AGENDA
CITY COUNCIL STUDY SESSION
April 9, 2018
6:00 p.m.

City Hall Council Chambers

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

1. City Council Discussion of Agenda Items and Questions

2. Miscellaneous
   a. Backyard Chickens/Fowl – Councilmember Ryan
   b. Update – Topgolf Birds

3. Discussion of Work Session Agenda Items as Time Permits

4. Adjourn

CITY COUNCIL MEETING
City of Brooklyn Center
April 9, 2018

AGENDA

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1. **Informal Open Forum with City Council – 6:45 p.m.**
–provides an opportunity for the public to address the Council on items which are not on the agenda. Open Forum will be limited to 15 minutes, it is not televised, and it may not be used to make personal attacks, to air personality grievances, to make political endorsements, or for political campaign purposes. Council Members will not enter into a dialogue with citizens. Questions from the Council will be for clarification only. Open Forum will not be used as a time for problem solving or reacting to the comments made but, rather, for hearing the citizen for informational purposes only.

2. **Invocation – 7 p.m.**

3. **Call to Order Regular Business Meeting**
–The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

4. **Roll Call**

5. **Pledge of Allegiance**

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

   a. Approval of Minutes
      1. March 26, 2018, Study/Work Session
      2. March 26, 2018, Regular Session

   b. Licenses

   c. Resolution Approving and Authorizing Execution of Cooperative Agreement for Cost Participation with Hennepin County and Brooklyn Park for Trunk Highway 252/I-94 Environmental Review

d. Joint Powers Agreements for the Brooklyn Boulevard Corridor Project Phase 1

1. Resolution Approving and Authorizing Execution of a Joint Powers Agreement with the City of Minneapolis for the Reconstruction of Brooklyn Boulevard (CSAH 152) from South of 49th Avenue to North of Bass Lake Road (CSAH 10), Improvement Project No. 2018-05

2. Resolution Approving and Authorizing Execution of a Joint Powers Agreement with Three Rivers Park District for the Reconstruction of Brooklyn Boulevard (CSAH 152) from South of 49th Avenue to North of Bass Lake Road (CSAH 10), Improvement Project No. 2018-05

e. Resolution Approving Final Plat for NORTHBROOK CENTER 3RD ADDITION

f. Resolution Accepting Bid and Awarding Contract, Improvement Project No. 2018-09, Water Tower No. 2 and Water Tower No. 3 Rehabilitation

g. An Ordinance Amending Chapter 35 of the City Code of Ordinances Regarding the Zoning Classification of Certain Land Generally Located in the Southeast Section of the City, Generally Situated Between Highway 100 to the West and North, Logan Avenue North to the East, and 57th Avenue North to the South, and Locally Identified as 1950 57th Avenue North
–Motion to approve first reading and set second reading and Public Hearing for May 14 2018.

h. Resolution Authorizing the Community Activities, Recreation and Services Department to Apply for Grant Funding Through the Department of Natural Resources Outdoor Recreation Grant Program

i. Resolution Approving the Metropolitan Emergency Services Board Opiate Antagonists Subgrant Agreement

7. Presentations/Proclamations/Recognitions/Donations

a. Proclamation Declaring April 22-29, 2018, to be the Community Cleanup Week
Requested Council Action:
–Motion to adopt proclamation.

b. Proclamation Declaring April 22, 2018, to be Earth Day in Brooklyn Center
Requested Council Action:
–Motion to adopt proclamation.

8. Public Hearings

a. An Ordinance Amending Chapter 25 of the City Code of Ordinances Relating to the Regulation of Right-Of-Way Management

–This item was first read on March 12, 2018; published in the official newspaper on March 22, 2018; and is offered this evening for second reading and Public Hearing.

Requested Council Action:

–Motion to open Public Hearing.
–Take public input.
–Motion to close Public Hearing.
–Motion to adopt Ordinance.

9. Planning Commission Items

a. Planning Commission Application No. 2018-003, Submitted by David Pemberton of Sathre-Bergquist, Inc., Requesting Preliminary Plat Approval for Mohs Addition, which would subdivide an existing R1 (one Family Residence) District property into two approximately 9,982-square foot lots

–The Planning Commission recommended (unanimous) approval of this Application at its March 29, 2018, meeting.

1. Resolution Regarding the Recommended Disposition of Planning Commission Application No. 2018-003, Submitted by David Pemberton of Sathre-Bergquist, Inc., Requesting Approval of the Preliminary Plat for Mohs Addition (Located at 5006 France Avenue North)

Requested Council Action:

–Motion to adopt resolution.

10. Council Consideration Items

a. Consideration of Type IV 6-Month Provisional Rental Licenses

1. 5301 Russell Ave N, Sommerset Place Apartments
2. 6919 France Ave N
3. Resolution Approving a Type IV 6-Month Provisional Rental License for 904 53rd Ave N
4. Resolution Approving a Type IV 6-Month Provisional Rental License for 2006 Brookview Dr
5. Resolution Approving a Type IV 6-Month Provisional Rental License for 5455 Emerson Ave N

Requested Council Action:

–Mayor poll audience for applicants to address Council.
–Receive staff report.
–Motion to open hearing.
–Receive testimony from applicants.
–Motion to close hearing.
–Take action on rental license applications and mitigation plans.

b. Master SAC Deferral Agreement

1. Resolution Approving the Payment Deferral Agreement between the City of Brooklyn Center and the Metropolitan Council
Requested Council Action:
–Motion to adopt resolution.

2. Resolution Approving the Payment Deferral Agreement between the City of Brooklyn Center and Jambo Africa, Inc.
Requested Council Action:
–Motion to adopt resolution.

c. Resolution Expressing Support for the Metropolitan Council's D Line Bus Rapid Transit (BRT) Project
Requested Council Action:
–Motion to adopt resolution.

11. Council Report

12. Adjournment

AGENDA
CITY OF BROOKLYN CENTER
CITY COUNCIL/ECONOMIC DEVELOPMENT AUTHORITY WORK SESSION
April 9, 2018
Immediately Following Regular City Council and EDA Meetings Which Start at 7:00 P.M.

City Hall Council Chambers

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

ACTIVE DISCUSSION ITEMS

1. Review Draft Language for a Potential Amendment to the Zoning Code Pertaining to Interim Use Permits
2. Review Potential Policies Pertaining to Affordable Housing and Provide Direction to Staff on How to Proceed

PENDING LIST FOR FUTURE WORK SESSIONS

Later/Ongoing

1. City Council Code of Policies (10-9-17 Study Session Discussion Regarding Control of Turkeys and Geese and Including in Section 2.93 Long-Term Deer Population Management Plan)
2. Tobacco Purchase Age 21 (Brooklyn Youth Council) – June
3. Organic Composting and Native Bee Habitat (1-8-18 Study Session Discussion) – April
4. Median Safety Ordinance – April
5. Saturday Market – April
6. Park Dedication Fees – May

City Council Agenda Item No. 6a

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

STUDY SESSION
MARCH 26, 2018
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Study Session called to order by Mayor Tim Willson at 6:05 p.m.

ROLL CALL

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

CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

City Manager Curt Boganey stated there was an addition of The Sanctuary of Brooklyn Center rental license to the licenses in the Consent Agenda. He stated Consent Agenda items 9a and 9b originally only included every other page by accident. He stated he has provided updated and corrected copies of both 9a and 9b for the City Council's review this evening. Mr. Boganey noted if the Councilmembers feel they need more time to review the information due to this error, they could pull the items for the next meeting.

Mayor Willson stated he was fine moving forward with the items tonight and the Councilmembers concurred.

Councilmember Ryan stated he wasn't present for the service line discussion from the previous meeting, which is on the Agenda tonight as Item 6f. He noted he is in agreeance with the decision the City Council made in his absence and is wondering if the Councilmembers would be interested in looking into purchasing service line insurance at a later time. He noted it is designed to address issues such as those noted in Agenda item 6f.

There was a consensus of the City Council to add that topic to a future Work Session.

MISCELLANEOUS

Sterling Square Apartments and Humboldt Square

Councilmember Butler thanked Mr. Boganey for all the work he and staff did to address

concerns presented regarding the Sterling Square apartments. She noted there have been some concerns with Humboldt Square as well regarding some slips due to ice not being removed and garbage presenting since the snow has melted.

Discuss Email Regarding Birds Catching in Topgolf Net

Councilmember Ryan discussed this item and provided everyone with a copy of the email he received. Mayor Willson stated he also received an email regarding the same item today. Mayor Willson stated they are not sure if this is a concern only or if this is an issue and has occurred.

Mr. Boganey stated Community Development Director Meg Beekman has been working on this item and invited her to give an update.

Ms. Beekman stated there have been 2 instances found during their research across the United States in which a bird has been caught in a net. She stated Topgolf has looked into mitigation devices to prevent this from happening but she is not sure which, if any, Topgolf has looked at or is willing to use. Topgolf has stated they have reached out to their national office and to Judge Netting, the contractor of the netting. Ms. Beekman stated it is being looked into and they expect a response soon.

Mayor Willson asked if Mr. Boganey could please respond to both concerned citizen emails. Mr. Boganey stated he will respond to the emails and let them know more information is to come.

DISCUSSION OF WORK SESSION AGENDA ITEMS AS TIME PERMITS

OFF-SITE STORAGE OF VEHICLES

Ms. Beekman introduced and provided background on the item. She stated Luther Auto has reached out needing immediate help for a place to store vehicles. She stated Luther Auto has approached the City about using some EDA owned properties with the first one they asked about being the Earle Brown overflow lot, she noted the City didn't want to do that. The second option is a large EDA owned parking lot which to use, they would need to amend the zoning code, through the interim use ordinance. She stated they would amend the ordinance to allow them to enter into an agreement with the City or another property owner if Luther Auto wanted to look at other sites. Ms. Beekman explained the City Council could allow the interim use permit to be as long or short as they would like.

Mr. Boganey stated they would at this time create the ordinance and then draft it and send it back to the City Council for their approval before it would go to the Planning Commission for their approval.

Mayor Willson stated he isn't opposed to using the site proposed near the FBI building.

Councilmember Ryan concurred with Mayor Willson and asked City Attorney Gilchrist if the amendment could be written very narrowly so other businesses can't use it as precedence. Attorney Gilchrist stated that is correct and it could also include the term "New Cars" so there wouldn't be a concern about used cars being left there.

Councilmember Butler asked what benefit the City would get from letting Luther Auto use some of the EDA owned properties. Mr. Boganey stated it benefits the City because they have an expanding new business seeking a temporary fix while the business seeks a permanent solution.

Councilmember Graves asked if the City will get revenue to let them use the lot. Ms. Beekman stated yes, the City can charge for use of the lots.

Councilmember Graves also asked if Luther Auto will have some sort of security on the site. Attorney Gilchrist stated the request for security can be put in the ordinance itself along with any other conditions the City would want them to comply with.

Councilmember Butler asked if a representative from the dealership could be present at the next meeting so they can ask questions at that time and better understand the use they are looking for. Mr. Boganey stated they will ask them to attend a meeting for discussion.

It was the majority consensus of the City Council to have staff move forward with getting information together on this item.

ADJOURN STUDY SESSION TO INFORMAL OPEN FORUM WITH CITY COUNCIL

Councilmember Lawrence-Anderson moved and Councilmember Ryan seconded to close the Study Session at 6:45 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
MARCH 26, 2018
CITY HALL – COUNCIL CHAMBERS

1. INFORMAL OPEN FORUM WITH CITY COUNCIL

CALL TO ORDER INFORMAL OPEN FORUM

The Brooklyn Center City Council met in Informal Open Forum called to order by Mayor Tim Willson at 6:45 p.m.

ROLL CALL

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

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

Jeremy Krulikowski, Brooklyn Center, addressed the City Council regarding back yard poultry. He provided some background on this item and stated he knows the laws but would like to see if the City Council is open to reviewing this item further.

Mayor Willson asked Mr. Krulikowski if he had reviewed the previous documents and minutes on this item from when it was presented a few years ago. Mayor Willson suggested Mr. Krulikowski and the new Councilmembers review that information for discussion at a future Work Session.

Mr. Boganey stated he will contact Mr. Krulikowski about this item.

Scott Cooper, 61st Avenue N., addressed the City Council. He stated he works around the Twin Cities and is in favor of backyard chickens. He stated in his work he has seen a lot of clean coops and noted it's a nice way to bring communities together.

Sara Capers, Brooklyn Center, addressed the City Council. She stated she is here to give her opinion on this issue of backyard chickens as well and noted as a bee keeper and urban gardener, she shows her kids where their food and stuff comes from. She stated it's a good way of taking care of our earth.

Jeremy Krulikowski addressed the City Council again and stated he has met more neighbors while gardening and as a result of having chickens, noting it has brought forward great experiences. He stated it also gives meaningful purpose and responsibility to young kids.

Councilmember Ryan moved and Councilmember Graves seconded to close the Informal Open Forum at 6:59 p.m.

Motion passed unanimously.

2. INVOCATION

Councilmember Ryan read a piece from Hubert H. Humphrey as the Invocation.

3. CALL TO ORDER REGULAR BUSINESS MEETING

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

4. ROLL CALL

Mayor Tim Willson and Councilmembers Marquita Butler, April Graves, Kris Lawrence-Anderson, and Dan Ryan. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, Director of Public Works Doran Cote, Deputy Director of Public Works Mike Marsh, Community Development Director Meg Beekman, Planner and Zoning Administrator Ginny McIntosh, Communications Coordinator Angel Smith, City Attorney Troy Gilchrist, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

5. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

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

6a. APPROVAL OF MINUTES

1. March 12, 2018 – Study/Work Session
2. March 12, 2018 – Regular Session

6b. LICENSES

LIQUOR- ON-SALE WINE INTOXICATING AND 3.2 PERCENT MALT LIQUOR
Bryant Wings LLC

dba Wingstop	1180 Shingle Creek Crossing, Suite G112

MECHANICAL

3-D Heating & AC	206 Jefferson Ave N, Watertown
All American Heating & Air Inc.	3600 72nd Ave N, Brooklyn Center
Condor Fireplace & Stone	8282 Arthur St NE, Spring Lake Park
McQuillan Bros Plumbing, Heating & AC LLC	1711 Highway 36, St. Paul
WJW Company DBA Twin City Heating and Air	2713 91st Crescent, Brooklyn Park

TRANSIENT ACCOMMODATIONS - LEVEL I

Super 8 Motel	6445 James Cir N

RENTAL

INITIAL (TYPE II – three-year license)

The Sanctuary of Brooklyn Center 6121 Brooklyn Boulevard	Sylvia McGee
5306 Penn Avenue N	Sergey Fooks

RENEWAL (TYPE III – one-year license)

2023 Brookview Drive	RHA 3, LLC
5200 Drew Avenue N	Morris Matthews (Missing 2 ARM Meetings)
7224 Logan Avenue N	Douglas Schmertman (Missing Cpted)
5406 Sailor Lane	James Waters

RENEWAL (TYPE II – two-year license)

Gateway Commons 2802 Northway Drive	Gary Brummer
6106 Aldrich Avenue N	Main Street Renewal LLC
7207 Willow Lane N	Arl Woods
6006 Zenith Ave N	Keith McConnell

RENEWAL (TYPE I – three-year license)

2401-03 54th Avenue N	Karboy Properties LLC
1600 69th Avenue N	Vo Hieu
7215 Girard Avenue N	Rebecca Thomley
7100 Indiana Avenue N	John Wright
5530 James Avenue N	Ross Herman
6018 Kyle Avenue N	Danny Vo
5300 Logan Avenue N	Benjamin Antony

6c. RESOLUTION NO. 2018-53 CERTIFYING SPECIAL ASSESSMENTS FOR DISEASED TREE REMOVAL COSTS TO THE HENNEPIN COUNTY PROPERTY TAX ROLLS

6d. RESOLUTION NO. 2018-54 CERTIFYING SPECIAL ASSESSMENTS FOR DISEASED WEED REMOVAL COSTS TO THE HENNEPIN COUNTY PROPERTY TAX ROLLS

6e. MEETING SCHEDULE FOR 2019-2020 BUDGET

6f. RESOLUTION NO. 2018-55 ADOPTING EMERGENCY PRIVATE UTILITY REPAIR ASSESSMENT POLICY

6g. RESOLUTION NO. 2018-56 ESTABLISHING IMPROVEMENT PROJECT NO. 2018-08, BELLVUE AREA MILL AND OVERLAY

6h. RESOLUTION NO. 2018-57 ACCEPTING BID AND AUTHORIZING AWARD OF CONTRACT, IMPROVEMENT PROJECT NO. 2018-13 STREET SEAL COATING

6i. RESOLUTION NO. 2018-58 AUTHORIZING EXECUTION OF A SMALL WIRELESS FACILITY COLLOCATION AGREEMENT WITH ZAYO GROUP, LLC

6j. RESOLUTION NO. 2018-59 ACCEPTING WORK PERFORMED AND AUTHORIZING FINAL PAYMENT, IMPROVEMENT PROJECT NO. 2016-19, SANITARY SEWER LINING, MISSISSIPPI RIVER TRUNK LINE

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

7a. PRESENTATION BY HENNEPIN COUNTY SHERIFF RICHARD W. STANEK

Sheriff Stanek provided a presentation on the Hennepin County Sheriff's Office.

Councilmember Graves asked how the Sheriff's Office is working with the immigrant community and asked if there was any discussion on reform for the money bail system and wealth-based incarceration rates.

Sheriff Stanek addressed the 2nd part of the question and explained how the bail system process works, noting that Hennepin County Courts set the bail schedule and there is not much leeway with that. With regard to the immigrant community, he said there is no purview in immigration, but the Department of Homeland Security may want to step in and ask questions.

Mayor Willson stated he is very pleased with all the work Sheriff Stanek has done over his 12 years in office and commended him on the great job especially on the opioid crisis. Sheriff Stanek stated any councilmembers, specifically Councilmember Graves, is welcome to take a tour and see the process within their department anytime. He also noted Chief Gannon has done an amazing job.

Councilmember Ryan moved and Councilmember Butler seconded to accept the presentation by Hennepin County Sheriff Richard W. Stanek.

Motion passed unanimously.

8. PUBLIC HEARINGS

8a. RESOLUTION NO. 2018-60 CERTIFYING SPECIAL ASSESSMENTS FOR UTILITY REPAIRS TO THE HENNEPIN COUNTY PROPERTY TAX ROLLS

City Finance Director Nate Reinhardt introduced the item, discussed the history, and stated the purpose of the proposed Resolution. He reviewed the two properties presented with appeals.

Mr. Reinhardt stated for 6006 Camden Avenue N., they are recommending the special assessment in the amount of $4,551.00 be approved based on their findings.

Mr. Reinhardt stated for property located at 3815 Burquest Lane, it is proposed they reduce the amount assessed by $4,950.00 based on their findings.

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

Motion passed unanimously.

Mofoba Kanneh, 3815 Burquest Lane, addressed the City Council. He stated he is waiting to pay the second part of the fees owed and thanked the City Council and staff for their help.

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

Motion passed unanimously.

Councilmember Graves moved and Councilmember Ryan seconded to adopt RESOLUTION NO. 2018-60 Certifying Special Assessments for Utility Repairs to the Hennepin County Property Tax Rolls.

Motion passed unanimously.

8b. RESOLUTION NO. 2018-61 AUTHORIZING THE ASSIGNMENT AND ASSUMPTION OF OBLIGATIONS UNDER A CONDUIT REVENUE BOND BY NOBLE ACADEMY DBA NOMPENG ACADEMY PROJECT AND APPROVING RELATED DOCUMENTS

Academy Superintendent Nao Tao addressed the City Council and stated they have 1,000 students in Brooklyn Park and several on the waiting list currently. He stated they would like to be available for the students who want to attend their school, which is why they are opening this second site.

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

Motion passed unanimously.

No one wished to address the City Council.

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

Motion passed unanimously.

Councilmember Graves moved and Councilmember Lawrence-Anderson seconded to adopt RESOLUTION NO. 2018-61 Authorizing the Assignment and Assumption of Obligations under a Conduit Revenue Bond by Noble Academy DBA Nompeng Academy Project and Approving Related Documents.

Motion passed unanimously.

9. PLANNING COMMISSION ITEMS

9a. PLANNING COMMISSION APPLICATION NO. 2018-001, SUBMITTED BY GREG HAYES (EBERT CONSTRUCTION). REQUEST FOR APPROVAL OF: (1) THE PRELIMINARY PLAT FOR NORTHBROOK CENTER 3RD ADDITION, (2) ESTABLISHMENT OF A NEW PLANNED UNIT, (3) SITE AND BUIILDING PLAN APPROVAL FOR A FOUR STORY, 112,000-SQUARE FOOT INDOOR COMMERCIAL STORAGE BUILDING (LOCATED AT 1950 57TH AVENUE NORTH)

Planner and Zoning Administrator Ginny McIntosh provided an overview of Planning Commission Application No. 2018-001 and advised the Planning Commission recommended approval of the application at its March 15, 2018, meeting.

In response to Councilmember Graves' questions, Mr. Hayes stated there will be two staff on hand, they have cameras, and there will be a two-card authentication system for security.

Mr. Boganey asked what their schedule will be. Mr. Hayes stated they will be back in April for a final approval and hope to have a shovel in the ground by July.

9a1. RESOLUTION NO. 2018-62 REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-001, SUBMITTED BY GREG HAYES OF EBERT CONSTRUCTION,

REQUESTING APPROVAL OF THE PRELIMINARY PLAT OF NORTHBROOK CENTER 3RD ADDITION (LOCATED AT 1950 57TH AVENUE NORTH)

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to adopt RESOLUTION NO. 2018-62, Planning Commission Application No. 2018-001, submitted by Greg Hayes of Ebert Construction, Requesting Approval of the Preliminary Plat of Northbrook Center 3rd Addition (Located at 1950 57th Avenue North).

Motion passed unanimously.

9a2. RESOLUTION NO. 2018-63 REGARDING THE DISPOSITION OF PLANNING COMMISION APPLICATION NO. 2018-001, SUBMITTED BY GREG HAYES OF EBERT CONSTRUCTION, FOR APPROVAL OF A NEW PLANNED UNIT DEVELOPMENT WITH NEW ZONING CLASSIFICATION OF PUD-C2 (PLANNED UNIT DEVELOPMENT – COMMERCE) & DEVELOPMENT SITE PLAN FOR AN INDOOR COMMERICAL STORAGE BUILDING (LOCATED AT 1950 57TH AVENUE NORTH)

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to adopt RESOLUTION NO. 2018-63, Planning Commission Application No. 2018-001, submitted by Greg Hayes of Ebert Construction, for Approval of a New Planned Unit Development with New Zoning Classification of PUD-C2 (Planned Unit Development – Commerce) and Development Site Plan for an Indoor Commercial Storage Building (Located at 1950 57th Avenue North).

Motion passed unanimously.

9b. PLANNING COMMISSION APPLICATION NO. 2018-002, SUBMITTED BY TASHITAA TUFAA (MISSISSIPPI VALLEY PROPERTIES, LLC). REQUEST FOR APPROVAL OF A SITE AND BUILDING PLAN AND ISSUANCE OF A SPECIAL USE PERMIT FOR THE ESTABLISHMENT OF AN EVENT CENTER (LOCATED AT 6440 JAMES CIRCLE NORTH)

Planner and Zoning Administrator Ginny McIntosh provided an overview of Planning Commission Application No. 2018-002 and advised the Planning Commission recommended approval of the application at its March 15, 2018, meeting.

Councilmember Lawrence-Anderson asked what type of events they will hold. Ms. McIntosh stated they will mainly cater to weddings but will do some other events at times.

Councilmember Ryan asked if the restaurant will be open for public use. Ms. McIntosh stated the restaurant will be open to the public, not just for events being held at the venue. Councilmember Ryan stated he is happy to hear that.

9b1. RESOLUTION NO. 2018-64 REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-002, SUBMITTED BY TASHITAA TUFAA OF MISSISSIPPI VALLEY PROPERTIES, LLC FOR APPROVAL OF A SITE AND BUILDING PLAN AND ISSUANCE OF A SPECIAL USE PERMIT TO CONVERT A FORMER BOWLING ALLEY AND RESTAURANT INTO AN EVENT CENTER IN THE C2 (COMMERCE) DISTRICT (LOCATED AT 6440 JAMES CIRCLE NORTH)

Councilmember Graves moved and Councilmember Ryan seconded to adopt RESOLUTION NO. 2018-64, Planning Commission Application No. 2018-002, submitted by Tashitaa Tufaa of Mississippi Valley Properties, LLC for Approval of a Site and Building Plan and Issuance of a Special Use Permit to Convert a Former Bowling Alley and Restaurant into an Event Center in the C2 (Commerce) District (Located at 6440 James Circle North).

Motion passed unanimously.

10. COUNCIL CONSIDERATION ITEMS

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

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

Mayor Willson polled the audience and asked whether anyone was in attendance to provide testimony on any of the rental licenses as listed on tonight's meeting agenda. Seeing no one coming forward, Mayor Willson called for a motion on Agenda Items 10a1 through 10a14.

10a1. RESOLUTION NO. 2018-73 APPROVING A TYPE IV RENTAL LICENSE FOR 1325 68th LANE NORTH
10a2. 2932 69TH LANE NORTH
10a3. 6613 CAMDEN DRIVE
10a4. 7200 DALLAS ROAD
10a5. 2406 ERCON DRIVE
10a6. 5819 KNOX AVENUE NORTH
10a7. 7025 NEWTON AVENUE NORTH
10a8. 6830 SCOTT AVENUE NORTH
10a9. RESOLUTION NO. 2018-65 APPROVING A TYPE IV RENTAL LICENSE FOR 5325 70TH CIRCLE
10a10. RESOLUTION NO. 2018-66 APPROVING A TYPE IV RENTAL LICENSE FOR 6501 BROOKLYN DRIVE
10a11. RESOLUTION NO. 2018-67 APPROVING A TYPE IV RENTAL LICENSE FOR 5415 EMERSON AVENUE NORTH
10a12. RESOLUTION NO. 2018-68 APPROVING A TYPE IV RENTAL LICENSE FOR 6342 ORCHARD AVENUE NORTH

10a13. RESOLUTION NO. 2018-69 APPROVING A TYPE IV RENTAL LICENSE FOR 6900 REGENT AVENUE NORTH

10a14. RESOLUTION NO. 2018-70 APPROVING A TYPE IV RENTAL LICENSE FOR 4718 TWIN LAKE AVENUE

Councilmember Lawrence-Anderson moved and Councilmember Ryan seconded to approve the issuance of a Type IV six-month provisional rental license and mitigation plan for the following: adopt RESOLUTION NO. 2018-73 Approving a Type IV Rental License for 1325 68th Lane N; 2932 69th Lane North; 6613 Camden Drive; 7200 Dallas Road; 2406 Ericon Drive; 5819 Knox Avenue North; 7025 Newton Avenue North; 6830 Scott Avenue North; and adopt RESOLUTION NO. 2018-65 Approving a Type IV Rental License for 5325 70th Circle; RESOLUTION NO. 2018-66 Approving a Type IV Rental License for 6501 Brooklyn Drive; RESOLUTION NO. 2018-67 Approving a Type IV Rental License for 5415 Emerson Avenue North; RESOLUTION NO. 2018-68 Approving a Type IV Rental License for 6342 Orchard Avenue North; RESOLUTION NO. 2018-69 Approving a Type IV Rental License for 6900 Regent Avenue North; and, RESOLUTION NO. 2018-70 Approving a Type IV Rental License for 4718 Twin Lake Avenue, with the requirement that the mitigation plans and all applicable ordinances must be strictly adhered to before renewal licenses would be considered.

Motion passed unanimously.

10b. APPROVAL OF A MASTER SERVICE AGREEMENT FOR COMPLETION OF THE 2040 COMPREHENSIVE PLAN AND APPROVAL OF A RESOLUTION REQUESTING AN EXTENSION FOR THE 2040 COMPREHENSIVE PLAN

Ms. Beekman introduced and provided an overview on this item.

Mayor Willson stated this will be the fourth Comprehensive Plan he has worked on and he is very interested to see what they are planning for the City.

Councilmember Graves asked who Swanson Haskamp Consulting are and if they are a well-known company. Ms. Beekman stated they are a newer company but doing Comprehensive Plans for a few other cities as well.

10b1. RESOLUTION NO. 2018-71 APPROVING A MASTER SERVICE AGREEMENT WITH SWANSON HASKAMP CONSULTING, LLC FOR PROFESSIONAL SERVICES TO COMPLETE THE 2040 COMPREHENSIVE PLAN

Councilmember Butler moved and Councilmember Graves seconded to adopt RESOLUTION NO. 2018-71, Approving a Master Service Agreement with Swanson Haskamp Consulting, LLC for Professional Services to Complete the 2040 Comprehensive Plan

Motion passed unanimously.

10b2. RESOLUTION NO. 2018-72 REQUESTING ADDITIONAL TIME WITHIN WHICH TO COMPLETE COMPREHENSIVE PLAN REVIEW OBLIGATIONS

Councilmember Graves moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2018-72, Approving Request for Additional Time Within Which to Complete Comprehensive Plan Review Obligations.

Motion passed unanimously.

11. COUNCIL REPORT

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

- February 28, 2018: Youth Avenues for Homeless
- March 2, 2018: YIPA Event
- March 5, 2018: Light Rail Advocacy Group
- March 7, 2018: North Metro Day at the Capital
- March 8, 2018: Grand Opening of The Sanctuary
- March 9-14, 2018: MN League of Cities Congressional City Conference
- March 20, 2018: C-Line Ground Breaking Ceremony
- March 21-22, 2018: League of MN Cities Legislation Conference
- March 24, 2018: Cub Foods Drive for CEAP with Brooklyn Center Lions
- March 26, 2018: Work Session with Congressman Keith Ellison

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

- March 21, 2018: Crime Prevention Meeting

Councilmember Lawrence-Anderson noted the next Crime Prevention meeting will be held prior to Police Awards Ceremony on April 17, 2018 at the Brooklyn Center Community Center. On April 27, 2018 Brooklyn Center High School will hold their Health Fair Event and May 22, 2018 from 9am – 3pm the Senior Safety Seminar will be held at the Community Center.

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

- March 13, 2018: Spoke at Career Day at Longfellow High School for Teen Mothers
- March 13, 2018: Hope Healing Circles for Domestic Violence
- March 17, 2018: Coming to the Table Meeting
- March 17, 2018: Hennepin County Juvenile Detention Collaborative
- March 20, 2018: Trained on iPad Device
- March 20, 2018: Community Activity Parks and Recreation Meeting
- March 22-25, 2018: Young Electives Conference in New Orleans
- March 26, 2018: Work Session with Congressman Keith Ellison

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

- March 20, 2018: Housing Commission
- March 21 and 23, 2018: Brooklyn Center Basketball Games
- March 26, 2018: Work Session with Congressman Keith Ellison
- March 27, 2018: MAC Meeting and iPad Training

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

- March 16, 2018: iPad Training
- March 16, 2018: Taping of Mayor's Minute
- March 20, 2018: Interview/Show with Northwest Politics
- March 20, 2018: CDBG Review in Hennepin County
- March 26, 2018: Work Session with Congressman Keith Ellison
- March 27-28, 2018: Constitutes Meetings
- March 30, 2018: Vue Nation Gala Hmong Celebration
- April 2, 2018: Blueline Now Meeting

Mayor Willson reminded Councilmembers that the all Commissions meeting is on April 4, 2018, at the Community Center.

12. ADJOURNMENT

Councilmember Lawrence-Anderson and Councilmember Graves seconded adjournment of the City Council meeting at 8:39 p.m.

Motion passed unanimously.

City Council Agenda Item No. 6b

COUNCIL ITEM MEMORANDUM

DATE: April 2, 2018

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Rozlyn Tousignant, Deputy City Clerk

SUBJECT: Licenses for City Council Approval

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

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

MECHANICAL

B&D Plumbing, Heating & A/C	4145 MacKenzie Court, St. Michael, MN 55376
Blue Ox Heating & Air LLC	5720 International Pkwy, New Hope, MN 55428
Chesney Mechanical	4118 Shoreline Drive, Robbinsdale, MN 55422
Corporate Mechanical	5114 Hillsboro Ave N, New Hope, MN 55428
Deans Tank, Inc.	PO Box 22515, Robbinsdale, MN 55422
Elk River Heating & Air Conditioning Inc	19567 Twin Lakes Rd NW, Elk River, MN 55330
GV Heating & Air INC	5182 West Broadway, Crystal, MN 55429
Heating & Cooling Two Inc	18550 County Rd 81, Maple Grove, MN 55369
Home Energy Center	2415 Annapolis Lane, N., Ste #170, Plymouth, MN 55441
Horwitz Inc.	7400 49th Ave N, New Hope, MN 55428
Jayhawk Mechanical	3307 N 2nd Street, Minneapolis, MN 55412
Kraft Mechanical	2441 Ventura Drive, Suite 100, Woodbury, MN 55125
Minnesota Petroleum Service	682 39th Ave NE, Minneapolis, MN 55421
Neighborhood Plumbing & Heating	130 Broadway Ave N, Foley, MN 56329
Sabre Plumbing, Heating & A/C	15535 Medina Rd, Plymouth, MN 55447
Schadegg Mechanical	225 Bridgepoint Dr, So St. Paul, MN 55075
Standard Heating & A/C	130 Plymouth Ave N, Minneapolis, MN 55411

RENTAL
See attached report.

SIGN HANGER

Vasseur Design	4337 Welcome Ave N, Minneapolis, MN 55422

COUNCIL ITEM MEMORANDUM

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

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

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

Budget Issues:

There are no budget issues to consider.

Rental Licenses for Council Approval on April 9, 2018

Property Address	Dwelling Type	Renewal or Initial	Owner	Property Code Violations	License Type	Police CFS *	Final License Type **	Previous License Type ***	Unpaid Utilities	Unpaid Taxes
5301 Dupont Ave N	1 Bldg 6 Units	Renewal	Minnesota Apartments LLC	13 (2.2/Unit)	II	2	II	III	OK	OK
5256 Twin Lake Blvd E	Two Family (1)	Renewal	Brian Somkhan	1 (1/Unit)	I	0	I	II	OK	OK
4309 63rd Ave N	Single Family	Renewal	Nathan Erickson/Azingo LLC	1	I	0	I	IV	OK	OK
2801 66th Ave N	Single Family	Renewal	Prosperous Property LLC	0	I	0	I	I	OK	OK
5323 Brooklyn Blvd	Single Family	Renewal	MSP Home Rental	2	II	0	II	IV	OK	OK
5331 Camden Ave N	Single Family	Renewal	Ross Herman	1	I	0	I	IV	OK	OK
6638 Camden Dr	Single Family	Renewal	Gal Peremislov	1	I	0	I	II	OK	OK
5821 Ewing Ave N	Single Family	Renewal	Invitation Homes	5	III	0	III	II	OK	OK
5300 France Ave N	Single Family	Renewal	Invitation Homes	6	III	0	III	II	OK	OK
6300 France Ave N	Single Family	Renewal	Wade Klick	8	III	0	III	IV	OK	OK
7018 France Ave N	Single Family	Renewal	Crystal Brummer	7	III	0	III	IV	OK	OK
5419 Humboldt Ave N	Single Family	Renewal	Cecilia Pineda	3	II	0	II	III	OK	OK
6769 Humboldt Ave N	Single Family	Renewal	Li-Chwen Su	0	I	0	I	III	OK	OK
7124 Indiana Ave N	Single Family	Renewal	Weyu Ademo Bekuto	3	II	0	II	I	OK	OK
6342 June Ave N	Single Family	Renewal	Dave Swartout	3	II	0	II	II	OK	OK
5332 Morgan Ave N	Single Family	Renewal	James Waters	2	II	0	II	II	OK	OK
6906 Newton Ave N	Single Family	Renewal	Eric A Syrstad	2	II	0	II	III	OK	OK
7085 Unity Ave N	Single Family	Renewal	Swendia, LLC	3	II	0	II	III	OK	OK
5931 Zenith Ave N	Single Family	Renewal	Invitation Homes	5	III	0	III	II	OK	OK

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

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

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

All properties are current on City utilities and property taxes

City Council Agenda Item No. 6c

COUNCIL ITEM MEMORANDUM

DATE: April 3, 2018

TO: Curt Boganey, City Manager

THROUGH: Doran M. Cote, P.E., Director of Public Works

FROM: Mike Albers, P.E., City Engineer

SUBJECT: Resolution Approving and Authorizing Execution of Cooperative Agreement for Cost Participation with Hennepin County and Brooklyn Park for Trunk Highway 252/I-94 Environmental Review

Recommendation:
It is recommended that the City Council consider approval of the attached resolution approving and authorizing the execution of a Cooperative Agreement for Cost Participation with Hennepin County and Brooklyn Park for Trunk Highway (TH) 252/I-94 Environmental Review.

Background:
In January 2017, Hennepin County initiated a TH 252 Freeway Conversion Study in partnership with the Minnesota Department of Transportation (MnDOT), the cities of Brooklyn Center and Brooklyn Park and Metro Transit for development of a concept for the conversion of TH 252 between 66th Avenue in Brooklyn Center to TH 610 in Brooklyn Park from a four/six lane expressway to a four or six lane freeway. The study will develop and review various access layouts to improve safety and mobility along TH 252 between Highway 610 and I-694. Additional goals of the project include providing community connectivity, pedestrian accommodations, access to transit services and maintaining existing infrastructure investments.

In October 2017, MnDOT in cooperation with the Metropolitan Council, was in the process of completing their MnPASS System Study Phase 3. This document is used to identify future MnPASS corridors to be incorporated in the next round of the Transportation Policy Plan update. As a result of this process, TH 252 and I-94 from TH 252 to downtown Minneapolis were identified as a strong candidate for a future MnPASS corridor based on congestion relief benefits and costs as well as other considerations. The Technical Advisory Committee (TAC) for TH 252 Freeway Conversion Study discussed the potential for the TH 252 freeway conversion to include MnPASS lanes. The MnPASS lane concept could be implemented along TH 252 and along I-94 from TH 610 to Dowling Avenue.

At the January 8, 2018, City Council Work Session, the City Council was provided with an update of the TH 252 freeway conversion project. The update included the current status of the project, a presentation on MnPASS, possible phasing and a project funding summary. The City Council was also presented a summary of the required National Environmental Policy Act (NEPA) environmental review process for the project and possible Environmental Assessment (EA) cost sharing scenarios as outlined below:

Total estimated cost of EA is $3.9 million
- Brooklyn Center – 10 percent ($375,000)
- Brooklyn Park – 14 percent ($562,500)
- Hennepin County – 25 percent ($967,500)
- MnDOT – 51 percent ($1,195,000)

As provided in the attached Cooperative Agreement for Cost Participation, the EA would provide full environmental clearance for the interchange at TH 252 and 66th Avenue and the pedestrian bridge at 70th Avenue.

Budget Issues:
The final cost participation for the environmental review outlined in the Cooperative Agreement for Cost Participation is as follows:

Total estimated cost of EA is $3.96 million
- Brooklyn Center – 9.1percent ($360,000)
- Brooklyn Park – 13.6 percent ($540,000)
- Hennepin County – 28.3 percent ($1,120,000)
- MnDOT – 49 percent ($1,940,000)

The City has budgeted approximately $5.5 million in the Capital Improvements Plan (CIP) for its local share of project costs related to the interchange at 66th Avenue, closing 70th Avenue and a pedestrian bridge at 70th Avenue. Funding for the 66th Avenue Interchange project, including the EA, is programmed under the City's CIP Fund.

Strategic Priorities:
- Key Transportation Investments

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF COOPERATIVE AGREEMENT FOR COST PARTICIPATION WITH HENNEPIN COUNTY AND BROOKLYN PARK FOR TRUNK HIGHWAY 252/I-94 ENVIRONMENTAL REVIEW

WHEREAS, there are currently significant safety and congestion problems along Trunk Highway (TH) 252 within the Cities of Brooklyn Center and Brooklyn Park; and

WHEREAS, in March, 2016, the City of Brooklyn Center adopted the Brooklyn Center TH 252 Corridor Study which contemplated converting TH 252 to a freeway from TH 610 to I-694/I-94; and

WHEREAS, in January 2017, Hennepin County initiated a TH 252 Freeway Conversion Study with the City of Brooklyn Center, City of Brooklyn Park, Minnesota Department of Transportation (MnDOT) and other agencies to study and resolve these problems on TH 252 from 66th Avenue to TH 610; and

WHEREAS, in October 2017, MnDOT in cooperation with the Metropolitan Council, completed their MnPASS System Study Phase 3 which identified TH 252 and I-94 from TH 252 to downtown Minneapolis as a strong candidate for a future MnPASS corridor; and

WHEREAS, the environmental review contemplated in the Cooperative Agreement for Cost Participation will provide full environmental clearance for the interchange at TH 252 and 66th Avenue and pedestrian bridge at 70th Avenue.

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

1. The Cooperative Agreement for Cost Participation with Hennepin County and Brooklyn Park is hereby approved. The Mayor and City Manager are hereby authorized to execute said agreement.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

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

Agreement No. PW 12-02-18
County Project No. 1556
Trunk Highway 252 – Interstate 94
City of Brooklyn Center
City of Brooklyn Park
County of Hennepin

COOPERATIVE AGREEMENT FOR COST PARTICIPATION

THIS AGREEMENT, made and entered into this _____ day of _____, 2018 by and among the **County of Hennepin,** a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "County", and the **City of Brooklyn Center,** a municipal corporation under the laws of the State of Minnesota and the **City of Brooklyn Park,** a municipal corporation under the laws of the State of Minnesota, hereinafter collectively referred to as the "Cities".

WITNESSETH:

WHEREAS, the County is developing a project that includes planning and concept development for the Trunk Highway (TH) 252 corridor from Interstate 694/94 to TH 610 in the cities of Brooklyn Center and Brooklyn Park under County Project No. 1556 (State Project No. 2748-65; State Project No. 2781-502), hereinafter referred to as the "Project"; and

WHEREAS, the Project envisions development of a concept for the conversion of TH 252 from a four/six lane expressway to a four or six lane freeway; and

WHEREAS, the Federal Highway Administration and Minnesota Department of Transportation has directed the County to expand the corridor limits to include Trunk Highway 252 and Interstate 94 from downtown Minneapolis to Trunk Highway 610, hereinafter referred to as the "Expanded Project"; and

WHEREAS, the Expanded Project includes the environmental documentation and review process; and

WHEREAS, the County is the lead agency for the Expanded Project and has entered into an agreement with SRF Consulting Group, Inc. to provide traffic forecasts, conduct traffic analyses, develop detailed conceptual layouts, environmental review and public engagement in order to arrive at a single corridor vision and layout that is supported by the corridor stakeholders. The scope of work includes data collection, alternatives analysis, traffic analysis, preliminary design, implementation plan and extensive public outreach; and

WHEREAS, the County will enter into an amendment to its existing agreement with SRF Consulting Group, Inc. to continue the process of evaluating the conversion concept and additional

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scope added to the Expanded Project to perform environmental documentation and obtain environmental clearance of the Expanded Project; and

WHEREAS, the City of Brooklyn Center anticipates full environmental clearance for their programmed project for an interchange at 66th Avenue and pedestrian bridge at 70th Avenue with the environmental documentation for the Expanded Project; and

WHEREAS, the Cities will participate in the costs incurred by the County to provide environmental documentation and environmental clearance for the Expanded Project as detailed herein; and

WHEREAS, cost participation in the construction of the Expanded Project as well as ownership and maintenance of the improvements constructed under the Project will be established in future cooperative agreements between the State of Minnesota, Cities and the County; and

WHEREAS, it is contemplated that said work be carried out by the parties hereto under the provisions of Minnesota Statutes, Section 162.17, Subdivision 1 and Minnesota Statues, Section 471.59.

NOW THEREFORE, IT IS HEREBY AGREED:

I

The Cities will participate in the costs for environmental documentation and clearance for the conversion of TH 252 from a four/six lane expressway to a four or six lane freeway. As referenced previously, the County has entered into an agreement and subsequent amendment with SRF Consulting Group, Inc. to provide concept development and environmental documentation for the TH 252 corridor at a County cost not to exceed $3,960,000.00. Funding for work to be provided by SRF Consulting Group will be a collaborative effort among the corridor stakeholders as shown below:

Study and Environmental Cost Sharing

Brooklyn Center	$360,000	9.1%
Brooklyn Park	$540,000	13.6%
MnDOT	$1,940,000	49.0%
Hennepin County	$1,120,000	28.3%
	$3,960,000	100.0%

The City of Brooklyn Center shall reimburse the County for nine point one percent (9.1%) of the costs incurred by the County for the work provided by SRF Consulting Group as provided herein. It is understood and agreed that the City of Brooklyn Center's total cost participation shall not exceed $360,000.00 without an amendment to this Agreement. Similarly, the City of Brooklyn Park shall reimburse the County for thirteen point six percent (13.6%) of the costs incurred by the County for the

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work provided by SRF Consulting Group. It is further understood and agreed that the City of Brooklyn Park's total cost participation shall not exceed $540,000.00 without an amendment to this Agreement.

Upon execution of this Agreement, the County will submit periodic invoices to the Cities for their respective shares of the costs for the work provided by SRF Consulting Group. The Cities shall within forty five (45) days of said invoices, deposit with the County funds totaling the amount of the invoices. If either of the Cities have a question regarding any portion of an invoice it receives, the remainder of the invoice shall be promptly paid and include a written explanation of the amounts in question. Payment of any amounts in dispute will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work.

II

All records kept by the Cities and the County with respect to the Expanded Project shall be subject to examination by the representatives of each party hereto and by the State Auditor or the Legislative Auditor as provided in Minnesota Statutes, section 16C.05, subdivision 5.

III

Each party agrees that it will be responsible for its own acts and the results thereof, to the extent authorized by the law, and shall not be responsible for the acts of any other party and the results thereof. The County's and the Cities' liability is governed by the provisions of Minnesota Statutes, Chapter 466.

The County and the Cities each warrant that they are able to comply with the indemnity requirements in Article IV below through an insurance or self-insurance program.

IV

The Cities agree to defend, indemnify and hold harmless the County, its officials, officers, agents, volunteers and employees, from any liabilities, claims, causes of action, judgments, damages, losses, costs or expenses, including, reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the Cities, their contractors, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable for related to the design, construction, ownership, maintenance, existence, restoration, repair or replacement of the improvements constructed as part of the Expanded Project. The Cities' liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

The County agrees to defend, indemnify and hold harmless the Cities, their officials, officers, agents, volunteers and employees, from any liabilities, claims, causes of action, judgments, damages, losses, costs or expenses, including, reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the County, its contractors, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable for related to the design, construction, ownership, maintenance, existence, restoration, repair or replacement of the improvements constructed

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as part of the Expanded Project. The County's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

V

It is agreed that any and all employees of the County and all other persons engaged by the County in the performance of any work or services required or provided for herein to be performed by the County shall not be considered employees of the Cities, and that any and all claims that may or might arise under the Minnesota Economic Security Law or the Workers' Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the Cities.

VI

In order to coordinate the services of the County with the activities of the Cities so as to accomplish the purposes of this Agreement, Mr. John Doan, Administrative Engineer or designated representative shall manage this Agreement on behalf of the County and serve as liaison between the County and the Cities.

In order to coordinate the services of the Cities with the activities of the County so as to accomplish the purposes of this Agreement, the respective City Engineers for the Cities or designated representatives shall manage this Agreement on behalf of the Cities and serve as liaison between the Cities and the County.

VII

It is understood and agreed that the entire agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement. This Agreement is solely for the benefit of the parties. This Agreement shall not create or establish any rights in or for the benefit of any third party.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties hereto.

VIII

The whereas clauses are incorporated herein and are hereby made a part of this Agreement.

IX

The provisions of Minnesota Statutes 181.59 and of any applicable local ordinance relating to civil rights and discrimination and the Affirmative Action Policy statement of Hennepin County shall be considered a part of this Agreement as though fully set forth herein.

(this space left intentionally blank)

WL

IN TESTIMONY WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF BROOKLYN CENTER

(Seal)

By:_____
Mayor

Date:_____

And:_____
Manager

Date:_____

CITY OF BROOKLYN PARK

(Seal)

By:_____
Mayor

Date:_____

And:_____
Manager

Date:_____

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COUNTY OF HENNEPIN

ATTEST:

By:_____
Deputy/Clerk of the County Board

Date:_____

APPROVED AS TO FORM:

By: Julie K. Brinnar
Assistant County Attorney

Date: 3/15/18

By:_____
Chair of its County Board

Date:_____

And:_____
County Administrator

Date:_____

And:_____
Assistant County Administrator, Public Works

Date:_____

APPROVED AS TO EXECUTION:

By:_____
Assistant County Attorney

Date:_____

RECOMMENDED FOR APPROVAL

By:_____
Director, Transportation Project Delivery Department

Date:_____

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City Council Agenda Item No. 6d

COUNCIL ITEM MEMORANDUM

DATE: April 3, 2018

TO: Curt Boganey, City Manager

THROUGH: Doran M. Cote, P.E., Director of Public Works

FROM: Mike Albers, P.E., City Engineer

SUBJECT: Joint Powers Agreements for the Brooklyn Boulevard Corridor Project Phase 1:

Resolution Approving and Authorizing Execution of a Joint Powers Agreement with the City of Minneapolis for the Reconstruction of Brooklyn Boulevard (CSAH 152) from South of 49th Avenue to North of Bass Lake Road (CSAH 10), Improvement Project No 2018-05

Resolution Approving and Authorizing Execution of a Joint Powers Agreement with Three Rivers Park District for the Reconstruction of Brooklyn Boulevard (CSAH 152) from South of 49th Avenue to North of Bass Lake Road (CSAH 10), Improvement Project No 2018-05

Recommendation:
It is recommended that the City Council consider approval of the attached resolutions approving and authorizing execution of a Joint Powers Agreement with the City of Minneapolis and a Joint Powers Agreement with Three Rivers Park District for the Reconstruction of Brooklyn Boulevard (CSAH 152) from south of 49th Avenue to north of Bass Lake Road (CSAH 10), Improvement Project No 2018-05.

Background:
The City completed the Brooklyn Boulevard Corridor Study in 2013 to guide the reconstruction and redevelopment of this corridor. On May 9, 2016, the City Council directed staff to proceed with the preliminary design, environmental documentation, easement acquisition and final design work for the Brooklyn Boulevard Corridor Project Phase 1 (49th Avenue to Bass Lake Road), Project No. 2018-05. This project is scheduled to be constructed in 2018.

The proposed reconstruction and streetscape improvements will improve roadway safety, enhance traffic operations, reduce access points and provide improved bicycle and pedestrian facilities for a 1.4-mile segment of CSAH 152 in Brooklyn Center between 49th Avenue and CSAH 10. The project will enhance bicycle and pedestrian travel by adding a trail, improving sidewalks, transit stops, adding streetscaping and landscaping and improving the functionality of intersections with modified turn lanes.

A portion of the project is located within the corporate boundaries of Minneapolis and a portion of the project is located within the corporate boundaries of Brooklyn Center. The Minneapolis portion of the project includes curb, gutter, sidewalk, driveway and pavement removal, grading, paving, striping, sidewalk, pedestrian ramp, water manhole reconstruction and storm sewer

construction and restoration near the intersection of Brooklyn Boulevard and 49th Avenue as well as the replacement of the traffic signal at said intersection.

The Three Rivers Park District portion of the project includes pavement removal, grading, trail paving, sidewalk, pedestrian ramp and restoration on the west side of Brooklyn Boulevard from north of TH 100 to 55th Avenue.

Budget Issues:
The Brooklyn Boulevard Corridor Project is identified in the City's Capital Improvement Program (CIP) and the updated preliminary project cost estimate is approximately $15,000,000. Federal funding through the Surface Transportation Program has been awarded to the City and County for this project in the amount of $7,420,000 and the remaining project costs are to be funded from local funding as part of the required cost share. The local partnership and proportions are anticipated to include Hennepin County funding, Metro Transit funding, Minneapolis funding, Three Rivers Park District funding and City funding.

As part of the Joint Powers Agreement, Minneapolis shall be responsible for project costs based on the contract price of the actual construction quantities of the Minneapolis portion of the project occurring within its corporate boundaries. Minneapolis will also pay an additional 18 percent of its quantity price to pay its portion of the engineering and administrative costs for the project. The Minneapolis share of project costs is estimated at and shall not to exceed $110,000, unless agreed to in writing by Minneapolis.

As part of the Joint Powers Agreement, Three Rivers Park District is responsible for its share of the project based on the contract price of the actual construction quantity of items attributable to its portion of the project. Three Rivers share of project costs is estimated at and shall not to exceed $10,000.

Cooperative Construction Agreements are currently being reviewed by Hennepin County and Metro Transit and are anticipated to be completed in the near future.

Strategic Priorities:
- Key Transportation Investments

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A JOINT POWERS AGREEMENT WITH THE CITY OF MINNEAPOLIS FOR THE RECONSTRUCTION OF BROOKLYN BOULEVARD (CSAH 152) FROM SOUTH OF 49TH AVENUE TO NORTH OF BASS LAKE ROAD (CSAH 10), IMPROVEMENT PROJECT NO 2018-05

WHEREAS, the Brooklyn Center City Council approved the Brooklyn Boulevard Corridor Study as a planning and development guide for the corridor under Resolution 2013-60; and

WHEREAS, the City's Capital Improvement Program identifies the Brooklyn Boulevard roadway and streetscape improvements from south of 49th Avenue to north of Bass Lake Road to be constructed in 2018; and

WHEREAS, on May 9, 2016, the City Council approved a resolution establishing the improvement project and directed staff to proceed with preliminary design, environmental documentation, easement acquisition and final design as required to meet the Federal Aid Project requirements for the Brooklyn Boulevard Corridor Project Phase 1 (49th Avenue to Bass Lake Road), Project No. 2018-05; and

WHEREAS, the project is multi-jurisdictional, involving the Minnesota Department of Transportation, Hennepin County, the City of Minneapolis, Metro Transit, Three Rivers Park District and the City of Brooklyn Center; and

WHEREAS, a portion of the Project is located within the corporate boundaries of Minneapolis and a portion of the Project is located within the corporate boundaries of Brooklyn Center; and

WHEREAS, Minnesota Statutes, section 471.59 authorizes two or more governmental units to enter into agreements to jointly or cooperatively exercise any power common to the contracting parties or any similar power; and

WHEREAS, Brooklyn Center has prepared an Engineering Layout for the Project; and

WHEREAS, the Minneapolis portion of the project includes curb, gutter, sidewalk, driveway and pavement removal, grading, paving, striping, sidewalk, pedestrian ramp, water manhole reconstruction and storm sewer construction and restoration near the intersection of Brooklyn Boulevard and 49th Avenue as well as the replacement of the traffic signal at said intersection within its corporate limits; and

RESOLUTION NO. _____

WHEREAS, the parties determined it is in their best interests to cooperatively exercise their common powers to undertake the construction of the project according to the terms and conditions of the Joint Powers Agreement.

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

1. The Joint Power Agreement for the Reconstruction of Brooklyn Boulevard (CSAH 152) from south of 49th Avenue to north of Bass Lake Road (CSAH 10) with the City of Minneapolis is hereby approved. The Mayor and City Manager are hereby authorized to execute said agreement.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

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

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A JOINT POWERS AGREEMENT WITH THREE RIVERS PARK DISTRICT FOR THE RECONSTRUCTION OF BROOKLYN BOULEVARD (CSAH 152) FROM SOUTH OF 49TH AVENUE TO NORTH OF BASS LAKE ROAD (CSAH 10), IMPROVEMENT PROJECT NO 2018-05

WHEREAS, the Brooklyn Center City Council approved the Brooklyn Boulevard Corridor Study as a planning and development guide for the corridor under Resolution 2013-60; and

WHEREAS, the City's Capital Improvement Program identifies the Brooklyn Boulevard roadway and streetscape improvements from south of 49th Avenue to north of Bass Lake Road to be constructed in 2018; and

WHEREAS, on May 9, 2016, the City Council approved a resolution establishing the improvement project and directed staff to proceed with preliminary design, environmental documentation, easement acquisition and final design as required to meet the Federal Aid Project requirements for the Brooklyn Boulevard Corridor Project Phase 1 (49th Avenue to Bass Lake Road), Project No. 2018-05; and

WHEREAS, the project is multi-jurisdictional, involving the Minnesota Department of Transportation, Hennepin County, the City of Minneapolis, Metro Transit, Three Rivers Park District and the City of Brooklyn Center; and

WHEREAS, Minnesota Statutes, section 471.59 authorizes two or more governmental units to enter into agreements to jointly or cooperatively exercise any power common to the contracting parties or any similar power; and

WHEREAS, Brooklyn Center has prepared an Engineering Layout for the Project; and

WHEREAS, the Three Rivers Park District portion of the project includes pavement removal, grading, trail paving, sidewalk, pedestrian ramp and restoration on the west side of Brooklyn Boulevard from north of Trunk Highway 100 to 55th Avenue; and

WHEREAS, the parties determined it is in their best interests to cooperatively exercise their common powers to undertake the construction of the project according to the terms and conditions of the Joint Powers Agreement.

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

RESOLUTION NO. _____

1. The Joint Power Agreement for the Reconstruction of Brooklyn Boulevard (CSAH 152) from south of 49th Avenue to north of Bass Lake Road (CSAH 10) with Three Rivers Park District is hereby approved. The Mayor and City Manager are hereby authorized to execute said agreement.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

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

JOINT POWERS AGREEMENT BY AND BETWEEN THE CITY BROOKLYN CENTER AND CITY OF MINNEAPOLIS FOR THE RECONSTRUCTION OF BROOKLYN BOULEVARD (CSAH 152) FROM SOUTH OF 49TH AVENUE TO NORTH OF BASS LAKE ROAD (CSAH 10) IMPROVEMENT PROJECT NO. 2018-05

THIS JOINT POWERS AGREEMENT ("Agreement") is entered into by and between the **CITY OF BROOKLYN CENTER,** a Minnesota municipal corporation ("Brooklyn Center") and the **CITY OF MINNEAPOLIS**, a Minnesota municipal corporation ("Minneapolis"). Brooklyn Center and Minneapolis may hereinafter be referred to individually as a "party" or jointly as the "parties."

RECITALS

A. The parties desire to undertake a project to reconstruct Brooklyn Boulevard (CSAH 152) from south of 49th Avenue to north of Bass Lake Road (CSAH 10), which is identified as Improvement Project No. 2018-05 (the "Project").

B. A portion of the Project is located within the corporate boundaries of Minneapolis and a portion of the Project is located within the corporate boundaries of Brooklyn Center

C. Minnesota Statutes, section 471.59 authorizes two or more governmental units to enter into agreements to jointly or cooperatively exercise any power common to the contracting parties or any similar power.

D. The Metropolitan Council and the Three Rivers Park District are also cooperating in the construction of the overall Project through separate agreements with Brooklyn Center.

E. Brooklyn Center has prepared an Engineering Layout for the Project, which is attached hereto as Exhibit A and is made part of this Agreement (the "Layout").

F. The Minneapolis portion of the Project includes curb, gutter, sidewalk, driveway and pavement removal, grading, paving, striping, sidewalk, pedestrian ramp, water manhole reconstruction, and storm sewer construction and restoration near the intersection of Brooklyn Boulevard and 49th Avenue as well as the replacement of the traffic signal at said intersection within its corporate limits (collectively, the "Minneapolis Elements").

G. The parties determine it is in their best interests to cooperatively exercise their common powers to undertake the construction of the Project according to the terms and conditions of this Agreement.

AGREEMENT

In consideration of the mutual undertakings and understandings expressed herein, the parties hereby agree as follows:

1. PLANS AND SPECIFICATIONS. Brooklyn Center has prepared plans and specifications for the Project dated February 26, 2018 (collectively, the "Plans") consistent with Brooklyn Center and Minneapolis design standards. The improvements addressed by this Agreement are generally depicted in the 95% Plan Submittal and Engineer's Estimate of Probable Costs included as part of the Plans. The Plans are incorporated in and made part of this Agreement by reference.

2. CONTRACT ADMINISTRATION. Brooklyn Center shall be responsible for preparing the contract documents and for advertising for bids for the construction of the Project in accordance with the Uniform Municipal Contracting Law and all other applicable laws. Brooklyn Center shall enter into a contract with the approved bidder ("Construction Contract"). Brooklyn Center shall be solely responsible for administering the contracts it lets and for managing construction of the Project.

3. CONSTRUCTION. Brooklyn Center shall be responsible for overseeing and managing the construction of the Project in accordance with the Layout, Plans, applicable laws, and this Agreement. This responsibility includes preparing and maintaining construction quantity tabulations for all materials used for the Project. The tabulation of quantities shall identify the materials and the portions attributable to each party's portion of the Project.

4. COST ALLOCATION. Minneapolis shall be responsible for Project costs based on the contract price of the actual construction quantities of the Minneapolis Elements of the portion of the Project occurring within its corporate boundaries ("Quantity Price"). Minneapolis shall also pay an additional 18% of its Quantity Price to pay its portion of the engineering and administrative costs for the Project ("Administrative Costs"). The total Project cost to be shared by the parties is estimated at $10,700,000. Minneapolis' share, including the Quantity Price and the Administrative Costs, is estimated at and shall not exceed $111,000, unless agreed to in writing by Minneapolis. Staff time and other employee costs of the parties are not part of the Project costs and are not to be paid or reimbursed through this Agreement.

5. PAYMENT. Brooklyn Center shall bill Minneapolis for its portion of the Project costs based on its Quantity Price and Administrative Costs as indicated above. The bill shall itemize the quantity of items attributable to Minneapolis's portion of the Project. Minneapolis shall pay the bills in full within 30 days of receipt. If Minneapolis has a question regarding any portion of a bill it receives, the remainder of the bill shall be promptly paid and include a written explanation of the amounts in question. Payment of any amounts in dispute will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work.

6. CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS. Any change orders or supplemental agreements that affect the Project cost payable by Minneapolis and/or changes to the Layout or Plans that affect property within Minneapolis corporate boundaries must be approved by Minneapolis prior to execution of work.

7. OWNERSHIP. Each party shall retain ownership of their respective portions of the Project.

Minneapolis delegates to Brooklyn Center such authority and permissions as may be needed to construct the Project on its property, but nothing in this Agreement is intended to transfer ownership or maintenance responsibility for any of the property or facilities improved or placed as part of the Project. Each party shall remain responsible for the operation and maintenance of its respective properties and facilities.

8. FUTURE MAINTENANCE. The parties shall be responsible for ongoing future maintenance of Project infrastructure located within their respective corporate boundaries.

9. COMPLIANCE. Brooklyn Center shall incorporate Minnesota Department of Transportation standard specifications, rules and contract administration procedures into its Construction Contract. Each party shall be responsible for complying with any legal requirements applicable to their respective obligations under this Agreement.

10. TERM. This Agreement shall commence as of the date of the last party to execute it and shall continue until the Project is completed and all required payments have been made. The indemnification and audit obligations shall survive the termination of this Agreement.

11. INDEMNIFICATION. The Project is a joint venture and, pursuant to Minnesota Statutes, section 471.59, subdivision 1a, the parties shall be considered a single governmental unit for the purposes of determining total liability. Neither party is agreeing to accept responsibility for the acts or omission of the other party. Brooklyn Center agrees to defend, indemnify, and hold harmless Minneapolis against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of Brooklyn Center and/or those of Brooklyn Center employees or agents. Minneapolis agrees to defend, indemnify, and hold harmless Brooklyn Center against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of Minneapolis and/or those of Minneapolis employees or agents. Under no circumstances, however, shall a party be required to pay on behalf of itself and the other party any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one party. The intent of this section is to impose on each party a limited duty to defend and indemnify each other subject to the limits of liability under Minnesota Statutes, chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among the parties and to permit liability claims against both parties from a single occurrence to be defended by a single attorney.

12. WAIVER. Any and all persons engaged in the work to be performed by Brooklyn Center shall not be considered employees of Minneapolis for any purpose, including Worker's Compensation and any other employment related claims. Any and all claims made by any third party as a consequence of any act or omission on the part of Brooklyn Center employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of Minneapolis. Similarly, Brooklyn Center shall not be responsible for the employees of Minneapolis or any third-party claims arising from their acts or omissions.

13. AUDITS. Pursuant to Minnesota Statutes, section 16C.05, subdivision 5, any books, records, documents, and accounting procedures and practices of Brooklyn Center and Minneapolis relevant to the Agreement are subject to examination by Brooklyn Center, Minneapolis, and either the Legislative Auditor or the State Auditor as appropriate. Brooklyn Center and Minneapolis agree to maintain these records for a period of six years from completion of the Project.

14. ENTIRE AGREEMENT. This document, including the recitals, the exhibits, and any documents incorporated by reference, shall constitute the entire agreement between the parties regarding construction of the Project. This Agreement supersedes all prior negotiations, representations, or agreements between Brooklyn Center and Minneapolis regarding the Project, whether written or oral. No modifications to this Agreement shall be in effect unless they are reduced to writing and are signed by both parties.

15. NO THIRD PARTY RIGHTS. This Agreement is solely for the benefit of the parties. This Agreement shall not create or establish any rights in or for the benefit of any third party.

16. APPLICABLE LAW. This Agreement shall be interpreted under the laws of Minnesota.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their duly authorized officials effective as of the date of the last party to execute it.

CITY OF BROOKLYN CENTER	**CITY OF MINNEAPOLIS**
BY: _____ Tim Willson, Mayor	BY: _____ Its Public Works Director
AND _____ Cornelius Boganey, City Manager	BY: _____ Its City Attorney
	BY: _____ Its Finance Officer
Date: _____	Date: _____

JOINT POWERS AGREEMENT FOR THE RECONSTRUCTION OF BROOKLYN BOULEVARD (CSAH 152) FROM SOUTH OF 49TH AVENUE TO NORTH OF BASS LAKE ROAD (CSAH 10) IMPROVEMENT PROJECT NO. 2018-05

THIS JOINT POWERS AGREEMENT ("Agreement") is entered into by and between the **CITY OF BROOKLYN CENTER,** a Minnesota municipal corporation ("Brooklyn Center") and the **THREE RIVERS PARK DISTRICT**, a Minnesota political subdivision ("Three Rivers"). Brooklyn Center and Three Rivers may hereinafter be referred to individually as a "party" or jointly as the "parties."

RECITALS

A. The parties desire to undertake a project to reconstruct Brooklyn Boulevard (CSAH 152) from south of 49th Avenue to north of Bass Lake Road (CSAH 10), which is identified as Improvement Project No. 2018-05 (the "Project").

B. Minnesota Statutes, section 471.59 authorizes two or more governmental units to enter into agreements to jointly or cooperatively exercise any power common to the contracting parties or any similar power.

C. The Metropolitan Council and the City of Minneapolis are also cooperating in the construction of the overall Project through separate agreements with Brooklyn Center.

D. The Three Rivers Park District portion of the Project includes pavement removal, grading, trail paving, sidewalk, pedestrian ramp and restoration on the west side of Brooklyn Boulevard from north of TH 100 to 59th Avenue.

E. The parties determine it is in their best interests to cooperatively exercise their common powers to undertake the construction of the Project according to the terms and conditions of this Agreement.

AGREEMENT

In consideration of the mutual undertakings and understandings expressed herein, the parties hereby agree as follows:

1. PLANS AND SPECIFICATIONS. Brooklyn Center has prepared plans and specifications for the Project dated February 26, 2018 (collectively, the "Plans") consistent with Brooklyn Center and Three Rivers design standards. The improvements addressed by this Agreement are generally depicted in the 95% Plan Submittal and Engineer's Estimate of Probable Costs included as part of the Plans. The Plans are incorporated in and made part of this Agreement by reference.

2. CONTRACT ADMINISTRATION. Brooklyn Center shall be responsible for developing and letting contracts for the Project in accordance with the Uniform Municipal Contracting

Law and all other applicable laws. Brooklyn Center shall be responsible for administering the contracts it lets for the Project.

3. CONSTRUCTION. Brooklyn Center shall be responsible for overseeing and managing the construction of the Project in accordance with the Plans and applicable laws. This responsibility includes preparing and maintaining construction quantity tabulations for all materials used for the Project. The tabulation of quantities shall identify the materials and the portions attributable to each party's portion of the Project.

4. COST ALLOCATION. Three Rivers shall pay for its share of the Project based on the contract price of the actual construction quantity of items attributable to its portion of the Project ("Quantity Price"). Three Rivers share of Project costs shall not exceed $10,000. Staff time and other employee costs of the parties are not part of the Project costs and are not to be paid or reimbursed through this Agreement.

5. PAYMENT. Brooklyn Center shall bill Three Rivers for its portion of the Project costs based on its Quantity Price as indicated above. The bill shall itemize the quantity of items attributable to Three Rivers' portion of the Project. Three Rivers shall pay the bills in full within 30 days of receipt. If Three Rivers has a question regarding any portion of a bill it receives, the remainder of the bill shall be promptly paid and include a written explanation of the amounts in question. Payment of any amounts in dispute will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work.

6. OWNERSHIP. Each party shall retain ownership of their respective portions of the Project. Three Rivers delegates to Brooklyn Center such authority and permissions as may be needed to construct the Project on its property, but nothing in this Agreement is intended to transfer ownership or maintenance responsibility for any of the property or facilities improved or placed as part of the Project. Each party shall remain responsible for the operation and maintenance of its respective properties and facilities.

7. COMPLIANCE. Brooklyn Center shall abide by Minnesota Department of Transportation standard specifications, rules and contract administration procedures. Each party shall be responsible for complying with any legal requirements applicable to their respective obligations under this Agreement.

8. TERM. This Agreement shall commence as of the date of the last party to execute it and shall continue until the Project is completed and all required payments have been made. The indemnification and audit obligations shall survive the termination of this Agreement.

9. INDEMNIFICATION. The Project is a joint venture and, pursuant to Minnesota Statutes, section 471.59, subdivision 1a, the parties shall be considered a single governmental unit for the purposes of determining total liability. Neither party is agreeing to accept responsibility for the acts or omission of the other party. Brooklyn Center agrees to defend, indemnify, and hold harmless Three Rivers against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent

acts or omissions of Brooklyn Center and/or those of Brooklyn Center employees or agents. Three Rivers agrees to defend, indemnify, and hold harmless Brooklyn Center against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of Three Rivers and/or those of Three Rivers employees or agents. Under no circumstances, however, shall a party be required to pay on behalf of itself and the other party any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one party. The intent of this section is to impose on each party a limited duty to defend and indemnify each other subject to the limits of liability under Minnesota Statutes, chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among the parties and to permit liability claims against both parties from a single occurrence to be defended by a single attorney.

10. WAIVER. Any and all persons engaged in the work to be performed by Brooklyn Center shall not be considered employees of Three Rivers for any purpose, including Worker's Compensation and any other employment related claims. Any and all claims made by any third party as a consequence of any act or omission on the part of Brooklyn Center employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of Three Rivers. Similarly, Brooklyn Center shall not be responsible for the employees of Three Rivers or any third-party claims arising from their acts or omissions.

11. AUDITS. Pursuant to Minnesota Statutes, section 16C.05, subdivision 5, any books, records, documents, and accounting procedures and practices of Brooklyn Center and Three Rivers relevant to the Agreement are subject to examination by Brooklyn Center, Three Rivers, and either the Legislative Auditor or the State Auditor as appropriate. Brooklyn Center and Three Rivers agree to maintain these records for a period of six years from completion of the Project.

12. ENTIRE AGREEMENT. This document, including the recitals, the exhibits, and any documents incorporated by reference, shall constitute the entire agreement between the parties regarding construction of the Project. This Agreement supersedes all prior negotiations, representations, or agreements between Brooklyn Center and Three Rivers regarding the Project, whether written or oral. No modifications to this Agreement shall be in effect unless they are reduced to writing and are signed by both parties.

13. NO THIRD PARTY RIGHTS. This Agreement is solely for the benefit of the parties. This Agreement shall not create or establish any rights in or for the benefit of any third party.

14. APPLICABLE LAW. This Agreement shall be interpreted under the laws of Minnesota.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed by

their duly authorized officials effective as of the date of the last party to execute it.

CITY OF BROOKLYN CENTER

BY: _____
Tim Willson, Mayor

AND: _____
Cornelius Boganey, City Manager

Date: _____

THREE RIVERS PARK DISTRICT

BY: _____
Boe R. Carlson, Superintendent and
Secretary to the Board

Date: _____

City Council Agenda Item No. 6e

COUNCIL ITEM MEMORANDUM

DATE: April 3, 2018

TO: Curt Boganey, City Manager

THROUGH: Doran Cote, P.E., Director of Public Works

FROM: Andrew Hogg, P.E., Assistant City Engineer

SUBJECT: Resolution Approving Final Plat for NORTHBROOK CENTER 3RD ADDITION

Recommendation:
It is recommended that the City Council consider the resolution approving final plat for NORTHBROOK CENTER 3RD ADDITION.

Background:
The attached final plat for NORTHBROOK CENTER 3RD ADDITION would create two lots at the northwest corner of 57th Avenue North and Logan Avenue North. The City Council approved the proposed preliminary plat based upon certain conditions per City Council Resolution No. 2018-62. Staff reviewed the NORTHBROOK CENTER 3RD ADDITION final plat and found it consistent with the previously preliminary plat approved as a part of Planning Commission Resolution No. 2018-001.

The Applicant is now seeking final plat approval from the City Council. The final plat is in general conformance with the approved preliminary plat. The final plat is recommended for approval subject to the conditions established by the City Engineer, conditions established by the City Attorney and based on a review of an updated title commitment provided by the Applicant (within the past 30 days), conditions as previously approved by the City Council and any conditions established by Hennepin County and the Minnesota Department of Transportation for recording of the plat documents.

Budget Issues:
There are no budget issues to consider.

Strategic Priorities:
- Targeted Redevelopment

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING FINAL PLAT FOR NORTHBROOK CENTER 3RD ADDITION

WHEREAS, the City Council approved the proposed preliminary plat for NORTHBROOK CENTER 3RD ADDITION based on certain conditions as set forth in City Council Resolution No. 2018-62; and

WHEREAS, the Applicant has applied for approval of the final plat for NORTHBROOK CENTER 3RD ADDITION as required by City Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota that the final plat for NORTHBROOK CENTER 3RD ADDITION is hereby approved, subject to the following conditions:

1. Conditions as previously required by the City Council pertaining to the development's Preliminary Plat approval in accordance with City Council Resolution No. 2018-62.

2. Conditions as previously recommended by the Planning Commission pertaining to the final plat in accordance with Planning Commission Resolution No. 2018-001.

3. All recommendations and conditions as noted in the Assistant City Engineer's memorandum dated March 6, 2018.

4. Evidence of title satisfactory to the City Attorney and City Engineer.

5. Any other conditions as established by Hennepin County and the Minnesota Department of Transportation for recording of said Final Plat.

6. Prior to release by the City of the final, approved plat, the owner must reimburse the City the full amount of legal fees incurred by the City in obtaining a review or opinion of title.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

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

NORTHBROOK CENTER 3RD ADDITION

R.T. DOC. NO. _____

THE EAST LINE OF NORTH BROOK 2ND ADDITION, IS ASSUMED TO HAVE A BEARING OF NORTH 01°17'42" EAST.

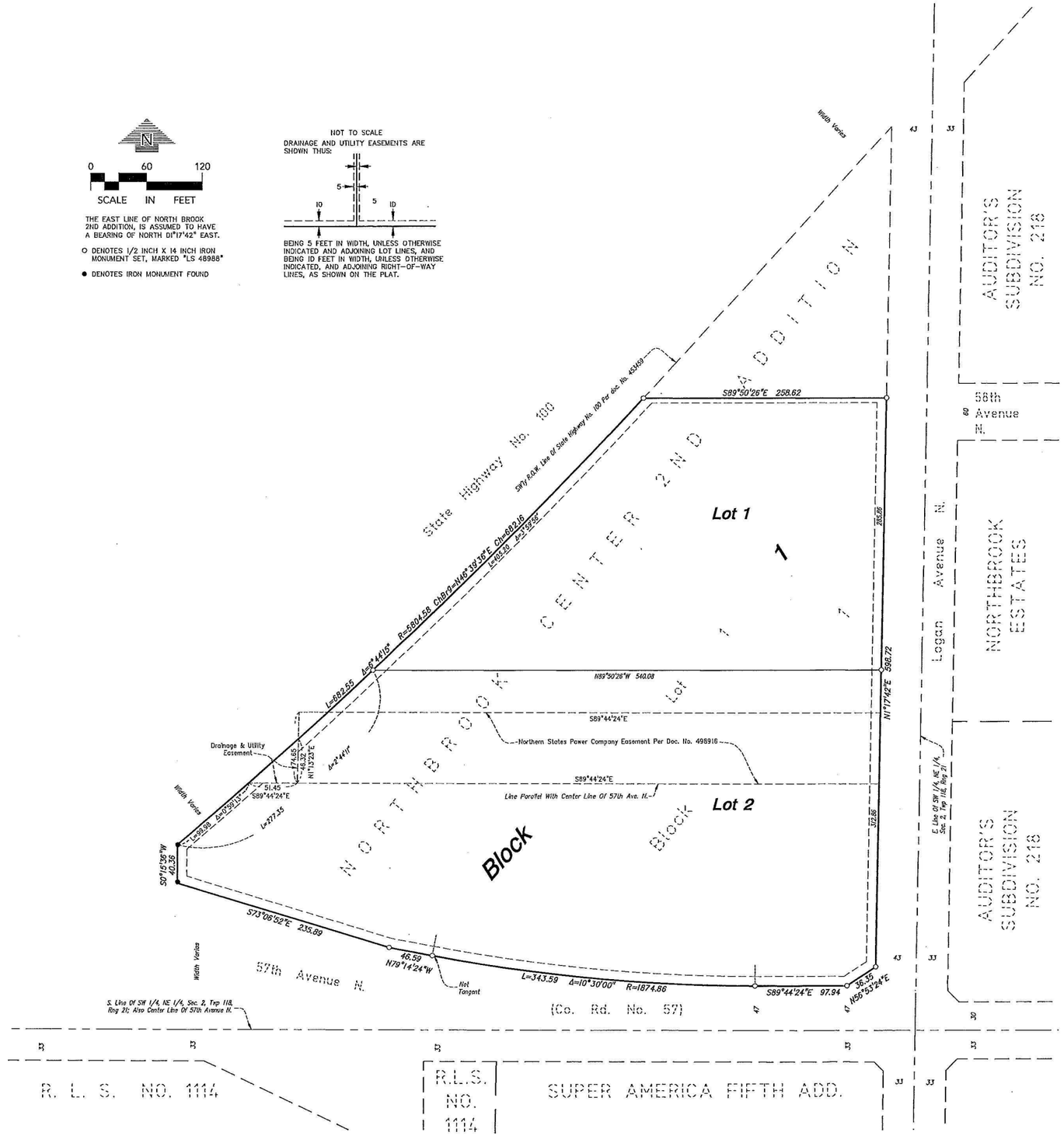
O DENOTES 1/2 INCH X 14 INCH IRON MONUMENT SET, MARKED "LS 48988"

● DENOTES IRON MONUMENT FOUND

NOT TO SCALE

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:

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



KNOW ALL PERSONS BY THESE PRESENTS: That Economic Development Authority of Brooklyn Center, a public body corporate and politic, of the following described property situated in the County of Hennepin, State of Minnesota, to wit:

Lot 1, Block 1, NORTHBROOK CENTER 3RD ADDITION

Has caused the same to be surveyed and platted as NORTHBROOK CENTER 3RD ADDITION, and does hereby grant to the City of Brooklyn Center the easements for drainage and utility purposes as shown on this plat.

In witness whereof said Economic Development Authority of Brooklyn Center, a public body corporate and politic, has caused these presents to be signed by its proper officer this _____ day of _____, 20_____.

ECONOMIC DEVELOPMENT AUTHORITY OF BROOKLYN CENTER

_____ Tim Willson, President

_____ Curt Boganey, Executive Director

STATE OF MINNESOTA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by Tim Willson, as President and Curt Boganey, as Executive Director of Economic Development Authority of Brooklyn Center, a public body corporate and politic, on behalf of the public body.

_____
(Signature)

_____
(Printed Name)

Notary Public, _____ County, Minnesota
My Commission Expires _____

I, Max L. Stanislowski, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed 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_____.

_____
Max L. Stanislowski, Licensed Land Surveyor,
Minnesota License No. 48988

STATE OF MINNESOTA
COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by Max L. Stanislowski, a Licensed Land Surveyor.

_____
(Signature)

_____
(Printed Name)

Notary Public, _____ County, Minnesota
My Commission Expires _____

BROOKLYN CENTER, MINNESOTA

This plat of NORTHBROOK CENTER 3RD ADDITION was approved and accepted by the City Council of Brooklyn Center, Minnesota, at a regular meeting thereof held this _____ day of _____, 20_____. If applicable, the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the Brooklyn Center or the prescribed 30-day period has elapsed without receipt of such comments and recommendations, as provided by Minnesota Statutes, Section 505.03, Subdivision 2.

City Council of Brooklyn Center, Minnesota

By: _____, Mayor By: _____, Clerk

RESIDENT AND REAL ESTATE DEPARTMENT, 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 Minnesota Statutes Section 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 NORTHBROOK CENTER 3RD ADDITION was filed in this office this _____ day of _____, 20_____, at _____ o'clock ____M.

Martin McCormick, Registrar of Titles

By: _____, Deputy

LOUCKS

City Council Agenda Item No. 6f

COUNCIL ITEM MEMORANDUM

DATE: April 3, 2018

TO: Curt Boganey, City Manager

FROM: Dolan Cote, P.E., Director of Public Works

SUBJECT: Resolution Accepting Bid and Awarding a Contract, Improvement Project No. 2018-09, Water Tower No. 2 and Water Tower No. 3 Rehabilitation

Recommendation:
It is recommended that the City Council consider approval of the lowest responsible bid and award a contract to TMI Coatings, Inc. for Improvement Project No. 2018-09, Water Tower No. 2 and Water Tower No. 3 Rehabilitation.

Background:
Bids for the Water Tower No. 2 and Water Tower No. 3 Rehabilitation, Project No. 2018-09, were received and opened on March 16, 2018. The bidding results are tabulated below:

Bidder	Schedule A	Schedule B	Total Base Bid
TMI Coatings, Inc.	$696,000	$1,391,000	$2,087,000
Classic Protective Coatings, Inc.	$1,034,680	$1,432,235	$2,466,915

The updated estimated project cost provided by the consulting engineer prior to bidding was $1,500,000. The bids included a Schedule A which was to complete Water Tower No. 3 rehabilitation and Schedule B which was a complete rehabilitation of Water Tower No. 2. Both bids were higher than the estimate for both Schedule A and Schedule B.

The City's design engineer, Badger State Inspection, LLC (BSI) evaluated the bids and recommended that the bids be rejected based on the bid amounts. In his recommendation letter, the engineer indicated his estimate of $375,000 for Water Tower No. 3 was based on what he believed remains in the budget from the previous project. The actual remaining budget is $520,000 which is much closer to the bid amount. The engineer also indicated that his estimate for Water Tower No. 2 was low and subsequent to the bid opening revised the estimates to $550,000 for Water Tower No. 3 and $1,350,000 for Water Tower No. 2 for a total of $1,900,000.

Although it was initially suggested that all bids be rejected for the Water Tower Nos. 2 and 3 painting project, staff has been reaching out to references provided by the apparent low bidder. The reference checks have proven that the apparent low bidder is competent and qualified to complete the work and other communities have been very satisfied with their work. Additional financial review has been completed internally and, although the bids were higher than the estimates, the City has the capability to fund the project if desired.

COUNCIL ITEM MEMORANDUM

Budget Issues:
The low bid amount of $2,087,000 exceeds the budgeted amount of $1,920,000 which includes $520,000 remaining in the budget for the previous Water Tower No. 3 contract. The total estimated budget in the Capital Improvement Plan was $1,300,000 for Water Tower No. 3 and $1,400,000 for Water Tower No. 2 including contingencies, administration, engineering and legal for a total of $2,700,000 for the two towers.

Strategic Priorities:
- Enhanced Community Image

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION ACCEPTING BID AND AWARDING CONTRACT, IMPROVEMENT PROJECT NO. 2018-09, WATER TOWER NO. 2 AND WATER TOWER NO. 3 REHABILITATION

WHEREAS, pursuant to an advertisement for bids for Improvement Project No. 2018-09, two bids were received, opened and tabulated by the City Engineer on the 16th day of March, 2018. Said bids were as follows:

Bidder	Schedule A	Schedule B	Total Base Bid
TMI Coatings, Inc.	$696,000	$1,391,000	$2,087,000
Classic Protective Coatings, Inc.	$1,034,680	$1,432,235	$2,466,915

WHEREAS, it appears that TMI Coatings, Inc., of Saint Paul, Minnesota is the lowest responsible bidder.

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

1. The Mayor and City Manager are hereby authorized and directed to enter into a contract with TMI Coatings, Inc. of Saint Paul, Minnesota, in the name of the City of Brooklyn Center, for Improvement Project No. 2018-09, according to the plans and specifications therefore approved by the City Council and on file in the office of the City Engineer.

2. The estimated project costs and revenues are as follows:

COSTS	Estimated	Amended per Low Bid
Construction Cost	$1,900,000.00	$2,087,000.00
Engineering and Administrative	$ 145,000.00	$ 145,000.00
Contingency	$ 100,000.00	$ 100,000.00
TOTAL	$2,145,000.00	$2,332,000.00

REVENUES	Estimated	Amended per Low Bid
Water Fund	$2,145,000.00	$2,332,000.00

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

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

BADGER STATE INSPECTION, LLC

Water Tower Inspection
Evaluations, Specifications, Reconditioning and Antenna Services
P.O. Box 157 Osseo, WI 54758 715-533-8686

March 17, 2018

Mr. Michael Marsh **By: Email**

Deputy Director of Public Works
City of Brooklyn Center
6844 Shingle Creek Parkway
Brooklyn Center, MN 55430.

Re: Bid Evaluation for the Completion of the Remaining Work on the Tower No. 3 Water Tower and the Full Reconditioning and Painting Project for the Tower No. 2 water Tower, for the City of Brooklyn Center, Minnesota.
Recommendation: Reject all Bids

Dear Mr. Marsh:

The bid opening for the above referenced project was held on March 16, 2018 at 10:00 a.m. The following two (2) bids were received as follows:

BIDDER	TOTAL BID AMOUNT
Classic Protective Coatings	$2,466,915
TMI Coatings, Inc.	$2,078,000

The Engineer's cost estimate for this project was: $1,493,570.

The bids were broken u\p into two schedules, Schedule A which included the remaining items to be completed on the Tower No. 3 water tower, these bids came at:

Tower No. 3 Remaining work:	**Bid Amount**
Classic Protective Coatings	$1,024,680
TMI Coatings, Inc.	$ 696,000

*The Engineer's cost estimate for this project was: $375,000

Note* The Engineer's Cost Estimate was based upon the remaining dollar amount left from last year's project that was not paid the other contractor.

Tower No. 2 Full Reconditioning and Painting:	**Bid Amount**
Classic Protective Coatings	$1,432,235
TMI Coatings, Inc.	$1,391,000
The Engineer's cost estimate for this project was:	$1,128,500

Bid Results:

The bids on both projects were well above the engineers estimate. It is our opinion that there were reasons for the lack of bidders and the unusually high bid numbers. These include:

1) There are only about 5 contractors that bid the larger projects (1.0 million gallons and larger) in our area.
2) The bidders were already booked for this time schedule and they were needing looking for work. Basically, there work load for their crews this year is full. The fact that we had only two bidders bidding on the project also leads me to believe this is the case.
3) The combined project could have not have been bid earlier because the contract was not terminated with V & T Painting until January 11, 2018. This delayed start on the specifications caused a later bid date that we wanted.
4) Our estimate for the numbers we used for the Tower 3 was the remaining dollar amount left on the contract.
5) When I spoke with the contractors they had concerns with the remaining work on the Tower 3 project. They didn't like the fact that there was no containment required and they put numbers in the bid to contain the tower. They were afraid of overspray on vehicles along the highway and the golf course.
6) They said access to the tower 3 project contributed to their costs.
7) The amount of coating repair (Spot blasting and painting) required also contributed to the higher costs.

BSI is recommending to the City to reject all bids.

Recommendation:

1. Rebid Tower No. 3 within the next 3 weeks for a late summer (Sept 4 Start) 2018 project with a completion date of October 15, 2018. Revise the cost estimate to around $550,000 which will include containment.
2. Rebid Tower No.2 within the next 2 months for a Spring 2019 Project. The sooner this project can get out for Bidding for a next year (2019) project, the more contractors we can get to bid the project and we should get better prices. In doing the early bidding, we should be able to generate more interest from Contractor's and get a jump start for their next year projects. Revise the cost estimate to $1,350,000.

After speaking with contractors and listening to their concerns, we will adjust some of them in the revised specification and we will also adjust our budget estimates, below is our revised overall cost estimate:

Tower 3	$550,000
Tower 2	$1,350,000
Overall Costs	$1,900,000

If you have any questions regarding BSI's recommendation please call me at 715/ 533-8686.

Sincerely,

BADGER STATE INSPECTION, LLC

Kelly C. Mulhern,
Owner,
Certified NACE International Coatings Inspector No. 1692
AWS CWI Certification 95041101

City Council Agenda Item No. 6g

COUNCIL ITEM MEMORANDUM

DATE: April 9, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director MB

FROM: Ginny McIntosh, City Planner/Zoning Administrator gmm

SUBJECT: An Ordinance Amending Chapter 35 of the City Code of Ordinances Regarding the Zoning Classification of Certain Land Generally Located in the Southeast Section of the City, Generally Situated Between Highway 100 to the West and North, Logan Avenue North to the East, and 57th Avenue North to the South, and Locally Identified as 1950 57th Avenue North

- *Motion to approve First Reading of Ordinance and set Second Reading and Public Hearing for May 14, 2018*

Recommendation:
It is recommended that City Council make a Motion to approve the First Reading of the Ordinance authorizing the amendment of Chapter 35 of the City Code of Ordinances regarding the zoning classification of certain land generally located in the southeast section of the City, generally located between Highway 100 to the west and north, Logan Avenue North to the east, and 57th Avenue North to the south, and locally identified as 1950 57th Avenue North. It is further recommended that a Second Reading and Public Hearing be set for the May 14, 2018, City Council meeting.

Background:
On March 15, 2018, the Planning Commission conducted a public hearing on Planning Commission Application No. 2018-001, submitted by Greg Hayes of Ebert Construction, for approval of the Preliminary Plat for Northbrook Center 3rd Addition, which would subdivide an existing 7.32 acre lot into two lots. As proposed, the approximately 2.6 acres (proposed Lot 1) would be conveyed to the Applicant, Ebert Construction, and the remaining approximately 4.72 acres (proposed Lot 2) would remain under ownership of the City of Brooklyn Center until a developer was identified at a later time. This request was associated with additional requests by the Applicant under Planning Commission Application No. 2018-001 to establish a new Planned Unit Development (PUD) and approve site and building plans for the proposed four-story, 112,000-square foot indoor commercial storage building.

The Planning Commission reviewed the aforementioned requests as part of the public hearing process and voted unanimously in favor (7-0) of the proposed subdivision (Preliminary Plat of Northbrook Center 3rd Addition). Following a review of the request to establish a Planned Unit Development and the submitted site and building plans, the Planning Commission voted 5-2 in favor of the proposed indoor commercial storage building.

COUNCIL ITEM MEMORANDUM

The Planning Commission Resolutions approved as part of this request were 2018-001 and 2018-002. On March 26, 2018, the City Council reviewed Application No. 2018-001. Following review of the Application and requests, City Council voted unanimously (5-0) in favor of the requests and approved City Council Resolution Nos. 2018-62 and 2018-63.

The approved request to establish a Planned Unit Development on an approximately 2.6 acre portion of the Subject Property requires that this portion be re-zoned from its currently designated C2 (Commerce) District to PUD-C2 (Planned Unit Development-Commerce) District. This is per Section 35-355 (*Planned Unit Development*) of the City Zoning Code. Additionally, an amendment to Chapter 35 of the City Zoning Code is required to reflect this change in zoning designation.

As part of this amendment, the existing description of the Subject Property, identified under Section 35-1190 (*Commerce District*) as, "that area bounded by the following: Logan Avenue on the east; 57th Avenue on the south; State Highway No. 100 on the west and north," has been adjusted to provide clear identification as to which parcels are to remain zoned C2 (Commerce) District, and which parcel is to be re-zoned to PUD-C2 (Planned Unit Development-Commerce) District as part of this request. A copy of the draft ordinance is included for review.

The Planning Commission Report (dated March 15, 2018), which outlines the requests, and copies of City Council Resolution Nos. 2018-62 (Preliminary Plat for the Northbrook Center 3rd Addition) and No. 2018-63 (Establishment of a New Planned Unit Development and Site and Building Plan), are attached for the City Council's review.

Budget Issues:
There are no budget issues to consider.

Strategic Priorities:
- Targeted Redevelopment

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of _____, 2018, at 7:00 p.m. or as soon thereafter as the matter may be heard at City Hall, 6301 Shingle Creek Parkway, to consider an Ordinance amending Chapter 35 of the City Ordinances regarding the zoning classification of certain land, generally located in the southeast section of the City, generally situated between Highway 100 to the west and north, Logan Avenue North to the east, and 57th Avenue North to the south, and locally identified as 1950 57th Avenue North.

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

ORDINANCE NO. 2018-_____

AN ORDINANCE AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING THE ZONING CLASSIFICATION OF CERTAIN LAND GENERALLY LOCATED IN THE SOUTHEAST SECTION OF THE CITY, GENERALLY SITUATED BETWEEN HIGHWAY 100 TO THE WEST AND NORTH, LOGAN AVENUE NORTH TO THE EAST, AND 57TH AVENUE NORTH TO THE SOUTH, AND LOCALLY IDENTIFIED AS 1950 57TH AVENUE NORTH

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

Section 1. Chapter 35 of the City Ordinances of the City of Brooklyn Center is hereby amended in the following manner:

Section 35-1190. COMMERCE DISTRICT (C2). The following properties are hereby established as being within the (C2) Commerce District zoning classification:

~~That area bounded by the following: Logan Avenue on the east; 57th Avenue on the south; State Highway No. 100 on the west and north.~~

Outlot A, Northbrook Center 2nd Addition.

Lot 2, Block 1, Northbrook Center 3rd Addition.

Section 35-1240. PLANNED UNIT DEVELOPMENT DISTRICT (PUD). The following properties are hereby established as being within a (PUD) Planned Unit Development District Zoning Classification:

4. The following properties are designated as PUD/C2 (Planned Unit Development/Commerce):

Lot 1, Block 1, Northbrook Center 3rd Addition.

Section 2. This ordinance shall become effective after adoption, recording of the final plat of Northbrook Center 3rd Addition with the Hennepin County Recorder or Registrar, and upon thirty days following this ordinance's legal publication.

Adopted this _____ day of _____, 2018.

_____
Mayor

ATTEST:_____
City Clerk

Date of Publication _____

Effective Date _____

(Note: (~~Strikeout~~ text indicates matter to be deleted, while underline indicates new matter.

ITEM 6.a

Planning Commission Report

Meeting Date: March 15, 2018

- Application Filed: 02/13/2018
- Review Period (60-day) Deadline: 04/14/2018
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

Application No.	2018-001
Applicant:	Greg Hayes (Ebert Construction)
Location:	1950 57th Avenue North
Request:	**(1)** Preliminary Plat of the Northbrook Center 3rd Addition **(2)** Establishment of a Planned Unit Development **(3)** Site and Building Plan Approval for Construction of a Four Story, 112,000-Square Foot Indoor Commercial Storage Building

INTRODUCTION

Greg Hayes of Ebert Construction (the "Applicant") is requesting review and consideration of a Preliminary Plat of the Northbrook Center 3rd Addition, which would subdivide an existing 7.32-acre lot into two (2) lots. This request is associated with additional requests by the Applicant to establish a Planned Unit Development (PUD) on approximately 2.6-acres (Lot 1) and approve a site and building plan for the proposed four story, 112,000-square foot indoor commercial storage building. The remaining approximately 4.72 acres (Lot 2) would remain under the ownership by the City of Brooklyn Center (Exhibit A).

Although the building and site plan do not require a public hearing, the request for approval of the preliminary plat and establishment of a Planned Unit Development require that a public hearing be scheduled in accordance with Section 35-355 (*Planned Unit Developments*) of the Brooklyn Center Zoning Ordinance, and Section 15-104 (*Preliminary Plan*) of the Platting Ordinance. An Affidavit of Publication confirmed publication of the public hearing notice in the Brooklyn Center *Sun Post* on March 1, 2018 (Exhibit B). Mail notices were also sent to neighboring property owners.

COMPREHENSIVE PLAN AND ZONING STANDARDS

Land Use Plan:	TH/MF/OS/RB/PS- Mixed (Townhome, Multi-Family, Office/Service Business, Retail Business, Public and Semi-Public)
Neighborhood:	Grandview
Current Zoning:	C2 (Commerce) District
Surrounding Zoning:	North: C2 (Commerce) District East: R3 and R4 (Multiple Family Residence) Districts South: PUD/C2 (Planned Unit Development/Commerce) and C2 (Commerce) Districts West: Highway 100 and C2 (Commerce) District across Highway 100

Site Area: Approximately 7.32 acres, to be subdivided into:
Lot 1 (Ebert Construction) –approximately 2.6 acres
Lot 2 (City of Brooklyn Center) –approximately 4.72 acres

BACKGROUND

Subject Property History

The Subject Property was formerly home to Northbrook Center and later on, what was known as the Hmong-American Shopping Center. The Subject Property was at one time comprised of five buildings (approximately 77,000-square feet of commercial space), 421 parking spaces, and was almost entirely covered in impervious surfaces. At different points throughout the shopping complex's history, the site was home to such establishments as the Chuckwagon Inn (restaurant), an Asian Grocery Store, fabric store, a hardware store with post office inside, pharmacy, and gas station.

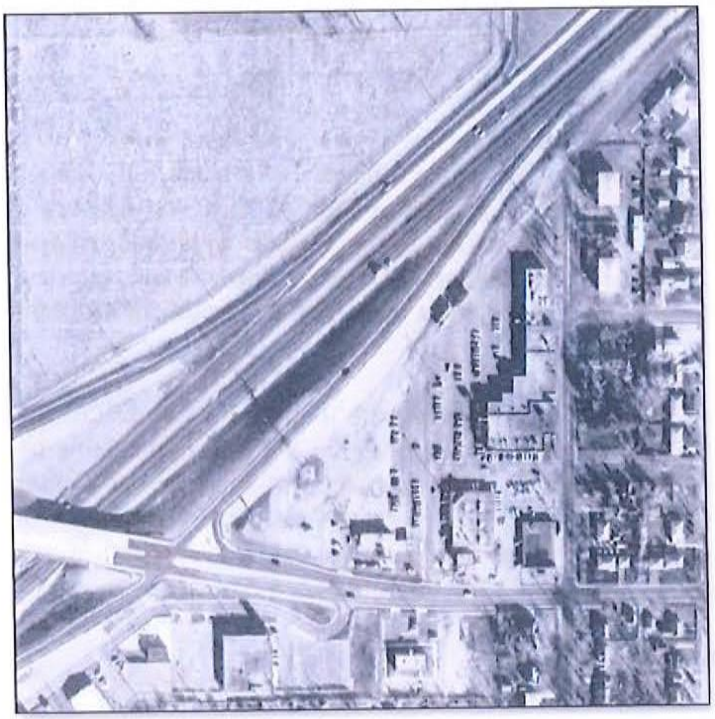


Image 1. Northbrook Center in 1967
(Courtesy of Minnesota Historical Aerial Photographs Online)

In 2004, the City's Economic Development Authority adopted EDA Resolution Nos. 2004-10 (*Resolution Authorizing the Acquisition of Real Property for Redevelopment Purposes*), and 2004-12 (*Resolution Authorizing the Acquisition of Real Property for Redevelopment Purposes (Hmong American Shopping Center)*), to acquire the entirety of what is known as the 57th and Logan site. This acquisition surrounded concerns relating to the state of and overall dilapidation of the shopping center and conversations held with the principal owner of the majority of properties located on the site at that time as to its redevelopment.

The EDA proceeded by filing a Petition in Condemnation and Motion for Transfer of Title and Possessions under Minnesota Statute § 117.042 with the Hennepin County District Court. A 90-Day

Notice to Vacate and relocation expenses were provided to tenants renting space within the shopping center.

Site Contamination and EDA Acquisition

Outlot A (5801 Logan Avenue North), located to the north of the Subject Property, is presently the location of Minnesota Pollution Control Agency (MPCA) monitoring wells in place for the ongoing groundwater and vapor investigation of contamination caused by a former dry cleaning operation.

In 2003 and 2004, Phase I and II environmental investigations were completed on and around the Subject Property through funding received from Hennepin County and the Federal Environmental Protection Agency (EPA). The results of the Phase II investigation identified chemicals relating to dry cleaning operations in the soil and groundwater near the former dry cleaners on the 57th and Logan site.

In 2005, an additional assessment to the site was conducted and involved the collection of soil borings and a well receptor survey of 50 nearby properties. This was completed to further assess and delineate any potential plume of contaminants originating from the former dry cleaning facility on the northern portion of the 57th and Logan site. This study included an additional assessment as to any potential contaminant plume down gradient from the site in the residential neighborhood southeast of the site, and focused on private wells in the area.

Following the removal of asbestos from the shopping center, demolition of the shopping center complex occurred in 2005. It was during this time frame that a tank was discovered in the floor of the former dry cleaner site. This tank was used as a repository or collection point for dry cleaning chemicals used as part of the operation. As part of the site's cleanup, the dry cleaning tank was removed from the site and, as mentioned, monitoring wells were installed on Outlot A (located to the north of the Subject Property) to provide ongoing monitoring as to any remaining contamination.

The Applicant has been working with MPCA as to their requirements, and has been in consultation with Bay West to conduct vapor gas testing. This testing will help identify what type of under slab ventilation system will be required. The Applicant indicated they would enter into the MPCA's *Voluntary Investigation and Cleanup* (VIC) program.

EDA Sale of Subject Property

On August 14, 2017, the City Council/EDA Work Session included a discussion relating to a proposed Letter of Intent with Ebert Construction for commercial development on the northern half of Lot 1, Block 1 of the Northbrook Center 2nd Addition (1950 57th Avenue North) for a four story, 112,000-square foot indoor commercial storage building. Deliberation was held as to whether the as proposed development plan was compatible with the Economic Development Authority's Targeted Development Strategy for the 57th and Logan site, and whether they wished to proceed with a Letter of Intent and Purchase Agreement for the conveyance of a portion of said property. Given a favorable response from the City's Economic Development Authority (EDA), the EDA subsequently adopted Resolution 2017-11 (*Resolution Approving and Authorizing the Execution of a Letter of Intent to Sell the Property Located at 1950 57th Avenue North*).

Approval of the aforementioned EDA Resolution was followed by adoption of EDA Resolution No. 2017-19 (*Resolution Approving Purchase Agreement and Conveyance of Approximately 2.5 Acre Portion of Lot 1, Block 1, Northbrook Center 2nd Addition*) on November 13, 2017, which authorized the sale of a portion of the 57th and Logan site.

PRELIMINARY PLAT

As part of the City Platting Ordinance requirements, preliminary and final plat approval is required to formally subdivide Lot 1, Block 1, of the Northbrook Center 2nd Addition, also known as 1950 57th Avenue North. As proposed, the subdivision would result in the creation of:

Lot 1, Block 1, Northbrook Center 3rd Addition
(Ebert Construction) –approximately 2.6 acres
Lot 2, Block 1, Northbrook Center 3rd Addition
(City of Brooklyn Center) –approximately 4.72 acres

Map 1. Existing Lot Configuration of Subject Property.

Map 2. Preliminary Plat for Subject Property (Northbrook Center 3rd Addition)

The proposed subdivision would provide the acreage necessary for the Applicant to construct the proposed 112,000-square foot indoor commercial storage building on a 28,000-square foot building footprint on Lot 1 of the proposed Northbrook Center 3rd Addition. Access to the Subject Property would be via driveway that would largely line up with 58th Avenue North. Lot 1 and Lot 2 would be separated by an approximately 75-foot wide drainage and utility easement for Northern States Power Company (Doc. No. 498916). Lot 2 would continue ownership under the City of Brooklyn Center until a developer was identified. As Lot 2 is approximately 4.72 acres in size, there is the possibility of further subdividing Lot 2 in the future.

Per comments outlined in a review of the preliminary plat by Hennepin County (Exhibit C), the County expressed support of the proposed access to the Subject Property off Logan Avenue, however, the County discouraged the introduction of any future access points off 57th Avenue North, as the section of 57th Avenue North located to the south of the Subject Property is above the County's critical crash rate. This request to restrict access to Logan Avenue was echoed by MnDOT in their review (Exhibit E). The County indicated that any future development of proposed Lot 2 (City of Brooklyn Center) utilize an internal access road that would provide ingress and egress via Logan Avenue North.

In addition, the County indicated a desire to have 20 feet of the southern half of proposed Lot 2 (City of Brooklyn Center) dedicated as sidewalk, trail, utility, and roadway easement. This request is associated with potential future roadway improvements along 57th Avenue North. As the Staff Report is focused on the development of proposed Lot 1, consideration of Hennepin County requests regarding Lot 2 would be reserved for a future date.

Based on staff findings, staff recommends Planning Commission recommendation of the preliminary/final plat (Northbrook Center 3rd Addition); subject to the Applicant complying with the comments outlined in the Assistant City Engineer's memorandum dated March 6, 2018 (Exhibit D), MnDOT review dated March 14, 2018 (Exhibit E), and comments relating specifically to Lot 1 in the Hennepin County review dated March 7, 2018 (Exhibit C).

ESTABLISHMENT OF A NEW PLANNED UNIT DEVELOPMENT

The Applicant has proposed construction of an indoor commercial storage facility on the northern portion of the property known as 1950 57th Avenue North (Subject Property). As part of the proposal, the Applicant is requesting the establishment of a new Planned Unit Development (PUD) to allow flexibility in defining the proposed use and minimum parking requirements for this proposed use. As self-storage units have evolved over the past few years from the typical outdoor storage unit, to indoor, climate controlled mini units with keycard access and office staff, the City's Zoning Ordinance does not currently identify this type of use in the City Ordinance. Given this lack of defined use, the minimum required parking standards are also not outlined in the Zoning Ordinance.

Per Section 35-355 (*Planned Unit Development*) of the City Zoning Ordinance, 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."

The section further explains that,
"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 complementarity of peak parking demands by

the uses within the PUD."

Approval of a PUD requires that the proposed uses are consistent with the City's Comprehensive Plan and that implementation of said PUD be controlled by the submitted development plan. Applicants may combine PUD development plan approval with the site and building plan approval required by Section 35-230 (*Plan Approval*) of the City Zoning Ordinance by submitting all information required for both simultaneously. The Applicant has submitted sufficient documentation and plans to work through the requests for establishment of a PUD and building and site plan approval simultaneously and as outlined within this staff report. Should the Subject Property receive approval to establish the new PUD, the Subject Property would require re-zoning to identify the establishment of said PUD. Regulations governing uses and structures in PUDs shall be the same as those governing the underlying zoning district with the exception of certain permitted conditions or allowances as imposed or approved by the City Council.

In accordance with Section 35-355, the City Council shall base its actions on the PUD rezoning using 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 on which it is to be located.**
4. **The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces, and buffering and landscaping.**

As noted by the Applicant, the proposed indoor commercial storage building would typically have office hours from 9 a.m. until 6 p.m., Monday through Friday, and on Saturdays from 10 a.m. to 4 p.m. Customers with rental units would have access to the building through card access seven days per week from the hours of 6 a.m. until 10 p.m.

Approval of the site and building plan is contingent upon receiving approval to establish a Planned Unit Development and its subsequent re-zoning.

SITE AND BUILDING PLAN APPROVAL

In conjunction with the Applicant's request for preliminary plat approval of the Northbrook Center 3rd Addition and establishment of a new Planned Unit Development (PUD), which would provide flexibility in defining the proposed use and minimum parking requirements, the Applicant is also requesting approval of the proposed site and building plan for the as proposed indoor commercial storage building.

Building Setbacks

The minimum building setback requirements within the C2 (Commerce) Zoning District are as follows:

Front: 35 feet **Rear Yard:** 40 feet **Side Interior Yard:** 10 feet

The indoor commercial storage building setbacks are proposed at:

Front: 66.7 feet -- *facing Logan Avenue* **Rear Yard:** 61.6 feet **Side Interior Yard (South):** 45 feet

As outlined above, the proposed indoor commercial storage building would meet all of the minimum building setback requirements for properties zoned C2 (Commerce) District).

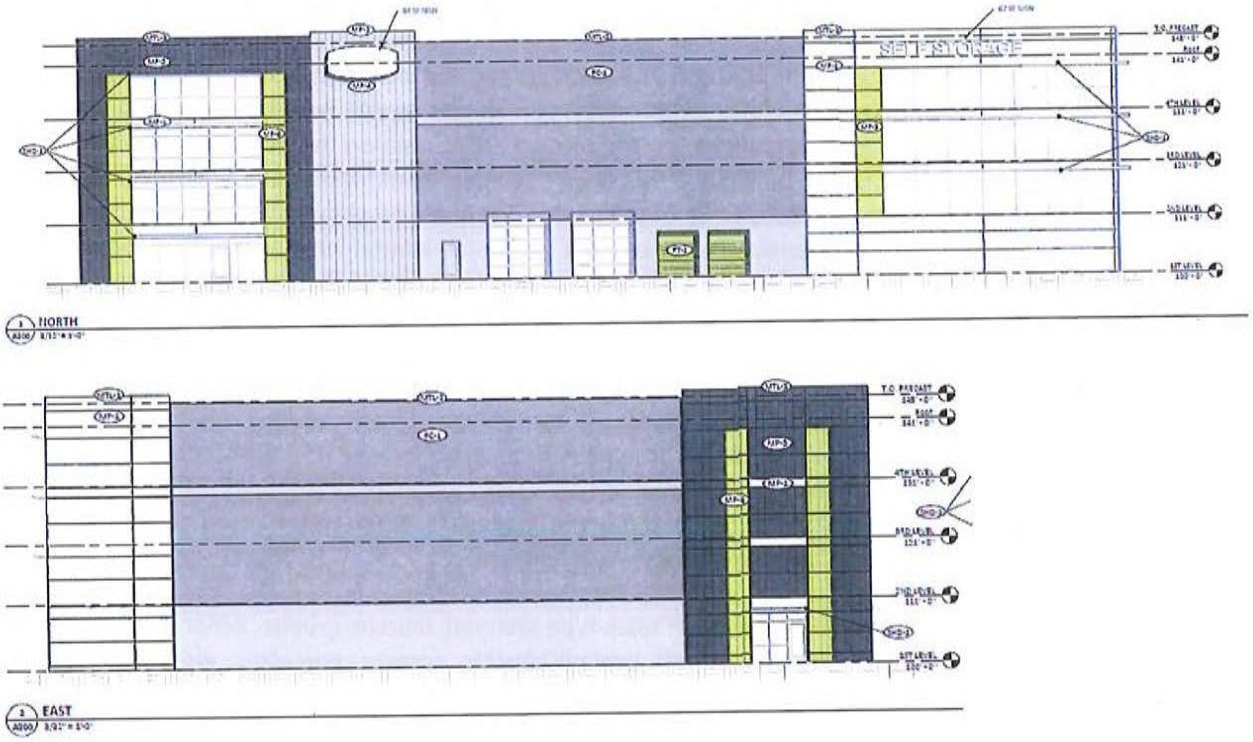
Building and Site Layout

The proposed 112,000-square foot indoor commercial storage building would be located on a 28,000-square foot building footprint and rise four stories in height (Exhibit F). As proposed, the northeast corner of the building's main floor would feature an 816-square foot office area (open to the public), break room, utility room, and restroom facilities. Stairwells are indicated at the northeast and southwest corners of the building with an elevator shaft running through the center portion of the proposed building. As noted below, the breakdown of proposed overhead access doors to direct access storage units and the transfer bay are as follows:

North Elevation: Four (4) overhead doors
East Elevation: No overhead doors—facing Logan Avenue North and residential area
South Elevation: Ten (10) overhead doors—facing 57th Avenue North and commercial properties
West Elevation: Six (6) overhead doors—facing Highway 100

Two of the four doors located along the north elevation would be utilized by customers for access to the elevator and rental storage units via the approximately 1,600-square foot transfer bay area, and the other two doors for access to private storage units, whereas the ten doors on the south elevation and six doors on the west elevation would all serve as direct access doors to rental storage units.

As proposed, there would be 784 total storage units with the majority allocated for the following storage unit sizes: 5-foot by 10-foot (199 units), 10-foot by 10-foot (154 units), and 10-foot by 15-foot (133 units). With the exception of the main floor, floors two through four would be comprised solely of storage units, hallways, and elevator and stairway access points.



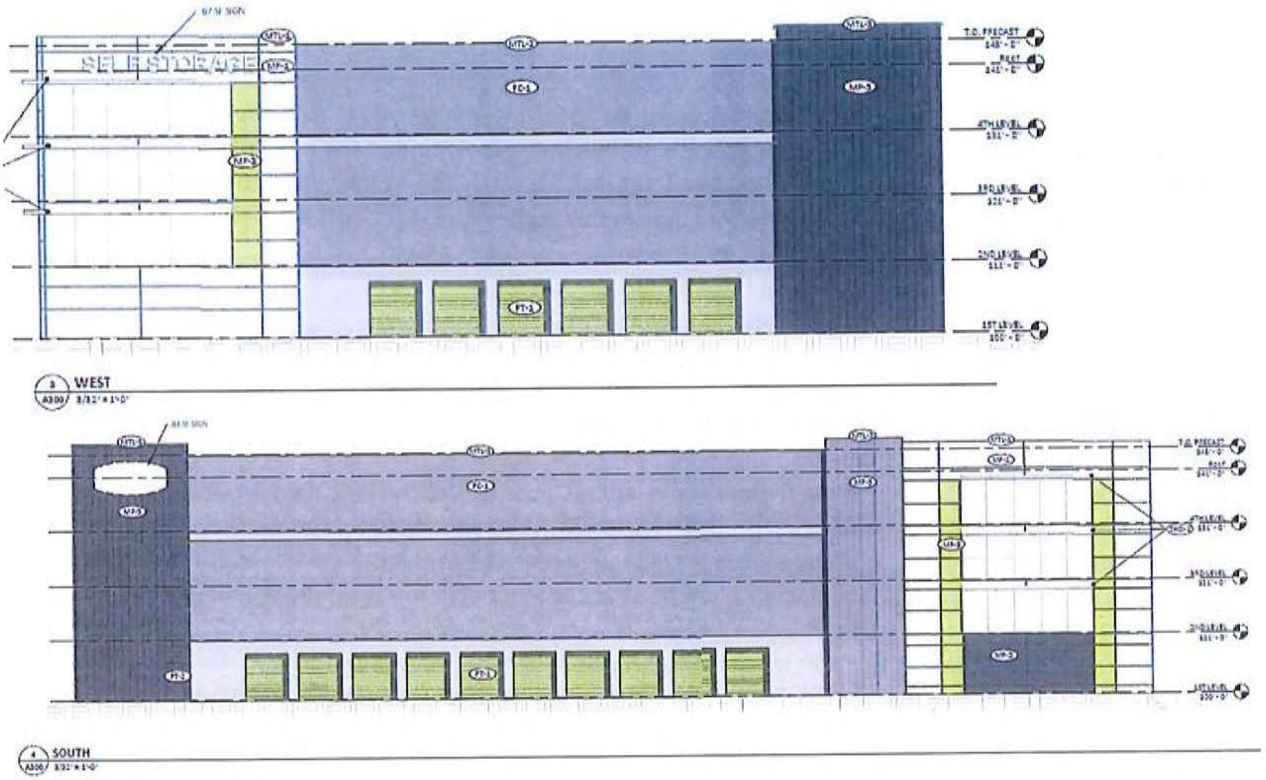


Image 1. *Proposed Indoor Commercial Storage Building Elevations*

As noted above in Image 1 and the attached Exhibit G, the Applicant intends to use a mixture of Class I type exterior building materials in the construction of the proposed indoor commercial storage building. These materials include the use of textured architectural pre-cast concrete panels, architectural metal (ACM) panels, and insulated glass. Horizontal metal sun shades would be installed over a thermally broken storefront system, and the transfer bay area would utilize glass on the oversized, overhead doors located on the north end of the building. Given their size, this should lessen the effects the door size might otherwise have were the doors to be of solid color. There are no plans to build on adjacent Outlot A, and monitoring wells are currently in place to track for contamination initially identified in the 2000s. The remaining smaller, direct access overhead doors would feature a cohesive paint color on the door panels.

Although unofficial, the City does reference a set of design guidelines when reviewing site and building plan applications. These guidelines are based on the *Shingle Creek Crossing Architectural Design* Guidelines, which were approved in 2011. These guidelines strive to have *at least* 50-percent of all four sides (wall surfaces) on new buildings constructed with Class I materials, with the remaining surfaces to be constructed of Class II materials. While these are guidelines, it is stressed that the Applicant be thoughtful in the design of the building and site. As reference:

Class I materials include: brick or acceptable brick-type material, marble; granite; other natural stone or acceptable natural looking stone; textured cement stucco; copper; porcelain, glass; architectural textured concrete pre-cast panels; and other materials including masonry units with enhanced detailing such as patterns, textures, color, dimension, banding, and brick inlay, as approved by the City Planning Commission and City Council.

Class II materials include: exposed aggregate concrete panels; burnished concrete block; integral colored split face (rock face) and exposed aggregate concrete block; cast-in-place concrete; artificial stucco (e.g., E.I.F.S., Drivit); artificial stone; fiber-reinforced cement board siding with a minimum thickness of ¼ inch; canvas or vinyl awnings; prefinished metal; and other materials not listed elsewhere, as approved by the City Planning Commission and City Council.

Access and Parking

The Applicant intends to provide site access via a 24-foot wide driveway at the intersection of Logan Avenue North and 58th Avenue North. The proposed drive would wind from the north end of the building to the west before terminating at the south end of the building. No drive aisle is proposed along the east side of the building, and therefore, no overhead doors are proposed for installation along the east elevation. The elimination of the drive access along this elevation is intended to minimize the commercial feel on this side, which faces Logan Avenue and a line of residential housing.

As the proposed use and minimum parking standard is not specified in the City Zoning Ordinance, the Applicant provided the locations of other like indoor commercial storage building projects in the Twin Cities metro. Staff researched these locations by referencing their respective City approvals and reviewing aerial imagery when necessary to identify the total square footage of each commercial storage building and their parking allowances. This information is summarized in Table 1 below.

Table 1. Parking Requirements for Similar Indoor Commercial Storage Buildings in Twin Cities Metro.

Indoor Commercial Storage Building Location	Provided Parking Spaces (in bold)	Square Feet	Parking Required per 1,000 SF
8570 Aspen Lane North—Brooklyn Park	**8**—Per Brooklyn Park Staff Report dated 09/13/2017	105,444 SF	0.076
1315 Cope Avenue North—Maplewood	**6**—Per Maplewood Staff Report dated 10/19/2016	108,150 SF	0.055
2960 Empire Lane—Plymouth	**11**—Per Google Maps	76,430 SF	0.144
12995 Valley View Road—Eden Prairie	**13**—Per example reference in Minnetonka Staff Report dated October 20, 2016	75,000 SF	0.173
6250 Olson Memorial Highway—Golden Valley	**10**—Per Google Maps	~85,000 SF*	0.118
4370 Fountain Hills Drive NE—Prior Lake	**12**—Per reference in Prior Lake Staff Report dated March 6, 2017	95,000 SF	0.126
MN ADA Parking Requirement (1 to 25 spaces)	**1 space required**	--	
Average (Above Locations)	**10 spaces** (90,837 SF x 0.115 ÷ 1,000)	**90,837 SF**	**0.115**

Sources: Greg Hayes (Ebert Construction), 2015 Minnesota Accessibility Code, reviews of aerial imagery and municipal staff reports (above).
*Note: Total square footage of Golden Valley commercial storage building (Lock Up Storage) based on square footage and similar parking allocations provided for Lock Up location in Plymouth.

Based on the calculations noted in Table 1 above, the average number of parking spaces provided across the six provided Twin Cities commercial storage locations is 10 for an average 90,837-square foot building. This is assuming a parking requirement of 0.115 spaces per 1,000–square feet of building. Under this assumption, it can be presumed that the as proposed 112,000-square foot building would require a minimum of approximately 13 parking spaces. The submitted site plan identifies 12 parking spaces, including one ADA accessible space with adjacent loading zone.

Given the provided 1,600-square foot internal loading and unloading area within the transfer bay, staff is comfortable with the as proposed 12 parking spaces. Should parking deficiencies be identified at a later time, the Applicant may need to alter the site plan to incorporate additional parking.

Parking spaces must be constructed per City Zoning Code minimum width (8 feet, 8 inches) and length (18 feet) requirements for 90-degree parking. The Applicant identified a typical space width of 9 feet and 20 feet in length on the submitted site plan. The Applicant also intends to maintain the minimum required 24-foot drive aisle throughout the parking area.

The Applicant shall work with the Fire Inspector to ensure the site plan meets 2015 Minnesota Fire Code provisions, including, but not limited to: maximum distance from fire hydrants, maximum drive aisle length without turn around (150 feet), direct emergency access to riser/utility room (as site plan specifies building will be fully-sprinkled), any required FDC connection, and turn radius requirements for fire trucks.

Per Hennepin County and MnDOT, no additional access points should be located off 57th Avenue North. Instead, future development on Lot 2 (City of Brooklyn Center) should utilize an internal access road that would provide access off Logan Avenue. With this in mind, the Applicant revised their site plan to offer additional green stripping along the southern edge of Lot 1 should an access road ever be constructed in the future. The Applicant otherwise substantially meets the minimum 15-foot green strip requirement along the street right-of-way (Logan Avenue).

LIGHTING | TRASH | SCREENING

Lighting

Per the City Zoning Code, "any new or additional lighting installed to illuminate the storage area must be down-cast, cut-off style light fixtures." The submitted photometric plan notes that all proposed luminaires will be fully shielded and of the cutoff type. The Applicant has also indicated that the proposed lighting would meet the requirements of Section 35-712 (*Lighting*) of the City Zoning Code by not exceeding three (3) foot candles measured at property lines abutting residentially zoned property, or 10 foot candles measured at the property lines abutting the street right-of-way or non-residentially zoned properties. As is specified, no glare shall emanate from or be visible beyond the boundaries of the illuminated premises.

The photometric plan notes that the maximum number of foot candles for any light poles or wall-pack fixtures would be not more than 3.8 foot candles and located towards the interior of the Subject Property. The identified foot candles along the perimeters of the property are identified as zero (0) foot candles. This includes the east side of the property that faces residential housing along Logan Avenue North. The average estimated foot candles throughout the site are 0.4.

Per the submitted photometric plan, one light pole fixture is proposed for installation to the north of the parking area and at a height of 20 feet, while seven (7) wall-mounted luminaires would be mounted at select locations along the north, west, and south elevations of the building. No lighting is proposed along the east elevation of the building. Both styles of fixtures are LED with cut-offs, and offer zero uplighting.

Trash

The site would feature an approximately 12-foot by 12-foot trash enclosure, which would be located approximately 30 feet off the north interior property line and to the east of the parking area. The City

has normally viewed these areas as "accessory structures," which are permitted with a minimum required setback of three (3) feet from side and rear lot lines. Trash enclosures are to be fully enclosed through use of fence or masonry type materials and effectively screen any dumpsters or recycling containers within.

Screening

The trash enclosure and any other ground mounted equipment (e.g., transformers, mechanical) shall be effectively screened from adjacent public rights-of-way and properties by a solid wall or fence constructed of wood, masonry, or other durable materials that are complementary to the materials used on the primary building. Per Chapter 12 (*Building Maintenance and Occupancy*) of the City Code, roof-mounted equipment shall also be screened from view through use of parapets, wall/fencing materials, or paint to match surrounding colors when visible from the public right-of-way.

Landscaping

The project submittal includes a detailed landscape plan, which illustrates the proposed planting schedule (i.e., trees, shrubs, annuals/perennials, mature size, planting size, root conditions). Although City Code does not have any specific requirements on landscaping, the City has operated under and held new and redeveloped areas to complying with the City's adopted Landscape Point System policy, which assigns points to a given site based on the acreage of a development. The point system requires commercial sites to provide a specific amount or number of landscaping units, and is based on the maximum percentage of certain materials (i.e., 50% shade trees; 40% coniferous trees; 35% decorative trees; and 25% shrubs).

Given that the proposed use isn't clearly identified within the Zoning Ordinance, staff has determined that a use of "light industrial" be used for the purposes of the Landscape Point System Policy, as the site will not operate as a retail use (i.e., "Restaurant/Retail/Service/Entertainment/Hotels") and as it does not identify as an "Office," or "Heavy Industrial" type of development. Assuming a 2.6 acre site, the Applicant would need to achieve a minimum of 60 points.

Table 2. Landscape Point System Policy

Planting Type	Minimum Size	Points Per Planting	Maximum Points (%)	Points Accrued
Shade Trees	2 ½" diameter	10	50% or 30 points	**30** (8 trees x 10 = 80)
Coniferous Trees	5' height	6	40% or 24 points	**24** (9 trees x 6 = 54)
Decorative Trees	1" diameter	1.5	35% or 21 points	**12** (8 trees x 1.5 = 12)
Shrubs	12" diameter	0.5	25% or 15 points	**14.5** 29 shrubs x 0.5 = 26.5)
Total			100% or 60 points	**80.5 points**

As summarized in Table 2 above, the submitted landscape plan is meets and exceeds all of the requirements of the Landscape Point System Policy. As part of the landscaping, daylilies will be provided for foundational plantings, while the main drive into the site will be lined with crab apple trees. White swamp oak and maple trees would line the eastern perimeter of the site facing the residential properties along Logan Avenue North, and Swiss stone pines would congregate towards the southwestern portion of the property (along Highway 100). To provide additional texture and interest, the Applicant intends to plant ornamental grasses, spirea, and dogwood shrubs along the west and

south elevations of the building. The dogwood shrubs will provide even more interest as they are known for their display of red bark through winter and early spring.

As part of any approval, the Applicant will need to install an irrigation system and provide shop drawings of the proposed irrigation system for City review.

ASSISTANT CITY ENGINEER REVIEW

Assistant City Engineer Andrew Hogg conducted a review of the application submittal and documents. Comments regarding this application can be found in the memorandum to city staff and dated March 6, 2018, attached hereto (Exhibit D). It should be noted that some of the outlined conditions may be applicable at time of approval for future land disturbance or building permits.

The installation of all utility services and lines, and the finished grading of the Subject Property are to be reviewed and conducted under issuance of a separate Land Disturbance (Alteration) permit, which is reviewed and approved by City engineers, and inspected for completeness by City engineers and building officials. In addition, an MPCA NPDES permit and a review by the West Mississippi Watershed Commission are required. The Applicant must also meet the requirements as outlined in reviews and commentary provided by Hennepin County, MNDOT (Exhibits C and E), and West Mississippi Watershed Commission. If drainage is directed to a MnDOT right-of-way, a drainage permit will be required.

As reference, the Applicant, as part of their review, provided a copy of their completed site Stormwater Report (Exhibit H). Per Exhibit D, it is specified that stormwater be *filtrated* in the BMPs and discharged to the storm sewer, rather than allowing infiltration in cases where sites contain contaminated soils or groundwater. The Applicant shall continue to work with the Minnesota Pollution Control Agency (MPCA) and any requirements they may have.

Unless otherwise approved by the City Engineer, the perimeters of all driving and parking areas shall be bounded by type B6-12 curb and gutter.

FIRE INSPECTOR REVIEW

The Applicant shall work to ensure all 2015 Minnesota Fire Code requirements have been met as part of any building and site plan approval. Per the submitted site plans, the proposed storage building is to be fully-sprinkled. As such, the Fire Department will need emergency access to the proposed riser/utility room. Additional requirements include, but are not limited to: providing sufficient fire hydrants per maximum distance requirements, installation of a Knox-Box, any required FDC connections, and compliance with maximum drive aisle lengths for fire trucks.

SIGNAGE

Although wall signage is identified in the submitted architectural renderings, no formal requests for approval were made as part of the application submittal. Any new signage, including wall and monument signs, would require conformance with Chapter 34 of the City Code (*Sign Ordinance*). Any requests beyond the allowances identified in the Sign Ordinance would require that the Applicant apply for and receive approval to deviate from the Sign Ordinance. The Applicant will need to file a separate Building Permit application for any proposed signage.

Based on staff findings, staff recommends Planning Commission recommendation of the requested establishment of a Planned Unit Development and approval of site and building plans; subject to the Applicant complying with the comments outlined in the Site Plan and Document Approval Conditions

noted below.

SITE PLAN AND DOCUMENTS APPROVAL CONDITIONS

Staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. 2018-001 for the Subject Property located at 1950 57th Avenue North:

1. **Plat and PUD approval:** Approval of the plat and establishment of the new Planned Unit Development are contingent upon final plat approval and successful recording of said plat. No separation of Lot 1, Block 1, Northbrook Center 2nd Addition, may occur without separate approval of a subdivision as provided under Chapter 15 of the City Code of Ordinances.
    a. The proposed subdivision is as follows:
        Lot 1, Block 1, Northbrook Center 3rd Addition
        (Ebert Construction) –approximately 2.6 acres
        Lot 2, Block 1, Northbrook Center 3rd Addition
        (City of Brooklyn Center) –approximately 4.72 acres
    b. All recommendations and conditions as noted in the Assistant City Engineer's review memorandum, dated March 6, 2018, shall be complied with or completed as part of any final plat approvals.
    c. The final plat shall be subject to the provisions of Chapter 15 (*Platting* Ordinance).

2. **Building and Site Plan and Review:** The building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits; and the final location or placement of any fire hydrants and 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. A pre-construction conference shall be held with City staff and other entities designated by the City prior to issuance of a Building Permit.

3. **Agreements:**
    a. The Property Owner/Developer shall enter into a PUD agreement with the City of Brooklyn Center to be reviewed and approved by the City Attorney prior to the issuance of building permits. Said agreement shall be filed with the title to the property and shall acknowledge the specific modifications to the C-2 underlying zoning district as well as other conditions of approval. The agreement shall further assure compliance with the development plans submitted with this application.
    b. The owner of the property shall enter into a utility, facilities, and easement agreement for maintenance and inspection of utility and storm drainage systems as approved by the City Engineer prior to the issuance of building permits.
        a. A 10-foot drainage and utility easement must be dedicated on the plat around the entire perimeter of the site and over the storm water BMPS treatment areas up to the 100-year event.

c. The Developer shall execute a separate Performance Agreement with supporting financial guarantee approved by the City, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications and standards comprehended under this Site and Building Plan.

d. The Developer shall submit an as-built survey of the property, improvements and utility service lines prior to release of the performance guarantee.

4. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memo, dated March 6, 2018 (Exhibit D).

a. A land disturbance (alteration) permit is required.

b. 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 prior to the issuance of permits.

c. Applicant shall meet all requirements as identified by the Minnesota Pollution Control Agency (MPCA).

d. The Applicant shall meet all applicable requirements as identified by Hennepin County in the review dated March 7, 2018 (Exhibit C).

e. The Applicant shall meet all applicable requirements as identified in the review by MnDOT dated March 14, 2018 (Exhibit E).

f. The Applicant shall meet all applicable requirements identified as part of the review by the West Mississippi Watershed Commission.

5. **Construction Standards:**

a. Appropriate erosion and sediment control devices shall be provided on site during construction as approved by the City's Engineering Department.

b. The Applicant shall obtain an NPDES construction site erosion permit from the Minnesota Pollution Control Agency prior to disturbing the site.

c. All work performed and materials used for construction of utilities shall conform to the City of Brooklyn Center Standard Specifications and Details.

6. **Facilities and Equipment:**

a. Any outside trash disposal facilities and roof top or on ground mechanical equipment shall be appropriately screened from view.

b. The building shall be equipped with automatic fire extinguishing systems meeting NFPA standards and shall be connected to a central monitoring device in accordance with Chapter 5 of the City Ordinances.

c. The proposed 12-foot by 12-foot trash enclosure shall be constructed with building materials that are complementary to the principal building (proposed indoor commercial storage building).

7. **Landscaping:** All landscaped areas, including street boulevards, shall include approved irrigation systems to facilitate site maintenance.

a. Per City requirements, an irrigation system is required.

b. The contractor shall submit irrigation shop drawings for review and

approval prior to installation.

8. **Signage:** The Applicant shall submit a Building Permit application for any proposed signage as part of the development proposal. Signage is subject to the Chapter 34 (*Sign Ordinance*).

RECOMMENDATION

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

The Planning Commission recommends City Council approval of the requested preliminary plat for Northbrook Center 3rd Addition, subject to the Applicant complying with the comments outlined in the Assistant City Engineer's memorandum dated March 6, 2018 (Exhibit D), Hennepin County review dated March 7, 2018 (Exhibit C), and requirements as outlined by MnDOT in their review dated March 14, 2018 (Exhibit E);

The Planning Commission recommends City Council approval of the requested establishment of a new Planned Unit Development for the proposed indoor commercial storage building, subject to the Owner/Developer complying with the conditions outlined in the Site Plan and Documents Approval Conditions of this Staff Report; and

The Planning Commission recommends City Council approval of the as proposed site and building plans for the Subject Property located at 1950 57th Avenue North (Subject Property), subject to the Owner/Developer complying with the conditions outlined in the Site Plan and Documents Approval Conditions of this Staff Report.

Should the Planning Commission accept these recommendations, the Commission may elect to adopt the draft resolutions to be provided at the scheduled Planning Commission meeting on March 15, 2018.

Attachments

Exhibit A- Proposed Preliminary Plat for Northbrook Center 3rd Addition, prepared by Loucks, dated February 21, 2018.
Exhibit B- Affidavit of Publication, published in the Brooklyn Center *Sun Post* on March 1, 2018.
Exhibit C- Hennepin County Preliminary Plat and Site Review, prepared by Chad Ellos, P.E., dated March 7, 2018.
Exhibit D-Memorandum, prepared by Assistant City Engineer Andrew Hogg, dated March 6, 2018.
Exhibit E-MnDOT Review, prepared by Josh Pansch, dated March 14, 2018.
Exhibit F- Civil Set for Proposed Indoor Commercial Storage Building, prepared by Otto Associates, dated February 13, 2018.
Exhibit G- Select Architectural Renderings and Interior Plans, prepared by Mohagen Hansen, dated January 29, 2018.
Exhibit H- Stormwater Report, prepared by Otto Associates, dated February 12, 2018.

Member Dan Ryan introduced the following resolution and moved its adoption:

RESOLUTION NO. 2018-62

RESOLUTION REGARDING RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-001 SUBMITTED BY GREG HAYES OF EBERT CONSTRUCTION REQUESTING APPROVAL OF THE PRELIMINARY PLAT OF NORTHBROOK CENTER 3RD ADDITION (LOCATED AT 1950 57TH AVENUE NORTH)

WHEREAS, Planning Commission Application No. 2018-001 was submitted by Greg Hayes of Ebert Construction, requesting approval of a Preliminary Plat for a new subdivision to be titled NORTHBROOK CENTER 3RD ADDITION, which would subdivide an existing 7.32 acre lot into two lots, and

WHEREAS, on March 15, 2018, the Planning Commission held a duly called public hearing, whereby this item was given due consideration, a staff report was presented, and a public hearing was opened to allow for public testimony regarding the preliminary plat of Northbrook Center 3rd Addition, which were received and noted for the record; and

WHEREAS, the Planning Commission has determined during its review of the preliminary plat materials submitted with Planning Application No. 2018-001, that said plat is in general conformance with City of Brooklyn Center's City Code Chapter 15 – Platting; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that Planning Commission Application No. 2018-001, as submitted by Greg Hayes of Ebert Construction, requesting approval of the Preliminary Plat to be titled NORTHBROOK CENTER 3RD ADDITION, is hereby approved subject to the following conditions:

1. The proposed subdivision is as follows:
   Lot 1, Block 1, Northbrook Center 3rd Addition
   (Ebert Construction) –approximately 2.6 acres

   Lot 2, Block 1, Northbrook Center 3rd Addition
   (City of Brooklyn Center) –approximately 4.72 acres

2. All recommendations and conditions as noted in the Assistant City Engineer's review memorandum (dated March 6, 2018), review by MnDOT (dated March 14, 2018), and comments provided by Hennepin County in their review (dated March 7, 2018), shall be complied with or completed as part of any final plat approvals.

3. Approval of this plat will be subject to approval of the site and building plan for an indoor commercial storage building, and establishment of a new Planned Unit Development, also filed under Planning Application

RESOLUTION NO. 2018-62

No. 2018-001.

4. Any easements that need to be vacated under this platting process as determined by the City Engineer must be considered under separate and formal City easement vacation process, with all documentations, descriptions, and exhibits singed by a licensed surveyor.

5. The final plat shall be subject to review and final approvals by the City Engineer, prior to release by the City for recording purposes.

6. The final plat shall be subject to the provisions of Chapter 15 of the City Ordinances.

7. An updated certified abstract of title or registered property report must be provided to the City Attorney and City Engineer for review at the time of the final plat application (within 30 days of release of the final plat).

March 26, 2018
Date

Tim Willson
Mayor

ATTEST: Sharon Knutson
City Clerk

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

Member Kris Lawrence-Anderson introduced the following resolution and moved its adoption:

RESOLUTION NO. 2018-63

RESOLUTION REGARDING THE DISPOSITION OF PLANNING APPLICATION NO. 2018-001 SUBMITTED BY GREG HAYES OF EBERT CONSTRUCTION FOR APPROVAL OF A NEW PLANNED UNIT DEVELOPMENT WITH NEW ZONING CLASSIFICATION OF PUD-C2 (PLANNED UNIT DEVELOPMENT - COMMERCE) & DEVELOPMENT SITE PLAN FOR AN INDOOR COMMERCIAL STORAGE BUILDING (LOCATED AT 1950 57TH AVENUE NORTH)

WHEREAS, Planning Application No. 2018-001, submitted by the Greg Hayes of Ebert Construction, requests establishment of a new Planned Unit Development with a Zoning Classification of PUD-C2 (Planned Unit Development - Commerce), and approval of a Development Site Plan for a new indoor commercial storage building, to be located at 1950 57th Avenue North; and

WHEREAS, the proposal comprehends the rezoning of the Subject Property to facilitate the planned and future redevelopment of the site with a proposed four-story, 112,000-square foot indoor commercial storage building, along with other associated improvements including, but not limited to parking and drive areas, stormwater management, and landscaping; and

WHEREAS, the subject property is identified and guided in the 2030 Comprehensive Plan as TH/MF/OS/RB/PS ("Townhome,", "Multi-Family,", "Office/Service Business," "Retail Business", "Public and Semi-Public"), and the proposed PUD-C2 zoning designation comprehended under this application would be consistent with this underlying land use category; and

WHEREAS, on March 15, 2018, the Planning Commission held a duly called public hearing, whereby a planning report was presented and public testimony regarding this proposed planned unit development was received and noted for the official record, and the request was duly considered in light of all testimony received; and

WHEREAS, the Planning Commission considered the rezoning comprehended under this Planned Unit Development (PUD) request in light of all testimony received, the guidelines for evaluating rezoning contained in Section 35-208 of the City's Zoning Ordinance, along with the provisions and standards of the C2 (Commerce) District, as contained in Section 35-322, along with the provisions and standards of the Planned Unit Development District contained in Section 35-355 of the City's Zoning Ordinance; and

WHEREAS, on March 15, 2018, the Planning Commission reviewed and considered the proposed new PUD development plans, which included the new site and building plans for the new four story, 112,000-square foot indoor commercial storage building, elevation plans, and civil plans completed by Mohagen Hansen and Otto Associates, and found the plans to

be in order and approved for the Subject Property.

WHEREAS, the Planning Advisory Commission of the City of Brooklyn Center recommends to the City Council that the rezoning element comprehended under the proposed Planned Unit Development and submitted under Application No. 2018-001 by Greg Hayes of Ebert Construction, may be approved based upon the following findings:

a. The proposed rezoning appears to demonstrate a clear and public need or benefit to the community and regional area, as it will improve the appearance of the city and enhance the quality of life, property values, and civic pride in this neighborhood area; and provide an opportunity for the currently vacant 57th and Logan site to be invested in;

b. The rezoning and its related development proposal will not be a detriment to the neighborhood, and should provide a positive effect on the community;

c. The rezoning will facilitate the redevelopment of this site as an indoor commercial storage building, which will be compatible with the goals and policies of the City's Comprehensive Plan and underlying land use plan, which designates the Subject Property for a mixed range of uses, including OS ("Office/Service Business,") and RB ("Retail Business");

d. The proposed zoning is consistent and compatible with the surrounding land use classifications;

e. The proposed rezoning will provide an opportunity for the Subject Property to maintain its underlying C2 (Commerce) District zoning classification with the flexibility of a Planned Unit Development (PUD), allow an approximately 2.6 acre portion of vacant land to be redeveloped into an indoor commercial storage building, and stimulate new investment in the neighborhood and community;

f. The Development/Site and Building Plan is compatible with the standards, purposes, and intent of the City's Zoning Ordinance;

g. The Development/Site and Building Plan, in relation to the Planned Unit Development proposed on the Subject Property, will facilitate the redevelopment and improvement of the site, will allow for the utilization of the land in question in a manner which is compatible with, complementary to, and of comparable intensity to adjacent land uses as well as those permitted on surrounding land;

h. The improvements and utilization of the Subject Property as proposed under the planned redevelopment of this site is considered a reasonable use of the

property and will conform with ordinance standards; and

i. The Development/Site and Building Plan proposal is considered consistent with the recommendations of the City's Comprehensive Plan for this area of the city, appears to be a good long range use of the existing land, and can be considered an asset to the community.

AND WHEREAS, upon due and proper consideration of this matter, and in light of all testimony received, utilizing the guidelines for evaluating rezoning contained in Section 35-208 of the City's Zoning Ordinance and the provisions of the Planned Unit Development ordinance contained in Section 35-355 of the City's Zoning Ordinance and the City's Comprehensive Plan, the Planning Advisory Commission formulated a favorable and unanimous recommendation of approval be forwarded to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Brooklyn Center, Minnesota, to recommend to that Planning Application No. 2018-001, submitted by Greg Hayes of Ebert Construction, which proposes a new Planned Unit Development with a Zoning Classification of PUD-C2 (Planned Unit Development - Commerce) and a Development Site Plan for a new indoor commercial storage building, located at 1950 57th Avenue North, be approved based on the following conditions:

1. **Plat and PUD approval:** Approval of the plat and establishment of the new Planned Unit Development are contingent upon final plat approval and successful recording of said plat. No separation of Lot 1, Block 1, Northbrook Center 2nd Addition, may occur without separate approval of a subdivision as provided under Chapter 15 of the City Code of Ordinances.
    a. The proposed subdivision is as follows:
        Lot 1, Block 1, Northbrook Center 3rd Addition
        (Ebert Construction) –approximately 2.6 acres
        Lot 2, Block 1, Northbrook Center 3rd Addition
        (City of Brooklyn Center) –approximately 4.72 acres
    b. All recommendations and conditions as noted in the Assistant City Engineer's review memorandum, dated March 6, 2018, shall be complied with or completed as part of any final plat approvals.
    c. The final plat shall be subject to the provisions of Chapter 15 (*Platting* Ordinance).

2. **Building and Site Plan and Review:** The building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits; and the final location or placement of any fire hydrants and 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. A pre-construction conference shall be held with City staff and other entities designated by the City prior to issuance of a Building Permit.

3. **Agreements:**

a. The Property Owner/Developer shall enter into a PUD agreement with the City of Brooklyn Center to be reviewed and approved by the City Attorney prior to the issuance of building permits. Said agreement shall be filed with the title to the property and shall acknowledge the specific modifications to the C-2 underlying zoning district as well as other conditions of approval. The agreement shall further assure compliance with the development plans submitted with this application.

b. The owner of the property shall enter into a utility, facilities, and easement agreement for maintenance and inspection of utility and storm drainage systems as approved by the City Engineer prior to the issuance of building permits.
    a. A 10-foot drainage and utility easement must be dedicated on the plat around the entire perimeter of the site and over the storm water BMPS treatment areas up to the 100-year event.

c. The Developer shall execute a separate Performance Agreement with supporting financial guarantee approved by the City, which ensures the Subject Property will be constructed, developed, and maintained in conformance with the plans, specifications and standards comprehended under this Site and Building Plan.

d. The Developer shall submit an as-built survey of the property, improvements and utility service lines prior to release of the performance guarantee.

4. **Engineering Review:** The Applicant agrees to comply with all conditions or provisions noted in the City Engineer's Review memo, dated March 6, 2018 (Exhibit D).
    a. A land disturbance (alteration) permit is required.
    b. 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 prior to the issuance of permits.
    c. Applicant shall meet all requirements as identified by the Minnesota Pollution Control Agency (MPCA).
    d. The Applicant shall meet all applicable requirements as identified by Hennepin County in the review dated March 7, 2018 (Exhibit C).
    e. The Applicant shall meet all applicable requirements as identified in the review by MnDOT dated March 14, 2018 (Exhibit E).
    f. The Applicant shall meet all applicable requirements identified as part of the review by the West Mississippi Watershed Commission.

5. **Construction Standards:**
    a. Appropriate erosion and sediment control devices shall be provided on site during construction as approved by the City's Engineering Department.
    b. The Applicant shall obtain an NPDES construction site erosion permit from the Minnesota Pollution Control Agency prior to disturbing the site.
    c. All work performed and materials used for construction of utilities shall conform to the City of Brooklyn Center Standard Specifications and Details.

RESOLUTION NO. 2018-63

6. **Facilities and Equipment:**
   a. Any outside trash disposal facilities and roof top or on ground mechanical equipment shall be appropriately screened from view.
   b. The building shall be equipped with automatic fire extinguishing systems meeting NFPA standards and shall be connected to a central monitoring device in accordance with Chapter 5 of the City Ordinances.
   c. The proposed 12-foot by 12-foot trash enclosure shall be constructed with building materials that are complementary to the principal building (proposed indoor commercial storage building).

7. **Landscaping:** All landscaped areas, including street boulevards, shall include approved irrigation systems to facilitate site maintenance.
   a. Per City requirements, an irrigation system is required.
   b. The contractor shall submit irrigation shop drawings for review and approval prior to installation.

8. **Signage:** The Applicant shall submit a Building Permit application for any proposed signage as part of the development proposal. Signage is subject to the Chapter 34 (*Sign Ordinance*).

March 26, 2018
Date

Tim Willson
Mayor

ATTEST: Sharon Knutson
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
Dan Ryan
and upon vote being taken thereon, the following voted in favor thereof:
Tim Willson, Marquita Butler, April Graves, Kris Lawrence-Anderson, DAn Ryan

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

City Council Agenda Item No. 6h

COUNCIL ITEM MEMORANDUM

DATE: March 30, 2018

TO: Curt Boganey, City Manager

FROM: Jim Glasoe, Director of Community Activities, Recreation and Services

SUBJECT: Resolution Authorizing the Community Activities, Recreation and Services Department to Apply For Grant Funding Through the Department of Natural Resources Outdoor Recreation Grant Program

Recommendation:
It is recommended the City Council consider adoption of the attached resolution supporting an application for a Department of Natural Resources Outdoor Recreation Grant.

Background:
The Department of Natural Resources is seeking local units of government interested in acquiring, developing, or upgrading facilities for outdoor recreation. Eligible projects include park acquisition and/or development/redevelopment including, internal park trails, picnic shelters, playgrounds, athletic facilities, boat accesses, fishing piers, swimming beaches and campgrounds. All park projects must meet requirements for perpetual outdoor recreation use.

The City of Brooklyn Center and the Brooklyn Center Little League are planning to reconstruct two of the existing Little League fields and construct a new t-ball field. In addition, the parking areas, concession stand and other amenities will also be updated

This proposed project has been reviewed, approved and recommended by the Brooklyn Center Little League Program and the Brooklyn Center Park & Recreation Commission. Staff continues to pursue grant funds to help offset a portion of the project's construction cost.

The Outdoor Recreation Grant submission requirements call for the local governmental unit making the application to provide a resolution from its governing body authorizing the application submission. Accordingly, a resolution is attached for City Council consideration.

Budget Issues:
The anticipated total cost for the Little League site improvements is $250,000. The Outdoor recreation grant application is for $100,000 and we have an additional $150,000 committed from the Minnesota Twins Community Fund and the Hennepin Youth Sports grant program.

Strategic Priorities:
- Targeted Redevelopment

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE COMMUNITY ACTIVITIES, RECREATION AND SERVICES DEPARTMENT TO APPLY FOR GRANT FUNDING THROUGH THE DEPARTMENT OF NATURAL RESOURCES OUTDOOR RECREATION GRANT PROGRAM

WHEREAS, the City of Brooklyn Center would act as legal sponsor for the project contained in the Outdoor Recreation grant application, submitted on March 31, 2018 and that the City Manager is hereby authorized to apply to the Department of Natural Resources for funding of this project on behalf of the City of Brooklyn Center; and

WHEREAS, the City of Brooklyn Center has the legal authority to apply for financial assistance, and financial capability to meet the match requirement (if any) and ensure adequate construction, operation, maintenance and replacement of the proposed project for its design life; and

WHEREAS, the City of Brooklyn Center has not incurred any development costs and has not entered into a written purchase agreement to acquire the property described in the Cost Breakdown section on this application; and

WHEREAS, the City of Brooklyn Center has, or will acquire fee title or permanent easement over the land described in the site plan included in the application; and

WHEREAS, upon approval of its application by the state, The City of Brooklyn Center may enter into an agreement with the State of Minnesota for the above-referenced project, and that the City of Brooklyn Center certifies that it will comply with all applicable laws and regulations as stated in the grant agreement including dedicating the park property for uses consistent with the funding grant program into perpetuity.

NOW, THEREFORE, BE IT RESOLVED by the City Council, of the City of Brooklyn Center, the CITY MANAGER is hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant.

April 9, 2018
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.

City Council Agenda Item No. 6i

COUNCIL ITEM MEMORANDUM

DATE: April 9, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Ginny McIntosh, City Planner/Zoning Administrator

SUBJECT: Resolution Regarding the Recommended Disposition of Planning Commission Application No. 2018-003, Submitted by David Pemberton of Sathre-Bergquist, Inc., Requesting Approval of the Preliminary Plat for Mohs Addition (Located at 5006 France Avenue North)

Recommendation:
It is recommended that the City Council, following consideration of this planning application item, adopt the resolution regarding the disposition of Planning Commission Application No. 2018-003, submitted by David Pemberton of Sathre-Bergquist, Inc., for approval of the Preliminary Plat for Mohs Addition, subject to the Applicant complying with the conditions of approval as noted in the Planning Commission Staff Report dated March 29, 2018 (attached).

Background:
On March 29, 2018, the Planning Commission conducted a public hearing on Planning Commission Application No. 2018-003, submitted by David Pemberton of Sathre-Bergquist, Inc., for approval of the Preliminary Plat for Mohs Addition, which would subdivide an existing 0.46 acre lot into two, approximately 9,982-square foot lots. As proposed, an existing detached garage would need to be removed as it would straddle the proposed new lot line. Additionally, any existing driveway that encroaches onto the other lot would need to be removed, and a new driveway curb cut and driveway would need to be installed on the northern property (proposed Lot 1).

Full consideration was given under a duly noticed public hearing and mail notifications were sent to surrounding property owners in accordance with the public hearing requirements. No comments (for or against) were received concerning the approval of the preliminary plat.

Upon close of the public hearing, the Planning Commission voted unanimously (5-0) in favor of the recommendation. Attached for your review are copies of the Planning Commission Report for Planning Commission Application No. 2018-003, a copy of the Preliminary Plat for Mohs Addition, a copy of Planning Commission Resolution No. 2018-003 (*Resolution Regarding Recommended Disposition of Planning Commission Application No. 2018-003 Submitted by David Pemberton of Sathre-Bergquist, Inc, Requesting Approval of the Preliminary Plat for Mohs Addition (Located at 5006 France Avenue North)*), and the draft Council resolution.

COUNCIL ITEM MEMORANDUM

Budget Issues:
There are no budget issues to consider.

Strategic Priorities:
- Targeted Redevelopment

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. 2018-_____

RESOLUTION REGARDING THE RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-003, SUBMITTED BY DAVID PEMBERTON OF SATHRE-BERGQUIST, INC., REQUESTING APPROVAL OF THE PRELIMINARY PLAT FOR MOHS ADDITION (LOCATED AT 5006 FRANCE AVENUE NORTH)

WHEREAS, Planning Commission Application No. 2018-003 was submitted by David Pemberton of Sathre-Bergquist, Inc. on behalf of property owner Michael Mohs of A&M Estate Services, LLC, requesting approval of a Preliminary Plat for a new subdivision to be titled MOHS ADDITION, which would subdivide an existing 0.46 acre (19,926-square feet) lot into two approximately 9,982-square foot lots, respectively, and

WHEREAS, on March 29, 2018, the Planning Commission held a duly called public hearing, whereby this item was given due consideration, a staff report was presented, and a public hearing was opened to allow for public testimony regarding the Preliminary Plat of MOHS ADDITION, which were received and noted for the record; and

WHEREAS, the Planning Commission has determined during its review of the Preliminary Plat materials submitted with Planning Application No. 2018-003, that said plat is in general conformance with the City of Brooklyn Center's City Code Chapter 15 – Platting; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Brooklyn Center, Minnesota, does hereby recommend that Application No. 2018-003, as submitted by David Pemberton of Sathre-Bergquist, Inc. and requesting Preliminary Plat consideration for a new subdivision to be titled MOHS ADDITION, may be approved based upon the following conditions:

1. Provide driveway curb cut and driveway access to the northern property (proposed Lot 1). As part of this request, the Applicant/Property Owner will need to:
    a. Apply for a Driveway Permit from the City Public Works Department. Said permit shall be applied for at or before time of final plat recording with Hennepin County.

2. Remove the existing detached garage and all driveway that encroaches onto the north lot (proposed Lot 1). A demolition permit for the existing detached garage shall be applied for with the City at or before time of final plat recording with Hennepin County.
    a. Construction of a new garage requires compliance with City Code, including, but not limited to: setback, height, minimum accessory to primary building distance, maximum accessory structure square footage, and any building permit approval requirements.

3. As part of Final Plat approval, Mylar copies shall be in substantial conformance with the referenced plans, unless modified by any staff recommended conditions. As part of this process, the Applicant shall:
    i. Update the Engineer signature block to reflect a "2018" date, rather than a "2017" date on the submitted plat;
    ii. Provide two Mylar copies as part of final plat approval; and
    iii. Provide an updated certified abstract of title or registered property report to the City Attorney or City Planner for review at time of final plat application (within 30 days of release of final plat).

4. Comply with all other recommendations as noted in the Assistant City Engineer's memorandum dated March 20, 2018 (Exhibit C) or as required by Hennepin County.

5. The Final Plat shall be subject to the provisions of Chapter 15 of the City Ordinances.

April 9, 2018
Date

Mayor

ATTEST: _____
City Clerk

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

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

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

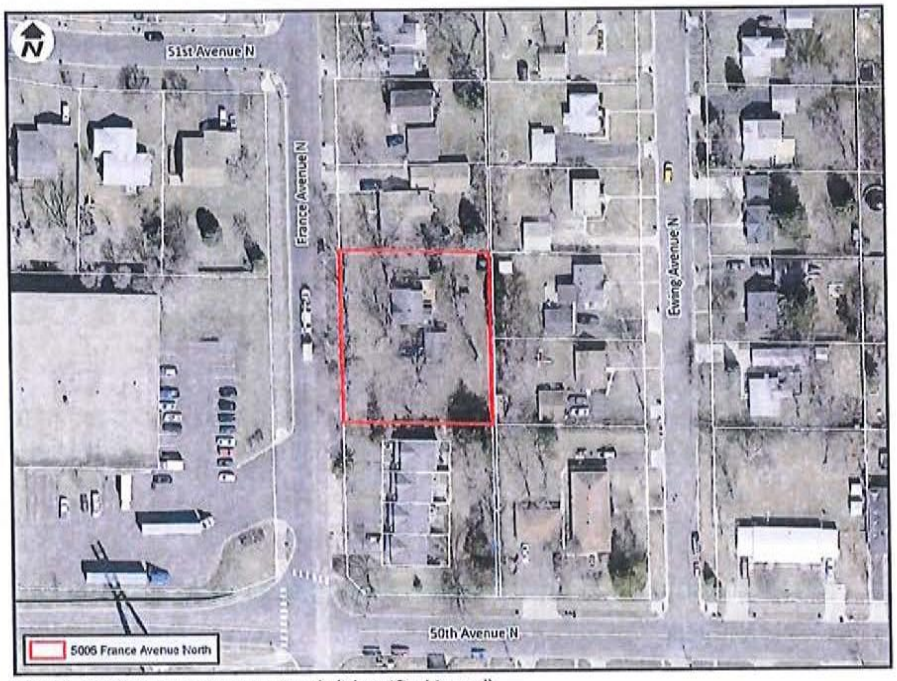
Planning Commission Report
Meeting Date: March 29, 2018

- Application Filed: 02/26/2018
- Review Period (60-day) Deadline: 04/27/2018
- Extension Declared: N/A
- Extended Review Period Deadline: N/A

INTRODUCTION
David Pemberton of Sathre-Berquist, Inc. ("the Applicant"), is seeking Preliminary and Final Plat approval on behalf of property owner Michael Mohs of A&M Estate Services, LLC, to subdivide a currently un-platted residential property located at 5006 France Avenue North ("the Subject Property") into two (2) new lots, to be known as Mohs Addition (Exhibit A).

As part of the application process, a public hearing was scheduled with the Planning Commission for March 29, 2018, as published in the Brooklyn Center *Sun Post* on March 15, 2018 (Exhibit B), and notices were mailed to surrounding property owners.

ANALYSIS
The Subject Property is approximately 0.46 acres in size (19,926 square feet), and situated in the R1 (One Family) Zoning District. Existing site improvements include a single-family house constructed in 1950, a detached two-car garage, a gravel driveway, shed, and deck structure (see Map 1 and Image 1 below).



Map 1. 5006 France Avenue South (identified in red).

Image 1. Existing house, detached garage, and driveway at 5006 France Avenue North (Courtesy of Google Maps).

The Subject Property is surrounded by R1-zoned properties to the north and east, R4-zoned townhomes to the south, and I2 (General Industry) and PUD-R1 (Planned Unit Development-One Family Residence) zoned properties to the west.

As proposed, the Applicant would subdivide the 150-foot wide property into two (2) 75 foot wide by 133 foot deep lots. Per the minimum district requirements under Section 35-400 (*Table of Minimum District Requirements*), the minimum lot width for an R1-zoned interior lot is 75 feet.

Additionally, the minimum land area for an R1 (One Family) interior lot is 9,500-square feet per unit. Based on the Preliminary Plat of Mohs Addition, the two lots would be approximately 9,982-square feet, respectively.

With regard to the minimum required building setbacks, the building setbacks for R1 (One Family) interior lots per the City Zoning Code are as follows:

Front Yard: 35 feet **Side Interior Yard:** 10 feet **Rear Yard:** 25 feet

The building setbacks for the existing home, which would be located on Lot 1, are as follows:

Proposed Lot 1 (North Lot)
Front Yard: 47.4 feet **Side Interior Yard:** 10 feet **Rear Yard:** 51.2 feet

Although there are no immediate plans to construct a house on proposed Lot 2 (South Lot) at this time, the Applicant has indicated on the preliminary plat that construction of a single family home with an attached one-car garage would meet the setback requirements identified in Chapter 35 (*Zoning Ordinance*). In reviewing the adjacent lots (see Map 1 above), the proposed lots would be of comparative size with the neighboring R1-zoned lots.

ASSISTANT CITY ENGINEER'S REVIEW

Assistant City Engineer Andrew Hogg provided a series of recommendations as part of any positive plat approval. These recommendations are outlined in his memorandum dated March 20, 2018, and as attached hereto as Exhibit C.

FINDINGS

Upon review of the submitted preliminary plat, it appears the plat would meet the minimum requirements as established under Chapter 15 (*Platting*), and Chapter 35 *(Zoning Ordinance*). As a condition of any approval, the existing detached garage would need to be either relocated or demolished, as it would straddle the property lines of proposed Lots 1 and 2. Additionally, any portion of the existing driveway that encroaches over the new property line would need to be removed. A new access drive would need to be installed on the north lot as a minimum of two off-street parking spaces is required per dwelling unit. This driveway would need to be constructed so as to meet all City Code requirements.

RECOMMENDATION

Staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. 2018-003 for the Subject Property located at 5006 France Avenue North:

1. Provide driveway curb cut and driveway access to the northern property (proposed Lot 1). As part of this request, the Applicant/Property Owner will need to:
    a. Apply for a Driveway Permit from Public Works. Said permit shall be applied for by time of final plat recording with Hennepin County.

2. Remove the existing detached garage and all driveway that encroaches onto the north lot (proposed Lot 1).
    a. Construction of a new garage requires compliance with City Code, including, but not limited to: setback, height, minimum accessory to primary distance, maximum accessory structure square footage, and any building permit approval requirements.
    b. The Applicant/Property Owner will need to obtain a demolition permit from the City prior to any demolition of the existing detached garage.

3. As part of final plat approval, mylar copies shall be in substantial conformance with the referenced plans, unless modified by any staff recommended conditions. As part of this process, the Applicant shall:
        i. Update the Engineer signature block to reflect a "2018" date, rather than a "2017" date on the submitted plat;

ii. Provide two mylar copies as part of final plat approval; and
iii. Provide an updated certified abstract of title or registered property report to the City Attorney or City Planner for review at time of final plat application (within 30 days of release of final plat).

4. Comply with all other recommendations as noted in the Assistant City Engineer's memorandum dated March 20, 2018 (Exhibit C).

Based on the above-noted findings, staff recommends:

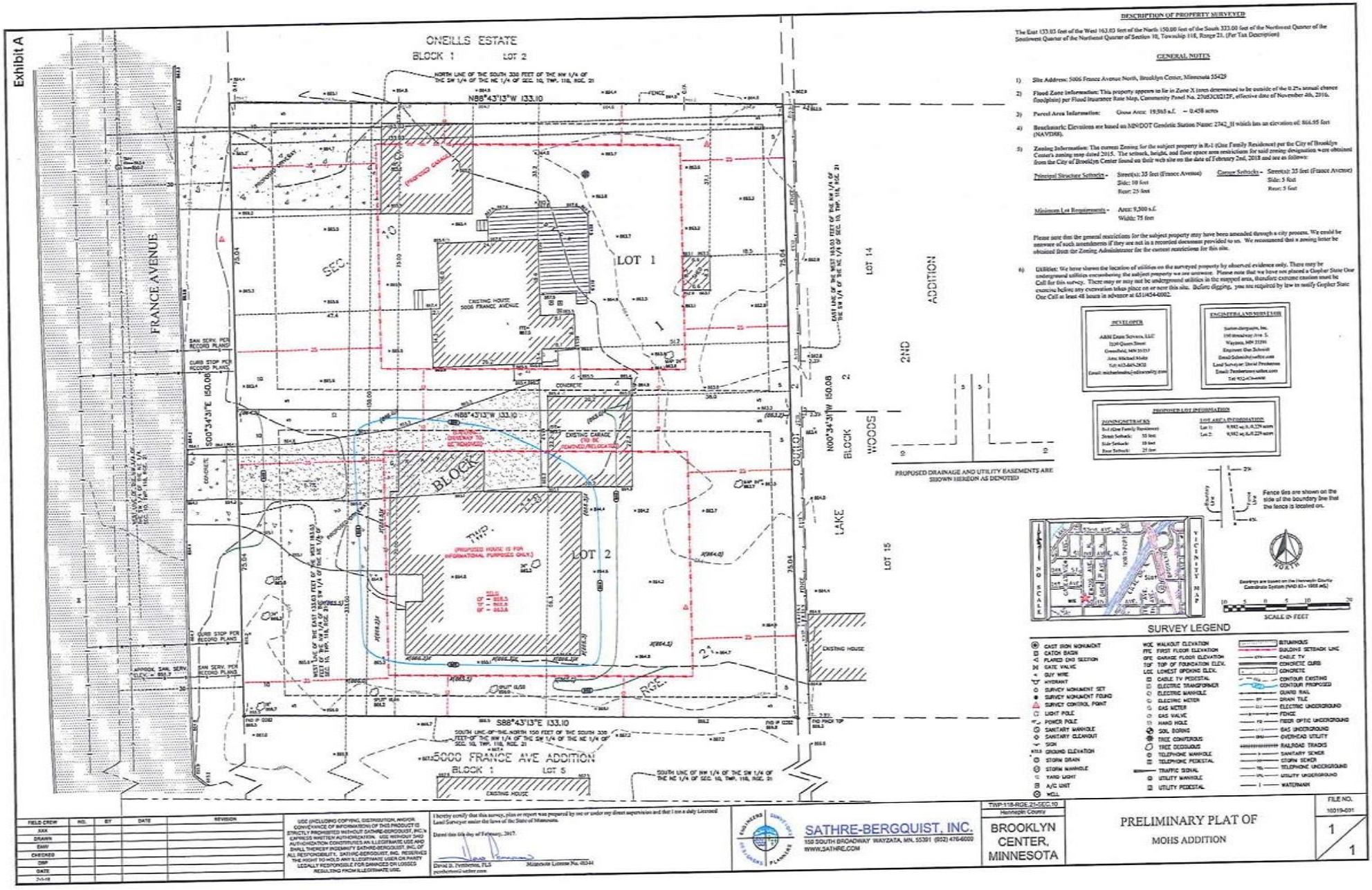
The Planning Commission recommends City Council approval of the requested preliminary plat for Mohs Addition, subject to the Applicant complying with the comments outlined in the Assistant City Engineer's memorandum dated March 20, 2018 (Exhibit C), and conditions of approval, as noted above.

Should the Planning Commission accept these recommendations, the Commission may elect to adopt the draft resolution attached as Exhibit D.

ATTACHMENTS

Exhibit A- Preliminary Plat of Mohs Addition, prepared by Sathre-Bergquist, Inc, dated February 6, 2018.
Exhibit B- Public Hearing Notice for 5006 France Avenue North, as published in the Brooklyn Center *Sun Post* on March 15, 2018.
Exhibit C- Public Works Preliminary and Final Plat Review Memorandum for 5006 France Avenue N, prepared by Assistant City Engineer Andrew Hogg, dated March 20, 2018.
Exhibit D- Draft Resolution for Preliminary Plat of Mohs Addition (5006 France Avenue North).

Exhibit A



DESCRIPTION OF PROPERTY SURVEYED

The East 133.03 feet of the West 163.03 feet of the North 150.00 feet of the South 323.00 feet of the Northwest Quarter of the Southwest Quarter of the Northeast Quarter of Section 10, Township 118, Range 21. (Per Tax Description)

GENERAL NOTES

1) Site Address: 5006 France Avenue North, Brooklyn Center, Minnesota 55429

2) Flood Zone Information: This property appears to lie in Zone X (area determined to be outside of the 0.2% annual chance floodplain) per Flood Insurance Rate Map, Community Panel No. 27053C0212F, effective date of November 4th, 2016.

3) Parcel Area Information: Gross Area: 19,963 s.f. ~ 0.458 acres

4) Benchmark: Elevations are based on MNDOT Geodetic Station Name: 2742_H which has an elevation of: 864.95 feet (NAVD88).

5) Zoning Information: The current Zoning for the subject property is R-1 (One Family Residence) per the City of Brooklyn Center's zoning map dated 2015. The setback, height, and floor space area restrictions for said zoning designation were obtained from the City of Brooklyn Center found on their web site on the date of February 2nd, 2018 and are as follows:

Principal Structure Setbacks - Street(s): 35 feet (France Avenue) Side: 10 feet Rear: 25 feet

Garage Setbacks - Street(s): 35 feet (France Avenue) Side: 5 feet Rear: 5 feet

Minimum Lot Requirements - Area: 9,500 s.f. Width: 75 feet

Please note that the general restrictions for the subject property may have been amended through a city process. We could be unaware of such amendments if they are not in a recorded document provided to us. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site.

6) Utilities: We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercise before any excavation takes place on or near this site. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.

DEVELOPER	ENGINEER AND SURVEYOR
ABM Estate Services, LLC 1500 Quorn Street Greenfield, MN 55373 Attn: Michael Mohs Tel: 612-669-2832 Email: michaelmohs@stillwaterlp.com	Sathre-Bergquist, Inc. 150 Broadway Ave. S. Wayzata, MN 55391 Engineer: Dan Schmidt Email:Schmidt@sathre.com Land Surveyor: David Pemberton Email: Pemberton@sathre.com Tel: 952-476-6000

PROPOSED LOT INFORMATION

DIMENSIONETRICS		LOT AREA INFORMATION	
Red (One Family Residence)		Lot 1:	9,982 sq.ft./0.229 acres
Street Setback:	35 feet	Lot 2:	9,982 sq.ft./0.229 acres
Side Setback:	10 feet		
Rear Setback:	25 feet		

SURVEY LEGEND

CAST IRON MONUMENT	WOE WALKOUT ELEVATION	BITUMINOUS
CATCH BASIN	FFE FIRST FLOOR ELEVATION	BUILDING SETBACK LINE
FLARED END SECTION	GFE GARAGE FLOOR ELEVATION	CABLE TV
GATE VALVE	TOF TOP OF FOUNDATION ELEV.	CONCRETE CURB
GUY WIRE	LOE LOWEST OPENING ELEV.	CONCRETE
HYDRANT	CABLE TV PEDESTAL	CONTOUR EXISTING
SURVEY MONUMENT SET	ELECTRIC TRANSFORMER	CONTOUR PROPOSED
SURVEY MONUMENT FOUND	ELECTRIC MANHOLE	GUARD RAIL
SURVEY CONTROL POINT	ELECTRIC METER	DRAIN TILE
LIGHT POLE	GAS METER	ELECTRIC UNDERGROUND
POWER POLE	GAS VALVE	FENCE
SANITARY MANHOLE	HAND HOLE	FIBER OPTIC UNDERGROUND
SANITARY CLEANOUT	SOIL BORING	GAS UNDERGROUND
SIGN	TREE CONIFEROUS	OVERHEAD UTILITY
GROUND ELEVATION	TREE DECIDUOUS	RAILROAD TRACKS
STORM DRAIN	TELEPHONE MANHOLE	SANITARY SEWER
STORM MANHOLE	TELEPHONE PEDESTAL	STORM SEWER
YARD LIGHT	TRAFFIC SIGNAL	TELEPHONE UNDERGROUND
A/C UNIT	UTILITY MANHOLE	UTILITY UNDERGROUND
WELL	UTILITY PEDESTAL	WATERMAIN

FIELD CREW	NO.	BY	DATE	REVISION
XXX				
DRAWN				
DMH				
CHECKED				
DRP				
DATE				
2-5-18				

USE (INCLUDING COPYING, DISTRIBUTION, AND/OR CONVEYANCE OF INFORMATION) OF THIS PRODUCT IS STRICTLY PROHIBITED WITHOUT SATHRE-BERGQUIST, INC.'S EXPRESS WRITTEN AUTHORIZATION. USE WITHOUT SUCH AUTHORIZATION CONSTITUTES AN ILLEGITIMATE USE AND SHALL THEREBY INDEMNIFY SATHRE-BERGQUIST, INC. OF ALL RESPONSIBILITY. SATHRE-BERGQUIST, INC. RESERVES THE RIGHT TO HOLD ANY ILLEGITIMATE USER OR PARTY LEGALLY RESPONSIBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLEGITIMATE USE.

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

Dated this 6th day of February, 2017.

David B. Pemberton, PLS — Minnesota License No. 48244

SATHRE-BERGQUIST, INC.
150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6000
WWW.SATHRE.COM

TWP-118-RGE-21-SEC.10
Hennepin County
BROOKLYN CENTER, MINNESOTA

PRELIMINARY PLAT OF
MOHS ADDITION

FILE NO. 10019-001
1 / 1

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 Thursday, March 29, 2018, at approximately 7:00 p.m., at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST: Preliminary Plat of Mohs Addition

PETITIONER: David Pemberton (Sathre-Bergquist, Inc.)

PROPERTY NAMED IN THE PETITION: 5006 France Avenue North

PROPERTY ID:
10-118-21-13-0005

LEGAL DESCRIPTION: East 133.03 feet of the West 163.03 feet of the North 150.00 feet of the South 333.00 feet of the Northwest Quarter of the Southwest Quarter of the Northeast Quarter of Section 10, Township 118, Range 21.

BRIEF STATEMENT OF CONTENTS OF PETITION: The Applicant is requesting the following approval:

1. Preliminary Plat approval of Mohs Addition, which would subdivide the existing 19,965-square foot lot into two (2) lots:

a. Lot 1-Approximately 9,982 square feet

b. Lot 2- Approximately 9,982 square feet

These requests are associated with the Applicant's plans to create a second R1-zoned lot on a currently vacant portion of Subject Property. As part of this request, an existing detached garage would require removal due to its location across the proposed new lot line.

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

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

Respectfully,
Ginny Mcintosh
City Planner / Zoning Administrator

Published in the
Brooklyn Center Sun Post
March 15, 2018
792510

Exhibit C

MEMORANDUM

DATE: March 20, 2018

TO: Ginny McIntosh, City Planner and Zoning Administor

FROM: Andrew Hogg. Assistant City Engineering

SUBJECT: Public Works – Preliminary and Final Plat Review for 5006 France Ave N

Public Works Department staff reviewed the preliminary plat and final plat submittals dated March 19, 2018, for the proposed MOHS ADDITION and provide the following recommendations:

General:

1. Provide driveway curb cut to northern property. Must apply for Driveway Permit from public works.
2. Remove existing garage and driveway that encroaches on to north lot.
3. No negative impacts on adjacent properties.
4. Submit two mylar copies of the final plat signed by the surveyor and owner.

All aforementioned items, comments and recommendations are provided based on the information submitted by the applicant at the time of this review. The preliminary plan (and final plat must be developed and maintained in substantial conformance with the referenced plans, unless modified by the staff recommended conditions above. Subsequent approval of the final plat may require additional modifications based on the City Engineer and other public officials having jurisdiction over approval of the final site plans.

Commissioner introduced the following resolution and moved its adoption:

PLANNING COMMISSION RESOLUTION NO. 2018-004

RESOLUTION REGARDING RECOMMENDED DISPOSITION OF PLANNING COMMISSION APPLICATION NO. 2018-003 SUBMITTED BY DAVID PEMBERTON OF SATHRE-BERGQUIST, INC, REQUESTING APPROVAL OF THE PRELIMINARY PLAT FOR MOHS ADDITION (LOCATED AT 5006 FRANCE AVENUE NORTH)

WHEREAS, Planning Commission Application No. 2018-003 was submitted by David Pemberton of Sathre-Bergquist, Inc, on behalf of property owner Michael Mohs of A&M Estate Services, LLC, requesting approval of a Preliminary Plat of a new subdivision to be titled MOHS ADDITION, which would subdivide an existing 0.46 acre (19,926-square feet) lot into two, approximately 9,982-square foot lots, respectively, and

WHEREAS, on March 29, 2018, the Planning Commission held a duly called public hearing, whereby this item was given due consideration, a staff report was presented, and a public hearing was opened to allow for public testimony regarding the preliminary plat of MOHS ADDITION, which were received and noted for the record; and

WHEREAS, the Planning Commission has determined during its review of the preliminary plat materials submitted with Planning Application No. 2018-003, that said plat is in general conformance with the City of Brooklyn Center's City Code Chapter 15 – Platting; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Advisory Commission of the City of Brooklyn Center, Minnesota, does hereby recommend to the City Council that Application No. 2018-003, as submitted by David Pemberton of Sathre-Bergquist, Inc, and requesting Preliminary Plat consideration of a new subdivision to be titled MOHS ADDITION, may be approved based upon the following conditions:

1. Provide driveway curb cut and driveway access to the northern property (proposed Lot 1). As part of this request, the Applicant/Property Owner will need to:
    a. Apply for a Driveway Permit from Public Works. Said permit shall be applied for by time of final plat recording with Hennepin County.

2. Remove the existing detached garage and all driveway that encroaches onto the north lot (proposed Lot 1).
    a. Construction of a new garage requires compliance with City Code, including, but not limited to: setback, height, minimum accessory to primary distance, maximum accessory structure square footage, and any building permit approval requirements.
    b. The Applicant/Property Owner will need to obtain a demolition permit from the City prior to any demolition of the existing detached garage.

3. As part of final plat approval, mylar copies shall be in substantial conformance with the referenced plans, unless modified by any staff recommended conditions. As part of this process, the Applicant shall:
    i. Update the Engineer signature block to reflect a "2018" date, rather than a "2017" date on the submitted plat;
    ii. Provide two mylar copies as part of final plat approval; and
    iii. Provide an updated certified abstract of title or registered property report to the City Attorney or City Planner for review at time of final plat application (within 30 days of release of final plat).

4. Comply with all other recommendations as noted in the Assistant City Engineer's memorandum dated March 20, 2018 (Exhibit C).

5. The final plat shall be subject to the provisions of Chapter 15 of the City Ordinances.

March 29, 2018
Date

Randall Christensen, Chair

ATTEST: _____
Ginny McIntosh, Secretary

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.

City Council Agenda Item No. 7a

COUNCIL ITEM MEMORANDUM

DATE: April 3, 2018

TO: Curt Boganey, City Manager

THROUGH: Doran Cote, P.E., Director of Public Works

FROM: Andrew Hogg, P.E., Assistant City Engineer

SUBJECT: Proclamation Declaring April 22-29, 2018, to be Community Cleanup Week

Recommendation:
It is recommended that the City Council consider adoption of a proclamation declaring April 22-29, 2018, as Community Cleanup Week.

Background:
Brooklyn Center will celebrate the 17th annual "Great Shingle Creek Watershed Cleanup" which this year has been renamed to the Community Cleanup. Beginning Sunday, April 22, 2018, through Sunday, April 29, 2018, hundreds of volunteers from Plymouth to the Mississippi River will line the banks of Shingle Creek, as well as City parks, trails and streets, picking up everything from pop cans and auto parts to building materials and household appliances.

The Community Cleanup meets one of the public involvement and participation requirements of the federally mandated National Pollutant Discharge Elimination System (NPDES) permit for Brooklyn Center. The event not only educates people that trash and other contaminants in the streets, parks and shorelines eventually end up in our lakes, rivers and streams, but also provides opportunities for the public to become involved in the protection of water quality.

Many of the groups affiliated with the Brooklyn Center Adopt-a-Park/Trail/Street/Flower Garden Programs will concentrate on a cleanup of their assigned sites during the week. Groups and individuals not already connected with a park, trail or street will be assigned to a nearby park, creek, open space or parkway to pick up trash and debris. On Sunday, April 22, 2018, Brooklyn Center City officials and employees will be distributing trash bags and cotton gloves as well as refreshments at Centennial Park Amphitheater to kick off the official cleanup and to commemorate Earth Day. More than 75 volunteers are expected to participate in the week-long event.

Budget Issues:
The American Legion and the Sons of the American Legion have provided a $200 contribution towards expenses for the Community Cleanup event. Additional funding for the event is included in the 2018 budget under the Storm Drainage Utility operating budget.

Strategic Priorities:
- Enhanced Community Image

PROCLAMATION

DECLARING APRIL 22-29, 2018,
TO BE
COMMUNITY CLEANUP WEEK

WHEREAS, *The City of Brooklyn Center is dedicated to preserving and protecting the water resources in our watersheds; and*

WHEREAS, *Litter and trash can be washed into our lakes, rivers and streams, polluting the water and clogging the City's storm water drainage system; and*

WHEREAS, *Citizens can take an active role in protecting water resources by picking up litter and trash and keeping our streets, parks, neighborhoods and community clean; and*

WHEREAS, *The City of Brooklyn Center's annual event "The Community Cleanup" will take place April 22, 2018.*

NOW, THEREFORE, I, AS MAYOR OF THE CITY OF BROOKLYN CENTER, State of Minnesota, with the consent and support of the Brooklyn Center City Council, do hereby proclaim:

1. *April 22-29, 2018, to be Community Cleanup Week.*

2. *The City Council hereby reaffirms its commitment to protecting and preserving our water resources and encourages residents, businesses and institutions to use the Community Cleanup Week 2018 to help prevent water pollution and preserve our watersheds by participating in a cleanup event or by using this time to pick up trash and cleanup our homes, businesses, streets, neighborhoods and community.*

April 9, 2018
Date

_____
Mayor

Council Members

_____

_____

_____

_____

ATTEST: _____
City Clerk

City Council Agenda Item No. 7b

COUNCIL ITEM MEMORANDUM

DATE: April 3, 2018

TO: Curt Boganey, City Manager

THROUGH: Moran Cote, P.E., Director of Public Works

FROM: Andrew Hogg, P.E., Assistant City Engineer

SUBJECT: Proclamation Declaring April 22, 2018, as Earth Day in Brooklyn Center

Recommendation:
It is recommended that the City Council consider adoption of a proclamation declaring April 22, 2018, as Earth Day in Brooklyn Center.

Background:
The name and concept of Earth Day was pioneered in 1970 in the United States. It is an annual day on which events are held worldwide to demonstrate support for environmental protection. This day of nature's balance was later sanctioned in a Proclamation at the United Nations, eventually going international in 1990.

Today, more than 192 countries coordinate and celebrate Earth Day every year. Brooklyn Center recognizes Earth Day on Sunday, April 22, 2018, by taking part in celebratory events such as the Community Cleanup.

The Community Cleanup takes place on Sunday, April 22, 2018, from 1:00 to 4:00 p.m. and will commence by gathering at Centennial Park Amphitheater.

Budget Issues:
There are no budget issues to consider with this proclamation. The American Legion and the Sons of the American Legion have provided a $200 contribution towards expenses for the Community Cleanup event. Additional funding for the event is included in the 2018 budget under the Storm Drainage Utility operating budget.

Strategic Priorities:
- Enhanced Community Image

PROCLAMATION

DECLARING APRIL 22, 2018,
TO BE
EARTH DAY IN BROOKLYN CENTER

WHEREAS, *A sound natural environment is the foundation of a healthy society and a robust economy; and*

WHEREAS, *Local communities can do much to reverse environmental degradation and contribute to building a healthy society by addressing such issues as energy conservation, waste prevention and sustainable practices; and*

WHEREAS, *Earth Day 2018 offers an unprecedented opportunity to commit to building a healthy planet and flourishing communities.*

NOW, THEREFORE, I, AS MAYOR OF THE CITY OF BROOKLYN CENTER, State of Minnesota, with the consent and support of the Brooklyn Center City Council, do hereby proclaim:

1. *April 22, 2018, to be Earth Day in the City of Brooklyn Center.*

2. *The City of Brooklyn Center commits itself to undertaking programs and projects that enhance the community's natural environment.*

3. *The City Council hereby reaffirms its commitment and encourages residents, businesses and institutions to use Earth Day 2018 to celebrate the Earth and to commit to building a sustainable society by initiating or expanding existing programs which improve energy efficiency, reduce or prevent waste and promote recycling.*

April 9, 2018
Date

_____
Mayor

Council Members

_____

_____

_____

_____

ATTEST: _____
City Clerk

City Council Agenda Item No. 8a

COUNCIL ITEM MEMORANDUM

DATE: April 3, 2018

TO: Curt Boganey, City Manager

THROUGH: Doran Cote, P.E., Director of Public Works

FROM: Andrew Hogg, P.E, Assistant City Engineer

SUBJECT: An Ordinance Amending Chapter 25 of the City Code of Ordinances Relating to the Regulation of Right-of-Way Management

Recommendation:
It is recommended that the City Council consider approval of an Ordinance Amending Chapter 25 of the City Code of Ordinances Relating to the Regulation of Right-of-Way Management.

Background:
Significant changes in the wireless industry and its related shared wireless infrastructure, along with consumer demand for fast and reliable service on mobile devices, have fueled a frenzy of requests for large and small cell site development and/or deployment. As a part of this, cities find themselves facing cell industry arguments that federal law requires cities to approve tower siting requests.

Private for-profit small cell wireless (SCW) carriers represent the continuation of their nationwide goal to limit cities' authority to protect the public interest and to influence where SCW technology is installed. The effort also seeks to circumvent Federal and State courts that have consistently agreed that local governments retain their regulatory authority and, when faced with making decisions on placement of towers, antenna or new telecommunication service equipment on city facilities, that cities have the same rights as private individuals have to deny or permit placement of a cellular tower on their property.

In Minnesota, to clear up confusion about whether wireless providers represent telecommunications right-of-way users under state law and to address concerns about deployment of small wireless technology, the Legislature amended Minnesota's Right-of-Way User statutes, or Minnesota ROW Law, in the 2017 Legislative Session to specifically address small wireless facilities and the support structures on which those facilities may attach.

Because of these amendments, effective May 31, 2017, additional specific state statutory provisions apply when cities, through an ordinance, manage their rights-of-way, recover their right-of-way management costs (subject to certain restrictions) and charge rent for attaching to city-owned structures in public rights-of-way. Rent, however, is capped for collocation of small wireless facilities. State law defines "collocate" or "collocation" as a means to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure that is owned privately or by a local government unit.

COUNCIL ITEM MEMORANDUM

Because of the recent significant changes in state law and specific requirements for deployment of small wireless facilities that do not apply to other telecommunications right-of-way users, cities should work with their City Attorneys to review and update their ordinances.

City staff has been working with the City Attorney to revise the Right-of-Way Ordinance to meet the requirements of the state statues regarding right-of-way while still protecting the City rights to manage their own right-of-way.

The Planning Commission reviewed the ordinance revisions at the Commission's March 1, 2018, meeting. The Planning Commission has an understanding of the need for the ordinance revision and had no recommendations. Consistent with the City Charter, at its March 12, 2018, meeting, the City Council approved the first reading of this ordinance and notice of the Public Hearing was published in the official newspaper on March 22, 2018. The second reading and Public Hearing are scheduled for April 9, 2018. If adopted by the City Council, the ordinance would be effective after thirty days following legal publication.

Budget Issues:
There are no budget issues to consider.

Strategic Priorities:
- Safe, Secure, Stable Community

CITY OF BROOKLYN CENTER

Notice is hereby given that a Public Hearing will be held on the 9th day of April, 2018, at 7 p.m. or as soon thereafter as the matter may be heard at the City Hall, 6301 Shingle Creek Parkway, to consider An Ordinance Amending Chapter 25 of the City Code of Ordinances Relating to the Regulation of Right-Of-Way Management.

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

ORDINANCE NO._____

AN ORDINANCE AMENDING CHAPTER 25 OF THE CITY CODE OF ORDINANCES RELATING TO THE REGULATION OF RIGHT-OF-WAY MANAGEMENT

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

Section 1. Brooklyn Center City Code, Chapter 25 is amended by deleting the ~~stricken language~~ and inserting the double-underlined language as follows:

RIGHT-OF-WAY MANAGEMENT

Section 25-1000. FINDINGS AND PURPOSE. To provide for the health, safety and well-being of its citizens, and to ensure the structural integrity of its streets and the appropriate use of the rights-of-way, the City strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the rights-of-way, a primary cause for the early and excessive deterioration of its rights-of-way is frequent excavation.

Right-of-way obstruction is a source of frustration for merchants, business owners and the general population which must avoid these obstructions or change travel or shopping plans because of them and has a detrimental effect on commerce. Persons whose facilities are within the right-of-way are the primary cause of these frequent obstructions.

The City holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the rights-of-way. It also recognizes that some persons, by placing their facilities in the right-of-way and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property.

In response to the foregoing facts, the City has enacted this Right-of-Way Management Ordinance relating to right-of-way permits and administration. This Ordinance imposes reasonable regulations on the placement and maintenance of facilities currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this ordinance, persons disturbing and obstructing the rights-of-way will bear a fair share of the financial responsibility for their integrity. Finally, this Ordinance provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

Section 25-1001. DEFINITIONS. The following definitions apply to the Right-of-Way Management Ordinance of this Code. Unless used in a context which indicates otherwise, defined terms remain defined terms whether or not capitalized.

a. "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.

b. "City" means the City of Brooklyn Center, Minnesota. For purposes of Section 25-~~1026~~1027, city includes its elected officials, officers, employees and agents.

c. "Collocate" or "Collocation" means to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.

d. "City Cost" means the actual cost incurred by the City for public rights-of-way management; including but not limited to costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; creating information and maintaining information on a geographical information system (GIS) mapping system; degradation costs; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during public right-of-way work; providing traffic control due to applicant's neglect or inadequate performance; determining the adequacy of right-of-way restoration; restoring work inadequately performed; and revoking right-of-way permits and performing all other tasks required by this Right of Way Management Ordinance, including other costs the city may incur in managing the provisions of this Right of Way Management Ordinance.

e. "Construction Performance Bond" means any of the following forms of security provided at the permittee' s option:

1. Individual project bond ;
2. Cash deposit ;
3. Security of a form listed or approved under Minn. Stat.,§ 15.73, subdivision 3;
4. Letter of credit, in a form acceptable to the Director;

5. Self-insurance, in a form acceptable to the Director;
6. A blanket bond for projects within the City, or
7. Other forms for a construction bond, for a time specified and in a form acceptable to the Director.

f. "Degradation" means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

g. "Degradation cost" means the cost to achieve a level of restoration as determined by the City at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules 7819.9900 to 7819.9950.

h. "Delay Penalty" means the penalty imposed as a result of unreasonable delays in right-of- way construction.

i. "Department" means the Department of Public Works of the City.

j. "Department Inspector" means any person authorized by the Director to carry out inspections related to the provisions of this Right of Way Management Ordinance.

k. "Director" means the City Manager, or her or his designee.

l. "Emergency" means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

m. "Equipment" means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

n. "Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way, except horticultural practices of penetrating the boulevard area to a depth of less than 12 inches.

o. "Excavation Permit" means the permit which must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right of way described in such permit.

p. "Excavation Permit Fee" means money paid to the City by an applicant to cover the costs as provided in Section 25-~~1009~~1010.

q. "Facility" means any tangible asset in the right-of-way required to provide Utility Service, but shall not include boulevard plantings or gardens planted or maintained in the right of way between a person's property and the street edge or curb.

r. "In," when used in conjunction with "right-of-way," means over, above, in, within, on or under a right-of-way.

s. "Local Representative" means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Right-of-Way Management Ordinance.

t. "Management Costs" means the actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes, Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to Section 1.30 of this chapter.

u. "Obstruct" means to place any object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

v. "Obstruction Permit" means the permit which must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

w. "Obstruction Permit Fee" means money paid to the City by a registrant to cover the costs as provided in Section 25-~~1009~~ 1010.

x. "Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this Right of Way Management Ordinance.

y. "Person" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have equipment in any right-of-way.

z. "Public Right of Way" or "Right of Way" means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

aa. "Registrant" means any person who (1) has or seeks to have its equipment located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or any equipment in the right-of-way.

bb. "Repair" means the temporary construction work necessary to make the right-of-way useable for travel.

cc. "Restore or Restoration" means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before the commencement of the work.

dd. "Restoration Cost" means an amount of money paid to the City by a permittee to cover the cost of restoration.

~~ee. "Right-of-Way" means the surface and space above and below a right-of-way for public roadway, highway, street, cartway, bicycle lane and public sidewalk purposes in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city.~~

ff. "Right-of-Way Management Ordinance" means Sections 25-1000 through 25-1032 of this Code.

gg. "Right-of-Way Permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Right-of-Way Management Ordinance.

hh. "Right-of-Way User" means:

a. A telecommunications right-of-way user as defined by Minn. Stat. § 237.162, subdivision 4; or

b. A person owning or controlling a facility in the public right-of-way that is used or is intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

ii. "Service" or "Utility Service" includes but is not limited to (1) those services provided by a public utility as defined in Minnesota Statutes 3 216B.02, Subdivisions 4 and 6; (2) telecommunications, pipeline, community antenna television, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services; (3) the services provided by a corporation organized for the purposes set forth in Minnesota Statutes 3 300.03; (4) the services provided by a district heating or cooling system, and (5) cable communications systems as defined in Minnesota Statutes Chapter 238.

jj. "Small Wireless Facility" means a wireless facility that meets both of the following qualifications:

(i) each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

(ii) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

kk. "Supplementary Application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that has already been issued.

ll. "Telecommunications Right of Way User" means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minnesota Statutes, Chapter 238, and telecommunication activities related to providing natural gas or electric energy services, whether provided by a public utility as defined in Minnesota Statutes, Section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota Statutes, Chapter 453 and 453A, or a cooperative electric association organized under Minnesota Statutes, Chapter

308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

mm. "Unusable Facilities" means facilities in the right-of-way which has remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next twelve (12) months or a potential purchaser or user of the facilities.

nn. "Utility Pole" means a pole that is used in whole or in part to facilitate telecommunications or electric service.

oo. "Wireless Facility" means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, or a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

pp. "Wireless Service" means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

qq. "Wireless Support Structure" means a new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

Section 25-1002. ADMINISTRATION. The City Manager is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Manager may delegate any or all of the duties hereunder.

Section 25-1003. REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

Subdivision 1. Registration. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or any facilities in the right-of-way, including by lease, sublease or assignment, or who has, or seeks to have, facilities are any right-of-way must register with the Director. Registration will consist of providing application information and paying a registration fee. A person who pays a franchise fee to the City in accordance with a franchise agreement shall be exempt from the payment of permit fees if so provided in the franchise. If the work is to be performed by an agent, contractor or subcontractor on behalf of a registrant, such application shall also be signed or pre-authorized by the registrant.

Subdivision 2. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the Director.

Subdivision 3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb provided and such use is subject to the use of the right-of-way by the City or other Persons for installation and maintenance of facilities. Persons planting or maintaining boulevard plantings or gardens or installing or operating irrigation systems shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this Right-of-Way Management Ordinance. However, excavations deeper than 12 inches are subject to the permit requirements of section 25-1006. Registration shall not be required for:

a. Private driveways or walkways
b. Sewer and water connections serving individual properties
c. Equipment of private landowner which is within the right-of-way and between that owner's property and the street curb
d. Signs
e. Mailboxes
f. Street furnishings
g. Bus stop benches
h. Bus stop shelter
i. Use by private landowners of utility easement areas for Facilities that are not inconsistent with the rights of parties entitled to use the easement

Any Service or Utility Service provided by a person under a franchise with the City shall register pursuant to this Section, but need not provide the registration information required by Section 25-1004 if such information has been received by the City in the administration of the franchise agreement. In addition, Persons acting as agents, contractors or subcontractors for a registrant which has properly registered or who is exempt from registration shall be exempt from registering under Section 25-1004.

Section 25-1004. REGISTRATION INFORMATION.

Subdivision 1. Information Required. The information provided to the Director at the time of registration shall include, but not be limited to:

a. Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

b. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

c. Such other information as the City may require including, but not limited to, proof of adequate public liability insurance.

Subdivision 2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the Director information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

Section 25-1005. REPORTING OBLIGATIONS.

Subdivision 1. Operations. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan with the Director. Such plan shall be submitted using a format designated by the Director and shall contain the information determined by the Director to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way. Reporting shall not be required for projects which are to be undertaken only in conjunction with city projects.

The plan shall include, but not be limited to, the following information:

a. The locations and the estimated beginning and ending dates of all Projects to be commenced during the next calendar year (in this Section, a "Next-year Project"); and

b. The tentative locations and estimated beginning and ending dates for all Projects contemplated for the five years following the next calendar year (in this Section, a "Five Year Project").

The term "project" in this Section shall include both Next-year Projects and Five-year Projects. By January 1 of each year the Director will have available for inspection in the Director's office a composite list of all Projects of which the Director has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any Project in its list of Next-year Projects, and must notify the Director and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a Next-year Project of another registrant listed by the other registrant.

Subdivision 2. Additional Next-year Projects. Notwithstanding the foregoing, the Director may, for good cause shown, allow a registrant to submit additional Next-year

Projects. Good cause includes, but is not limited to, the criteria set forth in Section 25-~~1014~~1015 concerning the discretionary issuance of permits.

Section 25-1006. PERMIT REQUIREMENT.

Subdivision 1. Permit Required. Except as otherwise provided in this Code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the Director to do so.

a. Excavation permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein, to the extent and for the duration specified therein.

b. Obstruction permit. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing facilities described therein on the right-of-way, to the extent and for the duration specified therein. An Obstruction Permit is not required if a Person already possesses a valid Excavation Permit for the same work period.

c. Small wireless facility permit. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

d. Exceptions. A permit shall not be required for:

~~a.~~ 1. Signs
~~b.~~ 2. Mailboxes
~~c.~~ 3. Street furnishings
~~d.~~ 4. Bus stop benches
~~e.~~ 5. Bus stop shelter
~~f.~~ 6. Use by private landowners of utility easement areas for Facilities that are not inconsistent with the rights of parties entitled to use the easement

Subdivision 2. Permit Extensions. No person may work in or obstruct the right-of-way beyond the date specified in the permit or do any work beyond that specified in the permit unless such person makes a supplementary application for an extension or modification of the work specified in the permit before expiration of the permit, pays a permit extension fee and is granted a permit extension by the Director. The Director may extend the completion of scope of the work if the specified work could not be done because of circumstances beyond the control of the permit holder.

Subdivision 3. Delay Penalty. Notwithstanding Subdivision 2 of this Section, even if a new permit or permit extension is granted, the Director shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, repair, or restoration.

Subdivision 4. Permit Display. Permits issued under this Chapter shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the Director.

Subdivision 5. Antenna Support Structures. Except as otherwise provided, ~~N~~no permits will be issued for the erection of structures in the right-of-way for the sole purpose of supporting telecommunications antennas. Permits may be granted for the attachment of telecommunication antennas and ancillary wires and accessories to existing structures in the right-of-way, subject to the following conditions:

a. The height of the antenna and related equipment may not extend more than six feet above the top of the previously existing support structure, and

b. No antennas may be permitted that have associated or ancillary on-ground equipment in any residential district of the City, and

c. The permission of the owner must be demonstrated, and

d. Design and location of facilities are subject to review and approval of the Director.

Section 25-1007. **PERMIT APPLICATIONS.** Application for a permit is made to the Director. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

a. Registration with the Director pursuant to this Chapter;

b. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the specific location and area of the proposed project and the detailed location of all existing and proposed equipment;

c. Payment of all money due to the City for

1. permit fees and costs, and any required deposit;

2. prior obstructions or excavations;

3. any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City;

4. franchise fees, if applicable.

d. When an excavation permit is requested for purposes of installing additional facilities, and the posting of a construction performance bond for the additional facilities is insufficient, the posting of an additional or larger construction performance bond for the additional facilities may be required.

Section 25-1008. ISSUANCE OF PERMIT; CONDITIONS.

Subdivision 1. Permit Issuance. If the Director determines that the applicant has satisfied the requirements of this Chapter, the Director shall issue a permit.

Subdivision 2. Conditions. The Director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

Subdivision 3. Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the all of the following conditions:

a. A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.

b. No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

c. No wireless facility may extend more than 10 feet above its wireless support structure.

d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.

e. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance, or intended purpose of such structure.

f. Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Subdivision 4. Small Wireless Facility Agreement. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

a. Up to $150 per year for rent to collocate on the city structure;

b. $25 per year for maintenance associated with the collocation;

c. A monthly fee for electrical service as follows:

1. $73 per radio node less than or equal to 100 maximum watts;

2. $182 per radio node over 100 maximum watts; or

3. The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

Subdivision 5. Standards for Construction or Installation. The requirements and standards for facility construction or installation are contained in the General Requirements as specified by the Director. The Director may assign or prohibit specific locations for facilities within the right-of-way, or any particular segment thereof, and may limit the height of above-ground facilities. All excavation, obstruction, or other permits issued by the Director involving the installation or replacement of facilities shall designate the proper location for the facility at issue. The Director may deny a permit application, as provided in Section 25-~~1014~~ 1014, in the event the proposed location of such facilities is not consistent with the location required by the Director. The Director may revoke a permit, as provided in Section 25-1019, in the event the facilities are installed in a location that is inconsistent with the location designated in the applicable permit.

Any registrant whose facilities were previously located in the right-of-way in a position at variance with the locations established by the Director shall, no later than at the time of the next reconstruction or excavation of the area where its facilities are located, move that facility to its assigned position within the right-of-way, unless this requirement is waived by the Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

Section 25-1009. ACTION ON SMALL WIRELESS FACILITY PERMIT APPLICATION.

Subdivision 1. Deadline for Action. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this Section.

Subdivision 2. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:

a. Are located within a two-mile radius;

b. Consist of substantially similar equipment; and

c. Are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

Subdivision 3. Tolling of Deadline. The 90-day deadline for action on a small wireless facility permit application may be tolled if:

a. The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.

b. The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of

receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.

c. The city and a small wireless facility applicant agree in writing to toll the review period.

Section 25-~~1009~~1010. PERMIT FEES.

Subdivision 1. Excavation Permit Fee. The Excavation Permit Fee shall be established by the Director in an amount designed to recover the City Management Costs.

Subdivision 2. Obstruction Permit Fee. The Obstruction Permit Fee shall be established by the director and shall be in an amount designed to recover the City Management Cost.

Subdivision 3. Small Wireless Facility Permit Fee. The city shall impose a small wireless facility permit fee in an amount sufficient to recover:

a. Management costs; and

b. City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

Subdivision 4. Deposit. The Director may require that a permit application be accompanied by a deposit, in addition to the Permit Fee and Construction Performance Bond, in an amount established by the Director in order to offset any City costs that exceed the amount covered by the Permit Fee. Such additional City costs may include, but are not limited to, inspection costs for consultants or independent contractors, legal fees, and other out of pocket expenses, degradation costs, or restoration costs. The permit fee will cover City staff time spent in the administration of the permit process and in inspection activities.

The Director may require an applicant to submit a single deposit in an amount intended to cover all City costs which the Director determines may be incurred during the subsequent twelve (12) month period based on an applicant's construction and major maintenance plan filed in accordance with Section 25- 1005. The Director shall approve all expenses charged against the deposit, and the unused portion thereof shall be returned to the applicant. The Director may periodically require that the deposit amount be replenished as expenses are charged against the deposit. The permit application shall further state that the applicant agrees to reimburse the City for any City costs incurred by the City in excess of the amount of the deposit.

Subdivision 5. Payment of Permit Fees. No excavation permit or obstruction permit shall be issued without payment of such fees before the issuance of such a permit.

Subdivision 6. Non refundable. Permit fees that were paid for a permit that the Director has revoked for a breach as stated in Section 25-1019 are not refundable.

Subdivision 7. Use of Permit Fees. All obstruction, ~~and~~ excavation, and small wireless facility permit fees shall be used solely for city management, construction, maintenance and repair costs of the right-of-way.

Section 25-~~1010~~ 1011. RIGHT-OF-WAY REPAIR AND RESTORATION.

Subdivision 1. Timing. The work to be done under the excavation permit, and the repair and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done as determined by the Director because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Section 25-1003.

In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for twelve (12) months following acceptance by the city.

Subdivision 2. Repair and Restoration. Permittee shall repair and restore its own work. The permittee shall at the time of application for an excavation permit post a construction performance bond in an amount determined by the Director to be sufficient to cover the cost of restoring the right-of-way to its pre-excavation condition. If, twelve (12) months after completion of the restoration of the right-of-way, the Director determines that the right-of-way has been properly restored, the surety on the construction performance bond shall be released. Permittees with whom the City has a current franchise agreement, or authorized agents, contractors, or subcontractors of that franchise shall not be required to post a construction performance bond.

Subdivision 3. Standards. The permitted shall perform repairs and restoration according to the standards and with the materials specified by the Director. The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis . The Director in exercising this authority shall be guided by the following standards and considerations.

a. The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way;

b. The traffic volume carried by the right-of-way; the character of the neighborhood surrounding the right-of-way;

c. The pre-excavation condition of the right-of-way; the remaining life expectancy of the right-of-way affected by the excavation;

d. Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and

e. The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

Subdivision 4. Guarantees. The permittee guarantees its work and shall maintain it for twelve (12) months following its completion. During this 12-month period it shall, upon notification from the Director, correct all restoration work to the extent necessary, using the method required by the Director. Said work shall be completed within five (5) calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under Section 25-~~1013~~ 1014.

Subdivision 5. Failure to Restore. If the Permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

Section. 25-~~1011~~ 1012. JOINT APPLICATIONS.

Subdivision 1. Joint Application . Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

Subdivision 2. With City Projects. Registrants who join in a scheduled obstruction or excavation performed by the Director, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction portion of the permit fee for that part of the work which falls within the city project construction limits. The obstruction portion of the fee will be required for work which occurs outside of the city project construction limits and for work within such construction limits which is not completed by the city project completion date.

Subdivision 3. Shared Fees. Registrants who apply for permits for the same obstruction or excavation, which the Director does not perform, may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

ORDINANCE NO._____

Section 25-~~1012~~ 1013. SUPPLEMENTARY APPLICATIONS.

Subdivision 1. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit, which shall not exceed one (1) lineal mile of right-of-way. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension. The total area for which a permittee shall be permitted at any one time, pursuant to multiple permits or permit extensions, shall not exceed three (3) lineal miles of right-of-way.

Subdivision 2. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be done before the permit end date.

Section 25-~~1013~~ 1014. OTHER OBLIGATIONS.

Subdivision 1. Compliance With Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other City, County, State, or Federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws, including Minnesota Statutes §§ 216D.01 -.09 ("One Call Excavation Notice System"). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

Subdivision 2. Prohibited Work. Except in an emergency, and with the approval of the Director, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subdivision 3. Interference with Right-of-Way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles may not be parked within or next to a permit area unless authorized by the Director. The loading or unloading of trucks next to a permit area is prohibited unless specifically authorized by the permit.

ORDINANCE NO._____

Section 25-~~1014~~1015. DENIAL OF PERMIT.

Subdivision 1. The Director may deny a permit for failure to meet the requirements and conditions of this Right-of-Way Management Ordinance, if the Director determines that denial is necessary to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way or when necessary to protect the right- of-way and its current use. The Director, in his/her discretion, may consider factors including:

a. the extent to which right-of-way space where the permit is sought if available;

b. the competing demands for the particular space in the right-of-way;

c. the availability of other locations in the right-of-way or in other rights-of-way for the equipment of the permit application;

d. the applicability of ordinance or other regulations of the right-of-way that affect location of equipment in the right-of-way;

e. the degree of compliance of the applicant with the terms and conditions of its franchise, this Right-of-Way Management Ordinance, and other applicable ordinances and regulations;

f. the degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

g. the condition and age of the right-of-way, and whether and when it is scheduled for total or partial reconstruction ; and

h. the balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the expansion into additional parts of the right-of-way.

i. If, in the discretion of the Director, the issuance of a permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celeb ration, festival, or any other event.

Subdivision 2. Procedural Requirements. The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

Section 25-~~1015~~1016. INSTALLATION REQUIREMENTS. The excavation, backfilling, repair and restoration, and all other work performed in the right-of-way shall be done in conformance with the Brooklyn Center Standard Design Plates as promulgated by the Director and at a location as required by Section 25-1021.

Section 25-~~1016~~1017. INSPECTION.

Subdivision 1. Notice of Completion. The permittee shall notify the Director upon the completion of the work under any permit and at any stage of the work of the project specified in the permit or standard specifications of the city.

Subdivision 2. Site Inspection. Permittee shall make the work-site available to the Director and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subdivision 3. Authority of Director. At the time of inspection the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public. The Director may issue an order to the registrant for any work which does not conform to the applicable standard s, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant shall present proof to the Director that the violation has been corrected. If such proof has not been presented within the required time, the Director may revoke the permit pursuant to Section 25- 1019.

Section 25-~~1017~~1018. WORK DONE WITHOUT A PERMIT.

Subdivision 1. Emergency Situations. Each registrant shall immediately notify the Director of any event regarding its facilities which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this Right-of-Way Management Ordinance for the actions it took in response to the emergency.

If the Director becomes aware of an emergency regarding a registrant's equipment, the Director may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the Director may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose equipment occasioned the emergency.

Subdivision 2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, pay double the normal fee for said permit, deposit with the

Director the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Right-of-Way Management Ordinance.

Section 25-~~1018~~1019. SUPPLEMENTARY NOTIFICATION. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Director of the accurate information as soon as this information is known.

Section 25-~~1019~~1020. REVOCATION OF PERMITS.

Subdivision 1. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

a. The violation of any material provision of the right-of-way permit;

b. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

c. Any material misrepresentation of fact in the application for a right-of-way permit;

d. The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reason's beyond a Permittee's control; or

e. The failure to correct in a timely manner a condition indicated on an order issued pursuant to Section 25-1016.

Subdivision 2. Written Notice of Breach. If the Director determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. Further, a substantial breach, as stated above, will allow the Director, at his or her discretion, to place additional or revised conditions on the permit.

Subdivision 3. Response to Notice of Breach. Within twenty-four (24) hours of receiving notification of the breach, permittee shall contact the Director with a plan, acceptable to the Director, for its correction. Permittee's failure to so contact the Director, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

Subdivision 4. Reimbursement of City Costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

Section 25-~~1020~~1021. MAPPING DATA.

Subdivision 1. Information Required. Except as provided in Subdivision 2 of this Section, each registrant shall provide to the Director information indicating the horizontal and vertical location, relative to the boundaries of the right-of-way, of all facilities which it owns or over which it has control and which is located in any right-of-way ("Mapping Data"). Mapping Data shall be provided with the specificity and in the format requested by the Director for inclusion in the mapping system used by the Director.

Within six (6) months after the acquisition, installation, or construction of additional facilities or any relocation, abandonment, or disuse of existing facilities, each registrant shall supplement the Mapping Data required herein.

Each registrant shall, within six (6) months after the date of passage of this Right-of-Way Management Ordinance, submit a plan to the Director specifying in detail the steps it will take to comply with the requirements of this Section. Said plan shall provide for the submission of all Mapping Data for the City as early as may be reasonable and practical, but not later than five (5) years after the date of passage of this Right-of-Way Management Ordinance.

Notwithstanding the foregoing, Mapping Data shall be submitted by all registrants for all facilities which is to be installed or constructed after the date of passage of this Right-of-Way Management Ordinance at the time any permits are sought under these ordinances.

After six (6) months after the passage of this Right-of-Way Management Ordinance, a new registrant, or a registrant which has not submitted a plan as required above, shall submit complete and accurate Mapping Data for all its facilities at the time any permits are sought under these ordinances.

Subdivision 2. Telecommunication Equipment. Information on existing facilities and facilities of telecommunications right-of-way users need only be supplied in the form maintained by the telecommunications right-of-way user.

Subdivision 3. Trade Secret Information. At the request of any registrant, any information requested by the Director, which qualifies as a "trade-secret" under Minnesota Statutes 3 13.37(b) shall be treated as trade secret information as detailed therein. With respect to the provision of mapping data, the city may consider unique circumstances from time to time required to obtain mapping data.

ORDINANCE NO._____

Section 25-~~1021~~1022. LOCATION OF FACILITIES.

Subdivision 1. Undergrounding. Unless otherwise permitted by Minnesota Statutes, Section, 216B.36, new construction, the installation of new facilities and the replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes, except that the Director may approve above ground location and installation that the Director has determined cannot reasonably be placed underground due to expense, nature, or function if there are no unreasonable safety, maintenance, or aesthetic concerns or conflicts with the current use of right-of- way.

Subdivision 2. Corridors. The Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the Director expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the Director involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue .

The City may not require the relocation of existing underground facilities except in the event the City institutes a street improvement project, lawfully imitated and conducted by the City on its own behalf, which necessarily results in a substantial change of elevation and grade for a particular location. In such event, all affected utilities shall be relocated in a manner which minimizes the technical and financial impact to each utility . The City may establish a high density corridor for telecommunications facilities in a manner consistent with the rules and regulations of the Minnesota Public Utilities Commission.

Subdivision 3. Limitation of Space. To protect health and safety, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of registrants or persons to occupy and use the right-of-way. In making such decisions, the Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

Section 25-~~1022~~1023. RELOCATION OF EQUIPMENT. A Registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities and facilities in the right-of-way whenever the director requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to said removal or relocation.

The director may make such request to prevent interference by the Company's equipment or facilities with (I) a present or future City use of the right-of-way, (ii) a public improvement undertaken by the City, (iii) an economic development project in which the City has an interest or investment, (iv) when the public health, safety and welfare require it, or (v) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefor.

Section 25-~~1023~~1024. PRE-EXCAVATION EQUIPMENT LOCATION. In addition to complying with the requirements of Minnesota Statutes §§ 216D.0l-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities in the area to be excavated shall mark the horizontal and approximate vertical placement of all said facilities. Any registrant whose facilities are less that twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

Section 25-~~1024~~1025. DAMAGE TO OTHER EQUIPMENT. When the Director does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the Director shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing.

Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

Section 25-~~1025~~1026. RIGHT-OF-WAY VACATION.

Subdivision 1. Reservation of Right. If the City vacates a right-of-way which contains the facilities of a registrant, and if the vacation does not require the relocation of registrant or permittee facilities, the City shall reserve, to and for itself and all registrants having facilities in the vacated right-of-way, the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

Subdivision 2. Relocation of Facilities. If the vacation requires the relocation of registrant or permittee facilities; and (a) if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs; or (b) if the vacation proceedings are initiated by the city, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the city and the registrant or permittee ; or (c) if

the vacation proceedings are initiated by a person or persons other than the registrant or permittee, such other person or persons must pay the relocation costs.

Section 25-~~1026~~1027. INDEMNIFICATION AND LIABILITY.

Subdivision 1. Limitation Liability. By reason of the acceptance of a registration or the grant of a right-of-way permit, the City does not assume any liability (a) for injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the City, or (b) for claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of facilities by registrants or activities of registrants.

Subdivision 2. Indemnification. By registering with the Director, a registrant agrees, or by accepting a permit under this Chapter, a permittee is required, to defend, indemnify, and hold the City whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its facilities, or out of any activity undertaken in or near a right-of-way, whether or not any act or omission complained of is authorized, allowed, or prohibited by a right-of-way permit. It further agrees that it will not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the City for any claim nor for any award arising out of the presence, installation, maintenance or operation of its facilities, or any activity undertaken in or near a right-of-way, whether or not the act or omission complained of is authorized, allowed or prohibited by a right-of-way permit. The foregoing does not indemnify the City for its own negligence except for claims arising out of or alleging the City's negligence where such negligence arises out of or is primarily related to the presence, installation, construction, operation, maintenance or repair of said facilities by the registrant or on the registrant's behalf, including, but not limited to, the issuance of permits and inspection of plans or work. This Section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant or to the City; and the registrant, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf To the extent of any inconsistency between this Section 25-~~1026~~1027 and any franchise, the provisions of the franchise shall control.

Section 25-1028. ABANDONED AND UNUSABLE EQUIPMENT.

Subdivision 1. Discontinued Operations. A registrant who has determined to discontinue its operations in the City must either:

a. Provide information satisfactory to the Director that the registrant's obligations for its facilities in the right-of-way under this Right-of-Way Management Ordinance have been lawfully assumed by another registrant; or

b. Submit to the Director a proposal and instruments for transferring ownership of its facilities to the City. If a registrant proceeds under this clause, the City may, at its option:

1. purchase the facilities; or
2. require the registrant, at its own expense, to remove it; or
3. require the registrant to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities.

Subdivision 2. Abandoned Facilities. Facilities of a registrant who fails to comply with Subdivision 1, and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (I) abating the nuisance (ii) taking possession of the facilities and restoring it to a useable condition, or (iii) requiring removal of the facilities by the registrant, or the registrant's successor in interest.

Subdivision 3. Removal. Any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the Director.

Section 25-1029. RESERVATION OF REGULATORY AND POLICE POWERS. A Permittee's or registrant's rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public .

Section 25-1030. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Right-of-Way Management Ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right or registration issued under any portions of this Right-of-Way Management Ordinance is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving sixty (60) days written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a permit, right or registration shall be considered a revocable permit as provided herein, the permittee must acknowledge the authority of the City Council to issue such revocable permit and the power to revoke it. Nothing in this Right-of-Way Management Ordinance precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

ORDINANCE NO._____

Section 25-1031. APPEALS. Decisions of the Director in the interpretation and enforcement of this Right-of-Way Management Ordinance may be appealed by the applicant, registrant or permittee to the city council by serving written notice of a request for an appeal on the City Manager. The City Manager shall thereupon schedule a public hearing on the appeal before the city council and give notice of the time, place and date of such hearing to the appealing party no less than ten (10) days prior to the hearing.

Section 25-1032. WAIVER. The Director may waive any or all requirements of Sections 25- 1003 through 25-1005, 25-1006 through 25-1009, and 25-1020 if compliance is not deemed to be reasonably necessary, in the discretion of the Director, to serve the purposes of this Right-of-Way Management Ordinance. The decision of the Director not to waive any such requirement is not subject to appeal to the city council. Section 25-1021 may be waived as provided therein. Waiver of provisions of Sections 25-1003 through 25-1005 and 25-1020 may be rescinded by the Director at any time upon written notice to the person subject to the requirement.

Section 3. Effective Date. This ordinance shall be effective after adoption and thirty days following its legal publication.

Adopted this _____ day of _____ 2018.

_____
Mayor

ATTEST: _____
City Clerk

Date of Publication: _____

Effective Date: _____

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

City of Brooklyn Center

Public Hearing

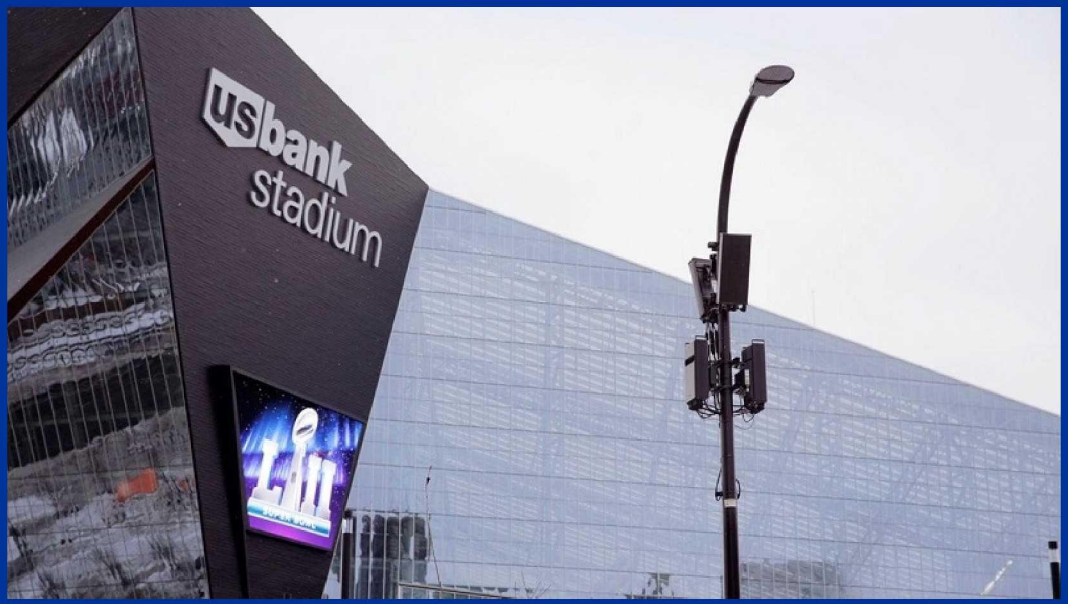
An Ordinance Amending Chapter 25 of the City Code of Ordinances Relating to the Regulation of Right-of-Way Management

Regular City Council Meeting
April 9, 2018

Background

- On May 30, 2017, Gov. Dayton signed into law a bill amending Minnesota's Telecommunications Right-of-Way User Law. The amendments cleared up any confusion about whether small wireless providers are treated the same as other telecommunications right-of-way users under state law, but created a separate, streamlined permitting system for placement of small wireless facilities on city-owned structures in rights of way.
- Minnesota Statute 237.162 and Statute 237.163

Example of Small Wireless Facilities



Summary of 2017 Telecommunication Right-of-Way User Amendments

- A requirement that cities issue or deny small wireless facility requests within 90 days, with a tolling period allowed upon written notice to the applicant, within 30 days of receipt of the application.
- An allowance to batch applications (simultaneously submit a group of applications), with the limitation to not exceed 15 small wireless requests for substantially similar equipment on similar types of wireless support structures within a two-mile radius.

Summary of 2017 Telecommunication Right-of-Way User Amendments (cont.)

- Rent not to exceed $150 per year with option of an additional $25 for maintenance and allowances for electricity, if cities do not require separate metering.
- A limitation that cities cannot ask for information already provided by the same applicant in another small cell wireless facility application, as identified by the applicant, by reference number to those other applications.

Summary of 2017 Telecommunication Right-of-Way User Amendments (cont.)

- A restriction that the height of wireless support structures cannot exceed 50-feet, unless the City agrees otherwise.
- A restriction that wireless facilities constructed in the right-of-way may not extend more than 10-feet above an existing wireless support structure in place.

Summary of Ordinance Revisions

- Updated definitions
- Creation of a collocation permit for small wireless facilities within the right-of-way
- Added small wireless facility conditions to manage small wireless facilities within the right-of-way to protect City infrastructure
- Allows for the City to recover right-of-way management costs and to charge rent for attaching to city-owned structures in the right-of-way

Schedule – Ordinance Update

- Planning Commission review — March 1, 2018
- Council 1st Reading of draft. Ord. — March 12, 2018
- Published in Official Newspaper — March 22, 2018
- Council 2nd Reading/Approve Ord. — April 9, 2018

Requested Council Action

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

Regular City Council Meeting
April 9, 2018

City Council Agenda Item No. 9a

COUNCIL ITEM MEMORANDUM

DATE: April 3, 2018

TO: Curt Boganey, City Manager

FROM: Tim Gannon, Chief of Police

SUBJECT: Resolution Approving the Metropolitan Services Board Opiate Antagonists Subgrant Agreement

Recommendation:

It is recommended that the City Council recognizes the continuation of the Metropolitan Emergency Services Board Opiate Antagonists Subgrant Agreement.

Background:

The purpose of this agreement is to provide partial reimbursement for the purchase of opiate antagonist to be administered by emergency medical services persons in the event of an opiate or heroin overdose and/or for education or training of first responders for the period of November 2, 2017 through May 31, 2019. For the purposes of this Agreement, "opiate antagonist" means naloxone hydrochloride (Narcan) or a similarly acting drug approved by the federal Food and Drug Administration.

"Steve's Law" was passed by the Minnesota Legislature in 2014. The intent of this law is to get opiate antagonists into the hands of first responders and anyone else that may be able to utilize an opiate antagonist to save a life in the event of an overdose. In 2014, Brooklyn Center Police and Fire Departments received training deployed an opioid overdose kit in each department vehicle to allow for an effective utilization of the opiate antagonists.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING THE METROPOLITAN EMERGENCY SERVICES BOARD OPIATE ANTAGONISTS SUBGRANT AGREEMENT

WHEREAS, the purpose of this agreement is to provide reimbursement for the purchase of opiate antagonist to be administered by emergency medical services persons in the event of an opiate or heroin overdose and/or for education or training of first responders. For the purposes of this Agreement, "opiate antagonist" means naloxone hydrochloride or a similarly acting drug approved by the federal Food and Drug Administration.; and

WHEREAS, "Steve's Law" was passed by the Minnesota Legislature in 2014. The intent of this law is to get opiate antagonists into the hands of first responders and anyone else that may be able to utilize an opiate antagonist to save a life in the event of an overdose. In 2014, Brooklyn Center Police and Fire Departments received training deployed an opioid overdose kit in each department vehicle to allow for an effective utilization of the opiate antagonists; and

WHEREAS, the police and fire departments of the City of Brooklyn Center, first responder agencies in the metropolitan region, are qualified to receive these funds as reimbursement for the purchase of opiate antagonists and/or for education or training expenses. The Metropolitan Emergency Services Board Opiate Antagonists Subgrant Agreement will reimburse a portion of an opiate antagonist and education or training costs for the period of November 2, 2017 through May 31, 2019; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the City Manager and Police Chief are hereby authorized to accept the Metropolitan Emergency Services Board Opiate Antagonists Subgrant Agreement.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

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

METROPOLITAN EMERGENCY SERVICES BOARD
2099 UNIVERSITY AVENUE WEST
SAINT PAUL, MINNESOTA 55104-3431

Opiate Antagonists Subgrant Agreement

THIS AGREEMENT is entered into between the METROPOLITAN EMERGENCY SERVICES BOARD, Metro EMS Region, 2099 W. University Ave., #201, Saint Paul, MN 55104 ("MESB"), and CITY OF BROOKLYN CENTER, 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430 ("Subgrantee").

RECITALS

WHEREAS, 2015 Minn. Laws, Ch. 71, Art. 14, Sec. 3, Subd. 2, appropriated funds to the Commissioner of Health for grants to Minnesota's eight regional emergency medical services programs to purchase opiate antagonists and educate and train emergency medical services persons, as defined in Minn. Stat. Sec. 144.7401, Subd. 4, clauses (1) and (2) ("Eligible First Responders"), in the use of these antagonists in the event of an opiate or heroin overdose; and

WHEREAS, the State of Minnesota, acting through its Commissioner of Health, entered into Grant Agreement No. 101447 with the WCMEMSC, effective November 2, 2017 ("Grant Agreement"), to act as the fiscal agent for said grant; and

WHEREAS, WCMEMSC, as the fiscal agent under Grant Agreement No. 101447 with the State of Minnesota, entered into a subgrant agreement with the MESB, effective November 2, 2017 to reimburse for the purchase of opiate antagonists and for education and training of Eligible First Responders in the Metro EMS Region; and

WHEREAS, Subgrantee, a first responder agency in the metropolitan region, is qualified to receive these funds as reimbursement for the purchase of opiate antagonists and/or for education or training expenses.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the parties agree as follows:

I. SCOPE OF AGREEMENT AND QUALIFICATIONS

A. This Agreement is to provide reimbursement for an opiate antagonist to be administered by an Eligible First Responder and/or for education or training of Eligible First Responders. For the purposes of this Agreement, "opiate antagonist" means naloxone hydrochloride or any similarly acting drug approved by the federal Food and Drug Administration for the treatment of drug overdose.

B. Subgrantee understands that in order to be eligible for reimbursement of the cost of opiate antagonists it has purchased it must have satisified all of the requirements of

Minn. Stat. Sec. 151.37, Subd. 12(a) and (b), and Subgrantee hereby represents that it has fully satisfied said requirements.

C. Subgrantee shall be reimbursed for the cost of an opiate antagonist it has purchased for the period from November 2, 2017 through May 31, 2019, subject to the limitations set forth in this Agreement.

II. REGIONAL EMS AUTHORIZED REPRESENTATIVE

The MESB's authorized representative for the purposes of administration of this Agreement is its Regional EMS Coordinator, Ron Robinson, or such other person as may be designated in writing by the Executive Director of the MESB. Contact information for the MESB's authorized representative is: Ron Robinson, Regional EMS Coordinator, Metropolitan Emergency Services Board, 2099 W. University Ave., #201, Saint Paul, MN 55104, 651.643.8378, rrobinson@emsmn.org.

III. REIMBURSEMENT AND METHOD OF PAYMENT

Subgrantee shall submit to the MESB a copy of a detailed invoice and record of payment for the purchase of an opiate antagonist. Reimbursement is limited to $37.50 per dose per staffed vehicle plus a reasonable reserve. Upon verification and acceptance by the MESB's Regional EMS Coordinator of each invoice, the MESB will pay Subgrantee the invoiced amount. The MESB's reimbursement obligation is contingent on the MESB receiving grant funds from the State under the Grant Agreement, and is limited to the total amount of grant funds remaining upon receipt of an invoice. **Invoices must be received by the MESB no later than June 6, 2019**. Reimbursement will be made in a timely manner following receipt of sufficient grant funds by the MESB from the State. The MESB will not expend any of its own funds to reimburse Subgrantee.

IV. TERM OF AGREEMENT

This Agreement shall be effective November 2, 2017 and shall terminate on June 30, 2019 or until the grant funds have been expended, whichever occurs first.

V. LIABILITY

Each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other and the results thereof. Nothing in this clause may be construed as a waiver by either party of any immunities or limitations of liability to which such party may be entitled pursuant to Minn. Stat. Chap. 466, or any other statute or law.

VI. AUDITS

Under Minn. Stat. Sec. 16C.05, Subd. 5, Subgrantee's books, records, documents, and accounting procedures and practices of Subgrantee, or any other relevant party or transaction, are subject to examination by the MESB, the State, the State Auditor, and the Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

VII. DATA PRACTICES

Pursuant to Minn. Stat. Sec. 13.05, Subd. 11(a), Subgrantee and the MESB must comply with the Minnesota Government Data Practices Act as it applies to all data provided by the MESB under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by Subgrantee under this Agreement. The civil remedies of Minnesota Statutes section 13.08 apply to the release of the data referred to in this clause by either Subgrantee or the State.

VIII. OWNERSHIP OF MATERIALS

The State shall own all rights, title and interest in all of the materials conceived or created by the MESB, or its employees or Subgrantee, either individually or jointly with others and which arise out of the performance of the Grant Agreement, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form ("materials").

Subgrantee hereby assigns to the State all rights, title and interest to the materials. Subgrantee shall, upon request of the State, execute all papers and perform all other acts necessary to assist the State to obtain and register copyrights, patents or other forms of protection provided by law for the materials. The materials created under the Grant Agreement by the Grantee, its employees or Subgrantee, individually or jointly with others, shall be considered "works made for hire" as defined by the United States Copyright Act. All of the materials, whether in paper, electronic, or other form, shall be remitted to the State by Subgrantee. Subgrantees's employees shall not copy, reproduce, allow or cause to have the materials copied, reproduced or used for any purpose other than performance of Subgrantee's obligations under this Agreement without the prior written consent of the MESB.

IX. PUBLICITY

Any publicity given to the program, publications, or services provided resulting from this grant agreement, including, but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for Subgrantee or its employees individually or jointly with others, shall identify the State as the sponsoring agency and shall not be released without prior written approval by the MESB.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates set forth below.

SUBGRANTEE

By: _____

Title: _____

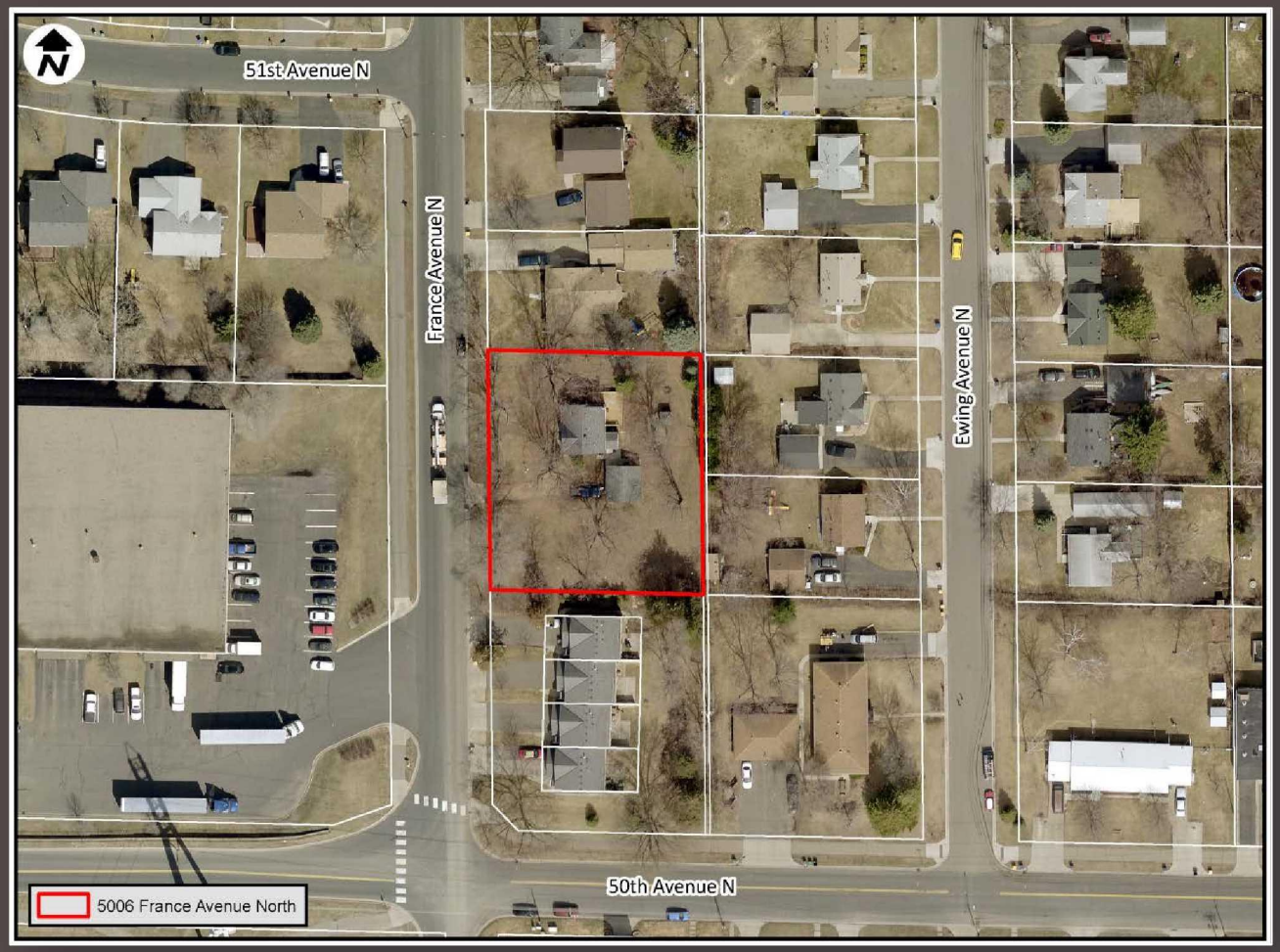
Date: _____

METROPOLITAN EMERGENCY SERVICES BOARD

By: _____
Jill Rohret, Executive Director

Date: _____

David Pemberton (Sathre-Bergquist)



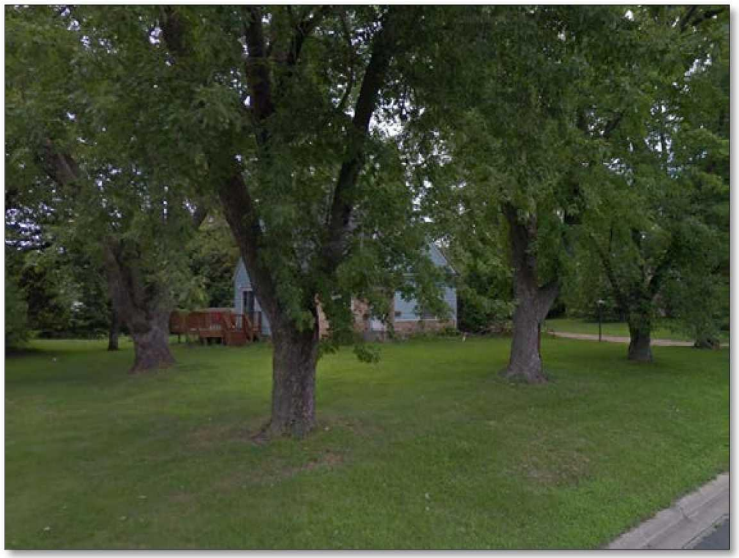
REQUEST:

(1) Preliminary Plat

Item 9.a

City Council Meeting of 04/09/2018

Existing Conditions



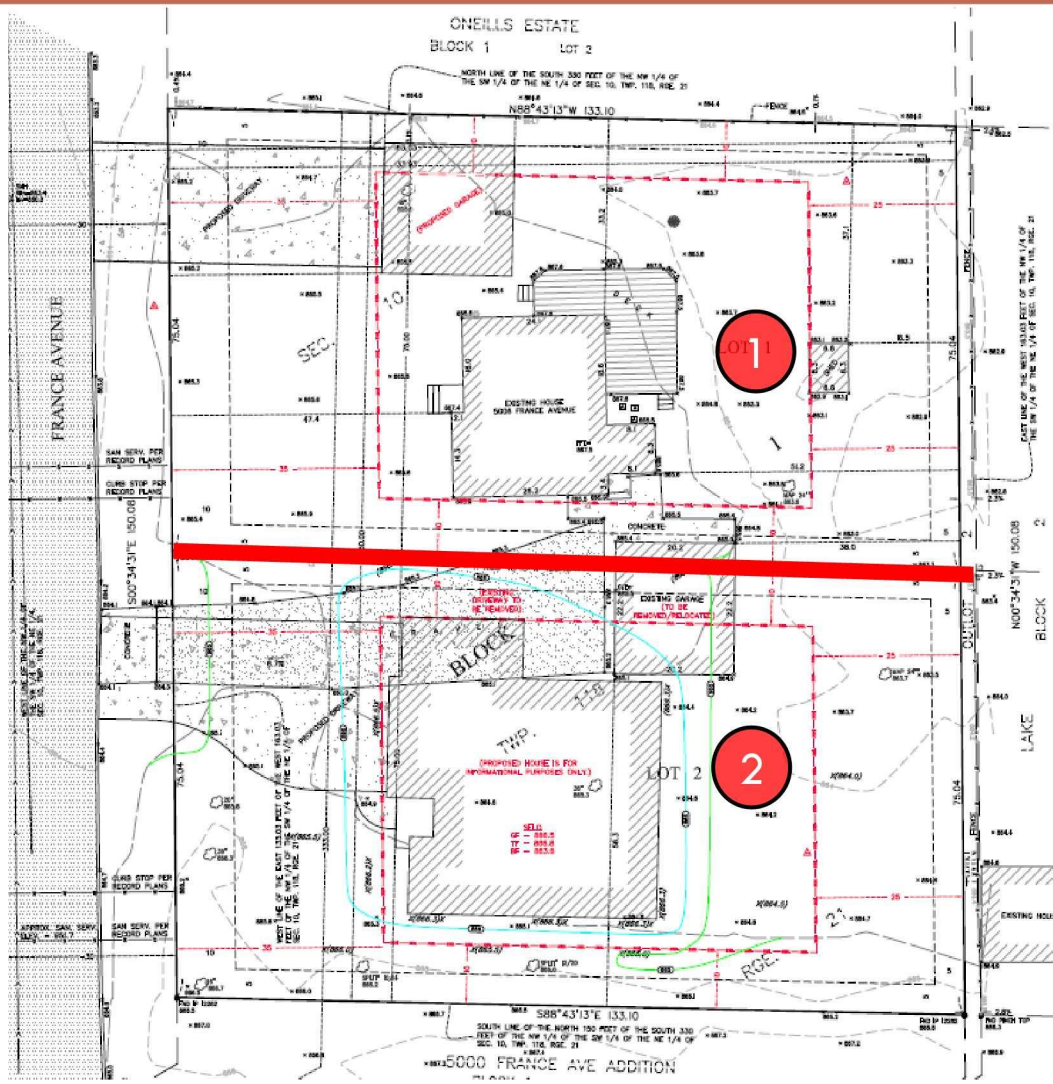
Source: Google Maps

Background & Request

- Applicant is requesting approval of:
  - **(1)** Preliminary Plat for Mohs Addition
    - Lot 1—0.23 acres (~9,982 SF)
    - Lot 2—0.23 acres (~9,982 SF)
- **Minimum R1 Interior Lot Size:** 9,500 SF
- **Proposed R1 Interior Lot Size:** 9,982 SF

- **Minimum R1 Interior Lot Width:** 75 feet
- **Proposed R1 Interior Lot Widths:** 75 Feet

- Subject Property is surrounded by:
  - R1 (One Family Residence) District on north and east
  - R4 (Multiple Family Residence) District on south
  - I2 (General Industry) and PUD-R1 (Planned Unit Development-One Family Residence) Districts to the west



Source: Sathre-Bergquist

Notice | Analysis | Findings | Conditions

Notice

- A Public Hearing Notice was published in the Brooklyn Center *Sun Post* on March 15th and mail notices were sent to neighboring property owners as guided by MN State Statute.

Analysis

- There are no immediate plans to construct a home on proposed Lot 2 (south lot) at this time
  - Applicant demonstrated on plat that proposed Lot 2 is buildable
  - Proposed Lots 1 and 2 would be of comparable size to the neighboring R1-zoned lots
  - The Assistant City Engineer provided a series of recommendations as part of any positive plan approval. These recommendations are outlined in a memorandum dated March 20, 2018.

Findings

- Following a review of the submitted preliminary plat, it appears the plat would meet the minimum requirements as established under Chapter 15 (*Platting*), and Chapter 35 (*Zoning*).

Conditions of Note

- Provide driveway curb cut and driveway access to the northern property (proposed Lot 1)
  - Driveway ROW permit required
- Remove existing detached garage and all driveway that encroaches onto northern lot (proposed Lot 1)
- Final Plat Mylar copies are to be provided in substantial conformance with the submitted plans, unless otherwise requested.
- Comply with all recommendations as noted by Assistant City Engineer/Hennepin County.

Summary | Recommendation

- A Public Hearing was held at the Planning Commission meeting on March 29th for the request
  - No comments or objections were received from the public regarding the preliminary plat request
- The Planning Commission recommended approval of the preliminary plat to the City Council in a 5-0 (unanimous) vote—PC Resolution No. 2018-004

Recommendation

- Based on the aforementioned findings the Planning Commission recommends City Council adopt the resolution regarding the recommended disposition of Planning Application No. 2018-003 submitted by David Pemberton of Sathre-Bergquist, Inc. for approval of:
  - **(1)** Preliminary Plat for Mohs Addition, which would subdivide an existing approximately 19,965-square foot lot into:
    - Lot 1—0.23 acres (~9,982 SF)
    - Lot 2—0.23 acres (~9,982 SF)

- Approval of the aforementioned request is subject to the Applicant complying with the Approval Conditions as outlined in the Planning Commission Report dated March 29, 2018.

City Council Agenda Item No. 10a

City Council Agenda Item No. 10a
#1

COUNCIL ITEM MEMORANDUM

DATE: April 9, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 5301 Russell Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 5301 Russell Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan,** it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a 2 building, 36 unit multi-family property. The previous rental license was a Type III Rental License. This property qualifies for a Type IV Rental License based on one hundred ninety seven (197) property code violations (5.47/unit) found during the initial rental license inspection and zero (0) validated police nuisance incidents for the past twelve months.

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

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

<u>Current rental license approval activities for license expires on 06/30/2018:</u>

12-11-2017	The Owner, Nedzad Ceric, applied for renewal of the rental dwelling license for 5301 Russell Ave N, a single family dwelling.
12-28-2017	An initial rental license inspection was conducted and failed. 198 property code violations were cited, see attached rental criteria.

COUNCIL ITEM MEMORANDUM

12-31-2017	The previous rental license expired.
02-05-2018	A second rental inspection was conducted and failed. A $1000 reinspection fee was charged.
02-21-2018	A $1000 reinspection fee was paid.
02-22-2018	A third rental license inspection was conducted and failed. $100 reinspection fee was charged.
02-27-2018	A fourth rental license inspection was conducted and failed.
03-08-2018	A $100 reinspection fee was paid.
03-14-2018	A fifth rental license inspection was conducted was failed. A $300 reinspection fee was charged.
03-23-2018	A fifth rental license inspection was conducted and passed, however, reinspection fees are still owed.
03-23-2018	The $300 reinspection fee was paid.
03-26-2018	A sixth rental license inspection was conducted and passed.
03-28-2018	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
03-28-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-26-2018	A Mitigation Plan was submitted.
03-28-2018	The Mitigation Plan was finalized.
03-30-2018	A letter was sent to the owner notifying that the hearing before the Council will be held April 9, 2018.

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

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for

a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

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

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

1. Determining License Categories.

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

2. Fees.

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

3. Category Conditions.

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

4. License Category Criteria.

a. Property Code and Nuisance Violations.

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

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

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

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. <u>Police Service Calls.</u>

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

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan

BROOKLYN CENTER
AT THE CENTER

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

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

MAR 26 2018

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	5301/5305 Russell ave N Brooklyn Center MN 55430		
Owner's Name(s):	Nedzad Ceric	Local Agent:	same as the owner
Owner's Address:	1304 7th Ave Anoka MN 55303	Agent Address:	
Owner's Phone:	612-978-3198	Agent's Phone:	
Owner's Email:	ceric.nermina@yahoo.com	Agent's Email:	
Current Expiration Date:	~~6/30/2018~~ 12/31/17	Pending Expiration Date:	5/31/18

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

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

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

City of Brooklyn Center—Community Development www.cityofbrooklyncenter.org
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430-2199 | Phone: (763) 563-3330 | TTY: 711 Fax: (763) 569-3360

5301/5305 Russell ave N
Brooklyn Center MN 55430

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

[x] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for 5/12/2011
Date

[ ] Owner or agent plans to attend training at : _____
Name of City

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

Phase II - Read and check each box.

[x] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[x] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

[x] Security Assessment is completed

[ ] Security Assessment is scheduled for May 2014

City of Brooklyn Center—Community Development
www.cityofbrooklyncenter.org
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430-2199 | Phone: (763) 563-3330 | TTY: 711 Fax: (763) 569-3360

BROOKLYN CENTER AT THE CENTER

Community Development

5301/5305 Russell ave N
Brooklyn Center MN 55430

Sections B—*Long Term Capital Improvement Plan*

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

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

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

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	1978	f	2025
Water Heater	2015	g	2025
Kitchen Appliances	2015-2018	g	2025-2028
Laundry Appliances	2016	g	2026
Smoke Alarms/ Carbon Monoxide Alarms	2016-2018	g	2026-2028
Exterior Items			
Paint/Siding	2017	g	2025
Windows	1978	r	2018
Roof	2002-2014	g	2030
Garage	1978-2002	f	2035
Driveway	2000	r	2018
Fence	2000	r	2018
Sidewalks	1978	f	2028
Shed	na		

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

City of Brooklyn Center—Community Development www.cityofbrooklyncenter.org
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430-2199 | Phone: (763) 563-3330 | TTY: 711 Fax: (763) 569-3360

5301/5305 Russell ave N
Brooklyn Center MN 55430

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

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

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

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

Owner or agent will attend A.R.M. meetings scheduled for: 5/10/18 and 7/12/18

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

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

[x] 2) Conduct regular resident meetings.

5301/5305 Russell ave N
Brooklyn Center MN 55430

Sections C—*Steps to Improve Management and Conditions of Property*

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

The following actions are required:

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

The following actions are optional unless required by the City.

- [x] 1) Provide lawn/snow service.
- [x] 2) Provide garbage service.
- [x] 3) Install security system.
- [x] 4) Provide maintenance service plan for appliances.
  Name of service company: A1 appliance
- [ ] 5) Other: _____

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

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BROOKLYN CENTER
AT THE CENTER

Community Development

5301/5305 Russell ave N
Brooklyn Center MN 55430

Sign and Verify

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

Nedzad Ceric

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

3/23/18

Date

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

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

3/28/18

Date

Community Development

3/28/18

Date

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City Council Agenda Item No. 10a
#2

COUNCIL ITEM MEMORANDUM

DATE: April 9, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 6919 France Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan** and issuance of a Type IV 6-Month Provisional Rental License for 6919 France Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for disapproval for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

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

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

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

Current rental license approval activities for license expires on 05/31/2018:

09-06-2017	The Owner, Benjamin Hermantin, applied for renewal of the rental dwelling license for 6919 France Ave N, a single family dwelling.
09-22-2017	An initial rental license inspection was conducted and failed. 11 property code violations were cited, see attached rental criteria.

COUNCIL ITEM MEMORANDUM

11-13-2017	A second rental inspection was conducted and failed. A $100 reinspection fee charged.
11-22-2017	The $100 reinspection fee was paid.
11-28-2017	A third rental inspection was conducted and passed.
11-30-2017	The previous rental license expired.
12-05-2017	City records indicate 0 validated police nuisance incidents occurred in the past twelve months.
12-05-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
12-15-2017	A Mitigation Plan was submitted.
12-26-2017	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
02-13-2018	The Mitigation Plan was finalized.
03-30-2018	A letter was sent to the owner notifying that the hearing before the Council will be held April 9, 2018.

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

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

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

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

1. Determining License Categories.

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

2. Fees.

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

3. Category Conditions.

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

4. License Category Criteria.

COUNCIL ITEM MEMORANDUM

a. Property Code and Nuisance Violations.

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

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

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

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. <u>Police Service Calls.</u>

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).

COUNCIL ITEM MEMORANDUM

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

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan – 6919 France Ave N

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

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

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	6919 Fance Ave N		
Owner's Name(s):	Benjamin Hermantin	Local Agent:	Renters Warehouse
Owner's Address:	8819 Village Hills Dr Spring, TX 77379	Agent Address:	13200 Pioneer Tr #100 Eden Prairie MN 55347
Owner's Phone:	763-639-8575	Agent's Phone:	952-224-9912
Owner's Email:	bhermantin@hotmail.com	Agent's Email:	twermager@renterswarehouse.com
Current Expiration Date:	11/30/17	Pending Expiration Date:	5/31/18

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

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

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

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Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[xx] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[xx] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[xx] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[xx] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

- [xx] Crime Free Housing training is completed
- [ ] Crime Free Housing training is scheduled for _____ Date
- [ ] Owner or agent plans to attend training at : _____ Name of City

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

Phase II - Read and check each box.

[ ] 1) Complete a Security Assessment and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[xx] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

- [xx] Security Assessment is completed
- [ ] Security Assessment is scheduled for _____

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

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

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

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

Owner or agent will attend A.R.M. meetings scheduled for: Jan and March

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

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

[ ] 2) Conduct regular resident meetings.

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6919 Fance Ave N

Sections B—*Long Term Capital Improvement Plan*

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

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

Item	Last Replaced	Condition*	Estimated Replacement Date
Example: Water Heater	*May 2010*	*F*	*May 2020*
Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	2004	G	2025
Water Heater	2000	G	
Kitchen Appliances			
Laundry Appliances			
Smoke Alarms/ Carbon Monoxide Alarms	2016	N	2026
Exterior Items			
Paint/Siding	2003	G	2025
Windows	2008	G	2040
Roof	2001	G	2026
Garage	2001	G	2040
Driveway	1995	G	2025
Fence	1999	G	2040
Sidewalks	na		
Shed	2003	G	2033

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

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Sections C—*Steps to Improve Management and Conditions of Property*

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

The following actions are required:

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

The following actions are optional unless required by the City.

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

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

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City of BROOKLYN CENTER

BUILDING AND COMMUNITY STANDARDS

6819 France Ave N

Rental License Action Plan
Type III License

Sign and Verify

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

BENJAMIN HERMANTIN
Owner or Agent Name and Title (Please Print)

Benjamin Hermantin
Owner or Agent Signature

12/14/17
Date

Jacob Koch - Renters Warehouse
Additional Owner or Agent Name and Title (If Applicable, Please Print)

Additional Owner or Agent Signature (If Applicable)

12/14/17
Date

City Staff Only

Police Department

1/19/2018
Date

Building and Community Standards Department

1/18/18
Date

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City Council Agenda Item No. 10a
#3

COUNCIL ITEM MEMORANDUM

DATE: March 12, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 904 53rd Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 904 53rd Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses **to modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on September 11, 2017, on condition of adherence to the Mitigation Plan and City Ordinances.

The property would qualify for a Type III Rental License based on 6 property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. However, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to attend Owners/Managers Association Meetings. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV.

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

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

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

COUNCIL ITEM MEMORANDUM

Current rental license approval activities for license expires on 07/31/2018:

12-14-2017	The owner, Moshe Vorotinov/Istoki Sources Mekorot, applied for renewal of the rental dwelling license for 904 53rd Ave N, a single family dwelling.
12-21-2017	An initial rental license inspection was conducted. Six property code violations were cited, see attached rental criteria.
01-02-2018	A second inspection was conducted and passed.
01-18-2018	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
01-18-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
01-31-2018	The previous Type IV Rental License expired.
02-19-2018	A Mitigation Plan was submitted.
03-28-2018	The Mitigation Plan was finalized.
03-30-2018	A letter was sent to the owner notifying that the hearing before the Council will be held April 9, 2018.

Prior rental license approval activities for license expires on 01/31/2018:

06-29-2017	The owner, Moshe Vorotinov/Istoki Sources Mekorot, applied for renewal of the rental dwelling license for 904 53rd Ave N, a single family dwelling.
07-20-2017	An initial rental license inspection was conducted. Eleven property code violations were cited, see attached rental criteria.
07-31-2017	A second inspection was conducted and passed.
07-31-2017	The previous Type IV Rental License expired.
08-09-2017	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
08-09-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
08-25-2017	A Mitigation Plan was submitted.
08-30-2017	The Mitigation Plan was finalized.
09-01-2017	A letter was sent to the owner notifying that the hearing before the Council will be held September 11, 2017.

Prior rental license approval activities for license expires on 07/31/2017:

11-04-2016	The Owner, Moshe Vorotinov/Istoki Sources Mekorot, applied for renewal of the rental dwelling license for 904 53rd Ave N, a single family dwelling.
12-29-2016	An initial rental license inspection was conducted. 11 property code violations were cited, see attached rental criteria.
01-31-2017	The previous rental license expired.

COUNCIL ITEM MEMORANDUM

03-03-2017	A second rental inspection was conducted and failed. A $100 reinspection fee was charged to the property.
03-15-2017	A $300 Administrative Citation was issued for operating without a valid license.
03-17-2017	A third inspection was conducted and passed; however, the reinspection fees remain unpaid.
05-16-2017	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
05-16-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
05-30-2017	A Mitigation Plan was submitted.
06-06-2017	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
06-15-2017	The Mitigation Plan was finalized.
06-19-2017	The $200 reinspection fee was paid and rental license passed.
07-03-2017	A letter was sent to the owner notifying that the hearing before the Council will be held July 24, 2017.

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

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

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

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

1. Determining License Categories.

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

2. Fees.

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

3. Category Conditions.

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

4. License Category Criteria.

a. Property Code and Nuisance Violations.

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

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

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

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 4 but not more than 8
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 8
	3+ units	Greater than 3

b. <u>Police Service Calls.</u>

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

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 904 53rd Ave N

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 904 53rd AVENUE N

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

WHEREAS, the property located at 904 53rd Avenue N, was issued a Type IV Rental License on September 11, 2017; and

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

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

WHEREAS, the property owner of 904 53rd Avenue N, Brooklyn Center failed to attend Owners/Managers Association Meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 904 53rd Avenue N, Brooklyn Center, MN.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

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

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

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

☐ Action Plan—Type III (1 Year) ☐ Mitigation Plan—Type IV (6 Months)

MAR 23 2018

Property Address:	904 53 Ave. North, Brooklyn Center MN		
Owner's Name(s):	Istoki - Sources-MekorOt	Local Agent:	Moshe Vorotinov
Owner's Address:		Agent Address:	Same
Owner's Phone:	952-994-0581	Agent's Phone:	same
Owner's Email:	shamir657@msn.com	Agent's Email:	
Current Expiration Date:	1/31/2018	Pending Expiration Date:	7/31/2018

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

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

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

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6301 Shingle Creek Parkway, Brooklyn Center, MN 55430-2199 | Phone: (763) 563-3330 | TTY: 711 Fax: (763) 569-3360

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

[x] Crime Free Housing training is completed

[ ] Crime Free Housing training is scheduled for _____
Date

[ ] Owner or agent plans to attend training at : _____
Name of City

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

Phase II - Read and check each box.

[x] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[x] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

[x] Security Assessment is completed

[ ] Security Assessment is scheduled for _____

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Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

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

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

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

Owner or agent will attend A.R.M. meetings scheduled for: 3/8/18 and 5/10/18

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

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

[ ] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

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

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

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

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	1990	g	2025
Water Heater	7/2017	N	2027
Kitchen Appliances	03/15	N	2027
Laundry Appliances	06/2016	G	2022
Smoke Alarms/ Carbon Monoxide Alarms	5/5/2017	N	2020
<u>Exterior Items</u>			
Paint/Siding	7/2016	N	2030
Windows	2010	N	2022
Roof	7/2015	N	2055
Garage	N/A	G	2027
Driveway	7/2017	N	2025
Fence	6/2014	G	2025
Sidewalks	N/A	G	N/A
Shed	N/A		

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

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Sections C—*Steps to Improve Management and Conditions of Property*

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

The following actions are required:

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

The following actions are optional unless required by the City.

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

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

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Sign and Verify

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

M. VOROTINOV
Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

3/21/2018
Date

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

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

5/28/18
Date

Community Development

3/28/18
Date

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City Council Agenda Item No. 10a
#4

COUNCIL ITEM MEMORANDUM

DATE: April 9, 2018

TO: Curt Bogaley, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 2006 Brookview Dr

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan,** Resolution and issuance of a Type IV 6-Month Provisional Rental License for 2006 Brookview Dr. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan,** it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for a renewal rental license. This is a single family property. The previous license was a Type IV Rental License issued on November 27, 2017, on condition of adherence to the Mitigation Plan and City Ordinances.

The requirements of the Mitigation Plan were met for the previous license. However, the property qualifies for a Type IV Rental License based on eleven (11) property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. Therefore, according to City Ordinance, based on the number of property code violations, the license category remains a Type IV.

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

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

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

COUNCIL ITEM MEMORANDUM

Current rental license approval activities for license that expires 03/31/2018:

08-24-2017	The owner, MNSF II, LLC, applied for renewal of the rental dwelling license for 2006 Brookview Dr, a single family dwelling.
09-12-2017	An initial rental license inspection was conducted. Eleven property code violations were cited, see attached rental criteria.
09-30-2017	The previous Type IV Rental License expired.
10-09-2017	The owner called to reschedule the rental license inspection from 10/13 to 10/27.
10-26-2017	The owner called to reschedule the rental license inspection 10/27 to 10/30.
10-30-2017	The owner called to reschedule the rental license inspection 10/30 to 11/9.
11-09-2017	A second rental license inspection was conducted and failed. A $100 reinspection fee was charged to the property.
11-09-2017	A $300 Administrative Citation was issued for operating without a rental license.
11-22-2017	The owner called to reschedule the rental license inspection from 11/28 to 12/11.
12-11-2017	The third rental license inspection was conducted and passed. The $100 reinspection fee was still owed.
01-26-2018	A Mitigation Plan was submitted.
02-08-2018	A $600 Administrative Citation was issued for operating without a license.
03-22-2018	The Mitigation Plan was finalized.
03-30-2018	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
03-30-2018	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-30-2018	A letter was sent to the owner notifying that the hearing before the Council will be held April 9, 2018.

Previous rental license approval activities 09/30/2017:

03-31-2017	The previous Type IV Rental License expired.
04-05-2017	The owner, MNSF II, LLC, applied for renewal of the rental dwelling license for 2006 Brookview Dr, a single family dwelling.
05-08-2017	An initial rental license inspection was conducted. Fourteen property code violations were cited, see attached rental criteria.
06-14-2017	A $300 Administrative Citation was issued for operating without a license.
06-22-2017	A second inspection was conducted and failed. A $100 reinspection fee was charged to the property.
07-10-2017	The $100 reinspection fees were paid.
07-14-2017	A third inspection was conducted and failed.
07-31-2017	A fourth inspection was conducted and failed.
08-16-2017	A fifth inspection was conducted and failed. Reinspection fees were waived due to a change in management companies.
09-18-2017	The City utilities became delinquent.
09-19-2017	City records indicate zero validated police nuisance incidents occurred in the past twelve months.

COUNCIL ITEM MEMORANDUM

09-19-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
09-27-2017	The City utilities were paid.
10-18-2017	A Mitigation Plan was submitted.
10-31-2017	The Mitigation Plan was finalized.
11-09-2017	A $300 Administrative Citation was issued for operating without a license.
11-17-2017	A letter was sent to the owner notifying that the hearing before the Council will be held November 27, 2017.

Prior Type IV Rental License approval activities:

09-09-2016	The owner, RHA 3, LLC, applied for renewal of the rental dwelling license for 2006 Brookview Dr, a single family dwelling.
09-30-2016	The previous Type IV Rental License expired.
10-07-2016	An initial rental license inspection was conducted. Fourteen property code violations were cited, see attached rental criteria.
11-16-2016	A second inspection was conducted and failed. A $100 reinspection fee was charged to the property.
11-18-2016	A $300 Administrative Citation was issued for renting without a license.
12-06-2016	A third inspection was conducted and failed. A $100 reinspection fee was charged to the property.
12-21-2016	A fourth inspection was conducted and failed. A $100 reinspection fee was charged to the property.
12-22-2016	The $200 in reinspection fees was paid.
01-27-2017	A $600 Administrative Citation was issued for renting without a license.
01-30-2017	A fifth inspection was conducted and failed. A $100 reinspection fee was charged to the property.
03-09-2017	The $200 in reinspection fees was paid and the rental license passed.
03-20-2017	A $1200 Administrative Citation was issued for renting without a license.
03-21-2017	City records indicate zero validated police nuisance incidents occurred in the past twelve months.
03-21-2017	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
04-13-2017	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
05-01-2017	A Mitigation Plan was submitted.
05-12-2017	The Mitigation Plan was finalized.
05-15-2017	A letter was sent to the owner notifying that the hearing before the Council will be held May 22, 2017.

COUNCIL ITEM MEMORANDUM

Prior Type IV Rental License approval activities:

06-17-2015	The Owner, Simply Residential Property Management, applied for an initial rental dwelling license for 2006 Brookview Dr, a single family property.
07-13-2015	An initial rental license inspection was conducted. 14 property code violations were cited, see attached rental criteria.
08-13-2015	A second inspection was not conducted; no access was provided at time of inspection. A $100 reinspection fee was charged to the property.
08-27-2015	A third inspection was not conducted; no access was provided at time of inspection. A $100 reinspection fee was charged to the property.
09-09-2015	Housing Supervisor was notified that the rental property is under rehab and will not be completed for two months. Inspections postponed until further notice.
09-11-2015	The $200 reinspection fees were paid.
11-10-2015	A fourth inspection was conducted and failed; corrections not completed. A $100 reinspection fee was charged to the property.
11-23-2015	The $100 reinspection fee was paid.
11-24-2015	A fifth inspection was conducted and failed; corrections not completed. A $100 reinspection fee was charged to the property.
12-02-2015	The $100 reinspection fee was paid.
12-09-2015	A sixth inspection was conducted and failed; corrections not completed. A $100 reinspection fee was charged to the property.
12-16-2015	A seventh inspection was conducted and passed; corrections completed. The $100 reinspection fee was paid.
01-05-2016	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
01-22-2016	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
02-09-2016	A Mitigation Plan was submitted.
02-22-2016	The Mitigation Plan was finalized.
03-04-2016	A letter was sent to the owner notifying that the hearing before the Council will be held March 14, 2016.

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

Excerpt from Chapter 12 of City Code of Ordinances:

COUNCIL ITEM MEMORANDUM

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

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

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

1. Determining License Categories.

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

2. Fees.

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

3. Category Conditions.

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

4. License Category Criteria.

a. Property Code and Nuisance Violations.

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

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

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

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	**Number of Units**	**Property Code Violations per Inspected Unit**
Type I – 3 Year	1-2 units	0-1
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 1 but not more than 4
	3+ units	Greater than 0.75 but not more than 1.5

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

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

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving a Type IV Rental License for 2006 Brookview Dr

COUNCIL ITEM MEMORANDUM

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 2006 Brookview Dr

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

WHEREAS, the property located at 2006 Brookview Dr, was issued a Type IV Rental License on November 27, 2017; and

WHEREAS, the property qualifies for a Type IV Rental License based on the number of property code violations (11) and validated police nuisance incidents (zero); and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that a TYPE IV Rental License is hereby approved for the property at 2006 Brookview Dr, Brooklyn Center, MN.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

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

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	2006 Brookview		
Owner's Name(s):	MNSF II T1, LLC	Local Agent:	Renters Warehouse
Owner's Address:	6386 Morrison Blvd #320 Charlotte, NC 28211	Agent Address:	13200 Pioneer Tr #100 Eden Prairie, MN 55347
Owner's Phone:	704-442-1094	Agent's Phone:	952-470-8888
Owner's Email:	msilverstein@gorelickbrothers.com	Agent's Email:	gorelick@rentalswarehouse.com
Current Expiration Date:	9/30/2018	Pending Expiration Date:	3/30/2018

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

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

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

City of Brooklyn Center—Community Development www.cityofbrooklyncenter.org
6301 Shingle Creek Parkway, Brooklyn Center, MN 55430-2199 | Phone: (763) 563-3330 | TTY: 711 Fax: (763) 569-3360

Mission: Ensuring an attractive, clean, safe, inclusive community that enhances the quality of life for all people and preserves the public trust

2006 Brookview

Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. **A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.**

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. **If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.**

- [X] Crime Free Housing training is completed
- [ ] Crime Free Housing training is scheduled for _____ Date
- [ ] Owner or agent plans to attend training at : _____ Name of City

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

Phase II - Read and check each box.

[x] 1) Complete a **Security Assessment** and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[x] 2) **A follow-up assessment must be completed before the license expiration date** to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

- [ ] Security Assessment is completed
- [x] Security Assessment is scheduled for 2/2/18

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

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

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

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

Owner or agent will attend A.R.M. meetings scheduled for: 1/11/18 and 3/8/18

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

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

[ ] 2) Conduct regular resident meetings.

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Sections B—*Long Term Capital Improvement Plan*

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

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

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

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	Feb 2015	f	Feb 2025
Water Heater	Feb 2015	f	Feb 2025
Kitchen Appliances	Feb 2015	f	Feb 2025
Laundry Appliances	Feb 2015	f	Feb 2025
Smoke Alarms/ Carbon Monoxide Alarms	May 2016	f	May 2021
Exterior Items			
Paint/Siding	May 2015	f	May 2025
Windows	May 2015	f	May 2025
Roof	May 2015	f	May 2025
Garage	April 1965	f	April 2035
Driveway	May 2015	f	May 2025
Fence	June 2012	f	June 2022
Sidewalks	May 2015	f	May 2025
Shed	July 2015	f	July 2025

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

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Sections C—*Steps to Improve Management and Conditions of Property*

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

The following actions are required:

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

The following actions are optional unless required by the City.

- [ ] 1) Provide lawn/snow service.
- [ ] 2) Provide garbage service.
- [ ] 3) Install security system.
- [ ] 4) Provide maintenance service plan for appliances.

  Name of service company: _____
- [ ] 5) Other: _____

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

Sign and Verify

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

Amanda Stinar

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

1/26/18

Date

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

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

3/22/2018

Date

Community Development

3/16/18

Date

City of Brooklyn Center—Community Development

www.cityofbrooklyncenter.org

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City Council Agenda Item No. 10a
#5

COUNCIL ITEM MEMORANDUM

DATE: April 9, 2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Xiong Thao, Housing and Community Standards Supervisor

SUBJECT: Type IV 6-Month Provisional Rental License for 5455 Emerson Ave N

Recommendation:

It is recommended that the City Council consider **approval of the Mitigation Plan**, Resolution and issuance of a Type IV 6-Month Provisional Rental License for 5455 Emerson Ave N. The applicant or representative has an opportunity to present evidence regarding the submitted Mitigation Plan. If the Council chooses to **modify or disapprove the Mitigation Plan**, it is recommended that the motion be to direct staff to prepare proposed findings for modification or disapproval of the Mitigation Plan and notify the license applicant of any pending license actions to be taken at a subsequent Council Meeting. (By ordinance, the applicant hearing is intended only to modify or approve the Mitigation Plan and is not to be used as an opportunity to modify a license type.)

Background:

This owner is applying for renewal of two rental licenses. This is a single family property. The property would qualify for a Type IV Rental License based on seventeen (17) property code violations found during the initial rental inspection and zero (0) validated police nuisance incidents for the past twelve months. Further, the owner failed to comply with the Mitigation Plan and applicable Ordinances, specifically failed to attend Owners/Managers Association Meetings and turn in monthly updates. According to City Ordinances, if the requirements of the license category and the Mitigation Plan are not met, the license renewal category remains a Type IV. Under this license action, the property owner will receive two successive Type IV Rental Licenses- one that will have expired on March 31, 2018 and one that will expire on September 30, 2018.

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

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

COUNCIL ITEM MEMORANDUM

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

Current rental license approval activities for license that expires 09/30/2018:

01-17-2018	The owner, Mark Colville, applied for renewal of the rental dwelling license for 5455 Emerson Ave N, a single family dwelling.
02-15-2018	An initial rental license inspection was conducted. One property code violations were cited, see attached rental criteria.
03-20-2018	A second inspection was conducted and passed.
03-21-2015	A Mitigation Plan was submitted.
03-28-2015	The Mitigation Plan was finalized.
03-30-2018	A letter was sent to the owner notifying that the hearing before the Council will be held April 9, 2018.

Prior rental license approval activities for license that expires 03/31/2018:

06-09-2017	The owner, Mark Colville, applied for renewal of the rental dwelling license for 5455 Emerson Ave N, a single family dwelling.
06-27-2017	An initial rental license inspection was conducted. Seventeen property code violations were cited, see attached rental criteria.
09-30-2017	The Type III Rental License expired.
10-03-2017	A second inspection was conducted and failed. A $100 reinspection fee is charged.
11-07-2017	A third rental license inspection was conducted and failed. A $100 reinspection fee is charged.
11-13-2017	A $300 Administrative Citation was issued for operating without a rental license.
11-20-2017	A fourth rental license inspection was conducted and passed. A $100 reinspection fee was paid, however, a $100 reinspection fee is still owed.
12-01-2017	A $100 reinspection fee was paid.
01-04-2015	A letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
01-23-2018	A second letter was sent to the owner(s) notifying of qualification for Type IV 6-Month Provisional Rental License, including additional requirements to obtain a rental license. I.e. submit mitigation plan, completion of Phases I, II, and III of Crime Free Housing Program, etc.
03-19-2018	A $600 Administrative Citation was issued for operating without a rental license.
03-21-2018	A Mitigation Plan was submitted.
03-28-2018	The Mitigation Plan was finalized.
03-30-2018	A letter was sent to the owner notifying that the hearing before the Council will be held April 9, 2018.

If approved, after six months, a new rental license is required. The license process will begin in approximately three months. The new license will be based on the property code violations found during the initial renewal license inspection and the number of validated police calls for

services for disorderly activities and nuisances as defined in 12-911. The terms of the mitigation plan must also be met.

Excerpt from Chapter 12 of City Code of Ordinances:

Section 12-913. TYPE IV PROVISIONAL LICENSES.

1. Rental properties that meet the provisional licensing criteria as described in Section 12-901 are eligible only for provisional licenses.

2. The City will provide by mail to each licensee a monthly report of any police and fire calls and incidents and applicable property Code violations as described in Section 12-901.

3. Mitigation Plan. The applicant for a provisional license must submit for Council review a mitigation plan for the license period. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police and fire calls and/or the property Code issues described in Section 12-901 and 12-911 to a level that qualifies for a Type I, II, or III license. The mitigation plan may include such steps as changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, security personnel, and time frame to implement all phases of the Crime Free Housing Program.

4. Council Consideration. The application with a proposed mitigation plan will be presented to the City Council together with a recommendation by the City Manager or the Manager's designee as to the disposition thereof. After giving the applicant an opportunity to be heard and present evidence, the Council shall approve, disapprove, or approve with conditions the application and the mitigation plan. If the Council disapproves an application and mitigation plan or approves it with conditions, it shall state its reasons for so doing in writing. In evaluating a mitigation plan, the Council will consider, among other things, the facility, its management practices, the nature and seriousness of causes for police and fire incidences and/or property Code issues and the expected effectiveness of measures identified in the plan to reduce the number of police and fire incidences and/or property Code violations. In evaluating a mitigation plan submitted by an applicant already under a provisional license, the Council will also consider the effectiveness of measures identified in the applicant's previous mitigation plan and the need for different or additional measures to reduce police and fire incidences and/or property Code violations.

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

COUNCIL ITEM MEMORANDUM

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

1. Determining License Categories.

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

2. Fees.

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

3. Category Conditions.

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

4. License Category Criteria.

a. Property Code and Nuisance Violations.

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

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

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

Property Code and Nuisance Violations Criteria

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

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

Budget Issues:

COUNCIL ITEM MEMORANDUM

There are no budget issues to consider.

Strategic Priorities:

- Safe, Secure, Stable Community

Attachment
- Mitigation Plan
- Resolution Approving Two Type IV Rental Licenses for 5455 Emerson Ave N

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING A TYPE IV RENTAL LICENSE FOR 5455 EMERSON AVE N

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

WHEREAS, the property located at 5455 Emerson Ave N, is issued a Type IV Rental License with an expiration date of March 31, 2018; and

WHEREAS, the property located at 5455 Emerson Ave N, is issued a subsequent Type IV Rental License with an expiration date of September 30, 2018; and

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

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

WHEREAS, the property owner of 5455 Emerson Ave N, Brooklyn Center failed to attend Owners/Managers Association Meetings and turn in monthly updates.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that two TYPE IV Rental Licenses are hereby approved for the property at 5455 Emerson Ave N, Brooklyn Center, MN.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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

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

BROOKLYN CENTER
AT THE CENTER

Community Development

Rental License Plan

Handwritten Plans will not be accepted.

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

☐ Action Plan—Type III (1 Year) ☒ Mitigation Plan—Type IV (6 Months)

Property Address:	5455 Emerson Ave N		
Owner's Name(s):	CCFI LLC	Local Agent:	
Owner's Address:	7801 E Bush Lake Road Ste 120 Mpls MN 55439	Agent Address:	
Owner's Phone:	6124248540	Agent's Phone:	
Owner's Email:	twickstrom@elbrusmgmt.c	Agent's Email:	
Current Expiration Date:	9/30/17 XP	Pending Expiration Date:	3/31/18 XP

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

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

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

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Sections A—*Crime Free Housing Program Requirements*

Phase I - Read and check each box.

[x] 1) A written lease agreement is required. The lease agreement shall include the Crime Free Housing Lease Addendum. A copy of the lease agreement and Crime Free Housing Lease Addendum must be attached to the Plan.

[x] 2) Agree to pursue the termination of lease agreement or eviction of tenants who violate the terms of the lease or any addendums.

[x] 3) Conduct criminal background check(s) for all new prospective tenants. If it is a current tenant a new background check is not required. Upon the City's request, documentation showing a background check was completed must be provided.

[x] 4) Attend an approved eight-hour Crime Free Housing training course. Information for approved courses can be found at www.mncpa.net. If you have completed the course attach a copy of the Crime Free Housing Certificate to the Plan.

- [x] Crime Free Housing training is completed
- [ ] Crime Free Housing training is scheduled for _____ Date
- [ ] Owner or agent plans to attend training at : _____ Name of City

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

Phase II - Read and check each box.

[x] 1) Complete a Security Assessment and implement improvements required by the Brooklyn Center Police Department. To schedule a Security Assessment, call (763) 569-3344.

[x] 2) A follow-up assessment must be completed before the license expiration date to verify the security improvements have been implemented. To schedule a follow up inspection call (763) 569-3344.

- [x] Security Assessment is completed
- [ ] Security Assessment is scheduled for _____

Sections A—*Crime Free Housing Program Requirements (continued)*

Phase III - A.R.M Meeting Requirement

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

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

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

Owner or agent will attend A.R.M. meetings scheduled for: may 10th and 7/12/2019

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

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

[ ] 2) Conduct regular resident meetings.

Sections B—*Long Term Capital Improvement Plan*

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

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

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

Item	Last Replaced	Condition*	Estimated Replacement Date
Furnace	11/2014	g	11/2044
Water Heater	11/2014	g	11/2029
Kitchen Appliances	6/2016	g	6/2026
Laundry Appliances	na		
Smoke Alarms/ Carbon Monoxide Alarms	6/2017	g	6/2022
Exterior Items			
Paint/Siding	9/2017	n	9/2027
Windows	6/2010	f	6/2025
Roof	6/2000	f	6/2025
Garage	na	g	
Driveway	6/2000	f	6/2025
Fence			
Sidewalks			
Shed			

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

Sections C—*Steps to Improve Management and Conditions of Property*

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

The following actions are required:

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

The following actions are optional unless required by the City.

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

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

Sign and Verify

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

Toni Wickstrom/Manager Agent

Owner or Agent Name and Title (Please Print)

Owner or Agent Signature

3-21-18

Date

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

Additional Owner or Agent Signature (If Applicable)

Date

City Staff Only

Police Department

3/28/18

Date

Community Development

3/28/18

Date

City Council Agenda Item No. 10b

COUNCIL ITEM MEMORANDUM

DATE: March 26, 2018

TO: Curt Boganey, City Manager

FROM: Meg Beekman, Director of Community Development

SUBJECT: Master SAC Deferral Agreement

Recommendation:

It is recommended that the City Council approve a Resolution approving the Master SAC Deferral Agreement between the City of Brooklyn Center and the Metropolitan Council

It is recommended that the City Council approve a Resolution approving the Deferred Payment Agreement between the City of Brooklyn Center and Jambo Africa, Inc.

Background:

The Metropolitan Council adopted a Small Business SAC Deferral Program in 2012. The program allows for businesses with a sewer access charge (SAC) determination of 25 SAC units or fewer to defer up to 80 percent of the owed SAC fees over a period of time. A low interest rate is applied to the outstanding balance during the repayment period.

When a new business applies for a building permit, the Building Official sends copies of the plans to the Metropolitan Council for a SAC determination. The Met Council uses a formula to determine the estimated amount of sewage flow that the business will supply. Businesses with higher numbers of sewage producing facilities; such as toilets, sinks, and faucets; or high numbers of capacity for people, will have higher SAC units assigned to them.

The cost of a SAC unit changes from time to time; however, the current rate is $2,485 per unit. Because the calculation of SAC determinations is complex, and because SAC charges are not a well-known business expense, it is not unusual for a new small business owner to be surprised by the high cost of their SAC fees. The Met Council has attempted to lessen the burden of paying this fee by allowing business owners to defer the payment over a longer period of time.

Master SAC Deferral Agreement:

In order to facilitate the SAC deferral, the Metropolitan Council requires that cities enter into a master agreement to provide the program. The Agreement outlines the requirements of the program and the process by which a business owner can receive the deferral from the Met Council. Cities determine the maximum amount that may be deferred (up to 80%), the length of time of the deferral (5 or 10 years), the frequency of billing (once or twice per year), and which months to receive invoices.

Once the Master SAC Deferral Agreement is approved, cities have the discretion to determine their own policy regarding how and under what conditions a business may be eligible to

participate. Once a business has been identified by the city to participate, the city must notify the Met Council of their participation, collect the minimum 20 percent down payment at the time of building permit issuance, and remit it to the Met Council. An amortization schedule is them created and the City will be invoiced by the Met Council according to the agreed upon schedule. The city would then enter into an agreement with the business owner regarding repayment of the deferral to the city.

Should the business go out of business, the city can continue to pay for the deferred credits; any credits that were paid for would stay with the property and could be used for a future business, or be taken city-wide. The city could also choose to stop making payments and any SAC units not yet paid for would go back to the Met Council.

Use of SAC Credits:

When a building turns over to a new use that requires fewer SAC units, or a property is demolished, if there are SAC units that were originally paid for (not "grand fathered" in from a longstanding use), the city can capture those credits to use city-wide, provided that at least one credit remains on the original property. The excess credits would then automatically go to the next new business that needed them, unless the city chose to collect the fees from that new business and redirect them elsewhere. The Met Council does not limit how fees captured from the use of SAC credits may be used.

For a period of time prior to the mid-2000's, it appears that Brooklyn Center routinely collected SAC credits from properties as they turned over or became vacant. Those credits were then reinvested in new businesses that needed them, thus reducing the upfront cost of opening a new business. At some point the Metropolitan Council adjusted the way that city-wide credits were collected and tracked. Now, credits can only be collected at the time a building permit is issued or at the time a building is demolished. It appears for at least the last several years, Brooklyn Center has not been collecting excess credits as properties redevelop or become vacant. Thus, the City currently does not have any city-wide credits available.

Staff will develop a policy for the collection and use of SAC credits moving forward to present to Council for consideration at a future meeting.

Jambo Africa Request:

Jambo Africa is an existing restaurant in the City. The owner has recently purchased a new property at 1601 Freeway Boulevard and intends to relocate their business. The building was previously used as a market, and prior to that was an Arby's. The Arby's required five SAC units. When it closed and was replaced by a market, the market only required one SAC unit. At that time the City captured the four excess credits to be used city-wide. Jambo Africa recently received a determination, based on their seating and layout, of 15 SAC units. Minus the remaining credit on the property, the owner owes $34,790 in SAC fees to the Met Council. As an unanticipated expense, the owner has indicated that this would prevent her from opening the new business. She has requested a SAC deferral.

COUNCIL ITEM MEMORANDUM

The City Attorney has drafted a Payment Deferral Agreement, which would require the property owner to make payments to the City to cover the full cost of the deferment over a period of five years. The City in turn would make payments to the Met Council. There would be no cost to the City to enter into this agreement, with the exception of administrative time to issue invoices and collect and make payments. In the event of a default the City would have the authority to assess the remaining balance, plus any administrative costs, to the subject property. If the business ceases operations on the property for any reason the City could stop making payments to the Met Council and forego any unpaid SAC units, or continue to make payments and capture any excess credits City-wide.

There has also been discussion with the property owner about the possibility of using future SAC credits to assist with the repayment of her deferral. The use of future credits in this manner would be part of a future policy discussion with the Council regarding the use of captured SAC credits.

It should be noted that this request is contingent on the Council's approval of the Master SAC Deferral Agreement between the City and the Metropolitan Council.

Policy Issues:

- Is the Council willing to have the City enter into an agreement with the Metropolitan Council to allow businesses to defer their SAC fees?

Budget Issues:

There are no costs to the City to enter into either the Master SAC Deferral Agreement or the Payment Deferral Agreement.

Strategic Priorities:

- Targeted Redevelopment

Attachment

- Master SAC Deferral Agreement between the City and the Metropolitan Council
- Payment Deferral Agreement between the City and Jambo Africa, Inc
- Resolution Approving the Master SAC Deferral Agreement between the City and the Metropolitan Council
- Resolution Approving the Payment Deferral Agreement between the City and Jambo Africa, Inc.

COMMUNITY: Brooklyn Center	No. 18M131-1
COMMUNITY ADDRESS: 6301 Shingle Creek Parkway	
CONTACT PERSON: Nate Reinhardt, Finance Director	
COMMUNITY-WIDE SAC DEFERRED AMOUNT: 80%	
COMMUNITY-WIDE SAC DEFERMENT PERIOD/TERM: 5 years	
PAYMENT MONTH(S): June and November	

MASTER SAC DEFERRAL AGREEMENT

THIS MASTER SAC DEFERRAL AGREEMENT ("Agreement") is entered into by and between the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota, with business offices at 390 Robert Street North, Saint Paul, Minnesota 55101 ("Council"), and the local government unit identified above as the "Community."

Recitals

1. The Council owns and operates the metropolitan disposal system. Under Minnesota Statutes section 473.517, subdivision 3, the costs of acquisition, betterment and debt service associated with the "reserve capacity" of the system must be allocated among and paid by the respective local government units in the metropolitan area through a sewer availability charge ("SAC") for each new connection or increase in capacity demand to the metropolitan disposal system within each local government unit.

2. Individual property or business owners whose properties are either newly connected or increase capacity demand to the metropolitan disposal system do not pay SAC to the Council. However, local government units that pay SAC to the Council for new connections or increased capacity demands typically pass on those costs to property and business owners by assessing property and business owners a "Local SAC" which sometimes includes local add-on charges.

3. Minnesota Statutes section 473.517, subdivision 6 authorizes the Council to provide for the deferment of payment of all or part of the allocated costs which are allocated by the Council to a local government unit in any year pursuant to section 473.517, subdivision 3. The deferments are repayable at such time or times as the Council shall specify, with interest.

4. At its November 28, 2012 meeting, the Council adopted changes to its SAC program including a small business SAC deferral program. The changes became effective January 1, 2013. At its January 22, 2014 meeting, the Council adopted changes to the SAC deferral program that became effective immediately upon adoption.

5. The Council wants to encourage and help communities promote business development by deferring community SAC payment obligations pursuant to Minnesota Statutes section 473.517, subdivision 6, so participating communities may pass through to businesses the benefits of deferred SAC payments by the communities. The Council's *Sewer Availability Charge Procedure Manual*

(January 2014) states that communities that want to participate in a SAC deferral program must execute a standard master SAC deferral agreement with the Council.

6. To obtain a deferment of a SAC payment obligation and provide assistance to businesses, communities will submit to the Council a signed master SAC deferral agreement. For the term of the master agreement, communities will have the option to note on their monthly SAC reporting, on forms as provided by the Council, the eligible SAC liabilities for which the communities are requesting a SAC payment deferment from the Council. For each such subject SAC liability the deferment will be effective as of the first day of the subsequent month (*e.g.*, for an April building permit that is reported for SAC in May, the deferment will be effective as of June 1).

7. In order to define the rights and obligations of the Community and the Council and the relevant SAC deferral arrangements, the Community and the Council agree as follows:

Article 1 - Definitions

1.1 Definition of Terms. Unless otherwise provided or indicated by the context, the terms defined in this article have the meanings given them in this article. Capitalized terms or phrases used in this Agreement have the meanings given them in the most recent version of the Council's *Sewer Availability Charge Procedure Manual* (the "*SAC Procedure Manual*").

(a) ***Community.*** "Community" means a "Community" or "Customer Community" as those terms are defined in the *SAC Procedure Manual.*

(b) ***Determination.*** "Determination" has the meaning ascribed to that term in the *SAC Procedure Manual.*

(c) ***Regional Portion of Local SAC.*** The "Regional Portion of Local SAC" means that portion of the Community's SAC payment obligations to the Council that the Community passed on to properties within the Community's jurisdiction and does not include any local add-on charges.

(d) ***SAC Deferred Amount.*** "SAC Deferred Amount" means the amount of the Community's SAC obligation under Minnesota Statutes section 473.517, subdivision 3 that has been deferred pursuant to Minnesota Statutes section 473.517, subdivision 6 and the terms and conditions of this Agreement.

(e) ***Business.*** "Business" means a property or business for which the aggregate SAC Determination results in a liability of twenty-five (25) SAC units or less, before application of any Credits available on the Site. Business does not include *any type* of "Residential Property" or "Publicly Assisted Housing" as those terms are defined in the *SAC Procedure Manual*; nor does it include motels, hotels, camps, nursing homes, senior housing or prisons. Business includes "Commercial Properties," as that term is defined in the *SAC Procedure Manual*, but only when the aggregate SAC Determination for a Commercial Property is twenty-five (25) SAC units or less, before any applicable Credits.

Article 2 – SAC Deferred Amount; Interest; Payments

2.1 SAC Deferred Amount. Subject to the terms and conditions of this Agreement and applicable law, the Council will allow the Community to defer payment on the Community's SAC obligations for Business properties within the Community's jurisdiction in an amount not to exceed eighty percent (80%) of the SAC due for the properties that are either newly connected or increase capacity demand to the metropolitan disposal system. The percentage by which the Community elects to defer payment on the Community's SAC obligations must be applied on a community-wide basis to all participating Businesses within the Community's jurisdiction. The "Community-Wide SAC Deferred Amount" is stated as a percentage on Page 1 of this Agreement. The deferment is available only to properties for which the aggregate Determination is twenty-five (25) SAC units or less. In each instance in which the Community exercises this deferment option, the SAC amount that is not deferred is due and payable at the time the SAC liability is incurred by the Community. Payments on the non-deferred amounts are due with the regular SAC reporting to the Council, pursuant to the *SAC Procedure Manual*. The deferred SAC liability begins accruing interest on the first day following the regular SAC reporting.

2.2 Interest. Annually at each calendar year-end, the Council will determine the average rate on its wastewater bonds, pursuant to Minnesota Statutes section 473.517, subdivision 6. All new SAC deferments during the following calendar year will be subject to that interest rate, but that interest rate will be fixed for the duration of the deferment period for each deferral originated in that calendar year. Interest on unpaid SAC Deferred Amount balances will be computed in whole months, however, payments to the Council can be annual.

2.3 Payments. When the Council invoices the Community for payments on its SAC Deferred Amount, the Council will provide the Community with a payment schedule that amortizes the SAC Deferred Amount and interest on that deferred amount over the term of the deferment period. The Community's payment schedule will list the Business properties for which the Community elected to defer payments on the Community's SAC obligations to the Council. The Community will make payments to the Council at least annually. The Community may elect to make payments semi-annually or more frequently to correspond with the Community's Local SAC collections, assessments or other payments from Businesses, but the same payment schedule must apply to all Community SAC Deferred Amounts. The month(s) the Community elected to make its SAC payments to the Council under the payment schedule are identified on Page 1 of this Agreement as the "Payment Month(s)." The Community may repay or prepay the Council the unpaid balance of a SAC Deferred Amount at any time prior to the end of the deferment period. Any repayment or prepayment made by the Community shall be without penalty to the Community. The Community's payment schedule will be recalculated during the term of the deferment period to reflect: (a) repayments or prepayments by the Community; (b) the Community's election (if any) to discontinue making payments on its SAC Deferral Amount for a Site pursuant to Section 4.2(b); (c) any Community payments to the Council pursuant to Section 4.1(b);or (d) the addition of new Business properties for which the Community elects to defer payment on the Community's SAC obligations to the Council.

2.4 Local SAC Payments from Businesses. Subject to the limitation stated in Sections 3.2 and 4.1, the Community may enter into a payment or other agreement with each Business for payment of Local SAC to the Community on terms and conditions agreed to by the Community and the Business. Except as described in Section 4.2, failure of a Business to make its Local SAC payments to the Community or the Community's failure (or choice) not to assess or collect Local SAC from a

Business shall not relieve the Community of its obligation to pay the Council any unpaid SAC Deferred Amount, plus interest, or otherwise meet its SAC payment obligations under Minnesota Statutes section 473.517, subdivision 6 or other law.

Article 3 - Term of Deferments

3.1 Term of Agreement. Unless otherwise terminated pursuant to this Agreement, this Agreement shall remain in force and effect until the term of the last deferment period expires for Business properties listed on the Community's payment schedule. The Council reserves the right to cancel, suspend or modify its SAC deferral program at any time and for any reason upon thirty (30) calendar days written notice to the Community. If the Council cancels, suspends or modifies its SAC deferral program it will honor all existing SAC deferrals which the Community elected to make under this Agreement prior to the cancellation, suspension or modification. The Community is responsible for giving timely notice to the Community's participating Businesses or prospective participant Businesses of any cancellation, suspension or modification of the Council's SAC deferral program that may affect the Community's local SAC deferral program.

3.2 Term of Deferment. The Community elects the term of the SAC deferments between the Council and the Community, but the maximum term of a Community's SAC deferment shall not exceed ten (10) years. The Community may have only one SAC deferment period and must have the same SAC deferment period for all Business properties covered by this Agreement. The Community's "Community-Wide SAC Deferment Period" is identified on Page 1 of this Agreement.

Article 4 – Local SAC Deferrals

4.1 Local Terms and Conditions. The Community will be responsible for identifying property and business owners that qualify for the Community's SAC deferral program pursuant to any Community terms or conditions. The Council will disapprove a Community deferment request only if a property or business owner does not qualify as a Business as defined in this Agreement. Because the Council's SAC deferral program is intended to benefit Businesses, the Community must administer its local SAC deferral program in a revenue-neutral manner. The Community agrees its SAC payments to the Council will not be less than the Regional Portion of Local SAC payments the Community receives from participating Businesses.

(a) ***Local Deferment Period.*** The Community agrees it will not allow a Business a less generous deferment period (*i.e.*, a shorter deferment period) for payment of the Regional Portion of Local SAC than the term of the Community's Community-Wide Deferment Period. This Agreement is not intended to govern the payment or deferment of any local add-on charges by the Community (if any) for Business properties.

(b) ***Local Deferred Amount.*** The Regional Portion of Local SAC deferred by the Community for a Business's benefit shall not be less than the Community's SAC Deferred Amount. If a Business elects to prepay the Community some or all of the Regional Portion of Local SAC deferred by the Community, the Community must make a like payment to the Council to cover the Community's SAC obligations to the Council for the Business property. If a Business elects to prepay some of the Regional Portion of Local SAC deferred by the Community the Council will recalculate the Community's payment schedule.

4.2 Unpaid Local SAC. If a Business ceases operations or moves from the Site and does not require the incremental wastewater capacity represented by the SAC deferral, the Community may exercise one of the following two options:

(a) ***Continue SAC Payments.*** The Community may continue to make its payments to the Council under the payment schedule. If the Community elects this option it will accrue SAC Credits for the Site in accordance with the SAC Credit provisions of the *SAC Procedure Manual.*

(b) ***Discontinue SAC Payments.*** The Community may discontinue making its payments to the Council on the Community's SAC Deferral Amount for the Site. The Community must notify the Council if the Community elects this option and it must certify to the Council that the incremental capacity no longer is needed at the Site. The Community is responsible for making all SAC payments on the SAC Deferral Amount that were due prior to the notice. The Site will not be credited with the portion of the wastewater capacity not paid (for future SAC Determinations), but will receive Credit for actual SAC paid (including partial units). No Community SAC deferral payments to the Council will be refunded. Net Credits will be available to the Community for Community-Wide Credits only if a new SAC Determination establishes a permanent reduction of capacity demand.

4.3 Late Community Payments. If the Community makes a late SAC deferral payment to the Council, an additional administrative charge of two percent (2%) of the unpaid balance of the SAC Deferred Amount per month (or such higher interest rate allowable under law) will be applied.

Article 5 - Notices

5.1 Written Notices. Any notice, request, demand and other correspondence required by or made in accordance with this Agreement shall be in writing and delivered:

To the Council: Metropolitan Council
Attn: MCES Finance Director
390 Robert Street North
Saint Paul, Minnesota 55101-1806

To the Community: The Community's "Contract Person" identified on Page 1
At the "Community Address" identified on Page 1

5.2 Notice Delivery. Any notices or other correspondence shall be deemed to have been received: (a) three (3) calendar days after the date on the notice if the notice is sent by U.S. Mail; or (b) the next business day from the date on the notice if the notice is sent by facsimile or by e-mail.

Article 6 - Defaulting Liabilities

6.1 Liability. To the extent permitted or authorized by law, the Community will hold the Council harmless and indemnify the Council against any actions, charges, claims, costs, damages, demands, expenses, liabilities, losses and proceedings which the Council may suffer or be subject to as a result of any default by a Business or the Community of the Community's SAC payment obligations under this Agreement or under applicable law. A Business's failure to pay Local SAC shall not relieve the Community of its obligation to pay the Community's SAC obligations to the

Council. Nothing in this Agreement shall be interpreted as a waiver of any liability limitations or immunities granted to the Council and the Community by Minnesota Statutes chapter 466 or by other applicable state or federal law.

6.2 Survival of Terms. Notwithstanding any other provision of this Agreement, the validity of this Article and the Community's obligation to pay its SAC obligations shall survive the expiration or termination of this Agreement.

Article 7 - Miscellaneous

7.1 Dispute Resolution. Any dispute arising under this Agreement shall be settled through consultations between the Council's and the Community's representatives. If an agreement regarding a dispute cannot be reached within thirty (30) days upon notice of a dispute from the Council or the Community, either party is then entitled to bring such dispute before the courts of this state or take such action as otherwise allowed by law.

7.2 Exercise of Rights. Any rights, powers and remedies granted to the Council and the Community by this Agreement shall not preclude or limit any other rights, powers and remedies available to the Council or the Community in accordance with law and other provisions of this Agreement. The exercise of any rights, powers and remedies by the Council or the Community shall not preclude the Council or the Community from exercising any other rights, powers and remedies available to the Council or the Community. No failure or delay by the Council or the Community to exercise any of their respective rights, powers and remedies under this Agreement or in accordance with applicable laws shall be construed as a waiver of such rights, powers, and remedies. The waiver of any right, power or remedy, in whole or in part, shall not preclude the Council or the Community from exercising any of their other respective rights, powers or remedies.

7.3 Severability of Provisions. Each provision in this Agreement shall be severable from and independent of the other provisions. If one or more provisions are held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall not be affected and shall remain in force and effect.

7.4 Amendments and modifications. Any amendments or modifications to this Agreement shall be in writing and shall become effective only upon execution of the amendment by the Council's and the Community's authorized representatives.

7.5 Assignment. The Community shall not assign any of its rights or obligations under this Agreement to any third party, even if the Site which was the subject of the SAC liability is removed from the jurisdiction of the Community. The Community may not barter, trade, sell or otherwise treat any SAC payment obligation deferments or SAC Credits as a commodity and the Council will not honor any agreements between the Community and any third parties that purport to barter, trade, sell or otherwise treat any SAC payment obligation deferments or SAC Credits as a commodity.

7.6 Successors. This Agreement shall be binding on the legal successors of the Council and the Community, whether by operation of law or otherwise.

7.7 Warranty of Legal Capacity. The individuals signing this Agreement on behalf of the Community and the Council represent and warrant on the Community's and the Council's behalf respectively that the individuals are duly authorized to execute this Agreement on the Community's

and the Council's behalf respectively and that this Agreement constitutes the Community's and the Council's valid, binding and enforceable agreement.

IN WITNESS WHEREOF, the Community and the Council have caused this Agreement to be executed by their duly authorized representatives. This Agreement is effective on the date of final execution by the Council.

COMMUNITY

By: _____

Print Name: _____

Title: _____

Date: _____

By: _____

Print Name: _____

Title: _____

Date: _____

METROPOLITAN COUNCIL

By: _____

Print Name: _____

Title: _____

Date: _____

DEFERRED PAYMENT AGREEMENT

This Deferred Payment Agreement ("Agreement") is entered into this ____ day of _____ 2018 by and between the City of Brooklyn Center, a Minnesota municipal corporation ("City"), Jambo Africa, a Minnesota Incorporation ("Operator"), and _____, a Minnesota _____ with an address of _____("Owner").

WHEREAS, the Operator proposes to create and operate a restaurant ("Business") on property located at 1601 Freeway Boulevard, Brooklyn Center, Minnesota, ("Property"). Owner is the fee owner of the Property, the legal description of which is: Lot 1, Block 1, Richardson Park Addition.

WHEREAS, the Business will be a change in use of the Property and the Owner is therefore subject to charges for sewer from the Metropolitan Council Environmental Services Division ("MCES") charges for water and the City. The charges are based on Sewer Availability Charge ("SAC") units;

WHEREAS, MCES has determined that the Property should be charged 15 SAC units for the change in use;

WHEREAS, The Master SAC Deferral Agreement between the City and Metropolitan Council dated, April 9, 2018 allows qualified business owners to defer the payment of sewer availability charges;

WHEREAS, Owner and Operator seek to have the payment of sewer availability charges owed for the Business deferred.

NOW THEREFORE, the parties agree as follows:

1. **Recitals**. The recitals set forth above are incorporated herein as if fully set forth.

2. **Fees**. The Owner is responsible for the following fees in relation to the establishment of the Business on the Property:

Fee	Calculation	Amount Due
MCES Sewer Availability Charge	14 SAC units x $2,485per unit	$34,790

3. **Payment of Fees**. Owner, or Operator on behalf of Owner, shall pay to the City all fees set forth in Paragraph 2 according to the following schedule:

   a. Initial Payment. $6,958 due at time of issuance of a building permit.
   b. Deferral Payments. $27,832.00 with interest at an annual rate of 2.23% due in equal monthly payments of $_____ over 60 months. Interest shall begin accruing upon the execution of this Agreement. The first monthly payment shall be due on June 1, 2018. All future payments shall be due on the 1st of each month until the fees and interest are paid in full. The final monthly payment shall be due on _____. The final monthly payment shall consist of any and all amounts remaining due under this Agreement.
   c. Prepayment. The amounts due under this Agreement may be prepaid without penalty. Interest shall accrue on the balance due at the rate set forth above up and to the date all amounts due under this Agreement are paid in full.

4. **Recalculation of Credits**. In the event the SAC units for the Property change for any reason after execution of this Agreement, any new fees assessed shall be due and payable pursuant to the City Code and shall not be subject to this Agreement.

5. **Ceasing business operations**. If the Business ceases operations or moves from the Property, the owner and operator are responsible for making the deferral payments required by paragraph 3 of this Agreement up until the time that the owner or operator informs the City in writing that the business has ceased operations or has moved from the Property. No further payments will be required under this Agreement if MCES does not require the City to pay its MCES sewer availability charge relating to the business. If MCES requires the City to pay its MCES sewer availability charge, any balance remaining due under this Agreement, including interest, shall become immediately due and payable without demand or notice by the City.

6. **Default**. "Default" shall mean the failure to make payments pursuant to the terms herein or any other breach of this Agreement and failure to cure the default within ten days of the mailing of written notice by the City to Owner and Operator by United States Mail.

7. **Remedy**. Upon Default, any balance remaining due under this Agreement, including interest, shall become immediately due and payable without demand or notice by the City. In addition, Owner and Operator agree that the full balance due, including interest and any applicable collection or administrative costs incurred by the City, may be assessed against the Property pursuant to Minn. Stat. Chapter 429 or certified to the taxes

on the Property pursuant to Minn. Stat. 444.075 or any other applicable law. Owner and Operator waive any and all procedures related to any such assessment or certification, including but not limited to notice, hearing and appeal of the assessment and waive any and all rights to appeal or otherwise contest or challenge the levying of special assessments up to a maximum of the remaining amount owed on the deferral plus reasonable administrative costs incurred by the City in the collection of the amount owed against the Property. The owner and operator agree that any requirements of Minnesota Statutes, Chapter 429 with respect to the adoption or levying of the special assessments are waived to the extent that those requirements are not met.

8. **Costs of Collection**. To the extent permitted by law, Owner and Operator agree to pay all costs of collection, including reasonable attorneys' fees and legal expenses, incurred by the City in collection of any amounts due herein.

9. **Notices.** Notices to be given under this Agreement shall be given by enclosing the same in a sealed envelope, postage prepaid and deposited in the U.S. Postal Service, addressed to the parties as listed above.

10. **Assignment.** None of the parties shall assign this Agreement, nor any interest arising herein, without the written consent of the other parties.

11. **Run with the Land.** The covenants, waivers and agreements contained in this Agreement shall run with the Property and shall bind future owners of the Property and their heirs, successors and assigns. Owner agrees to provide a copy of this Agreement to any buyer of the Property before Owner signs a purchase agreement to sell the Property.

12. **Governing Law.** The laws of the State of Minnesota govern this Agreement.

13. **Severability.** The provisions of this Agreement are severable. If any portion of this Agreement is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Agreement.

14. **Entire Agreement.** The entire Agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

15. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

CITY OF BROOKLYN CENTER

BY:_____
Tim Willson, Mayor

BY:_____
Cornelius Bogany, City Manager

STATE OF MINNESOTA)
)ss.
COUNTY OFHENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Tim Willson and Cornelius Bogany, the Mayor and City Manager, respectively, of the City of Brooklyn Center, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

_____
Notary Public

OPERATOR

_____

By:
Its:

STATE OF MINNESOTA)
(ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____ the _____ of _____, on behalf of the corporation.

_____
Notary Public

OWNER

_____

By:
Its:

STATE OF _____)
(ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____ the _____ of _____ on behalf of the company.

_____
Notary Public

DRAFTED BY:

Councilmember _____ introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION APPROVING THE PAYMENT DEFERRAL AGREEMENT BETWEEN THE CITY OF BROOKLYN CENTER AND THE METROPOLITAN COUNCIL

WHEREAS, The Metropolitan Council (Council) owns and operates the metropolitan disposal system. Under Minnesota Statutes section 473.517, subdivision 3, the costs of acquisition, betterment and debt service associated with the "reserve capacity" of the system must be allocated among and paid by the respective local government units in the metropolitan area through a sewer availability charge ("SAC") for each new connection or increase in capacity demand to the metropolitan disposal system within each local government unit; and

WHEREAS, Individual property or business owners whose properties are either newly connected or increase capacity demand to the metropolitan disposal system do not pay SAC to the Council. However, local government units that pay SAC to the Council for new connections or increased capacity demands typically pass on those costs to property and business owners by assessing property and business owners a "Local SAC" which sometimes includes local add-on charges; and

WHEREAS, Minnesota Statutes section 473.517, subdivision 6 authorizes the Council to provide for the deferment of payment of all or part of the allocated costs which are allocated by the Council to a local government unit in any year pursuant to section 473.517, subdivision 3. The deferments are repayable at such time or times as the Council shall specify, with interest; and

WHEREAS, At its November 28, 2012 meeting, the Council adopted changes to its SAC program including a small business SAC deferral program. The changes became effective January 1, 2013. At its January 22, 2014 meeting, the Council adopted changes to the SAC deferral program that became effective immediately upon adoption; and

WHEREAS, The Council wants to encourage and help communities promote business development by deferring community SAC payment obligations pursuant to Minnesota Statutes section 473.517, subdivision 6, so participating communities may pass through to businesses the benefits of deferred SAC payments by the communities. The Council's Sewer Availability Charge Procedure Manual (January 2014) states that communities that want to participate in a SAC deferral program must execute a standard master SAC deferral agreement with the Council; and

WHEREAS, To obtain a deferment of a SAC payment obligation and provide assistance to businesses, communities will submit to the Council a signed master SAC deferral agreement. For the term of the master agreement, communities will have the option to note on their monthly SAC reporting, on forms as provided by the Council, the eligible SAC liabilities for which the communities are requesting a SAC payment deferment from the Council. For each such subject SAC liability the deferment will be effective as of the first day of the subsequent month (e.g., for

an April building permit that is reported for SAC in May, the deferment will be effective as of June 1); and

WHEREAS, The City of Brooklyn Center wishes to enter into a Master SAC Deferral Agreement with the Council and pass on the deferment of SAC fee obligations to assist businesses

NOW, THERFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BROOKLYN CENTER, MINNESOTA, AS FOLLOWS:

The City Council hereby approves the Master SAC Deferral Agreement in order to define the rights and obligations of the Community and the Metropolitan Council and the relevant SAC deferral arrangements, and hereby authorizes the City Manager to negotiate any additional details as may be necessary and appropriate and approved by legal counsel to the City Council.

Adopted by the City Council of Brooklyn Center on April 9, 2018.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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.

Councilmember _____ introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION APPROVING THE PAYMENT DEFERRAL AGREEMENT BETWEEN THE CITY OF BROOKLYN CENTER AND JAMBO AFRICA, INC

WHEREAS, The Metropolitan Council (Council) owns and operates the metropolitan disposal system. Under Minnesota Statutes section 473.517, subdivision 3, the costs of acquisition, betterment and debt service associated with the "reserve capacity" of the system must be allocated among and paid by the respective local government units in the metropolitan area through a sewer availability charge ("SAC") for each new connection or increase in capacity demand to the metropolitan disposal system within each local government unit; and

WHEREAS, Individual property or business owners whose properties are either newly connected or increase capacity demand to the metropolitan disposal system do not pay SAC to the Council. However, local government units that pay SAC to the Council for new connections or increased capacity demands typically pass on those costs to property and business owners by assessing property and business owners a "Local SAC" which sometimes includes local add-on charges; and

WHEREAS, Minnesota Statutes section 473.517, subdivision 6 authorizes the Council to provide for the deferment of payment of all or part of the allocated costs which are allocated by the Council to a local government unit in any year pursuant to section 473.517, subdivision 3. The deferments are repayable at such time or times as the Council shall specify, with interest; and

WHEREAS, At its November 28, 2012 meeting, the Council adopted changes to its SAC program including a small business SAC deferral program. The changes became effective January 1, 2013. At its January 22, 2014 meeting, the Council adopted changes to the SAC deferral program that became effective immediately upon adoption; and

WHEREAS, The Council wants to encourage and help communities promote business development by deferring community SAC payment obligations pursuant to Minnesota Statutes section 473.517, subdivision 6, so participating communities may pass through to businesses the benefits of deferred SAC payments by the communities. The Council's Sewer Availability Charge Procedure Manual (January 2014) states that communities that want to participate in a SAC deferral program must execute a standard master SAC deferral agreement with the Council; and

WHEREAS, on April 9, 2018, the Brooklyn Center City Council approved a Master SAC Deferral Agreement with the Council in order to obtain a deferment of a SAC payment obligation and provide assistance to businesses in the community. For the term of the master agreement, Brooklyn Center will have the option to note on their monthly SAC reporting, on forms as provided by the Council, the eligible SAC liabilities for which the City is requesting a SAC payment deferment from the Council. For each such subject SAC liability the deferment will be

effective as of the first day of the subsequent month (e.g., for an April building permit that is reported for SAC in May, the deferment will be effective as of June 1); and

WHEREAS, The City of Brooklyn Center wishes to enter into a Payment Deferral Agreement with Jambo Africa, Inc., to pass on the deferment of 80 percent of the owed 14 SAC units, or a deferred amount of $27,832.00, to be paid back over a period of five years at an interest rate of 2.23 percent, to assist this business.

NOW, THERFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BROOKLYN CENTER, MINNESOTA, AS FOLLOWS:

The City Council hereby approves the Payment Deferral Agreement between the City of Brooklyn Center and Jambo Africa, Inc., and the relevant SAC deferral arrangements, and hereby authorizes the City Manager to negotiate any additional details as may be necessary and appropriate and approved by legal counsel to the City Council.

Adopted by the City Council of Brooklyn Center on April 9, 2018.

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

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

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.

SAC Deferral Program

Presented by: Meg Beekman,
Community Development Director

April 9, 2018

Recommendation

- Motion to approve a Resolution approving the Master SAC Deferral Agreement between the City of Brooklyn Center and the Metropolitan Council

- Motion to approve a Resolution approving the Deferred Payment Agreement between the City of Brooklyn Center and Jambo Africa, Inc.

BACKGROUND

- Met Council adopted Small Business SAC Deferral program in 2012
- Allows businesses with fewer than 25 SAC units to defer fees
- Small interest rate applies
- 1 SAC Unit = $2,485

Master SAC Deferral Agreement

- City must enter into agreement with met Council
- City determines deferment amount, length of deferment, and frequency of billing
- City enters into repayment agreement with business owner
- SAC units stay with the property

Use of SAC Credits

- City-wide credits can be captured:
  - When a building is demolished
  - When a new business comes in that needs fewer SAC units than are credited on the property
- City-wide credits must be used immediately, unless city charges the new business and captures the fees
- Brooklyn Center does not have any city-wide credits
- Staff recommends developing a policy to determine the use of city-wide credits

Jambo Africa Request

- Jambo Africa purchased 1601 Freeway Boulevard to relocate restaurant
- Property had 1 SAC credit
- New business requires 15 SAC units; $34,790
- Owner has requested a SAC deferral
- City Attorney drafted agreement
  - Repayment over 5 years
  - SAC units remain with the property

Policy Issues

- Is the Council willing to have the City enter into an agreement with the Metropolitan Council to allow businesses to defer their SAC fees?

Recommendation

- Motion to approve a Resolution approving the Master SAC Deferral Agreement between the City of Brooklyn Center and the Metropolitan Council

- Motion to approve a Resolution approving the Deferred Payment Agreement between the City of Brooklyn Center and Jambo Africa, Inc.

(Second motion is contingent on approval of first motion)

City Council Agenda Item No. 10c

COUNCIL ITEM MEMORANDUM

DATE: April 9, 2018

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Angel Smith, Communications Coordinator

SUBJECT: Resolution Expressing Support for the Metropolitan Council's D Line Bus Rapid Transit (BRT) Project

Recommendation:

It is recommended that the City Council consider approval of a resolution expressing support for the Metropolitan Council's D Line Bus Rapid Transit (BRT) project.

Background:

The City of Brooklyn Center and other coalition members have been involved in discussion regarding the D Line. The D Line will serve Brooklyn Center, North Minneapolis, downtown Minneapolis, Midtown, Richfield and Bloomington. The D Line has the potential to significantly improve mobility options for thousands of residents. It is one of several planned rapid bus lines that will bring faster, more frequent service to the region's busiest transit corridors. The $75 million project still needs $35 million in funding to move forward into construction in 2020. The Governor has included a $50 million busway investment in his Bonding Proposal, which would be used to fund the remaining gap for D Line and additional planned bus rapid transit investments. The current goal of the coalition is for members to express support for the Metropolitan Council's D Line BRT project which would serve member communities.

See attached (i.e., D Line Coalition power point and Regional Busway Development Program document) for additional background information.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities:

Key Transportation Investments

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION EXPRESSING SUPPORT FOR THE METROPOLITAN COUNCIL'S D LINE BUS RAPID TRANSIT (BRT) PROJECT

WHEREAS, Bus Rapid Transit (BRT) offers riders fast, frequent service with numerous amenities, that will give riders on the region's transit system more mobility options and connect people with jobs; and

WHEREAS, The A Line BRT, which opened in summer 2016, has drawn increased ridership and is an overwhelming success; and

WHEREAS, The proposed build out of the region's BRT system would connect an additional 200,000 people to 500,000 jobs; and

WHEREAS, The proposed D Line from Brooklyn Center to the Mall of America would be an integral part of that system, operating along the region's highest ridership bus route with 15,000 weekday rides; and

WHEREAS, The existing local bus route in this corridor has the highest productivity in terms of carrying the most passengers each hour; and

WHEREAS, The D Line could result in a faster trip, up to 25% faster, by stopping less often, deploying bus priority at traffic signals, and implementing off-board fare payment; and

WHEREAS, The D Line would operate in Brooklyn Center, Minneapolis, Richfield, and Bloomington; and

WHEREAS, The City of Brooklyn Center will benefit from improvements to stops within Brooklyn Center, which will offer improved amenities, including security features, improved lighting, real-time signage, and heated shelters; and

WHEREAS, The D Line project still needs to secure $35 million in funding to move forward into construction in 2020; and

WHEREAS, Governor Mark Dayton has included a $50 million busway investment in his Bonding Proposal, which would be used to fund the remaining gap for D Line.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, express support for the Metropolitan Council's D Line BRT project which would serve this community and urges the Minnesota Legislature to adopt Governor Mark Dayton's state bonding proposal to invest $50 million in regional BRT projects, including the D Line. Additionally, a copy of this resolution should be sent to Governor Mark Dayton and the legislative delegation.

RESOLUTION NO. _____

April 9, 2018
Date

_____
Mayor

ATTEST: _____
City Clerk

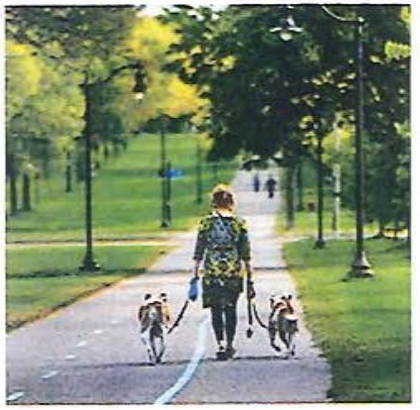
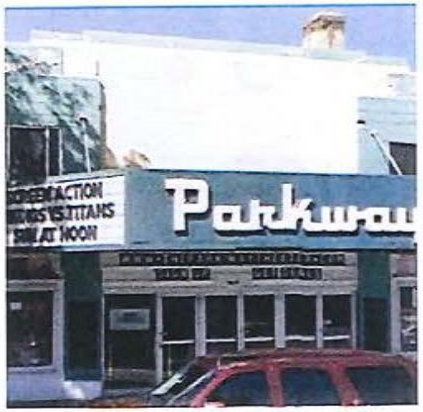
The motion for the adoption of the foregoing resolution was duly seconded by member

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

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

D Line Coalition
March 2, 2018

Metro Transit
D Line

INTRODUCTIONS

Who are you? What's your role?

WHAT'S YOUR FAVORITE DESTINATION ON ROUTE 5?

Metro Transit
D Line

D Line Coalition Function & Role

- Coordinate advocacy at legislature to secure remaining funding
- Communicate a consistent message about the importance of D Line
- Education and engagement with public
- Create opportunity to work together, both to celebrate milestones and overcome challenges

Transit Plans & Investment

Transit Fiscal Outlook in Transportation Policy Plan (TPP)

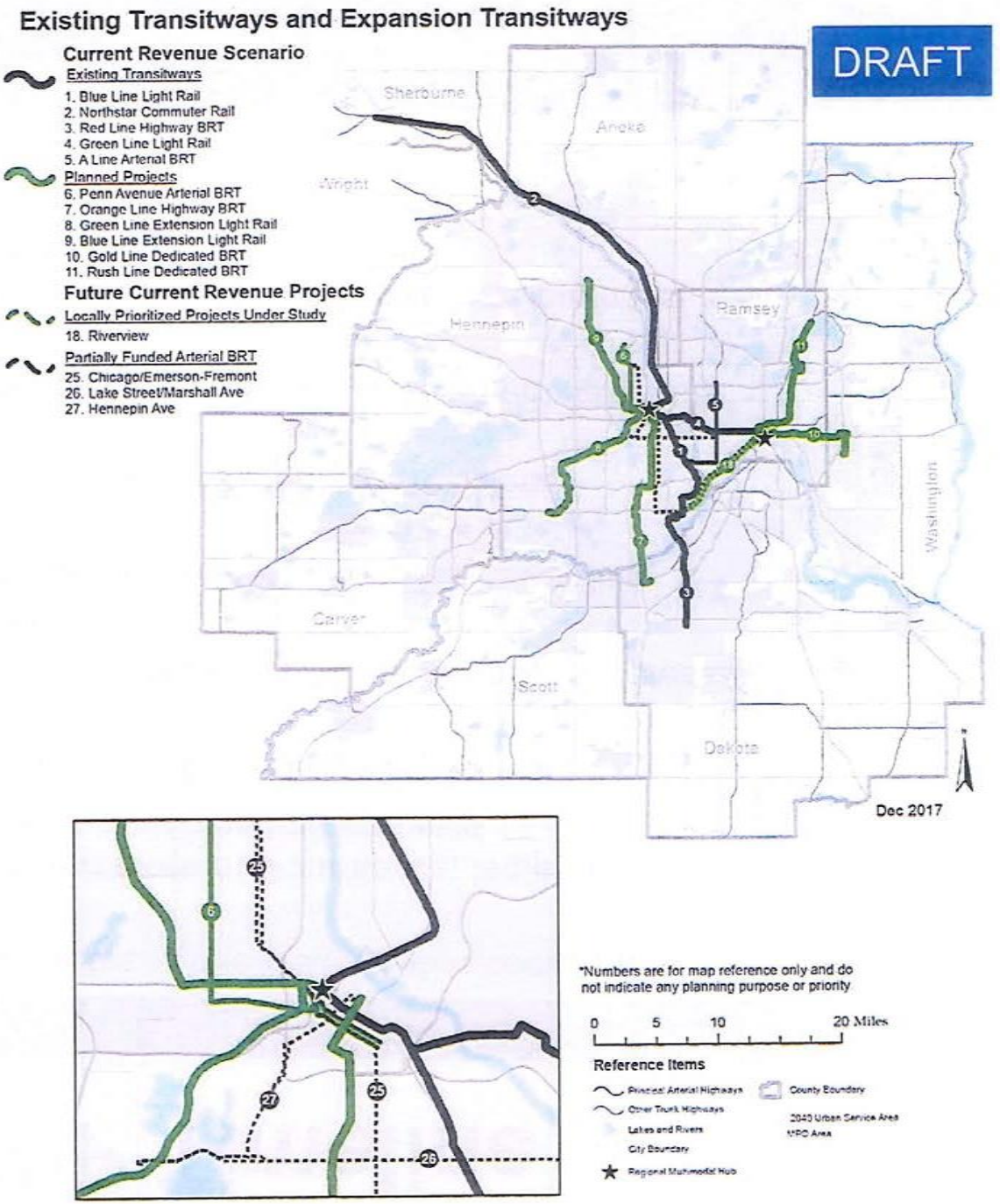
- Funding needed to maintain existing system:
  - Regular fare increases
  - MVST grows with inflation
  - State funds for operations
  - Capital bonding authority
  - Moderate growth in federal funding
- Other sources for funding
  - Limited expansion funds (for regular route and arterial BRT) through Regional Solicitation
  - Transitway funding through New/Small Starts, new county sales tax (replaces state share and CTIB), county regional railroad authorities

TRANSPORTATION
POLICY PLAN

Arterial BRT updates:

- Snelling (A) Line open
- Penn (C) Line fully funded
- Chicago (D) Line pending state bonding request
- Lake (B) and Hennepin (E) lines partially funded by Regional Solicitation

D Line could be brought into the funded plan in May, pending outcome of Legislature



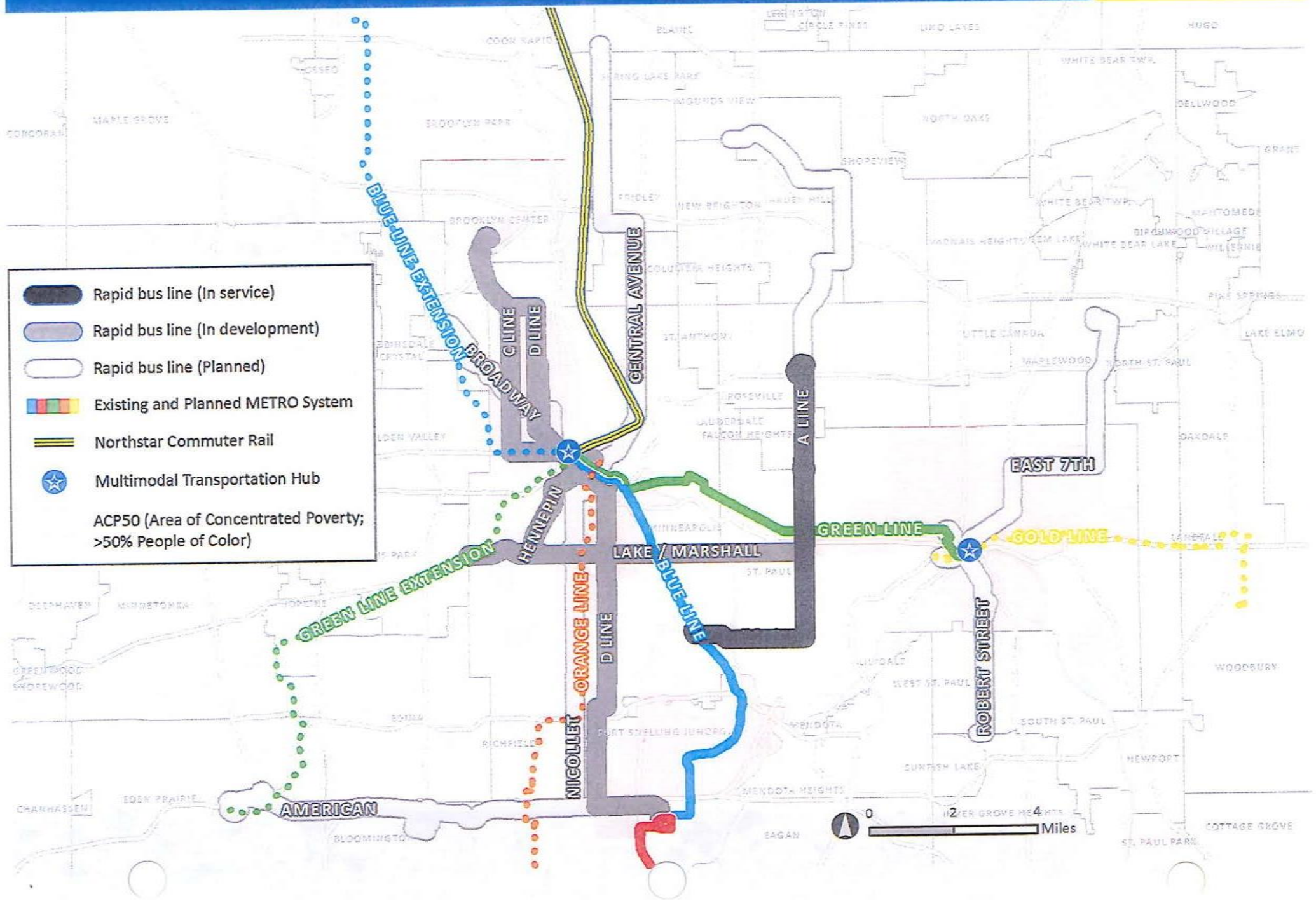
Next Steps – TPP Timeline

April	TAB and TAC votes to release for public comment
May	**Incorporate Corridors of Commerce, legislative session results, any new investments**
June	Update TAB and TAC on additional changes
June	Transportation Committee and Council action to release for public comment
July – mid August	Public review and comment period; Public hearing
August – September	Public comment report, incorporate revisions
September	Update TAB and Council on public comment, revisions
October	Final *2040 TPP Update* to Transportation Committee and Council for adoption

RAPID BUS OVERVIEW

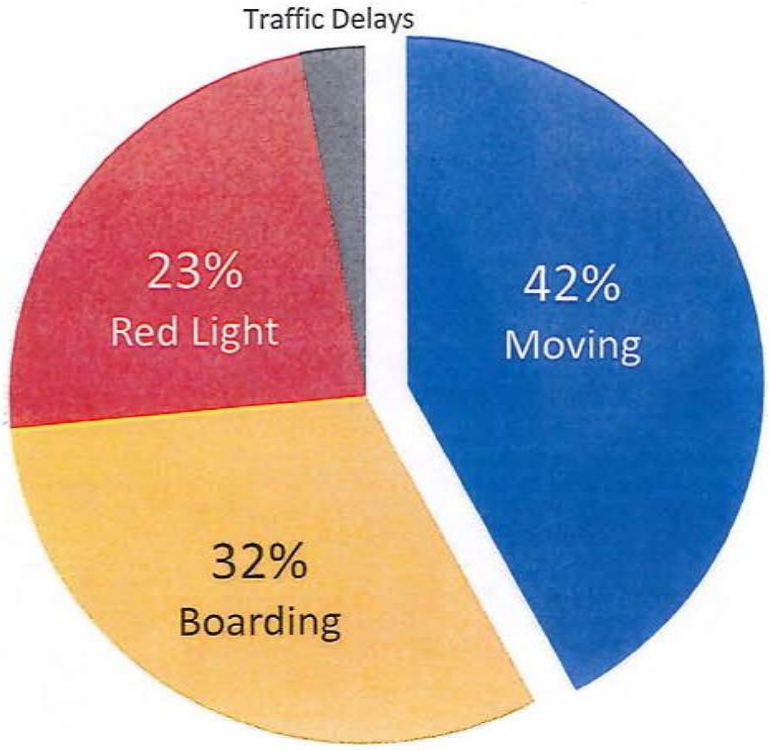
Metro Transit
D Line

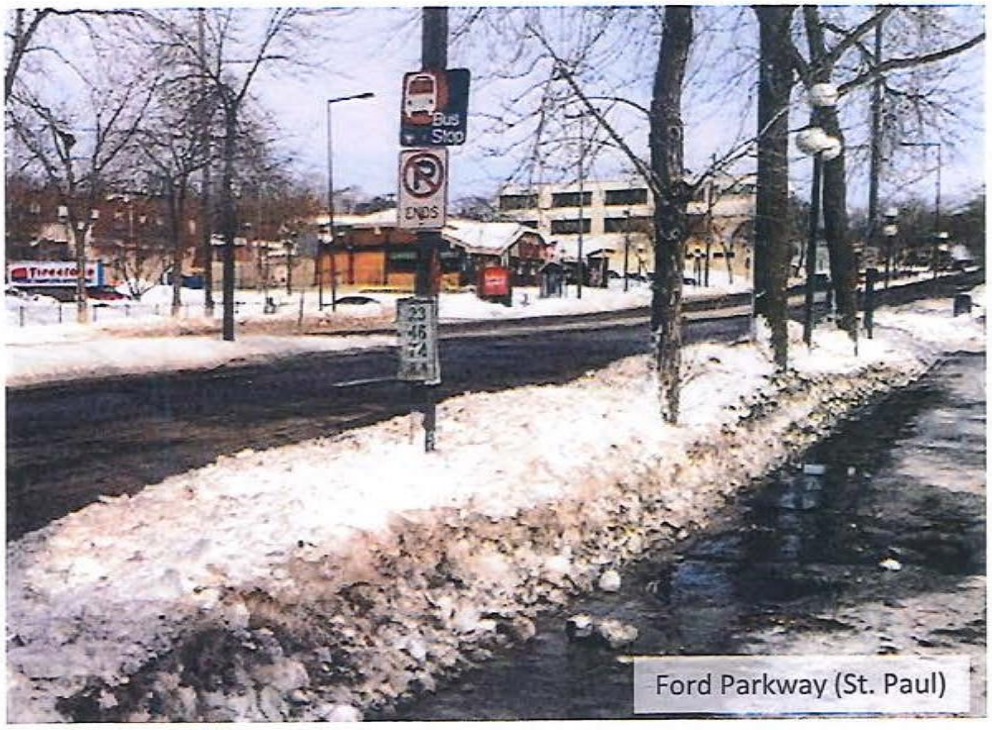
The Region's Primary Local Bus Corridors



Local Corridor Transit Challenges

- Slow speeds caused by slow fare payment and red lights
- Limited infrastructure doesn't match transit's role



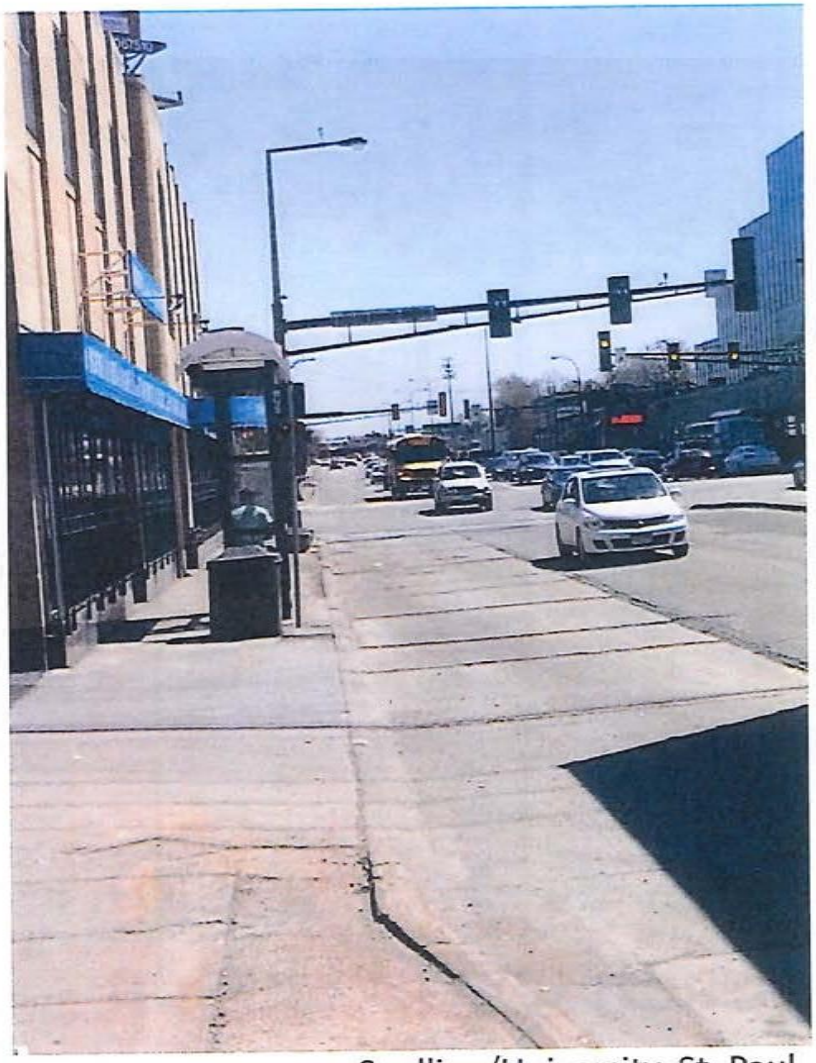


Ford Parkway (St. Paul)

Metro Transit
D Line

Site Constraints Limit Improvements

Penn Avenue North, Minneapolis

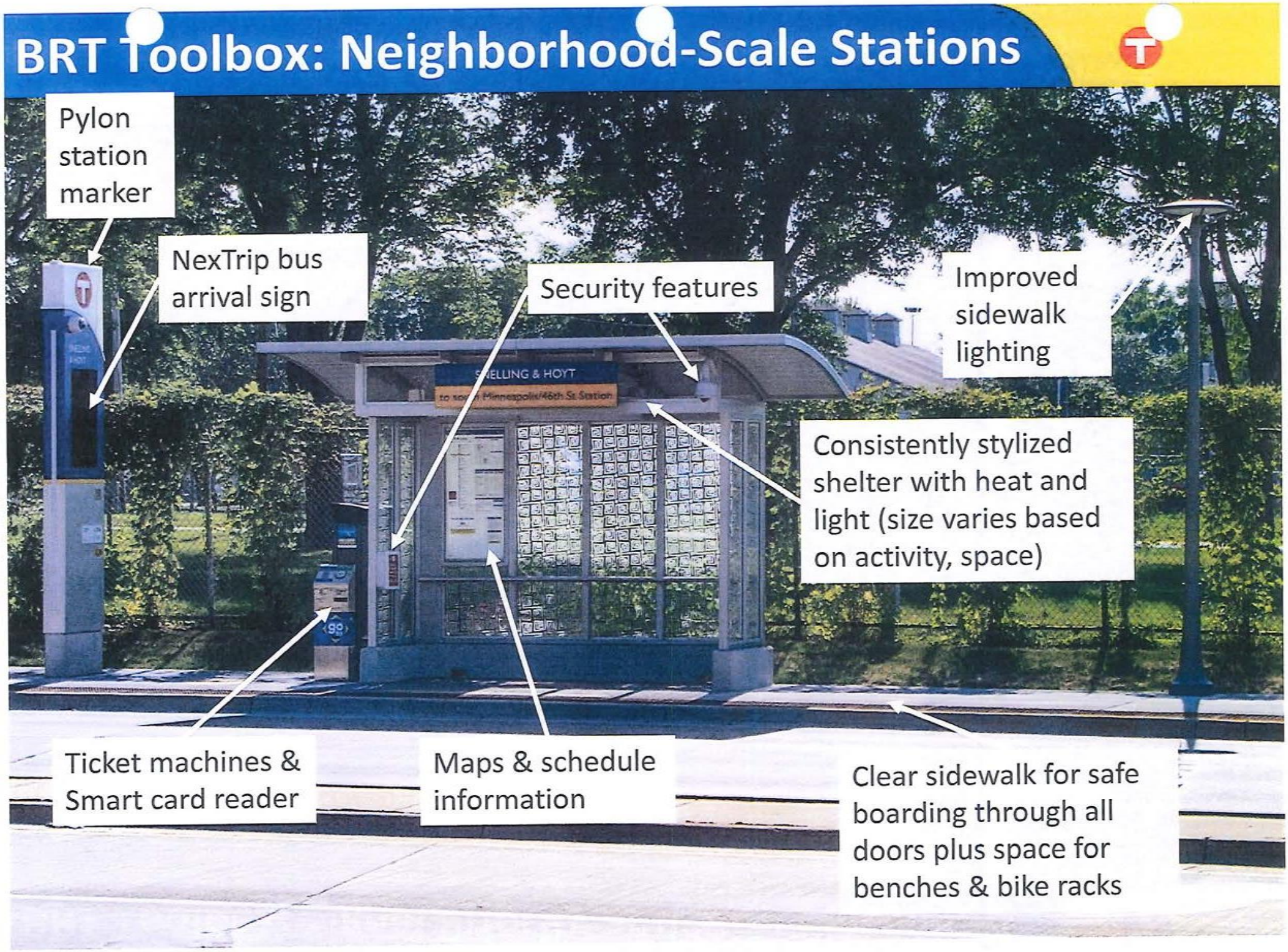


Snelling/University, St. Paul

Narrow sidewalks do not allow bus shelter installation

Metro Transit
D Line

BRT Toolbox: Neighborhood-Scale Stations



BRT Toolbox: Signal Priority and Stop Placement

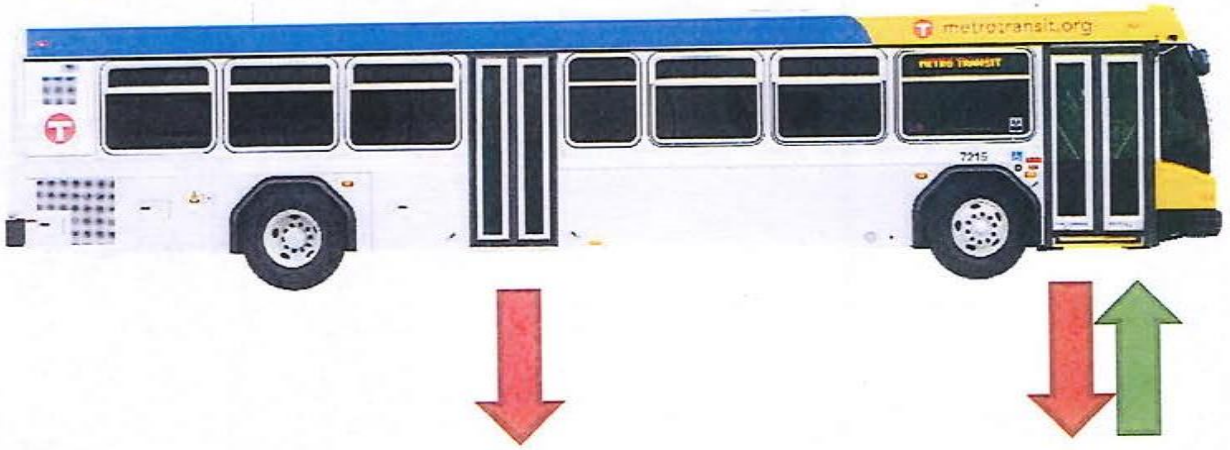
Metro Transit
D Line

BRT Toolbox: Off-Board Fare Payment

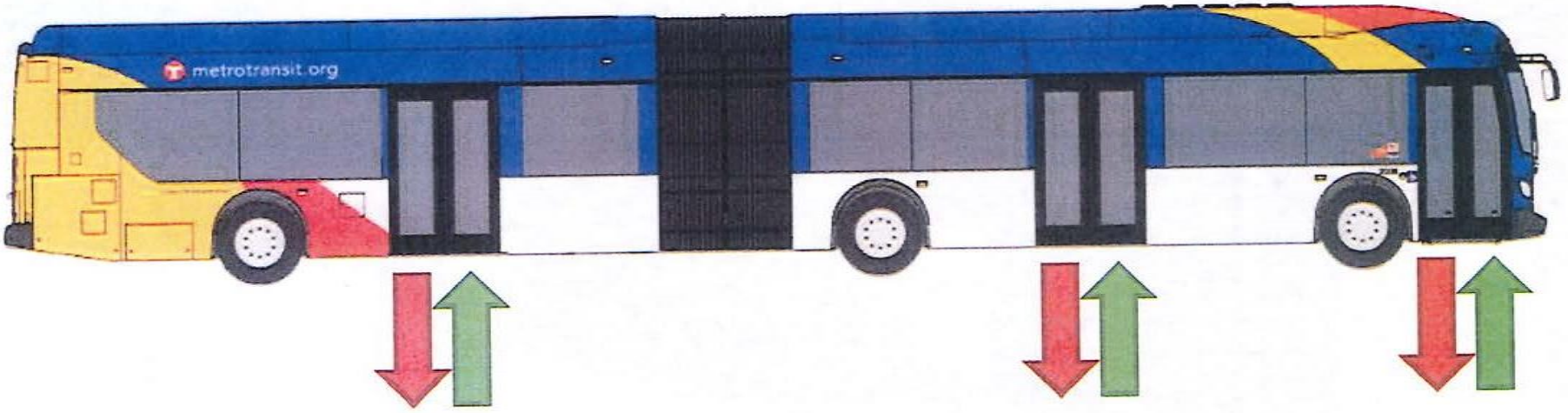
Metro Transit
D Line

BRT Toolbox: All-Door Boarding

Route 5: Front-door boarding, all fares collected on board



D Line: All-door boarding, all fares collected at station



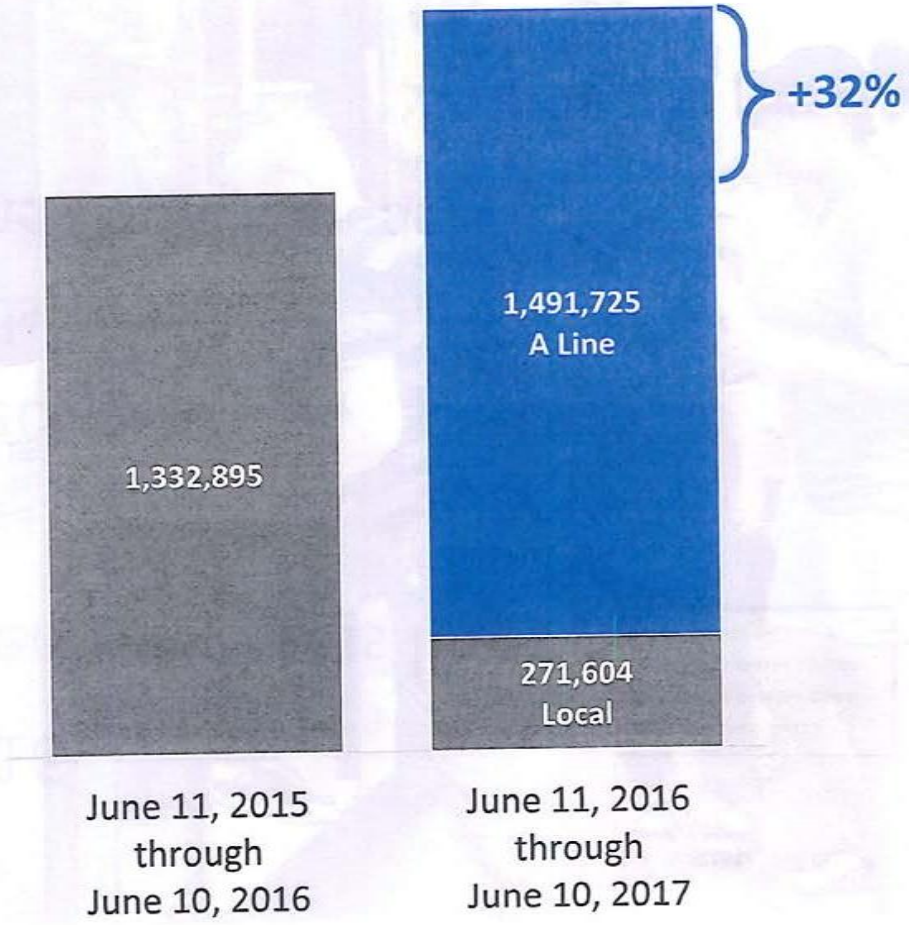
Metro Transit
D Line

First Rapid Bus Corridor: A Line

- Opened June 2016
- First of 11 planned rapid bus lines
- 10 miles, 4 cities
- $27 million project cost
  - $16M state funds
  - $11M federal and Council funds

A Line: Proven Success

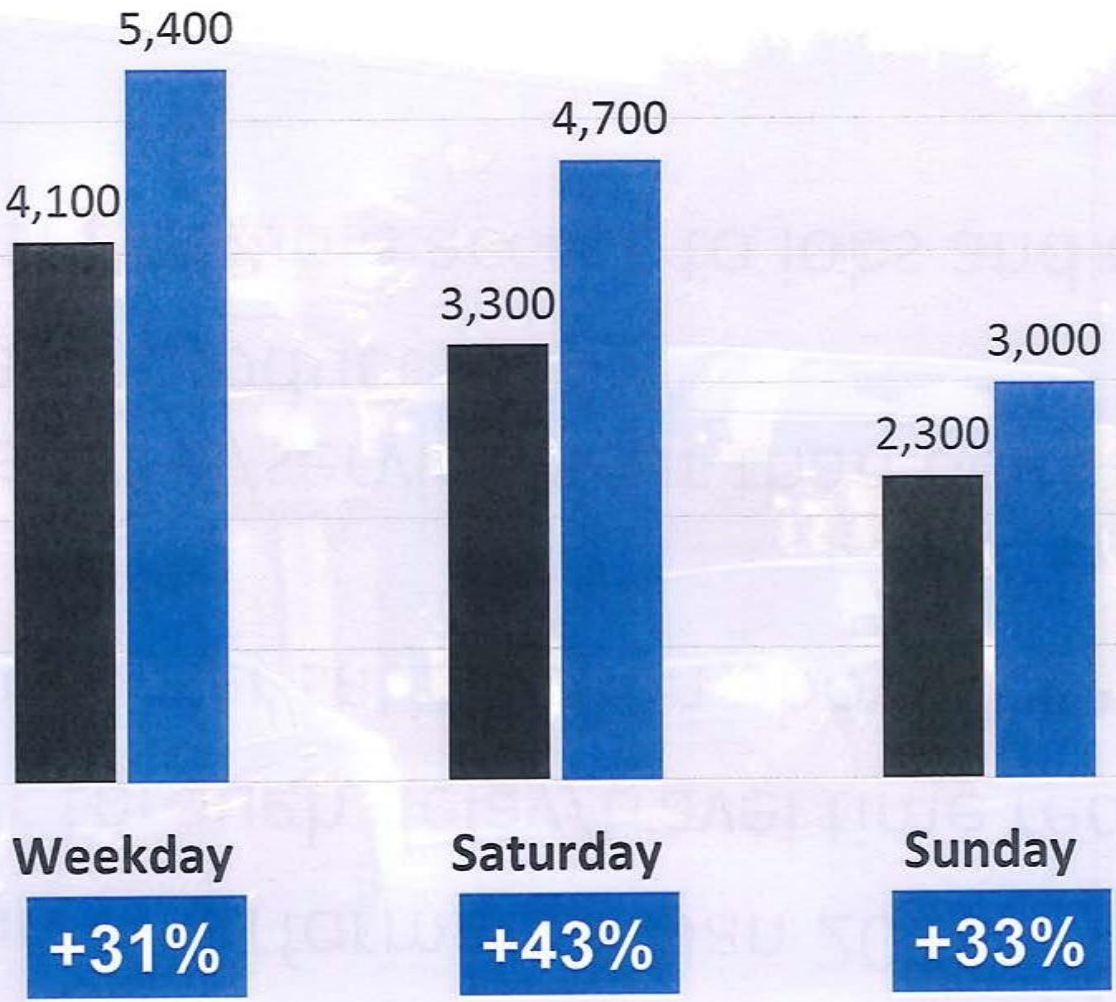
A Line Total Corridor Rides
Year-Over-Year
One year after A Line launch



Metro Transit
D Line

A Line: Proven Success

April 2016 vs. April 2017 Corridor Ridership



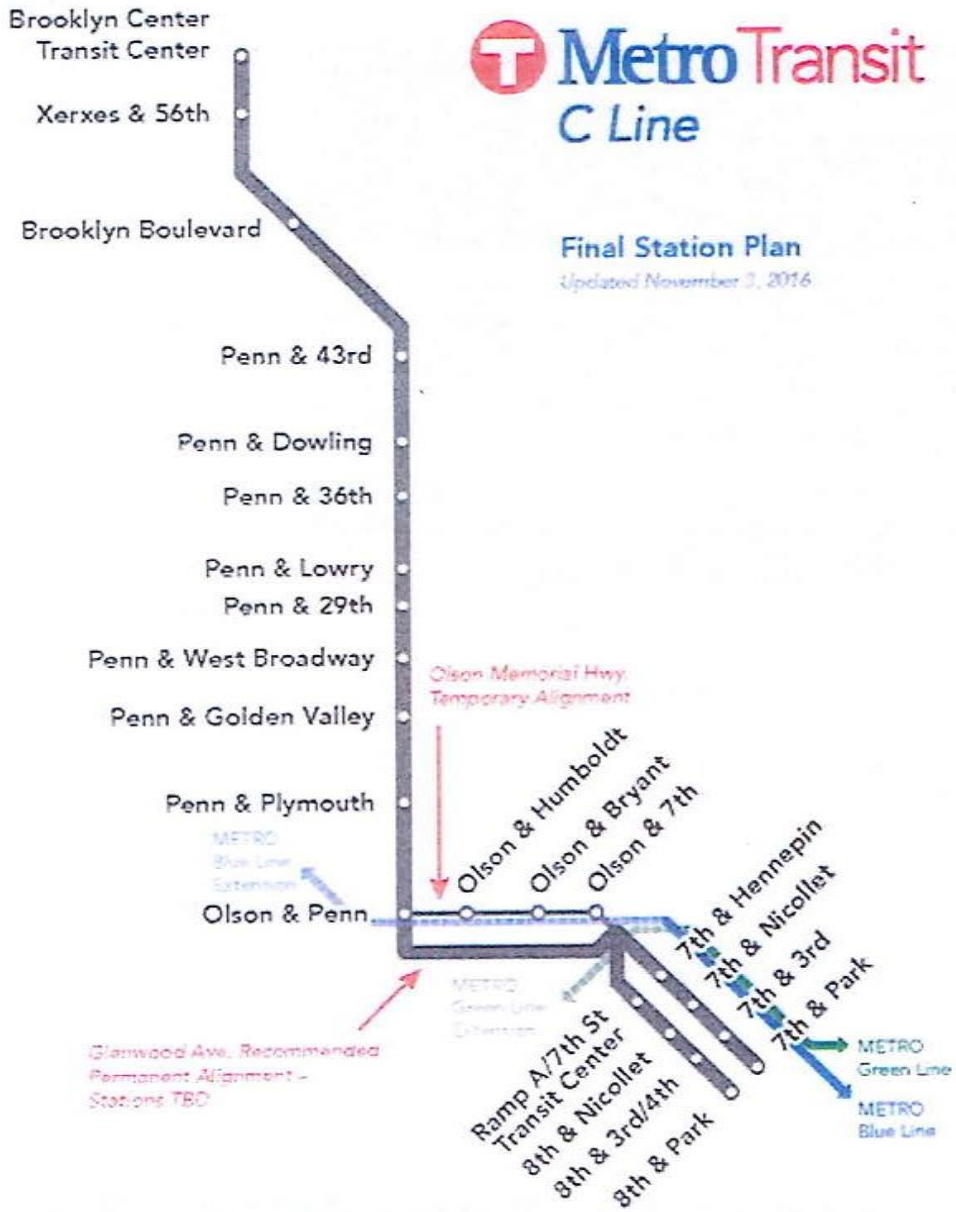
Metro Transit
D Line

A Line: Proven Success

- 94% On-time performance (Jan 2018)
- 25% faster through delay/travel time reductions
- Overall customer satisfaction above local bus, equal to LRT
- 40% more rides/service hour than before BRT (more efficient and productive)
- Faster, more reliable access to jobs and opportunity

Metro Transit
D Line

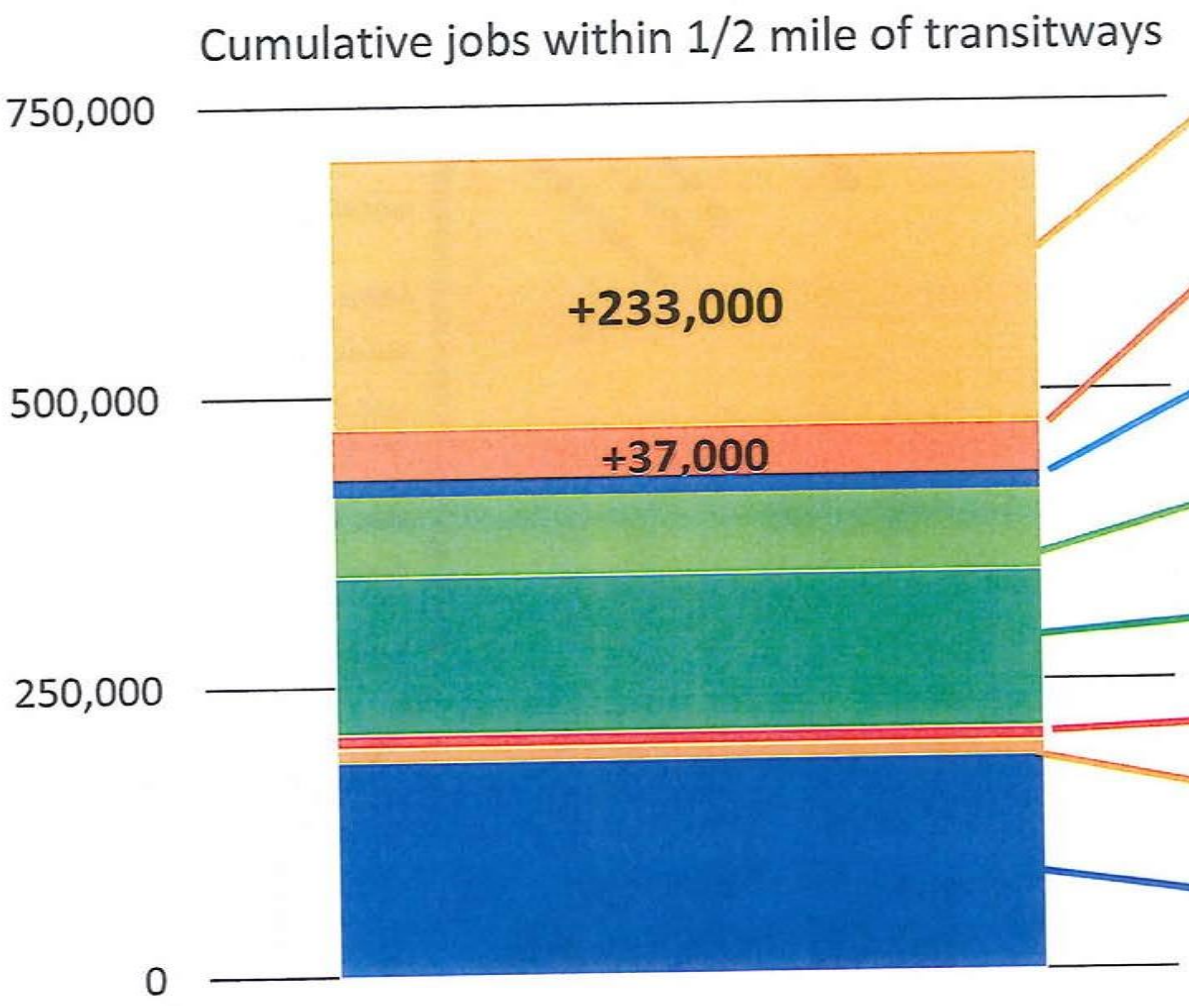
Next Up: C Line (Penn Ave N)



- 8.5 miles from downtown Minneapolis to Brooklyn Center
- 23 stations
- 7,600 daily rides today, 9,300 by 2030
- $37 million project budget
- 2018 Construction
- 2019 Service Launch

Metro Transit
D Line

Improving Access to Jobs



Major areas served

Arterial BRT: Uptown, Midtown, Rosedale, Maplewood, Brooklyn Center, 12 commercial corridors

Orange Line: Penn/American, 35W/Lake, Burnsville

Blue Line Extension: Robbinsdale, Target North

Green Line Extension: St. Louis Park, Golden Triangle, Eden Prairie

Green Line: Downtown St. Paul, U of M, Midway

Red Line: Apple Valley, Eagan

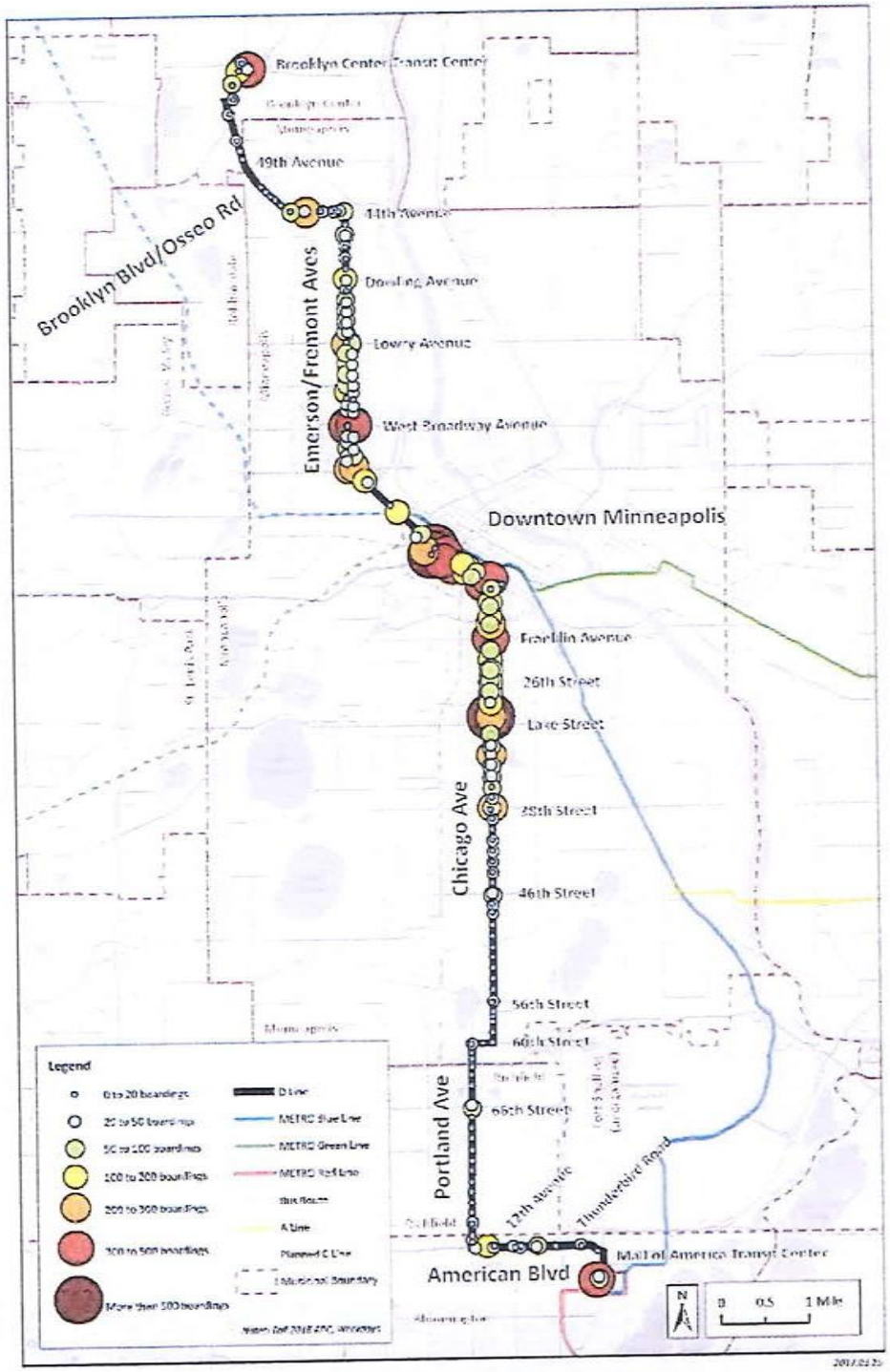
Northstar: Fridley, Ramsey VA

Blue Line: Downtown Minneapolis, Minneapolis VA, Airport, MOA

Metro Transit
D Line

D LINE PROJECT OVERVIEW

Metro Transit
D Line



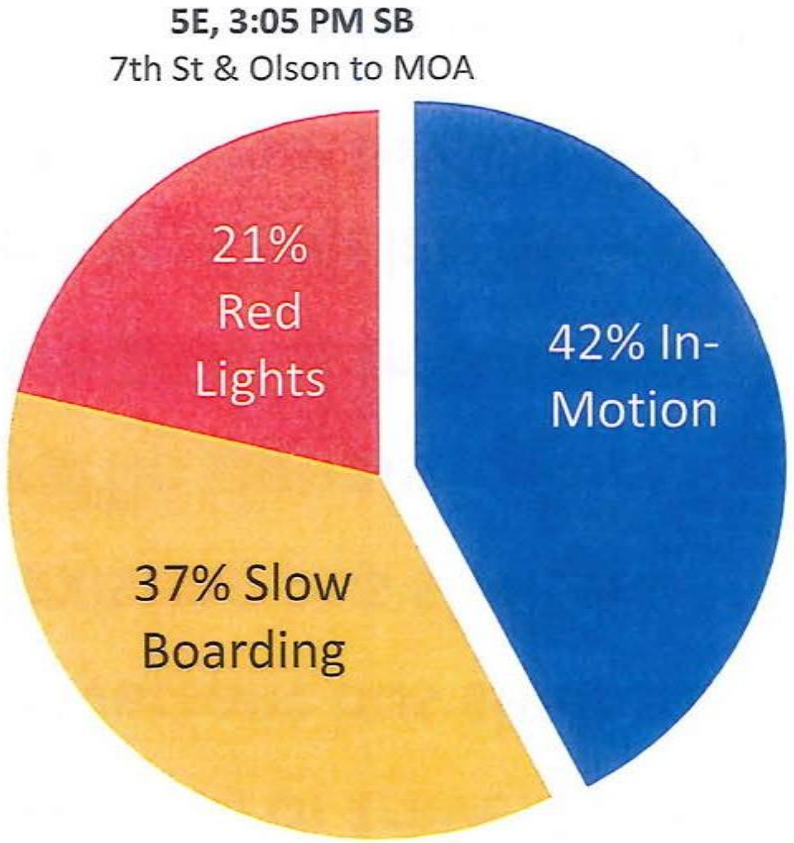
Route 5

- Highest ridership bus route
- 15,000 weekday rides
- Highest productivity (passengers/hour) local bus route
- Ridership concentrated between Lake Street and Lowry Avenue
- Buses make up 3-4% of vehicles, carry 25-35% of people

Metro Transit
D Line

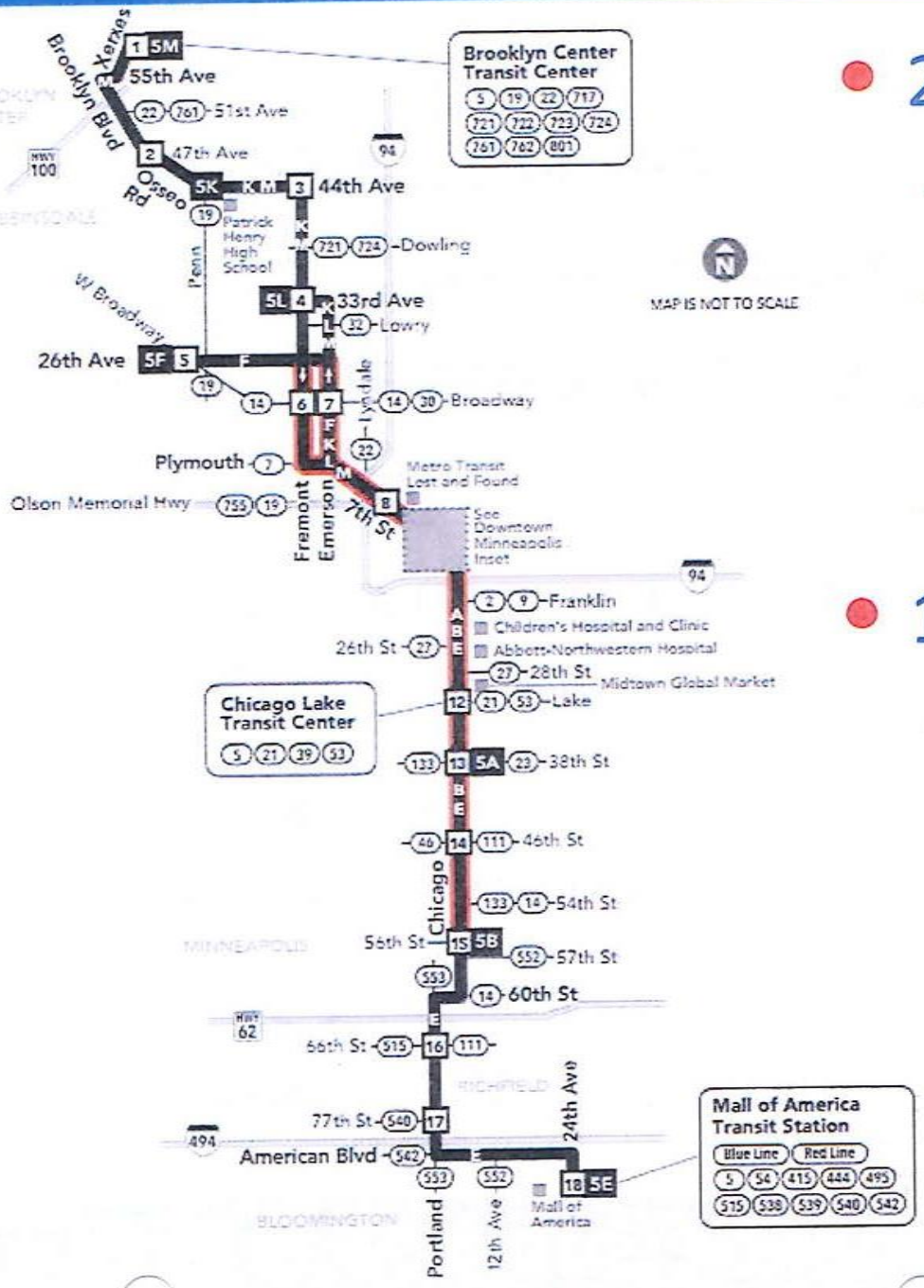
Existing Conditions: Speed & Delay

- Current Brooklyn Center to Mall of America
  - In-service speed: 11-15 mph
  - Trip times range from 70 to 100 minutes
- D Line Goal
  - Increase average speed
  - Reduce sources of delay
  - **20-25% faster trip**



Metro Transit
D Line

Route 5 Existing Conditions

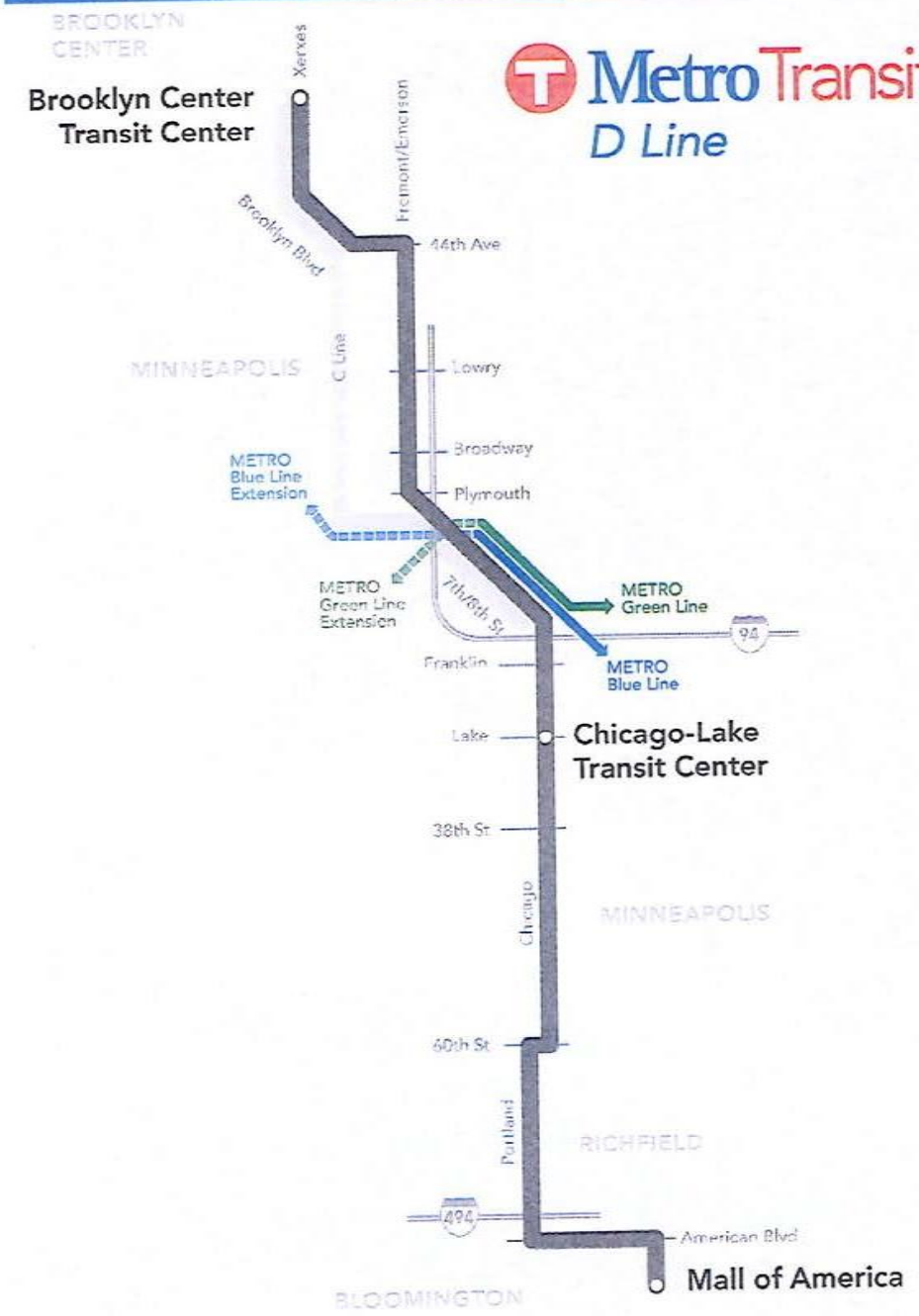


- 267 Bus Stops
  - ~138 each direction
  - Up to 40% of travel time
  - 116 warrant bus shelters
  - 79 existing bus shelters
- 101 traffic signals
  - Up to 20% of travel time
  - Can reduce delay through transit signal priority (TSP)
  - Early TSP deployment 2018

Metro Transit
D Line

Existing Conditions: Route 5 Circulation

D Line Project Scope



Metro Transit
D Line

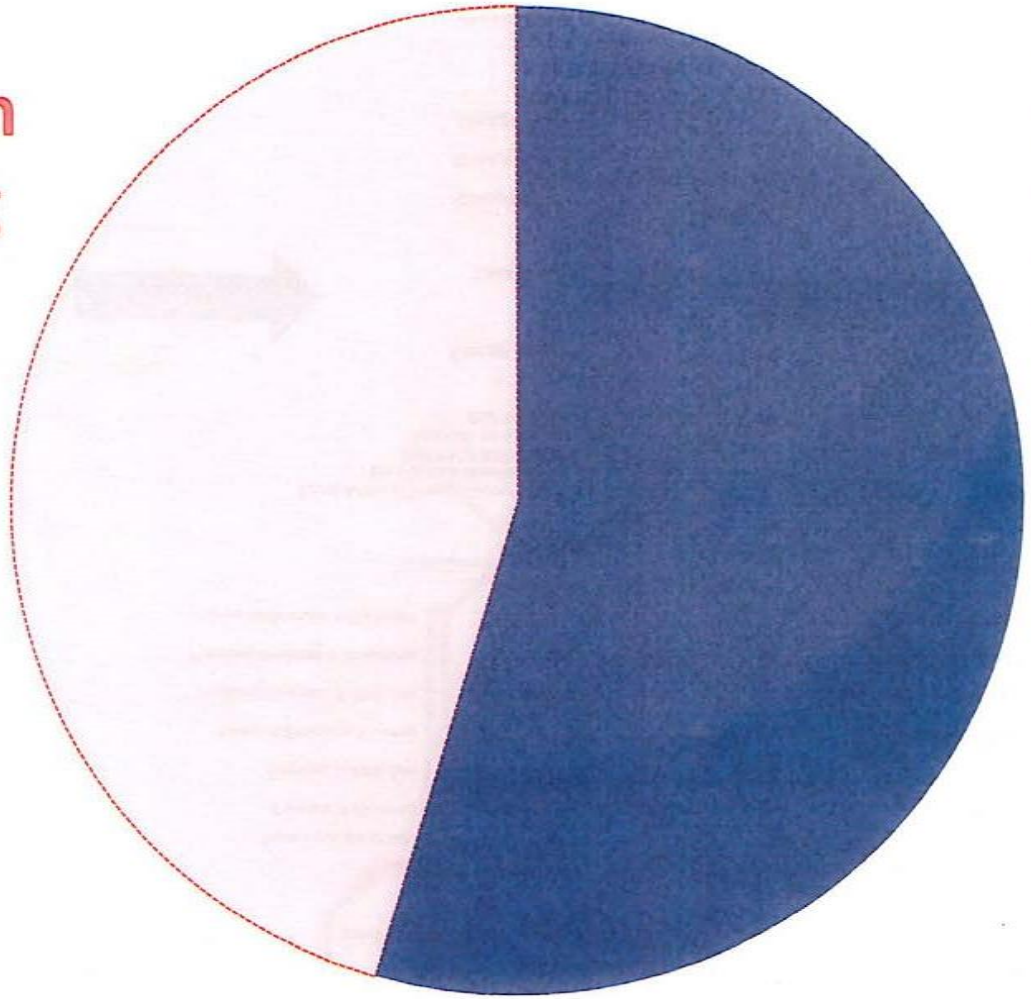
- 18.2 miles
- Service every 10 minutes, 20-25% faster than Route 5
- Approximately 50 stations
- 2030 daily ridership forecast with rapid bus: **23,500**
- Project cost = $75 million

D Line Project Funding

$75 million

preliminary project cost estimate

$35 million remaining need

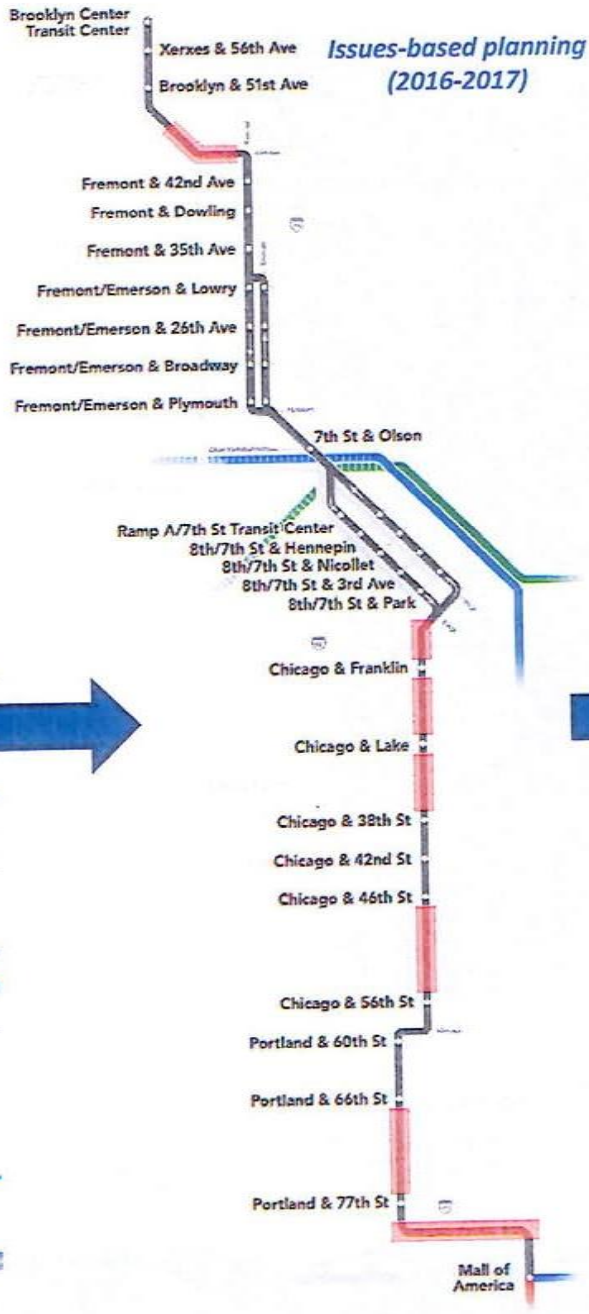


~$40 million total funding identified from smaller and one-time federal and Council sources

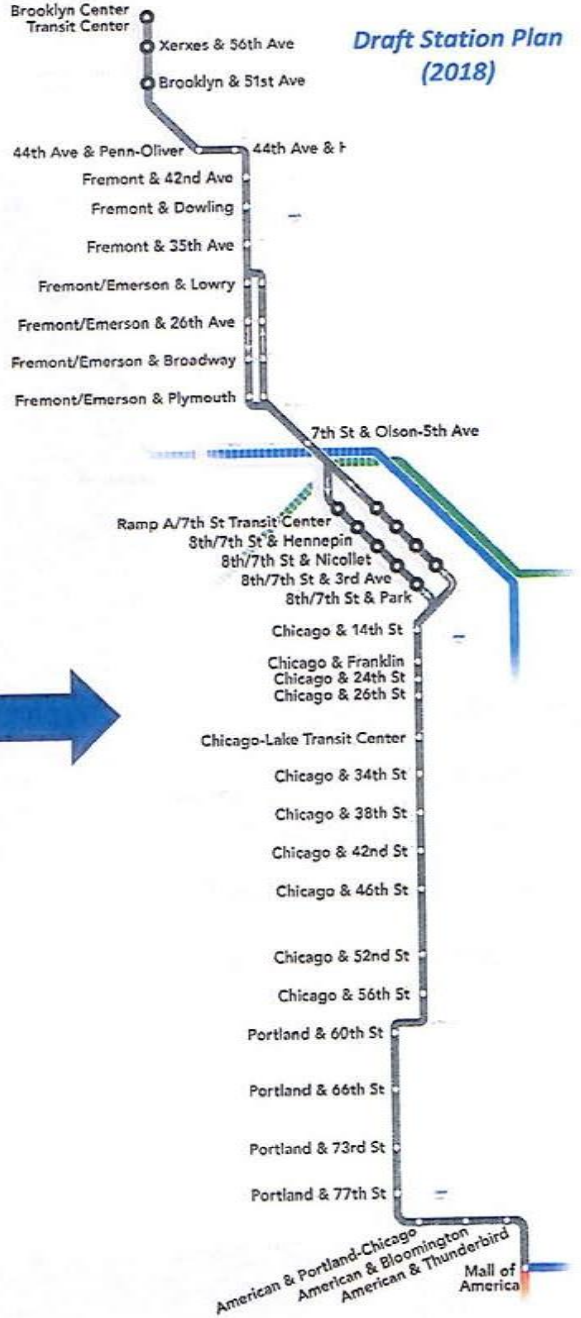
Metro Transit
D Line

Completed planning work

Arterial Transitway Corridor Study (2012-2013)

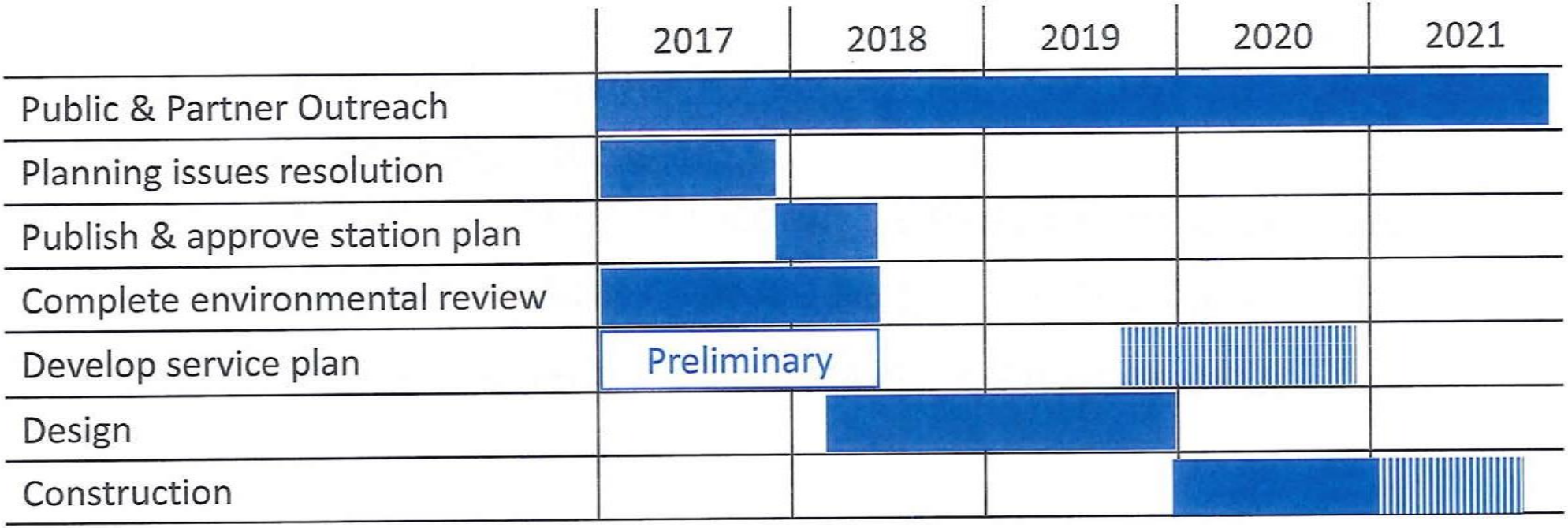


Issues-based planning (2016-2017)



Draft Station Plan (2018)

D Line Project Schedule



Pending available funds for full corridor construction
Revenue service to begin following construction & testing

2018 Legislative Session & Bonding Request

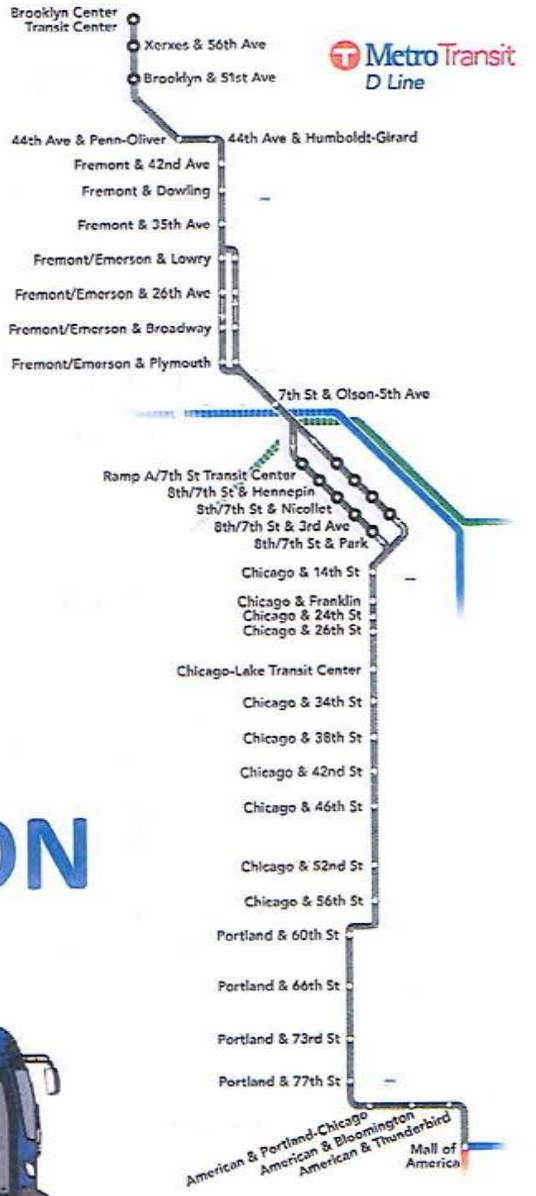
- Governor's Bonding Proposal
  - **$50 million for regional busway development**
  - $50 million for Heywood II Bus Garage
  - $5 million for I/I

- $50 million for regional busway development
  - Would help further develop BRT regional system
  - Depending on amount, could be used for several of the upcoming BRT projects
  - First priority is D Line

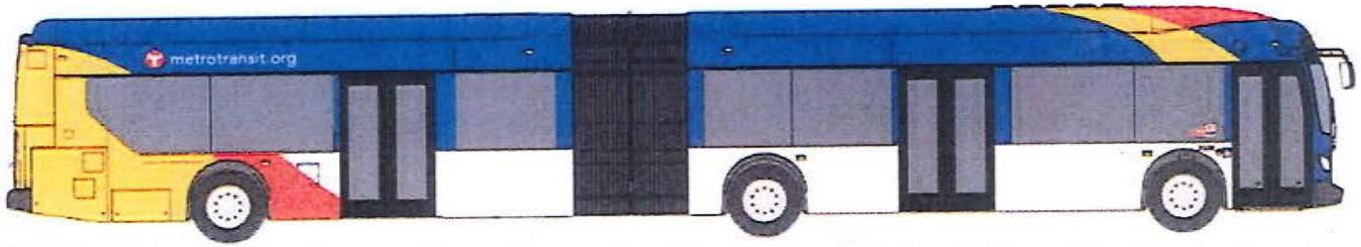
Metro Transit
D Line

2018 Legislative Session & Bonding Request

- The Council's strategy
  - Lobby to support the Governor's Bonding Proposal
  - Transit at the Capitol Email Updates – keeping our stakeholders informed, amplifying a consistent message
  - Video, written materials to educate the public
- Opportunities
  - Showing support for bonding proposal – to Governor and state lawmakers
  - Educating and informing your constituents
  - Business engagement



QUESTIONS AND DISCUSSION



Regional Busway Development Program

2018 State Bonding Request – MMB

Investing in a Bus Rapid Transit (BRT) Network

- By 2040 the region's population will increase by 700,000 people, driving transit demand up by 80 percent
- A $50 million investment in the region's busway system improves mobility options & reduces congestion
- The planned 11-line BRT system would connect 200,000 people a day to almost 500,000 jobs regionwide

BRT -- A Proven Mobility Solution

This new type of technology allows for faster travel speeds and better passenger facilities and information, boosting ridership

- Frequent, reliable service
- Up to 25% faster

Since **A Line** BRT opened in 2016

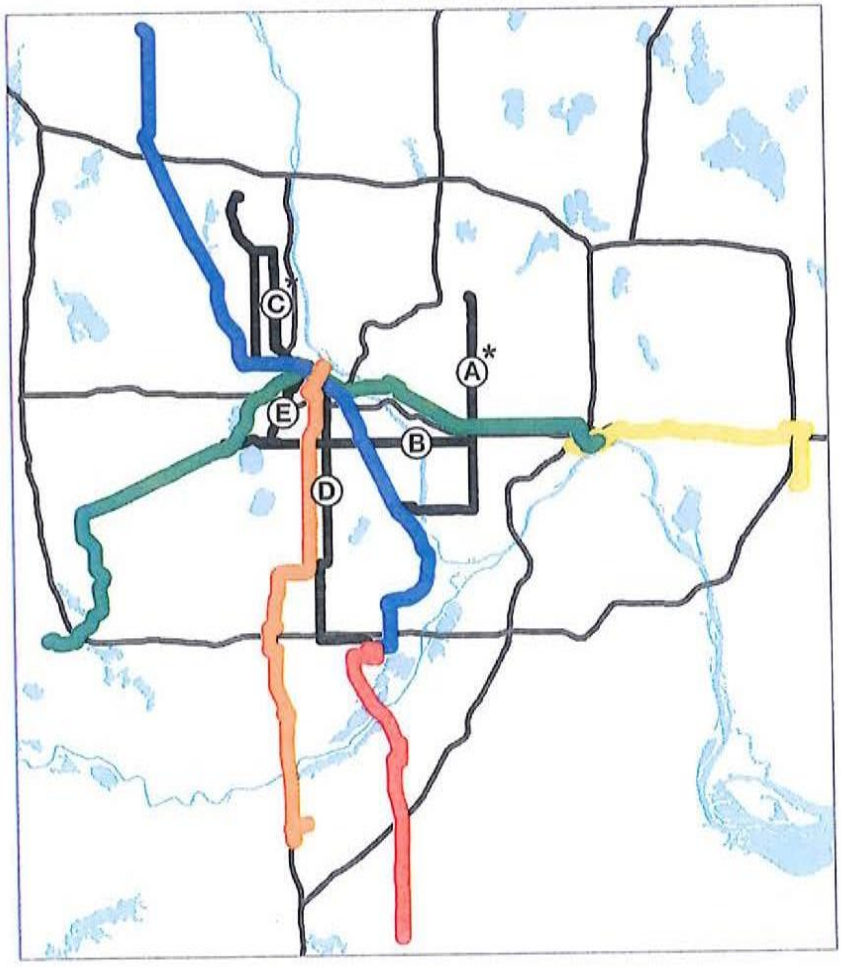
- Ridership exceeded projections by 33%
- Ridership on all modes of transit in the Snelling Avenue corridor increased by 30%

BRT projects that could be eligible to receive capital funding over next two years

- **D Line** (Chicago-Emerson Ave. from Brooklyn Center to Mpls. to Bloomington)
- **B Line** (Lake St.-Marshall Ave.)
- **E Line** (Hennepin Ave.)
- Design and construction of up to seven additional rapid bus corridors, and express bus improvement related to the **Orange Line** (Burnsville-Mpls) and the **Gold Line** (East Metro)

Future Rapid Transit Network

*A & C BRT lines are currently funded and/or operational



Work Session Agenda

AGENDA
CITY OF BROOKLYN CENTER
CITY COUNCIL/ECONOMIC DEVELOPMENT AUTHORITY WORK SESSION
April 9, 2018
Immediately Following Regular City Council and EDA Meetings Which Start at 7:00 P.M.

City Hall Council Chambers

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

ACTIVE DISCUSSION ITEMS

1. Review Draft Language for a Potential Amendment to the Zoning Code Pertaining to Interim Use Permits
2. Review Potential Policies Pertaining to Affordable Housing and Provide Direction to Staff on How to Proceed

PENDING LIST FOR FUTURE WORK SESSIONS

Later/Ongoing

1. City Council Code of Policies (10-9-17 Study Session Discussion Regarding Control of Turkeys and Geese and Including in Section 2.93 Long-Term Deer Population Management Plan)
2. Tobacco Purchase Age 21 (Brooklyn Youth Council) – June
3. Organic Composting and Native Bee Habitat (1-8-18 Study Session Discussion) – April
4. Median Safety Ordinance – April
5. Saturday Market – April
6. Park Dedication Fees – May

Work Session Agenda Item No. 1

MEMORANDUM – COUNCIL WORK SESSION

DATE: April 9, 2018

TO: Curt Boganey, City Manager

FROM: Meg Beekman, Community Development Director

SUBJECT: Off-site storage of vehicles – Draft Interim Use Permit Ordinance

Recommendation:

It is recommended that the City Council review the draft Interim Use Permit Ordinance and consider providing direction to staff regarding Luther Auto's request to store new vehicles off-site from their auto sales locations.

Background:

At the March 26 Council work session, Staff brought forward a request from Luther Auto dealership to allow the short term storage of vehicles off-site from the dealership location. Staff proposed an interim use permit process, which would allow for temporary off-site storage, which is not currently allowed in the Zoning Code. The City Council directed staff to draft language and conditions which would mitigate any negative impacts from the off-site storage and to bring a draft ordinance back to Council for review and consideration. In addition, the City Council requested a representative from Luther be present to discuss the request and answer any questions from the Council.

Luther is experiencing both an immediate short-term need for off-site storage, as well as a longer-term need related to the construction of their new Mazda dealership on Brooklyn Center. Luther Auto has approached the City regarding an immediate need for temporary storage of approximately 300 vehicles for 6 months; however, after speaking with representatives from Luther it is clear that there is a longer-term need for storage of approximately 600 new vehicles for 1-2 years.

It should be noted that should the Council wish to proceed with an amendment to the Zoning Code to allow the Interim Use Permit process, it would take 90-120 day to complete the amendment and authorize Luther Auto to begin storing cars.

Luther has identified a privately owned I-1 zoned property as a possible location. It would provide storage for approximately 280 vehicles; about half of the total need, but would help them considerably towards solving their problem.

EDA-owned, 1601 James Circle N (former Olive Garden and Cracker Barrel) may also be an option; however, the City would have to consider a lease term which would allow the property to be redeveloped should an opportunity arise.

MEMORANDUM – COUNCIL WORK SESSION

Policy Issues:

The Zoning Code prohibits off-site storage in all zoning district. This means that businesses are prohibited from storing products or goods on any property other than that which the products or goods are being sold or used. The only exception provided for in the code is related to landscaping materials to allow tree lots and temporary garden centers.

At present there is no mechanism in the code to allow Luther Auto to use a lot outside of their dealership property to store vehicles; whether that property is owned by the City or not. If the Council wants to allow Luther to store their vehicles off-site, an amendment to the Zoning Code would be necessary.

After discussing this issue with the City Attorney, staff feels if the Council chooses to move forward with such an amendment, that using the interim use process would be the best mechanism to allow Luther to store their vehicles off-site, but maintain control over where and for how long that storage could occur. The Code currently provides for interim uses, but narrowly allows them only for the purpose of providing temporary classrooms on school properties.

Attached to this memo is a draft Interim Use Permit Ordinance which would allow for the off-site storage of new vehicles for an existing auto dealership located in the City. The ordinance further requires that any vehicle stored must be sold or leased at a dealership located in the City. The draft language outlines under what conditions a business could apply, as well as what information is required as part of that application. The Council would then have the discretion to add conditions and to determine the length of time the Interim Use would be allowed to continue. In order to apply for an Interim Use Permit an auto dealership would need to first identify what property they propose to use for off-site storage, for how long, and for how many vehicles. The vehicles stored would need to be new, operable vehicles. The off-site property could be used for storage only, and not sales, service, repair, detailing, etc.

Staff is seeking direction from the Council regarding the language of the draft ordinance, as well as direction on whether or not to proceed with the amendment.

- Does Council want to allow Luther Auto to store vehicles off-site?
- If so, is the language proposed in the draft Interim Use Permit Ordinance sufficient to mitigate any negative impacts of the use.

If the Council directs staff to proceed with this amendment, Staff would then bring the ordinance to the Planning Commission for a public hearing.

Luther Auto would still need to identify a site, or sites, and apply for an Interim Use Permit, which would also go before the Planning Commission and City Council for review and approval. If a suitable site is identified in time, it is possible that the amendment and the Interim Use Permit could be reviewed concurrently.

CITY OF BROOKLYN CENTER

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

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

ORDINANCE NO. _____

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

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

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

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

1. Interim Use. Notwithstanding anything to the contrary in this Code, the off-site storage of new vehicles by an automobile dealership is allowed in the following zoning districts with the issuance of an interim use permit: _____. No interim use permit for automobile dealership off-site storage shall be issued for a site that is located within ____ feet of any residentially zoned (R1 through R7) property.

2. Application. An application for an interim use permit for the off-site storage of vehicles may only be submitted by an automobile dealership located within the city. Said application shall, in addition to the information required on the application form, include the following information:

   a. A description of the proposed vehicle storage that includes:

      (i) The maximum number of vehicles to be stored at the off-site location;

      (ii) An estimate of how often vehicles will be brought to and removed from the off-site location and the times and days of the week such activities are proposed to occur;

      (iii) The route to be used to transport vehicles between the automobile dealership and the off-site location, including how the property will be accessed; and

(iv) A map showing the portion of the property to be use for vehicle storage and showing how the vehicles are to be parked on the property.

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

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

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

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

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

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

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

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

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

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

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

c. No vehicle repairs, sales, cleaning or detailing shall occur at the off-site location;

d. Only employees of the automobile dealership shall be allowed on the off-site location;

e. The portion of the storage site designated for vehicle storage shall only be located on an approved paved parking lot;

f. Vehicles shall only be stored in the designated portion of the storage site and according to the parking plan approved as part of the interim use permit;

g. The days and hours during which vehicles may be brought to or removed from the site shall be limited to the days and hours approved in the interim use permit;

h. The routes used to transport vehicles to and from the site shall be limited to the routes approved in the interim use permit;

i. An interim use permit issued pursuant to this section is not transferable;

j. The use must comply with all applicable provisions of this Code;

6. Renewal. Use of the off-site storage site shall cease, and all vehicles shall be immediately removed, upon the termination or revocation of the interim use permit, or the transfer of the automobile dealership. An automobile dealership issued an interim use permit may apply for a renewal interim use permit, which shall be submitted within 60 days of the termination of the existing permit, and processed in the same manner as a new application.

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

Adopted this ___ day of _____, 2018.

_____
Mayor

ATTEST:_____
City Clerk

Date of Publication _____

Effective Date _____

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

Work Session Agenda Item No. 2

MEMORANDUM – COUNCIL WORK SESSION

DATE: April 9, 2018

TO: Curt Boganey, City Manager

FROM: Jesse Anderson, Deputy Director of Community Development

THROUGH: Meg Beekman, Community Development Director

SUBJECT: Affordable Housing Policy

Recommendation:

It is recommended that the City Council consider providing direction to staff regarding potential affordable housing policies for the City.

Background:

In May of 2017, the City Council received copies of emails forwarded by Councilmember Butler from African Career and Education Resource Inc. (ACER) requesting an opportunity to come before the City Council to discuss concerns about the need for affordable housing in Brooklyn Center. In addition Mayor Willson was in contact with a representative of Community Action Partnership of Hennepin County (CAPHC) regarding the same topic.

On July 10, 2017, by consensus the City Council directed staff to invite representatives from ACER and CAPHC to a future work session to present information and have a dialogue on the issue of affordable housing.

On August 14, 2017, the City Council received a presentation from ACER and CAPHC regarding the topic of affordable housing. At the presentation ACER and CAPHC advocated that the City consider adopting policies that would address the region's need for affordable housing, protect tenants, and help preserve naturally occurring affordable housing. The Council directed staff to bring the subject back to a future work session for discussion.

Regional Housing Trends:

The Twin Cities Metropolitan Area is currently experience record low vacancy rates. According to Marquette Advisors' midyear report in August 2017, the average vacancy rate across the Twin Cities metro was 2.4 percent. Experts agree that a balanced rental market will typically see an average vacancy rate of around 5 percent.

The impact of low vacancy rates over time has increased rents, a growing interest from outside investors, and landlords in a position to be choosier about who they rent to. This has borne out throughout the Twin Cities Metropolitan Area as rents have gone up throughout the region. The average rent at the end of July 2017 had increased 3.1-pecent year over year. In addition, the Metropolitan Council is seeing a reduction in the number of landlords accepting Section 8

vouchers. According to the Metropolitan Council, landlords are citing the increased interest for their units from non-voucher holders as the primary reason for the change.

Yet another impact of the increasing value of rental property is the growing number of investors purchasing Class B or Class C rental properties, which are renting for naturally affordable rents, making cosmetic improvements, and increasing rents so that the units are no longer affordable. According to the Minnesota Housing Partnership, the sales of apartment buildings in the metro area jumped 165 percent between 2010 and 2015. Often the change in ownership will also come with a change in policy related to criminal history, acceptance of Section 8 vouchers, or minimum income requirements, resulting in existing tenants being displaced from the property.

The region is also seeing a loss of smaller-sized rental properties (1-4-units). This is due, in part to single family properties converting back into owner-occupied as the market recovers from the recession, but also a growing number of local investors purchasing smaller properties and flipping them. While some of the proposed policies would impact single family rentals, the primary focus of affordable housing advocates and media attention has been on larger properties (40-units or greater).

Affordable housing advocates have identified potential policies designed to address these issues. The policies fall into one of three categories; 1) preservation policies designed to preserve naturally occurring affordable housing and prevent it from being flipped; 2) tenant protection policies designed to prevent or mitigate displacement; and 3) creation policies designed to create new, legally-binding, affordable housing that will replace the naturally occurring affordable housing that is being lost.

Brooklyn Center's Current Rental Housing:

According to the Metropolitan Council, the following table indicates what is considered affordable rents in the Twin Cities Metropolitan Area:

# of Bedrooms	30% AMI	50% AMI	60% AMI	80% AMI
Efficiency	$474	$791	$949	$1,265
1-Bedroom	$508	$848	$1,017	$1,356
2-Bedroom	$610	$1,017	$1,220	$1,627
3-Bedroom	$705	$1,175	$1,410	$1,880
4-Bedroom	$786	$1,311	$1,573	$2,097

*Rents include tenant-paid utilities

According to the Metropolitan Council, the following table indicates average rents in Brooklyn Center:

# of Bedrooms	Survey	5-Year Avg
Efficiency	$730	$744
1-Bedroom	$869	$801
2-Bedroom	$1,019	$925
3+ Bedroom	$1,281	$1,147

MEMORANDUM – COUNCIL WORK SESSION

Brooklyn Center currently has 834 rental license holders. 713 of those are for single family homes. 71 of the licenses are for 2-4-unit properties. 24 are for properties with between 5 and 39 units. 27 licenses are for properties with greater than 40 units. There are approximately 4,300 rental units in the City. The average rents in Brooklyn Center are considered affordable for those making around 50 percent of the Area Median Income. Of the 11,608 total housing units (both rental and owner-occupied) in Brooklyn Center, 89.5 percent are naturally occurring affordable housing. There are currently 402 Section 8 voucher holders in the City.

Brooklyn Center currently has five apartment building that are legally-binding affordable housing, Ewing Square Townhomes (23-units), The Crest Apartments (69-units), Unity Place (112-units), Emerson Chalet Apartments (18-units), and The Sanctuary (158-units). Also, Lynwood Apartment (50-units) is currently applying for Certified Low Income Status, which would make it a legally-binding affordable property. This equates to 3.7 percent of the City's housing stock is legally-binding affordable housing.

Anecdotally, a recent phone survey of 34 Brooklyn Center landlords found a current average vacancy rate of 1.3 percent.

Rents in Brooklyn Center are currently very affordable compared to the region. Low rents may be contributing to the low vacancy rates. If the vacancy rates are in fact below 2 percent, and they remain that low over time, it would be reasonable to expect rents to increase. However, given the current low rents, even an increase in rents of 20-30 percent would result in rents still considered affordable for those making 60-80% AMI.

Affordable Policy Options:

Section 8 Ordinance (Tenant Protection) - Prohibiting discrimination against Section 8 voucher holders and other recipients of government programs. The policy would prohibit landlords from denying any tenants' application based on the applicant receiving government assistance.

- Staff surveyed 34 Brooklyn Center apartments and found that 50 percent indicated that they do not accept section 8 vouchers.
- Minneapolis recently adopted this ordinance, which allows applicants who feel they have been discriminated against to seek damages through the city's department of Civil Rights.
- The City of Minneapolis has an active lawsuit filed against them by 55 apartment owners over the legality of this ordinance. The lawsuit argues the mandate conflicts with state law and unfairly forces them to comply with requirements of federal housing voucher programs for low-income residents. It also says the law violates the Minnesota Constitution because it reduces their property values, forces landlords to enter into contracts and represents an unnecessary government intervention in their businesses. Landlords also claim that this could cause landlords to increase rent and/or application criteria as to price out Section 8 vouchers.

➢ Staff feels that if the ordinance is upheld by the courts, it could be a useful tool to ensure residents are not discriminated against based on their source of income; however additional review would be necessary related to the enforcement of the ordinance. Staff

recommends that the City monitor the Minneapolis lawsuit then review pending the outcome.

Notice of Intent to Sell (Preservation) – Rental property owners must give advanced notice prior to the sale of a rental property. This gives a preservation buyer an opportunity to match the purchase price. It would also give service providers additional time to relocate residents who would be displaced as a result of the sale.

- Landlords would be concerned about delaying the closing of a property sale, which could have a negative effect on price. Preservation companies such as Aeon have expressed concerns that this could increase the competition for these properties, and thusly increase sales prices.
- Enforcement would be difficult because the penalty would come after the sale has occurred. If the property has sold, the seller no longer has ties to the property so enforcing a citation could be challenging and may not be a deterrent. In a workgroup in St. Louis Park landlords stated that if there was a $1000.00 citation for selling without notice, they would likely still sell the property and pay the citation.
- It is unclear who the seller would need to notify of their intent to sell and what would be done with that information once it was known. Who would decide what buyers could have access to the information? Who would be responsible for disseminating the information?
- It is possible that this ordinance would dissuade investors, who may opt to purchase property in cities that do not have the additional requirements.
- St. Louis Park is looking at an alternative ordinance related to tenant transition/protection would address the need for additional time to relocate tenants.

➢ Staff recommends that the city consider other options such as the tenant transition ordinance.

Tenant Transition/Protection Ordinance (Tenant Protection) – This would require a new owner of a naturally occurring affordable housing property to pay relocation benefits to tenants if the new owner increases rent, rescreens existing residents or implements non-renewals without cause within 3 months after the purchase. The ordinance has the effect of freezing lease terms for 90 days after the sale of a property. The purpose is to allow tenants three (3) months to relocate if necessary.

- This ordinance wouldn't interfere with the sale of naturally occurring affordable housing, however; it would provide assistance to the tenants if necessary.
- The ordinance would require new buyers to notify tenants within 30 days if substantive changes to the lease are forthcoming, giving tenants time to relocate if necessary.
- St. Louis Park adopted the Tenant Protection Ordinance in March of 2018.
- The policy could dissuade potential apartment buyers from buying in Brooklyn Center, who may opt to purchase a property in a city without this policy.

➢ Staff recommends that the City review this policy further to determine the legality of it, the enforcement mechanism, and what the specific impacts in Brooklyn Center might be.

MEMORANDUM – COUNCIL WORK SESSION

Just-Cause Eviction (Tenant Protection) – Also known as Just-Cause Non-Renewal, this would require a landlord to provide a reason if they were going to not renew a tenant's lease that was expiring. Currently landlords must provide a just cause for eviction, which a tenant can appeal in court. There is no appeal process available to tenants who lose their housing due to non-renewal of lease.

- Landlords see this as taking away a valuable management tool for dealing with problem tenants and have the unintended consequence of increasing the number of evictions filed and strengthening screening standards.
- When St. Louis Park conducted their meetings with landlords and the Multi-family Housing Association, this ordinance received the strongest opposition.
- The enforcement of this policy would be through the court system and would require a tenant to take legal action against their landlord via a lawsuit.
- Of the 34 landlords surveyed by staff, the majority of evictions or non-renewals are the result of non-payment of rent or criminal activity.
- The intent of this ordinance would be to protect tenants from being non-renewed in the event a new owner wants to empty a building in order to do a substantial renovation with the goal of increasing rents.

➢ Staff recommends that the City consider other options such as the tenant transition ordinance to protect tenants.

Inclusionary Housing Policy (Creation) – These are a collection of policies that could be adopted by the city which would either encourage or require new affordable units to be included as part of new market-rate residential development projects which receive public subsidy or other discretionary City approvals. Frequently it is in the form of a requirement that a percentage of units be affordable in a new residential development in exchange for public subsidy of the project.

- New developments such as the Opportunity Site would be required to include a certain number of affordable units.
- Inclusionary Housing policies ensure that new affordable units are added as market-rate units are built, thus ensuring mixed-income communities.
- Cities such as St. Louis Park and Minneapolis have found that in higher rent developments, a certain percentage of affordable units can be required without increasing the need for additional public subsidy. This is due to the higher than average market rents, which off-set the affordable units. In Brooklyn Center, as is true in communities with lower average rents, it is likely that the cost of the affordable units would require additional public subsidies in order for a project to be financially feasible.

➢ If the Council would like to move forward with this police staff would recommend reviewing the feasibility of future development if an affordable housing policy is adopted.

4D Tax Breaks (Preservation) – Also known as the Low Income Rental Classification Program (LIRC), Minnesota provides a property tax break, currently amounting to 40%, to subsidized rental properties under LIRC, commonly referred to as the 4D program. There is the potential,

however, to extend 4D eligibility to certain currently unsubsidized affordable properties, without changing current law. This is because the LIRC/4D statute defines eligible properties as those which meet two conditions: the owner of the property agrees to rent and income restrictions (serving households at 60% AMI or below) and receives "financial assistance" from federal, state or local government. This presents the possibility of creating a "Local 4D" program in which qualifying properties receive the 4D tax break in return for agreeing to conditions which meet certain local government policy goals.

- A government agency would need to provide a financial contribution to a rental apartment with a low income agreement placed on the property. The property could then be eligible to apply for 4D status. This would allow a landlord to make physical improvements to the property in exchange for affordable rents.
- The reduction in property taxes would not decrease the City's revenue from property taxes, as the funds would be distributed to all other properties; however, it would reduce that property's share of local property taxes.
- The amount of the tax break is a limiting factor as it equates to around $80/unit per year; however, the program may be an incentive for a property owner in a community where the market rents are already considered affordable, since they would not need to depress their rent rates.
- Hennepin County is looking into a rehabilitation program for rental properties which would function similarly to the CDBG housing rehabilitation program, but be County funded.
- The City could also look at funding a program for rental housing rehabilitation.

➢ Staff recommends working with the County to determine the feasibility of a County-led program. The City could also review EDA or TIF 3 Housing funds to determine the availability of funds for a city program that would provide rental housing rehab assistance in exchange for a 5-10 year affordability requirement. This could be set up as a per unit matching forgivable loan.

Other Policies/Programs

- Identify buildings that are at-risk of being flipped. Reach out to owners of at-risk buildings and gauge their short and long-term plans. Help connect them with preservation buyers on a case-by-case basis.
- Comprehensive Plan – the City is in the process of updating its Comprehensive Plan. If the preservation and/or creation of affordable housing are a priority for the City, it should be reflected in the City's Comprehensive Plan.
- Education – Work with the Metropolitan Council to provide education on Section 8 voucher programs to dispel some of the negative perceptions of the program.

Policy Issues:

Does the Council believe that the information presented indicates a need for additional policy actions to address the concerns raised regarding affordable housing and the protection of tenant rights?

MEMORANDUM – COUNCIL WORK SESSION

Does the Council require additional information regarding these issues before concluding if further policy actions are necessary?

Which policies if any would the Council want brought back for further consideration?

Which policy does the council consider a higher priority?

Strategic Priorities:

- Resident Economic Stability

Attachments:
US Census Bureau Data
Metropolitan Council Land use Chart
August 14, 2017 Council Work Session Memo
August 14, 2017 Council Work Session Minutes
Housing Strategies Table Presented at Previous Work-Session
Mixed-Income Housing Policies among Neighboring Cities Table
Phone Survey of Brooklyn Center Apartments
Phone Survey of Brooklyn Center Single Family Property Management Companies:

US Census Bureau Data:

Source: Certificate of Real Estate Value, Minnesota Department of Revenue.
Download chart data

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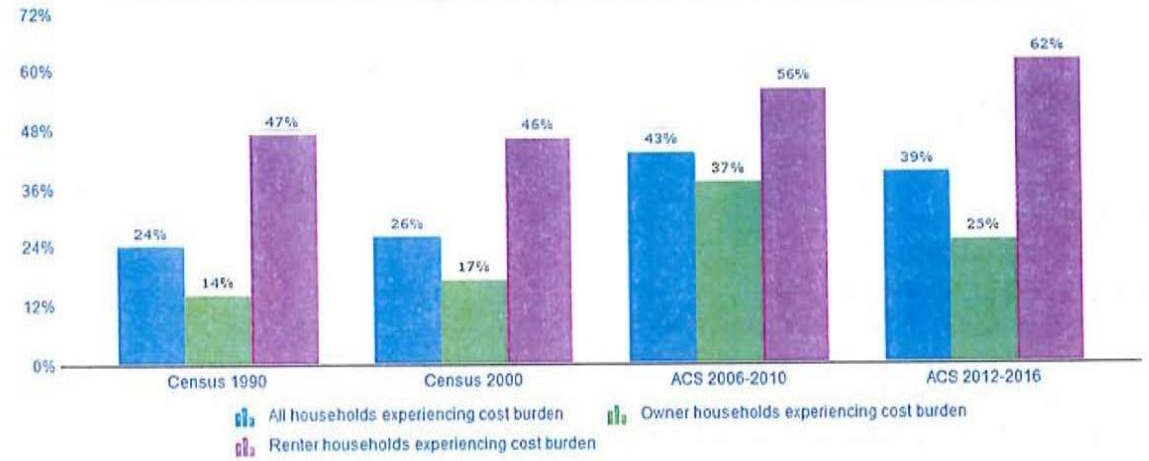
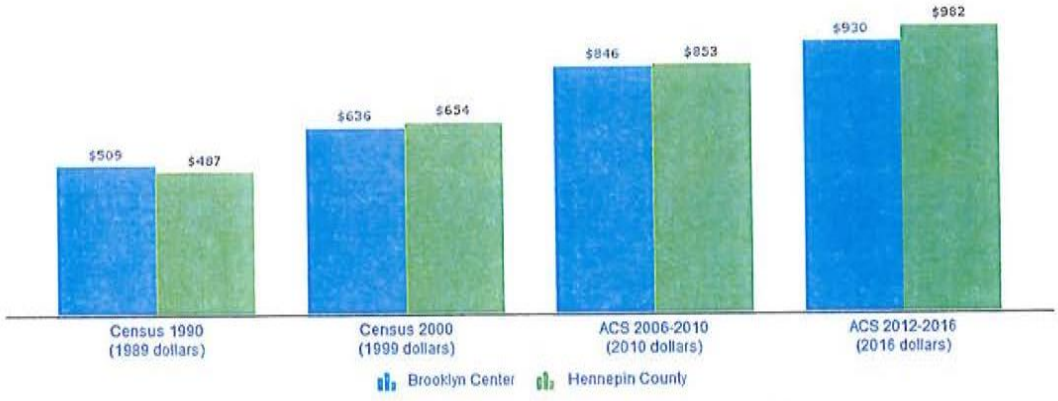
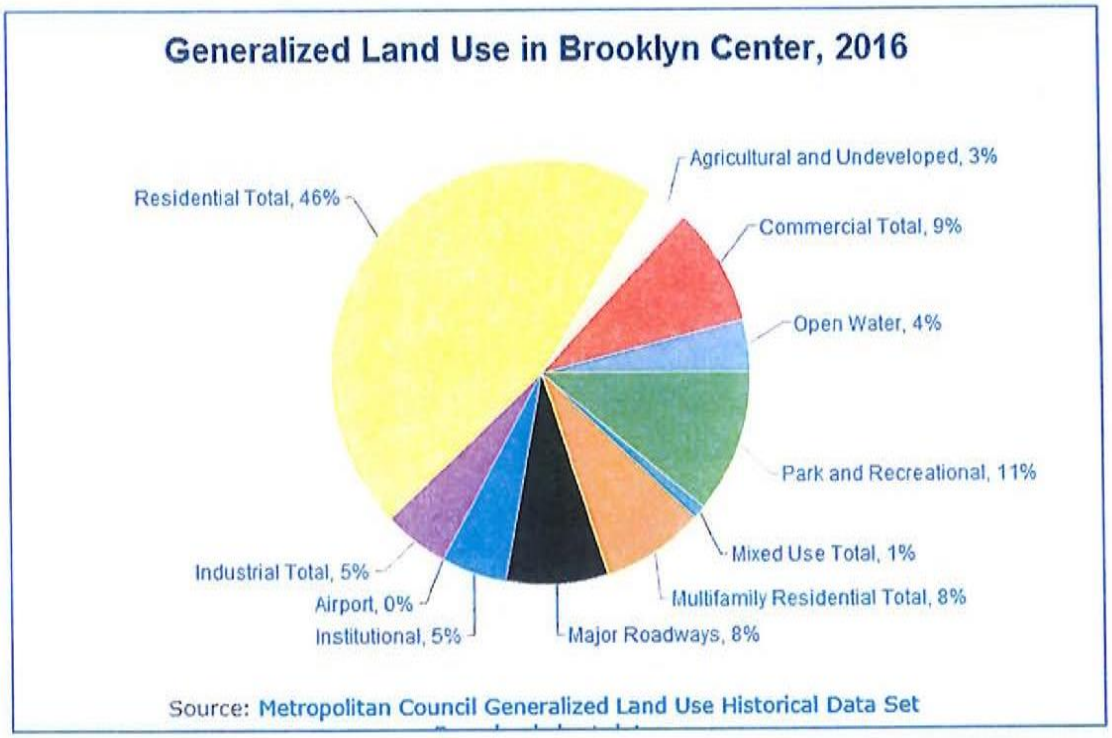


Source: U.S. Census Bureau Decennial Census and American Community Survey.
Households experience housing cost burden when their housing costs are 30% or more of their gross income. For renters, housing costs include rent and utilities; for owners, housing costs include mortgage principal and interest, property taxes, property insurance, utilities, and other fees. Use caution when comparing 1990 and 2000 data (which include only some households) to American Community Survey data (which include all households). See the metadata for more information.



Source: U.S. Census Bureau Decennial Census and American Community Survey.

Metropolitan Council Land Use Chart:



MEMORANDUM – COUNCIL WORK SESSION

DATE: August 10, 2017

TO: City Council

FROM: Curt Boganey, City Manager

SUBJECT: Affordable Housing Presentation

Recommendation:

It is recommended that the City Council receive the presentation/report and consider providing direction to staff.

Background:
In May of 2017 the City Council received copies of emails (attached) forwarded by Councilmember Butler from African Career and Education Resource Inc. (ACER) requesting an opportunity to come before the City Council to discuss concerns about the need for affordable housing in Brooklyn Center. In addition Mayor Wilson was in contact with a representative of Community Action Partnership of Hennepin County (CAPHC) regarding the same topic.

On July 10th 2017 by consensus the City Council directed staff to invite representatives from ACER and CAPHC to a future work session to present information and have a dialogue on the issue of affordable housing.

It is my understanding that these groups have collaborated in the past and will jointly present on the issue of Affordable Housing before the City Council. . As stated in the email from Executive Director, Munene the overall goal of the group is to enact or strengthen current policies that will preserve naturally occurring affordable housing, secure the rights and improve the living conditions of tenants living in affordable rental properties.

Enclosed with this report is a copy of Housing Strategies and Tools for the City Of Brooklyn Center (Exhibit A) provided by ACER and 3 Pillars of Affordable Housing Advocacy (exhibit B) provided by CAPHC. These documents represent some of the issues that will be presented to the City Council

Policy Issues:
Does the Council believe that the information presented indicate a need for additional policy actions to the address the concerns raised regarding affordable housing and the protection of tenant rights?

Does the Council require additional information regarding these issues before concluding if further policy actions are necessary?

How does the Council want staff to proceed regarding the issues raised about affordable housing and tenant rights?

Excerpt July 10th 2017 City Council Study Session

Councilmember Butler referenced the document from African Career Education & Resource (ACER) and stated this group would like to present findings related to affordable housing and how the City can ensure that housing remains for those who need it. She asked that this topic be scheduled for a future Work Session agenda. Mayor Wilson stated this is the second time the City Council has received this information, noting in the second report they correctly updated Brooklyn Park to Brooklyn Center. He stated he is not opposed to scheduling this topic for a future Work Session. Mr. Boganey asked how much time they will require. Councilmember Butler suggested 20 minutes plus time for questions. Mr. Boganey stated he will contact them to arrive at a date within the next 30 days.

The City Council consensus was to direct staff to schedule this topic for a future Work Session.

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

WORK SESSION
AUGUST 14, 2017
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council/Economic Development Authority (EDA) met in Work Session called to order by Mayor/President Tim Willson at 7:59 p.m.

ROLL CALL

Mayor/President Tim Willson and Councilmembers/Commissioners Dan Ryan, Kris Lawrence-Anderson, April Graves, and Marquita Butler were present. Also present were City Manager Curt Boganey, Director of Business and Development Gary Eitel, City Attorney Troy Gilchrist, and Michaela Kujawa-Daniels, TimeSaver Off Site Secretarial, Inc.

AFRICAN CAREER AND EDUCATION RESOURCE, INC. (ACER) AFFORDABLE HOUSING – CITY MANAGER

Denise Butler, ACER Project Manager, Nelima Sitati Munene, ACER Executive Director, and Christine Hart with Community Action Partnership of Hennepin County Community Development provided a presentation on the background and purpose of this item.

Councilmember/Commissioner Ryan stated in the *Star Tribune* newspaper, there was an article on the issue of landlords deciding not to take Section 8 anymore and noted it is now in litigation. He stated in some of these cases they may need to wait to see how the items in litigation play out before they can decide how to proceed and help with these issues.

Mayor/President Willson asked what the State Legislature has indicated they are looking to do regarding the suggested local ordinances. Ms. Hart stated cities are still moving forward with these ordinances and then hoping the State makes some changes.

Councilmember/Commissioner Graves stated she believes there are some items they are already working on but there are a few she believes they could look at.

Mayor/President Willson stated he agrees with Councilmember/Commissioner Graves and also would like to explore and continue conversations on these issues. He stated at the Mayor's conference recently, they discussed the same issues and at a City level, they are being asked to look at the issues because it is closer to home and affecting their communities and then hopefully the state will follow suit.

Mr. Boganey stated the three policies that are being proposed are not new and have been used in other places. He asked how they choose these options and from their research, asked if it is their opinion that these are the most effective tools to address these issues being raised.

Councilmember/Commissioner Ryan stated he wished they had been here earlier this evening during the presentation by Brooklyn Alliance for Youth. He noted they discussed how to lift people out of poverty and make changes.

Mayor/President Willson asked if they would like to come back and speak further another time. Ms. Hart stated they would like to do that. Mr. Boganey noted he will add this to the agenda in the near future.

DISCUSSION REGARDING A LETTER OF INTENT WITH EBERT CONSTRUCTION FOR THE COMMERICAL DEVELOPMENT OF APPROXIMATELY 2 ACRES OF THE NORTHERN PORTION OF LOT 1, BLOCK 1, NORTHBROOK CENTER 2ND ADDITION (FOUR STORY, 112,000 SF COMMERICAL STORAGE BUILDING – 57TH AND LOGAN AVENUES NORTH) – MR. EITEL

Mr. Eitel Provided a presentation on this item with background and history.

Councilmember/Commissioner Ryan stated the change in the configuration of the roadway makes this site somewhat disadvantaged. He stated due to the problems they have had with this site he feels this would be something he agrees with.

Mr. Eitel stated this is a good site for this building in his opinion, brings income and not a lot of foot traffic, it is a win/win scenario, and noted it's a good-looking building.

It was the consensus of the EDA/City Council to move forward with this plan.

ADJOURNMENT

Councilmember/Commissioner Ryan moved and Councilmember/Commissioner Graves seconded adjournment of the City Council/Economic Development Authority Work Session at 9:47 p.m.

Motion passed unanimously.

Housing Strategies Table Presented at Previous Work-Session

HOUSING STRATEGIES & TOOLS FOR THE CITY OF BROOKLYN CENTER

Tools	Description	Opportunities	Challenges	Hennepin County Cities Considering
Identification of buildings; Document the problem	There should be an organized effort to track the most significant examples of this trend as well as identify buildings as soon as they come on the market (if possible before that). The City can also do a housing study that will identify the housing inventory and at-risk properties.	Brooklyn Center is at a great risk given the high percentage of naturally occurring affordable housing (NOAH). Identifying the multi-family housing in Brooklyn Center and documenting the problem gives the City more knowledge and ability to craft a strategic, outcome-oriented approach.		A number of cities have been doing housing studies and research on their housing inventory, particularly with the upcoming Comprehensive Plans.
Notice Period	The City must be given advanced notice prior to the sale of any building.	A Notice Period will give the City more to approach a preservation buyer to rehab the property and prevent displacement. In addition, the City can give service providers advanced notice in order to support tenants.	Developers will push back stating that it is restraining their ability to get the best price (i.e. buyers will lower the price if the market fluctuates in the 90 day time period.) Also, there could be a potential for the price to rise if there is a bidding war between a for-profit and a not for profit developer.	St. Louis Park, Golden Valley, Minneapolis, St. Paul, Bloomington, Richfield
Help preservation buyers to buy at risk buildings	Several of our non-profit housing providers are actively competing in the market for these properties, but they are disadvantaged in competing against for-profit purchasers on price and timing with the complex financial process. The City can help notify preservation buyers when they know properties will be up for sale. (e.g. Seasons Park).	Preservation buyers will keep the rents affordable while enhancing the property.	Preservation buyers often need at least a 90 day notice prior to the property being listed on the market in order to put together a competitive bid.	Many cities have relationships with preservation buyers, and there is frequent communication.

Right of First Refusal	When owners offer their buildings for sale, they would be required to notify tenants and the designated unit of government. Tenants or the government unit would then have a defined period of time to match the essential terms of the offer (price, timeline, etc.). If they are able to do so, they have the right to purchase the building themselves.	Prevents tenant displacement and can help a preservation buyer be competitive.	It can be hard to anticipate where these purchase opportunities will materialize, making it difficult to know where to push for local ordinances. Could get complicated determining what the offer's "essential terms" are.	Minnesota has a ROFR for manufactured home parks.
Local programs offering rehab financing in return for affordability commitments	Many cities, like Brooklyn Cente, have a supply of aging complexes that have deferred maintenance. Many managers of these complexes cite the costs of improvements as a reason to either 1) not make improvements or 2) increase the rents once improvements are made. Municipalities could offer rehab financing (low interest loans, forgivable grants) with commitments to maintain affordability over a set period of time. This could be done with CDBG dollars or in conjunction with Brooklyn Park's current Rental Rehab Program.	Preserves affordable housing units in the City as well as makes the property safe housing for residents.	Administration of the financing (could be done in conjunction with a local nonprofit), funds for the financing.	Bloomington- using their HRA levy money to put $50,000 every year for a NOAH fund to preserve developments. It has been proposed to
4d Property Tax Program	This is essentially a tax credit given to housing providers who receive a government subsidy, and in exchange provide a percentage of their units at affordable levels (60%/50% AMI) for a set period of time. It has been suggested to staff in Brooklyn Center and we would like to see this move forward.	Increases the number of new affordable housing units in the City.	Providing the pot of money for developers to tap into; the program is voluntary.	This is a program Richfield had when it was funded at the state level. That funding has dried up, and it seems that most people think 4D has gone away. However, the statute allows for "local subsidies."

HOUSING STRATEGIES & TOOLS FOR THE CITY OF BROOKLYN CENTER

Prohibition of Section 8 Discrimination	Changes to business practices in Brooklyn Park has resulted in a number of apartment properties not accepting Housing Choice Vouchers: (We are in the process of compiling the list of properties and will update this document and share it with you) This ordinance would say that properties cannot exclude applicants simply because they use a rent subsidy.	Voucher holders would not lose housing every time a building changes policies and practices. There would also more housing options available to voucher holders.	Oftentimes the challenge will be for the HRA to lessen the administrative burden on landlords participating in the HCV program. The challenge is minimal for the City.	St. Louis Park, Minneapolis, Suggested to Golden Valley, Bloomington, Eden Prairie and Richfield.
Just Cause Eviction	Just Cause Eviction protects tenants from eviction for improper reason as well as prevents involuntary displacement through lease non-renewals or notices to vacate. This would allow landlords to evict a tenant only for certain reasons, such as failure to pay rent or for violation of the lease terms. As an example, what we saw at Crossroads in Richfield could also happen in Brooklyn Center, where the new screening criteria was the reason many tenants' leases to not be renewed. Just Cause would allow these renters to continue living there until they break a condition of their new lease. It can be tied in with rental licensing.	Prevents involuntary displacement and protects tenants from eviction without a proper reason.		St. Louis Park, Minneapolis, Suggested to Golden Valley, Bloomington and Eden Prairie, suggested to Richfield.

HOUSING STRATEGIES & TOOLS FOR THE CITY OF BROOKLYN CENTER

Incentives to address landlord concerns about renting to certain groups of tenants	Risk Mitigation Fund is oftentimes associated with the Housing Choice Voucher program. This Fund can be created as a response to the extremely low vacancy rate and the disparity between cost of living and wages. It serves as a damage fund to supplement costs the security deposit does not fulfill. It also has been offered as short-term vacancy reimbursement.	Incentivizes landlords to participate in voucher programs, providing voucher holders with more access to housing options. Provides insurance to landlords for any monetary losses from potential damage to property.	Funding the RMF; perpetuating stigma that voucher holders cause more damage (no evidence to support this)	Minneapolis HRA, Metro HRA, Dakota County CDA; many models across Minnesota.
Inclusionary Housing	This policy would ensure that with every development that happens, there would be an inclusion of affordable housing. It also can be applied to rehabbed developments.	Increases the number of new affordable housing units in the City.	Only applies to new construction, therefore not addressing the need to preserve and maintain NOAH	St. Louis Park, Edina, Minnetonka, Golden Valley, Eden Prairie, Minneapolis, Richfield is considering and others have shown interest.
Increasing local government leverage through zoning	Brooklyn Center could structure its zoning so as to prevent an owner engaging in conversion actions from doing so before obtaining the city's zoning related approval.	Provides the City of Brooklyn Center with more leverage to intervene.		Minneapolis. Has been presented to Richfield.
Rental assistance	51% of Brooklyn Center households are cost burdened (ACS 2015). Rental assistance would lessen the burden by supplementing income, so housing costs are no more than 30% of income.	Residents would be able to afford housing costs without sacrificing other basic needs.	It is costly and unsustainable. As rent increases, rental assistance is insufficient and cannot serve as many households.	Hennepin County & a number of cities
Comp Plan: Include strong language and solutions regarding affordable housing	As Brooklyn Center completes its Comprehensive Plan, it is encouraged that the Plan has detailed solutions with strong language around the preservation of naturally occurring affordable housing. This plan will guide the City's housing efforts in the next ten years.	Strong language can positively guide the City's housing efforts in the next ten years.		A number of Hennepin County cities

Mixed-Income Housing Policies among Neighboring Cities

City	Policy/Program Type	Affordability Requirements	Affordability Period	Opt-out (alternative) options	Enforcement Tool	Other Notes
St. Louis Park (2015)	• City financial assistance for new developments creating at least 10 multi-family units or renovation of an existing multi-family development with at least 10 units.	• 18% of total units in the development required at 60% AMI or 10% of units required affordable at 50% AMI. • Families may remain in the dwelling unit as long as the income does not exceed 120% AMI.	• 25 year minimum (considering an increase).	• Subject to City Council approval: o Dedication of existing units o Offsite construction near public transit o Participation in construction of affordable units by another developer within the City	• Affordable Housing Performance Agreement between City and Developer prior to Zoning Compliance Permit being issued.	• Implemented 2015 – 6/7 new developments triggered policy with 1,073 units and 281 affordable units produced. • No development has used an opt-out option. • Units must be located within the development and distributed throughout the building unless approved by City Council.
Edina (2015)	• Re-zoning or Comprehensive Plan Amendment for all new multi-family development of 20 or more units.	• 10% of all rentable area at 50% AMI or 20% of all rentable area at 60% AMI.	• 15 year minimum.	• Dedication of existing units equal to 110%, must be equivalent quality. • New construction at a different site. • Participation in construction of affordable units by another developer within the City.	• Land use restrictive covenant. • PUD ordinance states development must consider affordability.	• City will consider incentives for developments with affordable housing including: Density bonuses, parking reductions, TIF, deferred low interest loans from the Edina Foundation, and Tax Abatement.
Golden Valley (policy approved in 2017; ordinance in coming months)	• Market rate residential development with 10 or more units and receive: o Conditional Use Permit (ord.) o Planned Unit Development o Zoning Map Amendment (ord.) o Comprehensive Plan Amendment o Or Financial Assistance	• 15% of total project units at 60% AMI or 10% of project units at 50% AMI. • Families may remain in the dwelling unit as long as the income does not exceed 120% AMI.	• 20 year minimum.	• Equal or greater amount dedication of existing units.	• Affordable Housing Performance Agreement. • Mix of policy and ordinance.	• City will consider incentives including: • Minimum in 33% reduction in required parking spaces • Minimum of 10% density bonus
Brooklyn Park	• New market rate residential development with 10 or more units and receive: o Planned Development Overlay (ord. required) o Zoning Map Amendment (ord. required) o Comprehensive Plan Amendment • Or Financial Assistance	• 15% of units at 60% AMI or 10% of units at 50%AMI or 5% of units at 30%AMI	• 20 year minimum.	• Consider an alternative proposed by developer.	• Affordable Housing Performance Agreement. • Mix of policy and ordinance.	• Units must be located within the development and distributed throughout the building unless approved by City Council.
Minneapolis (2002)	• City-assisted housing projects of 10 or more units. • City-assistance includes TIF, condemnation, land buy downs, issuance of bonds to finance project, pass-through funding, and other forms of	• Varies based on funding source but generally is either 20% of units at 60% AMI or 20% of units at 50% AMI (AHTF)	• 15 year minimum.	• None.		• Only 1-2 projects have taken advantage of the incentive program since 2002. • Currently engaging a consultant to develop an effective system.

	direct subsidy. • Density bonus and parking reduction incentive					
Saint Paul (2014)	• City/HRA assisted rentals and homeownership. • Rental development in selected zones – density bonus incentive	• Rentals – 30% of units affordable to households earning 60% AMI, of which at least one third will be affordable to 50% AMI, and at least one third will affordable to 30% AMI.	• Rental - 10 year minimum .		• Development Agreement	• Voluntary/incentive density bonus is not being used so policy is currently being revised.
Minnetonka (2004)	• City Assistance • Voluntary/incentive based for all developments.	• Rentals – 10% of units at 50% AMI for all developments, 20% of units at 50% AMI if using TIF funding.	• 30 year minimum.	• Considered on a case by case basis.	• Development Agreement.	• Produced over 500 affordable units since 2004.
Eden Prairie	• City Assistance • Using a voluntary/incentive based approach for all developments; exploring adopting a policy.	• City subsidy – 20% of units at 50% AMI. • Voluntary/incentive – starts at 10% of units at 50% AMI.				
Woodbury (2012)	• Voluntary/incentive based – density bonus policy	• 20% of units at 80% AMI or negotiated.	• 15 year minimum.			
Chaska	• All developments that need City approval	• 30% of units at 80% AMI.				
Forest Lake (2014)	• Voluntary/incentive based – density bonus policy	• Negotiable				• 15% density bonus, flexible parking requirements.

Phone Survey of Brooklyn Center Apartments:

Apartment Name	number of Units	number of vacant units	Rent for a studio	Rent for a 1 bedroom	Rent for a 2 bedroom	Rent for a 3 bedroom	Rent for a 4 bedroom	Do you accept section 8	Has rent increased over the past 2years?	How much has rent increased?	Most common reason for Eviction or non-renewal
4819 Azealia	12	0		750	800			no new	yes	$15-50	non-renewal
5207 Xerxes	12	0	0	Ave: $750	Ave $850			Yes	yes	8%	Disturbance
5240 Drew	10	0			845-950			yes	no		police calls for service
The Avenue	36	0	755	929	1075			no	yes	5% each month	non-payment
Beard Ave	24	0		$895	1 fl-$1025, 2-3 fl $1075			Yes (Typically don't meet criteria)	yes	100 - 2bd - 1bd 75	smoke in units, police calls (pattern)
Brookside Manor	90	0			garden - $750 2-3 floor $800			yes	yes	$20	police calls, disturbance, non-payment
Carrington Dr	128	0	$735	$835-855	$945-975			no	yes	$50	disturbance, illegal activity, cleanliness, non-payment
The Crest	122	3 for end of march		$755	$935			yes	yes	50	non-payment, crime free addendum
Crossings - 6201 Lilac - 55+	81	4 (0 in past few years)	1181-1275 (1bd + den	1081	1190-1750			No (inherited)	yes	2-5%	rarely - non-payment
Crossings - 6125 Lilac - 55+	65			1150							
Earle Brown Farm	120	1		845-920	1010-190			No new ones	yes	3% increase	disturbance, non-payment
Emerson Chalet	18	0		737	870			yes	no		non-payment, 3 strikes
Gateway	252	3	775	850-875-895	995-1045			no	yes	50	late payment, police calls, unit maintenance
Granite City	72	0	849	949	1139			yes	yes	34-55	smoking
Granite Peaks	54	0	849	949	1139			no	yes	34-55	non-payment
Humboldt Courts	36	1	750		900-995			no	yes	75-95	non-payment
Lynwood - mark	50	0		895-925	1050-1190			yes	Yes	2-4%	non-payment of rent
Melrose Gates	217	0		919-949	1129-1159	1159-1189 2bd+1.5ba	1209-1249 2bd+2ba	no	yes	100	non-payment
River Glen	128	0		900	975-1000	1250		yes	yes	50-75	non-payment/late rent
Riverwood Estates	84	2		929	999-1050			no	yes	40	lease violation
Ryan Lake	22	1		800	800-1000			yes	yes	75	non-payment
Summerset	36	3		700	800-850	1150-1200		yes	yes	$50	non-payment, lease violations
Twin Lake North	276	3		950+	1105-1225+			yes	yes	5%	non-payment, behavior
Unity Place	112	2			904-909	970		yes	yes	30	non-payment
Victoria Townhomes	48	4				1340-1400		no	yes	40-60	tenant not renew

Phone Survey of Brooklyn Center Single Family Property Management Companies:

Management Agency	number of Units	number of vacant units	Rent for a studio	Rent for a 1 bedroom	Rent for a 2 bedroom	Rent for a 3 bedroom	Rent for a 4 bedroom	Rent for a 5 bedroom	Do you accept section 8	Has rent increased over the past 2years?	How much has rent increased?	Most common reason for Eviction or non-renewal
Prosperous	40	0			1050	1250	1450	1550	yes	yes	2-3%	non-payment
Urban homes	2					1300	1400	1500	Yes			NA
Juliana Koi	2	1				1350			no	yes	50	NA
Kathleen Freitag	4	0				1235-1325	1410-1450		no	no		non-payment; destruction of property
Tyang	1	0				1150			no	no		NA
Michelle Nyarecha	1	0				1170-1250			yes	no		non-payment; police violations
Nazeen	2	0			1000	1200			no	yes	5%	NA
Tracy Hinkemyer	7						1350-2000		no	no		NA
Dan tan	4	0			850-950				yes	no		non-payment drugs, noise

AFFORDABLE HOUSING POLICY

Presented by: Meg Beekman,
Community Development Director
April 9, 2018

BACKGROUND

- **May 2017**: African Career and Education Resource Inc. (ACER) and Community Action Partnership of Hennepin County (CAPHC) have raised concerns about affordable housing in Brooklyn Center
- **July 2017**: City Council directed staff to invite reps from ACER and CAPHC to a future work session to discuss

BACKGROUND cont….

- **August 2017**: City Council received a presentation by ACER and CAPHC regarding the topic of affordable housing
  - Advocated that the City consider adopting policies to address the region's needs for:
    - Creating new legally-binding affordable housing
    - Protect tenants
    - Preservation of naturally occurring affordable housing
- City Council directed staff to review the proposed policies and bring back for a discussion

REGIONAL HOUSING TRENDS

Regional Housing Trends

- The Twin Cities Metro Area is currently experiencing record low vacancy rates
  - Midyear report, average vacancy rate across the Twin Cities metro was 2.4 percent
- Impact of low vacancy rates:
  - Increased rents
  - Growing interest from outside investors
  - Landlords in a position to be choosier about who they rent to

Regional Housing Trends cont…

- Average rents increased 3.1 percent in 2017
- Met Council seeing a reduction in the number of landlords accepting Section 8 vouchers
- Growing number of investors purchasing rental properties, making cosmetic improvements and increasing rents

Regional Housing Trends cont…

- Region is seeing a loss of naturally occurring affordable housing
- Affordable housing advocates have identified three categories of policies designed to address these issues:
  1. Preservation policies
  2. Tenant protection policies
  3. Creation policies

BROOKLYN CENTER'S CURRENT RENTAL HOUSING

- Affordable rents in the Twin Cities Metro:

# of Bedrooms	30% AMI	50% AMI	60% AMI	80% AMI
Efficiency	$474	$791	$949	$1,265
1-Bedroom	$508	$848	$1,017	$1,356
2-Bedroom	$610	$1,017	$1,220	$1,627
3-Bedroom	$705	$1,175	$1,410	$1,880
4-Bedroom	$786	$1,311	$1,573	$2,097

*Rents include tenant-paid utilities

- Average rents in Brooklyn Center:

# of Bedrooms	Survey	5-Year Avg
Efficiency	$730	$744
1-Bedroom	$869	$801
2-Bedroom	$1,019	$925
3+ Bedroom	$1,281	$1,147

- Average rents in Brooklyn Center are considered affordable for those making just under 50% of the Area Median Income (AMI)

Brooklyn Center's Current Rental Housing cont…

- Brooklyn Center currently has 835 rental license holders; 4,300 units

Rental License by Number of Units	
Single Family Homes	713
2 to 4-unit Properties	71
5 to 39-unit Properties	24
40+ unit Properties	27
Total	835

- 402 Section 8 voucher holders in the City

Brooklyn Center's Current Rental Housing cont…

- 4 apartment buildings that are unrestricted legally-binding affordable housing:
  - Ewing Square Townhomes (23-units)
  - The Crest Apartments (69-units)
  - Unity Place (112-units)
  - Emerson Chalet Apartments (18-units)

- Equates to 1.9% of City's housing supply

AFFORDABLE POLICY OPTIONS

Affordable Policy Options

- **Section 8 Ordinance** (Tenant Protection)
  - Prohibiting discrimination based on source of income

- Staff recommends monitoring the Minneapolis lawsuit then review pending the outcome.

Affordable Policy Options

- **Notice of Intent to Sell** (Preservation)
  - Would require rental property owners to give an advanced notice prior to the sale of the property

- Staff recommends that the city consider other options such as the tenant transition ordinance

Affordable Policy Options

- **Tenant Transition Ordinance** (Tenant Protection)
  - Requires new owners of a naturally occurring affordable housing property to pay relocation benefits to tenants if the new owner increases rent, rescreens existing residents or implements non-renewals without cause within 3 months after purchase

- Staff recommends that the City review this policy further to determine the legality of it, the enforcement mechanism, and what the specific impacts in Brooklyn Center might be

Affordable Policy Options cont…

- **Just-Cause Eviction** (Tenant Protection)
  - Also referred to as Just-cause Non-renewal
  - Requires a landlord to provide a reason if they are not renewing a tenant's lease that is expiring

- Staff recommends that the City consider other options such as the tenant transition ordinance to protect tenants

Affordable Policy Options cont…

- **Inclusionary Housing Policy** (Creation)
  - Collection of policies that could be adopted by the city, either encouraging or requiring new affordable units to be included as part of new market-rate residential development projects

- If the Council would like to move forward with this policy staff would recommend reviewing the impact to future development

Affordable Policy Options cont…

- **4D Tax Breaks** (Preservation)
  - Known as Low Income Rental Classification Program (LIRC)
  - MN provides a property tax break to subsidized rental properties under LIRC (4D Program)
  - Would require a source of funds to provide as a subsidy
- Staff recommends working with the County to determine the feasibility of a County-funded program
- The City could also review EDA or TIF 3 Housing funds to determine the availability of funds for a city-funded program

Affordable Policy Options cont…

- Other Policies/Programs
  - Identify buildings that are at-risk
  - Comprehensive Plan
  - Education

Policy Issues

Policy Issues

- Does the Council believe that the information presented indicates a need for policy actions to address the concerns raised regarding affordable housing & the protection of tenant rights?
- Is additional information required regarding these issues before concluding if further policy actions are necessary?
- Which policies, if any, would the like Council brought back for further consideration?
- Which policy does the Council consider a higher priority?