Council Study Session
City Hall Council Chambers
July 8, 2024

AGENDA

1. **Call to Order - 6:00 p.m.**
2. **Council Miscellaneous Discussion Items**
   a. Resolution 2021-73
      No action requested.
3. **City Manager Miscellaneous Discussion Items**
4. **Adjourn**

Member Butler introduced the following resolution and moved its adoption:

RESOLUTION NO. 2021-73

RESOLUTION ADOPTING THE DAUNTE WRIGHT AND KOBE DIMOCK-HEISLER COMMUNITY SAFETY AND VIOLENCE PREVENTION ACT

WHEREAS, the City of Brooklyn Center ("City") can create a safer, healthier, more just, and more thriving community by promoting a diversity of responses to our community's safety needs that do not rely solely on our armed law enforcement officers; and

WHEREAS, many approaches have proven to be safe and effective for responding to non-moving traffic offenses, low-level violations, to people with mental health needs or disabilities, and to other similar situations that do not involve armed law enforcement officers; and

WHEREAS, creating alternative responses in these situations will allow our law enforcement officers to focus their time, training, and expertise on serious threats to the immediate safety of our residents; and

WHEREAS, relying on our armed law enforcement officers as first responders in these situations has in some circumstances resulted in escalation, harm, and the tragic and potentially avoidable loss of life for our residents, including Daunte Wright and Kobe Dimock-Heisler; and

WHEREAS, a diversity of approaches will improve overall public safety, better address the root causes of many systemic issues, promote racial justice, better protect vulnerable members of our community, and more efficiently allocate public resources while recognizing there is still work to be done to address policing mindset and culture; and

WHEREAS, the residents of Brooklyn Center have demanded change in our City and will help co-create new approaches to health and safety in our community, and this Act affirms our commitment to an intentional, inclusive and collaborative process that involves City leadership and the community working together to fully implement the intent this Act; and

WHEREAS, the City Council will be drawing upon the best aspects of many different existing models and polices from all across the country in order to adapt them for our City with the help of residents, experts and data analysis, and the City is committing to all of these measures in a single, unified Act to deliver true transformational change for our community; and

WHEREAS, the City Council is committed to putting in the work necessary to bring about changes as quickly as possible in how the City provides public safety while recognizing that some of these measures will take longer to implement than others, and that additional work remains to be done to create a healthier and more equitable community even beyond this Act.

NOW, THEREFORE, the City Council of the City of Brooklyn Center, Minnesota, resolves as follows:

[redacted]

5. Community Safety and Violation Prevention Committee. The City will create a permanent Community Safety and Violence Prevention Committee. The Director will provide the Mayor with a list of candidates to serve on the committee and the Mayor will recommend candidates to the City Council for appointment. A majority of the committee members must be City residents with direct experience being arrested, detained, or having other similar contact with Brooklyn Center Police, or have had direct contact with one or more of the other services to be provided by the new Department. The City Council may appoint City staff to serve as liaisons to the committee, but no City staff member will have a vote on the committee. The committee will: review and make recommendations regarding the policing response to recent protests; review the current collective bargaining agreement between the City and the Police Department and make recommendations prior to the renegotiation of the agreement and before its final approval; recommend the City Council create a separate and permanent civilian oversight committee for the new Department; review Chapter 19 of the City Code and make recommendations with regard to repealing or amending provisions or penalties therein, including fines and fees; and periodically make any other recommendations to the City Council related to initiating programs or policies to improve community health in the City.

6. Use of Force. The City will review and update its policies, practices and training to more appropriately regulate the use of force by its armed law enforcement officers including, for example, by requiring de-escalation, exhaustion of reasonable alternatives before using deadly force, prohibitions on using deadly force in certain situations including firing upon moving vehicles, prohibiting certain uses of force or other policing tactics during First Amendment protests and assemblies, and additional revisions as needed.

7. Citation and Summons for Low Level Offenses. To immediately prevent any further harm and to better protect the peace and safety of all City residents while this Act is being fully implemented, the City Council directs the City Manager to implement forthwith a citywide "citation and summons" policy requiring officers to issue citations only, and prohibiting custodial arrests or consent searches of persons or vehicles, for any non-moving traffic infraction, non-felony offense, or non-felony warrant, unless otherwise required by law, and the Implementation Committee will make recommendations regarding making these policy changes permanent and/or modifying them as needed, including by appropriate changes in ordinance, practices or policies.

8. Implementation Committee. The City will create a Community Safety and Violence Prevention Implementation Committee ("Implementation Committee"), including residents from the City and other local, state and national experts in public health-oriented approaches to community safety, to be chaired by the Mayor, and with members recommended by the Mayor and confirmed by the City Council, that will propose amendments, ordinances, resolutions, policies, guidelines or other recommendations for the review, adoption and/or implementation by City Council or City staff, as appropriate, that would fully implement the will and intent of City Council as expressed in this Act. The City Council may appoint City staff to serve as liaisons to the Implementation Committee, but City staff shall not have a vote on the committee. The Implementation Committee shall provide its recommendations directly to the City Council.

9. Community Involvement. The Implementation Committee will ensure the community has the opportunity to review and comment upon the all implementation plans, including by making periodic progress reports in open City Council meetings monthly, or more frequently upon the Council's request; that the Implementation Committee is empowered to explore external sources of funding to implement the Act and that the City may retain additional counsel, temporary staff, and consultants as reasonable and necessary to enable the Implementation Committee to complete its work; and the Implementation Committee will present recommendations to City Council for initial consideration not later than 180 days from the date of this Act.

10. Implementation and Staff Support. The directives contained in this Act shall be carried out in compliance with the law and the City Charter. The City Attorney, City Manager, Chief of Police and other City personnel are authorized and directed to provide all necessary assistance and support to all committees created pursuant to this Act, including by supplying the committees with any and all data necessary to perform their duties, including confidential or private data as requested with appropriate protections, and budgetary, staffing or other

information, and assisting with the crafting of amendments, ordinances, or policies as requested by the Implementation Committee. This Act authorizes, to the greatest extent possible, the implementation of the measures identified herein without further policy approvals from the City Council. To the extent additional approvals are needed, or legal barriers are identified, in the implementation of these measures or the recommendations of the Implementation Committee, the City Manager or City Attorney are directed to bring those issues to the City Council's attention for further direction or action as needed.

May 15, 2021
Date

Mike Elliott, Mayor

ATTEST:
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
Graves
and upon vote being taken thereon, the following voted in favor thereof:
Butler, Elliott, Graves, Ryan
and the following voted against the same:
Lawrence-Anderson
whereupon said resolution was declared duly passed and adopted.

RESOLUTION NO. 2021-73 (Amended 2024-01)

RESOLUTION ADOPTING THE DAUNTE WRIGHT AND KOBE DIMOCK"
HEISLER COMMUNITY SAFETY AND VIOLENCE PREVENTION ACT

WHEREAS, the City of Brooklyn Center ("City',) can create a safer, healthier, more just, and more thriving community by promoting a diversity of responses to our community' s safety needs that do not rely solely on our armed law enforcement officers; and

WHEREAS, many approaches have proven to be safe and effective for responding to non-moving traffic offenses, low-level violations, to people with mental health needs or disabilities, and to other similar situations that do not involve armed law enforcement officers; and

WHEREAS, creating alterative responses in these situations will allow our law enforcement officers to focus their time, training, and expertise on serious threats to the immediate safety of our residents; and

WHEREAS, relying on our aimed law enforcement officers as first responders in these situations has in some circumstances resulted in escalation, harm, and the tragic and potentially avoidable loss of life for our residents, including Daunte Wright and Kobe Dimock-Heisler; and

WHEREAS, a diversity of approaches will improve overall public safety, better address the root causes of many systemic issues, promote racial justice, better protect vulnerable members of our community, and more efficiently allocate public resources while recognizing there is still work to be done to address policing mindset and culture; and

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WHEREAS, the residents of Brooklyn Center have demanded change in our City and will help co-create new approaches to health and safety in our community, and this Act affirms our commitment to an intentional, inclusive and collaborative process that involves City leadership and the community working together to fully implement the intent this Act; and

WHEREAS, the City Council will be drawing upon the best aspects of many different existing models and polices from all across the country in order to adapt them for our City with the help of residents, experts and data analysis, and the City is committing to all of these measures in a single, unified Act to deliver true transformational change for our community; and

WHEREAS, the City Council is committed to putting in the work necessary to bring about changes as quickly as possible in how the City provides public safety while recognizing that some of these measures will take longer to implement than others, and that additional work remains to be done to create a healthier and more equitable community even beyond this Act.

NOW, THEREFORE, the City Council of the City of Brooklyn Center, Minnesota, resolves as follows:

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5. Community Health, Safety and Violence ~~Violation~~ Prevention Commission ~~Committee~~. The City will create a permanent Community Safety and Violence Prevention Commission ~~Committee~~. The Director will provide the Mayor with a list of candidates to serve on the Commission ~~Committee~~ and the Mayor will recommend candidates to the City Council for appointment. A majority of the Commission ~~Committee~~ members must be a majority of City residents with direct experience being arrested, detained, or having other similar contact with ~~Brooklyn Center~~ Police, or have had direct contact with one or more of the other services to be provided by the new government unit ~~Department~~. The Director of ~~Department of~~ Community Prevention, Health, and Safety government unit ~~and Violence Prevention~~ shall serve as liaison to the Commission and with collaboration of all related city governmental units (i.e. police, recreation, fire, community development, etc.).

~~The City Council may appoint City staff to serve as liaisons to the committee, but no City staff member will have a vote on the committee.~~ The Commission ~~committee~~ will review and make recommendations regarding the policing response to ~~recent~~ protests; review the current collective bargaining agreement between the City and the Police Department and make recommendations prior to the renegotiation of the agreement ~~and before its final approval~~; recommend the City Council create a separate and permanent civilian oversight committee for the new Government Unit ~~Department~~; review Chapter 19 of the City Code and make recommendations with regard to repealing or amending provisions or penalties therein, including fines and fees; and periodically make any other recommendations to the City Council related to initiating programs or policies to improve community health and safety in the City.

6. Use of Force. The City will review and update its policies, practices and training to more appropriately regulate the use of force by its aimed law enforcement officers including, for

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example, by requiring de-escalation, exhaustion of reasonable alternatives before using deadly force, prohibitions on using deadly force in certain situations including firing upon moving vehicles, prohibiting certain uses of force or other policing tactics during First Amendment protests and assemblies, and additional revisions as needed.

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8. Implementation Committee. The City will create a Community Safety and Violence Prevention Implementation Committee ("Implementation Committee"), including residents from the City and other local, state and national expe1ts in public health-oriented approaches to community safety, to be chaired by the Mayor, and with members recommended by the Mayor and confirmed by the City Council, that will propose amendments, ordinances, resolutions, policies, guidelines or other recommendations for the review, adoption and/or implementation by City Council or City staff, as appropriate, that would fully implement the will and intent of City Council as expressed in this Act. The City Council may appoint City staff to serve as liaisons to the Implementation Committee, but City staff shall not have a

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vote on the committee. The Implementation Committee shall provide its recommendations directly to the City Council.

9. Community Involvement. The Implementation Committee will ensure the community has the opportunity to review and comment upon the all implementation plans, including by making periodic progress reports in open City Council meetings monthly, or more frequently upon the Council's request; that the Community Health, Safety and Violence Prevention Commission is empowered to assist the City in exploring external sources of funding to implement the Act. ~~that the Implementation Committee is empowered to explore external sources of funding to implement the Act~~ and that the City may retain additional counsel, temporary staff, and consultants as reasonable and necessary to enable the Implementation Committee to complete its work; and the Implementation Committee will present recommendations to City Council for initial consideration not later than 180 days from the date of this Act.

10. Implementation and Staff Support. The directives contained in this Act shall be carded out in compliance with the law and the City Charter. The City Attorney, City Manager, Chief of Police and other City personnel are authorized and directed to provide all necessary assistance and support to all committees created pursuant to this Act, including by supplying the committees with any and all data necessary to perform their duties, including confidential or private data as requested with appropriate protections, and budgetary, staffing or other information, and assisting with the crafting of amendments, ordinances, or policies as requested by the Implementation Committee.

This Act authorizes, to the greatest extent possible, the implementation of the measures

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identified herein without further policy approvals from the City Council. To the extent additional approvals are needed, or legal barriers are identified, in the implementation of these measures or the recommendations of the Implementation Committee, the City Manager or City Attorney are directed to bring those issues to the City Council's attention for further direction or action as needed.

_____
Mayor

_____
Date

ATTEST:_____
City Clerk

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

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

whereupon said resolution was declared duly passed and adopted.

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CITY COUNCIL MEETING
City Hall Council Chambers
July 8, 2024

AGENDA

1. Call to Order - 7:00 p.m.

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

2. Roll Call

3. Pledge of Allegiance

4. Informal Open Forum

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

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

a. Meeting Decorum

5. Invocation - Butler - 7 p.m.

6. Approval of Agenda and Consent Agenda

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

a. Approval of Minutes

- Motion to approve meeting minutes

- *6/24/24 Worksession*
- *6/24/24 Regular Session*

b. Approval of Licenses

- Motion to approve the licenses as presented.

c. Resolution Appointing Election Judges for the 2024 Primary Election

- Motion to approve a resolution appointing election judges for the August 13, 2024, Primary Election.

d. Resolution Denying Planning Commission Application No. 2024-007,

Submitted by C Alan Homes LLC for Re-approval of the Preliminary and Final Plats for Robertson and Brekke Brooklyn Boulevard Second Addition (6921, 6927, 6933, and 6939 Brooklyn Boulevard)

- Motion to adopt a resolution denying Planning Commission Application No. 2024-007 for re-approval of the preliminary and final plat for Robertson and Brekke Brooklyn Boulevard Second Addition, and commonly addressed as 6921, 6927, 6933, and 6939 Brooklyn Boulevard, based on the findings of fact as outlined in the resolution.

e. Resolution Approving First Amended Joint Powers Agreement for Pets Under Police Security ("PUPS")

- Motion to approve a resolution of the first amended joint powers agreement for pets under police security ("PUPS").

7. Presentations/Proclamations/Recognitions/Donations

a. Proclamation Acknowledging and Proclaiming July as "Park and Recreation Month"

- Motion to approve a resolution declaring July 2024 as "Park and Recreation Month" in Brooklyn Center.

b. Public Works: Looking Back and Looking Ahead

- Motion to accept the presentation.

8. Public Hearings

9. Planning Commission Items

a. Resolution Approving Planning Commission Application No. 2024-009, for Consideration of an Ordinance Rezoning of 1297 Shingle Creek Crossing from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District - 1st Reading

- Motion to approve a first reading regarding the adoption of an ordinance re-zoning of certain property located at 1297 Shingle Creek Crossing and as contemplated under Planning Commission Application No. 2024-009 from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District, and set the second reading to July 22, 2024.

10. Council Consideration Items

a. City Commission Appointments

- Motion to appoint members to commissions.

11. Council Report

12. Adjournment

COUNCIL MEETING DECORUM

To ensure meetings are conducted in a professional and courteous manner which enables the orderly conduct of business, all persons in attendance or who participate in such meetings shall conduct themselves in a manner that does not interfere with the ability of others to observe and, when allowed, to participate without disruption or fear of intimidation.

A. Decorum. Persons who attend meetings must avoid conduct that disrupts, interferes with, or disturbs the orderly conduct of the meeting or the ability of other attendees to observe and participate as appropriate. To that end, persons who attend meetings are subject to the following:

(1) Members of the public may only speak during meetings when allowed under Council Rules and only after being recognized by the presiding officer. The presiding officer may establish time limits for the acceptance of public comments or testimony.

(2) Public comments or testimony must be addressed to the presiding officer and not to other Council Members, staff, or others in attendance.

(3) All elected officials shall be referred to by their proper title and surname.

(4) Public comments should avoid personal accusations, profanity, or other improper content for a public meeting.

(5) Intimidating behaviors, threats of hostility, or actual violence are disallowed.

(6) Audible demonstrations intended to disrupt the meeting should be avoided, including stomping of feet, snapping of fingers, clapping of hands, and other conduct that may be intimidating or threatening to others.

(7) Holding, displaying, or placing banners, signs, objects, or other materials in any way that endangers others, prevents the free flow of individuals within the chamber, or obstructs or prevents the viewing of the meeting by others is not allowed.

B. The presiding officer shall request any person(s) who disrupt, interfere with or disturb the orderly conduct of a meeting to cease the conduct and, as necessary, shall issue an oral warning to the individual(s) found to be in violation. If the individual(s) persists in disrupting, interfering with, or disturbing the meeting, the presiding officer may have the individual(s) removed or, under appropriate circumstances, temporarily clear the gallery. If for any reason the presiding officer fails to take such action, a majority vote may be substituted for action by the presiding officer to maintain order and decorum over the proceedings.

C. The Council Chambers capacity is 76 persons per fire code.

Council Regular Meeting

DATE: 7/8/2024

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

SUBJECT: Approval of Minutes

Requested Council Action:

- *Motion to approve meeting minutes*
  - *6/24/24 Worksession*
  - *6/24/24 Regular Session*

Background:

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

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

Strategic Priorities and Values:

Provide quality services with fair and equitable treatment

ATTACHMENTS:

Description	Upload Date	Type
06.24.24 Worksession Meeting Minutes	7/2/2024	Backup Material
06.24.24 Regular Meeting Minutes	7/2/2024	Backup Material

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

WORKSESSION
JUNE 24, 2024
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Worksession called to order by Mayor Pro Tem Lawrence-Anderson at 6:03 p.m.

ROLL CALL

Mayor April Graves (arrived at 6:04 p.m.) and Councilmembers Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Councilmember Marquita Butler was absent and excused. Also present Assistant City Manager/City Clerk Barb Suciu, and City Attorney Siobhan Tolar.

COUNCIL MISCELLANEOUS DISCUSSION ITEMS

Councilmember Jerzak stated the Hwy 252 Task Force has requested a time to meet with the Council.

Councilmember Lawrence-Anderson noted Mayor Graves has arrived and the meeting had just started.

Mayor Graves stated staff will follow up with the Hwy 252 Task Force to determine a presentation time for the Council.

Councilmember Jerzak requested Regular Session Consent Agenda Items 6d. Resolution Accepting Bid and Awarding a Contract to Hosier Worldwide, Inc., for Demolition and Site Work at 6100 Shingle Creek Pkwy (Former Target Site) and 6e. Resolution Identifying the Need for Livable Communities Demonstration Account (LCDA) Transit-Oriented Development Funding and Authorizing Application for Grant Funds for Opportunity Site Phase 1 Infrastructure be moved to Council Consideration Items. He has questions about the details of the arrangements and there are some discrepancies in the financial information. There is a policy and budget decision the Council should provide input on.

Mayor Graves pointed out that no one from the Community Development Department was present to answer his questions. Assistant City Manager/City Clerk Barb Suciu explained more staff would arrive for the Regular Session.

Mayor Graves stated Consent Agenda Item 6d. Resolution Accepting Bid and Awarding a Contract

to Hosier Worldwide, Inc., for Demolition and Site Work at 6100 Shingle Creek Pkwy (Former Target Site) would become Council Consideration Item 10c. Resolution Accepting Bid and Awarding a Contract to Hosier Worldwide, Inc, for Demolition and Site Work at 6100 Shingle Creek Pkwy (Former Target Site). Then Consent Agenda Item 6e. Resolution Identifying the Need for Livable Communities Demonstration Account (LCDA) Transit-Oriented Development Funding and Authorizing Application for Grant Funds for Opportunity Site Phase 1 Infrastructure would become Council Consideration Item 10d. Resolution Identifying the Need for Livable Communities Demonstration Account (LCDA) Transit-Oriented Development Funding and Authorizing Application for Grant Funds for Opportunity Site Phase 1 Infrastructure.

Councilmember Kragness noted there was a tally error in the item regarding Council Consideration Items 10b. City Commission Appointments for the Cultural and Public Arts Commission. Someone has a better score than an appointee does. Mayor Graves stated not all of the slots are filled with the suggested appointments. Only four of the seven positions would be filled. Some applications are more complicated, so she wanted to review some of the applications due to the spread of ratings from various Councilmembers.

Councilmember Kragness asked what the point was in Councilmembers providing scores if Mayor Graves would merely appoint the Commissioners. Mayor Graves stated she wanted the input of the Council.

Councilmember Kragness stated the person with the lowest score is a reflection of Council consensus. Mayor Graves stated there was more consensus on the applicants that had a smaller spread of scores. She wants an opportunity to review the applications that had a wide array of scores as that does not reflect Council consensus.

Councilmember Jerzak noted he would be uncomfortable discussing potential applicants at an open meeting. It is ultimately the decision of the Mayor to make appointments. Mayor Graves stated she is pleased with all of the applicants. She hopes to ensure the appointees reflect diverse backgrounds and experiences.

Councilmember Lawrence-Anderson expressed her appreciation of the format used for the Councilmembers to provide input privately.

Assistant City Manager/City Clerk Barb Suciu requested the appointments be moved to the July 8 meeting, as the commission would not be meeting before that date. Mayor Graves agreed to Ms. Suciu's request.

Councilmember Jerzak stated there is a time crunch on reviewing The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention resolution. He would like there to be enough time to dig into the questions and concerns of the Council. Additionally, he looks forward to the input of the Police Chief as collaboration is imperative.

Mayor Graves stated the timeline for reviewing The Daunte Wright and Kobe Dimock-Heisler

Community Safety and Violence Prevention Resolution is merely an outline rather than a rigid schedule. She suggested the discussion on the resolution be held off until City Manager Edwards is present.

There was consensus by the Council to wait to discuss The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention resolution.

Ms. Suciu pointed out that the format for the Worksession was originally intended as a 90-day pilot. She requested feedback from the Council so staff can make the necessary changes. She pointed out that having a Worksession and a Work Session/EDA is confusing for staff and residents.

Councilmember Lawrence-Anderson stated she prefers the previous format as the new format seems less productive.

Councilmember Kragness explained the new format is less formal and allows for more discussion of items that may not be on the agenda.

Councilmember Jerzak noted his agreement with Councilmember Kragness. The less formal environment promotes collaboration and engagement amongst the Council. As for productivity, each representative of the Council needs to notify Staff of topics they hope to discuss so Staff is prepared.

Councilmember Lawrence-Anderson added she isn't opposed to the new format. The Council has the ability to create the environment they want and avoid wasting time.

Mayor Graves stated the Council will maintain the new format and commit to being more prepared to promote productivity.

Ms. Suciu requested the Worksession be called a Study Session but with the same format. Mayor Graves agreed that was acceptable.

ADJOURNMENT

Councilmember Lawrence-Anderson moved and Councilmember Jerzak seconded to close the Study Session at 6:25 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 24, 2024
CITY HALL – COUNCIL CHAMBERS

1. INFORMAL OPEN FORUM WITH CITY COUNCIL

The Brooklyn Center City Council met in an Informal Open Forum called to order by Mayor April Graves at 6:58 p.m.

2. ROLL CALL

Mayor April Graves and Councilmembers Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Councilmember Marquita Butler was absent and excused. Also present were Community Development Director Jesse Anderson, Planning Manager Ginny McIntosh, Assistant City Manager/City Clerk Barb Suciu, Deputy City Clerk, Shannon Pettit, and City Attorney Siobhan Tolar.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

4. INFORMAL OPEN FORUM

Mayor Graves read the rules for the Informal Open Forum.

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

Sharon H. stated her husband is a veteran of the Vietnam War. They both live in Sonder Point Apartments. She is the president of the Resident Group. The residents were excited about the prospect of a new facility. There are guidelines to meet for Section 42, such as income. She got a job at HOM Furniture but had to quit due to the Section 42 guidelines. The rent was initially $1,370.

Mayor Graves requested Ms. Harris wrap up her comments.

Sharon H. stated they are now dealing with market-rate rent of over $1,600. There are gang violations, homelessness, broken cameras, filthy underground parking, and other issues. People have moved out due to the lack of affordability. She asked if the Council considered the restricted income of seniors when they approved Sonder Point Apartments.

Mayor Graves stated she has attended some apartment meetings and will work with staff to determine how else the city can help.

Mary B. noted she was also present to speak on Sonder Point. She has seen seven different managers during her time living there. She received a non-renewal notice but could not pay the rent because the payment portal was shut down. After working with a housing advocate, they confirmed Sonder Point is at fault.

Mary B. pointed out that the building is unsafe. Individuals from the Transit Center end up sleeping in their entryway. She has had law enforcement escort her from the building for her safety. The police regularly respond to the building, and cars are often broken into.

Kevin S. explained that he supports any repairs or improvements to the Community Center. A pool is an excellent opportunity for folks to learn how to swim. The community rooms are small. New Brighton has a great Community Center.

Councilmember Jerzak moved, and Councilmember Kragness seconded to close the Informal Open Forum at 7:14 p.m.

Motion passed unanimously.

5. INVOCATION

Councilmember Lawrence-Anderson shared a quote by Lucille Ball, "One of the things I've learned the hard way is it doesn't pay to get discouraged. Keeping busy and making optimism a way of life can restore your faith in yourself." She also shared a quote from Helen Keller, stating that optimism is the face that leads to achievement. Nothing can be done without hope and confidence."

ADMINISTER CEREMONIAL OATH OF OFFICE

Assistant City Manager/City Clerk Barb Suciu conducted the swearing-in of Police Chief Garett Flesland. He received his badge from his father and wife.

Police Chief Flesland noted serving the City of Brooklyn Center is an honor and privilege. He thanked various law enforcement for their work and support. He also thanked family and friends for their support. Chief Flesland requested each city representative serve proudly, choose happiness, and be professional.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

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

6a. APPROVAL OF MINUTES

1. June 10, 2024 – Worksession
2. June 10, 2024 – Regular Session
3. June 10, 2024 – EDA/Work Session

6b. LICENSES

MECHANICAL

Admiral Radon Mechanical Services LLC	13816 Utah Avenue Savage 55378
Air Comfort Htg & A/C	19170 Jasper Street NW Anoka 55303
Eagle Ridge Plumbing LLC	E7899 102th Avenue Colfax, WI 54730
Residential Heating and Air, Inc.	7454 Washington S. Eden Prairie 55344
Ty's Heating and A/C LLC	12689 Zilla Street NW Coon Rapids 55448

INTOXICATING LIQUOR

Hip Sing BBQ & Seafood	3419 Highlands Road

RENTAL

INITIAL (TYPE III – one-year license)

5930 Pearson Drive	Elvis Osagie

INITIAL (TYPE I – three-year license)

3001-3007 51st Avenue N	Xue Yang
2820 67th Lane N	Danmark Properties Llc
5906 Halifax Avenue N	OLUBUNMI A AGUNBIADE

RENEWAL (TYPE IV – six-month license)

6109 Beard Avenue N	SIMONS REVOCABLE TRUST
2606 65th Avenue N	Hpa Ii Borrower 2020-2 Llc
5301 France Avenue N	Juniper Land Trust Llc

5510 France Avenue N	Iasis I LLC
6007 Girard Avenue N	R&b Management I Llc
6618 Colfax Avenue N	Dhanraj Khemraj
6749 Humboldt Avenue N	Patrick Nguyen
7037 Fremont Avenue N	Edwina P Mcgill

RENEWAL (TYPE III – one-year license)

6331 Indiana Avenue N	Ih3 Property Minnesota Lp
6412 Humboldt Avenue N	Tou Yang
7085 Unity Avenue N	I-chang Wen & Yanhua Sun

RENEWAL (TYPE II – two-year license)

1200 67th Avenue N	T H Morrow & R J Morrow
5000 France Avenue N	M B & P S Nightingale
7215 Girard Avenue N	Rht Girard Llc

RENEWAL (TYPE I – three-year license)

4207 Lakeside Avenue N, #235	Ammar Abdulrahman
1207 65th Avenue N	Andy Ung & Leng Taing
1330 67th Lane N	SIBILEV HOLDINGS LLC
1807 70th Avenue N	Rht Logan Llc
2806 65th Avenue N	A-jelil Abdella & N Said
6336 Beard Avenue N	Cosco Property I Llc
6424 Marlin Drive	CJ Bright & QK Fank
6500 Willow Lane N	Brett Hildreth
6737 Camden Avenue N	Ronald F Jasicki
6912 Unity Avenue N	Geri L Williams
7031 Humboldt Avenue N	Ih3 Property Minnesota Lp

SUNDAY SALES

Hip Sing BBQ & Seafood 3419 Highlands Road

6c. RESOLUTION NO. 2024-67; TRANSFERRING LOCAL BOARD AUTHORITY OF APPEAL AND EQUALIZATION POWER AND DUTY TO HENNEPIN COUNTY ("OPEN BOOK")

6d. RESOLUTION NO. 2024-68; ACCEPTING BID AND AWARDING A CONTRACT TO HOSIER WORLDWIDE, INC, FOR DEMOLITION AND SITE WORK AT 6100 SHINGLE CREEK PKWY (FORMER TARGET SITE)

6e. RESOLUTION NO. 2024-69; IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) TRANSIT-ORIENTED DEVELOPMENT FUNDING AND AUTHORIZING APPLICATION FOR GRANT FUNDS FOR OPPORTUNITY SITE PHASE 1 INFRASTRUCTURE

6f. AN ORDINANCE NO. 2024-06; AMENDING THE MAYOR AND COUNCIL SALARIES FOR 2025 AND 2026 (FIRST READING)

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

None.

8. PUBLIC HEARINGS

8a. AN ORDINANCE NO. 2024-04; AMENDING CHAPTER 12 OF THE CITY RELATING TO NEW RENTAL LICENSED PROPERTIES AND NUISANCE ABATEMENT PROCESS – 2ND READING

Assistant City Manager/City Clerk Barb Suciu introduced the item and invited Community Development Director Jesse Anderson to make the presentation.

Community Development Director Jesse Anderson explained that the process would be similar to the vacant building's emergency abatement process. The process would remain the same with one final step added. If there is no compliance after several inspections, staff will issue an abatement order. The abatement order will give the property owner at least ten days to bring the property into compliance. If the property is not compliant, staff will hire a contractor to abate the violation. The costs for abatement would be specially assessed to the property taxes.

Mr. Anderson pointed out there is an appeal process where the homeowner has several opportunities to appeal the property code violation, abatement order, and abatement fees. Per Cpde

12-1202, the property owners will have five days from when the compliance notice is served to appeal.

Mr. Anderson added there are proposed changes to the language in Chapters 12-900 to 12-1002 regarding the rental licensing program. The proposed changes are to clarify the language regarding new construction and existing properties applying for their first rental license. Based on the current language, it was unclear what type of license these properties would qualify for. The change for new construction properties will read more clearly and specify the type of license that new construction properties can obtain. It will read that new construction licenses will qualify for a Type II, Type III, or Type IV rental license. They will not be eligible for a Type I – 3-year license.

Mr. Anderson stated the other change is with existing properties applying for their first license. It will read that existing properties applying for their first rental license only qualify for a Type II, Type III, or Type IV rental license.

Councilmember Jerzak moved, and Mayor Graves seconded the opening of the Public Hearing.

Motion passed unanimously.

No one appeared to address this item.

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

Motion passed unanimously.

Councilmember Jerzak moved, and Councilmember Lawrence-Anderson seconded to approve the second reading and adopt ORDINANCE NO. 2024-04; Amending Chapter 12 of the City Code of Ordinance Amending Sections 12-901, 12-1201A, and 12-1206 of the City Code of Ordinances regarding rental licensing and building compliance orders.

Motion passed unanimously.

8b. RESOLUTION NO. 2024-70; APPROVING AMENDMENTS TO, AND REISSUANCE OF, THE CREST APARTMENT'S MULTIFAMILY HOUSING REVENUE NOTE, SERIES 2021A

Assistant City Manager/City Clerk Barb Suciu introduced the item and invited Ehlers Consultant Jason Aarsvold to make the presentation.

Mr. Aarsvold explained to help finance the Crest Apartments, the EDA provided tax increment financing assistance, and the City of Brooklyn Center approved the issuance of up to $19,000,000 of tax-exempt conduit Housing Revenue Bonds for rehabilitation and new construction of the Crest Apartments. Bonds were issued as conduit revenue bonds secured solely by the revenues derived from a loan agreement executed by Brooklyn Center and the borrower and other security provided

by the borrower. The lender or bondholders provided the funds for the loan, and Brooklyn Center assigned its rights and obligations under the Loan Agreement to the lender.

Mr. Aarsvold pointed out that the bonds issued for Aeon's project mature on June 28, 2024, and are intended to be repaid with separate financing from a permanent lender. Aeon needs more time to get this permanent financing in place; however, they requested an extension on their bonds. Their construction lender, Bridgewater Bank, has agreed to this. Ultimately, there is no impact on Brooklyn Center. However, since this is tax-exempt financing, the extension requires a public hearing and City approval. This hearing was properly noticed for June 24, 2024, to allow the City Council to consider the extension at this meeting.

Mayor Graves asked how long the extension is for. Mr. Aarsvold stated the extension is for six months.

Councilmember Lawrence-Anderson asked if the city has any risk in this manner. Mr. Aarsvold confirmed there is no risk to Brooklyn Center.

Councilmember Jerzak moved, and Mayor Graves seconded the opening of the Public Hearing.

Motion passed unanimously.

No one appeared to address this item.

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

Motion passed unanimously.

Councilmember Jerzak moved, and Mayor Graves seconded to adopt RESOLUTION NO. 2024-070; approving amendments to and authorizing the deemed reissuance of a conduit multifamily housing revenue note and amendments to documents in connection therewith (the Crest Apartments project).

Motion passed unanimously.

9. PLANNING COMMISSION ITEMS

9a. RESOLUTION NO. 2024-071; REGARDING RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2024-006 SUBMITTED BY C ALAN HOMES LLC FOR RE-APPROVAL OF THE PRELIMINARY AND FINAL PLATS FOR ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION (6025, 6031, 6037, AND 6045 BROOKLYN BOULEVARD)

Assistant City Manager/City Clerk Barb Suciu introduced the item and invited Planning Manager Ginny McIntosh to make the presentation.

Ms. McIntosh explained three items related to C Alan Homes on the Regular Session agenda. The EDA meeting also has an item related to C Alan Homes.
C Alan Homes LLC requests re-approval of a preliminary and final plat for the Robertson and Brekke Brooklyn Boulevard Addition, initially approved by City Council under Planning Commission Application No. 2020-004 and City Council Resolution No. 2020-067. Said application also included requests for approval of a site and building plan and establishment of a Planned Unit Development for a series of seven triplexes and related site improvements on what was formerly land owned by the City of Brooklyn Center Economic Development Authority (EDA), and commonly addressed as 6025, 6031, 6037, and 6045 Brooklyn Boulevard. The south site is 1.65 acres. The sites are in the PUD/Neighborhood Mixed Use zoning district, and the future designation is Neighborhood Mixed Use.

Ms. McIntosh noted although the applicant successfully purchased the property in late 2020, and a single Purchase and Development Agreement was executed for what were two sets of properties intended for a scattered site triplex development, the applicant and property owner ran into delays with the property, which was the first to go under construction. This was following a request by Hennepin County that the county quitclaim certain property contained within the plat for right-of-way purposes. This resulted in the need for a partial release of the Purchase and Development Agreement and Declaration of Restrictive Covenants and Quit Claim Deed for this property in March 2022.

Ms. McIntosh stated that during this time frame, the applicant's lender stopped funding the project, and the applicant entered into two years of litigation to keep the development afloat. The request for re-approval of the preliminary and final plans is more imminent as the applicant and property owner recently entered into a voluntary foreclosure proceeding with a short redemption period.

Ms. McIntosh stated the applicant has indicated that they are now in the process of re-financing the project and have partnered with developer Devan George; however, the preliminary and final plats require a re-approval from the city and the applicant will also separately require approval of an Amended Development Agreement as they are currently in default given the project was not completed within the timeframe outlined.

Ms. McIntosh showed an overview of the plats and pointed out the issue with the triplexes being on one parcel. Approval of the replay would address the issue. She pointed out City Staff reached out to the Hennepin County Survey Division, and they confirmed they still have the plat information on file; however, because two years have passed since the initial approval, they would require updated, current title work, which the city also requires, as well as the most recent copy of the plat.

Ms. McIntosh stated that as part of the 2020 application and review, it was requested that legal descriptions and easement vacations for all existing easements and certain vacations of existing public easements, as determined by the city, be submitted. The applicant shall also provide and maintain a current title and title commitment abstract for the City Attorney and Hennepin County review.

Ms. McIntosh noted that former Assistant City Engineer Andrew Hogg initially reviewed the plats and, provided a memorandum, and redlined a set of comments dated August 4, 2020. A 10-foot drainage and utility easement was noted as required for dedication around the entire property perimeter. An additional utility easement shall be dedicated to the plate to allow for any future maintenance of private water mains and sanitary sewers per Development Agreement requirements. The sidewalk will also need to be addressed.

Ms. McIntosh showed the list of conditions of approval. The plats, trail easement, and other items are addressed.

Ms. McIntosh added that due to the nature of the requests, a public hearing notice was published in the Brooklyn Center *Sun Post* on April 25, 2024. Mail notifications were sent to those property owners and residents near the Subject property, and a public hearing notice was uploaded to the city's website. A link to the public hearing notice was also published on the city's website and emailed to subscribers of the city's weekly events bulletin. City staff is in receipt of one public received by email.

Ms. McIntosh noted that one public comment had been received before the May 9, 2024, Planning Commission meeting. The applicant requested the item be tabled until the June 13, 2024 meeting. A 60-day extension letter was issued to the applicant on May 10, 2024, per MN Statutes Section 15.99. The public hearing continued at the June 13, 2024, Planning Commission meeting, where additional comments were received.

Ms. McIntosh stated comments provided by the public regarding the C Alan Homes South Site included clarifying questions on how many buildings would be located on each lot, overgrown grass on the Subject Property and maintenance concerns, parking concerns, and frustration with the developer's financing and inability to finish construction on the South Site. These concerns were provided by residents residing near the C Alan Homes' North Site; no comments were provided by residents, businesses, or property owners in proximity to the South Site. Following the close of the public hearing on June 13, 2024, the Planning Commission recommended (3-2) City Council approval of the preliminary and final plats for the Robertson and Brekke Brooklyn Boulevard Addition.

Councilmember Jerzak pointed out that he had read all of the comments received. The Planning Commission meeting didn't show a specific recommendation. He requested the resolutions be separated. It appears a foreclosure is still pending. No matter who owns the property, the plats must be cleaned up.

Ms. McIntosh stated the item up for discussion is only the south site. Councilmember Jerzak thanked her for the clarity.

Ms. McIntosh stated there is a title issue with the currently constructed triplexes. The issues with the county were a surprise to the staff.

Councilmember Jerzak asked if the development agreement stands, regardless of who owns the

property. Ms. McIntosh confirmed that was correct. The EDA meeting will address the development agreement.

Councilmember Jerzak asked why two Commissioners dissented with the recommendation. Ms. McIntosh stated their reason for dissent was unclear.

Councilmember Lawrence-Anderson noted her concern with the close vote from the Commission. They heard more information from the applicant and the public than the Council will.

Councilmember Kragness asked if any official agreements regarding financial backing were in place. Mr. Terry Robinson stated there isn't anything written down formally, but Devan George is working with the lender. The lender is working to support the project as they put the owner in a tough position.

Mayor Graves asked about the change in the number of plats. Ms. McIntosh stated the recommendation is identical to the 2020 decision. Many of the Commissioners were not on the Planning Commission in 2020. It is ultimately a clean-up item at this point. The four parcels were supposed to be changed to seven parcels in 2020, but it wasn't properly recorded.

Councilmember Lawrence-Anderson asked when the site would be mowed. Mr. Robinson stated they had someone mow recently, and it will require a second mow because the grass was so tall. He hasn't moved forward with a second mowing because he wasn't sure if he would continue to own the property.

Mr. Robinson explained his desire to build in Brooklyn Center due to his history with the area. He didn't take any tax money, and he didn't attempt a high-density development. There wasn't an opportunity to address some issues raised by public commenters at the Planning Commission. The Mayor requested some affordable units, so he did a favor by making 20 percent of the units affordable. All his money is invested in the project, and they want to bring tax dollars to Brooklyn Center. The units are rented out even though there isn't a completed building yet.

Councilmember Jerzak asked if the project would likely be completed by December 2025. Mr. Robinson stated there is an 18-month timeline for the project once they start.

Councilmember Jerzak pointed out there have been multiple complaints about the upkeep of the property and the lack of progress, though the applicant has alleged the lack of progress is outside of his control. The land is a blight on the main street.

Mr. Robinson explained he is a custom home builder. He ran out of money and couldn't afford the developments he was doing throughout the State. There has been no money coming in on the lot. He finally got money to put into the site and used it to address the lawn.

Councilmember Jerzak asked what happens if the item isn't approved. Mr. Robinson stated he didn't know what would happen. His friend is willing to put up $14 million to support the development due to their history.

Mayor Graves asked for more information on the foreclosure. Ms. McIntosh stated that should the foreclosure go through, the lender will likely find another owner. It is unknown if it would be a developer or a contractor. The city wouldn't have a say in the matter. The affordability clause would disappear in the scenario of a foreclosure.

Councilmember Lawrence-Anderson asked what was on the south site. Ms. McIntosh stated that two triplexes are close to being done. The applicant was hoping to get a Certificate of Occupancy, but there is an issue because of the lender.

Councilmember Lawrence-Anderson stated she supports moving forward with the south site since it is almost complete, but not the north site.

Councilmember Kragness pointed out the applicant has faced a lot of adversity but has remained resilient. She would like to see the site completed.

Mayor Graves moved, and Councilmember Kragness seconded to approve RESOLUTION NO. 2024-71; approving Planning Commission Application No. 2024-006 for re-approval of the preliminary and final plat for Robertson and Brekke Brooklyn Boulevard Addition and, commonly addressed as 6025, 6031, 6037, and 6045 Brooklyn Boulevard, based on the findings of fact and submitted documentation, as amended by the conditions of approval in the resolution.

Motion passed unanimously.

9b. RESOLUTION APPROVING A PLANNING COMMISSION APPLICATION NO. 2024-007 SUBMITTED BY C ALAN HOMES LLC FOR RE-APPROVAL OF THE PRELIMINARY AND FINAL PLATS FOR ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION (6921, 6927, 6933, AND 6939 BROOKLYN BOULEVARD)

Assistant City Manager/City Clerk Barb Suciu introduced the item and invited Planning Manager Ginny McIntosh to make the Staff presentation.

Ms. McIntosh stated the next item is the north site.

Ms. McIntosh explained C Alan Homes LLC is requesting re-approval of a preliminary and final plat for Robertson and Brekke Brooklyn Boulevard Second Addition, which was initially approved by City Council under Planning Commission Application No. 2020-004 and City Council Resolution No. 2020-067. Said application also included requests for approval of a site and building plan and establishment of a Planned Unit Development for a series of six triplexes and related site improvements on what was formerly land owned by the City of Brooklyn Center Economic Development Authority (EDA), and commonly addressed as 6025, 6031, 6037, and 6045 Brooklyn Boulevard. The north site is 0.88 acres. The sites are in the PUD/Neighborhood Mixed Use zoning district, and the future designation is Neighborhood Mixed Use.

Ms. McIntosh noted there was only one development agreement for both properties. There were additional issues with Hennepin County's record of the property. She showed an aerial image of the site. It was approved for six parcels in 2020.

Ms. McIntosh stated that the proposed preliminary and final plat would subdivide four lots into six new parcels to accommodate six triplexes. Former Assistant City Engineer Andrew Hogg initially reviewed the plats and provided a memorandum and redlined set of comments. A 10-foot drainage and utility easement was noted as required for dedication around the entire property perimeter. An additional utility easement shall be dedicated to the plate to allow for any future maintenance of private water mains and sanitary sewers per Development Agreement requirements. The sidewalk will also need to be addressed.

Ms. McIntosh added that due to the nature of the requests, a public hearing notice was published in the Brooklyn Center *Sun Post* on April 25, 2024. Mail notifications were sent to those property owners and residents near the Subject property, and a public hearing notice was uploaded to the city's website. A link to the public hearing notice was also published on the city's website and emailed to subscribers of the city's weekly events bulletin. City Staff is in receipt of one public received by email.

Ms. McIntosh pointed out two public comments had been received before the May 9, 2024, Planning Commission meeting. The applicant requested the item be tabled until the June 13, 2024 meeting. A 60-day extension letter was issued to the applicant on May 10, 2024, per MN Statutes Section 15.99. The public hearing continued at the June 13, 2024 Planning Commission meeting, where additional comments were received.

Ms. McIntosh stated that comments provided by the public regarding the C Alan Homes South Site were included. Still, she was not limited to concerns regarding the foreclosure, parking needs, maximum occupancies in each unit, and overall maintenance of the Subject Property. Additional questions were addressed to City staff regarding the city's original intentions for the land, which was formerly owned by the City's Economic Development Authority, whether a traffic study had been conducted, any proposed street improvements to 69th Avenue North for the additional traffic, the ability for cars to navigate Lee Avenue North when other vehicles are present, and snow removal.

Ms. McIntosh added a number of residents noted concerns with additional traffic given the number of children in the neighborhood, with one resident noting that they shut down the dead end of Major Avenue North and put out cones so children could play. The additional units would interrupt the neighborhood's gathering spaces. Additional concerns were raised regarding crime in the area, including the bus stop nearby, and that it didn't make sense to build luxury apartments across the street from a gas station with regular shootings.

Ms. McIntosh stated following the close of the public hearing on June 13, 2024, the Planning Commission recommended (1-4) City Council denial of the preliminary and final plats for the Robertson and Brekke Brooklyn Boulevard Second Addition. Staff only looks at Code

requirements, and the application meets all City requirements. Therefore, the staff is recommending approval.

Councilmember Jerzak stated that dislike from neighbors is not enough to deny an application. However, the denial by the Planning Commission and the difficult circumstances surrounding the site support a denial by the Council as well.

Councilmember Lawrence-Anderson agreed she did not support the application.

Councilmember Kragness asked if the two projects could be completed separately. Mr. Robinson stated the margins were already so low that he couldn't swing it with just one site. He would have built elsewhere if he were trying to make money.

Councilmember Lawrence-Anderson stated he wants to see one project finished before starting another one.

Mayor Graves asked if the 2020 Council received information on traffic impacts. Ms. McIntosh stated a traffic study was not triggered for this development. A study would be required if development were to add more than 100 cars.

Ms. McIntosh pointed out that Hennepin County doesn't support curb cuts on Brooklyn Boulevard. The only option for access would be to combine with the gas station. However, that would eliminate parking for the gas station. At the most, there would be only emergency access to Brooklyn Center. Anything built on the lot would require Lee to access it.

Councilmember Jerzak noted that the applicant wants to push through the issues and continue the project. However, a business is a for-profit effort. The site is difficult.

Mayor Graves asked what the EDA intended to build on the site. Ms. McIntosh stated the EDA knew they wouldn't have access to Brooklyn Boulevard, so they had no intention of building single-family homes.

Councilmember Kragness asked how the measure was approved in 2020 without anything changing since then. Ms. McIntosh stated that because the plats were not recorded within one year, they needed to be approved again for proper recording.

Councilmember Kragness asked why the previous Council approved the use. Ms. McIntosh stated the proposal is on the lower end of the density options for the properties. An apartment building could be built on the property. There is a height allowance of 48 feet.

City Attorney Siobhan Tolar recommended the Council make clear findings as to why the application would be denied. Then, staff can create a document detailing the findings for the record.

Mayor Graves stated that housing is needed, especially for different housing types. It is an excellent housing product that allows for lower-income units. Plus, any other development on the land is likely to create even more traffic.

Mayor Graves moved, and Councilmember Kragness seconded to adopt a resolution approving Planning Commission Application No. 2024-007 for re-approval of the preliminary and final plat for Robertson and Brekke Brooklyn Boulevard Second Addition, commonly addressed as 6921, 6927, 6933, and 6939 Brooklyn Boulevard, based on the findings of fact and submitted documentation, as amended by the conditions of approval in the resolution.

Councilmembers Jerzak and Lawrence-Anderson voted against the same. Motion failed.

Councilmember Jerzak explained the totality of the circumstances, including the denial by the Planning Commission, no access to Brooklyn Boulevard displeased neighbors, and financial troubles; the development is not the best fit for the neighborhood nor the city.

Councilmember Lawrence-Anderson noted her decision relied heavily on input from the Planning Commission, public comment, and issues with accessing Brooklyn Boulevard. She believes she supported the measure in 2020. She would prefer to see the other site completed first.

Mayor Graves reiterated she and Councilmember Kragness supported the application.

10. COUNCIL CONSIDERATION ITEMS

10a. RESOLUTION NO. 2024-072; APPROVING AMENDED PERFORMANCE AGREEMENTS WITH C ALAN HOMES

Assistant City Manager/City Clerk Barb Suciu introduced the item and invited Jason Aarsvold, Ehlers Consultant, to make the Staff presentation.

Mr. Aarsvold explained the City Council entered into Performance Agreements for the C Alan Home Project located at 6025, 6031, 6037, 6045, 6921, 6927, 6933, and 6939 Brooklyn Boulevard. C Alan Homes also entered into Performance Agreements with the City requiring the construction of 13 total tri-plex rental units no later than December 31, 2022, for Project 1 and December 31, 2023, for Project 2. C. Allen commenced construction of the infrastructure and two tri-plex buildings in Project 1 but did not complete construction within the agreed-upon timeframe. In addition, the lender for the project has since initiated the steps necessary to foreclose on the property.

Mr. Aarsvold stated that the staff had prepared two amendments that would change the dates of the projects. There are two separate motions, one for each of the projects.

Mayor Graves pointed out it would make sense for the Council to approve the First Amendment as they previously supported the south site.

Mayor Graves moved, and Councilmember Lawrence-Anderson seconded to adopt RESOLUTION NO. 2024-72; approving an amendment to a performance agreement (6025, 6031, 6037, and 6045 Brooklyn Boulevard).
Motion passed unanimously.

Mayor Graves moved, and Councilmember Kragness seconded to adopt a resolution approving an amendment to a performance agreement (6921, 6927, 6933, and 6939 Brooklyn Boulevard)

Councilmembers Jerzak and Lawrence-Anderson voted against the same. Motion failed.

10b. CITY COMMISSION APPOINTMENTS

Mayor Graves pointed out that Ms. Suciu requested the Council wait to vote on the Cultural and Public Arts Commission appointments.

Councilmember Jerzak moved, and Councilmember Kragness seconded to appoint Venus Coleman and Michael Donnelly to the Financial Commission and Alyssa Kuglin and Natalie O'Connor to the Housing Commission.

Motion passed unanimously.

10c. RESOLUTION NO. 2024-68: ACCEPTING BID AND AWARDING A CONTRACT TO HOSIER WORLDWIDE, INC. FOR DEMOLITION AND SITE WORK AT 6100 SHINGLE CREEK PKWY (FORMER TARGET SITE)

Mayor Graves pointed out that Councilmember Jerzak requested that the item be moved from the Consent Agenda.

Community Development Director Jesse Anderson explained the eight bids received. Hosier Worldwide submitted the lowest total bid of $491,691.00; Inc. has the experience, equipment and capacity to qualify as the lowest responsible bidder for the project.

Councilmember Jerzak asked if the bid included restoring the parking lot's lighting and the shared wall. He noted staff previously indicated insurance would cover a majority of the demolition. However, the item has a request for $750,000. He asked what the money would be used for.

Mr. Anderson stated that the bid includes running electricity back to the parking lot lighting and restoring the shared wall. He listed more items included in the bid. There isn't a planned use of the Tax Increment Financing fund. The insurance will include all of the demolition and restoration work. No additional funding is needed.

Councilmember Jerzak asked if it is necessary to seed the property because people will likely drive around the lot. There would also be a requirement to mow it. Mr. Anderson stated that the staff hopes they could use the lot for events. Plus, the intention is to use as much insurance money as possible.

Councilmember Kragness asked if the building is considered a total loss. Mr. Anderson noted it could have received around $2 million in repairs. There is also a need for $4 million of updates to ensure the Code is met. The goal was probably always for demolition and redevelopment, but they anticipated a developer would have paid for the demolition.

Councilmember Kragness stated the building was underinsured, so there wasn't enough money to cover repairs. Mr. Anderson stated there could be substantial repairs to make the space usable for a tenant with the insurance amount. However, finding a tenant for such an ample space is difficult.

Councilmember Kragness stated that $646,000 is not enough to cover $2 million in repairs. She asked why it was not considered a total loss. Mr. Anderson stated that the insurance company considered the building a total loss and that the coverage reflected the value of the building.

Councilmember Lawrence-Anderson asked what the purchase price of the building was for the EDA. Mr. Anderson stated it was $3.6 million. Councilmember Lawrence-Anderson stated the building resulted in an overall loss.

Mayor Graves moved, and Councilmember Lawrence-Anderson seconded to adopt RESOLUTION NO. 2024-68: accepting the lowest responsible bid and awarding a contract to Hosier Worldwide, Inc., for Demolition and Site Work at 6100 Shingle Creek Pkwy.

Motion passed unanimously.

10d. RESOLUTION NO. 2024-69; IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) TRANSIT-ORIENTED DEVELOPMENT FUNDING AND AUTHORIZING APPLICATION FOR GRANT FUNDS FOR OPPORTUNITY SITE PHASE 1 INFRASTRUCTURE

Mayor Graves pointed out that Councilmember Jerzak requested that the item be moved from the Consent Agenda.

Community Development Director explained that the staff is looking to apply for grant funds to support the Opportunity Site. The grant can be reapplied for each year.

Councilmember Jerzak noted that the Council authorized staff to look for alternative funding opportunities. If the city were to obtain the grant, it would still leave $4 million to find. Using $4 million of taxpayer money for the project is not reasonable. The developer has already reneged on his commitment. He asked for an update on the developer's status.

Councilmember Jerzak added that the Grant Policy requires any grants to be returned to the Council for review, but the grant criteria don't allow that.

Mr. Anderson stated the developer is still in the same position financially. The grant would reduce Alatus' necessary contribution to infrastructure.

Councilmember Jerzak explained he doesn't want to put $2 million into a site and then feel obligated to find the rest of the money elsewhere.

Mayor Graves asked if the grant could only be used for the Opportunity Site. Mr. Anderson stated the grant is related to housing. If awarded, it expires around the end of 2026. The funds could still be used if a different developer were to step in on the Opportunity Site. The city would still need to meet the goals of the initial application submitted for the grant funds.

Councilmember Jerzak asked if the grant is dedicated to affordable housing. Mr. Anderson stated that the application for the project would score well, whether or not the housing was affordable or market-rate.

Councilmember Lawrence-Anderson pointed out that the first step of the Opportunity Site was intended to be market-rate housing. Mr. Anderson confirmed that the first building for Alatus would be market-rate housing. Councilmember Lawrence-Anderson noted her support of market-rate housing as the city needs to expand its housing options.

Councilmember Kragness stated she isn't opposed to applying for the funds. However, the $2 million would only cover one-third of the project. If the $2 million were awarded, the Council would need to discuss options for the $2 million. Staff is prolonging the ask. Mr. Anderson stated that if Alatus obtained the funding, it would be planning to use TIF for infrastructure. The grant funds would reduce the potential financial burden on the city.

Councilmember Kragness asked if another developer could use the funds. Mr. Anderson confirmed that if a project had similar goals, the grant funds could be used by a different developer.

Councilmember Jerzak agreed he wouldn't mind submitting an application if it aligns with the Grant Policy. Mr. Anderson confirmed the funds would come before the Council if awarded.

Mayor Graves moved, and Councilmember Lawrence-Anderson seconded to adopt RESOLUTION NO. 2024-69; identifying the need for Livable Communities Demonstration Account Transit Oriented Development funding and authorizing an application for grant funds.

Motion passed unanimously.

11. COUNCIL REPORT

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

- Attended the Fire Academy graduation.
- Served as a judge for the BrookLynk pitch competition.

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

- Attended the Juneteenth celebration.
- Stated she participated in a conference in California and toured a local Fire Department.
- Noted her excitement for strides within the Community Development Department.
- Will be attending a Mayor's Luncheon.

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

- Attended the Juneteenth celebration.
- Attended the Fire Academy graduation.
- Met with several constituents.

12. ADJOURNMENT

Mayor Graves moved, and Councilmember Kragness seconded adjournment of the City Council meeting at 8:56 p.m.

Motion passed unanimously.

Council Regular Meeting

DATE: 7/8/2024

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

SUBJECT: Approval of Licenses

Requested Council Action:

- *Motion to approve the licenses as presented.*

Background:

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

Mechanical

Allen Mechanical Inc.
7875 Fuller Rd, Eden Prairie 55344
Erickson Plumbing Heating Cooling
1471 92nd Lane NE, Blaine 55449
High Road Heating & Cooling
2165 Daniels Street., Ste 7, Long Lake 55356
Knight Heating and Air Conditioning, Inc.
13535 89th St NE, Otsego 55330
Quality HVAC Solutions II
7501 Duluth St., Golden Valley 55427

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

ATTACHMENTS:

Description	Upload Date	Type
Rental Criteria	6/20/2023	Backup Material
Rentals	7/1/2024	Backup Material

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

b. Police Service Calls.

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

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

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

Rental Licenses for Council Approval 7.8.24

Location Address	License Subtype	Renewal/Initial	Owner	Property Code Violations	License Type	Police CFS*	Final License Type**	Previous License Type ***	Consecutive Type IV's
6807 Orchard Ave N	Single Family	Initial	Michael Hunter	20	Type IV	N/A	Type IV	N/A	0
6812 Aldrich Ave N	Single	Initial	Igor Komisarchik Et Al	3	Type II	N/A	Type II	N/A	N/A
4204 Lakebreeze Ave N	Multiple Family 1 Bldg 4 Units	Renewal	AZ RENTAL APARTMENTS LLC Did not meet requirements	15 = 3.75 per unit	Type IV	0	Type IV	Type IV	3
3715 69th Ave N	Two Family	Renewal	Christian D Knutson	1	Type I	0	Type I	Type I	N/A
4214 Lakeside Ave	Two Family	Renewal	JE Schoultz & GR Shoultz Did not meet requirements	6	Type III	0	Type III	Type III	N/A
4207 Lakeside Ave N, #140	Condo	Renewal	Kenosha-pacific Re 1 Llc	2	Type I	0	Type I	Type II	N/A
4207 Lakeside Ave N, #226	Condo	Renewal	The Beach Apts Owners Assoc Met Requirements	0	Type I	0	Type I	Type IV	N/A
1300 72nd Ave N	Single	Renewal	Scott & Marinela Selseth Did not meet requirements	4	Type II	0	Type III	Type III	N/A
5302 Humboldt Ave N	Single	Renewal	MNSF Ii W1 LLC	4	Type II	0	Type II	Type II	N/A
5313 Northport Dr	Single	Renewal	Ih2 Property Illinois Lp Met Requirements	5	Type III	0	Type III	Type III	N/A
5559 Lyndale Ave N	Single	Renewal	Zoe M Hildreth	2	Type I	0	Type I	Type I	N/A
6312 France Ave N	Single	Renewal	O OLADEJI & O OLADEJI Did not meet requirements	0	Type I	0	Type IV	Type IV	2

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

**License type being issued

***Initial licenses will not show a Type I = 3 year, Type II = 2 year, Type III = 1 year, Type IV = 6 month

All properties are current on City utilities and property taxes

Council Regular Meeting

DATE: 7/8/2024

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

SUBJECT: Resolution Appointing Election Judges for the 2024 Primary Election

Requested Council Action:

- *Motion to approve a resolution appointing election judges for the August 13, 2024, Primary Election.*

Background:

Minnesota Statutes, Section 204B.21, subdivision 2, requires election judges to be appointed by the governing body at least 25 days before the election at which the election judges will serve. T

Minnesota Statutes, Section 203B.121, provides that the absentee ballot board may include staff trained as election judges. Because the absentee ballot board accepts or rejects absentee ballots in such a timely manner, it is imperative that City Staff be appointed to the absentee ballot board.

Budget Issues:

- none

Inclusive Community Engagement:

- none

Antiracist/Equity Policy Effect:

- none

Strategic Priorities and Values:

Provide quality services with fair and equitable treatment

ATTACHMENTS:

Description	Upload Date	Type
Resolution	7/2/2024	Resolution Letter
Exhibit A	7/2/2024	Resolution Letter

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPOINTING ELECTION JUDGES FOR THE 2024 PRIMARY ELECTION ON AUGUST 13, 2024

WHEREAS, the Primary Election is August 13, 2024; and

WHEREAS, *Minn. Stat. 204B.21, subd. 2,* requires that persons serving as election judges be appointed by the Council at least 25 days before the election at which the election judges will serve.

BE IT RESOLVED by the City Council of the City of Brooklyn Center that the individuals named on the attached exhibit A and on file in the office of the City Clerk are appointed to perform the duties of election judge and/or be appointed as the Brooklyn Center Absentee Ballot Board election judges.

BE IT RESOLVED the City Council also appoints other individuals and all members appointed to the Hennepin County Absentee Ballot Board as authorized under *Minn. Stat. 204B.21, subd. 2*, under the direction of the Assistant City Manager/City Clerk, to serve as members of the Brooklyn Center Absentee Ballot Board.

BE IT FURTHER RESOLVED that the Assistant City Manager/City Clerk is with this, authorized to make any substitutions or additions as deemed necessary.

July 8, 2024
Date

_____
Mayor

ATTEST:_____
Assistant City Manager/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.

EXHIBIT A
Election Judges

Baskin	Tamika	Knudsen
Bennethum	Tedd	Koenig
Bennethum	Lynn	Landt
Bentrud	Andrea	Long
Berg	Susie	Malcolm
Bueckers	Kenneth	Merritt
Bumgarner	Don	Mesenbrink
Carlson	Jean	Meyer
Carr	Margaret	Miller
Cary	Mary	Mitlyng
Christians	Carolyn	Mudek
Cooper	Patty	Nelson
Cramer	Thomas	Pelkey
Crawford	Daniel J	Perreault
Crest	Dale	Peterson
Dagner	Ryan	Pettit
Davies	Emma	Phillips
DeRosier	Jon	Phillips
Donnelly	Michael	Pimlott
Einberger McDonough	Wendi	Preble
Ellgren	Kathryn	Roberts
Epps	Myra	Roelofs-Lynch
Esele	Chidiebere	Saathoff
Gersetich	Mary	Scherber
Gilyard	Leslie	Shibley
Green	Carolyn	Smith
Hancock	Allan	Smuk
Hanna	Melody	Speltz
Henrichs	Philip	Suciu
Holmes	Quincia	Sullivan-Pettit
Hurley	Charles	Swenson
Ishola	Taofeek	Thielsen
Johnson	Charlene	Turner
Johnson	Kirk	Varhol
Kesgard	Nichole	Viste

Khan	Nahid	Weber
		Wilks

Marilyn
Patricia
Emma
Stephen
Sandra
Gayle
Patty
Randall
Sheteea
Deborah
Todd
Kathleen
Bruce
Dale
Vanissa
Shannon
Toby
Jenna
Kathryn
Tanya
Mark
Jeremy
Holly
Kevin
Paulette
Deborah
Melanie
Honey
Barb
Isabelle
Janice
Gregory
Yvonne
Paula
Mark

Sharon
Sarah

Council Regular Meeting

DATE: 7/8/2024

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

SUBJECT: Resolution Denying Planning Commission Application No. 2024-007, Submitted by C Alan Homes LLC for Re-approval of the Preliminary and Final Plats for Robertson and Brekke Brooklyn Boulevard Second Addition (6921, 6927, 6933, and 6939 Brooklyn Boulevard)

Requested Council Action:

- Motion to adopt a resolution denying Planning Commission Application No. 2024-007 for re-approval of the preliminary and final plat for Robertson and Brekke Brooklyn Boulevard Second Addition, and commonly addressed as 6921, 6927, 6933, and 6939 Brooklyn Boulevard, based on the findings of fact as outlined in the resolution.

Background:

Following a 2-2 vote (motion failed) at the June 24, 2024 meeting, City Council directed staff to prepare a resolution denying the re-approval of the preliminary and final plats for Robertson and Brekke Brooklyn Boulevard Second Addition, as outlined within Planning Commission Application No. 2024-007, and concerning certain property located at 6921, 6927, 6933, and 6939 Brooklyn Boulevard.

The aforementioned preliminary and final plats were initially approved by City Council in 2020 under Planning Commission Application No. 2020-005 and City Council Resolution No. 2020-068, and in relation to a larger request that would've resulted in the construction of six (6) triplexes with shared improvements at the Subject Property. Said property was conveyed by the City of Brooklyn Center's Economic Development Authority to Applicant and Property Owner C Alan Homes LLC in late 2020 and a Purchase and Development Agreement executed for the Subject Property, as well as a separate site to the south (refer to Planning Commission Application Nos. 2024-006 and 2020-004); however, the Applicant and Property Owner ran into delays with Hennepin County and their lender, who ceased financing on the development.

City staff has included a copy of the last revised Planning Commission Report for the requested re-approval of the preliminary and final plats for Robertson and Brekke Brooklyn Boulevard Second Addition, and commonly addressed as 6921, 6927, 6933, and 6939 Brooklyn Boulevard. An excerpt of the approved May 9, 2024 Planning Commission meeting minutes, which were approved at the June 13, 2024 meeting, are included, as well as an excerpt of the *draft* June 13, 2024 Planning Commission meeting minutes.

Budget Issues:

None to consider at this time.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
Resolution - Denial of Planning Commission Application No. 2024-007	7/1/2024	Resolution Letter
BC Planning Commission Approved Minutes- May 9, 2024 Excerpt	6/21/2024	Backup Material
BC Planning Commission Draft Minutes - June 13, 2024 Excerpt	6/21/2024	Backup Material
Revised Staff Report and Exhibits - C Alan North Site - Plat (06.13.2024)	7/1/2024	Backup Material

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION REGARDING RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2024-007 SUBMITTED BY C ALAN HOMES LLC FOR APPROVAL OF THE PRELIMINARY AND FINAL PLAT FOR ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION (6921, 6927, 6933, AND 6939 BROOKLYN BOULEVARD)

WHEREAS, Planning Commission Application No. 2024-007 was submitted by C Alan Homes LLC ("the Applicant") requesting approval of the preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION, which would divide the four properties currently addressed as 6921, 6927, 6933, and 6939 Brooklyn Boulevard ("the Subject Property") into six (6) new triplex lots; and

WHEREAS, the Subject Property was formerly owned by the City of Brooklyn Center's Economic Development Authority, and following approval of Planning Commission Application No. 2020-005 and City Council Resolution No. 2020-068, which granted approvals for the preliminary and final plat, site and building plan, and establishment of a Planned Unit Development, the Subject Property was subsequently sold to C Alan Homes LLC in December 2020; and

WHEREAS, conveyance of the Subject Property required the Applicant to enter into a Purchase and Development Agreement and Declaration of Restrictive Covenants, along with a separate triplex site located near 61st Avenue North and Brooklyn Boulevard (refer to Planning Commission Application Nos. 2024-006 and 2020-004), which was filed with Hennepin County on December 30, 2020 as Document No. 5777831; and

WHEREAS, Section 35-8107.5 (*Final Plat*) of the City of Brooklyn Center City Code requires the Applicant to file the final plat (mylar) with Hennepin County within one (1) year following City Council approval, and because more three years have elapsed since the City Council's approval of the plat, the plat is now considered void; and

WHEREAS, a public hearing was noticed in the Brooklyn Center *Sun Post* on April 25, 2024 for approval of the preliminary and final plat, and a hearing was scheduled for May 9, 2024; however, the Applicant requested the hearing be continued due to the Applicant's inability to attend the meeting; and

WHEREAS, because members of the public were present, the Planning Commission held a duly called public hearing on May 9, 2024, whereby a staff report was presented, and the public hearing was opened to allow for public testimony; and

WHEREAS, a motion to continue the public hearing to the June 13, 2024 Planning

RESOLUTION NO.

Commission meeting was approved by the Planning Commission, a 60-day letter of extension was issued to the Applicant in accordance with Minnesota Statutes Section 15.99 Subd. 3(f), and the public hearing was ultimately continued to the June 13, 2024 Planning Commission meeting where additional public testimony was provided for the record; and

WHERAS, at the June 13, 2024 Planning Commission meeting, the Planning Commission voted 1 in favor and 4 in opposition to recommend approval of the preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION citing parking and snow storage concerns; and

WHEREAS, at the City Council Meeting held June 24, 2024, the City Council of the City of Brooklyn Center determined during its review of the preliminary and final plat application that the preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION should be denied, and the City Council directed City staff to bring back a resolution denying the preliminary and final plat applications.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that Planning Commission Application No. 2024-007, as submitted by C Alan Homes LLC, and requesting approval of the preliminary and final plats for ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION, be denied based upon the findings of fact:

1. The Planning Commission staff report last revised June 13, 2024, and the submitted documentation and plans, whereby the Planning Commission recommended denial of the preliminary and final plats.

2. There are concerns regarding the traffic flow given that the property does not have direct access to Brooklyn Boulevard.

3. There are too few parking spaces on the property for residents of the 6 triplexes, especially when snow storage from the parking areas and access roads is needed, as a number of these parking spaces will need to be used for snow storage.

4. No construction on the property has taken place in over three years.

5. The Applicant has not addressed the comments by Assistant City Engineer Hogg in his memorandum dated August 4, 2020.

6. Because the property does not have access to Brooklyn Boulevard, traffic from the triplexes on the property will be routed to Lee Avenue, which will significantly increase the traffic within that single-family residential neighborhood.

RESOLUTION NO.

July 8, 2024 _____
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.

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

MAY 9, 2024

1. CALL TO ORDER

The Planning Commission meeting was called to order by Chair Koenig at 7:18 p.m. The meeting was conducted in person and via Webex.

2. ROLL CALL

Chair Alexander Koenig, Vice Chair Randy Christensen, and Commissioners Paris Dunn, and Stephen Schonning were present. Planning Manager Ginny McIntosh and Associate Planner Krystin Eldridge were also present.

Commissioners Leino and Jones were absent and excused.

3. APPROVAL OF AGENDA – MAY 9, 2024

There was a motion by Commissioner Schonnning, seconded by Commissioner Christensen to approve the agenda for the May 9, 2024 meeting as presented.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn voted aye. The motion passed unanimously.

4. CHAIRPERSON'S EXPLANATION

Chair Koenig explained the Planning Commission's role as an advisory body. One of the Commission's functions is to hold public hearings. In the matters concerned in these hearings, the Commission makes recommendations to the City Council. The City Council makes all final decisions in these matters.

5. PLANNING APPLICATION ITEMS

5a. Planning Commission Application No. 2024-008

Applicant: Independent School District #286 (Brooklyn Center Community Schools)

Summary: Independent School District #286 is requesting an ordinance amendment to Chapter 35 of the City Code to allow for "public and private elementary and secondary schools offering a regular course of study" as a conditional use within the

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn voted aye. The motion passed unanimously.

Keith K. asked how many buildings could be on each lot. Ms. McIntosh stated there is a plan for one triplex on each lot. Keith K. asked how many buildings will be built. Ms. McIntosh stated seven triplexes will be built.

MOTION TO CLOSE PUBLIC COMMENTS (HEARING)

There was a motion by Commissioner Christensen, seconded by Commissioner Schonning, to table public hearing to the June 13, 2024 Planning Commission meeting, to be held at Brooklyn Center City Hall, 6301 Shingle Creek Parkway, at 7:00 p.m.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn voted aye. The motion passed unanimously.

ACTION TO RECOMMEND APPROVAL OF PLANNING COMMISSION APPLICATION NO. 2024-006 SUBMITTED BY C ALAN HOMES LLC

This was not addressed as the item was tabled to the June 13, 2024 Planning Commission meeting, to be held at Brooklyn Center City Hall, 6301 Shingle Creek Parkway, at 7:00 p.m.

5f. Planning Commission Application No. 2024-007

Applicant | Property Owner:	C Alan Homes LLC
Address (PID):	6921, 6927, 6933, 6939 Brooklyn Boulevard (27-119-21-33-0014, 27-119-21-33-0013, 27-119-2133-0012, and 27-119-21-33-0011)
Summary:	C Alan Homes LLC is requesting review and consideration for the re-approval of preliminary and final plats originally approved by the City of Brooklyn Center in 2020. As the final plat was not recorded with Hennepin County within one (1) year following City Council approval, the final plat is considered void and re-approval of the plat is required per Section 35-8000 (Subdivisions and Planned Unit Developments).

Ms. McIntosh explained C Alan Homes LLC is requesting re-approval of a preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION which was initially approved by City Council under Planning Commission Application No. 2020-005 and City Council Resolution No. 2020-068. Said application also included requests for approval of a site and building plan and establishment of a Planned Unit Development for a series of six triplexes and related site improvements on what was formerly land owned by the City of

Brooklyn Center Economic Development Authority (EDA), and commonly addressed as 6921, 6927, 6933, and 6939 Brooklyn Boulevard. The south site is 1.65 acres, and the north site is 0.9 acres. The sites are in the PUD/Neighborhood Mixed-Use zoning district, and the future designation is Neighborhood Mixed Use.

OPEN TO PUBLIC COMMENTS – APPLICATION NO. 2024-007

There was a motion by Commissioner Schonning, seconded by Commissioner Dunn, to open the public hearing on Application No. 2024-007.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn voted aye. The motion passed unanimously.

Keith K. explained he lives across the street from the property. He and his neighbors were present to ask how the properties would be accessed. They don't want there to be access from Brooklyn Boulevard because it would increase speeding cars and traffic. There are many children in the neighborhood. If the farthest north lot would be parking, it would only add to the light pollution. The whole neighborhood is on the same page.

Chair Koenig encouraged the commenters to attend the tabled public hearing on June 13, 2024.

Ruth H. stated she doesn't agree with the other commenter's assumption regarding curb cuts that the development would be accessed off Brooklyn Boulevard. She explained she lives on the corner of Lee and 69th.

Ms. McIntosh explained Brooklyn Boulevard is owned by Hennepin County. When the development was initially reviewed in 2020, the County was adamant that no access would be provided for off Brooklyn Boulevard. The only access granted is for emergency access, which will be as a right out only and gated. All access to the site would be off Lee Avenue North.

Luba E. noted she is concerned about 18 residences in an area that was originally intended for four homes. There won't be enough parking for 18 houses. It will greatly increase the usage of Lee Avenue North. The Commission is doing a disservice to the neighborhood. The applicant can't even start the building efforts after several years.

Chair Koenig stated the applicant isn't available to provide a response. However, encouraged the commenter to attend the tabled public hearing on June 13, 2024.

Sean S. stated several kids play on the dead end of Major Avenue. They put cones out to block the area for their safety. There are several ages of kids in the area. There would be increased traffic and an interruption of the neighborhood's gathering spaces. Also, the bus stop nearby is unsafe as he recently experienced an attempted robbery. There is a lot of crime in the area, and Lee Avenue is a peaceful area. There will be chaos if more residents are crammed into the neighborhood. With the apartment building and nearby park, there are kids everywhere already.

Chair Koenig encouraged the commenters to attend the tabled public hearing on June 13, 2024.

Lisa S. stated the 2020 City Council meeting didn't consider the comments of the existing residents. There isn't a point encouraging the commenters to continue to express their concerns if no one will listen. It is frustrating. There won't be enough parking, and there would be way too many people living in the area.

Chair Koenig encouraged the commenters to attend the tabled public hearing on June 13, 2024.

Lisa S. asked how the commenters can get the Council to listen. She asked if they should protest. Chair Koenig suggested the commenters gather material facts and present their concerns at the next public hearing.

Keith K. stated he would gather all of the input from the neighbors to present to the Commission. No one wants the peaceful neighborhood to be negatively impacted. They will continue to organize and compile comments as a united front.

MOTION TO CLOSE PUBLIC COMMENTS (HEARING)

There was a motion by Commissioner Christensen, seconded by Commissioner Dunn, to table public hearing to the June 13, 2024 Planning Commission meeting, to be held at Brooklyn Center City Hall, 6301 Shingle Creek Parkway, at 7:00 p.m.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn voted aye. The motion passed unanimously.

Chair Koenig thanked the commenters for their input.

ACTION TO RECOMMEND APPROVAL OF PLANNING COMMISSION APPLICATION NO. 2024-007 SUBMITTED BY C ALAN HOMES LLC

This was not addressed as the item was tabled to the June 13, 2024 Planning Commission meeting, to be held at Brooklyn Center City Hall, 6301 Shingle Creek Parkway, at 7:00 p.m.

6. DISCUSSION ITEMS

6a. City Council Updates | Upcoming Planning Commission Applications

Ms. McIntosh requested the Commissioners be present at the June meeting. She stated there may be an application coming up from the school district.

Ms. McIntosh pointed out Wangstad Commons is under construction, and they hope to complete the project by the end of the year. As an update, the City Council did approve the conversion of the former Discount Tire at 1450 Shingle Creek Crossing to an expanded Icon Beauty Supply Store.

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

JUNE 13, 2024

1. CALL TO ORDER

The Planning Commission meeting was called to order by Chair Koenig at 7:03 p.m. The meeting was conducted in person and via Webex.

2. ROLL CALL

Chair Alexander Koenig, Vice Chair Randy Christensen, and Commissioners Stephanie Jones (arrived at 7:22 p.m.), Paris Dunn, and Stephen Schonning were present. Planning Manager Ginny McIntosh, Associate Planner Krystin Eldridge, Community Development Director Jesse Anderson, and Economic Development Manager Ian Anderson were also present.

Commissioner Stan Leino was absent and excused.

3. APPROVAL OF AGENDA – JUNE 13, 2024

There was a motion by Commissioner Christensen, seconded by Commissioner Schonning, to approve the agenda for the June 13, 2024 meeting as presented.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn, voted aye. The motion passed unanimously.

4. APPROVAL OF MINUTES

4a. May 9, 2024 Regular Meeting Minutes

There was a motion by Commissioner Schonning, seconded by Commissioner Dunn, to approve the minutes of the May 9, 2024 meeting as presented.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn, voted aye. The motion passed unanimously.

4b. March 14, 2024 Regular Meeting Minutes

There was a motion by Commissioner Christensen, seconded by Commissioner Schonning, to approve the minutes of the March 14, 2024 meeting as presented.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn, voted aye. The motion passed unanimously.

known as 6025, 6031, 6037, and 6045 Brooklyn Boulevard, based on the findings of fact and subject to the Applicant complying with the Conditions of Approval as noted above.

Voting on the motion: Commissioners Christensen, Jones, and Dunn voted aye.

And the following voted against the same: Chair Koenig and Commissioner Schonning.

The motion passed (3-2).

6b. Planning Commission Application No. 2024-007 (PUBLIC HEARING – CONTINUED)

Applicant | Property Owner:	C Alan Homes LLC
Property Address:	6921, 6927, 6933, 6939 Brooklyn Boulevard (27-119-21-33-0014, 27-119-21-33-0013, 27-119-2133-0012, and 27-119-21-33-0011)
Summary:	The public hearing was continued at the May 9, 2024 Planning Commission meeting to the June 13, 2024 meeting. This was per the request of Applicant C Alan Homes LLC. C Alan Homes LLC is requesting review and consideration for the re-approval of preliminary and final plats originally approved by the City of Brooklyn Center in 2020. As the final plat was not recorded with Hennepin County within one (1) year following City Council approval, the final plat is considered void and re-approval of the plat is required per Section 35-8000 (Subdivisions and Planned Unit Developments).

Ms. McIntosh explained C Alan Homes LLC is requesting re-approval of a preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION, which was initially approved by City Council under Planning Commission Application No. 2020-005 and City Council Resolution No. 2020-068. Said application also included requests for approval of a site and building plan and establishment of a Planned Unit Development for a series of six triplexes and related site improvements on what was formerly land owned by the City of Brooklyn Center Economic Development Authority (EDA), and commonly addressed as 6921, 6927, 6933, and 6939 Brooklyn Boulevard. The north site is 0.88 acres, is zoned PUD/Neighborhood Mixed Use, and the future designation is Neighborhood Mixed Use.

Ms. McIntosh noted although the applicant successfully purchased the property in late 2020, and a single Purchase and Development Agreement was executed for what were two sets of properties

intended for a scattered site triplex development, the applicant and property owner ran into delays with the property, which was the first to go under construction. This was following a request by Hennepin County that certain property contained within the plat be quit claimed to the County for right-of-way purposes. This resulted in the need for a partial release of the Purchase and Development Agreement and Declaration of Restrictive Covenants and Quit Claim Deed for this property in March 2022.

Ms. McIntosh stated it was during this time frame that the Applicant's lender stopped funding the project and the applicant entered into two years of litigation to keep the development afloat. The request for re-approval of the preliminary and final plats is more imminent at this time as the applicant and property owner recently entered into a voluntary foreclosure proceeding with a short redemption period.

Ms. McIntosh stated the applicant has indicated that they are now in the process of re-financing the project and have partnered with developer Devean George; however, the preliminary and final plats require a re-approval from the City and the applicant will also separately require approval of an Amended Development Agreement as they are currently in default given the project was not completed within the timeframe outlined.

Ms. McIntosh pointed out City Staff reached out to the Hennepin County Survey Division and they confirmed they still have the plat information on file; however, because two years have passed since the initial approval, they would require updated, current title work, which the City also requires, as well as the most recent copy of the plat.

Ms. McIntosh stated as part of the 2020 application and review, it was requested that legal descriptions and easement vacations for all existing easements and certain vacations of existing public easements, as determined by the City, be submitted. The applicant shall also provide and maintain a current abstract of title and title commitment for City Attorney and Hennepin County review.

Ms. McIntosh noted former Assistant City Engineer, Andrew Hogg, initially review the plats and provided a memorandum and redlined set of comments dated August 4, 2020. A 10-foot drainage and utility easement were noted as required for dedication around the entire perimeter of the property. An additional utility easement shall be dedicated on the plat to allow for any future maintenance of private water mains and sanitary sewer per Development Agreement requirements. Although the existing sidewalk appears to be outside property lines, its placement should be verified.

Ms. McIntosh showed the list of conditions of approval. The plats, easements, and other items are addressed.

Ms. McIntosh added due to the nature of the requests, a public hearing notice was published in the Brooklyn Center *Sun Post* on April 25, 2024. Mail notifications were sent to those property owners and residents located in vicinity of the subject property, and public hearing notice uploaded to the City's website. A link to the public hearing notice was also published on the City's website and

sent out by email to subscribers of the City's weekly events bulletin. City Staff is in receipt of two public comments received by email. Ms. McIntosh added there are additional comments provided at the previous Planning Commission meeting, which are reflected in the minutes.

OPEN TO PUBLIC COMMENTS – APPLICATION NO. 2024-007

There was a motion by Commissioner Schonning, seconded by Commissioner Dunn, to re-open the public hearing on Application No. 2024-007.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, Jones, and Dunn, voted aye. The motion passed unanimously.

Luba Evarts, 6936 Major Avenue North, stated the short sale is concerning. A bankrupt builder doesn't make sense. Also, the amount of people in the small space would negatively impact Lee Avenue and increase congestion. The 30 parking spots for 18 units is concerning. Overnight parking isn't allowed on the street. It is ridiculous for the Commission to put such a burden on the community.

A resident located off Major Avenue North stated he is only one block away from the site. However, he was not notified of the hearing. There are 18 habitable units, but the number of sleeping spaces may vary. Ms. McIntosh stated there is maximum occupancy per living space.

Chair Koenig stated there are three units per building. Each unit is three bedrooms. Ms. McIntosh stated there are leasing requirements and Code requirements that determine how many people could reside in each bedroom.

The resident stated if there was one person living in each bedroom, that would be more than 80 people. Chair Koenig stated he doesn't know the specific Code regulations that dictate the occupancy rates. The resident pointed out the purpose of a Planning Commission is to plan projects, so they need to know the specifics in order to properly plan.

Ms. McIntosh stated building, zoning, and fire code all inform the occupancy.

The resident added the maintenance of the area has deteriorated over recent years. The number of tires and televisions on the property in question is concerning. The resident explained he has received notices to cut his grass. He asked if the property has received the same notices. Ms. McIntosh explained inspectors often rely on notifications from residents to send out notices.

The resident asked if there is a record of notices sent. Ms. McIntosh stated she can check, but she doesn't have the information available presently.

The resident asked what the original plan was for the land after it was purchased by the Economic Development Authority. Ms. McIntosh explained single-family homes have been removed from Brooklyn Boulevard. The goal is to eliminate curb cuts onto the Boulevard to

promote safety. The sites in question were not eminent domain, and the previous owners elected to sell; however, the City knew there would be access constraints.

Daniel Dempsey, 6915 Major Avenue N, asked if a traffic study has been completed. Ms. McIntosh stated engineers have threshold requirements to trigger a traffic study. In this case, a traffic study wasn't required. The studies typically look at peak traffic and doesn't usually trigger for smaller residential developments. Ms. McIntosh gave an example of the 54-unit Wangstad Commons development underway off Brooklyn Boulevard and how that did not trigger a traffic study.

Genevieve Veigel, 6939 Major Avenue North, explained there is no parking on the north side of 70th. It was her understanding Lee would only be for entrance or exit. As it stands, there isn't enough room for cars to pass one another. Adding more cars into the area seems unrealistic. Plus, adding more lots appears to be a money grab. The number of children in the existing neighborhood should be considered with the increased car traffic, snow routes, access to the park, and school bus stops.

Jamie Teske, 6945 Lee Avenue North, added the neighborhood also receives traffic from group homes next to Slim's. They use the residential streets to park during the day shift because there isn't enough parking at the group homes. The neighborhood has also spoken with the car dealerships about the test drives. The development seems like an affordable housing break. The units are just being stuffed into one small area, and there has to be a better location for them.

Sean Sullivan, 6933 Major Avenue North, noted his agreement with the previous comments. There are plenty of available apartment buildings and rental homes. On top of that, a "luxury" build across the street from a gas station that has regular shootings doesn't make sense. Mr. Sullivan pointed out there are several children in the neighborhood running around the area.

Luba Evarts stated there are only 0.88 acres there and they are trying to put six buildings on the area. It is a discrepancy.

Mike Vang, Major Avenue North, pointed out his family is newer to the area. The development would add traffic onto Lee and then potentially the other street. He asked if there is a plan to update the 69th Avenue North thoroughfare, for a roundabout, updated traffic signal, or other traffic implement. Ms. McIntosh stated the Public Works Department would need to address any traffic improvements as part of their Capital Improvement Plan.

Mary Bornholt, 6939 Lee Avenue North, explained she is concerned about snow removal. She asked where the new buildings would put the snow. If they keep it on their property, they will lose parking spots. If they put their snow on the street, then it will impact the space to drive.

Keith Kogo asked if the attorney is representing the residents, the Planning Commission, or the developer. Ms. McIntosh stated the City Attorney represents the City of Brooklyn Center.

Mr. Kogo asked who the alderman is. Ms. McIntosh stated the City has no alderman.

Chair Koenig explained there are five Councilmembers, and they each represent the entire City.

Mr. Kogo stated the owner can't afford someone to maintain their lawn. It is unreasonable to expect the owner to afford building a unit and paying the City. The development isn't a good decision. There is a lot of greed. The single-family homes pay taxes to the City and contribute to Brooklyn Center. He asked if they are just a transaction to the City.

Mr. Kogo added he has seen a lot of death on Brooklyn Boulevard. There are regular gunshots. Law enforcement ran through his yard in a chase and ruined his shed. A recent murder hasn't even been solved yet. There is no reason to put luxury homes in the midst of all of the crime.

A resident, residing on Major Avenue North, asked how short the foreclosure period is. Chair Koenig stated he did not know.

Terry Robertson, representative of C Alan Homes, explained he was looking forward to the meeting to address any questions and concerns. The foreclosure period is 60 days.

MOTION TO CLOSE PUBLIC COMMENTS (HEARING)

There was a motion by Commissioner Christensen, seconded by Commissioner Schonning, to close the public hearing on Application No. 2024-007.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, Jones, and Dunn, voted aye. The motion passed unanimously.

Chair Koenig thanked the commenters for sharing and explained their comments have been included on the record. The public comment period is now closed.

Commissioner Christensen stated he also has concerns about parking as well. When the project was originally recommended, he was not part of the Planning Commission. He has similar questions to those raised by the commenters. He stated he lives on 70th and Regent and grew up nearby as well. He is familiar with the area.

Commissioner Schonning added he also wasn't on the Planning Commission when the project was originally recommended, though he has been on the Planning Commission on and off for 13 years, with a four-year gap. The role of Planning Commissioner is purely voluntary and costs the City nothing. He noted he was offended by anyone who questions his authenticity, motives, or anything that happens in this group of people. The Commission is here out of their own concern for the City and its residents.

Commissioner Schonning stated he also has concerns about the snow removal.

Commissioner Jones asked why the project has taken so long to get started. Mr. Robertson explained there was a delay with the County. The City hadn't previously resolved the title work, and the developer doesn't have any control over it. There was funding secured previously. The

lender ran into technical difficulty with the financing. His project had equity because they didn't charge a developer, builder, or construction management fee. He has continued to work on the project because he is not at fault for any of the delays. The funder stopped taking payments, which resulted in the property going into default.

Mr. Robertson stated he grew up in the area. He only left the area to live where his wife grew up. He explained he is also passionate about Brooklyn Center. The goal isn't to pack people in. It is not a high-density project. There could be an opportunity to go after higher density, but he didn't. Mr. Robertson is committed to the project because he wants to build a nice place to live.

Mr. Robertson pointed out there is a lot of misinformation about the project. Someone mentioned the new development would be over Mr. Kogo's home. As this is false information, he sent over the preliminary plat that received unanimous support from both the Planning Commission and the Council. Out of 39 units, only seven are considered affordable.

Mr. Robertson stated he has met with neighbors such as Lisa Teske to address any concerns they have had. There are LOIs for all 39 apartments. It will be a success for the City and the developer. No one likes change. Where Mr. Robertson lives, there is concern a home will be built close to his property.

There was a comment from someone in the audience. Chair Koenig asked for the audience to remain quiet.

Mr. Kogo stated he was conversing with Mr. Robertson. He mentioned some inaccuracies with the two homes on the plat. Chair Koenig suggested the questions be asked after the meeting.

Commissioner Jones asked what Mr. Robertson is doing to prevent a similar issue with the lender or with the County. Mr. Robertson stated he doesn't control what the County does. The title work had to be corrected by the City, and it is completed. The lender is predatory, and they lent out more money than they had to loan. Mr. Robertson left several million dollars on the table as a benefit to Brooklyn Center. You can never make everyone happy. However, his goal is to make a development that everyone can be proud of.

Mr. Robertson stated another developer, Devean George, offered to back the project financially. Commissioner Jones asked if he has worked with Mr. George previously. Mr. Robertson stated he has worked with Mr. George on more expensive residential projects.

Commissioner Dunn asked how many units are planned to be built. Mr. Robertson stated there are seven buildings on the south site and six buildings on the north site. In total, there are 39 apartments. However, he could have fit in more units or focus on low-income housing. There is no tax increment financing attached to either property, and he did not ask out of his respect for Brooklyn Center. Additionally, Mr. Robertson paid $200,000 in attorney fees fighting to keep the project afloat. There is a lot of misinformation about the projects.

Commissioner Dunn asked if there will be fencing around the buildings to ensure the residents exit a certain way. Mr. Robertson stated they plan to put fencing around the development on 61st. They originally intended a gated community, but decided against it because of malfunction potential of gates. There cannot be a gated entry on 69th.

An audience member asked for Mr. Robertson to address the misinformation. Mr. Robertson explained he is answering the questions one at a time as asked by the Commissioners. He wants to address all of the concerns. For example, the lawn has been mowed on 69th. An audience member stated it was mowed poorly.

Chair Koenig asked for Mr. Robertson to continue answering the questions of the Commission. Commissioner Dunn stated he had more questions.

Mr. Robertson agreed the grass could be cut better. Chair Koenig asked for Mr. Robertson to listen to Commissioner Dunn's question.

Commissioner Dunn asked where the residents will enter and exit the property. Mr. Robertson stated the only entrance is on Lee Avenue North.

Commissioner Dunn noted there are concerns about safety and crime in the area. It sounds like the gas station is the issue. Perhaps the gas station situation needs to be addressed.

Mr. Kogo asked how they could address the gas station crime. There is also a halfway house nearby. Chair Koenig asked for the members of the public present to allow the Commission to continue speaking.

Mr. Robertson stated the development on 61st will be fenced in. The 69th development will also be fenced. There will also be security measures such as cameras. Commissioner Dunn asked if there would be security personnel on-site. Mr. Robertson stated the buildings are set up similarly to single-family homes, so each have their own security cameras.

Mr. Robertson added they are trying to attract a different demographic, and they will be selective of the tenants. They are pulling from downtown professionals.

Mr. Kogo stated that is going to be a lot of traffic and lights streaming into his backyard. Chair Koenig asked for Mr. Kogo to stop engaging with Mr. Robertson.

Commissioner Christensen explained the issue at hand is the re-plat.

Ms. McIntosh stated a number of topics have been addressed, but most of them will be handled separately by the EDA on June 24. The topic at hand is considering the dimensions of the lot and various easements. Hennepin County already approved the plat to be filed. Any title work has been corrected as well. Nothing has significantly changed since the proposal was considered and approved in 2020. The EDA may not support the amended development agreement, but again,

that is a separate item for consideration. If the Planning Commission were to recommend approval, it doesn't ensure the proposed developments will be built.

Commissioner Jones asked how the snow will be handled. Mr. Robertson stated there is green space available for snow storage. There is also an option to put snow between the buildings. No snow will be put onto the residential streets. All parking will be by permit. Anyone without permits will be towed.

Mr. Kogo stated all of that is in his backyard.

Mr. Robertson stated the goal was to bring a luxury product to Brooklyn Center that no one has. The project can be plugged and played throughout the country. The affordable units are coming out of his own pocket as it was requested by Council and he is taking a hit to offer it.

Commissioner Dunn asked for Mr. Robertson to explain the exits and entrances. Mr. Robertson pointed out the entrance from Lee and the emergency vehicle entrance on Brooklyn Boulevard.

Ms. McIntosh stated the County permits the curb cut for emergency vehicles only.

Mr. Robertson pointed out that the residents had expressed concerns about residents of a nearby apartment building parking on 70th Avenue North, but with a recent change in property management, they haven't been having as many issues lately. A property management team will be running the triplex development. He offered to provide his personal cell number for anyone with questions or concerns. After the lawn was mowed recently, the mower contacted him and explained he did it quickly but not well. The mower planned to return to fix the job. Mr. Robertson stated he wants to work with the community to benefit everyone.

Chair Koenig stated the item needed to be wrapped up as the comments are getting repetitive.

ACTION TO RECOMMEND APPROVAL OF PLANNING COMMISSION APPLICATION NO. 2024-007 SUBMITTED BY C ALAN HOMES

There was a motion by Commissioner Christensen, seconded by Commissioner Schonning, to recommend City Council approval of Planning Commission Application No. 2024-007 for the requested re-approval of the preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD SECOND ADDITION for the Subject Property located on what is currently known as 6921, 6927, 6933, and 6939 Brooklyn Boulevard, based on the findings of fact and subject to the Applicant complying with the Conditions of Approval as noted above.

Voting on the motion: Commissioner Christensen voted aye.

And the following voted against the same: Chair Koenig and Commissioners Dunn, Schonning, and Jones.
The motion failed (1-4).

Planning Commission Report
Meeting Date: May 9, 2024
Revised: June 13, 2024

- Application Filed: 04/09/2024
- Review Period (60-day) Deadline: 06/08/2024
- Extension Declared: Yes
- Extended Review Period Deadline: 08/07/2024

Application No.	2024-006
Applicant:	C Alan Homes LLC
Location:	6000 Block of Brooklyn Boulevard (6025, 6031, 6037, and 6045 Brooklyn Boulevard)
Request:	Preliminary and Final Plat (Re-approval)

Map 1. Subject Property.

REQUESTED ACTION

C Alan Homes LLC ("The Applicant") is requesting re-approval of a preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION (Exhibit A), which was initially approved by City Council under Planning Commission Application No. 2020-004 and City Council Resolution No. 2020-067—refer to Exhibit B. Said application also included requests for approval of a site and building plan and establishment of a Planned Unit Development for a series of seven (7) triplexes and related site improvements on what was formerly land owned by the City of Brooklyn Center Economic Development Authority (EDA), and commonly addressed as 6025, 6031, 6037, and 6045 Brooklyn Boulevard ("The Subject Property").

Although the Applicant successfully purchased the Subject Property in late 2020, and a single Purchase

and Development Agreement was executed for what were two sets of properties intended for a scattered site triplex development, the Applicant and Property Owner ran into delays with the Subject Property, which was the first to go under construction. This was following a request by Hennepin County that certain property contained within the plat be quit claimed to the County for right-of-way purposes. This resulted in the need for a partial release of the Purchase and Development Agreement and Declaration of Restrictive Covenants and Quit Claim Deed for this property in March 2022.

In total, the Subject Property, known as "the South Site" (refer to Planning Commission Application No. 2020-004) and North Site (refer to Planning Commission Application No. 2020-005 and City Council Resolution No. 2020-068) were to provide a total of 13 triplexes and 39 dwelling units.

It was during this time frame that the Applicant's lender stopped funding the project and the Applicant entered into two years of litigation to keep the development afloat. The request for re-approval of the preliminary and final plats is more imminent at this time as the Applicant and Property Owner recently entered into a voluntary foreclosure proceeding with a short redemption period.

The Applicant has indicated that they are now in the process of re-financing the project and have partnered with developer Devean George; however, the preliminary and final plats require a re-approval from the City and the Applicant will also separately require approval of an Amended Development Agreement as they are currently in default given the project was not completed within the timeframe outlined.

It should be noted that, Development Agreement aside, the long overdue re-plat would help address certain issues, including the presence of two triplex buildings on one (1) parcel of land, where there should be one (1) parcel per triplex.

Map 2. Subject Property with Triplexes (Under Construction).

Due to the nature of the requests, a public hearing notice was published in the Brooklyn Center *Sun Post* on April 25, 2024 (Exhibit C). Mail notifications were sent to those property owners and residents located in vicinity of the Subject Property, and a public hearing notice uploaded to the City's website. A link to the public hearing notice was also published on the City's website and sent out by email to subscribers of the City's weekly events bulletin. City staff is in receipt of one public comment received by email (to date).

Although the public hearing was scheduled for the May 9, 2024 Planning Commission meeting, the Applicant requested the public hearing be continued to the June 13, 2024 Planning Commission meeting following phone and email communication received, and as the Applicant was unable to attend the May 9 hearing. A 60-day letter of extension was issued to the Applicant on May 10, 2024 outlining that the review period had been extended to August 7, 2024, and per Minnesota Statutes Section 15.99. Subd. 3(f).

Since the original approvals, a new Unified Development Ordinance has been adopted (January 2023). As such, City staff went ahead and reviewed the preliminary and final plats against the updated provisions.

City staff has been in communication with the Applicant's surveyor, W Brown Land Surveying, who prepared the preliminary and final plats for ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION. It should be noted that the attached final plat had already been approved by Hennepin County for filing, but was not recorded within the designated timeframe. In reviewing County filings, City staff further confirmed that the easements vacated in conjunction with the original plat approvals in 2020 were filed with the County (Exhibit B). These include certain sidewalk, maintenance, and utility easements located on three of the four existing parcels.

Site Data

2040 Land Use Plan:	N-MU (Neighborhood Mixed Use)
Neighborhood:	*Kylawn*
Current Zoning:	MX-N1 (Neighborhood Mixed-Use) District
Site Area:	1.65 acres

Surrounding Area

Direction	2040 Land Use Plan	Zoning	Existing Land Use
North	Neighborhood Mixed-Use	MX-N2 (Neighborhood Mixed-Use)	Undeveloped (Under Construction – Wangstad Commons)
South	Low-Density Residential	R1 (Low Density Residential)	Single Family Detached
East	Neighborhood Mixed-Use	MX-N2 (Neighborhood Mixed Use)	Brooklyn Boulevard | Commercial
West	Low-Density Residential	R1 (Low Density Residential)	Single Family Detached

Note: The Subject Property is located within the identified Brooklyn Boulevard Overlay District under the 2040 Comprehensive Plan.

PRELIMINARY AND FINAL PLAT (RE-APPROVAL)

The preliminary and final plat for what would be known as *ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION* would subdivide four (4) existing parcels into seven (7) new parcels and an outlot to accommodate the seven (7) triplexes at the Subject Property located south of 61st Avenue North and west of Brooklyn Boulevard.

As noted previously, the Applicant and Property Owner ran into delays both with Hennepin County and with their lender which resulted in their preliminary and final plats, which were approved by City Council in 2020, being considered void as outlined under Section 35-8107.5 (*Final Plat*).

Although the original 2020 plat request contemplated a proposed outlot, City staff had requested that this be absorbed into proposed lot #7. In reviewing the County approved plat, this has been addressed; however, the preliminary plat of record was not updated to reflect this change, along with other detailing. The removal of the outlot was intended to provide clarity in terms of maintenance should the Applicant ever sell the Subject Property and given the shared drive aisle, surface parking, and utilities running along the west side of the Subject Property.

City staff reached out to the Hennepin County Survey Division and they confirmed they still have the plat information on file; however, because two (2) years have passed since the initial approval, they would require updated/current title work, which the City also requires, as well as the most recent copy of the plat.

As part of the 2020 application and review, it was requested that legal descriptions and easement vacations for all existing easements and certain vacations of existing public easements, as determined by the City, be submitted. The Applicant shall also provide and maintain a current abstract of title/title commitment for City Attorney and Hennepin County review.

A 10-foot drainage and utility easement was noted as required for dedication around the entire perimeter of the Subject Property. An additional utility easement shall be dedicated on the plat to allow for any future maintenance of private water mains and sanitary sewer per Development Agreement requirements. The plat approved by the County denotes Drainage and Utility Easements to be dedicated along the west side of the Subject Property for infrastructure, as well as a detailing noting a 10-foot wide easement for adjoining right-of-way (ROW), unless otherwise indicated, and a 5-foot wide easement along the adjoining lot lines.

Former Assistant City Engineer, Andrew Hogg, initially reviewed plans and provided a memorandum and a redlined set of comments, dated August 17, 2020 (Exhibit D). All engineering comments were to be addressed. In reviewing the preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION, as well as County records, it was noted that certain trail easement did not appear to be reflected on the plat. Given the work conducted along Brooklyn Boulevard as part of the Phase II construction, City staff requested that the plats be updated to reflect the dedication of this easement and per construction plans on file.

It should be noted that an as-built survey will be required upon project completion, and inspection for the private site improvements is to be performed by the Applicant's design/project engineer with certification required upon project completion.

CONDITIONS OF APPROVAL

City Staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. 2024-006 for the Subject Property located within the 6000 Block of Brooklyn Boulevard and comprised of 6025, 6031, 6037, and 6045 Brooklyn Boulevard, and for re-approval of the preliminary and final plats for ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION:

1. Re-approval of the preliminary and final plats for ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION are contingent upon the addressing of any remaining comments by Assistant City Engineer Hogg in his memorandum dated August 17, 2020.
    a. The preliminary and final plat shall be further revised to dedicate certain trail easement.

2. The preliminary plat, final plat, and mylar shall be subject to the provisions as outlined under Chapter 35 (*Unified Development Ordinance*), Section 35-8106 (*Preliminary Plat*) and Section 35-8107 (*Final Plat*).
    a. The preliminary plat shall be reviewed against the most recent version of the final plat approved by Hennepin County and updated accordingly.
    b. The preliminary plat shall be updated to reflect the existing zoning classification and total approximate acreage.
3. Any comments and/or requirements as provided by Hennepin County.
4. Any comments and/or requirements from the City Attorney's office, and specifically regarding an updated certified abstract of title/title commitment.
5. The successful recording of said plat (mylar) with Hennepin County.

The aforementioned comments are provided based on the information submitted by the Applicant and Property Owner at the time of this review and specifically for the requested preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION. Other guarantees and site development conditions may be further prescribed throughout the project as warranted and determined by the City.

RECOMMENDATION

Based on the above noted findings and conditions above, City staff recommends the Planning Commission recommend City Council approval of Planning Commission Application No. 2024-006 for the requested re-approval of the preliminary and final plat for ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION for the Subject Property located on what is currently known as 6025, 6031, 6037, and 6045 Brooklyn Boulevard, based on the findings of fact and subject to the Applicant complying with the Conditions of Approval as noted above.

Attachments

Exhibit A- Planning Application No. 2024-006 and documentation, submitted by C Alan Homes, LLC, and dated April 9, 2024.

Exhibit B- City Council Resolution Nos. 2020-067 and 2020-091, and Hennepin County Document No. 5773408 for notice of Completion of Vacation Proceedings.

Exhibit C- Public Hearing Notice, dated April 25, 2024, as published in the Brooklyn Center *Sun Post*, and 60-day extension letter, dated May 10, 2024.

Exhibit D- Memorandum and Exhibits, prepared by Assistant City Engineer Andrew Hogg, and dated August 17, 2020 for Planning Commission Application No. 2020-004.

Exhibit A

PRELIMINARY PLAT
ROBERTSON AND BREKKE'S BROOKLYN BOULEVARD FIRST ADDITION

NOTES:

- All existing building dimensions are measured to the finished siding and not the building foundation.
- The location of all utilities shown are from either observed evidence in the field and/or from plans furnished by the utility companies and are approximate. Utility companies should be notified for exact location before doing any excavation.

20 0 20 40

SCALE IN FEET

LEGEND

—//—//—	Fence
----- UT -----	Underground Telephone
——STS——	Storm Sewer
——SAN——	Sanitary Sewer
——WTR——	Water Main
– – –GAS– – –	Underground Gas
	Catch Basin
	Catch Basin
S	Sanitary Manhole
ST	Storm Manhole
W	Water Manhole
	Light Pole
	Power Pole
	Hydrant
	Gate Valve
	Traffic Sign
x900.0	Existing Elevation
x900.0TC	Top of Curb Elevation
x900.0G	Gutter Elevation
900	Existing Contour
●	Found Iron Monument
○	Set Iron Monument Inscribed R.L.S 15230
	Deciduous Tree

PROPERTY DESCRIPTIONS:

Parcel 1:
Lot 1, except that part thereof which lies Northeasterly of a line run parallel with and distant 42 feet Southwesterly of the following described line: From a point on the South line of Section 34, Township 119 North, Range 21 West, distant 1741.08 feet West of the Southeast corner thereof, run Northwesterly at an angle of 68 degrees 01 minutes 52.3 seconds with said South section line for 432.38 feet to the point of beginning of the line to be described; thence run Southeasterly along the last described course for 100 feet; thence deflect to the right on a 2 degree 00 minutes curve (delta angle 17 degree 20 minutes 35.2 seconds) for 867.16 feet and there terminating. Block 1, Pearson's Northport 3rd Addition, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1392052.

Parcel 2:
Lot 2, Block 1, Pearson's Northport 3rd Addition, except that part described as follows: Beginning at the Southeast corner of said Lot 2; thence run Westerly on the South line of said Lot 2 for 1.72 feet; thence run Northerly on a curve deflecting to the left and having a radius of 2822.79 feet to a point on the North line of said Lot 2, distant 5.20 feet Westerly of the Northeast corner of said Lot 2; thence run Easterly on the north line of said Lot 2 to the Northeast corner of said Lot 2; thence run Southerly on the East line of said Lot 2 to the point of beginning, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1316934.

Parcel 3:
That part of Lot 4, Block 5, lying South of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1483315.

Parcel 4:
That part of Lot 4, Block 5 lying North of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1483312.

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:

BEING 5 FEET IN WIDTH, ADJOINING LOT LINES, AND 10 FEET IN WIDTH, ADJOINING RIGHT-OF-WAY LINES, UNLESS OTHERWISE INDICATED.

JOB NO. 128-20	SCALE 1" = 20'	REVISIONS: DATE / REMARKS
BOOK/PAGE 165/32	DRAWN CME	
SHEET 1 of 1	REFERENCE	

BENCHMARK:

T.N.H. at the northeast corner of subject property. Elevation = 860.77.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly registered Land Surveyor under the laws of the State of Minnesota.

W. BROWN LAND SURVEYING, INC.

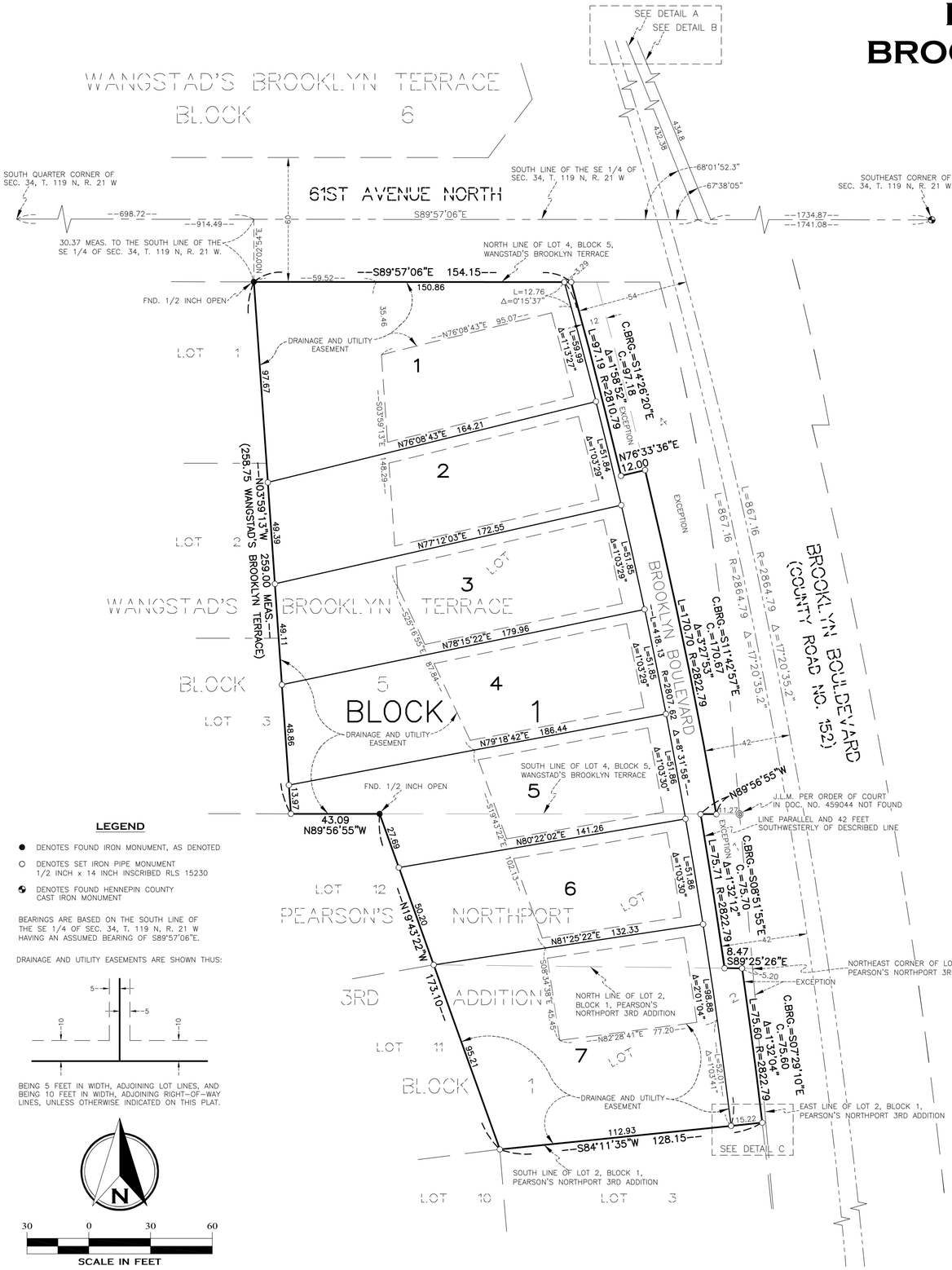
DATED: 06-15-2020

WOODROW A. BROWN, R.L.S. MN REG 15230

W. BROWN LAND SURVEYING, INC.
8030 CEDAR AVENUE SO., SUITE 228.
BLOOMINGTON, MN 55425
BUS: (952) 854-4055
FAX: (952) 854-4268
EMAIL: INFO@WBROWNLANDSURVEYING.COM

ROBERTSON AND BREKKE
BROOKLYN BOULEVARD ADDITION

R.T. DOC. NO. _____



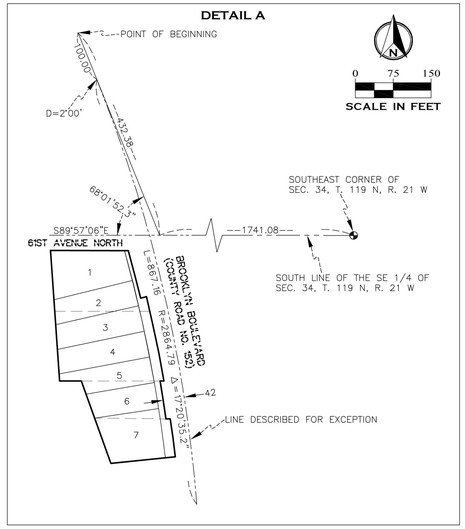
LEGEND

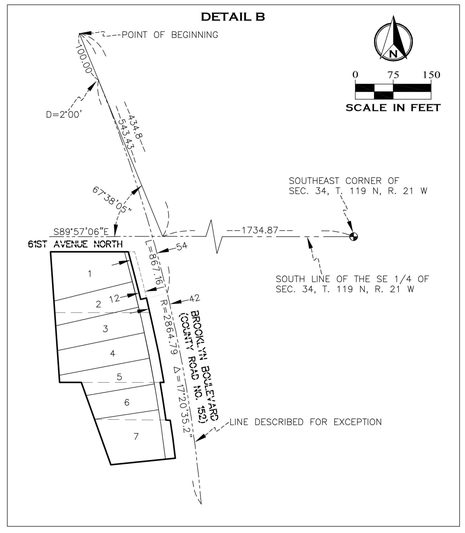
- ● DENOTES FOUND IRON MONUMENT, AS DENOTED
- ○ DENOTES SET IRON PIPE MONUMENT 1/2 INCH x 14 INCH INSCRIBED RLS 15230
- ⚽ DENOTES FOUND HENNEPIN COUNTY CAST IRON MONUMENT

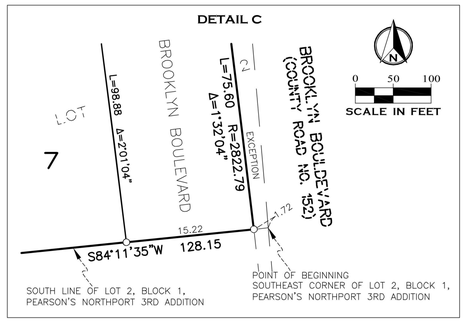
BEARINGS ARE BASED ON THE SOUTH LINE OF THE SE 1/4 OF SEC. 34, T. 119 N, R. 21 W HAVING AN ASSUMED BEARING OF S89°57'06"E.

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:

BEING 5 FEET IN WIDTH, ADJOINING LOT LINES, AND BEING 10 FEET IN WIDTH, ADJOINING RIGHT-OF-WAY LINES, UNLESS OTHERWISE INDICATED ON THIS PLAT.







KNOW ALL PERSONS BY THESE PRESENTS: That C. Alan Homes, LLC, a Minnesota limited liability company, fee owner of the following described property situated in the County of Hennepin, State of Minnesota, to-wit:

Lot 1, except that part thereof which lies Northeasterly of a line run parallel with and distant 42 feet Southwesterly of the following described line:
From a point on the South line of Section 34, Township 119 North, Range 21 West, distant 1741.08 feet West of the Southeast corner thereof, run Northwesterly at an angle of 68 degrees 01 minutes 52.3 seconds with said South section line for 432.38 feet to the point of beginning of the line to be described; thence run Southeasterly along the last described course for 100 feet; thence deflect to the right on a 2 degree 00 minutes curve (delta angle 17 degree 20 minutes 35.2 seconds) for 867.16 feet and there terminating. Block 1, PEARSON'S NORTHPORT 3RD ADDITION.

Lot 2, Block 1, PEARSON'S NORTHPORT 3RD ADDITION, except that part described as follows: Beginning at the Southeast corner of said Lot 2; thence run Westerly on the South line of said Lot 2 for 1.72 feet; thence run Northerly on a curve deflecting to the left and having a radius of 2822.79 feet to a point on the North line of said Lot 2, distant 5.20 feet Westerly of the Northeast corner of said Lot 2; thence run Easterly on the north line of said Lot 2 to the Northeast corner of said Lot 2; thence run Southerly on the East line of said Lot 2 to the point of beginning.

Lot 4, Block 5, WANGSTAD'S BROOKLYN TERRACE, except that part which lies Northeasterly of a line run parallel with and distant 42 feet Southwesterly of the following described line:
From a point on the South line of Section 34, Township 119 North, Range 21 West, distant 1734.87 feet west of the Southeast corner thereof, run Northwesterly at an angle of 67 degrees 38 minutes 05 seconds with said South section line for 434.8 feet to the point of beginning of the line to be described: thence run Southeasterly along the last described course for 100 feet; thence deflect to the right on a 2 degree 00 minute curve (delta angle 17 degrees 20 minutes 35.2 seconds) for 867.16 feet and there terminating, also excepting therefrom, a strip 12 feet in width adjoining and Southwesterly of the above described strip: Beginning opposite a point on the above described line, distant 543.43 feet Southeasterly of its point of beginning (when measured along said line) and extending Northwesterly to the North line of the above described tract.

Has caused the same to be surveyed and platted as ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION and does hereby dedicate to the public, for public use, the public ways, and the drainage and utility easements as created by this plat.

In witness whereof, said C. Alan Homes, LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officer this _____ day of _____, 20_____.

Signed: C. Alan Homes, LLC

_____
Terry Robertson, President

STATE OF MINNESOTA
COUNTY OF HENNEPIN
This instrument was acknowledged before me this _____ day of _____, 20_____, by Terry Robertson, President of C. Alan Homes, LLC, a Minnesota limited liability company, on behalf of the company.

_____ _____
Signature Printed Name

Notary Public, _____ County, Minnesota
My Commission Expires _____

I, Woodrow A. Brown, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01 Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.
Dated this _____ day of _____, 20_____.

_____
Woodrow A. Brown, Licensed Land Surveyor
Minnesota License No. 15230

STATE OF MINNESOTA
COUNTY OF HENNEPIN
This instrument was acknowledged before me this _____ day of _____, 20_____, by Woodrow A. Brown.

_____ _____
Signature Printed Name

Notary Public, _____ County, Minnesota
My Commission Expires _____

CITY COUNCIL, CITY OF BROOKLYN CENTER, MINNESOTA
This plat of ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION was approved and accepted by the City Council of the City of Brooklyn Center, Minnesota at a regular meeting thereof held this _____ day of _____, 20____, and said plat is in compliance with the provisions of Minnesota Statutes, Section 505.03 Subd. 2.

CITY COUNCIL, CITY OF BROOKLYN CENTER, MINNESOTA

By:_____ Mayor By: _____ Clerk

RESIDENT AND REAL ESTATE SERVICES, Hennepin County, Minnesota
I hereby certify that taxes payable in 20___ and prior years have been paid for land described on this plat, dated this _____day of _____, 20_____.

Mark V. Chapin, County Auditor By:_____ Deputy

SURVEY DIVISION, Hennepin County, Minnesota
Pursuant to MN. STAT. Sec. 383B.565(1969), this plat has been approved this _____ day of _____, 20_____.

Chris F. Mavis, County Surveyor By:_____

REGISTRAR OF TITLES, Hennepin County, Minnesota
I hereby certify that the within plat of ROBERTSON AND BREKKE BROOKLYN BOULEVARD ADDITION was filed in this office this _____ day of _____, 20_____, at ___o'clock ___.M.

Amber Bougie, Registrar of Titles By:_____ Deputy

W. BROWN LAND SURVEYING, INC.

To: City Council Members
From: Terry Robertson
With: C Alan Homes, LLC
Re: Development Agreement

City Council Members,

We wanted to reach out to you to request having our Developer Agreement extended to allow our company to finish the Development located at 61st and Brooklyn Blvd and 69th and Brooklyn Blvd. Our Development was de-railed by the lender when they stopped funding our project under the guise of claiming they did not know there was infrastructure on the project. The City staff at the time quickly exposed them for being less than honest. Infrastructure is on all the plans, the proforma, they paid the infrastructure bills, convinced us to do the infrastructure in a piece meal fashion instead of finishing all the work at once and they monitored the project on a weekly basis. Thus overseeing the infrastructure. What followed was 2 years of litigation where we spent over $200,000 fighting to keep our Development from being taken from us. We fought because we did not do anything to be in default. Ultimately, after a prolonged fight they agreed to give the project back to us. We are now in the process of getting it refinanced. We signed a voluntary foreclosure in order to stop the bleeding. But it gave us additional time to get the project funded and beat the foreclosure timeline of June 15th, 2024.

I have secured a successful developer and friend of mine (Devean George) to partner with us in order to get funded and help push the project through to the finish line. We feel he is a tremendous addition to our team.

When funded this will allow us to pay off subs, pay off the lender and finish the infrastructure at both sites in the first phase. This should take 3-4 weeks. The second phase will involve finishing the items remaining to get the certificate of occupancy on the two buildings/6 apartments that are currently constructed. We project this will take approximately a month. We will then start construction on the remaining 5 buildings/15 apartments on 61st and Brooklyn Blvd. We will start three of the five and when we get to interior rough in we will start the remaining two buildings. Building the 5 buildings/15 apartments will take approximately 1 year. We will try and start construction on the 6900 Block site right after we get the remaining two buildings at the first site framed. Our excavators, concrete crews and framers will be scheduled to move from the first site immediately after digging, concrete work and framing down to the second site to start the 6900 site in that order. If we plan it right, we should be able to button up the complete development (39 Luxury apartments) within 18-20 months.

Our team is prepared to get the final plats signed off on as soon as we can get the Council's approval to move forward on finishing the project. We feel with the addition of Devean George to our team it will bring an added expertise to the project. Also, the lenders we are interviewing now have all been vetted better than we did before with the previous lender. So, we don't anticipate any problems from the new lender.

We have fought with our time and money to try and see this project (our vision) through to the end. We believe this will help give the City of Brooklyn Center a higher profile around the Twin Cities. We look forward to seeing this project to completion.

Terry Robertson
President
C Alan Homes, LLC
763-228-1785

Member Graves introduced the following resolution and moved its adoption:

RESOLUTION NO. 2020-067

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2020-004 FOR PRELIMINARY AND FINAL PLAT AND SITE AND BUILDING PLAN APPROVALS AND THE ESTABLISHMENT OF A PLANNED UNIT DEVELOPMENT FOR THE SUBJECT PROPERTIES LOCATED IN THE 6000 BLOCK OF BROOKLYN BOULEVARD AND KNOWN AS 6025, 6031, 6037, and 6045 BROOKLYN BOULEVARD

WHEREAS, Planning Commission Application No. 2020-004, submitted by C Alan Homes ("the Applicant"), requests review and consideration for approval of a preliminary plat, final plat, and site and building plan, and establishment of a Planned Unit Development (PUD) for four properties currently owned by the Economic Development Authority (EDA) of Brooklyn Center, Minnesota, located just south of 61st Avenue North and west of Brooklyn Boulevard, and known as 6025, 6031, 6037, and 6045 Brooklyn Boulevard ("the Subject Property"); and

WHEREAS, the Subject Property is currently a mix of C1 (Service/Office), R5 (Multiple Family Residence), and R1 (One Family Residence) District properties under the City's Zoning Code; and

WHEREAS, the Applicant appeared before the City Council of Brooklyn Center, Minnesota on May 11, 2020 for a concept plan review of their proposed development of seven (7) triplexes and related site improvements on the Subject Property, in conjunction with a second proposal from the Applicant to construct another six (6) triplexes and related improvements to the north of the Subject Property at 6921, 6927, 6933, and 6939 Brooklyn Boulevard, and submitted for separate consideration under Planning Commission Application No. 2020-005; and

WHEREAS, on June 22, 2020, the City Council of Brooklyn Center, Minnesota approved a Preliminary Development Agreement with C Alan Homes, LLC for the two aforementioned sets of properties located along Brooklyn Boulevard to allow the Applicant time to review the properties, obtain financing, work through City land use approvals, and negotiate with the EDA on the purchase of the properties pending approval of the aforementioned Planning Commission Application No. 2020-004; and

WHEREAS, a public hearing for Planning Commission Application No. 2020-004 was initially scheduled for July 9, 2020; however, City staff exercised its rights under Minnesota Statutes Section 15.99, Subd. 3(f) to extend the review period for an additional sixty (60) days to allow the Applicant additional time to reconcile adjustments necessary to the site plan for additional easements and determine the ability for driveway access off Brooklyn Boulevard from Hennepin County; and

WHEREAS, on August 13, 2020, the Planning Commission of the City of Brooklyn Center, Minnesota received and reviewed a planning report on the proposed preliminary plat, final plat, site and building plan, and Planned Unit Development proposals for the proposed new construction of seven (7) triplexes and related site improvements on the approximately 1.65 acre site; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota held a duly noticed and called public hearing on August 13, 2020, whereby a planning staff report was presented and public testimony regarding the proposal were received. Notice of such public hearing was published in the official newspaper and notices were mailed to adjacent property owners as required by City Code, and notification signage was installed on the Subject Property; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota considered the requests in light of all testimony received, the guidelines and standards for evaluating the preliminary and final plat under Chapter 15 (*Platting*), site and building plans under Chapter 35 (*Zoning*) and specifically Section 35-230 (*Plan Approval*), and Planned Unit Developments as contained in Section 35-355 (*Planned Unit Development*) of the City's Zoning Code, including compliance with the guidelines for re-zoning properties, and the request complies with the general goals and objectives of the City's 2040 Comprehensive Plan; and

WHEREAS, the Subject Property would be re-zoned from a mix of C1 (Service/Office), R5 (Multiple Family Residence), and R1 (One Family Residence) Districts to PUD-N/MU (Planned Unit Development-Neighborhood/Mixed Use) District, which is consistent with the density allowed under the 2040 Comprehensive Plan and reconciles the Subject Property density allowances, as the Subject Property is currently a mix of Neighborhood-Mixed Use, High Density Residential, and Low Density Residential future land uses designations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota to recommend that Planning Commission Application No. 2020-004, submitted by C Alan Homes, be approved based upon the findings of fact in the August 13, 2020, planning report and submitted plans, as amended by the following conditions of approval:

Anticipated Permitting

1. The Applicant shall apply for and receive a City Land Disturbance permit prior to commencing any grading or land clearance activities on the site.
2. The Applicant shall apply for and receive an NPDES permit from the MPCA.
3. The Applicant shall obtain any required permits from Hennepin County for work in the County right-of-way.
4. The Applicant shall meet all requirements of the Shingle Creek Watershed Commission, as specified by the City.
5. The Applicant shall apply for and receive all applicable City building permits prior to commencing construction of any work.
6. Other permits not listed may be required and is the responsibility of the developer to obtain and warrant.
7. Copies of all required permits must be provided to the City prior to issuance of applicable building and land disturbance permits.

8. A preconstruction conference must be scheduled and held with City staff and other entities designated by the City.

Plat Review

9. Approval of the preliminary and final plats are contingent upon the addressing of comments by Assistant City Engineer Hogg in his memorandum dated August 4, 2020 and revised August 17, 2020, consolidation of the south outlot to proposed lot #7, and updating of the title block per City staff comments.
    a. The Applicant shall complete the vacation of any identified easements and ensure notice of completion of vacation is recorded with Hennepin County prior to recording of final plat and mylar.
10. Final plat and mylar shall be subject to the provisions of Chapter 15 of the City Code of Ordinances (*Platting*).
11. Any comments and/or requirements as provided by Hennepin County.
12. Any comments and/or requirements from the City Attorney's office, and specifically regarding an updated certified abstract of title.
13. The successful recording of said plat (mylar) with Hennepin County.

PUD / Site Plan Review

14. Any significant changes or modifications made to this request can only be made by an amendment to the approved Planned Unit Development and site and building plan as approved by the City Council.
15. The Applicant shall enter into a Purchase Agreement with the Economic Development Authority of Brooklyn Center prior to the execution of the Final Plat.
16. The Applicant shall enter into a PUD Agreement with the City of Brooklyn Center prior to the execution of the Final Plat.
17. The Applicant shall distribute Section 8 units through each of the identified three floors of triplex buildings identified for Section 8 voucher holders so as to prevent designating a particular level for such units.
18. The Applicant shall execute a Performance Agreement with supporting financial guarantee approved by the City prior to the issuance of any permits.
19. The Applicant shall enter into a Construction Management Plan and Agreement, and supporting escrow deposited, prior to the issuance of a Land Disturbance Permit.
20. The Applicant shall enter into a Public Improvement Agreement prior to the issuance of a Land Disturbance Permit.
21. The Applicant shall enter into a Utility Facilities Easement Agreement prior to the issuance of a Land Disturbance Permit.

Engineering Review

22. The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memorandum, dated August 4, 2020.
    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 for City site and building plan approval and prior to the issuance of permits.

Fire Inspector/ Building Official Review

23. The Applicant shall work to ensure all applicable 2015 Minnesota Fire Code requirements have been met as part of any plan approval.
24. The building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits.
25. The Applicant shall apply for a SAC determination from the Metropolitan Council. Said determination shall be forwarded to the City and paid for upon issuance of any City permits.
26. The Applicant shall work with the Building Official to address all minimum requirements for accessibility as they relate to units, parking, accessible routes, etc.

August 24, 2020
Date

Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
Ryan
and upon vote being taken thereon, the following voted in favor thereof:
Butler, Elliott, Graves, Lawrence-Anderson, Ryan
and the following voted against the same: None
whereupon said resolution was declared duly passed and adopted.

Member Graves introduced the following resolution and moved its adoption:

RESOLUTION NO. 2020-091

A RESOLUTION VACATING CERTAIN EASEMENTS WITHIN LOT 4, BLOCK 5, WANGSTAD'S BROOKLYN TERRACE, HENNEPIN COUNTY, MINNESOTA AND LOT 1, BLOCK 1, PEARSON'S NORTHPORT 3RD ADDITION, HENNEPIN COUNTY, MINNESOTA

WHEREAS, the Planning Commission has recommended approval for the plat entitled Robertson and Brekke's Brooklyn Boulevard First Addition (the "Plat") based on certain conditions as set forth in the City Council Resolution No. 2020-067 and Planning Commission Resolution No. 2020-005; and

WHEREAS, the Plat includes certain real property situated in Hennepin County located at 6031 Brooklyn Blvd; 6037 Brooklyn Blvd; and 6045 Brooklyn Blvd all located within the City of Brooklyn Center and as legally described on the attached Exhibit A (the "Properties");

WHEREAS, certain public easements currently exist on the Properties which as a result of the Plat are either no longer needed, or are being replaced by new easements covering the Properties within the Plat; and

WHEREAS, the specific easements proposed to be vacated are as legally described on the attached Exhibit B and as depicted on the attached Exhibit C (collectively the "Vacated Easements)":

WHEREAS, after due notice and public hearing, the City Council has determined that the Vacated Easements will be no longer needed once the Plat is recorded; and the vacation of the Vacated Easements is in the public interest;

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

1. The City hereby declares that the Vacated Easements described in the attached Exhibit B and as depicted on the attached Exhibit C are hereby vacated.

2. The City Clerk is directed to prepare a Notice of Completion of Vacation Proceedings and to record it with the Hennepin County Recorder or Hennepin County Registrar of Titles, as appropriate; provided, that this resolution will only take effect upon the release and filing of the final plat of Robertson and Brekke's Brooklyn Boulevard First Addition, execution and filing of associated and separate rededicated easements, and upon execution and filing the subdivision agreement for said associated development.

Adopted this 12th day of October, 2020

Mayor Pro Tem

ATTEST: _____
City Clerk

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

and upon vote being taken thereon, the following voted in favor thereof:
Butler, Graves, Lawrence-Anderson, Ryan

and the following voted against the same: None

whereupon said resolution was declared duly passed and adopted.

Exhibit A

Legal description of the Properties

Parcel 1:

Lot 1, except that part thereof which lies Northeasterly of a line run parallel with and distant 42 feet Southwesterly of the following described line:

From a point on the South line of Section 34, Township 119 North, Range 21 West, distant 1741.08 feet West of the Southeast corner thereof, run Northwesterly at an angle of 68 degrees 01 minutes 52.3 seconds with said South section line for 432.38 feet to the point of beginning of the line to be described; thence run Southeasterly along the last described course for 100 feet; thence deflect to the right on a 2 degree 00 minutes curve (delta angle 17 degree 20 minutes 35.2 seconds) for 867.16 feet and there terminating. Block 1, Pearson's Northport 3rd Addition.

Torrens Property
Torrens Certificate No. 1392052.
PID: 0311821120015

Parcel 3:

That part of Lot 4, Block 5, lying South of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace.

Torrens Property
Torrens Certificate No. 1483315.
PID: 0311821120098

Parcel 4:

That part of Lot 4, Block 5 lying North of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace.

Torrens Property
Torrens Certificate No. 1483312.
PID: 0311821120087

Exhibit B

Legal description of the Vacated Easements

Vacated Easement over Parcel 1:

Lot 1, Block 1, Pearson's Northport Third Addition, according to the duly recorded plat thereof, situate in Hennepin County, Minnesota, except State Highway, which lies northeasterly of a line run parallel with and distant 46 feet southwesterly of the following described line:

From a point on the south line of Section 34, Township 119 north, Range 21 west, distant 1741.08 feet west of the southeast corner thereof, run northwesterly at an angle of 68° 01' 52.3" with said south section line for 432.38 feet to the point of beginning of the line to be described; thence run southeasterly along the last described course for 100 feet; thence deflect to the right on a 2° 00 curve (delta angle 17° 20' 35.2") for 867.16 feet and there terminating.

Vacated Easement over Parcel 3:

The south 138 feet of Lot 4, Block 5, Wangstad's Brooklyn Terrace Addition, according to the title of record, Office of the Registrar of Titles, Hennepin county, Minnesota, which lies within a distance of 10 feet southwesterly of the southwesterly boundary of State Highway No. 152 as now located and traveled.

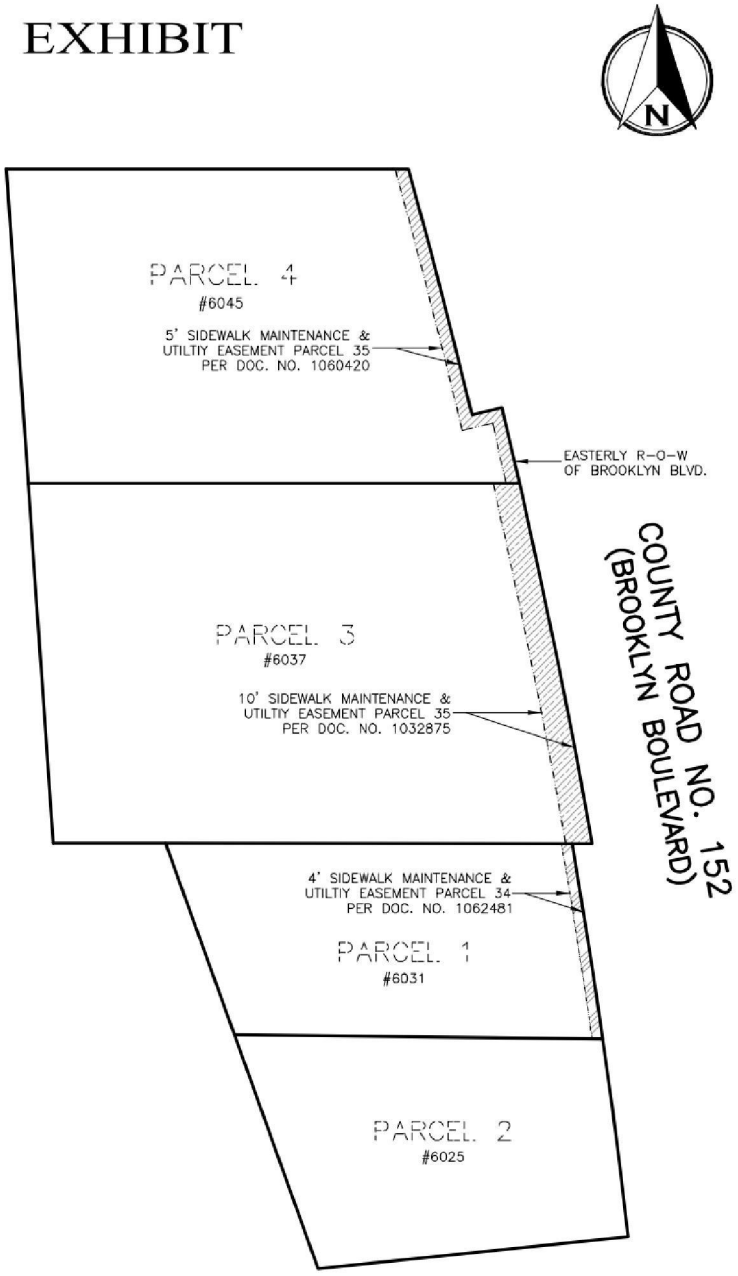
Vacated Easement over Parcel 4:

That part of Lot 4, Block 5, Wangstad's Brooklyn Terrace Addition; lying north of a line drawn parallel with and 138 feet north of as measured at right angles to the south line of said Lot 4, according to the duly recorded plat thereof, office of the Registrar of Titles, Hennepin county, Minnesota, which lies within a distance of 5 feet southwesterly of the southwesterly boundary of State Highway No. 152 as now traveled and located.

Exhibit C

Depiction of the Vacated Easements

EXHIBIT



PROPERTY DESCTIPTIONS

PARCEL 1:

Lot 1, except that part thereof which lies Northeasterly of a line run parallel with and distant 42 feet Southwesterly of the following described line: From a point on the South line of Section 34, Township 119 North, Range 21 West, distant 1741.08 feet West of the Southeast corner thereof, run Northwesterly at an angle of 68 degrees 01 minutes 52.3 seconds with said South section line for 432.38 feet to the point of beginning of the line to be described; thence run Southeasterly along the last described course for 100 feet; thence deflect to the right on a 2 degree 00 minutes curve (delta angle 17 degree 20 minutes 35.2 seconds) for 867.16 feet and there terminating. Block 1, Pearson's Northport 3rd Addition, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1392052.

PARCEL 3:

That part of Lot 4, Block 5, lying South of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1483315.

PARCEL 4:

That part of Lot 4, Block 5 lying North of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1483312.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly registered Land Surveyor under the laws of the State of Minnesota.

W. BROWN LAND SURVEYING, INC.

DATED: 08-28-2020

WOODROW A. BROWN, R.L.S. MN REG 15230

W. BROWN LAND SURVEYING, INC.
8030 CEDAR AVENUE SO., SUITE 228.
BLOOMINGTON, MN 55425
BUS: (952) 854-4055
FAX: (952) 854-4268
EMAIL: INFO@WBROWNLANDSURVEYING.COM

Certificate of Title

Certificate Number: 1392052

Created by Document Number: **5196899**

Transfer from: **1323697**

Originally registered April 22, 1955 Volume: 764, Certificate No: 232063, District Court No: 12294

State of Minnesota
County of Hennepin } **s.s.** **Registration**

This is to certify that

Economic Development Authority of Brooklyn Center, Minnesota, whose address is 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota, 55430;

is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

Lot 1, except that part thereof which lies Northeasterly of a line run parallel with and distant 42 feet Southwesterly of the following described line:
From a point on the South line of Section 34, Township 119 North, Range 21 West, distant 1741.08 feet West of the Southeast corner thereof, run Northwesterly at an angle of 68 degrees 01 minutes 52.3 seconds with said South section line for 432.38 feet to the point of beginning of the line to be described; thence run Southeasterly along the last described course for 100 feet; thence deflect to the right on a 2 degree 00 minutes curve (delta angle 17 degree 20 minutes 35.2 seconds) for 867.16 feet and there terminating. Block 1, Pearson's Northport 3rd Addition.

Subject to restrictions created by the record found in Book 2034 of Deeds, page 506;

Subject to drainage, emergency water and utility easements as described in the plat;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. **Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;**
2. **Any real property tax or special assessment;**
3. **Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;**
4. **All rights in public highways upon the land;**
5. **Such right of appeal or right to appear and contest the application as is allowed by law;**
6. **The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;**
7. **Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.**

Memorials				
Document Number	Document Type	Date of Filing Month Day, Year Time	Amount	Running in Favor Of
T459044	Order of Court	May 5, 1955 8:00 AM		Directing that Judicial Landmark be shown as placed at the Northeast corner of said lot
T1062481	Easement	Feb 22, 1973 10:55 AM		City of Brooklyn Center. Granting an easement for sidewalk purposes over pt of above land (See Inst)
T1809325	Mortgage	Mar 4, 1987 9:00 AM	$58,750.00	Residential Financial Corp (a NJ corp) 1445 Valley Road, Wayne, NJ

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office this 2nd day of September, 2014.

Martin McCormick

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

Certificate of Title

Certificate Number: 1483315

Created by Document Number: **5609800**

Transfer from: **1325024**

Originally registered May 17, 1955 Volume: 769, Certificate No: 233667, District Court No: 12479

State of Minnesota
County of Hennepin } **s.s.** **Registration**

This is to certify that

Economic Development Authority of Brooklyn Center, Minnesota, a MN public body corporate and politic, whose address is 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota, 55429;

is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

That part of Lot 4, Block 5, lying South of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace

Part of the boundaries of the above plat have been determined and Judicial Landmarks have been set, all pursuant to Torrens Case No 8655;

Subject to utility easements as shown on the plat;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. **Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;**
2. **Any real property tax or special assessment;**
3. **Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;**
4. **All rights in public highways upon the land;**
5. **Such right of appeal or right to appear and contest the application, petition, or other proceeding affecting the title, as is allowed by law;**
6. **The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;**
7. **Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.**

Memorials				
Document Number	Document Type	Date of Filing Month Day, Year Time	Amount	Running in Favor Of
T625441	Declaration	May 4, 1960 12:00 PM		Creating restrictions & conditions & covenants (See Inst)
T661790	Agreement	Jul 5, 1961 12:00 PM		Between Homedale Builders, Inc., Fred William Ames & Ben Holmes & Carol J. Holmes, hus & wf. Amending set-back requirement as contained in Doc No. 625441 (See Inst)
T662452	Order of Court	Jul 12, 1961 11:15 AM		Directing that the setback provision contained in Doc No. 625441 has been modified by agreement contained in Doc No. 661790.
T692814	Agreement	Jun 4, 1962 3:10 PM		Between Homedale Builders, Inc. & Ben Holmes & Carol J. Holmes, hus & wf. Amending Par 5 in Doc No. 625441 (See Inst)
T914924	Final Certificate	Jul 17, 1968 2:00 PM		State of Minnesota: Acquiring certain easements and rights for trunk highway purposes over part of above land. Parcel 25

Memorials				
Document Number	Document Type	Date of Filing Month Day, Year Time	Amount	Running in Favor Of
T1032875	Easement	Jun 2, 1972 11:10 AM		City of Brooklyn Center. Granting an easement for sidewalk purposes &c over pt of above land. (See Inst)
T1484376	Amendment	Oct 7, 1982 10:00 AM		State of Minnesota. For highway purposes Parcel No. 35. Amending Doc No. 914924.
T2035836	Quit Claim Deed	Aug 29, 1989 10:00 AM		County of Hennepin from State of Minnesota for highway purposes Land in Doc No. 1484376.
T5609799	Memorial Plat	May 2, 2019 9:00 AM		Regarding location of judicial landmarks.

Indexes Verified through 8/11/2020

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office this 2nd day of May, 2019.

Martin McCormick

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

Certificate of Title

Certificate Number: 1483312

Created by Document Number: **5609800**

Transfer from: **1314308**

Originally registered May 17, 1955 Volume: 769, Certificate No: 233667, District Court No: 12479

State of Minnesota
County of Hennepin } **s.s.** **Registration**

This is to certify that

Economic Development Authority of Brooklyn Center Minnesota a Minnesota body corporation and politic, whose address is 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota, 55430

is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

That part of Lot 4, Block 5 lying North of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace

Part of the boundaries of the above plat have been determined and Judicial Landmarks have been set, all pursuant to Torrens Case No 8655;

Subject to utility easements as shown on plat;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. **Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;**
2. **Any real property tax or special assessment;**
3. **Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;**
4. **All rights in public highways upon the land;**
5. **Such right of appeal or right to appear and contest the application, petition, or other proceeding affecting the title, as is allowed by law;**
6. **The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;**
7. **Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.**

Memorials

Document Number	Document Type	Date of Filing Month Day, Year Time	Amount	Running in Favor Of
T914924	Final Certificate	Jul 17, 1968 2:00 PM		State of Minnesota. For highway purposes Parcel No 36
T1060420	Easement	Jan 26, 1973 3:30 PM		City of Brooklyn Center. Granting an easement for sidewalk purposes over pt of above land (See Inst)
T2035836	Quit Claim Deed	Aug 29, 1989 10:00 AM		County of Hennepin from State of Minnesota for highway purposes. Land in Doc No 1484376
T5609799	Memorial Plat	May 2, 2019 9:00 AM		Regarding location of judicial landmarks.

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office this 2nd day of May, 2019.

Martin McCormick

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

LAND TYPE Torrens (T)

DOC NUM 5773408

Certified, filed and/or recorded on
Nov 24, 2020 8:00 AM

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

Deputy 26 Pkg ID 2116343E

Document Recording Fee	$46.00
Multiple Certificates Affected Fee	$40.00
Document Total	$86.00

Existing Certs
1392052, 1483315, 1483312

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

CITY OF BROOKLYN
CENTER HENNEPIN COUNTY, MINNESOTA

NOTICE OF COMPLETION OF VACATION PROCEEDINGS

The undersigned City Clerk of the City of Brooklyn Center does hereby certify:

1. That the City Council of the City of Brooklyn Center held a public hearing on October 12, 2020, regarding the vacation of certain easements, located on Lot 4, Block 5, WANGSTAD'S BROOKLYN TERRACE, Hennepin County, Minnesota and Lot 1, Block 1, PEARSON'S NORTHPORT 3RD ADDITION, Hennepin County, Minnesota (the " **Easements**").

2. That due notice of the public hearing was given to all affected property owners as required by state law at the time of the vacation.

3. That due notice was published in the City's official newspaper and posted at least two weeks prior to the date of the public hearing as required by state law at the time of the vacation.

4. That following the public hearing, the City Council approved a resolution vacating the Easements (the "**Vacation Resolution**").

5. That a true and correct copy of the Vacation Resolution adopted by the City Council is attached hereto as Exhibit A.

6. That the vacation proceedings complied in all respects with the procedures specified by the City Charter and state law at the time of the vacation.

Dated this __ day of October 2020.

Barb Suciu, City Clerk

STATE OF MINNESOTA)
SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 21st day of October 2020, by Barb Suciu, the City Clerk of the City of Brooklyn Center, Minnesota, a municipal Corporation under the laws of the State of Minnesota.

BARBARA JEAN SUCIU
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31. 2025

Drafted By:

Kennedy & Graven, Chartered
Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT A

Certified Copy of the Vacation Resolution

Member Graves introduced the following resolution and moved its adoption:

RESOLUTION NO. 2020-091

A RESOLUTION VACATING CERTAIN EASEMENTS WITHIN LOT 4, BLOCK 5, WANGSTAD'S BROOKLYN TERRACE, HENNEPIN COUNTY, MINNESOTA AND LOT 1, BLOCK 1, PEARSON'S NORTHPORT 3RD ADDITION, HENNEPIN COUNTY, MINNESOTA

WHEREAS, the Planning Commission has recommended approval for the plat entitled Robertson and Brekke's Brooklyn Boulevard First Addition (the "Plat") based on certain conditions as set forth in the City Council Resolution No. 2020-067 and Planning Commission Resolution No. 2020-005; and

WHEREAS, the Plat includes certain real property situated in Hennepin County located at 6031 Brooklyn Blvd; 6037 Brooklyn Blvd; and 6045 Brooklyn Blvd all located within the City of Brooklyn Center and as legally described on the attached Exhibit A (the "Properties");

WHEREAS, certain public easements currently exist on the Properties which as a result of the Plat are either no longer needed, or are being replaced by new easements covering the Properties within the Plat; and

WHEREAS, the specific easements proposed to be vacated are as legally described on the attached Exhibit B and as depicted on the attached Exhibit C (collectively the "Vacated Easements)":

WHEREAS, after due notice and public hearing, the City Council has determined that the Vacated Easements will be no longer needed once the Plat is recorded; and the vacation of the Vacated Easements is in the public interest;

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

1. The City hereby declares that the Vacated Easements described in the attached Exhibit B and as depicted on the attached Exhibit C are hereby vacated.

2. The City Clerk is directed to prepare a Notice of Completion of Vacation Proceedings and to record it with the Hennepin County Recorder or Hennepin County Registrar of Titles, as appropriate; provided, that this resolution will only take effect upon the release and filing of the final plat of Robertson and Brekke's Brooklyn Boulevard First Addition, execution and filing of associated and separate rededicated easements, and upon execution and filing the subdivision agreement for said associated development.

Adopted this 12th day of October, 2020

ATTEST: _____
City Clerk

_____
Mayor Pro Tem

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

and upon vote being taken thereon, the following voted in favor thereof:
Butler, Graves, Lawrence-Anderson, Ryan

and the following voted against the same: None

whereupon said resolution was declared duly passed and adopted.

Exhibit A
Legal description of the Properties

Parcel 1:

Lot 1, except that part thereof which lies Northeasterly of a line run parallel with and distant 42 feet Southwesterly of the following described line:

From a point on the South line of Section 34, Township 119 North, Range 21 West, distant 1741.08 feet West of the Southeast corner thereof, run Northwesterly at an angle of 68 degrees 01 minutes 52.3 seconds with said South section line for 432.38 feet to the point of beginning of the line to be described; thence run Southeasterly along the last described course for 100 feet; thence deflect to the right on a 2 degree 00 minutes curve (delta angle 17 degree 20 minutes 35.2 seconds) for 867.16 feet and there terminating. Block 1, Pearson's Northport 3rd Addition.

Torrens Property
Torrens Certificate No. 1392052.
PID: 0311821120015

Parcel 3:

That part of Lot 4, Block 5, lying South of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace.

Torrens Property
Torrens Certificate No. 1483315.
PID: 0311821120098

Parcel 4:

That part of Lot 4, Block 5 lying North of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace.

Torrens Property
Torrens Certificate No. 1483312.
PID: 0311821120087

Exhibit B

Legal description of the Vacated Easements

Vacated Easement over Parcel 1:

Lot 1, Block 1, Pearson's Northport Third Addition, according to the duly recorded plat thereof, situate in Hennepin County, Minnesota, except State Highway, which lies northeasterly of a line run parallel with and distant 46 feet southwesterly of the following described line:

From a point on the south line of Section 34, Township 119 north, Range 21 west, distant 1741.08 feet west of the southeast corner thereof, run northwesterly at an angle of 68° 01' 52.3" with said south section line for 432.38 feet to the point of beginning of the line to be described; thence run southeasterly along the last described course for 100 feet; thence deflect to the right on a 2° 00 curve (delta angle 17° 20' 35.2") for 867.16 feet and there terminating.

Vacated Easement over Parcel 3:

The south 138 feet of Lot 4, Block 5, Wangstad's Brooklyn Terrace Addition, according to the title of record, Office of the Registrar of Titles, Hennepin county, Minnesota, which lies within a distance of 10 feet southwesterly of the southwesterly boundary of State Highway No. 152 as now located and traveled.

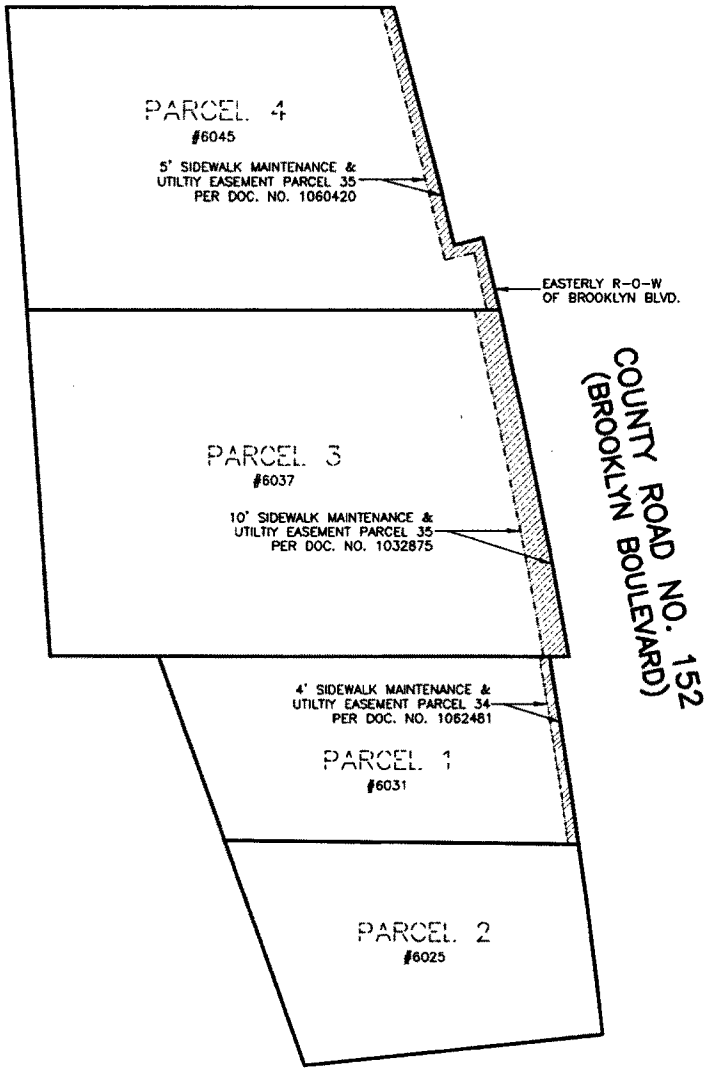
Vacated Easement over Parcel 4:

That part of Lot 4, Block 5, Wangstad's Brooklyn Terrace Addition; lying north of a line drawn parallel with and 138 feet north of as measured at right angles to the south line of said Lot 4, according to the duly recorded plat thereof, office of the Registrar of Titles, Hennepin county, Minnesota, which lies within a distance of 5 feet southwesterly of the southwesterly boundary of State Highway No. 152 as now traveled and located.

Exhibit C

Depiction of the Vacated Easements

EXHIBIT



PROPERTY DESCTIPTIONS

PARCEL 1:

Lot 1, except that part thereof which lies Northeasterly of a line run parallel with and distant 42 feet Southwesterly of the following described line: From a point on the South line of Section 34, Township 119 North, Range 21 West, distant 1741.08 feet West of the Southeast corner thereof, run Northwesterly at an angle of 68 degrees 01 minutes 52.3 seconds with said South section line for 432.38 feet to the point of beginning of the line to be described; thence run Southeasterly along the last described course for 100 feet; thence deflect to the right on a 2 degree 00 minutes curve (delta angle 17 degree 20 minutes 35.2 seconds) for 867.16 feet and there terminating. Block 1, Pearson's Northport 3rd Addition, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1392052.

PARCEL 3:

That part of Lot 4, Block 5, lying South of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1483315.

PARCEL 4:

That part of Lot 4, Block 5 lying North of a line drawn parallel with and distant 138 feet North of, measured at right angles to, the South line of said Lot 4, Wangstad's Brooklyn Terrace, Hennepin County, Minnesota.

Torrens Property
Torrens Certificate No. 1483312.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly registered Land Surveyor under the laws of the State of Minnesota.

W. BROWN LAND SURVEYING, INC.

DATED: 08-28-2020

WOODROW A. BROWN, R.L.S. MN REG 15230

W. BROWN LAND SURVEYING, INC.
8030 CEDAR AVENUE SO., SUITE 228.
BLOOMINGTON, MN 55425
BUS: (952) 854-4055
FAX: (952) 854-4268
EMAIL: INFO@WBROWNLANDSURVEYING.COM

Exhibit C

CITY OF BROOKLYN CENTER
NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Planning Commission of the City of Brooklyn Center will hold an in-person public hearing on **Thursday, May 9, 2024** at approximately 7:00 p.m. Meeting materials can be accessed by visiting the City of Brooklyn Center's website at: https://www.brooklyncentermn.gov/. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST:
Preliminary and Final Plat
APPLICANT | PROPERTY OWNER: C Alan Homes LLC
PROPERTY ADDRESSES |PIDS:
6025, 6031, 6037, and 6045 Brooklyn Boulevard, Brooklyn Center, MN 55429 |
03-118-21-12-0016,
03-118-21-12-0015,
03-118-21-12-0098, and
03-118-21-12-0087

BRIEF STATEMENT OF CONTENTS OF PETITION: The Applicant and Property Owner is requesting a review and consideration of certain preliminary and final plats approved by the City of Brooklyn Center in 2020. As the final plat was not recorded with Hennepin County within one (1) year following City Council approval, the final plat is considered void and re-approval of the plat is required per Section 35-8000 (Subdivisions and Planned Unit Developments).

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

Meeting Number (Access Code):
2630 082 8737
Password: BCPC05092024
By Phone: 1 (312) 535-8110
(Enter Access Code)

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

Respectfully,
Ginny McIntosh
Planning Manager

Published in the
Sun Post
April 25, 2024
1389661

May 10, 2024

C Alan Homes LLC
Attn: Terry Robertson
19782 Henning Avenue
Lakeville, MN 55044

RE: City of Brooklyn Center, MN Planning Commission Application No. 2024-006
Request for Re-Approval of the Preliminary and Final Plats for Robertson and Brekke Brooklyn Boulevard Addition

Mr. Robertson,

Pursuant to Minnesota Statutes Section 15.99, the City of Brooklyn Center is required to approve or deny a written request for certain land use actions within sixty (60) days from receipt of an application. Community Development Department records indicate the City received the above-referenced application and documentation on April 9, 2024, which means the City's 60-day time limit would expire on June 8, 2024.

By allowances granted under Minnesota Statutes Section 15.99, Subd. 3(f), the City of Brooklyn Center is hereby providing official notice that the review period has been extended an additional sixty (60) days per email and phone communication received from you on May 9, 2024 that noted your inability to attend the scheduled public hearing at the May 9, 2024 Planning Commission meeting, and your request to continue the public hearing to the June 13, 2024 Planning Commission meeting so that you could attend. The new deadline for completing the review and final action on this application is now August 7, 2024.

As the public hearing had already been published in the Brooklyn Center *Sun Post* for the May 9, 2024 Planning Commission meeting, the Planning Commission opened the hearing to receive public comment as there was representation from the public and elected to continue the public hearing to the June 13, 2024 Planning Commission Meeting, to be held at 7 p.m. at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430.

If you have any questions or concerns, please feel free to call me at (763) 569-3319 or by email at: gmcintosh@brooklyncentermn.gov.

Sincerely,

Ginny McIntosh
Planning Manager

From: Luba Evarts [redacted]
Sent: Thursday, May 9, 2024 5:57 AM
To: Ginny McIntosh
Subject: C Alan homes

Council members
I would like to open this letter by reminding our Mayor of an article dated Nov. 2023 about how frustrated she was with the planning process and was quoted as saying

"It doesn't feel like you've listened"

to Mike Lindberg of MNDOT.

When this was first proposed I was very against the overcrowding (as I see it) of my neighborhood, still am. Please understand that I am not against the development of this property, I am against the overcrowding, the lack of parking, the lack of green space that would be available to the residents. It was proposed to have 30 parking spaces available for 18 residences. I believe the city of Brooklyn center requires 2 parking spaces per residence. You, city of Brooklyn center council members has rejected other housing proposals because of parking issues. This was an office building to change into an apartment building, but was rejected for concerns of parking. And a couple other things.
Yet you council members passed this ridiculousness. You city council members, shut us down - you did not take into consideration our concerns.
It doesn't feel like you've listened.
Hmmmm

C Alan homes seems to be having a difficult time finishing the first two (of seven) buildings at 60th and Brooklyn Blvd. It has been 4 YEARS since it has begun and but not yet completed or opened for rent. Their reliability is questionable. This is such a disservice to our community. I really don't want to live in a continuous construction zone. If it takes 4 + years to complete 2 triplexes, how long will it take to complete 7? Or 13?

And why can't I attend a meeting
IN PERSON????

A concerned 30+ year resident
Luba Evarts

Exhibit D

M E M O R A N D U M

DATE: August 17, 2020

TO: Ginny McIntosh, City Planner/Zoning Administrator

FROM: Andrew Hogg, Assistant City Engineer

SUBJECT: Preliminary Site Plan & Plat Review – **Revised**
Brooklyn Boulevard 6000 Brooklyn Blvd Tri-plexes

Public Works staff reviewed the following documents submitted for review for the proposed 6000 Brooklyn Blvd Tri-plexes (Planning Commission Application No. 2020-004):

- Preliminary Plans and plat submitted 07/24/2020

Subject to final staff Site Plan approval, the referenced plans must be revised in accordance with the following comments/revisions and approved prior to issuance of Land Alteration permit.

C000 Title Sheet

1. No comments.

C100 Removals Plan

2. Right of Way along Brooklyn Blvd is owned by Hennepin County. Obtain necessary permits prior to work with in Hennepin County Right of Way.
3. Protect existing bus stop sign along Brooklyn Blvd. Coordinate with Metro Transit to maintain bus service.
4. Remove the existing sidewalk from bus stop to south end of property.
5. Remove curb for proposed concrete drive to Brooklyn Blvd.
6. Remove existing service stubs to back of curb along Brooklyn Blvd.
7. Removal for utility connections in street shall extent curb to curb or to drive lane, no partial width removals.

C200, 202 and 202 – SWPPP Plans

8. No comments.

C210 and 211 – Erosion Control Plans

9. No comments.

C300 – Site Plan

10. Need to provide parallel sidewalk along back side of new curb.
11. All utilities and storm water management facilities to be within a drainage & utility easement.
12. Remove curb bump outs or relocate to property lines.
13. Add No Right Turn sign on Brooklyn Blvd for south exit.
14. Show location of ADA stalls & access routes.
15. Only 40 stalls shown on plans (lost 2 for trash) – should provide 2.5 stalls per unit.
16. Reduce width of exit to 1 lane of traffic (12'-15' or 20' if part of emergency access route).
17. Eliminate southern lot (incorporate into most southern building lot).
18. Site triangles at entrance/exits of development shall be free and clear of any obstructions.

19. Provide detailed vehicle turning and tracking movement diagrams for delivery vehicles and garbage trucks demonstrating specific and actual routes.
20. Use City Detail for City driveway aprons.
21. Developer removes the existing sidewalk and installs a 1.5" bituminous trail to ensure that their grading and elevations work. There is approximately 375' of trail from the south property line to the bus stop pull off. The City Brooklyn Blvd Project will then install the final 1.5" bituminous lift on the trail and the pedestrian curb ramp at 61st Avenue with the road project.

C400 – Grading and Drainage Plan

22. All city roadway embankment material installed within pavement patching areas of existing roadways shall be placed in lifts not to exceed 8-inches and compacted to a minimum of 100 percent of maximum density regardless of depth below the final pavement surface. The Engineer shall take a minimum of three (3) compaction tests at varying elevations within the pavement patch area.
23. Provide retaining wall elevations/grades.
24. Retaining walls over 3' in height need to be certified by engineer and must include a safety railing/fence.
25. Verify constructability of OCS4, CBMH5 & CBMH6 with 36" pipe.
26. Verify that OCS4 to CBMH6 can be constructed without encroaching on adjacent property.
27. Storm sewer & infiltration areas to be privately owned & maintained.
28. Elevations on OCS8 are not correct/match up with detail.
29. Adjust elevations of the FES's to match basin bottom elevations.
30. There appears to be a number of typos in the spot elevations & slopes, please review & adjust accordingly.

C500 – Utility Plan

31. 8" watermain to be looped out to Brooklyn Blvd.
32. Provide separate service line to each bldg. or provide joint maintenance agreements for service lines.
33. They don't make 2" DIP, adjust water main notes accordingly.
34. All on-site utility lines to be privately owned and maintained.
35. Verify water service sizes.
36. Provide on-site fire hydrant.
37. They don't make a 12.5 degree watermain bend.
38. Minimum sanitary sewer service pipe size to be 4".
39. Extend sanitary line and move Sanitary Manhole #10 overtop of existing main for connection location.
40. All improvements installed within public rights of way shall be constructed to City specifications/details.

C900, 901, 902 and 903 – Details

41. All work performed and materials used for construction of utilities must conform to the City standard specifications and details. The City's standard details must be included in the plan.
42. Update to use current City plates.

Preliminary Plat/Final

43. Drainage & Utility easements shall be adjusted to cover all shared/common utility lines (sanitary sewer, watermain, storm sewer) along with any storm water management features.
44. City & County will review permanent rights of way and easement needs along Brooklyn Blvd (Plats to be reviewed by Hennepin County Engineer).
45. Provide required separate cross access/cross parking easements.
46. Provide required separate trail & sidewalk easements.
47. Change Bloomington to Brooklyn Center in signature areas.
48. It appears that all property is Torrens, adjust Document block and signature blocks accordingly
49. Combine Outlot A with Lot 7.
50. Label & dimension proposed rights of way dedications
51. Change dedication language to include rights of way dedications
52. Need working copy of the preliminary plat to show all vacated easements, proposed easements, existing and proposed utilities and provide all easement documents for the City for review. A 10' drainage and utility easement must be dedicated on the plat around the entire perimeter of the site. An additional utility easement must be dedicated on the plat for the private water main and sanitary to allow for maintenance access per the Developers Agreement.
53. Legal descriptions and easement vacation documents must be obtained for all existing easements. Existing public easements as determined by the City must be vacated, and proposed easements must be dedicated as part of the preliminary and final platting process. The formal vacation document must contain an easement vacation description and depiction exhibit signed by a professional surveyor.
54. An updated certified abstract of title or registered property report must be provided to the City Planner and City Attorney for review at the time of the preliminary plat application (within 30 days of preliminary plat application). Additionally, this will need to stay current and be updated through the approval process as required to maintain and be current within 30 days of the release of final plat.
55. The applicant is responsible for coordinating site development plans with Xcel Energy, CenterPoint Energy, Qwest Communications and other private utility companies. Any further easements necessary to provide utility service to the proposed site development shall be dedicated to the public for public use with the final plat.
56. Provide right-out only at southern property line. This access must be documented in the PUD agreement for this parcel and the necessary cross access agreements will be required. This access is to be limited to right-out only with future Brooklyn Blvd reconstruction project that will include a raised center median.

Miscellaneous

57. See redlines for additional site plan comments.
58. Provide landscape and irrigation plan.
59. Provide share access agreement and easement at south property line incase properties south of plan are redeveloped.

60. Upon project completion, the applicant must submit an as-built survey of the property, improvements and utility service lines and structures; and provide certified record drawings of all project plan sheets depicting any associated private and/or public improvements, revisions and adjustments prior to issuance of the certificate of occupancy. The as-built survey must also verify that all property corners have been established and are in place at the completion of the project as determined and directed by the City Engineer.
61. Inspection for the private site improvements must be performed by the developer's design/project engineer. Upon project completion, the design/project engineer must formally certify through a letter that the project was built in conformance with the approved plans and under the design/project engineer's immediate and direct supervision.(see attached template letter) The engineer must be certified in the State of Minnesota and must certify all required as-built drawings (which are separate from the as-built survey).
62. The total disturbed area exceeds one acre; an NPDES permit is required. In addition, the total disturbed area is less than five acres. The applicant has submitted plans to the City of Brooklyn Center for project review on behalf on the Shingle Creek Watershed Commission. Provide an updated storm water plan that meets the requirements of the Shingle Creek Watershed Commission by revising the proposed 100yr storm event to below the existing run-off rate. Basin/storage must drain down in 48 hours.
63. The City has submitted the plans to Hennepin County for review. Applicant must meet requirements from Hennepin County's review.
64. Utility Facilities Easement Agreement required.

Prior to issuance of a Land Alteration

65. Final construction/demolition plans and specifications need to be received and approved by the City Engineer in form and format as determined by the City. The final plan must comply with the approved preliminary plan and/or as amended by the City Engineer.
66. A letter of credit or a cash escrow in the amount of 100% of the estimated cost as determined by City staff shall be deposited with the City.
67. During construction of the site improvements, and until the permanent turf and plantings are established, the developer will be required to reimburse the City for the administration and engineering inspection efforts. Please submit a deposit of $2,500 that the City can draw upon on a monthly basis.
68. A construction management plan and agreement is required that addresses general construction activities and management provisions, traffic control provisions, emergency management provisions, storm water pollution prevention plan provisions, tree protection provisions, general public welfare and safety provisions, definition of responsibility provisions, temporary parking provisions, overall site condition provisions and non-compliance provisions. A separate $2,500 deposit will be required as part of the non-compliance provision.

Anticipated Permitting:

69. A City of Brooklyn Center Land Disturbance Permit is required.

70. Applicant to obtain required permits to work in County right-of-way.

71. A MPCA NPDES permit is required.

72. Conditions specified by the City to meet the requirements of the Shingle Creek Watershed Commission must be met.

73. Other permits not listed may be required and is the responsibility of the developer to obtain and warrant.

74. Copies of all required permits must be provided to the City prior to issuance of applicable building and land disturbance permits.

75. A preconstruction conference must be scheduled and held with City staff and other entities designated by the City.

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.

Council Regular Meeting

DATE: 7/8/2024

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

SUBJECT: Resolution Approving First Amended Joint Powers Agreement for Pets Under Police Security ("PUPS")

Requested Council Action:

- Motion to approve a resolution of the first amended joint powers agreement for pets under police security ("PUPS").

Background:

The City of Brooklyn Center holds Joint Powers Agreement (JPA) with Police Under Police Security ("PUPS") that was approved in May 2023.

The JPA that is being presented tonight has amendments to Section 4; Management and Use. These amendments are giving the Animal Containment Coordinator additional authority in their position to assist with the management of animal care. With the additional authority, it could be a cost savings to the city in the long run.

Budget Issues:

- none

Inclusive Community Engagement:

- none

Antiracist/Equity Policy Effect:

- none

Strategic Priorities and Values:

Provide quality services with fair and equitable treatment

ATTACHMENTS:

Description	Upload Date	Type
Resolution	7/2/2024	Resolution Letter
JPA PUPS	7/2/2024	Backup Material

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING FIRST AMENDED JOINT POWERS AGREEMENT FOR PETS UNDER POLICE SECURITY ("PUPS")

WHEREAS, the City of Brooklyn Center on behalf its Police Department desires to enter into a Joint Powers Agreement ("Agreement") pursuant to Minn. Stat. § 471.59 by the cities of Maple Grove, Brooklyn Center, Brooklyn Park, Champlin, Crystal, New Hope, Plymouth, and Robbinsdale ("Members") as of the Effective Date specified herein.; and

WHEREAS, the Members acknowledge that in the course of operations of their respective municipal animal control efforts, they encounter animals that require safe, efficient, and economical impoundment;

WHEREAS, the Members desire and intend to maintain an organization by which they may jointly and cooperatively provide for the impoundment of such animals in a jointly operated animal control impound facility ("PUPS Facility");

WHEREAS, the PUPS Facility is located at 11350 89th Ave N, Maple Grove, MN 55369;

WHEREAS, this Agreement shall commence on July 11, 2024 ("Effective Date") and expire on December 31, 2053 unless earlier terminated as specified herein. Upon expiration of the initial term, the Members may negotiate and may agree to extend this Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, acknowledges acknowledge that in the course of operations of their respective municipal animal control efforts, they encounter animals that require safe, efficient, and economical impoundment; agrees to maintain the organization by which they may jointly and cooperatively provide for the impoundment of such animals in a jointly operated animal control impound facility ("PUPS Facility").

July 11, 2024
Date

_____
Mayor

ATTEST: _____
City Clerk

RESOLUTION NO. _____

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.

FIRST AMENDED JOINT POWERS AGREEMENT
for
PETS UNDER POLICE SECURITY ("PUPS")

This JOINT POWERS AGREEMENT ("Agreement") is made and entered into pursuant to Minn. Stat. § 471.59 by the cities of Maple Grove, Brooklyn Center, Brooklyn Park, Champlin, Crystal, New Hope, Plymouth, and Robbinsdale ("Members") as of the Effective Date specified herein.

WHEREAS, the Members acknowledge that in the course of operations of their respective municipal animal control efforts, they encounter animals that require safe, efficient, and economical impoundment;

WHEREAS, the Members desire and intend to maintain an organization by which they may jointly and cooperatively provide for the impoundment of such animals in a jointly operated animal control impound facility ("PUPS Facility");

WHEREAS, the Members desire to provide for the joint use and shared financial responsibilities of operation of the PUPS Facility;

WHEREAS, the PUPS Facility is located at 11350 89th Ave N, Maple Grove, MN 55369;

BASED UPON AND IN CONSIDERATION OF THE FOREGOING, the Members agree as follows:

1. **Term**. This Agreement shall commence on July 1 1, 2024 ("Effective Date") and expire on December 31, 2053 unless earlier terminated as specified herein. Upon expiration of the initial term, the Members may negotiate and may agree to extend this Agreement.
2. **Membership**
    a. *Initial membership*. By executing this Agreement, municipalities noted above are the initial Members of PUPS and are subject to the terms and conditions of this Agreement.
    b. *Additional members*. Any governmental unit may make application to become a member of PUPS. In order to apply, a governmental unit must contact the Board and inform the Board of the governmental unit's intent to join. Applications will be considered in the sole discretion of the Board and according to terms and conditions set by the Board in accordance with this Agreement. The terms and conditions of additional membership shall be documented in an addendum to this Agreement.
    c. *Withdrawal*. Members may elect to withdraw from PUPS upon written notice to the Board no later than June 30 in any year specifying an effective date no earlier than January 1 of the subsequent year. All obligations of the withdrawing Member continue through the effective date of withdrawal.

3. **Board**
    a. *Composition and voting*. The governing body of PUPS shall be a Board of Directors ("Board") consisting of one board member from each Member city. Each Member has one vote and proxy voting shall not be allowed. Maple Grove's representative shall be the board chair.
    b. *Meetings*. Except as otherwise provided in this Agreement, the Board shall meet either virtually or in person as often as it is deemed necessary and keep minutes, in either electronic or written form, of the substance of each meeting. Minutes of the Board meetings shall be made available to Members for their review.
    c. *Board authority*. The Board by majority vote of its members must approve the annual operation budget and any significant budgetary impacts or changes, any capital improvements, and any new members. The Maple Grove City Administrator may overturn any decision by the Board resulting in additional building maintenance expenditures, modification of the PUPS Facility, or increased capital improvement needs.
4. **Management and Use**
    a. *Animal Containment Coordinator*. Maple Grove will appoint, employ, and supervise an Animal Containment Coordinator for the PUPS Facility. The Animal Containment Coordinator will be employed by Maple Grove, the costs of which, including wages, benefits, and other related expenses, shall be proportionally paid for by the Members. The Animal Containment Coordinator shall be empowered to act in the best interests of the PUPS Facility, including staff and animal safety and well-being.
    b. *Operational Control*. The Animal Containment Coordinator shall have day-to-day operational control of the PUPS Facility, including policies and procedures applicable to all animals in possession of the PUPS Facility, regardless of where the animal originated. The Animal Containment Coordinator, in consultation with the Board, shall act in the best interests of the PUPS Facility and is responsible for setting the hours of operation, public hours, incidental fees and charges to be reimbursed by Members, records management, animal care including care provided by third parties, and disposition subject to state law and the rights and obligations of the Members as specified herein.
    c. *Use by non-Members*. The Board will establish guidelines, policies, rates, and fees for any use of the PUPS Facility by non-Members.
    d. *Maintenance.* Maple Grove shall be responsible for all maintenance, repair, replacement, and upkeep of the PUPS Facility necessary to keep it in good repair and clean condition, the costs for which will be paid by the Members in proportion to their share set forth herein. If the Board determines that Maple Grove has failed to perform the maintenance or make any of the repairs or changes required by this Agreement, the Board shall notify Maple Grove in writing of the required maintenance, repairs, or changes. Maple Grove has 30 days after receipt of such notice to perform or make the required maintenance, repairs, or changes, after which time upon authorization by the Board any other Member may but are not obligated to perform or make the required

maintenance, repairs, or changes, the costs of which shall be shared among all Members in proportion to their share set forth herein. In such event, Maple Grove shall allow reasonable access to the PUPS Facility to any person authorized by the Board to perform maintenance, repairs, or changes. If Maple Grove fails to timely cure under this Article, it shall be liable for any damage to property or loss sustained by the other Members, except damage or loss caused by any other Members' negligent or willful conduct. Maple Grove's failure to timely cure under this Article shall not constitute a default of this Agreement unless such failure significantly impairs the other Members' use of PUPS.

5. **Operations**
    a. *Owner-Operator*. Maple Grove shall be the owner, operator, and fiscal agent of PUPS, subject to the rights and obligations of the Members set forth in this agreement. Maple Grove shall control all PUPS operations including but not limited to staffing and billing. No Member shall take any action to install equipment or modify the PUPS Facility or the real property on which the PUPS Facility is located without express, written, advance approval from the Board.
    b. *Operating Costs*. Operating Costs include all expenses and costs incurred and normally required with respect to repair, replacement, maintenance, and operation of the PUPS Facility and equipment, improvements, sidewalk, driveways, and parking facilities. Operating costs shall include but are not limited to the following:
        i. Wages, salaries, benefits, and related expenses of all employees engaged in the operation, management, maintenance, and care of animals within the PUPS Facility, including, without limitation, the Animal Containment Coordinator;
        ii. All supplies and materials used in the operation and maintenance of the PUPS Facility;
        iii. Cost of utilities, including but not limited to water, sewer, heating, lighting, electricity, air conditioning, and ventilation for the PUPS Facility;
        iv. Maintenance and service agreements for PUPS and the maintenance, service, and replacement of the equipment in the PUPS Facility or parking facilities;
        v. Costs of all insurance for PUPS, including but not limited to premiums, deductibles, and the costs to purchase and maintain fire, property, casualty, and liability insurance;
        vi. Any and all common area maintenance costs related to public areas of the PUPS Facility, including but not limited to all bathrooms, sidewalks, landscaping, drives, and, service areas;
        vii. Capital expenditures including but not limited to the cost to maintain, repair, or replace all structural components of the PUPS Facility, fixtures, equipment, and site improvements.
    c. *Operating Budget.* Maple Grove shall provide Members and the Board a copy of the proposed budget of the estimated Revenue and Operating Costs for PUPS

(the "Operating Budget") by June 1 for the following calendar year. The Board shall approve the operating budget on or before August 31 of each year.

d. *Cost Sharing.* Members shall share in all Operating Costs for PUPS. The Board must adopt an annual Operating Budget by June 1 of each year and provide each Member a reasonable opportunity to comment on the proposed budget before adoption. Notification of the adopted budget must be provided promptly to the chief administrative officer of each member. Cost sharing shall be determined based on the actual number of impounded animals per Member or according to other methodology adopted by a 2/3 majority of the Board. Each Member shall pay Maple Grove the Member's share of Operating Costs in two equal installments due on May 31 and August 31. The final operations bill back will be due on February 28 of the following year. Maple Grove shall submit an invoice to the Members approximately 30 days in advance to assure timely payment. If a Member ceases to be a Member at any time other than the end of a calendar year, the exiting Member's portion of Operating Costs shall be reallocated to the remaining Members according to their Percentage Share.

e. *Unanticipated Expenses*. An "unanticipated expense" is an expenditure that is not included in an approved Operating Budget but is necessary for the continued operation of PUPS. Maple Grove shall have discretion in consultation with the Board to approve and incur any unanticipated expense.

f. *Reconciliation and Reserve Account*. On or before June 30 of each year, Maple Grove shall provide the other Members documentation of the net surplus or deficit of Operating Costs in relation to payments made in the preceding year. Any such surplus or deficit in payments shall be treated as follows:

    i. If there is an actual deficit, each Member will be responsible for its Percentage Share of the deficit.

    ii. If there is an actual surplus, the amount overpaid by the Members shall be deposited into a PUPS account to be maintained by Maple Grove (the "PUPS Capital") and used by Maple Grove for PUPS-related expenses. If Maple Grove cancels this Agreement as provided in Paragraph 12, any funds remaining in the PUPS Account at the time of such cancellation or termination shall be distributed to all Members in accordance with their Percentage Share determined at that time. Upon any other termination or cancellation of this Agreement, Maple Grove shall retain all funds in the PUPS Account.

g. *Capital Contribution*. All Members shall by June 30 of each year make a collective annual capital investment in the PUPS Facility of $25,000, or in a different amount as may be determined by the Board, divided among membership according to the following percentage formula: the total annual number of animal-impounds attributable to the Member divided by the total annual number of all PUPS animal impounds in the prior year. Partial year capital contributions will be prorated.

    e.g., PUPS impounds 900 animals in a given year, including 100 animals from Maple Grove. Maple Grove is responsible for 11.1% of the total

impounds. Maple Grove's capital contribution for that year would be $2,775 (11.1% of $25,000).

h. *Inspection*. Maple Grove agrees that Members, at their own expense and through their duly authorized representatives, at any time during normal business hours and as often as reasonably necessary, shall have the right to examine, audit, excerpt, and transcribe any books and records which are pertinent to or involve transactions relating to this Agreement, including verification of amounts and types of expenses which appear on the Operating Budget or statements of actual Operating Costs.

6. **Compliance with Rules and Regulations**. The Members agree to comply with all applicable federal, state, municipal, and local laws, ordinances, and regulations while occupying PUPS. The Members shall comply with Maple Grove's reasonable rules for the safety, care, cleanliness, and preservation of good order of PUPS, provided that the rules are submitted to them in writing and do not conflict with the terms of this Agreement.
7. **Insurance**. Maple Grove will, at all times during the Term and any renewal period of this Agreement, either self-insure or have and keep in force a single limit or excess umbrella commercial general liability insurance policy of an amount not less than $500,000 per claimant for death, bodily injury, personal injury, property loss and/or damages and $1,500,000 for total personal injury, bodily injury, property loss and/or damages arising from any one occurrence or greater limits which may be subsequently allowed under Minn. Stat. §§ 466.02 and 466.04, as amended. Maple Grove will furnish Members with Certificates of Insurance documenting the insurance coverage required by this Agreement upon request. All Certificates shall provide that the insurance company shall give 10 days' written notice to the Members of cancellation, non-renewal, or any material change in the policy.
8. **Liability**.
    a. *Cooperative Activity*. Pursuant to Minn. Stat.§ 471.59, subd. la(a), as amended, this Agreement is intended to be and shall be construed as a "cooperative activity" and it is the intent of the Members that they shall be deemed a "single governmental unit" for the purposes of liability; provided, however, that each Member expressly declines responsibility for the acts or omissions of the other Member. Nothing in this Agreement shall be construed to waive or limit any immunity from, or limitation on, the liability of either Member as provided by law.
    b. *Third Party*. To the extent that tort damages or other related costs or fees become payable to a third party as a result of this Agreement or the activities carried out pursuant to this Agreement, the Members shall each pay an amount equal to their respective percentage of liability. Notwithstanding the foregoing, this Agreement is solely for the benefit of the Members, it being the express intent of the Members that no other entity or person shall have any right, claim, or interest in this Agreement.
    c. *Employee Liability Limitation*. No Member shall be responsible or liable for injuries or death of the other Members' employees or officers. Each Member will

maintain worker's compensation coverage to the extent required by law on its employees and officers who perform work or use the PUPS Facility pursuant to this Agreement.

d. *No Immunity Waiver*. Nothing in this Agreement is intended or should be construed in any manner as a waiver of any Member's immunities or of the tort limits contained in Minnesota Statutes chapter 466.

9. **Indemnification**. Subject to the limitations, immunities, and defenses in Minnesota Statute chapter 466, each Member shall defend, indemnify, and hold harmless the other Members and their officers and employees from and against any and all liability, loss, damages, costs, and expenses which it or its employees or agents may hereafter sustain, incur, or be required to pay arising out of or resulting from the performance of this Agreement, provided that any such claim, damage, loss, or expense is (1) attributable to personal or bodily injury, sickness, disease, or death or to injury to or destruction of tangible property including the loss of use therefrom; and (2) caused by any negligent acts or omissions of the indemnifying Member or its employees, agents, or any other person or entity for whose actions it may be liable.
10. **Dispute Resolution; Applicable Law; Venue.** In the event some or all of the Members are unable to reach agreement regarding interpretation of their rights and obligations under this Agreement, the disagreeing Members shall participate in mediation pursuant to the Minnesota Civil Mediation Act, as amended (currently codified at Minn. Stat.§ 572.31 et seq.) prior to initiating any other form of dispute resolution, including legal action. This Agreement is created under and shall be read and construed according to Minnesota law. Any legal action between the Members related to this Agreement shall be venued in a court of competent jurisdiction in Hennepin County, Minnesota.
11. **Default.** If any payment by a Member required by this Agreement remains unpaid for 30 days after written notice or a Member fails to comply with any of the terms and conditions of this Agreement and such failure continues for 30 days after written notice, such Member shall be deemed in default. Upon the occurrence of such default, Maple Grove may in its discretion in consultation with the Board terminate the defaulting Member's membership in this Agreement and recover damages from the defaulting Member including but not limited to all unpaid amounts due and owing under this Agreement plus any sum of money as may be determined fair and equitable by a court having jurisdiction over this matter, plus interest at the maximum rate allowed by law.
12. **Termination By Maple Grove.** Maple Grove may, in its sole discretion, elect to terminate this Agreement upon written notice to the Members. Such notice shall provide for no less than one full budget year (January 1 – December 31) prior to its effective date of termination e.g., if notice under this provision were provided on March 1, 2026, the effective date of termination could be no earlier than January 1, 2028.
13. **Miscellaneous Provisions**
    a. *Waiver*. Failure by any Member to insist, in any one or more instances, upon strict performance of any term, covenant, or condition of this Agreement or to exercise any option contained in this Agreement shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition, or option, but the same shall continue and remain in full force and effect. The

Members shall not be deemed to have waived any provision of this Agreement until expressed in a signed writing.

b. *Counterparts*. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

c. *No Assignment*. This Agreement may not be assigned except by the advance, express written consent of all other Members.

d. *Entire Agreement; Modification*. This Agreement shall constitute the entire agreement among the Members as to the subject matter and any understandings or representations of any kind preceding the execution of this Agreement shall not be binding upon the Members. This Agreement may not be amended or modified except by a written instrument executed by all Members.

e. *Authority*. Each Member represents and warrants that it has the power and authority to enter into this Agreement. Each Member further represents and warrants that the person or persons executing this Agreement on its behalf have full and complete legal authority to do so, and thereby bind the Member and, to the extent permitted by this Agreement, its successors and assigns.

f. *Notices*. Any notice or demand, which may or must be given or made by any Member under the terms of this Agreement or any statute or ordinance shall be in writing and be sent registered or certified mail to the other Members addressed as follows:

To: Maple Grove
City Clerk
City of Maple Grove
12800 Arbor Lakes Parkway
Maple Grove, MN 55369

To: Brooklyn Park
Police Chief
City of Brooklyn Park
5400 85th Ave. N
Brooklyn Park, MN 55443

To: Brooklyn Center
Police Chief
City of Brooklyn Center
6645 Humboldt Ave
Brooklyn Center, MN 55430

To: Champlin
Police Chief
City of Champlin
11955 Champlin Drive
Champlin, MN 55316

To: Crystal
Police Chief
City of Crystal
4141 Douglas Drive N
Crystal, MN 55427

To: New Hope
Police Chief
City of New Hope
4401 Xylon Ave N
New Hope, MN 55428

To: Plymouth
City Clerk
City of Plymouth
3400 Plymouth Blvd.
Plymouth, MN 55447-1448

To: Police Chief
City of Robbinsdale
4101 Hubbard Ave N
Robbinsdale, MN 55442

Each Member may designate a different addressee or form of accepting notice at any time by giving written notice to the other Members as provided in this paragraph. Notice delivered by hand shall be deemed received upon delivery.

g. *Acknowledgement.* Each of the Members affirms and acknowledges that it has fully read, appreciates, and understands the words, terms, conditions, and provisions of this Agreement and is fully satisfied with the same. Each Member affirms and acknowledges that it has been, or had the opportunity to be, represented by legal counsel of its choice.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed on the date indicated below:

CITY OF BROOKLYN CENTER

_____
By:
Its: Mayor
Dated: _____, 2024

_____
By:
Its: City Manager
Dated: _____, 2024

Council Regular Meeting

DATE: 7/8/2024

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Carissa Goebel - Recreation Deputy Director

SUBJECT: Proclamation Acknowledging and Proclaiming July as "Park and Recreation Month"

Requested Council Action:

- Motion to approve a resolution declaring July 2024 as "Park and Recreation Month" in Brooklyn Center.

Background:

For nearly 40 years, the nation has celebrated Park and Recreation Month in July to promote building strong, vibrant and resilient communities through the power of parks and recreation. This month is dedicated to recognizing and celebrating full-time, part-time and seasonal park and recreation professionals who serve the City of Brooklyn Center.
This year's theme — "Where You Belong" — celebrates the many ways park and recreation professionals across the country foster a sense of belonging in their community by providing welcoming and inclusive programs, essential services for all ages and abilities, and safe, accessible spaces to build meaningful connections.
Brooklyn Center is celebrating Park and Recreation Month, an initiative of the National Recreation and Park Association (NRPA), by inviting our community to share their experiences, memories and stories about what parks and recreation mean to them. With everything from a coloring contest, trying fitness classes, joining us for entertainment and movies in the park, signing up for an art class, or experiencing our other special events, there are plenty of ways that you can celebrate with us.

Budget Issues:

none

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Maintain and enhance public places, Provide quality services with fair and equitable treatment

ATTACHMENTS:

Description	Upload Date	Type
Park and Recreation Month Cover Sheet	7/1/2024	Cover Memo

Park and Recreation Month Proclamation	7/1/2024	Proclamation

Council Regular Meeting

DATE: 7/8/24

TO: City Council

FROM: Dr. Reggie Edwards

THROUGH:

BY: Cordell Wiseman, Director of Parks and Recreation

SUBJECT: Proclamation Acknowledging and Proclaiming the Month of July 2024 as " Park and Recreation Month"

Requested Council Action:

- Motion to approve a resolution declaring July 2024 as "Park and Recreation Month" in Brooklyn Center.

Background:

For nearly 40 years, the nation has celebrated Park and Recreation Month in July to promote building strong, vibrant and resilient communities through the power of parks and recreation. This month is dedicated to recognizing and celebrating full-time, part-time and seasonal park and recreation professionals who serve the City of Brooklyn Center.

This year's theme — "Where You Belong" — celebrates the many ways park and recreation professionals across the country foster a sense of belonging in their community by providing welcoming and inclusive programs, essential services for all ages and abilities, and safe, accessible spaces to build meaningful connections.

Brooklyn Center is celebrating Park and Recreation Month, an initiative of the National Recreation and Park Association (NRPA), by inviting our community to share their experiences, memories and stories about what parks and recreation mean to them. With everything from a coloring contest, trying fitness classes, joining us for entertainment and movies in the park, signing up for an art class, or experiencing our other special events, there are plenty of ways that you can celebrate with us.

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION DECLARING JULY AS PARK AND RECREATION MONTH IN THE CITY OF BROOKLYN CENTER

WHEREAS parks and recreation is an integral part of communities throughout this country, including the City of Brooklyn Center; and

WHEREAS parks and recreation promotes health and wellness, improving the physical and mental health of people who live near parks; and

WHEREAS parks and recreation promotes time spent in nature, which positively impacts mental health by increasing cognitive performance and well-being, and alleviating illnesses such as depression, attention deficit disorders, and Alzheimers; and

WHEREAS parks and recreation encourages physical activities by providing space for popular sports, hiking trails, swimming pools and many other activities designed to promote active lifestyles; and

WHEREAS parks and recreation is a leading provider of healthy meals, nutrition services and education; and

WHEREAS park and recreation programming and education activities, such as out- of-school time programming, youth sports and environmental education, are critical to childhood development; and

WHEREAS parks and recreation increases a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS parks and recreation is fundamental to the environmental well-being of our community; and

WHEREAS parks and recreation is essential and adaptable infrastructure that makes our communities resilient in the face of natural disasters and climate change; and

WHEREAS our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS the U.S. House of Representatives has designated July as Parks and Recreation Month; and

WHEREAS the City of Brooklyn Center recognizes the benefits derived from parks and recreation resources.

NOW THEREFORE, BE IT RESOLVED BY City Council that July is recognized as Park and Recreation Month in the City of Brooklyn Center.

_____ _____

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 Regular Meeting

DATE: 7/8/2024

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

SUBJECT: Public Works: Looking Back and Looking Ahead

Requested Council Action:

- *Motion to accept the presentation.*

Background:

Public Works Director Elizabeth Heyman will give an overview of what the Public Works Department accomplished in 2023 and what staff are working towards in 2024.

Budget Issues:

N/A

Inclusive Community Engagement:

N/A

Antiracist/Equity Policy Effect:

N/A

Strategic Priorities and Values:

Maintain and enhance public places

ATTACHMENTS:

Description	Upload Date	Type
Powerpoint	7/8/2024	Presentation

Public Works Department

Responsibly provide for the maintenance and operations of the City's infrastructure and facilities in a quality, cost effective manner including:

- 105 miles of city streets and 5,100 traffic signs
- 520 acres of parks and natural areas
- 62 miles of trails and sidewalks
- Municipal-owned buildings and grounds
- 88 miles of storm drains and 40 treatment facilities
- Water and sewer operations

Elizabeth Heyman, Public Works Director

2023: $3.9M invested in City assets

2

Responding together

3

Behind the scenes

Illinois

LaSalle residents shelter in place after Carus chemical factory fire

Northern Public Radio | By Peter Medlin

Print

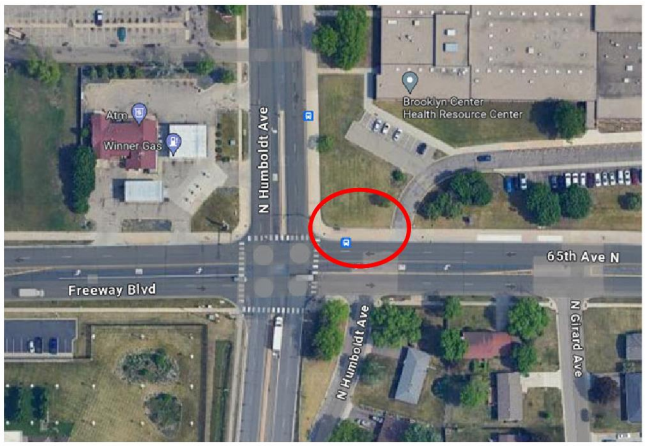
A large fire engulfed the Carus chemical plant in LaSalle Wednesday morning. Residents say the blaze caused several loud explosions. Massive plumes of black smoke rose into the sky from the factory.

Rick Koshko is the news director at WCMY radio. From live at the scene, he told WNIJ that firefighters were still spraying down the east side of the complex but looked to have the fire more under control by 10:30 a.m.

"We have heard that there are no people missing or unaccounted for," said Koshko.

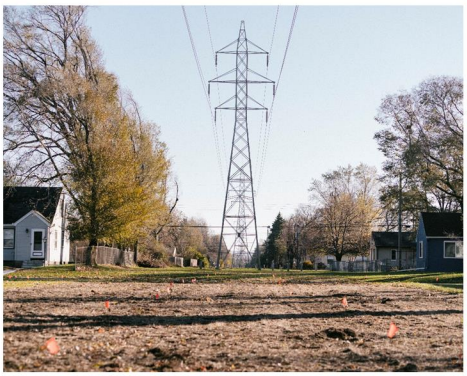
4

Interagency Collaboration



5

Planting for the future



6

2024: $12.4M invested in City assets

7

Responding to residents

8

Caring for the canopy

Protecting health and safety

How to Identify Your Water Service Material

The service line is a pipe that runs from the public main to a building.

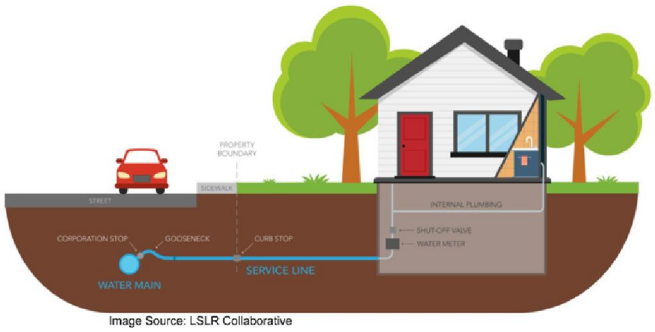
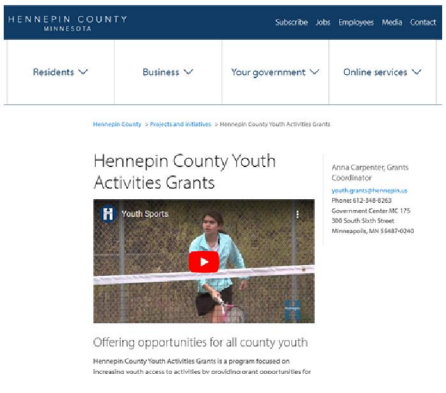


Image Source: LSLR Collaborative

Planning for our future

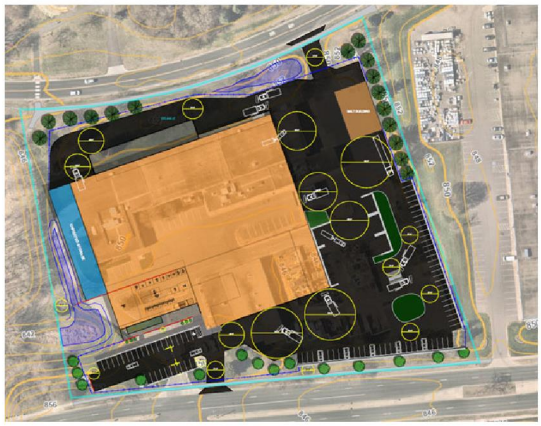
11

Building for our future



12

Building for our future



13

Questions?

14

Council Regular Meeting

DATE: 7/8/2024

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

SUBJECT: Resolution Approving Planning Commission Application No. 2024-009, for Consideration of an Ordinance Rezoning of 1297 Shingle Creek Crossing from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District - 1st Reading

Requested Council Action:

- Motion to approve a first reading regarding the adoption of an ordinance re-zoning of certain property located at 1297 Shingle Creek Crossing and as contemplated under Planning Commission Application No. 2024-009 from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District, and set the second reading to July 22, 2024.

Background:

In August 2022, City Council approved Planning Commission Application No. 2022-004 (City Council Resolution No. 2022-76), which granted approval to Applicant Scannell Properties, Inc. and on behalf of Property Owner Transformco to re-zone the Subject Property located at 1297 Shingle Creek Crossing from what was then PUD/C2 (Planned Unit Development/Commerce) District to PUD/MX-B (Planned Unit Development/Business-Mixed Use) District. This re-zoning, in addition to approvals to re-plat and a recommendation to re-guide the Subject Property under the 2040 Comprehensive Plan, were to provide a path for a speculative light industrial development totaling approximately 230,000-square feet between two buildings.

By December 2022, Scannell Properties, Inc. indicated the market had shifted away from speculative light industrial type development projects to user-focused ones. They further indicated a financial infeasibility to forward the project unless a request for consideration of tax increment financing (TIF) were provided by the City. A work session was held with City Council on the requested TIF in July 2023 and a request to ratify the previously approved plat was approved (as it requires filing within one year post Council approval or is considered void), but contact with Scannell Properties, Inc. thereafter faltered.

In March 2024, City staff was contacted by another developer who was interested in taking over the project from Scannell Properties, Inc. and indicated that the Subject Property would be re-listed for sale. City staff was further contacted by other due diligence companies and attorneys seeking information on the project approved in August 2022 and what was needed to take over the project. Given this new information, City staff reviewed the Planned Unit Development provisions with the City Attorney and under the City's preceding zoning code (Section 35-355), which identified the following:

"If within 12 months following approval by the City Council of the development plan, no building permits

have been obtained or, if within 12 months after the issuance of building permits no construction has commenced on the area approved for the PUD District, **the City Council may initiate rezoning of the property."**

In light of this information and the time that had passed since Council's approval in August 2022, City staff held a work session with City Council on May 13, 2024. Although the discussion was non-binding, there appeared to be a general consensus of the three Councilmembers present that consideration for a re-zoning of the Subject Property from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District be forwarded to the Planning Commission.

A public hearing notice was published in the Brooklyn Center *Sun Post* on May 30, 2024. Mail notifications were sent to those property owners and residents located within 350 feet of the Subject Property, and a public hearing notice was uploaded to the City's website.

No public comments were made during the hearing. Following close of the public hearing, representation of the Property Owner (Chris Wood, Transformco) and an attorney representing Transformco (Patrick Lindmark, Taft Stettinius & Hollister LLP) were present and engaged in conversation with the Planning Commission. Mr. Lindmark expressed that he did not believe the City of Brooklyn Center had the right to re-zone the Subject Property per Minnesota State Statute, and Mr. Wood noted that forcing the Subject Property to be re-zoned to Transit-Oriented Development (TOD) District would require them to start over with their marketing and planning process. Mr. Wood confirmed that Scannell Properties, Inc. was no longer part of a Joint Venture Agreement with Property Owner Transformco, but that other businesses were interested in the Subject Property. No additional information was provided as to the types of businesses that held an interest in the property, or any new developers the Property Owner was actively engaging with.

City Attorney Sarah Sonsalla was present virtually during the June 13, 2024 Planning Commission meeting and noted her disagreement with Mr. Lindmark's interpretation of Minnesota State Statute as noted at the June 13, 2024 meeting and in the letter provided as Exhibit D to the June 13, 2024 staff report. In a follow-up discussion with Ms. Sonsalla, she conveyed the following:

"Minnesota Statutes Section 462.358, subdivision 3c is inapplicable to this situation. This statute prohibits the City from changing its comprehensive plan or "official control" so that it affects property that has been preliminary platted. In this case, the City is only rezoning the property and not changing its official controls or comprehensive plan (the property is guided TOD in the comprehensive plan). With respect to "official controls," those are defined by the statute to be ordinances and regulations that control the physical development of the City and implement the general objectives of the comprehensive plan. They may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, and official maps. In this case, the City is not establishing ordinances related to the property, it is merely rezoning the property to an established zoning district."

Questions raised by the Commissioners at the June 13, 2024 meeting and in relation to the letter submitted and discussion with representation from Transformco was with respect to: how a rezoning was an effort to limit the creativity of the Subject Property, what the major differences between the MX-B and TOD Districts were, what efforts were being made to rebuild the area, and if the Property Owner was going to do anything with the property themselves. Questions were further raised regarding what the harm might be in changing the zoning, and that it could potentially open up more options for Transformco. Additional questions concerned whether there was an urgency in rezoning the Subject Property, and a general comment was made in that the City does not have a lot of light-industrial uses currently, and that it would be a positive for Brooklyn Center to promote light-industrial uses. The Commissioners also asked Property

Owner Transformco if they would be required to create a new proposal, and what other options Transformco has in moving forward.

Planning Commission ultimately recommended (1-4) City Council denial of the proposed re-zoning of the Subject Property.

At this time, and based on prior conversations with former developer Scannell Properties, Inc. a major site and building plan amendment would likely need to be brought forward for additional review by Planning Commission and City Council to ensure all parking fits on the Subject Property. As Scannell Properties, Inc. is no longer the developer, City staff does not know if this would result in revised plans, or completely new plans.

Although the Property Owner indicated a market analysis was conducted and "light industrial" identified as the highest and best use, City staff was never provided with a copy of the market analysis, and as noted previously, there were concerns presented by former developer Scannell Properties, Inc. regarding the feasibility of the proposed light industrial use due to changes in the market in December 2022 and a follow-up Council work session held in July 2023 to request TIF. City staff has not been provided with updated information as to whether the light industrial markets have changed notably since last year.

The rezoning request as contemplated under Planning Commission Application No. 2024-009 would not prevent the Property Owner from requesting their property be re-zoned at a later time. Any future application would require any Council approval to conform with the requirements outlined under the new Unified Development Ordinance, which was adopted in January 2023.

For instance, if a new Planned Unit Development were requested to be established, it would be approved as a *conditional use permit* under the new code. Similarly, if a new site and building plan were approved, it too would be required to follow the requirements under the City's new code provisions. Both a conditional use permit and site and building plan would stipulate that any approvals would expire one (1) year from the date of City Council approval unless the Applicant has applied for and received a building permit (refer to Sections 35-7600 and 35-7711).

City staff has included a copy of the June 13, 2024 Planning Commission Report for consideration of the ordinance re-zoning for the Subject Property located at 1297 Shingle Creek Crossing, and an excerpt of the *draft* June 13, 2024 Planning Commission meeting minutes. An ordinance resolution regarding the request is also included for Council review. As the request is an ordinance rezoning, a first reading will be held at the July 8, 2024 Council meeting, with a request to hold the second reading at the July 22, 2024 Council meeting.

Budget Issues:

None to consider at this time.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
Ordinance Resolution - PC Application No. 2024-009 - 1297 Shingle Creek Crossing	7/2/2024	Ordinance
Staff Report and Exhibits - 1297 Shingle Creek Crossing (Rezoning)	7/2/2024	Backup Material
Draft Planning Commission Meeting Minutes - June 13, 2024 Excerpt	7/2/2024	Backup Material
powerpoint	7/10/2024	Presentation

CITY OF BROOKLYN CENTER

Notice is hereby given that the City Council of the City of Brooklyn Center will conduct a first reading of an ordinance related to the removal of the property located at 1297 Shingle Creek Crossing from its current district and the rezoning of the property at their July 8, 2024 meeting.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY'S ZONING MAP TO REMOVE THE REAL PROPERTY LOCATED AT 1297 SHINGLE CREEK CROSSING FROM PLANNED UNIT DEVELOPMENT/BUSINESS-MIXED USE (PUD/MX-B) DISTRICT AND REZONE THE PROPERTY TO TRANSIT-ORIENTED DEVELOPMENT (TOD) DISTRICT

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

SECTION I. The City of Brooklyn Center Zoning Map is hereby amended to remove from the PUD/MX-B District one parcel of certain real property located at 1297 Shingle Creek Crossing, Brooklyn Center, Minnesota (PID No. 03-118-21-44-0026), legally described as:

Tract A, Registered Land Survey No. 936, except Highway Tract A, Hennepin County, Minnesota.

(hereinafter the "Property").

SECTION II. The City of Brooklyn Center Zoning map is hereby amended to re-classify the Property as Transit Oriented-Development District in accordance with Sections 35-71305 and 35-2102 of the Unified Development Ordinance.

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

Adopted this ___ day of _____, 2024.

_____
April Graves, Mayor

ATTEST: _____
City Clerk

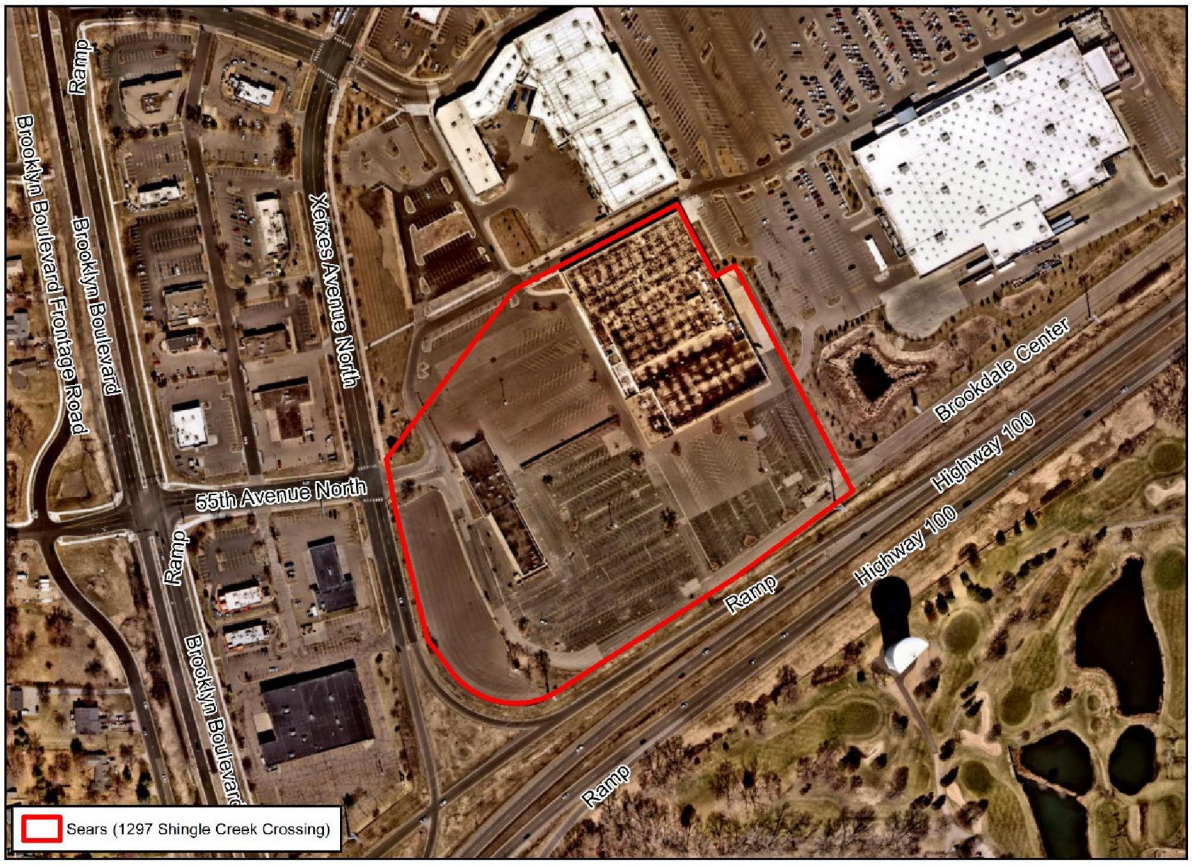
Date of Publication _____

Effective Date _____

Planning Commission Report
Meeting Date: June 13, 2024

- Application Filed: 05/14/2024
- Review Period (60-day) Deadline: 07/13/2024
- Extension Declared: No
- Extended Review Period Deadline:

Application No.	2024-009
Applicant:	City of Brooklyn Center
Address | PID:	1297 Shingle Creek Crossing | PID: 03-118-21-44-0026
Request:	Rezoning



Map 1. Subject Property Location.

BACKGROUND AND REQUESTED ACTION

The Sears Department Store and Auto Center, located at 1297 Shingle Creek Crossing ("the Subject Property") closed in 2018, and is the last remaining piece of the former Brookdale Mall. The Property Owner, Transformco, conducted a market analysis in 2020, and in partnership with local brokers, to determine a feasible re-use for the Subject Property. A request for proposals (RFP) was circulated thereafter and Scannell Properties, Inc. was ultimately selected, along with their proposal for a speculative light industrial redevelopment at the Subject Property.

The City of Brooklyn Center City Council held a number of concept reviews with Scannell Properties, Inc. of which emphasized that any reuse provide for a greater mix of uses, a site layout and design that

would add value to the adjacent Shingle Creek Crossing shopping center, and an overall high finish level on the buildings, with four-sided architecture and a focus on enhancing the Highway 100 frontage.

In August 2021, City Council authorized an application to the Metropolitan Council's Tax Base Revitalization Account (TBRA) for funding to assist with environmental remediation on the Subject Property and for asbestos and petroleum remediation. Although the City did not receive funding in the first round, funding was awarded in January 2023 in the amount of $863,400. Additional funding was also awarded in the amount $163,000 from the Hennepin County Environmental Response Fund (ERF) for assistance in preparing a Phase I Environmental Site Assessment (ESA), a Phase II ESA, Response Action Plan (RAP), and associated consulting and fees with the Minnesota Pollution Control Agency (MPCA).

In August 2022, City Council approved Planning Commission Application No. 2022-004 (City Council Resolution No. 2022-76), which granted approval to re-zone the Subject Property from what was then PUD/C2 (Planned Unit Development/Commerce) District to PUD/MX-B (Planned Unit Development/Business-Mixed Use) District. This re-zoning, in addition to approvals to re-plat and a recommendation to re-guide the Subject Property under the 2040 Comprehensive Plan, were to provide a path for a speculative light industrial development totaling approximately 230,000-square feet between two buildings.

Although the City of Brooklyn Center had already adopted the 2040 Comprehensive Plan in 2019, which effectively re-guided the Subject Property to a new future land use designation of "Transit-Oriented Development" or "TOD," the City's zoning code, which was in the midst of a major update, had not yet been adopted. It should be noted that, in 2022, **PUDs were still considered re-zonings (ordinance amendments).** The new Unified Development Ordinance, adopted in January 2023, now considers PUDs to be conditional use permits.

City staff continued to work with Scannell Properties, Inc. following their approval in August 2022; however, communication became more sporadic thereafter. By December 2022, Scannell Properties, Inc. indicated the market had shifted away from speculative light industrial type development projects to user-focused ones. They further indicated a financial infeasibility to forward the project unless a request for consideration of tax increment financing (TIF) were considered by the City. A work session was held with City Council on the requested TIF in July 2023 and a request to ratify the previously approved plat was approved, but contact with Scannell Properties, Inc. again faltered.

Due to the lack of communication and identified potential changes, including contemplated lot line adjustments and alterations to the approved site and building plan to the project following its approval in August 2022, the recommended Comprehensive Plan Amendment was never forwarded to Metropolitan Council. Scannell Properties, Inc. never executed on the Planned Unit Development Agreement approved by Council in August 2022, and the request for TIF was never forwarded.

In March 2024, City staff was contacted by another developer who was interested in taking over the project from Scannell Properties, Inc. and indicated that the Subject Property would be re-listed for sale. City staff was further contacted by other due diligence companies and attorneys seeking information on the project approved in August 2022 and what was needed to take over the project. Given this new information, City staff reviewed the Planned Unit Development provisions with the City Attorney and under the City's preceding zoning code (Section 35-355), which identified the following:

"If within 12 months following approval by the City Council of the development plan, no building permits have been obtained or, if within 12 months after the issuance of building permits no construction has commenced on the area approved for the PUD District, **the City Council may initiate rezoning of the property."**

City staff held a work session with City Council on May 13, 2024—refer to Exhibit A. Although the discussion was non-binding, there appeared to be a general consensus of the three Councilmembers present that consideration for a re-zoning of the Subject Property from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District be forwarded to the Planning Commission.

City Staff and the City Attorney held a meeting on June 6, 2024 with representation of the Property Owner (Transformco) and their attorneys and relayed plans to consider a potential rezoning of the Subject Property. A general hesitancy to re-zone the Subject Property was relayed to the City given certain approvals had been granted in August 2022. City staff indicated at that time the option to relay their concerns at the public hearing scheduled for the June 13, 2024 Planning Commission meeting. As of June 12, 2024, the City is in receipt of a letter of opposition from attorney Patrick Lindmark (Taft Stettinius & Hollister LLP) who represents Property Owner Transformco—refer to Exhibit D.

Due to the nature of the request, a public hearing notice was published in the Brooklyn Center *Sun Post* on May 30, 2024—refer to Exhibit B. Mail notifications were sent to those property owners and residents located within 350 feet of the Subject Property, and a public hearing notice was also uploaded to the City's website.

REZONING

Background

Per Section 35-71301 (*Applicability)*, an amendment of the City's Unified Development Ordinance may be initiated by the City Council, Planning Commission, or a City property owner. As noted previously, City staff held a work session with City Council on May 13, 2024 to address the property and gain insight as to whether City Council desired to have the Subject Property re-zoned from PUD/MX-B (Planned Unit Development/Business Mixed-Use) District to TOD (Transit-Oriented Development) District.

In reviewing requests for a rezoning, certain amendment criteria shall be considered as outlined under Section 35-71304 (*Amendment Criteria*). The Planning Commission and City Council shall review the necessary submittal requirements, facts, circumstances for the proposed rezoning, and make a recommendation and decision on the rezoning based on, but not limited to, consideration of the following criteria and policies:

a. Whether there is a clear and public need or benefit;
b. Whether the proposed amendment is consistent with and compatible with surrounding land use classifications;
c. Whether all permitted uses in the proposed zoning district can be contemplated for development of the subject property;
d. Whether there have been substantial physical or zoning classification changes in the area since the subject property was zoned;
e. Whether there is an evident, broad public purpose in the case of City-initiated rezoning proposals;
f. Whether the subject property will bear fully the UDO development restrictions for the proposed

zoning districts;

g. Whether the subject property is generally unsuited for uses permitted in the present zoning district, with respect to size, configuration, topography, or location;
h. Whether the rezoning will 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.
i. Whether the proposal demonstrates merit beyond the interests of an owner or owners of an individual parcel.
j. The specific policies and recommendations of the Comprehensive Plan and other City plans;
k. The purpose and intent of this UDO, or in the case of a map amendment, whether it meets the purpose and intent of the individual district; and
l. If applicable, the adequacy to buffer or transition between potentially incompatible districts.

The Subject Property was originally zoned B-2 (Regional Business District) in 1961, but by 1972 the Subject Property had been rezoned to C2 (Commerce) District. Prior to approval of Planning Commission Application No. 2022-004 in August 2022, the Subject Property, which was once part of the former Brookdale Mall, had been zoned Planned Unit Development/Commerce (PUD/C2) District since the late 1990s.

The PUD was originally approved in 1999 and comprehended, "new site and building plan approvals for the expansion, redevelopment, and rejuvenation of the Brookdale Regional Shopping Center," and certain variations to allow for reduced green strips, non-major thoroughfare setbacks, parking dimensional standards, parking ratios, and increases in allowable restaurant use and freestanding signage." Although a new Planned Unit Development was approved in 2011, when the majority of the former Brookdale Mall lands were split off and redeveloped to Shingle Creek Crossing shopping center, the Subject Property retained the PUD/C2 District designation to allow for the continued operations of the then Sears Department Store and Auto Center following demolition of the mall, redevelopment of the surrounding lands, and certain nonconformities.

It should be noted that the C2 (Commerce) District was retired with the adoption of the new Unified Development Ordinance in January 2023. Had no PUD been in place for the Subject Property, the property would have been re-zoned to Transit-Oriented Development (TOD) District.

Similarly, and as noted previously, Planned Unit Developments were considered re-zonings (ordinance amendments) under the preceding zoning code, and in the case of the 2022 approval granted for the Subject Property. With adoption of the new Unified Development Ordinance in January 2023, Planned Unit Developments are now considered "conditional use permits." Had the development contemplated under Planning Commission Application No. 2022-004 requested and been approved for a Planned Unit Development under the *current* code provisions outlined in Section 35-8305 (*PUD Approval*), the Applicant would have had 12 months following City Council approval to obtain building permits and commence construction; otherwise, City Council is similarly granted provisions to initiate revocation of a conditional use permit.

2040 Comprehensive Plan

Although the Subject Property is considered a priority site within the City, it is privately owned. During the undertaking of the 2040 Comprehensive Plan, the Subject Property was still in operation as a Sears Department Store and Auto Center. The former Sears Department and Auto Center businesses closed

well into the updating of the City's Comprehensive Plan and given the properties had (1) continuously operated since 1962, (2) ownership had not provided clear direction as to their potential reuse, and (3) a market study had not yet been completed, the City guided the Subject Property to TOD given its proximity to the Bus Rapid Transit (BRT) line and stops, and its ability to offer a broad mix of land use options, with a minimum of 75% slated for high density residential use, and supporting retail, office, and commercial usage. Additionally, the surrounding properties are, for the most part, guided as Transit-Oriented Development.

The Subject Property is identified within the 2040 Comprehensive Plan as a "potential area of change." With the adoption of the 2040 Comprehensive Plan in 2019, the City future guided the Subject Property to a new designation of "Transit-Oriented Development" or "TOD," which allows for a density range of 31.01 to 130 dwelling units per acre. The TOD designation was a direct response to the opening of the Metro Transit C (opened in 2019) and D (opened in 2022) lines and the land use designation specifically guided redevelopment within ¼ mile of the planned station stops and a vision that these areas create a vibrant, accessible and diverse land use pattern. Given the C line only opened the year the City of Brooklyn Center adopted its 2040 Comprehensive Plan and one year following Sears' closure, and the D line did not open until December 2022 (post approval of Planning Commission Application No. 2022-004), this was very much a time of transition in the City, and for this area.

Table 3-6. Anticipated Developable Acres and Residential Units by Decade

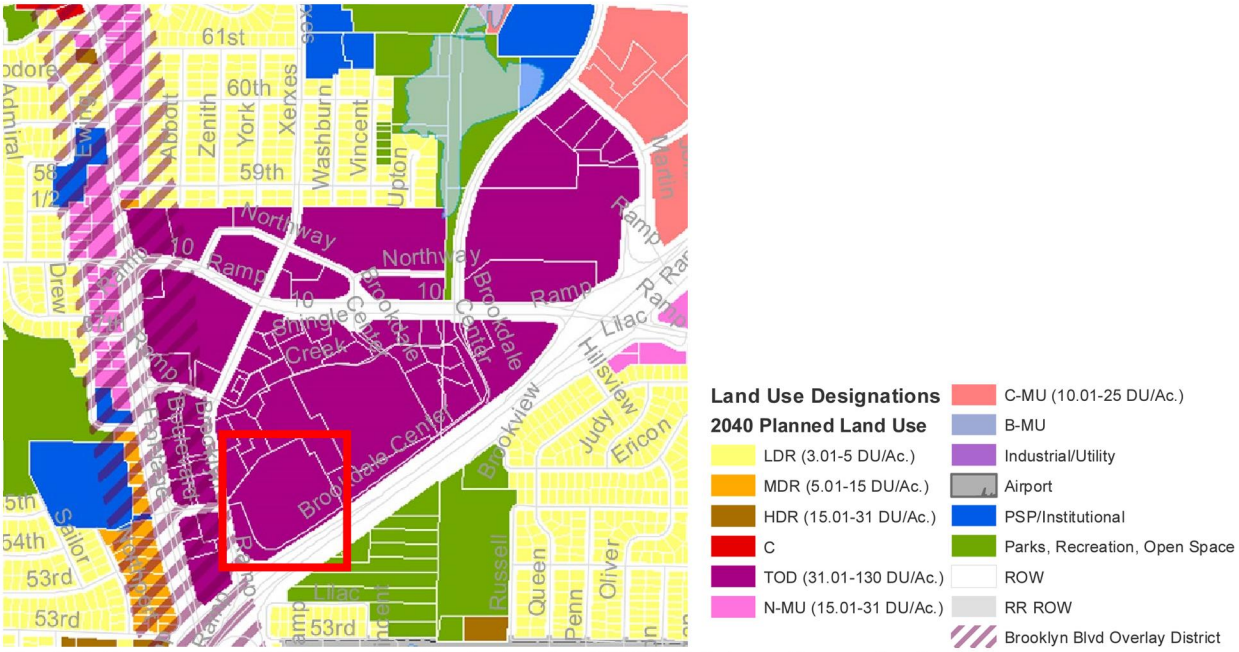
Future Land Use	2019-2020			2021-2030			2031-2040			2019-2040
	Est. Total Acres[a]	Residential Acres[a]	HH (Min)	Est. Total Acres[a]	Residential Acres[a]	HH (Min)	Est. Total Acres[a]	Residential Acres[a]	HH (Min)	Total New HH
Transit Orient Development 31.01-130 DU/A	12	9	279	48	36	1,116	22	17	527	1,922
Neighborhood Mixed-Use 15.01-31 DU/A	26	13	195	12	6	90	5	4	60	345
Commercial Mixed-Use 10.01-25 DU/A	16	8	80	14	7	70	14	10	100	250
Medium Density Residential 5.01-15	2.5	2.5	13	-	-	-	-	-	-	16
TOTAL	56.5	32.5	567	77	66	1,276	41	31	687	2,533

[a] Estimated Total Acres represents the acreage anticipated to redevelop within this Planning Period. As shown, the estimated redevelopment acreage accounts for approximately 50% +/- of the total 2040 guided acreage reflected in Table 3-3. Redevelopment may generally occur anywhere within the land use designation shown on Map 3-3. The guided land uses shown on Map 3-3 and described in Table 3-3 demonstrate an OVERSUPPLY of land for redevelopment based on the estimated market demand for residential units within this Planning Period. The City is open to redevelopment that occurs faster than what is estimated in Table 3-6, and it is therefore important to show through the Future Land Use Plan the ultimate vision for the central core of the City. It is also anticipated that many of the acres NOT included for redevelopment will largely remain in commercial use.

Table 1. Total New Households within the Transit Oriented Development future land use designation.

The majority of the City's forecasted growth, as outlined in the City's 2040 Comprehensive Plan, was anticipated to occur within the City's major redevelopment areas guided primarily as Transit Oriented Development (TOD) and Commercial Mixed-Use (C-MU), and a minimum of 75% of the land within the TOD future land use designation was planned for development into high-density residential uses, with

remaining land developed for supporting retail, office, and commercial uses. The TOD future land use designation is ultimately intended to create a walkable, bikeable, vibrant core within the City of Brooklyn Center, and encompasses properties located within the City's Opportunity Site, and along Bass Lake Road (County Road 10) and Xerxes Avenue North.



Map 2. Subject Property 2040 Future Land Use Designation (2019) in Relation to Surrounding Properties.

The City's Comprehensive Plan further notes that, increasingly, access of neighborhoods, housing, services, and experience-based retail by efficient and frequent transit services is becoming a highly desirable and sought-after amenity within development and redevelopment areas. Metro Transit's C and D Bus Rapid Transit (BRT) Lines recently opened lines that begin at the Brooklyn Center Transit Center located at 2900 County Road 10, run down Xerxes Avenue North (adjacent to the Subject Property), before turning at 55th Avenue North and Brooklyn Boulevard. These lines terminate in downtown Minneapolis (C Line) and at the Mall of America (D Line).

The Institute for Transportation & Development Policy notes that, "Transit Oriented Developments are inherently intended to integrate urban places designed to bring people, activities, buildings, and public space together, with easy walking and cycling connections between them and near-excellent transit service to the rest of the City."

Unified Development Ordinance

As part of the approvals in August 2022 under Planning Commission Application No. 2022-004, the approved Planned Unit Development outlined additional restrictions to the use of the Subject Property and to the underlying Business Mixed-Use District (MX-B) District designation. Specifically, City Council Resolution No. 2022-076 (Exhibit C) stipulated that the Applicant, Scannell Properties, Inc. would enter into a PUD Agreement with the City of Brooklyn Center, and that said agreement would assure the following as part of the approximately 230,000-square foot speculative light industrial proposal:

1. No outdoor storage or display of materials, equipment, or products accessory and necessary to a principal and permitted use is permitted;

2. Warehousing and wholesaling shall not exceed 80-percent of the total floor area. The remaining 20-percent of the total floor area shall be non-warehouse uses, such as a combination of uses including, but not limited to: office, manufacturing, production, research and development, and lab and/or showroom; and
3. Distribution facilities are not a permitted use. For the purposes of this Planned Unit Development (PUD), a distribution facility is defined as a business that received packages, sorts, and delivers them without product storage. Distribution as an accessory use is permitted only when it occurs from a manufacturing facility or a warehouse where a product is made or packaged on-site.

These restrictions were intended to address concerns regarding the volume of semi-truck traffic anticipated to navigate the entrance and exit points to the Subject Property, and potential conflict points between truck traffic and pedestrians who frequent the adjacent Shingle Creek Crossing shopping center. Further, the entrance to the Subject Property was identified as 55th Avenue North, which is a four way stop that also serves the Metro Transit Bus Rapid Transit (BRT) line, and receives traffic entering the slip ramps on and off Trunk Highway (TH) 100. While proximity to transit was identified as a potential perk in providing jobs access for employees, these concerns were nonetheless raised by City staff.

Given the visibility from Trunk Highway 100, there were also concerns raised, and back and forth communication and revisions made, to address the potential visual impacts from the highway of the proposed truck court and screening to mitigate the intensity of use, and requested enhancements to the overall architecture of the two buildings.

Section 35-2402 (*Business Mixed Use)* of the City's Unified Development Ordinance notes that the, "purpose of the MX-B district is to accommodate land for a mix of business and light industrial uses, with allowances for supporting retail/service uses. This designation encourages redevelopment or development of commercial, office, general business, and light industrial uses in coordination with supportive retail/commercial uses towards encouraging a more dynamic and connected experience for workers. This land use does not plan for residential uses may include limited live-work opportunities as established through supporting official controls."

The Business Mixed-Use District, for the most part, replaced the City's longstanding I1 (Business Park) District in January 2023, but offered greater flexibilities in potential use to allow for a more dynamic working environment, instead of the oftentimes isolation found in many business parks across the metro.

Although there are some similarities in uses permitted (either by-right or as a conditional use) for both the Business Mixed-Use and Transit-Oriented Development districts (e.g. certain educational facilities, medical and health uses, eating establishments, hospitality lodging, and indoor recreational centers), a key distinction is that the Business Mixed-Use District, with the exception of limited live-work space, **does not permit any kind of residential use**. Despite being the City's most dense district, the TOD District does allow for townhouses, as well as multi-family residential at a density range of 31-130 dwelling units per acre. The TOD District also allows for indoor amusement centers, and banquet, event, and conference facilities. Conversely, the Business Mixed-Use District allows for manufacturing, assembly, and the processing of products, and wholesale trade, where the TOD District does not.

The City's Transit Oriented Development zoning district was created as a district response to the City's

adoption of the 2040 Comprehensive Plan in 2019. The purpose of the TOD (Transit Oriented Development) district is to support opportunities for dense, transit-supportive and transit-oriented development. The TOD district requires intensities and patterns of development that support vibrant pedestrian activity and discourages land uses and development patterns that could decrease walkability or interfere with future growth of transit-oriented development and transit ridership. To that note, the TOD District, unlike the MX-B District, places restrictions on the maximum percentage (%) of impervious surfacing, the size of a block, emphasis on public spaces, placement of buildings towards the street, and the types of allowable parking (i.e. no open surface parking lots, provisions for structured or covered parking to facilitate walkability).

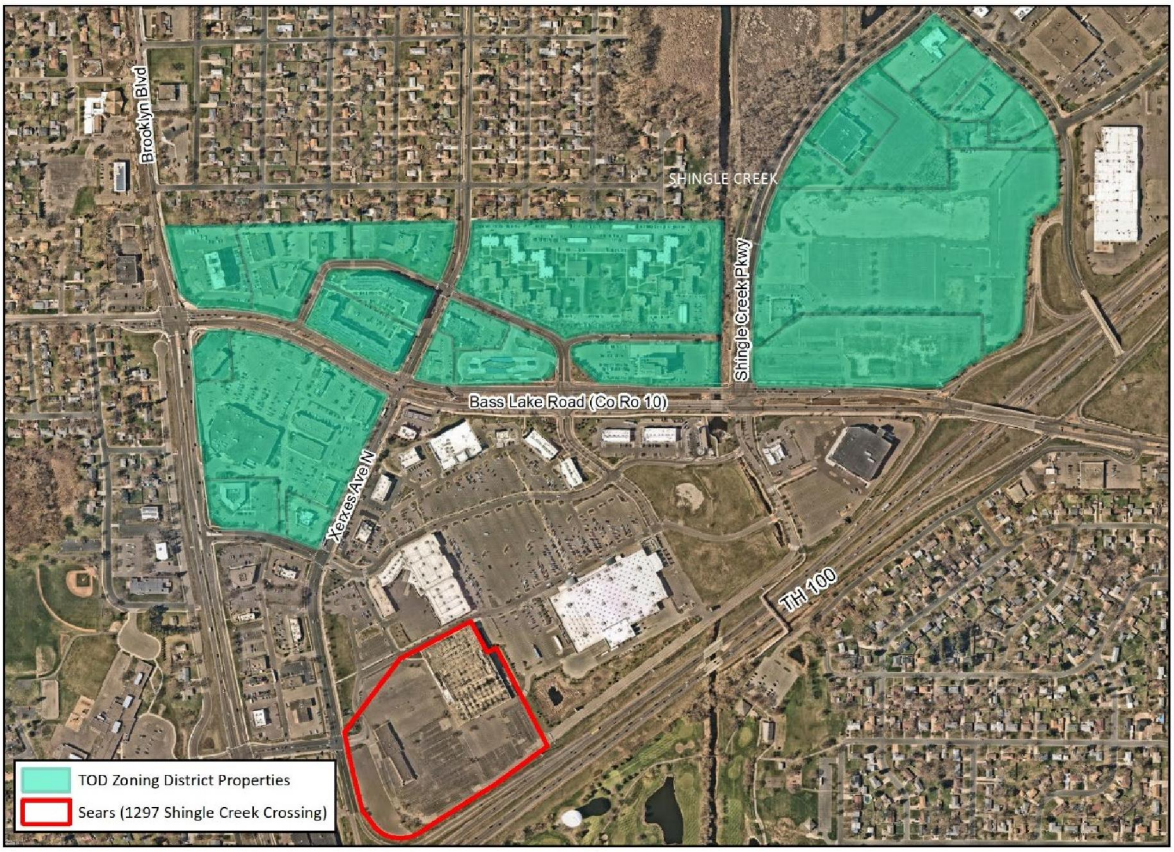
Section 35-2304 of the City's Unified Development Ordinance notes that the, "purpose of the TOD district is to support opportunities for dense, transit supportive, and transit-oriented development. The TOD district requires intensities and patterns of development that support vibrant pedestrian activity, and discourages land uses and development patterns that could decrease walkability or interfere with future growth of transit-oriented development and transit ridership. The district intends to promote sustainable urban places that include places to live, work, shop, and recreate, reduce reliance on automobiles, and encourage the use of public transit. The district intends to foster job creation and economic growth in near proximity to transit, and provide citizens with new housing and lifestyle choices with a high level of amenities and spaces for social interaction."

While adjacent Shingle Creek Crossing shopping center was designed with automobiles in mind, it too is future guided as "Transit-Oriented Development" under the 2040 Comprehensive Plan. City staff has been looking at way to increase density and activity within the overall area as the shopping center has yet to fully build out, and given recent activity within the shopping center with the reopening of the former Walmart to Empire Foods, build outs of tenant spaces with more local food options (e.g. Harold's Chicken, 102 Boba, Micholandia, and soon to be re-opening of the former Applebee's with Dos Hermanos Mexican Grill and Bar), as well as the recently approved conversion of the former Discount Tire to an Icon Beauty retail beauty supply store.

With the closure of Walmart in April 2023, City staff has looked at the possibilities of converting the seas of parking into future developable areas that might fuel more foot traffic at those business establishments located within the shopping center. This exercise has been seen all across the country as both indoor and outdoor shopping centers grapple with changes in consumer spending habits, the effects of the pandemic, etc.

The TOD district is intended to promote sustainable urban places that includes places to live, work, shop, and recreate, reduce reliance on automobiles, and encourage the use of public transit. Although job creation and economic growth within close proximity to transit is highly desired, so too are the options to provide citizens with new housing and lifestyle choices with a high level of amenities and spaces for social interaction.

There are currently 23 properties zoned Transit-Oriented Development District—refer to Map 3 below.



Map 3. Subject Property in Relation to Existing TOD Zoning District Properties.

RECOMMENDATION

Based on the above noted findings, and in consideration of Section 35-71304 (Amendment Criteria) of the City Code of Ordinances, City staff recommends the Planning Commission recommend City Council approval of Planning Commission Application No. 2024-009, which would rezone the Subject Property commonly addressed as 1297 Shingle Creek Crossing from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District.

Attachments

Exhibit A- City Council Work Session Memo dated May 13, 2024.
Exhibit B- Public Hearing Notice, published in the Brooklyn Center *Sun Post*, and dated May 30, 2024.
Exhibit C- City Council Resolution No. 2022-076.
Exhibit D- Letter of Opposition, drafted by Patrick J. Lindmark, Taft Stettinius & Hollister LLP.

Exhibit A

Council/EDA Work Session

DATE:	5/13/2024
TO:	City Council
FROM:	Dr. Reggie Edwards, City Manager
THROUGH:	Jesse Anderson, Community Development Director
BY:	Ginny McIntosh, Planning Manager
SUBJECT:	Project Update and Consideration for Potential Rezoning of 1297 Shingle Creek Crossing (Former Sears)

Requested Council Action:

- Consider whether the property located at 1297 Shingle Creek Crossing and commonly known as the former Sears site should be re-zoned from Planned Unit Development/Business Mixed-Use (PUD/MX-B) to Transit-Oriented Development (TOD) District

Background:

Although the Sears Department Store and Sears Auto Center closed their doors in 2018, it was not until late 2020 that the Property Owner initiated a formal process to solicit offers from private parties to acquire or enter into a joint venture agreement on the approximately 15-acre Subject Property. It was during this time that a market analysis was conducted by the Property Owner in partnership with local brokers to determine a feasible re-use for the Subject Property, and a Request for Proposals (RFP) was circulated in late 2020. Ultimately, Scannell Properties, Inc. and their proposal of a speculative light industrial redevelopment on the Subject Property was selected and they entered into an option agreement with the Property Owner to forward the project.

City Council held a number of concept reviews in 2021 with Scannell Properties, Inc. and as part of those discussions requested a greater mix of uses, a site layout and design that would add value to the adjacent Shingle Creek Crossing shopping center, and an overall high finish level on the buildings, with four-sided architecture and focus on enhancing the Highway 100 frontage.

In April 2021, City Council authorized an application to the Metropolitan Council's Tax Base Revitalization Account (TBRA) for funding to assist with the environmental remediation of the Subject Property (e.g. asbestos, petroleum), and despite not receiving funding the first round, TBRA funding was eventually awarded to the City of Brooklyn Center in the amount of $863,400 in January 2023. An application to the Hennepin County Environmental Response Fund (ERF) was also awarded in the amount of $163,000 for assistance in preparing a Phase I Environmental Site Assessment (ESA), a Phase II ESA, a Response Action Plan (RAP), and associated consulting and Minnesota Pollution Control Agency fees.

In August 2022, City Council approved Planning Commission Application No. 2022-004 (City Council Resolution No. 2022-76), which was an application request submitted by developer Scannell Properties, Inc. on behalf of Property Owner Transformco for a re-plat, re-zoning, and establishment of a Planned Unit Development, and recommended approval of a Comprehensive Plan Amendment for a speculative, approximately 230,000-square foot light industrial/business park complex at 1297 Shingle Creek Crossing.

Later that month, City Council approved an ordinance amendment to formally re-zone the Subject Property, as PUDs required a formal rezoning under the City's preceding zoning code. The new Unified Development Ordinance and zoning provisions, effective as of January 2023, now consider PUDs as Conditional Use Permits (CUPs). A resolution approving a Planned Unit Development Agreement was also approved by City Council.

In those following months, City staff worked between Scannell Properties, Inc. and neighboring property owner Gatlin Development Company to sort through certain easement parking that was required on the Shingle Creek Crossing property to make the minimum parking for the Subject Property and light industrial development work.

In December 2022, City staff was contacted by Applicant Scannell Properties, Inc. with a request for consideration of tax increment financing (TIF) as the Applicant relayed that construction costs and interest rate increases had made the project financially infeasible. This was despite over $1 million in grant funding being committed to forwarding the Subject Property's redevelopment.

Following another lull in communication with Scannell Properties, Inc. a City Council work session was held in July 2023 on the request for TIF and the Applicant's initial request for up to $4 million in a pay-as-you-go (PAYGO) TIF which assumed a 26-year Redevelopment TIF District. It was in those discussions that City municipal financial consultant, Ehlers, indicated that the project was likely to only generate $3 million in present value assuming a 26-year District and that following a review of the Applicant's proforma, the project would likely be feasible at $2 to $2.3 million in total assistance and a 12 to 15-year District. It was later determined after the Council meeting and after new assumptions were provided that any District would likely be less than 10 years.

During the same Council meeting, City staff formally requested and received approval to ratify the plat approved by City Council in August 2022. This request was made as Section 35-8107 (*Final Plat*) stipulates that, "if the final plat is approved by the City Council, the subdivider shall record it with the Hennepin County Recorder or Registrar of Titles within 1 year after the date of approval; **otherwise, the approval of the combined preliminary and final plat shall be considered void."**

-

Since July 2023, City staff has had minimal contact with Scannell Properties, Inc. and they never moved forward with the TIF request. Despite a Planned Unit Development Agreement being approved by City Council, the Applicant never executed the agreement. Given the lack o communication and discussions on potentially requesting a major amendment to the approved site and building plan for the Subject Property and lot line adjustments with the neighboring Property Owner, City staff did not formally proceed with the request to re-guide the Subject Property under the 2040 Comprehensive Plan, so the Subject Property, as of today, is still future guided as "Transit Oriented Development."

Updates

In March 2024, City staff was contacted by another developer who indicated interest in taking over the project and informed staff that Scannel Properties, Inc. no longer held the option agreement with Property Owner Transformco on the Subject Property. City received no communicatio from Scannell Properties; however, the Property Owner and their broker, Jones Lang Lasalle (JLL) confirmed the situation and that they were lookin to re-list the property and were hoping for a quick sale.

City staff has since received interest from not only industrial developers looking to take over the project, but also other interested parties looking t do other types of projects (e.g. entertainment, grocery, multi-family residential).

Request for Council Direction

When the project was approved in August 2022, it was in advance of the City's adoption of the new Unified Development Ordinance, which becam effective in 2023. As such, the Subject Property was re-zoned to Planned Unit Development/Business Mixed-Use (PUD/MX-B) to reflect the nev zoning district. The Subject Property had been previously been zoned Planned Unit Development/Commerce (PUD/C2) District as the former Sear site is the last piece of Brookdale Mall and as the site had a number of nonconformities given the redevelopment of the surrounding property t what is now Shingle Creek Crossing retail center.

As the Scannell project received approval under the preceding code, City staff reviewed its provisions for Planned Unit Developments with the Cit Attorney and under the preceding zoning code and determined the following under Section 35-355 (*Planned Unit Development*):

"If within 12 months following approval by the City Council of the development plan, no building permits have been obtained or, if within 1 months after the issuance of building permits no construction has commenced on the area approved for the PUD district, **the City Council ma initiate rezoning of the property."**

If the Subject Property were to follow the future land use designation identified in the City of Brooklyn Center's 2040 Comprehensive Plan and no the PUD it currently exists under, the Subject Property would have been re-zoned to Transit-Oriented Development (TOD) District.

This particular district is a new zoning district as of January 2023 and is intended to, "support opportunities for dense, transit-supportive and transit oriented development." This district, "intends to promote sustainable urban places that include places to live, work, shop, and recreate, reduc reliance on automobiles, and encourage the use of public transit. The district intends to foster job creation and economic growth in near-proximit to transit, and provides citizens with new housing and lifestyle choices with a high level of amenities and spaces for social interaction."

Policy Issues:

City Council may initiate the rezoning of a property in instances where no building permits have been obtained or construction started within 12 months post Council approval.

- Does City Council still see the Subject Property located at 1297 Shingle Creek Crossing as a viable light industrial property with a zoning designation of Business Mixed-Use (MX-B)? As approved by City Council, the development would have contained certain additional restrictions under the approved Planned Unit Development, including:
  - No outdoor storage or display of materials, equipment, or products accessory and necessary to a principal and permitted use is permitted;
  - Warehousing and wholesaling shall not exceed 80-percent of the total floor area. The remaining 20-percent of the total floor area shall be non-warehouse uses, such as a combination of uses including, but not limited to: office, manufacturing, production, research and development, and lab and/or showroom; and
  - Distribution facilities are not a permitted use. For the purposes of this Planned Unit Development (PUD), a distribution facility is defined as a business that received packages, sorts, and delivers them without product storage. Distribution as an accessory use is permitted only when it occurs from a manufacturing facility or warehouse where a produce is made or packaged on-site.

- If not, does City Council wish to initiate a rezoning of 1297 Shingle Creek Crossing? The Applicant received City Council approval nearly two years ago on August 8, 2022.
  - If a re-zoning is desired by City Council City staff recommends the Subject Property be re-zoned to align with the City's 2040 Comprehensive Plan future land use designation. Does the Council have any concerns with a re-zoning to Transit-Oriented Development (TOD) District?

Budget Issues:

None to consider at this time.

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
City Council Resolution_2022-076	5/6/2024	Backup Material
Section 35-355_Planned Unit Development	5/6/2024	Backup Material

3) Signs as permitted in the Brooklyn Center Sign Ordinance.

Section 35-341. O-2 PUBLIC AND PRIVATE OPEN SPACE DISTRICT.

1. Permitted Uses

a. Public parks, playgrounds, athletic fields and other recreational uses of a noncommercial nature.

b. Commercial recreational facilities of a semi-open nature such as golf courses and golf driving ranges.

c. Accessory uses incidental to the foregoing principal uses when located on the same property with the use to which it is accessory but not including any business or industrial uses. Such accessory uses to include but not be restricted to the following:

1) Off-street parking.

2) Public recreational buildings and parks, playgrounds and athletic fields.

3) Signs as permitted in the Brooklyn Center Sign Ordinance.

Section 35-355. PLANNED UNIT DEVELOPMENT.

Subdivision 1. Purpose.

The purpose of the Planned Unit Development (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.

Subdivision 2. Classification of PUD Districts; Permitted Uses; Applicable Regulations.

a. Upon rezoning for a PUD, the district shall be designated by the letters "PUD" followed by the alphanumeric designation of the underlying zoning district which may be either the prior zoning classification or a new classification. In cases of mixed use PUDs, the City Council shall, whenever reasonably practicable, specify underlying zoning classifications for the various parts of the PUD.

When it is not reasonably practicable to so specify underlying zoning classifications, the Council may rezone the district, or any part thereof, to "PUD-MIXED."

b. Regulations governing uses and structures in PUDs shall be the same as those governing the underlying zoning district subject to the following:

1. Regulations may be modified expressly by conditions imposed by the Council at the time of rezoning to PUD.

2. Regulations are modified by implication only to the extent necessary to comply with the development plan of the PUD.

3. In the case of districts rezoned to PUD-MIXED, the Council shall specify regulations applicable to uses and structures in various parts of the district.

c. For purposes of determining applicable regulations for uses or structures on land adjacent to or in the vicinity of the PUD district which depend on the zoning of the PUD district, the underlying zoning classification of PUD districts shall be deemed to be the zoning classification of the district. In the case of a district zoned PUD-MIXED, the underlying zoning classification shall be deemed to be the classification which allows as a permitted use any use which is permitted in the PUD district and which results in the most restrictive regulation of adjacent or nearby properties.

Subdivision 3. Development Standards.

a. A PUD shall have a minimum area of one acre, excluding land included within the floodway or flood fringe overlay districts and excluding existing rights-of-way, unless the City finds that at least one of the following conditions exists:

1. There are unusual physical features of the property or of the surrounding neighborhood such that development as a PUD will conserve a physical or terrain feature of importance to the neighborhood or community;

2. The property is directly adjacent to or across a public right-of-way from property which previously was developed as a PUD and the new PUD will be perceived as and function as an extension of that previously approved development; or

3. The property is located in a transitional area between different land uses and the development will be used as a buffer between the uses.

b. Within a PUD, overall density for residential developments shall be consistent with Section 35-400 of this ordinance. Individual buildings or lots within a PUD may exceed these standards, provided that density for the entire

PUD does not exceed the permitted standards.

b. Setbacks, buffers and greenstrips within a PUD shall be consistent with Section 35-400 to 35-414 and Section 35-700 of this ordinance unless the developer can demonstrate to the City's satisfaction that a lesser standard should be permitted with the addition of a screening treatment or other mitigative measures.

d. Parking provided for uses within a PUD shall be consistent with the parking requirements contained in Section 35-704 of this ordinance unless the developer can demonstrate to the City's satisfaction that a lesser standard should be permitted on the grounds of the complementarity of peak parking demands by the uses within the PUD. The City may require execution of a restrictive covenant limiting future use of the property to those uses which will continue this parking complementarity, or which are otherwise approved by the City.

Subdivision 4. General Standards.

a. The City may allow more than one principal building to be constructed on each platted lot within a PUD.

b. A PUD which involves only one land use or a single housing type may be permitted provided that it is otherwise consistent with the purposes and objectives of this section.

c. A PUD may only contain uses consistent with the City's Comprehensive Plan.

d. All property to be included within a PUD shall be under unified ownership or control or subject to such legal restrictions or covenants as may be necessary to ensure compliance with the approved development plan and site plan.

e. The uniqueness of each PUD requires that specifications and standards for streets, utilities, public facilities and the approval of land subdivision may be subject to modifications from the City ordinances generally governing them. The City Council may, therefore, approve streets, utilities, public facilities and land subdivisions which are not in compliance with usual specifications or ordinance requirements where it is found that such are not required in the interests of the residents or of the City, except that these subdivisions and plans must be in conformance with all watershed, state, and federal storm water, erosion control, and wetlands requirements.

Subdivision 5. Application and Review.

a. Implementation of a PUD shall be controlled by the development plan. The development plan may be approved or disapproved by the City Council after

evaluation by the Planning Commission.

Submission of the development plan shall be made to the Director of Planning and Inspection on such forms and accompanied by such information and documentation as the City may deem necessary or convenient, but shall include at a minimum the following:

1. Street and utility locations and sizes;

2. A drainage plan, including location and size of pipes and water storage areas;

3. A grading plan, including temporary and permanent erosion control provisions;

4. A landscape plan;

5. A lighting plan;

6. A plan for timing and phasing of the development;

7. Covenants or other restrictions proposed for the regulation of the development;

8. A site plan showing the location of all structures and parking areas;

9. Building renderings or elevation drawings of all sides of all buildings to be constructed in at least the first phase of development; and

10. Proposed underlying zoning classification or classifications.

Such information may be in a preliminary form, but shall be sufficiently complete and accurate to allow an evaluation of the development by the City.

b. The Planning Commission shall hold a public hearing on the development plan. Notice of such public hearing shall be published in the official newspaper and actual notice shall be mailed to the applicant and adjacent property owners as required by Section 35-210 of this ordinance. The Planning Commission shall review the development plan and make such recommendations as it deems appropriate regarding the plan within the time limits established by Section 35-210 of this ordinance.

c. Following receipt of the recommendations of the Planning Commission, the City Council shall hold such hearing as it deems appropriate regarding the matter. The City Council shall act upon the development plan within the time limits established by Section 35-210 of this ordinance.

Approval of the development plan shall constitute rezoning of the property to PUD and conceptual approval of the elements of the plan. In addition to the guidelines provided in Section 35-208 of this ordinance, the City Council shall base its actions on the rezoning upon the following criteria:

1. Compatibility of the plan with the standards, purposes and intent of this section;

2. Consistency of the plan with the goals and policies of the Comprehensive Plan;

3. The impact of the plan on the neighborhood in which it is to be located; and

4. The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces, and buffering and landscaping.

The City Council may attach such conditions to its approval as it may determine to be necessary to better accomplish the purposes of the PUD district.

d. Prior to construction on any site zoned PUD, the developer shall seek plan approval pursuant to Section 35-230 of this ordinance. In addition to the information specifically required by Section 35-230, the developer shall submit such information as may be deemed necessary or convenient by the City to review the consistency of the proposed development with the approved development plan.

The plan submitted for approval pursuant to Section 35-230 shall be in substantial compliance with the approved development plan. Substantial compliance shall mean that buildings, parking areas and roads are in essentially the same location as previously approved; the number of dwelling units, if any, has not increased or decreased by more than 5 percent; the floor area of nonresidential areas has not been increased or decreased by more than 5 percent; no building has been increased in the number of floors; open space has not been decreased or altered from its original design or use, and lot coverage of any individual building has not been increased or decreased by more than 10 percent.

e. Prior to construction on any site zoned PUD, the developer shall execute a development agreement in a form satisfactory to the City.

f. Applicants may combine development plan approval with the plan approval required by Section 35-230 by submitting all information required for both

simultaneously.

g. After approval of the development plan and the plan approval required by Section 35-230, nothing shall be constructed on the site and no building permits shall be issued except in conformity with the approved plans.

h. If within 12 months following approval by the City Council of the development plan, no building permits have been obtained or, if within 12 months after the issuance of building permits no construction has commenced on the area approved for the PUD district, the City Council may initiate rezoning of the property.

i. Any major amendment to the development plan may be approved by the City Council following the same notice and hearing procedures specified in this section. An amendment shall be considered major if it involves any change greater than that permitted by Subdivision 5d of this section. Changes which are determined by the City Council to be minor may be made if approved by the Planning Commission after such notice and hearing as may be deemed appropriate by the Planning Commission.

Exhibit B

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 **June 13, 2024** at **7:00 p.m.** at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430 to hear from the public, discuss, and make a recommendation upon an ordinance re-zoning the property located at 1297 Shingle Creek Crossing (PID # 03-118-21-44-0026) from Planned Unit Development/Business Mixed-Use District (PUD/MX-B) to Transit Oriented Development (TOD) District.

Public hearing materials, including a copy of the ordinance, can be accessed and will be available in advance of the meeting by visiting the City of Brooklyn Center's website at: https://www.brooklyncentermn.gov/. Interested persons are welcome to attend the hearing and be heard regarding this matter.

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

Meeting Number (Access Code):
2634 491 4414
Password: BCPC06132024
By Phone: 1 (312) 535-8110
(Enter Access Code)

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

Respectfully,
Ginny McIntosh
Planning Manager

Published in the
Sun Post
May 30, 2024
1399020

Member Elliott introduced the following resolution and moved its adoption:

RESOLUTION NO. 2022-76

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2022-004 FOR A RE-PLAT, REZONING, AND ESTABLISHMENT OF A PLANNED UNIT DEVELOPMENT AND AMENDMENTS TO THE ZONING CODE AND 2040 COMPREHENSIVE PLAN TO ALLOW FOR REDEVELOPMENT OF THE FORMER SEARS SITE AND CONSTRUCTION OF TWO BUSINESS PARK BUILDINGS OF APPROXIMATELY 230,000-SQUARE FEET COMBINED AND RELATED SITE IMPROVEMENTS (1297 SHINGLE CREEK CROSSING)

WHEREAS, Planning Commission Application No. 2022-004, submitted by Scannell Properties, Inc. and on behalf of Transformco ("the Applicant") requests review and consideration for the re-plat, re-zoning, and establishment of a Planned Unit Development and an amendment to the City's Zoning Code that would allow for redevelopment of the former Sears site located at 1297 Shingle Creek Crossing ("the Subject Property") and subsequent construction of two business park buildings of approximately 110,000 and 120,000-square feet, respectively (230,000-square feet combined), and related site improvements; and

WHEREAS, the Subject Property is situated in the Central Commerce Overlay District and pursuant to a determination by City staff, the proposed use is not clearly defined as a use within the District; and

WHEREAS, on June 23, 2022, the Planning Commission of the City of Brooklyn Center, Minnesota received and reviewed a planning report on the requested re-plat, site and building plan, re-zoning, and establishment of a Planned Unit Development, which would re-zone the Subject Property from PUD/C2 (Planned Unit Development/Commerce) District to a new Planned Unit Development with an underlying Business Mixed-Use District designation (PUD/MX-B), and an amendment to the Zoning Code to remove the Subject Property from the Central Commerce Overlay District for the proposed new construction and related site improvements on the approximately 15-acre Subject Property; and

WHEREAS, said Planning Commission Application No. 2022-004 also addresses a request to re-designate the Subject Property under the City's 2040 Comprehensive Plan future land use designation from "Transit-Oriented Development (TOD)," which the Subject Property is currently designated as, to "Business-Mixed Use (B-MU)," which guides for a mix of business, light industrial, and supporting retail/service uses, and is intended to create a more dynamic and connected experience for potential workers in these areas; and

WHEREAS, this request is made in light of the fact that the Subject Property was still in operation as a department store and auto center when the 2040 Comprehensive Plan process was initiated, had been in continuous operation since around 1962, and upon closure of the aforementioned businesses, the City of Brooklyn Center was nearing completion of its

Comprehensive Plan update with no clear direction on a potential re-use of the Subject Property, nor guidance in the form of a market study; and

WHEREAS, given these uncertainties, the City of Brooklyn Center designated the Subject Property to its current TOD future land use designation provided its proximity to Bus Rapid Transit, and its ability to offer a broader mix of land use options; and

WHEREAS, the Applicant conducted a market analysis for a feasible re-use of the Subject Property, held concept reviews with the City Council in May and November 2021, as well as a virtual community meeting to gauge interest in the potential re-development of the Subject Property to accommodate an office/warehouse (business park) use; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota held a duly noticed and called public hearing on June 23, 2022, whereby a planning report was presented and public testimony regarding the proposal were received, and notice of such public hearing was published in the official newspaper and mailed to the Applicant and adjacent property owners as required by the City and Minnesota State Statutes, and development proposal signage was installed on the Subject Property by the City; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota considered the application requests in light of all testimony received, and the guidelines and standards as outlined under Sections 15 (*Platting*), 35-202 (*Comprehensive Planning*) 35-208 (*Rezoning Evaluation Policy and Review Guidelines*), 35-210 (*Rezoning Application Procedures and Reconsideration*), 35-230 (*Plan Approval*), and 35-355 (*Planned Unit Development*) of the City's Zoning Ordinance, and draft provisions of the Business-Mixed Use (MX-B) District, as contemplated in the City's draft Zoning Code update and forthcoming Unified Development Ordinance, and the request complies with the general goals and objectives of the City's 2040 Comprehensive Plan, with exception to the requested amendment to the Comprehensive Plan to re-designate the Subject Property to move the project forward, and of which requires final determination by the Metropolitan Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota to recommend that Planning Commission Application No. 2022-004, submitted by Scannell Properties, LLC, and on behalf of Transformco, be approved based upon the findings of fact in the June 23, 2022, planning report, and submitted documents and plans as amended by the following conditions of approval:

1. The building plans are subject to review and approval by the Building Official as noted in the memorandum dated June 21, 2022, and with respect to applicable codes prior to the issuance of permits; and the final location or placement of any fire hydrants or other fire-related building code items shall be reviewed and approved by the Fire Inspector.
    a. Any major changes or modifications made to this Site and Building Plan can only be made by an amendment to the approved Site and Building Plan as approved by

the City Council.

b. The building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits.
c. The Applicant shall work to ensure all applicable Minnesota Fire Code requirements have been met as part of any site plan approval.
d. A fire sprinkler system is required to be installed and shall be maintained on a consistent basis per City Code requirements.
e. A SAC Determination shall be submitted by the Applicant to the Metropolitan Council and any associated feeds paid at time of any permit issuance.
f. The Applicant shall provide any final site and building plans to City staff for a CPTED review and make alterations as necessary prior to permit release.
g. The submitted landscape plans shall be revised to meet City's minimum Landscape Point System policy requirements and an identified "office/industrial" use.
h. The Applicant shall install irrigation systems where necessary to facilitate maintenance of site landscaping and green areas, and irrigation shop drawings shall be provided for review and approval prior to installation.
i. The Applicant shall revise the submitted photometric plan to reflect minimum, maximum, and average foot-candles per fixture, and clearly identify all property lines.
    i. The Applicant shall work with the adjacent Shingle Creek Crossing property owner to ensure consistency in lighting and landscaping along the north drive between the Subject Property and Shingle Creek Crossing.
    ii. Photometric plans shall be revised as needed to incorporate additional pedestrian-level lighting for main building entrance points and sidewalk connections.
j. Any outside trash disposal facilities and rooftop or ground mechanical equipment shall be appropriately screened from view per City Code requirements and with materials complementary to the principal building, and an updated details sheet provided.
k. The Applicant shall submit a Sign Permit Application for any proposed signage and receive issuance of a permit prior to any installation. All signage shall conform to City requirements.

2. The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's review memorandum, dated June 17, 2022.
    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 for City site and building plan approval and prior to the issuance of permits.
    b. Any requirements as outlined in reviews conducted by Hennepin County, the Minnesota Department of Transportation (MnDOT), and the Watershed Commission.

3. Agreements:
    a. The Applicant shall enter into a PUD agreement with the City of Brooklyn Center. 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.
        i. No outdoor storage or display of materials, equipment, or products accessory and necessary to a principal and permitted use is permitted;
        ii. Warehousing and wholesaling shall not exceed 80-percent of the total floor area. The remaining 20-percent of the total floor area shall be non-warehouse uses, such as a combination of uses including, but not limited to: office, manufacturing, production, research and development, and lab and/or showroom; and
        iii. Distribution facilities are not a permitted use. For the purposes of this Planned Unit Development (PUD), a distribution facility is defined as a business that receives packages, sorts, and delivers them without product storage. Distribution as an accessory use is permitted only when it occurs from a manufacturing facility or a warehouse where a product is made or packaged on-site.
    b. A Performance Agreement with supporting financial guarantee approved by the City shall be executed upon any approval of the to-be submitted building permit for site improvements, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications, and standards.
    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.
    d. A Utility Facilities Easement Agreement is required for submittal to the City prior to issuance of any permits.
    e. A Construction Management Plan and Agreement and associated escrow are required for submittal prior to the City prior to issuance of any permits.
    f. The Applicant shall coordinate with adjacent property owners and the City to execute any cross access and parking agreements for the proposed site improvements. No building permits shall be issued until such determination is made and any agreements are recorded with Hennepin County.
    g. The Applicant shall work with the City for dedication of the proposed trail easement and provision of trail profile and plans.

4. Platting:
    a. Approval of the preliminary and final plat for NORTH 100 BUSINESS PARK ADDITION are contingent upon the addressing of comments by City Engineer Mike Albers in the memorandum dated June 17, 2022.
        i. A 10-foot drainage and utility easement shall be dedicated on the plat around the entire perimeter of the Subject Property and centered on other

lot lines.

ii. All utilities and storm water management facilities to be located within said drainage and utility easement.

iii. Additional dedication of a utility easement is requested on the plat for the private water main and sanitary to allow for maintenance access per the Utility Facilities Easement Agreement.

b. Final plat and mylar shall be subject to the provisions of Chapter 15 of the City Code of Ordinances (*Platting).*

c. Any final plat comments and/or requirements as provided by Hennepin County.

d. Any final plat comments and/or requirements from the City Attorney's office, and specifically regarding an updated certified abstract of title.

e. The successful recording of said plat (mylar) ~~with Hennepin County~~.

August 8, 2022
Date

Mayor

ATTEST:
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member Graves
and upon vote being taken thereon, the following voted in favor thereof:
Butler, Elliott, Graves, Lawrence-Anderson, Ryan
and the following voted against the same: None
whereupon said resolution was declared duly passed and adopted.

Exhibit D

Taft/

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Minneapolis, MN 55402-2210
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Affirmative Action, Equal Opportunity Employer

Patrick J. Lindmark
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June 12, 2024

VIA EMAIL

Ginny McIntosh
Planning Manager
City of Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430-2199

Re: Planning Commission Application No. 2024-009; Consideration for Rezoning of 1297 Shingle Creek Crossing

Dear Planning Manager McIntosh:

The undersigned, on behalf of TF Brooklyn Center MN LLC (a.k.a "Transformco"), submits this letter to voice objection to City of Brooklyn Center (the "City") Planning Commission Application No. 2024-009. Planning Commission Application No. 2024-009 recommends the re-zoning of the former Sears site located at 1297 Shingle Creek Crossing (the "Property") from a Planned Unit Development/Business Mixed-Use District (PUD/MX-B) to a Transit Oriented Development (TOD) District. Transformco is the owner of the Property and, in reliance upon historical and well-reasoned approvals granted by the City, intends to develop the Property in accordance with uses permitted within the existing Planned Unit Development/Business Mixed-Use District (PUD/MX-B).

On February 16, 2022, Transformco, through its then-development partner Scannell Properties, submitted an application for planning consideration to the City. Tranformco's application formed the basis of Planning Commission Application No. 2022-004, which recommended approval of a preliminary and final plat, site and building plan approvals, a Zoning Code amendment, and a re-zoning and establishment of a Planned Unit Development for the Property. Planning Commission Application No. 2022-004 also recommended a corresponding amendment to the City's 2040 Comprehensive Plan to guide the Property for Business Mixed-Use (B-MU) to accommodate an office/warehouse (business park) use. The recommended re-guiding stemmed from, and followed, the closure of the Sears department store upon the Property, market analysis for the feasible

re-use of the Property, concepts reviews by the City Council, and community input. (*See* Resolution No. 2022-76).

On August 8, 2022, the City Council approved the totality of Planning Commission Application No. 2022-004, including both the preliminary and final plat approvals, a Planned Unit Development for the Property, and the recommended amendment to the City's 2040 Comprehensive Plan. Of note, on July 24, 2023, the City Council again approved, via ratification, the preliminary and final plat applications. The City's broad approvals concerning the Property were accomplished through adoption of Resolution No. 2022-76, and were based upon clear findings of fact and voluminous material submittals provided in support of Planning Commission Application No. 2022-004 (the "Approval Record"). Both the Planning Commission and the City Council found the Approval Record satisfied the standards and criteria prescribed by City Ordinance and complied with the general goals and objective of the City's 2040 Comprehensive Plan. (*See* Resolution No. 2022-76).

Planning Commission Application No. 2024-009 now seeks to undermine the historical City findings and approvals concerning the Property, and in a manner that is contradictory to principles contained in applicable law. Foremost, Minn. Stat. § 462.358, Subd. 3c. provides, in pertinent part, that "for two years following final [plat] approval … no amendment to a comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved [plat] application. The City granted Transformco final plat approval twice, first on August 8, 2022, and then again on July 24, 2023. Accordingly, pursuant to Minn. Stat. § 462.358, Subd. 3c, the re-zoning proposed in Planning Commission Application No. 2024-009 would neither apply to nor affect the approvals granted by the City via Resolution No. 2022-76 until July 24, 2025.

Furthermore, the City's new Unified Development Ordinance (as well as the City's predecessor zoning ordinance) recognizes and contemplates the need for "procedures and standards to allow more creativity and flexibility in [certain] site plan design than would be possible under conventional zoning standards." (Unified Development Ordinance, Section 35-8301). Likewise, Minn. Stat. § 462.358, Subd. 3c acknowledges the complexity and necessary commitments associated with planned and staged developments. Specifically, Minn. Stat. § 462.358, Subd. 3c provides that "[i]n connection with a subdivision involving planned and staged development, a municipality may by resolution or agreement grant the rights referred to [in § 462.358, Subd. 3c] for such periods of time longer than two years which it determines to be reasonable and appropriate." (emphasis added). The City's findings and approvals concerning the Property, each of which were clearly articulated by the City in Resolution No. 2022-76, acknowledge the need for creativity and flexibility at the Property. Future creativity and

flexibility at the Property will be threatened if the City were to adopt the re-zoning recommendations contained in Planning Commission Application No. 2024-009.

Moreover, at their core, planned unit developments are a form of conditional use permit. *See* Minn. Stat. §462.3595, Subd. 1. Accordingly, uses permitted in a planned unit development run with the land and remain in effect as long as conditions imposed upon the use are observed. Minn. Stat. §462.3595, Subd. 2; *See also Northpointe Plaza v. City of Rochester*, 465 N.W.2d 686, 689 (Minn. 1991). Just like in the case of the City's historical platting approvals, then, the re-zoning proposed under Planning Commission Application No. 2024-009 would neither apply to nor affect the Planned Unit Development approvals granted to Transformco under Resolution No. 2022-76.

In conclusion, City approval of the re-zoning recommended in Planning Commission Application No. 2024-009 would contradict the City's prior findings and approvals concerning the Property. While such approval would not directly affect the permitted use of the Property as approved under Resolution No. 2022-76, it would inherently remove useful avenues for future creativity and flexibility - which the City has rightly found necessary for the Property. In sum, City approval of Planning Commission Application No. 2024-009 would simply create needless hurdles and unnecessary confusion surrounding the Property at a time when both the City and Transformco should be focused on developing the Property to a productive use. Tranformco, accordingly, hereby (i) objects to the recommendations contained in Planning Commission Application No. 2024-009, (ii) requests that the City deny said recommendations, and (iii) asks the City to work in partnership with Transformco on achieving redevelopment of the Property in accordance with the market analysis for the feasible re-use of the Property, concept reviews performed by the City Council, and the community input relied upon in the City's findings of facts and approvals as contained in Resolution No. 2022-76.

Sincerely,

Taft Stettinius & Hollister LLP

Patrick J. Lindmark

PJL:lsd
cc: City Attorney Sarah J. Sonsalla (ssonsalla@kennedy-graven.com)

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

JUNE 13, 2024

1. CALL TO ORDER

The Planning Commission meeting was called to order by Chair Koenig at 7:03 p.m. The meeting was conducted in person and via Webex.

2. ROLL CALL

Chair Alexander Koenig, Vice Chair Randy Christensen, and Commissioners Stephanie Jones (arrived at 7:22 p.m.), Paris Dunn, and Stephen Schonning were present. Planning Manager Ginny McIntosh, Associate Planner Krystin Eldridge, Community Development Director Jesse Anderson, and Economic Development Manager Ian Anderson were also present.

Commissioner Stan Leino was absent and excused.

3. APPROVAL OF AGENDA – JUNE 13, 2024

There was a motion by Commissioner Christensen, seconded by Commissioner Schonning, to approve the agenda for the June 13, 2024 meeting as presented.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn, voted aye. The motion passed unanimously.

4. APPROVAL OF MINUTES

4a. May 9, 2024 Regular Meeting Minutes

There was a motion by Commissioner Schonning, seconded by Commissioner Dunn, to approve the minutes of the May 9, 2024 meeting as presented.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn, voted aye. The motion passed unanimously.

4b. March 14, 2024 Regular Meeting Minutes

There was a motion by Commissioner Christensen, seconded by Commissioner Schonning, to approve the minutes of the March 14, 2024 meeting as presented.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, and Dunn, voted aye. The motion passed unanimously.

6c. Planning Commission Application No. 2024-009 (PUBLIC HEARING)

Applicant | Property Owner:	City of Brooklyn Center | Transformco
Property Address:	1297 Shingle Creek Crossing (03-118-21-44-0026)
Summary:	Consideration for a potential re-zoning of the Subject property located at 1297 Shingle Creek Crossing and commonly known as the former Sears site. As proposed, the Subject property would be re-zoned from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District.

Planning Manager Ginny McIntosh explained the Sears Department Store and Auto Center, located at 1297 Shingle Creek Crossing closed in 2018, and is the last remaining piece of the former Brookdale Mall. The Property Owner, Transformco, conducted a market analysis in 2020, and in partnership with local brokers, to determine a feasible re-use for the property. A request for proposals (RFP) was circulated thereafter and Scannell Properties, Inc. was ultimately selected, along with their proposal for a speculative light industrial redevelopment at the subject property.

Ms. McIntosh stated the City of Brooklyn Center City Council held a number of concept reviews with Scannell Properties, Inc. of which emphasized that any reuse provide for a greater mix of uses, a site layout and design that would add value to the adjacent Shingle Creek Crossing shopping center, and an overall high finish level on the buildings, with four-sided architecture and a focus on enhancing the Highway 100 frontage.

Ms. McIntosh noted in August 2021, City Council authorized an application to the Metropolitan Council's Tax Base Revitalization Account (TBRA) for funding to assist with environmental remediation on the Subject property and for asbestos and petroleum remediation. Although the City did not receive funding in the first round, funding was awarded in January 2023 in the amount of $863,400. Additional funding was also awarded in the amount $163,000 from the Hennepin County Environmental Response Fund (ERF) for assistance in preparing a Phase I Environmental Site Assessment (ESA), a Phase II ESA, Response Action Plan (RAP), and associated consulting and fees with the Minnesota Pollution Control Agency (MPCA).

Ms. McIntosh pointed out in August 2022, City Council approved Planning Commission Application No. 2022-004 (City Council Resolution No. 2022-76), which granted approval to re-zone the Subject property from what was then PUD/C2 (Planned Unit Development/Commerce) District to PUD/MX-B (Planned Unit Development/Business-Mixed Use) District. This re-zoning, in addition to approvals to re-plat and a recommendation to re-guide the Subject property under the 2040 Comprehensive Plan, were to provide a path for a speculative light industrial development totaling approximately 230,000-square feet between two buildings.

Ms. McIntosh noted although the City of Brooklyn Center had already adopted the 2040 Comprehensive Plan in 2019, which effectively re-guided the Subject property to a new future land use designation of "Transit-Oriented Development" or "TOD," the City's zoning code, which was in the midst of a major update, had not yet been adopted. It should be noted that, in 2022, PUDs were still considered re-zonings (ordinance amendments). The new Unified Development Ordinance, adopted in January 2023, now considers PUDs to be conditional use permits.

Ms. McIntosh stated Staff continued to work with Scannell Properties, Inc. following their approval in August 2022; however, communication became more sporadic thereafter. By December 2022, Scannell Properties, Inc. indicated the market had shifted away from speculative light industrial type development projects to user-focused ones. They further indicated a financial infeasibility to forward the project unless a request for consideration of tax increment financing (TIF) were considered by the City. A work session was held with City Council on the requested TIF in July 2023 and a request to ratify the previously approved plat was approved, but contact with Scannell Properties, Inc. again faltered.

Ms. McIntosh stated due to the lack of communication and identified potential changes, including contemplated lot line adjustments and alterations to the approved site and building plan to the project following its approval in August 2022, the recommended Comprehensive Plan Amendment was never forwarded to Metropolitan Council. Scannell Properties, Inc. never executed on the Planned Unit Development Agreement approved by Council in August 2022, and the request for TIF was never forwarded.

Ms. McIntosh added in March 2024, City Staff was contacted by another developer who was interested in taking over the project from Scannell Properties, Inc. and indicated that the property would be re-listed for sale. City Staff was further contacted by other due diligence companies and attorneys seeking information on the project approved in August 2022 and what was needed to take over the project. Given this new information, Staff reviewed the Planned Unit Development provisions with the City Attorney and under the City's preceding zoning code (Section 35-355), which identified the following:

> "If within 12 months following approval by the City Council of the development plan, no building permits have been obtained or, if within 12 months after the issuance of building permits no construction has commenced on the area approved for the PUD District, the City Council may initiate rezoning of the property."

Ms. McIntosh explained Staff held a work session with City Council on May 13, 2024. Although the discussion was non-binding, there appeared to be a general consensus of the three Councilmembers present that consideration for a re-zoning of the property from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District be forwarded to the Planning Commission.

Ms. McIntosh stated City Staff and the City Attorney held a meeting on June 6, 2024 with representation of the property owner (Transformco) and their attorneys and relayed plans to consider a potential rezoning of the Subject property. A general hesitancy to re-zone the property

was relayed to the City given certain approvals had been granted in August 2022. City Staff indicated at that time the option to relay their concerns at the public hearing scheduled for the June 13, 2024 Planning Commission meeting. As of June 12, 2024, the City is in receipt of a letter of opposition from attorney Patrick Lindmark (Taft Stettinius & Hollister LLP) who represents Property Owner Transformco.

Ms. McIntosh noted due to the nature of the request, a public hearing notice was published in the Brooklyn Center *Sun Post* on May 30, 2024. Mail notifications were sent to those property owners and residents located within 350 feet of the property, and a public hearing notice was also uploaded to the City's website.

Ms. McIntosh explained in reviewing requests for ordinance amendments, certain amendment criteria shall be considered as outlined under Section 35-71304 (Amendment Criteria). The Planning Commission and City Council shall review the necessary submittal requirements, facts, circumstances of the proposed amendment, and make a recommendation and decision on the amendment based on, but not limited to, consideration of certain criteria and policies. The criteria includes whether there is a clear and public need or benefit, whether the proposed amendment is consistent with and compatible with surrounding land use classifications, whether all permitted uses in the proposed zoning district can be contemplated for development of the subject property, whether there have been substantial physical or zoning classification changes in the area since the subject property was zoned, whether there is an evident, broad public purpose in the case of City-initiated rezoning proposals, whether the subject property will bear fully the UDO development restrictions for the proposed zoning districts, whether the subject property is generally unsuited for uses permitted in the present zoning district, with respect to size, configuration, topography, or location, whether the rezoning will result in the expansion of a zoning district, whether the proposal demonstrates merit beyond the interests of an owner or owners of an individual parcel, the specific policies and recommendations of the Comprehensive Plan and other City plans, the purpose and intent of the UDO, and the adequacy to buffer or transition between potentially incompatible districts.

Ms. McIntosh pointed out the subject property was originally zoned B-2 (Regional Business District) in 1961, but by 1972 the property had been rezoned to C2 (Commerce) District. Prior to approval of Planning Commission Application No. 2022-004 in August 2022, the property, which was once part of the former Brookdale Mall, had been zoned Planned Unit Development/Commerce (PUD/C2) District since the late 1990s.

Ms. McIntosh stated the PUD was originally approved in 1999 and comprehended, "new site and building plan approvals for the expansion, redevelopment, and rejuvenation of the Brookdale Regional Shopping Center," and certain variations to allow for reduced green strips, non-major thoroughfare setbacks, parking dimensional standards, parking ratios, and increases in allowable restaurant use and freestanding signage." Although a new Planned Unit Development was approved in 2011, when the majority of the former Brookdale Mall lands were split off and redeveloped to Shingle Creek Crossing shopping center, the Subject property retained the PUD/C2 District designation to allow for the continued operations of the then Sears Department Store and

Auto Center following demolition of the mall, redevelopment of the surrounding lands, and certain nonconformities.

Ms. McIntosh added it should be noted that the C2 (Commerce) District was retired with the adoption of the new Unified Development Ordinance in January 2023. Had no PUD been in place for the property, the property would have been re-zoned to Transit-Oriented Development (TOD) District.

Ms. McIntosh stated similarly, and as noted previously, Planned Unit Developments were considered re-zonings (ordinance amendments) under the preceding zoning code, and in the case of the 2022 approval granted for the Subject property. With adoption of the new Unified Development Ordinance in January 2023, Planned Unit Developments are now considered "conditional use permits." Had the development contemplated under Planning Commission Application No. 2022-004 requested and been approved for a Planned Unit Development under the current code provisions outlined in Section 35-8305 (PUD Approval), the applicant would have had 12 months following City Council approval to obtain building permits and commence construction; otherwise, City Council is similarly granted provisions to initiate revocation of a conditional use permit.

Ms. McIntosh noted although the property is considered a priority site within the City, it is privately owned. During the undertaking of the 2040 Comprehensive Plan, the property was still in operation as a Sears Department Store and Auto Center. The former Sears Department and Auto Center businesses closed into the updating of the City's Comprehensive Plan and given the properties had continuously operated since 1962, ownership had not provided clear direction as to their potential reuse, and a market study had not yet been completed, the City guided the Subject property to TOD given its proximity to the Bus Rapid Transit (BRT) line and stops, and its ability to offer a broad mix of land use options, with a minimum of 75% slated for high density residential use, and supporting retail, office, and commercial usage. Additionally, the surrounding properties are, for the most part, guided as Transit- Oriented Development.

Ms. McIntosh stated the property is identified within the 2040 Comprehensive Plan as a "potential area of change." With the adoption of the 2040 Comprehensive Plan in 2019, the City future guided the Subject property to a new designation of "Transit-Oriented Development" or "TOD," which allows for a density range of 31.01 to 130 dwelling units per acre. The TOD designation was a direct response to the opening of the Metro Transit C (opened in 2019) and D (opened in 2022) lines and the land use designation specifically guided redevelopment within ¼ mile of the planned station stops and a vision that these areas create a vibrant, accessible and diverse land use pattern. Given the C line only opened the year the City of Brooklyn Center adopted its 2040 Comprehensive Plan and one year following Sears' closure, and the D line did not open until December 2022 (post approval of Planning Commission Application No. 2022- 004), this was very much a time of transition in the City, and for this area.

Ms. McIntosh explained the majority of the City's forecasted growth, as outlined in the City's 2040 Comprehensive Plan, was anticipated to occur within the City's major redevelopment areas guided primarily as Transit Oriented Development (TOD) and Commercial Mixed-Use (C-MU).

The TOD future land use designation is ultimately intended to create a walkable, bikeable, vibrant core within the City of Brooklyn Center, and encompasses properties located within the City's Opportunity Site, and along Bass Lake Road (County Road 10) and Xerxes Avenue North.

Ms. McIntosh added the City's Comprehensive Plan further notes that, increasingly, access of neighborhoods, housing, services, and experience-based retail by efficient and frequent transit services is becoming a highly desirable and sought-after amenity within development and redevelopment areas. Metro Transit's C and D Bus Rapid Transit (BRT) Lines recently opened lines that begin at the Brooklyn Center Transit Center located at 2900 County Road 10, run down Xerxes Avenue North (adjacent to the Subject Property), before turning at 55th Avenue North and Brooklyn Boulevard. These lines terminate in downtown Minneapolis (C Line) and at the Mall of America (D Line).

Ms. McIntosh pointed out the Institute for Transportation & Development Policy notes that, "Transit Oriented Developments are inherently intended to integrate urban places designed to bring people, activities, buildings, and public space together, with easy walking and cycling connections between them and near-excellent transit service to the rest of the City."

Ms. McIntosh explained as part of the approvals in August 2022 under Planning Commission Application No. 2022-004, the approved Planned Unit Development outlined additional restrictions to the use of the property and to the underlying Business Mixed-Use District (MX-B) District designation. Specifically, City Council Resolution No. 2022-076 stipulated that the Applicant, Scannell Properties, Inc. would enter into a PUD Agreement with the City of Brooklyn Center, and that said agreement would assure the following as part of the approximately 230,000-square foot speculative light industrial proposal. First, there may be no outdoor storage or display of materials, equipment, or products accessory and necessary to a principal and permitted use is permitted; second, are that warehousing and wholesaling shall not exceed 80-percent of the total floor area. The remaining 20-percent of the total floor area shall be non-warehouse uses, such as a combination of uses including, but not limited to: office, manufacturing, production, research and development, and lab or showroom; and thirdly, distribution facilities are not a permitted use. For the purposes of this Planned Unit Development (PUD), a distribution facility is defined as a business that received packages, sorts, and delivers them without product storage. Distribution as an accessory use is permitted only when it occurs from a manufacturing facility or a warehouse where a product is made or packaged on-site.

Ms. McIntosh noted these restrictions were intended to address concerns regarding the volume of semi-truck traffic anticipated to navigate the entrance and exit points to the property, and potential conflict points between truck traffic and pedestrians who frequent the adjacent Shingle Creek Crossing shopping center. Further, the entrance to the subject property was identified as 55th Avenue North, which is a four-way stop that also serves the Metro Transit Bus Rapid Transit (BRT) line, and receives traffic entering the slip ramps on and off Trunk Highway (TH) 100. While proximity to transit was identified as a potential perk in providing jobs access for employees, these concerns were nonetheless raised by City Staff.

Ms. McIntosh stated given the visibility from Trunk Highway 100, there were also concerns raised, and back and forth communication and revisions made, to address the potential visual impacts from the highway of the proposed truck court and screening to mitigate the intensity of use, and requested enhancements to the overall architecture of the two buildings.

Ms. McIntosh stated Section 35-2402 (Business Mixed Use) of the City's Unified Development Ordinance notes that the, "purpose of the MX-B district is to accommodate land for a mix of business and light industrial uses, with allowances for supporting retail/service uses. This designation encourages redevelopment or development of commercial, office, general business, and light industrial uses in coordination with supportive retail/commercial uses towards encouraging a more dynamic and connected experience for workers. This land use does not plan for residential uses may include limited live-work opportunities as established through supporting official controls."

Ms. McIntosh noted the Business Mixed-Use District, for the most part, replaced the City's longstanding I1 (Industrial Park) District in January 2023, but offered greater flexibilities in potential use to allow for a more dynamic working environment, instead of the oftentimes isolation found in many business parks across the metro.

Ms. McIntosh explained although there are some similarities in uses permitted for both the Business Mixed-Use and Transit-Oriented Development districts, a key distinction is that the Business Mixed-Use District, with the exception of limited live-work space, does not permit any kind of residential use. Despite being the City's most dense district, the TOD District does allow for townhouses, as well as multi-family residential at a density range of 31-130 dwelling units per acre. The TOD District also allows for indoor amusement centers, and banquet, event, and conference facilities. Conversely, the Business Mixed-Use District allows for manufacturing, assembly, and the processing of products, and wholesale trade, where the TOD District does not.

Ms. McIntosh stated the City's Transit Oriented Development zoning district was created as a district response to the City's adoption of the 2040 Comprehensive Plan in 2019. The purpose of the TOD (Transit Oriented Development) district is to support opportunities for dense, transit-supportive and transit-oriented development. The TOD district requires intensities and patterns of development that support vibrant pedestrian activity and discourages land uses and development patterns that could decrease walkability or interfere with future growth of transit-oriented development and transit ridership. To that note, the TOD District, unlike the MX-B District, places restrictions on the maximum percentage of impervious surfacing, the size of a block, emphasis on public spaces, placement of buildings towards the street, and the types of allowable parking.

Ms. McIntosh added Section 35-2304 of the City's Unified Development Ordinance notes that the, "purpose of the TOD district is to support opportunities for dense, transit supportive, and transit-oriented development. The TOD district requires intensities and patterns of development that support vibrant pedestrian activity, and discourages land uses and development patterns that could decrease walkability or interfere with future growth of transit-oriented development and transit ridership. The district intends to promote sustainable urban places that include places to live, work, shop, and recreate, reduce reliance on automobiles, and encourage the use of public transit. The

district intends to foster job creation and economic growth in near proximity to transit, and provide citizens with new housing and lifestyle choices with a high level of amenities and spaces for social interaction."

Ms. McIntosh pointed out while adjacent Shingle Creek Crossing shopping center was designed with automobiles in mind, it too is future guided as "Transit-Oriented Development" under the 2040 Comprehensive Plan. City Staff has been looking at way to increase density and activity within the overall area as the shopping center has yet to fully build out, and given recent activity within the shopping center with the reopening of the former Walmart to Empire Foods, build outs of tenant spaces with more local food options, as well as the recently approved conversion of the former Discount Tire to an Icon Beauty retail beauty supply store.

Ms. McIntosh stated with the closure of Walmart in April 2023, City Staff has looked at the possibilities of converting the seas of parking into future developable areas that might fuel more foot traffic at those business establishments located within the shopping center. This exercise has been seen all across the country as both indoor and outdoor shopping centers grapple with changes in consumer spending habits, the effects of the pandemic, etc.

Ms. McIntosh added the TOD district is intended to promote sustainable urban places that includes places to live, work, shop, and recreate, reduce reliance on automobiles, and encourage the use of public transit. Although job creation and economic growth within close proximity to transit is highly desired, so too are the options to provide citizens with new housing and lifestyle choices with a high level of amenities and spaces for social interaction.

OPEN TO PUBLIC COMMENTS – APPLICATION NO. 2024-009

There was a motion by Commissioner Christensen, seconded by Commissioner Jones, to open the public hearing on Application No. 2024-009.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, Jones, and Dunn voted aye. The motion passed unanimously.

No one wished to address the Planning Commission.

MOTION TO CLOSE PUBLIC COMMENTS (HEARING)

There was a motion by Commissioner Jones, seconded by Commissioner Schonning, to close the public hearing on Application No. 2024-009.

Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, Jones, and Dunn voted aye. The motion passed unanimously.

Patrick Lindmark, attorney representing Transformco, and Chris Wood, representative of Transformco, introduced themselves.

Commissioner Jones referenced the submitted letter provided as Exhibit D and asked how there is an effort to limit creativity by rezoning the subject property. Mr. Lindmark stated he doesn't believe the City can do what they are trying to do under Statute. Forcing the area back to a TOD hamstrings Transformco because it has been marketed for a light-industrial use. The only thing left to do is the Comprehensive Plan amendment. The property owner has solely seen interest in light-industrial use.

Mr. Wood explained Transformco is a retail company. They haven't been able to find interest in retail spaces, but the market is interested in a light-industrial site.

Commissioner Christensen asked if there is a huge difference between MX-B and TOD. Ms. McIntosh explained the new zoning for the subject property was brought through before the new zoning code was approved. The key differences are TOD allows for housing while MX-B allows for manufacturing. TOD also has a cap on impervious surfacing or pavement. The 2040 Comprehensive Plan included new mixed-use future land use designations, which did not exist previously. The update to the Zoning Code then followed suit.

Commissioner Christianson asked if Transformco is trying to rebuild the area. Mr. Lindmark stated they are present at the meeting to oppose Staff's recommendation. They are seeking to keep the subject property as MX-B for a light-industrial use. A new building hasn't been put up yet, but they have been marketing the light-industrial use. The property owner nor the market wants the change. It was originally two industrial buildings. Sometimes industrial buildings are thought of negatively, but it will be a nicely finished mixed-use space.

Mr. Wood added a zoning change would require them to start over the marketing and planning process to realize the potential of their property.

Commissioner Jones asked if Transformco is going to do anything with the property themselves. Mr. Wood stated there is no longer a joint agreement with Scannell, but other businesses are interested in the property. The rezoning would eliminate the potential of a light-industrial use.

Ms. McIntosh showed the site plan on the screen. When the proposal was approved in 2022 for a light-industrial use, it was later determined the project didn't fit on site. There was a condition of approval for Transformco to work with neighboring property owner Gatlin Development Company to obtain a parking easement to meet the parking requirements. There are two pad sites to the north owned by Gatlin that have yet to be developed, and these require certain minimum parking to be maintained. In the last discussions with Scannell, there was a proposal to revamp the site and meet the parking requirements. Gatlin is uninterested in sharing parking between a restaurant site and an industrial site. In reviewing the last revision to the subject property to make parking feasible, the major changes would have required a new application to be reviewed by the Planning Commission.

Mr. Lindmark pointed out the use Scannell was considering would have required changes to the parking offered.

Chair Koenig asked what the harm is in changing the zoning. It could open up more options for Transformco. Mr. Lindmark stated Transformco and their joint venture partners have put in a lot of money into the property. The plat and PUD were approved with the zoning Transformco was interested in. The recommendation from the Staff would unilaterally change the zoning of the area, which is a problem.

Mr. Lindmark explained as for the flexibility of use, the market shows a need for light-industrial use. A TOD zoning would not allow for a light-industrial use. If someone were to purchase the property for a multi-family use, the City would have no issue rezoning the area to TOD to accommodate such a desire. Transformco went through the proper channels to have their property zoned for a use they determined would be best for the market.

Chair Koenig asked if Mr. Lindmark believes the recommended action from Staff is misaligned with State Statute. Mr. Lindmark noted Minnesota Statute 462.358 c(3) prohibits the City from making such an action.

Ms. McIntosh stated the ratification last year was for the plat. She asked for Sarah Sonsalla, attorney representing the City, to provide comment.

City attorney Sarah Sonsalla noted her disagreement with Mr. Linmark's application of the Statute. The City is able to make zoning changes. There is a Statute that does not allow the City to change any official development controls, but that is not the case in this situation.

Chair Koenig asked why the City desires to change the zoning. Ms. Sonsalla stated the desire is to bring the property in line with the Comprehensive Plan. The property owner may later ask the City to rezone the property at any time.

Chair Koenig stated there doesn't seem to be an urgency in a rezoning. Ms. McIntosh stated there has not been much or any communication with the property owner. It was surprising to see the property re-listed and advertised. Ms. McIntosh noted that in July 2023, it was found a light-industrial project was not feasible. A City Council work session showed there wasn't support for a full TIF district. From there, Staff ratified the plat to keep the door open. However, there has only been one communication follow-up since then.

Chair Koenig asked if the lack of communication constitutes a breech in the agreement. Ms. McIntosh stated there is language in the Code this development was approved under that allows for a re-zoning after 12 months of no progress.

Mr. Lindmark explained just because the Code allows for something doesn't mean it must be done. There isn't a requirement for the City to rezone the property under the Code. There also isn't a requirement for them to have a regular check-in with City Staff. The property owner is trying to do something with the site. It has been approved and ratified, and now the City is trying to pull the rug out from under them.

Mr. Wood stated the rezone does not allow for any uses the market currently demands. A zoning change would force the owner to sit on the property. Mr. Lindmark stated they have already applied for a rezoning, it has been approved, and it has been ratified. It is not in the best interest of the property for it to be rezoned. Mr. Wood added it sends a message to the market that Brooklyn Center is not willing to work with light-industrial uses.

Mr. Lindmark pointed out if TOD was the best use for the property, the property owner would be the first to request a rezone.

Chair Koenig noted there are a number of similar uses in nearby cities. The City doesn't have a lot of light-industrial uses currently, and it would be a positive for Brooklyn Center to promote light-industrial uses. It would promote jobs and shoppers.

Commissioner Christensen asked if the property owner would be required to create a new proposal. The previous proposal is a nice example of light-industrial use, and he would like to see it remain as an attractive build option.

Ms. McIntosh stated there may need to be some redesign requirements because a new developer would come forward since Scannell is no longer involved. Parking and easements would also have to be revisited. The Comprehensive Plan amendment still needs to be submitted to the Metropolitan Council and the PUD agreement would need to be executed. A new developer would have to come through the Planning Commission with a revised Site and Building Plan. There could be modifications implemented to fit it on the site with the current parking spots.

Chair Koenig asked if Scannell was one of the Sam's Club developers. Mr. Lindmark stated Scannell was not involved in developing Sam's.

Chair Koenig asked what options Transformco has moving forward. Mr. Wood stated they could sell the property or work with a new developer.

Commissioner Jones noted a rezoning could be requested at any time by either party. In the scenario a multi-family build showed interest, both the City would need to approve a re-zoning and Transformco would have to be willing to work with them. Mr. Lindmark confirmed that is correct. They wouldn't like do a joint venture with a residential use, but they would seek out a zoning change as needed to support a use for the site.

Ms. McIntosh pointed out if the Commission votes against the recommendation, Transformco still has outstanding steps to handle that would go before the Planning Commission again.

ACTION TO RECOMMEND APPROVAL OF PLANNING COMMISSION APPLICATION NO. 2024-009 SUBMITTED BY THE CITY OF BROOKLYN CENTER

There was a motion by Commissioner Schonning, seconded by Commissioner Dunn, to recommend City Council approval of Planning Commission Application No. 2024-009, which would rezone the Subject property commonly addressed as 1297 Shingle Creek Crossing from

Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District.

Voting on the motion: Commissioner Schonning voted aye.

And the following voted against the same: Chair Koenig and Commissioners Dunn, Christensen, and Jones.

The motion failed (1-4).

7. DISCUSSION ITEMS

7a. City Council Updates

Ms. McIntosh stated the daycares and the tire shop recently reviewed by Planning Commission were all approved through Council. Staff is working through the paperwork and permits.

Community Development Director Jesse Anderson noted a TIF consideration and bonding bill were reviewed by the legislature. Neither were approved, which creates some difficulty for the Opportunity Site. There was consideration for the City to fund some of the infrastructure, but the Council decided against it. Alatus is continuing to seek out funding as well. Project for Pride in Living and Resurrecting Faith World Ministries are ready to move forward, but they are unable to fund the infrastructure. Therefore, they cannot move forward without the infrastructure being complete.

Mr. Anderson added the demolition of the Target building is underway and should be fully covered by insurance money. They are looking to host some events there while they seek out development opportunities.

Ms. McIntosh pointed out the City has hired a new Economic Development Manager.

Ian Alexander, Economic Development Manager, introduced himself and noted his interest in meeting with the Planning Commissioners.

Commissioner Schonning thanked Ms. McIntosh for her work and professionalism throughout recently stressful meetings.

7b. Upcoming Planning Commission Applications

Ms. McIntosh stated there is a new application in for the July meeting, so plan to meet on July 11. It is a Conditional Use Permit for a re-use of the old bowling alley. City staff noted the Planning Commission had previously reviewed three applications for this site. The proposal is for a new location of Los Campeones gym. The majority of their locations are in Minneapolis, but they are expanding. If approved, this site would be their largest location.

8. ADJOURNMENT

There was a motion by Commissioner Christianson, seconded by Commissioner Jones, to adjourn the Planning Commission meeting.

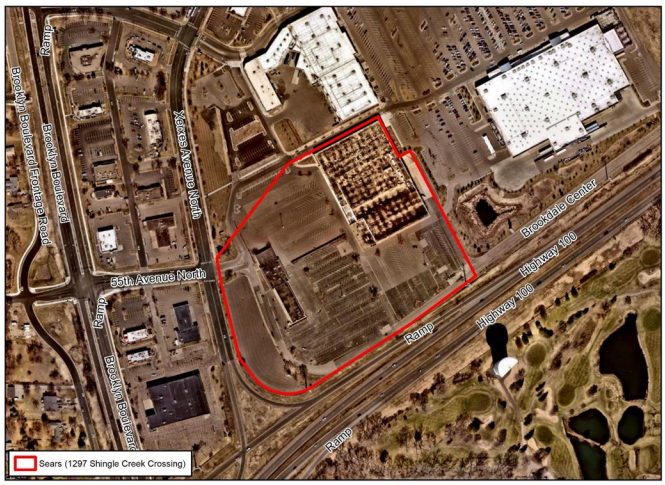
Voting on the motion: Chair Koenig and Commissioners Christensen, Schonning, Jones, and Dunn voted aye. The motion passed unanimously.

The meeting adjourned at 9:53 p.m.

_____ _____

Ginny McIntosh, Secretary Alexander Koenig, Chair

1297 Shingle Creek Crossing (Former Sears Site)



REQUEST:

Rezoning –1st Reading

City Council Meeting| July 8, 2024
Ginny McIntosh, Planning Manager

Background

2018-2020

Sears Department Store and Auto Center, located at 1297 Shingle Creek Crossing ("the Subject Property") closed in 2018, and is the last remaining piece of the former Brookdale Mall.

Property Owner, Transformco, conducted a private market analysis in partnership with local brokers to determine a feasible re-use for the Subject Property and a request for proposals (RFP) was circulated in late 2020.

- Scannell Properties, Inc. and their proposal for a speculative light industrial redevelopment on the Subject Property was selected – entered into an agreement with the Property Owner to forward the project.

- City Council held a number of concept reviews with Scannell Properties, Inc.
  - **City Council requested:** greater mix of uses, a site layout and design that would add value to the adjacent Shingle Creek Crossing shopping center, and an overall high finish level on the buildings, with 4-sided architecture and focus on enhancing Highway 100 frontage.

Background (Cont.)

August 2021: Council authorized an application to Met Council's Tax Base Revitalization Account (TBRA) for funding to assist with environmental remediation on property (e.g. asbestos, petroleum) iao $863,400. Funding awarded to City in January 2023.

August 2022: Council approved Planning Commission Application No. 2022-004 (Council Resolution No. 2022-76), which was submitted by Scannell on behalf of Property Owner Transformco for a: re-plat, rezoning, and establishment of a PUD, and recommended approval of a Comprehensive Plan Amendment for a speculative, approximately 230,000-SF light industrial/business park complex.

- Approval granted to formally re-zone the Subject Property (ordinance amendment) from Planned Unit Development/Commerce (PUD/C2) to Planned Unit Development/Business Mixed-Use (PUD/MX-B) District

  NOTE: New zoning code provisions, effective January 2023, now consider PUDs to be Conditional Use Permits (CUPs) and ***not*** re-zonings.

Background (Cont.)

August – December 2022

- City staff worked between Scannell and neighboring property owner Gatlin Development Company to sort through parking easements needed to make minimum parking work for Sears redevelopment.
- In December, City staff contacted by Scannell with a request for consideration of tax increment financing (TIF) due to rising construction costs and interest rate increases – project had become financially infeasible.

July 2023

- City Council held work session on request for Tax Increment Financing (originally in amount of $4m)
- City Council approved ratification of plat (as it would have gone void in August 2023)

5

Background (Cont.)

March 2024: City staff contacted by another developer who was interested in taking over the project from Scannell Properties and indicated re-listing of property. City staff receives additional contact from due diligence companies/attorneys regarding status of development.

- City staff reviewed the Planned Unit Development provisions with the City Attorney and under the City's preceding zoning code (Section 35-355), the following was noted:

  "If within 12 months following approval by the City Council of the development plan, no building permits have been obtained or, if within 12 months after the issuance of building permits no construction has commenced on the area approved for the PUD District, **the City Council may initiate rezoning of the property."**

May 2024: City staff held work session with City Council on May 13. Although discussion was non-binding, there appeared to be a general consensus of the 3 Councilmembers present that consideration for a re-zoning of the Subject Property from PUD/MX-B to TOD (Transit-Oriented Development) District be forwarded to the Planning Commission.

6

Background (Cont.)

June 2024: City staff and City Attorney hold meeting on June 6 with representation of the Property Owner (Transformco) and their attorneys and relayed the proposed re-zoning. A general hesitancy to re-zone the Subject Property was relayed to the City given certain approvals had been granted in August 2022. City staff indicated their concerns could be relayed at the scheduled public hearing.

- City staff is in receipt of a letter of opposition from Attorney Patrick Lindmark (Taft Stettinius & Hollister LLP) who represents Transformco – refer to Exhibit D.

7

Rezoning

- In reviewing requests for ordinance amendments, certain amendment criteria shall be considered as outlined under Section 35-71304 (*Amendment Criteria*). The Planning Commission and City Council shall review the necessary submittal requirements, facts, circumstances of the proposed amendment, and make a recommendation and decision on the amendment based on, but not limited to, consideration of the following criteria and policies.
  - Whether there is a clear and public need or benefit;
  - Whether the proposed amendment is consistent with and compatible with surrounding land use classifications;
  - Whether all permitted uses in the proposed zoning district can be contemplated for development of the subject property;

8

Rezoning (Cont.)

- Whether there have been substantial physical or zoning classification changes in the area since the subject property was zoned;
- Whether there is an evident, broad public purpose in the case of City-initiated rezoning proposals;
- Whether the subject property will bear fully the UDO development restrictions for the proposed zoning districts;
- Whether the subject property is generally unsuited for uses permitted in the present zoning district, with respect to size, configuration, topography, or location;
- Whether the rezoning will result in the expansion of a zoning district, warranted by:
  - Comprehensive Planning;
  - The lack of developable land in the proposed zoning district; or
  - The best interests of the community.

9

Rezoning (Cont.)

- Whether the proposal demonstrates merit beyond the interests of an owner or owners of an individual parcel.
- The specific policies and recommendations of the Comprehensive Plan and other City plans;
- The purpose and intent of this UDO, or in the case of a map amendment, whether it meets the purpose and intent of the individual district; and
- If applicable, the adequacy to buffer or transition between potentially incompatible districts.

Subject Property originally zoned B-2 (Regional Business District) in 1961, but rezoned to C2 (Commerce) District by 1972. Subject Property was zoned PUD/C2 in 1999 to allow for "new site and building plan approvals for the expansion, redevelopment, and rejuvenation of the Brookdale Regional Shopping Center." When Brookdale Mall was demolished and Shingle Creek Crossing was underway, Subject Property kept PUD/C2 designation to allow for continued operations of Sears Department/Auto Store.

10

Rezoning (Cont.)

- C2 (Commerce) District was retired with adoption of new Unified Development Ordinance in January 2023.
- Similarly, Planned Unit Developments were considered re-zonings (ordinance amendments) under the preceding zoning code, and in the case of the 2022 approval granted for the Subject Property. Under the new code, PUDs are considered "conditional use permits."
- Had no PUD been in place for the Subject Property, the property would have been rezoned to Transit-Oriented Development (TOD) District, which would be in alignment with 2040 Comprehensive Plan.

Rezoning (Cont.)

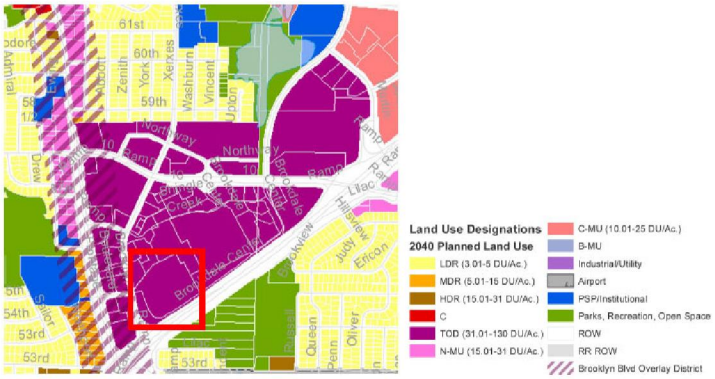
2040 Comprehensive Plan

- Subject Property is privately owned. During under taking of 2040 Comprehensive Plan, the Subject Property was still in operation as a Sears Department Store and Auto Center. The former Sears Department and Auto businesses closed well into updating of Comprehensive Plan and given the properties had **(1)** continuously operated since 1962, **(2)** ownership had not provided clear direction as to their potential reuse, and **(3)** a market study had not yet been completed, the City guided the Subject Property to TOD given its proximity to Bus Rapid Transit (BRT) lines and stops, its ability to offer broad mix of land use options (75% high density residential, supporting office, retail, and commercial usage).
- Majority of surrounding properties are guided TOD.
- Subject Property identified within 2040 Comprehensive Plan as "potential area of change."
- Metro Transit C Line opened year City adopted its 2040 Plan and one year following Sears' closure, and D Line did not open until December 2022 (post-approval of PC Application No. 2022-004).

Rezoning (Cont.)

2040 Comprehensive Plan

- Majority of City's forecasted growth to take place within TOD and C-MU future land use designations.
- TOD intended to create walkable, bikeable, vibrant core within City and including properties within City's Opportunity Site, along Bass Lake Road (Co Ro 10), and Xerxes Avenue North.



Rezoning (Cont.)

2022 Approvals

- Approvals under PC Application No. 2022-004 outlined additional restrictions to the use of the Subject Property and to the underlying MX-B zoning district designation. City Council Resolution No. 2022-076 stipulated that Applicant, Scannell Properties, Inc. would enter into a PUD Agreement with City of Brooklyn Center and assure the following for the approximately 230,000 SF speculative light industrial proposal:

  1. No outdoor storage or display of materials, equipment, or products accessory and necessary to a principal and permitted use is permitted;

  2. Warehousing and wholesaling shall not exceed 80% of total floor area. The remaining 20% of the total floor area shall be non-warehouse uses, such as combination of uses including, but no limited to: office, manufacturing, production, research and development, and lab and/or showroom; and

Rezoning (Cont.)

Unified Development Ordinance

> **3.** Distribution facilities are not a permitted use. For the purposes of this Planned Unit Development (PUD), a distribution facility is defined as a business that receives packages, sorts, and delivers them without product storage. Distribution as an accessory us is permitted only when it occurs from manufacturing facility or warehouse where product is made or packaged on-site.

Restrictions intended to address concerns regarding volume of semi-truck traffic anticipated to navigate entrance and exit points to Subject Property and use, and potential conflict points between truck traffic and pedestrians who frequent adjacent Shingle Creek Crossing.

- Entrance point also serves as Metro Transit BRT line, and entrance/exit to slip ramps off TH 100.
- Proximity to transit noted as a perk in providing jobs access, but concerns raised nonetheless.

Rezoning (Cont.)

2022 Approvals | Unified Development Ordinance

- Concerns regarding intensity of use and potential visual impacts from TH 100 for proposed truck court, which led to screening to mitigate intensity of use, and requested enhancements to overall architecture of two light industrial buildings.

Section 35-2402 (*Business Mixed-Use)* notes that, "purpose of MX-B district is to accommodate land for mix of business and light industrial uses, with allowances for supporting retail/service uses. This designation encourages redevelopment or development of commercial, office, general business, and light industrial uses in coordination with supportive retail/commercial uses towards encouraging a more dynamic and connected experience for workers."

MX-B District, for most part, replaced City's I1 (light industrial) District in January 2023, but offered greater flexibilities in potential uses.

Rezoning (Cont.)

Unified Development Ordinance

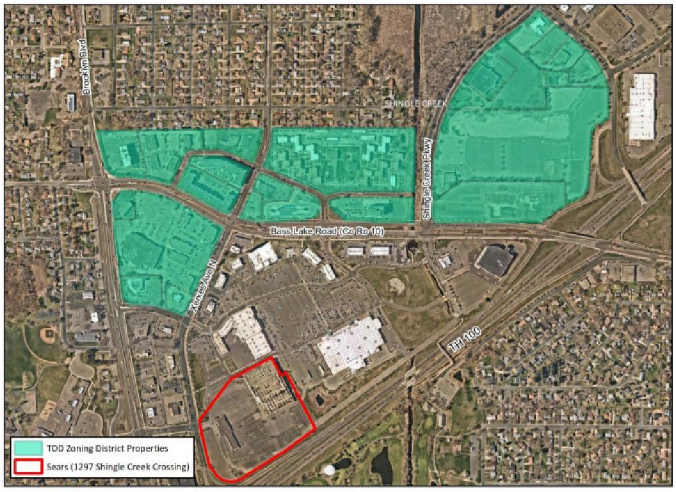
- There are some similarities in uses permitted (either by-right or as a conditional use) for both Business Mixed-Use and Transit-Oriented Development districts (e.g. certain educational facilities, medical and health uses, eating establishments, hospitality lodging, and indoor recreation centers), a key distinction is that:
  - **Business Mixed-Use:** Limited residential (only live-work), and ability for manufacturing, assembly, processing of products, and wholesale trade.
  - **Transit-Oriented Development:** Greater housing options (townhouses up to multi-family residential), and ability for indoor amusement centers, and banquet, event, and conference facilities.
- TOD District intended to support opportunities for dense, transit-supportive and oriented development that supports vibrant pedestrian activity.

Rezoning (Cont.)

Unified Development Ordinance

- While neighboring Shingle Creek Crossing shopping center was designed with automobiles in mind, it too is future guided as "Transit Oriented Development" under 2040 Comprehensive Plan and staff has been looking at options to increase density and activity within overall area as shopping center has yet to fully build out.
- There are 23 properties currently zoned "Transit Oriented Development" District.

Rezoning (Cont.)



Summary

- A public hearing notice was published in the Brooklyn Center *Sun Post* on May 30, 2024. Mail notifications were sent to those located within 350 feet of the Subject Property, and a notice was uploaded to the City's website.
- No public comments were made during the hearing.
- Following close of the public hearing, representation of the Property Owner (Chris Wood, Transformco) and an attorney representing Transformco (Patrick Lindmark, Taft Stettinius & Hollister LLP) were present and engaged in conversation with the Planning Commission.
- Mr. Lindmark expressed he did not believe the City of Brooklyn Center had the right to re-zone the Subject Property per MN State Statute; however City Attorney Sarah Sonsalla was present virtually for the meeting and disagreed with Mr. Lindmark's interpretation. She provided additional clarification post meeting.

Summary (Cont.)

- Mr. Wood noted that forcing the Subject Property to be re-zoned to TOD would require them to start over with their marketing and planning process, and confirmed that Scannell Properties, Inc. was no longer part of a Joint Venture Agreement with the Property Owner, but that other businesses held an interest in the Subject Property.
- Questions raised by the Planning Commission, both in relation to comments made at the meeting and with regard to the submitted letter, included: **(1)** How the Property Owner felt the rezoning was an effort to limit the creativity of the Subject Property, **(2)** what the major differences between the MX-B and TOD Districts were, **(3)** what efforts were being made to rebuild the area, and if the Property Owner was going to do anything with the property themselves, and **(4)** what harm there might be in changing the zoning and that perhaps it could open up more options for Transformco.
- Additional questions regarding the urgency in rezoning the Subject Property, and a general comment that the City does not have many light industrial properties, which could be a positive in the City, were made by Commissioners.

Summary (Cont.)

- The Commissioners further inquired if Property Owner Transformco would be required to create a new proposal now that Scannell is no longer involved, and what other options the Owner had in moving forward.
- Planning Commission ultimately **recommended (1-4) denial** of the proposed re-zoning of the Subject Property at this time.
- As a note from City staff, although Property Owner indicated "light industrial" as the highest and best use, City staff never was provided with copy of the private market analysis, and Scannell reached out to City staff post approval regarding the financial feasibility of the proposed light industrial development due to changes in the market. Former developer Scannell indicated that the development would require TIF. City staff does not know if market conditions have shifted since.

Note: The rezoning request to rezone from PUD/MX-B to TOD **would not prevent** the Property Owner from requesting their property be re-zoned some time in the future.

Any future application would require Council approval to conform with new UDO.

Recommendation

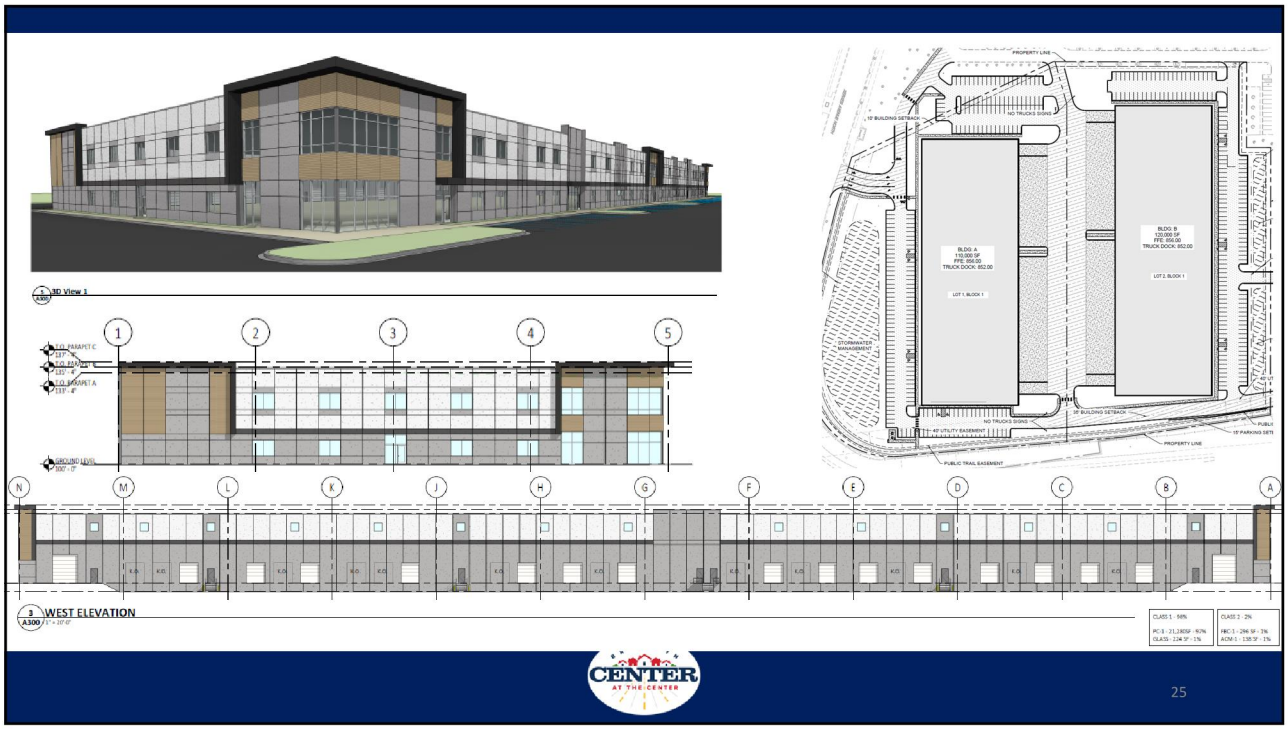
Motion to approve a first reading regarding the adoption of an ordinance re-zoning of certain property located at 1297 Shingle Creek Crossing and as contemplated under Planning Commission Application No. 2024-009 from Planned Unit Development/Business Mixed-Use (PUD/MX-B) District to Transit-Oriented Development (TOD) District, and set the second reading to July 22, 2024.

Comparison Chart of MX-B vs TOD District Uses

Example Uses

	Townhouses	Apartments (MF)	Educational Facilities (ALCs, business/trade schools)	Medical/Health Uses	Eating Establishments	Banquet, Event, or Conference Facility	Hospitality Lodging	Amusement Center (Indoor)	Indoor Recreation Fitness Center or Club (Indoor)	Financial Institutions	Contractor's Offices	Manufacturing, Assembly, and Processing of Products
TOD	P	P	P	P	P	C	C	P	P	P		
MX-B			P	P	P	A	C		C		P	P

P = Permitted
C = Conditional
A= Accessory


1 3D View 1
A300
1
2
3
4
5
PROPERTY LINE
10' BUILDING SETBACK
NO TRUCKS SIGNS
BLDG A
110,000 SF
FFE: 856.00
TRUCK DOCK: 852.00
LOT 1, BLOCK 1
BLDG B
120,000 SF
FFE: 856.00
TRUCK DOCK: 852.00
LOT 2, BLOCK 1
STORMWATER MANAGEMENT
40' UTILITY EASEMENT
20' BUILDING SETBACK
PUBLIC TRAIL EASEMENT
N
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J
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D
C
B
A
3 WEST ELEVATION
A300
CLASS 1 - 94%
PC-1 - 21,230SF - 92%
GLASS - 224 SF - 1%
CLASS 2 - 2%
FBC-1 - 296 SF - 1%
ACM-1 - 138 SF - 1%
CENTER
AT THE CENTER
25

Council Regular Meeting

DATE: 7/8/2024

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

SUBJECT: City Commission Appointments

Requested Council Action:

- *Motion to appoint members to commissions.*

Background:

The Mayor is suggesting the following appointments to City Commissions:

Cultural and Public Arts Commission

- Keith Williams
- Nahid Khan
- Kari Kelly
- Gail Ebert
- Jaclyn Frost
- Sabra Love
- Isabella Bridges

For non-resident (up to 4):

- Cyd Haynes
- CieJay Hanson
- Nick Neery
- Denise Butler

Park & Recreation Commission

- Andrea Kaufmann

Budget Issues:

- None

Inclusive Community Engagement:

Antiracist/Equity Policy Effect: