning will just expand the use of this site by allowing one story buildings."

Staff: A master plan for this area was approved when the property was originally rezoned to R-7. Completion of the master plan would be an acceptable alternative for the vacant parcel. However, that is unlikely to occur in the near future. The present proposal fits the area, functionally and aesthetically, but is not contemplated in the R-7 district. Thus, the requested PUD designation to allow for a mixture of uses.

- h) Will the rezoning result in the expansion of a zoning district, warranted by: 1) Comprehensive Planning; 2) the lack of developable land in the proposed zoning district; or 3) the best interests of the community?

Applicant: "1. This change in zoning from R-7 to PUD will not change the comprehensive plan in any way but will just expand the residential use as described in previous items.

"2. Not applicable.

"3. It is in the best interest to the community to have a residential care facility - see next item."

Staff: The Comprehensive Plan recommends for this and the surrounding area: "Mixed Use Development (Including High-Density, High-Rise Residential, Service/Office and General Commerce)." Although the specific type of residential care facility proposed is not explicitly listed as one of the "mixed" uses, the general direction to allow mixed uses is clear. The proposed residential care use, in proximity to the high rise elderly housing of the Earle Brown Commons, is an appropriate mix of uses generally envisioned by the Comprehensive Plan. We agree that a residential care facility is in the best interests of the community. Brooklyn Center's population, like that of many first ring suburbs, is growing older and there is an increasing need for this type of assisted housing.

- i) Does the proposal demonstrate merit beyond the interests of an owner or owners of an individual parcel?

Applicant: "1. It is in the best interest of the City and the public in general to have a residential care facility because there is a need for such a residential care. This type of residential care will reduce the need for high cost medical care in a nursing home or at an individual's home by means of expensive home care.

"2. The design of the proposed development will complement the design of the Earle Brown Heritage Center and will complete the Earle Brown Farm Development."

Staff: We agree. Insofar as the proposal is in the best interests of the community, it demonstrates merit beyond the interests of the property owner. As noted above, we believe the residential care facility will meet a need for assisted living housing for this community and the surrounding area.

In general, we believe that the proposed development is in keeping with its surroundings and that the requested zoning designation is consistent with the City's Comprehensive Plan. A review of the proposed development plans follows.

Site and Building Plan Proposal

Access/Parking

The proposed plan calls for three accesses to the site, two off Earle Brown Drive and one off a shared access drive serving the Earle Brown Commons, the Heritage Center, and Brookdale Corporate Center III. All three driveways are 24' wide. There is a driveway which traverses the site from the common access drive to Earle Brown Drive with parking off it. Total parking provided comes to 59 stalls. Residents will not have cars. Therefore, parking is basically for staff and visitors. The closest applicable formula, we feel, is the nursing home formula of one space per four beds and one space per two employees on the maximum shift. This formula results in a parking requirement of 22.5 stalls for the beds and 7.5 stalls for staff for a total of 30. The plan, therefore, is in compliance.

The major parking issue presented by the plan is the loss of proof-of-parking spaces for Earle Brown Commons which were located on the phase two parcel. The Earle Brown Commons is required to have (or to have land for) 280 parking stalls at two per dwelling unit. That site presently has approximately 173 spaces, including 140 in a two level ramp. The proposed plan documents a proof-of-parking of 25 additional stalls. Thus, the total parking available to the Commons is approximately 198 stalls, 82 short of what is required for the complex. If another level were built on the ramp, approximately 70 stalls could be added. If the ramp were also enlarged, perhaps the 82 additional stalls could be provided. Approval of the PUD, should be subject to a condition that the owner of the Commons amend the development agreement with the City to require the installation of the required additional stalls at

such time as it ceases to be an elderly housing complex.

Landscaping

The landscape plan provides for a mixture of trees and shrubs with a point value of 336.5 landscape points. The point requirement is 320.5 points for a 3.873 acre site. Plantings include 26 shade trees (7 existing), 17 Spruce trees, 11 ornamental trees, and 136 shrubs of various types. The plan also notes a number of existing boulevard trees along both Earle Brown Drive and Summit Drive and along the common access drive. Shade trees include Sapporo Autumn Gold Elm(2), River Birch(2), Sugar Maple(3), Pin Oak(4), Greenspire Linden(7), and Niobe Weeping Willow(1). The landscape plan calls for six 6" diameter shade trees. Section 35-411 of the Zoning Ordinance requires one six inch diameter tree per 14 beds in nursing homes. That works out to 6.5 such trees. We recommend that the plan be revised to add one additional 6" diameter tree. All nonpaved areas shall be sodded and underground irrigation will be provided to the street curb.

Grading/Drainage/Utilities

The drainage plan calls for the existing holding pond on the site to be relocated southward into an area between Houses One and Two, near Summit Drive. Beyond the normal limits of the pond will be a much larger depressed area that will accommodate drainage during a flood event. Two storm sewer lines will feed into the pond. An outlet will convey overflow to City storm sewer in Summit Drive. There will always be water in the holding pond. One flaw in the plan is the proximity of the outlet and one of the inlets to the pond. The City Engineer has indicated that the Watershed District probably will not accept such an arrangement since it will not provide for adequate water treatment in the pond.

House Three will be placed over the present location of two utility lines. An active storm sewer line will be rerouted around the south side of the building. An abandoned sanitary sewer line will be removed beneath the building pad. An 8" water line will loop between a line in the common access drive and a main in Earle Brown Drive, with 6" combined fire and domestic lines to each of the three buildings. Two hydrants are to be installed. A manhole must be provided for each sanitary sewer service.

Buildings

Each building will be identical with 15 rooms for residents' quarters, two central lounge-dining rooms with atriums, a kitchen, laundry, beauty shop and tub room. Proceeding from the entry foyer, residents will proceed through a mirrored gallery to a central rotunda. From there, they can go either left or right into one of the lounge/dining rooms. Off these central rooms, short hallways with skylights lead to the individual rooms. The exterior of the buildings will be prefinished steel siding, red in color to match the treatment on the Earle Brown Heritage Center. The trim will be white, also matching the treatment at the Heritage Center.

The roof structure will be a mixture of hip design around the outside and flat with a parapet wall around the center. The buildings will all be fire sprinklered. The plan provides sidewalk access from parking areas to each of the buildings and a sidewalk between Houses One and Two leading to a wood bridge and overlook at the pond.

Lighting/Trash

The site plan calls for 11 decorative traditional pole lights, 10' high, similar to the existing low pole lights for the Earle Brown Heritage Center. Each building will have a separate trash enclosure off the parking lot, approximately 8' x 8' in size.

Conclusion

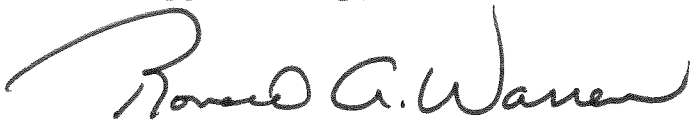
In conclusion, we believe that the proposal has merit and that the plans are generally in order. A draft resolution recommending approval is attached for the Commission's consideration. Generally, rezonings are referred to a neighborhood advisory group. In this case, the Planning Commission is the advisory group for the central commercial/industrial area of town. A public hearing has been scheduled and notices have been sent.

Submitted by,



Gary Shallcross
Planner

Approved by,



Ronald Warren
Director of Planning and Inspections

Member Philip Cohen introduced the following resolution and moved its adoption:

RESOLUTION NO. 92-234

RESOLUTION REGARDING DISPOSITION OF APPLICATION NO. 92013
SUBMITTED BY EVERGREEN DEVELOPMENT GROUP

WHEREAS, Application No. 92013 submitted by Evergreen Development Group proposes rezoning from R7 (Multiple Family) to Planned Unit Development/MIXED the two R7 parcels totalling 7.135 acres at the intersection of Summit Drive and the east leg of Earle Brown Drive; and

WHEREAS, the Planning Commission held a duly called public hearing on September 17, 1992 when a staff report and public testimony regarding the rezoning and site and building plans were received; and

WHEREAS, the Planning Commission adopted resolution 92-2 recommending approval of Application No. 92013; and

WHEREAS, the City Council held a public hearing regarding the matter at its September 28, 1992 regular meeting when the Planning Commission's recommendation and further testimony regarding the application were received; and

WHEREAS, the Council has considered the rezoning and site and building plan request in light of all testimony received, the Planning Commission recommendation, the Rezoning Evaluation Policy and Review Guidelines contained in Section 35-208 of the City's Zoning Ordinance and in light of the provisions of the Planned Unit Development Ordinance contained in Section 35-355, and in light of the recommendations of the City's Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL of the City of Brooklyn Center, Minnesota, that Application No. 92013, submitted by Evergreen Development Group, is hereby approved in light of the following considerations:

1. The proposed residential care facility will meet a need in an aging community for less mobile, but ambulatory older residents to have the option of assisted living housing in the community.
2. The proposed zoning and use are compatible with surrounding land use classifications and existing development.
3. The proposed residential care facility will meet the ordinance development restrictions for the proposed zoning district. The existing Earle Brown Commons will be brought into compliance with the Building Code relative to its substandard setback from the side

RESOLUTION NO. 92-234

interior property line.

4. The proposed zoning is consistent with the recommendations of the Comprehensive Plan for Mixed Use Development in this area.
5. The proposed residential care use is consistent, both functionally and visually with the adjacent elderly housing development and with the Earle Brown Heritage Center.
6. In light of the above considerations, it is believed that the guidelines for evaluating rezonings contained in Section 35-208 of the Zoning Ordinance are met and that the proposal is, therefore, in the best interests of the community.

BE IT FURTHER RESOLVED, by the Brooklyn Center City Council that approval of Application No. 92013, be subject to the following conditions:

1. Building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits.
2. Grading, drainage, utility and berming plans are subject to review and approval by the City Engineer, prior to the issuance of permits.
3. A site performance agreement and supporting financial guarantee (in an amount to be determined by the City Manager) shall be submitted prior to the issuance of permits to assure completion of approved site improvements.
4. Any outside trash disposal facilities and rooftop mechanical equipment shall be appropriately screened from view.
5. The building is to be equipped with an automatic fire extinguishing system to meet NFPA standards and shall be connected to a central monitoring device in accordance with Chapter 5 of the City Ordinances.
6. An underground irrigation system shall be installed in all landscaped areas to facilitate site maintenance.
7. Plan approval is exclusive of all signery which is subject to Chapter 34 of the City Ordinances.
8. B612 curb and gutter shall be provided around all parking and driving areas.

RESOLUTION NO. 92-234

9. The applicant shall submit an as-built survey of the property, improvements and utility service lines, prior to release of the performance guarantee.
10. The property owner shall enter into an Easement and Agreement for Maintenance and Inspection of Utility and Storm Drainage Systems, prior to the issuance of permits.
11. The owner of the Earle Brown Commons shall enter into a restrictive covenant covering that property to stipulate that additional ramp and/or surface parking shall be provided up to two stalls per unit upon a finding by the City that all required parking is necessary for the proper functioning of the site. A separate restrictive covenant covering the Earle Brown Commons shall be executed requiring the elimination of all unprotected openings on the south and west sides of the congregate dining area in accordance with the provisions of the State Building Code. These restrictive covenants shall be executed and filed at the County prior to the issuance of permits for the residential care facility.
12. The owner of the vacant parcel shall enter into a development agreement with the City stipulating the type of facility to be constructed, aesthetics, timing, and assessments, prior to the issuance of permits.
13. The storm drainage system shall be approved by the Shingle Creek Watershed Management Commission prior to the issuance of permits.
14. Ponding areas required as part of the storm drainage plan shall be protected by an approved easement. The easement document shall be executed and filed with Hennepin County prior to the issuance of permits.
15. All work performed and materials used for construction of utilities shall conform to the City of Brooklyn Center's current standard specifications and details.
16. The development plans shall be modified prior to the issuance of permits to indicate:
 - a) One additional 6" diameter shade tree.
 - b) Proper separation of the inlets and outlet of the holding pond as approved by the City Engineer.
17. Approval of Application No. 92013 is subject to adoption of two ordinance amendments relating to general standards for planned unit developments and regarding the zoning classification of certain land.

RESOLUTION NO. 92-234

September 28, 1992

Date


Todd Paulson, Mayor

ATTEST: Patricia A. Page
Deputy City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member Dave Rosene, and upon vote being taken thereon, the following voted in favor thereof:

Todd Paulson, Celia Scott, Jerry Pedlar, Dave Rosene, and Philip Cohen;
and the following voted against the same: none,
whereupon said resolution was declared duly passed and adopted.

**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 a public hearing on Thursday, June 28, 2018, at approximately 7:00 p.m., at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota. 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: Amendment to a Planned Unit Development (PUD) and Site Improvements that would allow for the Conversion of an Existing Senior Living Facility to Market Rate Apartments

PETITIONER: Lux Apartments, LLC

PROPERTY NAMED IN THE PETITION: 6100 Summit Drive North, Brooklyn Center, MN 55430

PROPERTY ID: 35-119-21-44-0012

PROPERTY OWNER: OGC Earle Brown, LLC.

LEGAL DESCRIPTION: Registered Land Survey No. 1603, Hennepin County, Minnesota

BRIEF STATEMENT OF CONTENTS OF PETITION:

The Petitioner is proposing to convert the former Earle Brown Terrace senior living facility into market rate apartments. The proposal includes interior and exterior site and building improvements, the construction of additional off-street parking stalls, wall signage, and the addition of three units for a total of 143 units. The proposal necessitates certain amendments to the existing PUD related to off-street parking and site requirements, as well as allowances for wall signage.

Questions, comments, statements of support or objections should be directed to City Planner/ Zoning Administrator Ginny McIntosh at (763) 569-3319 or email to gmcintosh@ci.brooklyn-center.mn.us.

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 / Zoning Administrator

Published in the
Brooklyn Center Sun Post
June 14, 2018
325340

MEMORANDUM

DATE: June 25, 2018

TO: Ginny McIntosh, City Planner/ Zoning Administrator

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: (PUD) and Site Improvements – Earle Brown Terrace

Public Works Department staff reviewed the following documents submitted for review on May 29, 2018, for the amendment to a Planned Unit Development (PUD) and Site Improvements that would allow for the Conversion of an Existing Senior Living Facility to Market Rate Apartments:

- Conceptual Site Plans dated May 29, 2018

Subject to approval of amendment to the Planned Unit Development, the applicant shall submit complete site package for final Building & Site Plan approval and the referenced plans must be revised in accordance with the following comments/revisions and approved prior to issuance of Land Alteration permit:

PUD Comments

1. Applicant must submit complete package for building & site plan review.
2. Provide pedestrian connections to existing sidewalks.
3. Provide bicycle parking facilities.
4. Stormwater runoff shall be treated on-site, in rain gardens, swales and other water quality BMP's and such improvements shall include pretreatment. Proposed runoff rates shall be equal to or below existing runoff rates.

The aforementioned comments are provided based on the information submitted by the applicant at the time of this review. Other guarantees and site development conditions may be further prescribed throughout the project as warranted and determined by the City.

Lux Apartments, LLC



REQUEST:

- (1) PUD
Amendment
- (2) Site
Improvements
for 6100
Summit Drive
North

Existing Conditions



Source: Earle Brown Terrace Facebook Page
Google Maps

Background & Request

- Applicant is requesting approval of:
 - (1) PUD Amendment to the Existing 1992 Plans and Documents
 - (2) Site Improvements to the Subject Property
 - An allowance for an off-street parking ratio of approximately 1.7 parking spaces per dwelling unit vs. the minimum required 2 parking spaces per dwelling unit
 - Wall signage allowance of up to 350-square feet on the south elevation of the existing 11-story apartment building
 - An allowance of three (3) additional dwelling units for future approval for a total of 143 units vs. the existing 140 units

Intent of the Applicant's requests under Planning Commission Application No. 2018-011 is to determine whether the City will allow the Applicant to convert the existing buildings into market-rate, multi-family residential units at a reduced parking ratio. The Subject Property was never constructed to the minimum required two (2) parking stalls per dwelling unit necessary for residential uses.

Additionally, the Applicant has made requests to permit for an additional wall signage allowance on the south elevation of the existing 11-story building, and allow for three (3) additional units to be constructed in the future.

- Any approvals as part of tonight's meeting will require that the Applicant submit a Planning Commission Application for future site/building plan approval with full plan sets detailing drainage, grading, stormwater and erosion control, wall signage plans, and architectural plans for the site improvements and/or exterior construction additional units.
- **NOTE:** These requests should be viewed as amendments to a PUD Master Plan, with approval of final site/building plans to come.

[illegible]

Request #1 : 1.7 spaces/unit allowance (Cont.)

- The Subject Property was never constructed with the minimum required two (2) parking spaces per dwelling unit.
 - Construction to meet minimum Zoning Code standards would have required construction of 280 parking spaces for 140 units.
 - Development on the Subject Property was originally intended to be a two-phase development, but never happened and the second phase was abandoned.
 - Construction of the Ecumen Prairie Lodge further minimized opportunities to construct additional parking.
 - There are currently 171 parking spaces on site (**109 spaces deficient assuming 140 dwelling units**).
- The Applicant is requesting to install 73 additional parking stalls on-site.
 - Additional parking would be made up through altering the existing u-shaped parking drive on the west side of the property, re-striping on the upper and lower levels of the parking ramp, and installation of additional surface parking on the south and east sides of the property.
 - The Applicant currently **does not** have plans at this time to construct new levels to the parking ramp.
 - **Parking Deficiency:**
 - Assuming 140 dwelling units, the Subject Property is 36 spaces deficient.
 - Assuming 143 dwelling units, the Subject Property is 42 spaces deficient.
 - The Applicant will need to submit a full set for formal plan approval to further address the site.
 - Per the Zoning Code, no parking shall be permitted within 15 feet of the street right-of-way.
 - Installation of additional parking would likely result in the encroachment of some new surface parking spaces and a turnaround along the south and east entrances to the Subject Property.
 - The degree of encroachment would be better determined upon future submittal.
 - The minimum required 24-foot wide drive aisles appear to be achieved for 90-degree, two way parking with the exception of the uphill drive to the parking ramp (23.2 feet)
 - The minimum width and depth requirements would need to be met, along with sufficient ADA parking near the main entrances of the buildings.

Request #2 : 3 Additional Dwelling Units Allowance

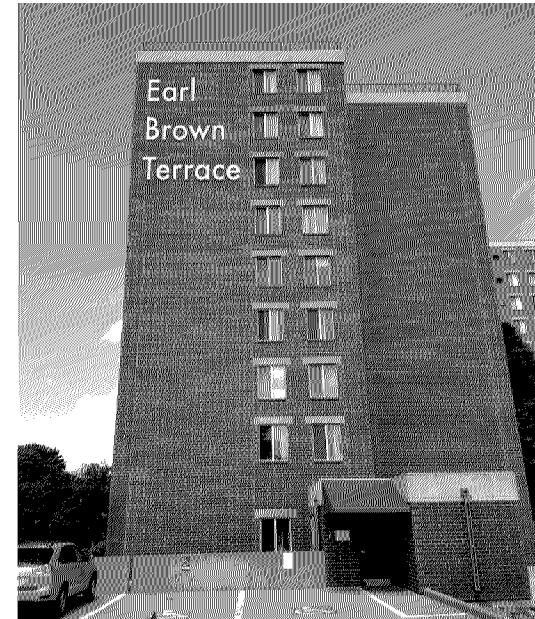
- Applicant is requesting allowance for the future construction of three (3) additional dwelling units either within the existing buildings or potentially on one of the rooftop terraces.
 - No architectural renderings or construction plans were received and there are no immediate plans to construct the units
 - Any approval for the additional units would require separate plan approval
 - As the Subject Property is zoned PUD-Mixed, staff has indicated that the construction of future additions/units should require the Applicant to follow the Citywide Architectural Design Guidelines, including, but not limited to, a minimum 50% Class I building material ratio and remaining Class II building material ratio on each elevation (face).

Background

- The Subject Property was zoned R-7 at the time of site and building plan approval for the 11-story building (1986).
 - In 1992, the Subject Property and 6001 Earle Brown Drive (Ecumen Prairie Lodge) were re-zoned from R7 (Multiple Family Residence) District to **PUD-Mixed**.
 - The Comprehensive Plan at that time recommended, “Mixed Use Development (including high-density, high-rise residential, service/office, and general commerce)” for this property and the surrounding area per the Staff Report included with Planning Commission Application No. 92013 (PUD-Mixed Rezoning).
 - The Staff Report does not define nor outline the density requirements for zoning designations of “Mixed” and the property was re-zoned *from* R-7.
 - The rezoning of the Subject Property from R7 to PUD-Mixed and establishment of a PUD was approved at a density of **42.9 units per acre** for 140 existing dwelling units. The Applicant is requesting approval of a density of **43.9 units per acre** for the proposed 143 dwelling units.
 - The maximum allowable density under the original R7-zoning designation was **31.1 units per acre**.

Request #3 : Wall Signage Allowance

- As part of the PUD amendment request, the Applicant has also indicated a desire to install up to 350-square feet of wall signage on the southern elevation of the 11-story building.
- Per Section 34-140.3.C.2 (*Residential Districts*) of the City Sign Ordinance,
 - *Multiple family dwelling may have one wall sign per building not to exceed 10 square feet in area.*
 - *Cluster developments or complexes in R3 through R7 districts involving not less than 36 dwelling units shall be entitled to one of the following options at each major entrance not to exceed a total of two entrances:*
 - *One freestanding sign no greater than 36 square feet in area and extending not more than 10 feet above ground level.*
 - *Two identical freestanding signs located at opposite sides of the entrance each not greater than 18 square feet in area and each not more than five feet above ground level.*
- The Applicant is requesting for a signage allowance that is consistent with the signage of the neighboring hotels and office buildings.
 - **Example:** C1A Zoning Designation allows for an aggregate area of 10 percent of each wall supporting the signs.



Summary



- A Public Hearing was held at the Planning Commission meeting on June 28th for the requests
 - A public notice was published in the Brooklyn Center *Sun Post* on June 14th, 2018
 - Notices were mailed to surrounding property owners
 - No comments were made for or against the project prior to or during the meeting

- Planning Commission adopted PC Resolution No. 2018-011, subject to the Applicant complying with all conditions as noted in the Resolution and Engineer's Memorandum, and returning for future site and building plan approval(s) with completed full plan sets.

Recommendation



Based on the aforementioned findings the Planning Commission recommends City Council adopt the resolution regarding the recommended disposition of Planning Application No. 2018-011, submitted by Lux Apartments, LLC, for approval of:

1. An amendment to the 1992 Planned Unit Development Plans and Documents; and
 2. Site Improvements that would provide:
 - **An allowance for an off-street parking ratio of approximately 1.7 parking spaces per dwelling unit vs. the minimum required 2 parking spaces per dwelling unit**
 - **Wall signage allowance of up to 350-square feet on the south elevation of the existing 11-story apartment building**
 - **An allowance of three (3) additional dwelling units for future approval for a total of 143 units vs. the existing 140 units**
- Approval of the aforementioned requests are subject to the Applicant complying with conditions of approval as outlined in the attached City Council Resolution and returning with full plan sets for future plan approval(s).

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV - 6 Month Provisional Rental License for 7131 Halifax Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 7131 Halifax Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is single family property. The previous rental license was a Type IV Rental License. This property qualifies for a Type IV Rental License based on eleven (11) property code violations found during the initial rental license inspection and zero (0) validated police nuisance incidents for the past twelve months.

Staff from Administration, Building & Community Standards and Police Departments worked with the property owner regarding a mitigation plan, which requires Phase I, II and III of the Crime Free Housing Program, and other items included by City ordinance for a Type IV Rental License. A Mitigation Plan has been developed addressing the requirements of the ordinance and any issues specific to the property.

Therefore, staff is recommending approval of the Type IV Rental License on condition of adherence to the Mitigation Plan. Please refer to the attached copy of the Mitigation Plan for more information.

Current rental license approval activities for license expires on 08/31/2018:

12-01-2017 The Owner, Joan Gudmundsen, applied for renewal of the rental dwelling license for 7131 Halifax Ave N, a single family dwelling.

12-28-2017 An initial rental license inspection was conducted and failed. 6 property code violations were cited, see attached rental criteria.

01-30-2018 Property Manager called to re-schedule inspection.

02-07-2018 Property Manager called to re-schedule inspection.

02-12-2018 A second rental inspection was conducted and failed. 3 property code violations were cited.

02-20-2018 The \$100 re-inspection fee was paid.

02-26-2018 A third rental inspection was conducted and failed. Old corrections made, 1 new

property code violation was cited, see attached rental criteria.

02-28-2018 The previous rental license expired.

03-13-2018 A fourth rental inspection was conducted and failed. A \$100 re-inspection fee was charged to the property.

03-16-2018 A fifth rental inspection was conducted and failed. All the corrections made, however, the \$100 re-inspection fees remain due.

03-23-2018 The \$100 re-inspection fee was paid. The rental inspection was passed.

04-06-2018 City records indicate 0 validated police nuisance incidents occurred in the past twelve months.

04-06-2018 A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.

05-24-2018 A \$300 Administrative Citation was issued for renting without a license.

06-01-2018 A Mitigation Plan was submitted.

06-28-2018 The Mitigation Plan was finalized.

07-02-2018 A letter was sent to the owner notifying that the hearing before the Council will be held July 9, 2018.

If approved, after six months, a new rental license is required. The license process will begin immediately. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.
2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.
3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.
4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license,

the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

5. Compliance with Mitigation Plan. The licensee shall comply with the mitigation plan as approved or modified by the Council. No later than the tenth day after each calendar month, the licensee shall mail or deliver to the City Manager a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Rental License Category Criteria Policy – Adopted by City Council 03-08-10

1. Determining License Categories.

License categories are based on property code and nuisance violations noted during the initial or renewal license inspection or for a category verification inspection, along with excessive validated police service calls occurring over a year. License categories are performance based and more accurately depict the condition of the property and the City costs of service.

2. Fees.

Fee amounts are determined by the costs of the city to license, inspect, monitor and work with the property to ensure category conditions are met. License fees do not include reinspection fees, late fees, charges for criminal or civil enforcement actions, or other penalties.

3. Category Conditions.

The licensee or designated agent must meet the category conditions in the time period specified by the City. A licensee must meet all original conditions required by the License Category, even if a subsequent license category is achieved.

4. License Category Criteria.

a. Property Code and Nuisance Violations.

Property code violation rates will be based on the average number of property code violations per unit identified during the licensing inspection or category verification inspection. Property code violations for purposes of determining licensing categories shall include violations of property code and nuisances as defined in Chapter 12, 19, 7 and other applicable local ordinances. The City may, upon complaints or reasonable concerns that the establishment no longer complies with the license category criteria, perform a category verification inspection to the same standards as the license renewal inspection as indicated below.

Inspections will be conducted in conjunction with established department policies. In cases where 100% of the units are not inspected, the minimum inspection standards will be established as follows:

- At least 75% of units will be inspected for properties with 15 or less units.
- At least 25% of units, to include a minimum of 12 units, will be inspected for properties with 16 or more units.

Property Code and Nuisance Violations Criteria		
License Category	Number of Units	Property Code Violations per Inspected

(Based on Property Code Only)		Unit
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	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

Requested Council Action:

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Safe, Secure, Stable Community



Rental License Plan

Handwritten Plans will not be accepted.

JUN 18 2018

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.

☐ Action Plan—Type III (1 Year)

☒ Mitigation Plan—Type IV (6 Months)

Property Address: 7131 Halifax Ave North Brooklyn Center, MN 55443

Owner's Name(s): Open Hands, Inc. (Willie Mae Overstreet)

Local Agent:

Owner's Address: 1724 Shaw Ave Anoka Mn 55303

Agent Address:

Owner's Phone: 763-560-9871

Agent's Phone:

Owner's Email: Therinna.Green@openhadsinc.net

Agent's Email:

Current Expiration Date:

2/28/18 JB

Pending Expiration Date:

8/31/18 JB

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property is **required to submit an Action (Type III) or Mitigation Plan (Type IV)**. In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.



Community Development

PROPERTY ADDRESS

Sections A—Crime Free Housing Program Requirements

Phase I - Read and check each box.

- ☒ 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**
- ☒ 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.
- ☒ 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.
- ☒ 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**
 - ☒ Crime Free Housing training is completed
 - ☐ Crime Free Housing training is scheduled for _____
Date
 - ☐ Owner or agent plans to attend training at : _____
Name of City

-  ☒ 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

-  ☒ 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.
- ☒ 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.
- ☐ Security Assessment is completed
 - ☒ Security Assessment is scheduled for _____



Community Development

PROPERTY ADDRESS

Sections A—Crime Free Housing Program Requirements (continued)

Phase III - A.R.M Meeting Requirement



1) Owner or agent must attend at minimum two (2) A.R.M. meetings. The A.R.M. meetings must be completed within the rental license period and before the License expiration date.



2) Registration is not required to attend, however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.



3) Write two months the owner or agent plans to attend.

Owner or agent will attend A.R.M. meetings scheduled for: 7-12-18 and 9-13-18 *May 2018 jrb*

The following actions are required for Multi-Family properties with four (4) or more units.



1) Conduct resident training annually to include crime prevention techniques.



2) Conduct regular resident meetings.



Community Development

PROPERTY ADDRESS

Sections B—Long Term Capital Improvement Plan

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing “unsure”, “don’t know”, or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
<i>Example: Water Heater</i>	<i>May 2010</i>	<i>F</i>	<i>May 2020</i>

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	11/03	G	11/20
Water Heater	11/03	G	11/20
Kitchen Appliances	5/16	N	5/21
Laundry Appliances	10/15	G	10/20
Smoke Alarms/ Carbon Monoxide Alarms	5/16	N	5/17
<u>Exterior Items</u>			
Paint/Siding	11/25	G	11/25
Windows	3/13	G	03/19
Roof	11/00	G	11/20
Garage	12/13	G	07/20
Driveway	03/09	G	03/21
Fence	n/a		n/a
Sidewalks	11/03		11/26
Shed	n/a		n/a

*Condition Abbreviations:

New=N

Good=G

Fair=F

Needs Replacement=R



PROPERTY ADDRESS

Sections C—Steps to Improve Management and Conditions of Property

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- ☒ 1) Check-in with tenants every 30-days.
- ☒ 2) Drive by property to check for possible code violations.
- ☒ 3) Evict tenants in violation of the lease or any addendums.
- ☒ 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- ☒ 5) Have no repeat code violations previously documented with the past year.
- ☒ 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- ☐ 7) Other: _____

The following actions are optional unless required by the City.

- ☐ 1) Provide lawn/snow service.
- ☐ 2) Provide garbage service.
- ☐ 3) Install security system.
- ☐ 4) Provide maintenance service plan for appliances.
Name of service company: _____
- ☐ 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.



Community Development

PROPERTY ADDRESS

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Willie Mae Overstreet

Owner or Agent Name and Title (Please Print)

Willie Mae Overstreet

Owner or Agent Signature

6-1-18

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

D. J. P. CRS

Police Department

6/12/2018

Date

JP #88 + Community Dev

Community Development

6/4/18

Date

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing & Community Development Standards Supervisor

SUBJECT: Resolution Approving a Type IV-6 Month Provisional Rental License for 5351 Irving Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 5351 Irving Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on August 14, 2017, on condition of adherence to the Mitigation Plan and City Ordinances.

The property qualifies for a Type IV Rental License based on eleven (11) property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. Further, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to turn in monthly updates. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV.

City Ordinance Section 12-901.2 requires a licensee of a Type IV Rental License to complete Phase II of the Crime Free Housing Program. City Ordinance Section 12-914.3.c requires an owner (or authorized representative) to attend a minimum of 50 percent of Owners/Managers Association Meetings.

Staff is recommending approval of the Type IV Rental License in lieu of denial, revocation or suspension because the owner is working with staff to meet the license requirements and the property is currently in compliance with the ordinance.

The following is a brief history of the license process actions.

Current rental license approval activities for license that expires 10/31/2018

02-12-2018 The owner, Douglas Allen Wahl, applied for renewal of the rental dwelling license for 5351 Irving Ave N, a single family dwelling.

03-07-2018 An initial rental license inspection was conducted and failed. Eleven property code violations were cited, see attached rental criteria.

04-09-2018 A second inspection was conducted and failed. A \$100 re-inspection fee was charged to the property.

04-17-2018 A \$100 re-inspection fee was paid.

04-23-2018 A third inspection was conducted and passed.

04-30-2018 The previous Type IV Rental License expired.

05-09-2018 A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.

05-09-2018 City records indicate 0 validated police nuisance incidents occurred in the past twelve months.

06-21-2018 A \$125 Administrative Citation was issued for failure to submit a Mitigation Plan.

06-26-2018 A Mitigation Plan was submitted.

06-28-2018 The Mitigation Plan was approved.

07-02-2018 A letter was sent to the owner notifying that the hearing before the Council will be held July 9, 2018

Prior Type IV Rental License approval activities for license that expired on 04/30/2018:

08-04-2017 The Owner, Douglas Allen Wahl, applied for renewal of the rental dwelling license for 5351 Irving Ave N, a single family dwelling.

08-28-2017 An initial rental license inspection was conducted and failed. 18 property code violations were cited, see attached rental criteria.

09-26-2017 A second rental inspection was conducted and failed. A \$100 re-inspection fee was charged to the property.

10-10-2017 A third inspection was conducted and failed. A \$100 re-inspection fee was charged to the property.

10-24-2017 A fourth inspection was conducted and corrections complete. However, the \$200 in re-inspection fees remains unpaid.

10-31-2017 The previous rental license expired.

11-06-2017 The \$200 re-inspection fees were paid.

11-22-2017 City records indicate 0 validated police nuisance incidents occurred in the past twelve months.

11-22-2017 A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.

12-05-2017 A Mitigation Plan was submitted.

12-26-2017 The Mitigation Plan was finalized.

12-29-2017 A letter was sent to the owner notifying that the hearing before the Council will be held January 08, 2018.

If approved, after six months, a new rental license is required. The license process will begin in approximately one month. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Requested Council Action:

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

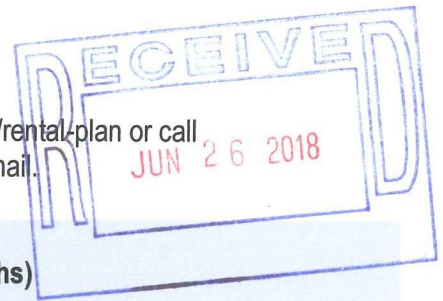
Safe, Secure, Stable Community



Rental License Plan

Handwritten Plans will not be accepted.

This form can be found on the website at www.cityofbrooklyncenter.org/rental-plan or call (763) 569-3330 for an electronic version to be sent via email.



☐ Action Plan—Type III (1 Year)

☒ Mitigation Plan—Type IV (6 Months)

Property Address:

5351 Irving Ave N
Brooklyn Center, MN 55430

Owner's Name(s):

Douglas Whal

Local Agent:

Joe Eberwine
Maximize Property management

Owner's Address:

1845 Stinson Pkwy #208
Minneapolis, MN 55418

Agent Address:

1845 Stinson Pkwy #208
Minneapolis, MN 55418

Owner's Phone:

612-721-8888

Agent's Phone:

612-843-5776

Owner's Email:

dwasters@msn.com

Agent's Email:

maxrepairs@izemail.net

Current Expiration Date:

10/31/18

4/30/18 JB

Pending Expiration Date:

10/31/18 JB

Based on the total number of property code violations found during the initial rental license inspection and/or validated police nuisance incidents, the above referenced property is **required to submit an Action (Type III) or Mitigation Plan (Type IV)**. In order to ensure timely completion of the license application process, a Plan must be completed immediately and submitted for approval. The Plan includes Phase I, II, and III of the Crime Free Housing Program. It also includes measures that must be taken to ensure ongoing compliance with City Ordinances and applicable codes. A rental license Plan allows the owner and the City to review concerns and identify possible solutions to improve overall conditions of the property.

If a Plan is not submitted and/or all items are not completed within the license period, or the above property operates beyond the license expiration date, enforcement actions such as an administrative citation, formal complaint, or license review may result.

Read carefully and be sure to follow instructions, otherwise your plan will not be approved.



5351 Irving Ave N
Brooklyn Center, MN 55430

Community Development

Sections A—Crime Free Housing Program Requirements

Phase I - Read and check each box.

- ☒ 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**
- ☒ 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.
- ☒ 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.
- ☒ 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**
- ☒ Crime Free Housing training is completed
- ☐ Crime Free Housing training is scheduled for _____
Date
- ☐ Owner or agent plans to attend training at : Anoka
Name of City

- ☒ 5) Submit Monthly Report by the 10th day of each month. **Only required for Type IV— Mitigation Plans.**

Phase II - Read and check each box.

- ☒ 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.
- ☒ 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.
- ☒ Security Assessment is completed
- ☐ Security Assessment is scheduled for _____



5351 Irving Ave N
Brooklyn Center, MN 55430

Community Development

Sections A—Crime Free Housing Program Requirements (continued)

Phase III - A.R.M Meeting Requirement

- ☒ 1) Owner or agent must attend at minimum two (2) A.R.M. meetings. **The A.R.M. meetings must be completed within the rental license period and before the License expiration date.**
- ☒ 2) **Registration is not required to attend**, however you must sign-in during the meeting. A.R.M. Meeting are held in January, March, May, July, September, and November on the 2nd Thursday of the month. Meetings start at 10am and end at 11am.
- ☒ 3) Write two months the owner or agent plans to attend.
Owner or agent will attend A.R.M. meetings scheduled for: JAN 18 and MAR 18

The following actions are required for Multi-Family properties with four (4) or more units.

- ☐ 1) Conduct resident training annually to include crime prevention techniques.
- ☐ 2) Conduct regular resident meetings.



5351 Irving Ave N
Brooklyn Center, MN 55430

Community Development

Sections B—Long Term Capital Improvement Plan

All components of a house will need to be replaced when it is beyond repair or its useful life. Based on condition, age, and use, an estimated replacement date will need to be provided for each listed item. Items that are broken, damaged, worn, or inoperable may require replacement sooner than scheduled.

All items **must** have a date under the *Estimated Replacement Date*. **Plans will not be approved if writing “unsure”, “don’t know”, or leaving it blank.** If you are unsure of when an item will need to be replaced, you can make a prediction based on the age, use, condition, or manufacture recommendations.

Item	Last Replaced	Condition*	Estimated Replacement Date
<i>Example: Water Heater</i>	<i>May 2010</i>	<i>F</i>	<i>May 2020</i>

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	2005	F	2030
Water Heater	2011	F	2025
Kitchen Appliances	2015	G	2025
Laundry Appliances	2015	G	2025
Smoke Alarms/ Carbon Monoxide Alarms	2017	G	2020

Exterior Items

Paint/Siding	2005	F	2025
Windows	2005	F	2025
Roof	2000	F	2030
Garage	Original	F	NA
Driveway	NA	F	NA
Fence	NA		NA
Sidewalks	Original	F	None
Shed	NA		NA

*Condition Abbreviations: New=N Good=G Fair=F Needs Replacement=R



5351 Irving Ave N
Brooklyn Center, MN 55430

Community Development

Sections C—Steps to Improve Management and Conditions of Property

The items in this section have been proven to assist with property management, property image, and rental license category improvement.

The following actions are required:

- ☒ 1) Check-in with tenants every 30-days.
- ☒ 2) Drive by property to check for possible code violations.
- ☒ 3) Evict tenants in violation of the lease or any addendums.
- ☒ 4) Remain current on all utility fees, taxes, assessments, fines, penalties, and other financial claims/payments due to the City.
- ☒ 5) Have no repeat code violations previously documented with the past year.
- ☒ 6) Conduct a pre-inspection of the property prior to the rental license inspection.
- ☐ 7) Other: _____

The following actions are optional unless required by the City.

- ☐ 1) Provide lawn/snow service.
- ☐ 2) Provide garbage service.
- ☐ 3) Install security system.
- ☐ 4) Provide maintenance service plan for appliances.
Name of service company: _____
- ☐ 5) Other: _____

The licensee must comply with the approved Plan and all applicable City Codes. A copy of the approved plan will be sent with a reminder notice to comply with the rental license requirements.



5351 Irving Ave N
Brooklyn Center, MN 55430

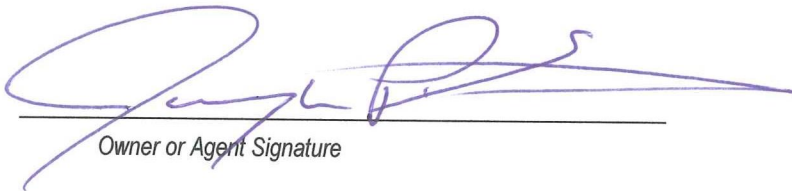
Community Development

Sign and Verify

I verify that all information provided is true and accurate. I understand that if I do not comply with the approved Plan, comply with all items within the license period, or operate beyond the license expiration date, enforcement actions such as citations, formal complaints, or license review may result.

Joseph Eberwine

Owner or Agent Name and Title (Please Print)



Owner or Agent Signature

6/25/18

Date

Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only



Police Department

6/29/2018

Date

Community Development

Date

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 5351 IRVING AVE N

WHEREAS, City Ordinance Sections 12-900 to 12-916 set forth requirements for licensed rental properties; and

WHEREAS, the property located at 5351 Irving Ave N, was issued a Type IV Rental License on January 8, 2018; and

WHEREAS, City Ordinance Section 12-901.2 requires a property owner who receives a Type IV Rental License complete Phase I, II and III of the Crime Free Housing Program; and

WHEREAS, City Ordinance Section 12-914.3.c establishes the requirement for Phase II of the Crime Free Housing Program including attendance at a minimum of 50 percent of Owners/Managers Association Meetings and completion of Crime Prevention Through Environmental Design Requirements; and City Ordinance Section 12-913 requires submittal of monthly updates; and

WHEREAS, the property owner of 5351 Irving Ave N, Brooklyn Center failed to turn in monthly updates.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 5351 Irving Ave N, Brooklyn Center, MN.

July 9, 2018

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.

AGENDA

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

ACTIVE DISCUSSION ITEMS

1. Former Jerry's Food Redevelopment Concept Follow-up Discussion
2. An Interim Ordinance Authorizing a Study and Placing a Moratorium on the Sears Property

PENDING LIST FOR FUTURE WORK SESSIONS

1. Future/Ongoing Items
 - Beautification and Public Art Initiative - July
 - Cities United Membership
 - ADA Transition Plan

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Meg Beekman, Community Development Director

SUBJECT: Former Jerry's Food Redevelopment Concept Follow-up Discussion

Recommendation:

It is recommended that the City Council review the process through which a charter school could be approved on the former Jerry's Food site, and provide feedback and direction to staff on whether to proceed.

Background:

At the June 25th 2018, City Council work session a concept was introduced to redevelop the former Jerry's Food site into a charter school. The developer presented their concept and the City Council was given an opportunity to ask questions.

The developer has indicated that timing is critical for the successful reuse of the site into a charter school, and that they would need to be able to proceed with construction as soon as possible. This is pertinent to the discussion because in order to move forward with an approval for the project, the City would need to amend the zoning code, rezone the property, and amend the Comprehensive Plan, all of which take time.

In order to accommodate the proposal four significant modification would need to be made to the City's land use and zoning regulations.

Foremost, the property is currently zoned C-2, Commerce District. Elementary schools are not a permitted use in the C-2 District. Other types of educational uses, such as post secondary schools, are allowed; however, public and private elementary and secondary schools (K-12) are specifically called out as an exception and are not permitted. Therefore, the property would either need to be rezoned to a district that allows elementary schools, such as residential, or the C-2 District would need to be amended to allow elementary schools as a special or permitted use.

The second alteration to the City's regulations that would be necessary is to the Comprehensive Plan. The Land Use designation for the property is Retail Business. A Comprehensive Plan Amendment to amend the future land use designation to Schools would be necessary. this process is the most time consuming because once the City Council approves the amendment, the request goes to the Metropolitan Council, which then must approve or deny the request within 60 days. Provided the City moved through the process as quickly as possible, the soonest that the Metropolitan Council would be required to make a decision would be early December.

In addition to the underlying zoning, there is also the Central Commerce Overlay District which includes the former Jerry's Food property. This Overlay District expressly prohibits elementary schools in this area. In order to accommodate the proposal the Overlay District would need to be amended to allow elementary education, or the Overlay boundaries would need to be amended to exclude this property. This change could

occur concurrent to the request for the rezoning and Comprehensive Plan Amendment. However, since the Central Commerce Overlay District has not been amended since its adoption it is not immediately clear which path would be the most appropriate to accommodate the charter school request. Additional discussion with the City Attorney would be necessary to determine the best path forward for this item.

The fourth consideration related to the concept is regarding the City's design standards. As part of the Shingle Creek Crossing PUD, design guidelines were adopted that are required of all development within the PUD. At the time of the adoption of the guidelines, "unofficial" city-wide design guidelines were also adopted that are recommended of all new development in the City, but are not required. It has been the past practice of the City Council to require these design standards whenever a PUD or other discretionary approval is granted for new development. For example, the design standards were applied to the Fairfield Marriott Hotel development. Given the developers stated budget and building materials it is likely that the development would not meet the design standards which would typically be applied. Without a complete plan set it is not possible to determine to what degree the building and site design would diverge from the design standards; however, the Council should be aware that this may be part of the request.

The purpose of this discussion is to make both the developer and the City Council aware of the regulatory modifications that would be required to accommodate this concept, and to gauge the City Council's willingness to entertain such requests. The developer will determine on their own whether to proceed with a formal application or not. Staff is bringing this item forward in order to clearly identify what land use and zoning regulations would need to be modified in order to move forward with the use of this site as an elementary school use.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Targeted Redevelopment

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Meg Beekman, Community Development Director

SUBJECT: An Interim Ordinance Authorizing a Study and Placing a Moratorium on the Sears Property

Recommendation:

It is recommended that City Council review the draft interim ordinance authorizing a study and placing a moratorium on the Sears property, and provide direction to staff on how to proceed.

Background:

In early June of 2018, Sears Roebuck and Company announced the Brooklyn Center Sears store and automotive repair store would be closed. Both the Sears store and the automotive center are scheduled to be closed by the end of September 2018. The Sears store is the final remaining structure from the former Brookdale Mall and has not been studied or planned for as part of the overall development guidance for the Shingle Creek Development Area. The Sears property is 15.26 acres and has high visibility from Highway 100.

The City Council has the authority to adopt an interim ordinance, which would place a moratorium on development of a particular site, or of a particular type of development city-wide. A moratorium allows the City time to study a particular area or topic to ensure that an appropriate regulatory framework is in place to adequately inform future development.

The adoption of an interim ordinance authorizing a study and placing a moratorium on the Sears site will allow time to decide whether any changes are needed to how the property is zoned and guided and to ensure development of the property is consistent with the Shingle Creek Development Area. If a study and moratorium is not placed on the property, the property has a potential to be developed in a manner which is inconsistent with the surrounding developments and which could have extended negative effects on the area.

Upon adoption of the interim ordinance and moratorium, City Staff will begin to conduct a study of the property to determine if the current planned land use and zoning of the property should be revised. Recommendations from the study will be shared with the City Council upon completion of the study process. As part of the Comprehensive Plan update process currently underway, this property has been identified as one of the sites which requires additional focused planning efforts.

The moratorium will ensure that no new expansions or new construction will occur on the site during the duration of the study. The City will not accept, process, or issue any development applications or approvals during the duration of the study and moratorium. The moratorium would not apply to any applications for permits or approvals which only seek to maintain or repair the existing buildings.

The City Council has the ability to select the length of time for the moratorium to be placed on the property. The moratorium can be legally placed on a property for no more than eighteen (18) months per Minnesota

State Statute 462.355 subdivision 4d. Staff is recommending a duration of 12 months to provide enough time to complete a land use and zoning study for the site. The City Council would have the ability to repeal the moratorium prior to the deadline if the study is completed and it is determined that no change in future land use or zoning is required.

Staff is seeking direction on whether or not to proceed with a moratorium of the Sears site at this time and allow time to conduct a land use and zoning study on the property. If the Council directs staff to proceed this item would go before the City Council at their July 23, 2018 regular meeting for consideration.

Strategic Priorities and Values:

Targeted Redevelopment

CITY OF BROOKLYN CENTER

ORDINANCE NO. _____

AN INTERIM ORDINANCE AUTHORIZING A STUDY AND PLACING A
MORATORIUM ON THE SEARS PROPERTY

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

Section 1. Legislative Findings. The City Council of the City of Brooklyn Center (“City”) hereby finds and determines as follows:

- 1.01. The City Council has the authority under Minnesota Statutes, section 462.355, subdivision 4 to adopt an interim ordinance “applicable to all or part of its jurisdiction” to “regulate, restrict, or prohibit any use, development, or subdivision” within the City if it has authorized a study to be conducted or has scheduled a hearing for the purpose of considering an amendment to its comprehensive plan or official controls.
- 1.02. The adoption of an interim ordinance does not require a public hearing and is not subject to the City’s standard ordinance adoption process as it is in the nature of an emergency ordinance in that waiting the several weeks for it to go into effect would undermine the purpose and authority to adopt an interim ordinance.
- 1.03. The City is in the process of updating its comprehensive plan.
- 1.04. The City has engaged in extensive planning and has developed guidance for the Shingle Creek development area located between Highway 100, County Road 10, and east of Xerxes Avenue North (“Shingle Creek Development Area”). With the exception of certain properties that were already utilized and had not been redeveloped in several years.
- 1.05. One such property that had not specifically been planned for as part of the overall development guidance for the Shingle Creek Development Area is the property (PID 03-118-21-44-0026) owned by Sears Roebuck and Company located at 1297 Shingle Creek Drive and legally described as Registered Land Survey No. 0936 Hennepin County, Minnesota (“Sears Property”).
- 1.06. A recent announcement indicated that the Sears store located on the Sears Property would be closing in the fall of 2018, which raises the potential for redevelopment of the property in the near term.
- 1.07. Development of the Sears Property occurring before the City has an opportunity to study the planning and zoning for the property, determine whether any changes are needed, and to take action to develop and adopt any such changes could result in development that is inconsistent with other development in the Shingle Creek Development Area and have lasting negative effects.

- 1.08. In order to protect the planning process and to promote consistency within the Shingle Creek Development Area, the City Council determines it is in the best interests of the public to place a temporary moratorium on the development of the Sears Property while the City conducts a study to determine how best to guide development of the property and to determine if the property is appropriately zoned.

Section 2. Study Authorized. The City Council hereby authorizes City staff, as directed by the City Manager, to conduct a study of the current planning and zoning for the Sears Property, determine whether the guidance in the comprehensive plan and the zoning for the Sears Property should be revised to be more consistent with the planned guidance for and zoning of the other properties in the Shingle Creek Development Area, and to develop any recommended amendments for consideration by the City Council.

Section 3. Moratorium. To ensure that no new construction or expansion occurs on the Sears Property that might be inconsistent with the appropriate guidance in the comprehensive plan or the zoning for the Sears Property that may be identified from the study authorized herein, the City hereby imposes, for the term of this interim ordinance, a moratorium on the acceptance, processing, or issuance of any development applications or approvals including, but not limited to, preliminary plats, rezonings, variances, conditional use permits, site plans, planned unit developments, and permits for the construction or expansion of any buildings on the Sears Property. The moratorium imposed by this interim ordinance shall not apply to applications for permits or approvals that seek only to maintain or repair, without expanding, an existing building on the Sears Property.

Section 4. Effective Date and Term. This interim ordinance shall go into effect immediately upon adoption and shall remain in effect for 12 months, or upon the effective date of any rezoning or comprehensive plan amendment related to the Sears Property adopted in furtherance of the recommendations resulting from the study, whichever occurs first. The City Council may vote to terminate the interim ordinance and moratorium at any point prior to the deadline set.

Section 5. Enforcement. The City may enforce this interim ordinance by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

Section 6. Separability. Every section, provision or part of this interim ordinance is declared separable from every other section, provision or part of this ordinance. If any section, provision or part of this interim ordinance is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision or part of this interim ordinance.

Adopted this ____ day of July, 2018.

Tim Willson, Mayor

ATTEST: _____
City Clerk

COUNCIL ITEM MEMORANDUM

DATE: 7/9/2018

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM:

SUBJECT: Future/Ongoing Items

Recommendation:

Background: