

Council Worksession
City Hall Council Chambers
March 11, 2024

AGENDA



The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the packet is available on the city's website.

- 1. Call to Order - 6:00 p.m.**
- 2. Miscellaneous Discussion Items**
- 3. Adjourn**

**CITY COUNCIL
MEETING**

City Hall Council Chambers
March 11, 2024

AGENDA



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

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

2. Roll Call

3. Pledge of Allegiance

4. Informal Open Forum

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

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

a. Meeting Decorum

5. Invocation - Kragness

6. Approval of Agenda and Consent Agenda

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

a. Approval of Minutes

- *Motion to approve meeting minutes*

- *February 26 Worksession*
- *February 26 Regular Session*
- *February 26 EDA/Work Session*

b. Approval of Licenses

- *motion to approve the licenses as presented.*

c. Amending the 2024 City Council Meeting Schedule

- *motion to amend the 2024 City Council meeting schedule to accommodate the revised budget schedule*

- d. Resolution Identifying the Need for Living Communities Demonstration Account (LCDA) Funding and Authorizing an Application for Grant Funds for the Centre for Asian Pacific Islanders (CAPI)
- motion to approve the resolution identifying the need for Livable Communities Demonstration Account (LCDA) Pre-Development funding and authorizing the submission of application for grant funds for the Centre for Asian and Pacific Islanders (CAPI).
- e. Resolution Acknowledging Awarded Funds for the Hennepin County Active Living Technical Assistance Program and Authorizing Acceptance of Grant Funds
- motion to approve a resolution acknowledging the awarded funds for the Hennepin County Active Living Technical Assistance Program and authorizing acceptance of grant funds

7. Presentations/Proclamations/Recognitions/Donations

8. Public Hearings

9. Planning Commission Items

- a. An Ordinance Amending Chapter 35 of the City Code of Ordinances Regarding the Crystal Airport Zoning Ordinance, Fence Permits and Standards, Commercial Vehicle Standards, Dimensional and Structural Standards in the R1, R2, R3 and R4 Zoning Districts, Nonconforming Structures and Uses, Public Notice Sign Requirements and Use Amendments for Licensed Day Cares, Licensed Group Family Day Cares, Licensed Residential Facilities, and Massage and Sauna Establishments (Second Reading)
 - (1) Motion to approve a second reading regarding the adoption of an ordinance amending Chapter 35 of the City Code of Ordinances regarding the Crystal Airport Zoning Ordinance, fence permits and standards, commercial vehicle standards, dimensional and structural standards in the R1, R2, R3, and R4 zoning districts, nonconforming structures and uses, public notice sign requirements, and use amendments for licensed day cares, licensed group family day cares, licensed residential facilities, and massage and sauna establishments.
 - (2) Motion to approve a resolution for summary publication of the aforementioned ordinance amendments in the Brooklyn Center *Sun Post*.

10. Council Consideration Items

11. Council Report

12. Adjournment



COUNCIL MEETING DECORUM

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

- A. Decorum. Persons who attend meetings must avoid conduct that disrupts, interferes with, or disturbs the orderly conduct of the meeting or the ability of other attendees to observe and participate as appropriate. To that end, persons who attend meetings are subject to the following:
 - (1) Members of the public may only speak during meetings when allowed under Council Rules and only after being recognized by the presiding officer. The presiding officer may establish time limits for the acceptance of public comments or testimony.
 - (2) Public comments or testimony must be addressed to the presiding officer and not to other Council Members, staff, or others in attendance.
 - (3) All elected officials shall be referred to by their proper title and surname.
 - (4) Public comments should avoid personal accusations, profanity, or other improper content for a public meeting.
 - (5) Intimidating behaviors, threats of hostility, or actual violence are disallowed.
 - (6) Audible demonstrations intended to disrupt the meeting should be avoided, including stomping of feet, snapping of fingers, clapping of hands, and other conduct that may be intimidating or threatening to others.
 - (7) Holding, displaying, or placing banners, signs, objects, or other materials in any way that endangers others, prevents the free flow of individuals within the chamber, or obstructs or prevents the viewing of the meeting by others is not allowed.
- B. The presiding officer shall request any person(s) who disrupt, interfere with or disturb the orderly conduct of a meeting to cease the conduct and, as necessary, shall issue an oral warning to the individual(s) found to be in violation. If the individual(s) persists in disrupting, interfering with, or disturbing the meeting, the presiding officer may have the individual(s) removed or, under appropriate circumstances, temporarily clear the gallery. If for any reason the presiding officer fails to take such action, a majority vote may be substituted for action by the presiding officer to maintain order and decorum over the proceedings.
- C. The Council Chambers capacity is 76 persons per fire code.

Council Regular Meeting

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Dr. Reggie Edwards, City Manager

BY: Barb Suciu, Assistant City Manager/City Clerk

SUBJECT: Approval of Minutes

Requested Council Action:

- *Motion to approve meeting minutes*
 - *February 26 Worksession*
 - *February 26 Regular Session*
 - *February 26 EDA/Work Session*

Background:

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

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

Strategic Priorities and Values:

Provide quality services with fair and equitable treatment

ATTACHMENTS:

Description	Upload Date	Type
2.26 Worksession	3/4/2024	Backup Material
2.26 Regular Session	3/4/2024	Backup Material
2.26 EDA/Work Session	3/4/2024	Backup Material

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

WORK SESSION
FEBRUARY 26, 2024
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in a Study Session called to order by Mayor April Graves at 6:07 p.m.

ROLL CALL

Mayor April Graves and Councilmembers Marquita Butler, Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, Director of Fiscal & Support Services Angela Holm, Assistant City Manager/City Clerk Barb Suci, and City Attorney Jason Hill.

MISCELLANEOUS

CITY COUNCIL DISCUSSION ITEMS

City Manager Reggie Edwards noted that the Staff and Council wanted to continue conversations regarding security and decorum, a memorandum about posting signage about bearing arms, and the budget process.

Dr. Edwards explained that the council is committed to reading the entire decorum document at the beginning of regular sessions. Previously, the City Attorney reminded the council that they cannot force attendees to abide by the guidelines. Instead, it is a recommendation. Also, City Attorney Jason Hill can speak to options regarding signage about bearing arms.

Mayor Graves requested that the entire decorum document be included in the packet.

Councilmember Jerzak pointed out that the rest of the council wanted Mayor Graves' input about limiting the time for individual commenters. Mayor Graves stated she isn't opposed to a time limit. She has previously implemented a time limit when there are a lot of commenters. She has also previously asked the council for input to continue the comment period as needed. Mayor Graves added she is not opposed to a timer, but she does not want to be in charge of the timer because she would prefer to listen to the commenter fully.

Councilmember Lawrence-Anderson stated there could be reminder cards with timing for commenters to know how long they have been speaking. Mayor Graves stated that could be

helpful.

Councilmember Jerzak requested City Clerk Barb Suci to create and utilize the timing cards. Dr. Edwards stated Staff could create and utilize the timing cards. He requested that the council regularly remind the public that Staff has been directed to oversee timing by the council. He doesn't want it to seem like the Staff is trying to limit the speaking time of the public.

Mayor Graves requested language regarding Staff overseeing the timing be developed and added to the decorum document.

Councilmember Jerzak noted several people have had issues accessing Zoom, and random parties have "hijacked" the Zoom feed. The council considered the option of Zoom being a listening-only format rather than a mechanism for public comment.

Mayor Graves agreed the "hijacking" is unfavorable, but she doesn't want to limit options for public comment. The council wants to increase civic engagement.

Dr. Edwards asked what latitude Staff and Council have to limit participation once decorum and rules are not followed.

City Attorney Jason Hill stated there is the issue of First Amendment rights to consider. The council has created a limited open forum for public input. The council has tried to limit the open forum to items related to Brooklyn Center and the time for comment, and those guidelines could be used to interrupt aggressive speech. However, the open forum is a space that allows First Amendment rights. Threats of violence are not protected speech, but the council needs to be careful with limiting commentary. Many cities have closed down Zoom entirely to stop and avoid inappropriate comments.

Dr. Edwards asked what the Council and Staff can do in the case of a violation. Mr. Hill stated commenters can say mean things about others due to First Amendment rights. It is a difficult decision for the council to determine. If someone in the Chambers is violating decorum, it is preferred to have a conversation with the commenter instead of utilizing law enforcement.

Mr. Hill noted that the council requested information about posting a sign prohibiting firearms. In 2005, there was a ruling to exclude cities from limiting the carrying of firearms.

Mayor Graves asked why people have to go through metal detectors at some County buildings. Mr. Hill stated the City could use a metal detector. If a weapon were found, they would likely inquire about a permit to carry.

Councilmember Lawrence-Anderson stated the library and the County Service Centers have signage prohibiting firearms. Dr. Edwards stated courtrooms have orders from judges prohibiting firearms and other weapons.

Dr. Edwards pointed out that the council can enter a Closed Session to discuss threats of bodily harm and the like.

Dr. Edwards noted the final point to discuss is the budgeting schedules. The previous budget schedule included Saturdays, but it wasn't well-received. Staff hopes to find a happy medium. He invited Director of Fiscal & Support Services Angela Holm to speak on the budgeting schedule options.

Ms. Holm stated the current schedule is budget meetings on Mondays, alternating with Council meetings in the summer. Staff inquired with other cities about their schedules. One option is Council Work Sessions with only two or three meetings. Then, the presentation before the council is more condensed.

Councilmember Lawrence-Anderson suggested the budget items be emailed for the council to review. Then, there could be a discussion during regularly scheduled Council meetings.

Ms. Holm noted the background of the Departments can be condensed, and the presentations would focus on proposed changes and new initiatives. Also, there could be a meeting or Work Session with the council to determine its priorities earlier in the process.

Mayor Graves suggested one major Work Session to discuss Council priorities early in the process. That could help reduce the number of Mondays the Council would need to meet. Councilmember Lawrence-Anderson noted her agreement with Mayor Graves. The first meeting should include the priorities of the council.

Councilmember Kragness stated the presentations from Staff could be shorter because they would be focused on the changes and how they relate to the council's priorities.

Councilmember Butler asked if Ms. Holm was proposing a Work Session in the spring focused on Council priorities with only two additional budget meetings added to the schedule after that. Ms. Holm confirmed that was correct.

Councilmember Jerzak suggested setting a maximum levy amount earlier so the City Manager and Staff could work within the parameters and cut down on steps. Mayor Graves stated that could be helpful, but the council must be fully informed to make the levy decision.

Councilmember Kragness stated the audit must be complete before the levy is determined.

Mayor Graves stated she would be interested in three work sessions but asked if it would be possible to fit the necessary discussions within them. She asked what work could be done in advance to make the meetings efficient. She also asked how long the work sessions would be, noting her concern about capacities to receive the information.

Ms. Holm stated the idea is to have each work session from about 5:00 p.m. to 9:00 p.m. The first

meeting would include Council priorities and general budget and revenue discussions. The second meeting would include condensed presentations from departments and a review of the general fund. Then, the third meeting would be about Enterprise Funds and the like. The first meeting would also include the Capital Improvement Plan. Staff is discussing how to make the numbers more meaningful and look at the big picture for long-term planning.

Mayor Graves said she would try the suggested meeting schedule if the council were interested. There was no objection from the council.

OTHER ITEMS

Mayor Graves noted she would not be present at the next Council meeting as she would attend the National League of Cities event and participate in two committees to which she was appointed.

ADJOURNMENT

Mayor Graves adjourned the Work Session at 5:52 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
FEBRUARY 26, 2024
CITY HALL – COUNCIL CHAMBERS

1. INFORMAL OPEN FORUM WITH CITY COUNCIL

The Brooklyn Center City Council met in Informal Open Forum called to order by Mayor April Graves at 7:00 p.m.

2. ROLL CALL

Mayor April Graves and Councilmembers Marquita Butler, Kris Lawrence-Anderson, Dan Jerzak, and Teneshia Kragness. Also present were City Manager Reggie Edwards, Zoning Administrator Ginny McIntosh, Associate Planner Krystin Eldridge, Assistant City Manager/City Clerk Barb Suci, and City Attorney Jason Hill.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

4. INFORMAL OPEN FORUM

The Council read through the Decorum Guidelines for Open Forum. Mayor April Graves opened the meeting for the purpose of Informal Open Forum.

Julie B. stated it is concerning that the Work Session is no longer recorded and that there are no minutes for review. She asked why the space is being gatekeeping, noting it is a violation of the mission and values developed collaboratively at the strategic planning meetings. The City needs to be transparent, and many people are upset about not being able to participate in the civic process.

Julie B. stated she used to write to the Council with concerns, but she did not receive a response. Open forum is the only opportunity to have comments put in the public record. It would be a disservice to eliminate Zoom public comment. There is already a limited time, and the Council shouldn't limit the comment even further.

Julie B. added her comments from the previous meeting were characterized as personal attacks. In reality, she was requesting that accountability be taken by elected officials and appointed commissioners. Thankfully, someone recorded the Work Session from the meeting because Julie B. learned that much of the decorum document is a violation of the First Amendment. The only legal limits allowed are related to time and that the business be related to the City. She requested the decorum guidelines be reviewed by a legal entity.

Julie B. noted her comments from the previous meeting still stand.

Mayor Graves explained there was discussion about Zoom commentary, but the Council will not be eliminating Zoom as a platform to receive public comments. The Council retreat resulted in the decision to stop the recording of the Work Session on a temporary basis. The decision will be reevaluated in about a month or so. Mayor Graves pointed out there are minutes taken for the Work Session, and Staff should be posting them online.

Sherri H. thanked the Council for their service to the City. She asked how to find the process dictating licensure for group homes. There are several group homes in her neighborhood, and there are many issues. An individual from a group home approached her and stole from her. Also, an individual threatened to kill groups of people based on their race and sexual orientation. It is frightening for her and her neighbors. When the individual is walking on the street, the other residents hide in their homes.

Sherri H. asked where the residents can go to for information on group homes. Also, she asked why the neighborhood wasn't informed of the addition of the group homes. Society needs options for people who struggle. However, taxpayers need to have input in happenings that impact their neighborhoods.

Mayor Graves thanked Sherri H. for her comments and apologized for the negative impacts she and her neighbors have been experiencing. The topic has been previously discussed by Council and is on the list of the City's legislative priorities. However, there is room for additional discussion at a Work Session on how to better support and inform community members. They need to be careful to avoid discriminating against people based on their abilities or their mental health status.

Sherri H. noted her agreement. She stated her comments were intended to be kind and authentic, and she has no desire to discriminate against people based on their unique needs. Mayor Graves stated Staff would provide a specific contact for Sherri H. to speak with.

Councilmember Kragness asked if there is a way for the public to see group home licenses. Zoning Administrator Ginny McIntosh stated Brooklyn Center has a number of group homes, though that is not the technical term. Brooklyn Center and Brooklyn Park have the highest number of group homes in the County. Group homes are State-protected forms of housing. If there are six occupants or less, the City must allow for the residence. If there is an assisted living licensure, they must undergo an architectural review. In that case, the homes are no longer considered as single-family homes. There is also a Community Residential Setting (CRS) designation that allows for up to four occupants. CRSes are a split between assisted living, mental health, and disability supports, and there are 43 of those in the City. Sherri H. is most likely referring to a residence designated as an assisted living facility, and Brooklyn Center has about 130 of those.

Dr. Edwards asked if there was a public notice requirement. Ms. McIntosh stated there isn't a requirement for public notice.

Councilmember Jerzak pointed out the facilities do need to obtain a rental license, which is reflected as a public record.

Ms. McIntosh added there is a licensing lookup tool through the State under the Minnesota Department of Health and Minnesota Department of Human Services. The addresses and bed counts are listed.

Kevin S. asked why police reform was put on the back burner. The recommendations from the Implementation Committee were voted down. He felt the City was dragging their feet, noting people in the City are not feeling safe, especially considering the recent threats. The alternative response should have been implemented first. Mayor Graves stated nothing has been halted. The alternative response program is forthcoming, and it is the prerogative of the Council to reconsider any failed motions.

Kevin S. stated the recent Implementation Committee meetings were canceled. There are suspicious happenings and a lack of transparency. Mayor Graves stated the meeting was canceled because Staff was not available, and nothing suspicious is happening. Kevin S. added there keeps being excuses.

Lori B. noted her partial agreement with Kevin S. The Implementation Committee meetings have been canceled at the last minute, and the Committee members are uninformed of the happenings. The City is not communicating with the Implementation Committee or the community. She offered to meet with Kevin S. regarding threats in the community.

Mayor Graves apologized for any lack of communication on her part.

Mary M. stated there is an issue with stray cats in the City. She lives near Palmer Lake, and there is a problem property close to her. Multiple cats have been captured and rescued. There is also a problem at 59th and Ryan as well as at 72nd. Mary M. pointed out she connected with a previous commenter who expressed concerns about cats. She suggested a workshop regarding cats be held to compile resources. Mary M. noted the cats are not completely feral, and there is potential for them to acclimate to a home environment.

Mayor Graves explained she had brought the concern to City Staff after hearing from multiple community members. She has done her small part, but Brooklyn Center can do more. There are similar issues in Brooklyn Park and North Minneapolis.

Councilmember Jerzak moved and Councilmember Butler seconded to close the Informal Open Forum at 7:23 p.m.

Motion passed unanimously.

5. INVOCATION

Mayor Graves pointed out February is Black History Month. She shared a quote from John Lewis, “You are a light. You are the light. Never let anyone, any person or any force, dampen, dim or diminish your light. Study the path of others to make your way easier and more abundant. Lean toward the whispers of your own heart, discover the universal truth, and follow its dictates. Release the need to hate, to harbor division, and the enticement of revenge. Release all bitterness. Hold only love, only peace in your heart, knowing that the battle of good to overcome evil is already won. Choose confrontation wisely, but when it is your time don't be afraid to stand up, speak up, and speak out against injustice. And if you follow your truth down the road to peace and the affirmation of love, if you shine like a beacon for all to see, then the poetry of all the great dreamers and philosophers is yours to manifest in a nation, a world community, and a beloved community that is finally at peace with itself.”

6. APPROVAL OF AGENDA AND CONSENT AGENDA

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

6a. APPROVAL OF MINUTES

1. January 22, 2024 – Work Session
2. January 22, 2024 – Regular Session
3. February 12, 2024 – Work Session
4. February 12, 2024 – Regular Meeting
5. February 12, 2024 – CC/EDA Meeting

6b. LICENSES

CONSUMER FIREWORKS – PERMANENT STRUCTURE

American Promotional Events, DBA: TNT 3245 County Road 10

MECHANICAL

Stern Heating and Cooling, Inc.

34181 180th Avenue
Red Wing 55066

RENTAL

INITIAL (TYPE IV – six-month license)

4600 69th Avenue N

Aisheh Wazwaz & Sami Ameri

INITIAL (TYPE III – one-year license)

5437 Logan Avenue N

Nicholas Kaufman

INITIAL (TYPE II – two-year license)

2100 55th Avenue N

Olusola Olakunde

RENEWAL (TYPE IV – six-month license)

700 66th Avenue N

Georgetown-bc Company Lllp

7200 Camden Avenue N	Namaka Evergreen, LLC
5337-39 Queen Avenue N	Edith Perlin/Gregory Perlin
3301 Lawrence Road	Mnhomes2go Llc
3701 66th Avenue N	Victor O Ogunbanwo
3816 France Place	Segun B Olatayo
5218 Paul Drive	Sj & Olas Properties Llc
5406 70th Circle	Mohammed G Aaser
5661 Northport Drive	Allan Kemboi
6015 Dupont Avenue N	Home Sfr Borrower Llc
6336 Beard Avenue N	Cosco Property I LLC
6712 Beard Avenue N	Mlmjr Properties & Invst Llc
6912 Unity Avenue N	Geri L Williams
7030 Regent Avenue N	Rifive Inc
<i>RENEWAL (TYPE III – one-year license)</i>	
5500 Bryant Avenue N	N Mejia-morales & V Idrovo
1012 72nd Avenue N	Hpa Us1 Llc
1312 68th Lane	Markon Rentals LLC
2018 55th Avenue N	Lancelot Properties LLC
3307 Ohenry Road	Henry S Dolopei
3612 Commodore Drive	Ih2 Property Illinois Lp
5019 61st Avenue N	Saylee Suworgo
6835 Colfax Avenue N	HP MINNESOTA I LLC
7055 Perry Avenue N	ICC PROPERTIES LLC

RENEWAL (TYPE II – two-year license)

4207 Lakeside Avenue N, #234	Cynthia Patrick
5340 Russell Avenue N	Cloeshette King Torboh
6825 Noble Avenue N	Robert Gardner Jr.
2701 65th Avenue N	Trinh Quang Vu
5351 71st Circle	Pyarali Revoc Trust
5739 James Avenue N	Rifive Investments Llc

RENEWAL (TYPE I – three-year license)

7250 West River Road	P R Barli & L I Barli
6811-6813 Noble Avenue N	Jerome English & J Garrison
3100 Thurber Road	Tyler Morgan Henderson
6325 Xerxes Avenue N	Linus N Amajuoyi
6430 Toledo Avenue N	Touchstones Properties Llc
6800 Quail Avenue N	Emmanuel Williams
7048 France Avenue N	Tai Hon Llc

- 6c. **AN ORDINANCE AMENDING CHAPTER 23 OF THE BROOKLYN CENTER CITY CODE REGARDING SPECIAL EVENTS 23-2600 (1ST READING)**
- 6d. **RESOLUTION AUTHORIZING AND SUPPORTING AN APPLICATION HENNEPIN COUNTY TRANSIT-ORIENTED DEVELOPMENT FUNDS GRANT APPLICATION - OPPORTUNITY SITE**
- 6e. **AN ORDINANCE VACATING A PORTION OF THE DEDICATED RIGHT-OF-WAY IN THE PLAT OF JOSLYN ADDITION (1ST READING)**
- 6f. **AN ORDINANCE AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING THE CRYSTAL AIRPORT ZONING ORDINANCE, FENCE PERMITS AND STANDARDS, COMMERCIAL VEHICLE STANDARDS, DIMENSIONAL AND STRUCTURAL STANDARDS IN THE R1, R2, R3 AND R4 ZONING DISTRICTS,**

NONCONFORMING STRUCTURES AND USES, PUBLIC NOTICE SIGN REQUIREMENTS AND USE AMENDMENTS FOR LICENSED DAY CARES, LICENSED GROUP FAMILY DAY CARES, LICENSED RESIDENTIAL FACILITIES, AND MASSAGE AND SAUNA ESTABLISHMENTS (FIRST READING)

6g. RESOLUTION RECEIVING PROPOSED CHARTER AMENDMENT, ADOPTING TITLE AND BALLOT QUESTION LANGUAGE PERTAINING TO PROPOSED AMENDMENT TO THE CITY OF BROOKLYN CENTER CITY CHARTER AND ORDERING SPECIAL ELECTION

6h. RESOLUTION APPOINTING ELECTION JUDGES FOR THE 2024 PRESIDENTIAL NOMINATION PRIMARY ELECTION

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

None.

8. PUBLIC HEARINGS

None.

9. PLANNING COMMISSION ITEMS

9a. RESOLUTION REGARDING PLANNING COMMISSION APPLICATION NO. 2024-001 SUBMITTED BY TOTEM FOODS INC FOR ISSUANCE OF A CONDITIONAL USE PERMIT FOR CONVERSION OF THE FORMER BIG O TIRES TO A STATE OF MINNESOTA DEPARTMENT OF PUBLIC SAFETY DIVISION OF DRIVER AND VEHICLE SERVICES INSPECTION STATION (5501 XERXES AVENUE NORTH)

Dr. Edwards explained Totem Foods submitted an application for a conditional use permit. He invited Associate Planner Krystin Eldridge to continue the Staff presentation.

Ms. Eldridge explained the applicant is requesting approval of a conditional use permit that would convert the former Big O Tires located at 5501 Xerxes Ave North into an inspection station for the State of Minnesota Department of Public Safety (DPS) and Division of Driver and Vehicle Services (DVS). The property is a one-story, approximately 8,250-square-foot tire retail store that previously provided on-site installation services. Totem Foods, Inc., submitted this application on behalf of and in coordination with the proposed tenant, the State of Minnesota Department of Public Safety, and assumed a 10-year lease commitment.

Ms. Eldridge pointed out that the property originally received site and building plan approval in 1966 under Planning Commission Application No. 66060 for what was originally a Goodyear automotive and tire shop, along with the neighboring Pearle Vision building located at 5515 Xerxes Avenue North, which was originally a Superette retail store. Following the closure of the Goodyear automotive and tire shop, Big O Tires occupied the space for a time before closing last year. The property has remained vacant since.

Ms. Eldridge noted the property was originally approved with a total of 61 on-site surface parking spaces and ten interior bay spaces. A survey conducted of the property in 2022 appears to show a revised configuration with 44 on-site surface spaces and five bays. City Staff calculated parking requirements to be at 31 parking spaces. The proposal is not a Site and Building Plan request. However, the applicant did submit architectural renderings and a photometric plan as improvements will be made to the site.

Ms. Eldridge stated the State of Minnesota Department of Public Safety (DPS) approached City Staff in late October regarding the potential reuse of the former Big O Tires, to a State vehicle inspection location. As proposed, the State would enter into a 10-year lease agreement with Applicant and Property Owner Totem Foods, Inc. The State has operated this program since 1989 and has various locations around the state and is seeking to expand its presence across the Twin Cities metro and throughout greater Minnesota.

Ms. Eldridge pointed out the property has multiple curb cuts located off the west side of the property, adjacent to a private road, and one shared curb cut off Xerxes Avenue North with the Pearle Vision building. Both sites have additional curb cuts providing alternative ingress and egress to their respective properties. Eighty percent of the vehicles inspected come from auto dealers and are scheduled in advance online.

Ms. Eldridge stated DVS employees carry out vehicle re-certification inspections on prior salvage vehicles that have been fully repaired, ensuring vehicles are roadworthy and that all parts were obtained legally. DVS indicated that no repairs would take place on site of the property and the existing hoists would be removed.

Ms. Eldridge noted Staff determined the closest use under the City's Unified Development Ordinance (UDO) was that of an "automobile and truck repair and service station," which is permitted as a conditional use in the Commercial Mixed-Use (MX-C) District where the property is located.

Ms. Eldridge stated City Staff brought the proposal for the Subject Property to the January 8, 2024, City Council meeting for a concept review as the proposal was not clearly defined within the City's Unified Development Ordinance, and was therefore considered an "unlisted use." Unlisted uses under the City Code require the City Council to determine that a use is "substantially similar in nature" to another use and that "potential impacts on the surrounding community as an existing use" are mitigated; otherwise, the use is considered "prohibited."

Ms. Eldridge stated Conditional Use Permits (CUP), as outlined under Section 35-7700, are those uses that have been identified because of their nature, operation, location, special requirements, or characteristics, and that may only be allowed in a particular zoning district after submittal of an application, review, and recommendation by the Planning Commission and approval by City Council. The CUP process regulates the location, magnitude, and design of conditional uses consistent with the Comprehensive Plan as well as the regulations, purpose, and procedures of the City's UDO.

Ms. Eldridge pointed out that a CUP may not be granted unless certain criteria have been satisfied. First, the conditional use will be in accordance with general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO. The applicant responded by saying it would provide a stable business for an unoccupied site. The applicant will keep the site in good condition and help keep the property and the surrounding area attractive, clean, and safe.

Ms. Eldridge stated next, that the establishment maintenance, or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals, or comfort. The applicant responded by saying the use promotes and enhances the general public welfare in that the inspections done are for the purpose of ensuring parts installed on vehicles were legally purchased.

Ms. Eldridge added the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The applicant's response showed the use will not be injurious to the use and enjoyment of other properties, nor diminish their value. The inspection use will be less impactful than traditional automotive uses, and there will not be noise related to repairs. No vehicle parts will be stored at the site, and State vehicles will be parked inside overnight.

Ms. Eldridge stated the CUP requires that the conditional use will not impede the normal and orderly development and improvement of surrounding property for permitted uses. The State's intended use will not impede development. There is nothing with the use that restricts surrounding uses or development.

Ms. Eldridge noted the CUP requires that adequate measures have been or will be taken to provide ingress, egress, and parking so as to minimize traffic congestion in public streets. Traffic will flow in the front of the property and out the back. There is plenty of parking and space at the site for the proposed use. The site will not be conducting inspections of large vehicles such as semis.

Ms. Eldridge added impacts such as noise, hours of activity, and exterior lighting must be sufficiently addressed to mitigate negative impacts. Given that no automotive repairs will occur at the site, there will not be the noise a traditional automotive user may have. It is intended to operate within traditional business hours and existing exterior lighting will be repaired by the owner of the property.

Ms. Eldridge pointed out engineering reviewed the plans and provided high-level comments dated January 3, 2024. As a typical automotive service center of this size would have a peak hourly traffic of 35 to 55 cars, the proposal represents a potential 40 percent reduction in traffic from the previous use. As proposed, the use would anticipate 15 vehicles per hour across five bays. With respect to erosion control, the submitted narrative does not discuss potential areas of site disturbance. This would be reviewed as part of the building permit process.

Ms. Eldridge explained the Building Official conducted a cursory review of the submission in a memo dated February 2, 2024, and determined the re-classification of the building. A Metropolitan Council Sewer Availability Charge determination for the change of use shall be submitted prior to the issuance of any permits.

Ms. Eldridge added a public hearing notice for the conditional use permit request was published in the Brooklyn Center Sun Post on January 25, 2024, and properties located within the notification area received a copy of the notice and map, along with a link to the scheduled virtual Planning Commission meeting. The notice was also published on the City's website.

Ms. Eldridge stated the Planning Commission ultimately held a public hearing for the aforementioned application at their meeting on February 8, 2024, and those commissioners in attendance were generally supportive of the outlined request. Representatives from the State of Minnesota (DVS) and representatives of the applicant and property owner, including 10 K Architecture and Launch Properties, were in attendance and answered questions relating to traffic impacts, the business model, anticipated employment, circulation, and façade improvements.

Ms. Eldridge noted the Commissioners engaged in conversation regarding the application, particularly as the use relates to traffic and queuing in the private road near Starbucks, but showed consensus in a re-activation of the site. City staff discussed the proposed conditions as outlined within the provided Planning Commission Report, including communication with the neighboring property owner at 5515 Xerxes Avenue North regarding the shared driveway. No modifications to the proposed conditions were made by the Planning Commission. Following the close of the public hearing, the Planning Commission elected to unanimously (5-0) recommend City Council approval of the requested issuance of a Conditional Use Permit for the proposed State of Minnesota vehicle inspection station.

Councilmember Jerzak explained he attended the Planning Commission meeting, and the Commission had a great discussion. The use is a good fit for the property, and Staff recommends the use. Overall, he supports the proposal.

Councilmember Lawrence-Anderson asked if the property is on the Opportunity Site. Ms. Eldridge confirmed the property is not part of the Opportunity Site. Councilmember Lawrence-Anderson stated she has no objections to the recommendation.

Councilmember Kragness asked if buses and semis will be inspected, due to conflicting information provided. Greg Loper, Vehicle Services Program Director with Driver Vehicle Services, explained DVS does very few inspections on semis and RVs. Those inspections will be

completed at the St. Cloud location.

Mayor Graves asked how many workers would be at the site, if the positions were new, and what the requirements were for the positions. Mr. Loper stated there is an existing supervisor who will move to the site. Then two of the five inspector positions are open. They look for applicants with some automotive acumen with some mechanical experience and can educate dealers on best practices. Mayor Graves requested Brooklyn Center folks be considered for the role. Mr. Loper requested any interested residents to apply with DVS for openings at this potential site and other open positions.

Councilmember Jerzak moved and Councilmember Kragness seconded to adopt RESOLUTION NO. 2024-35, a Resolution Approving Planning Commission Application No. 2024-001 for issuance of a Conditional Use Permit at 5501 Xerxes Avenue North into an inspection station for the State of Minnesota Department of Public Safety (DPS) and Division of Driver and Vehicle Services (DVS), based upon the findings of fact and submitted application, and as amended by the conditions of approval in the resolution.

Motion passed unanimously.

10. COUNCIL CONSIDERATION ITEMS

None.

11. COUNCIL REPORT

None.

12. ADJOURNMENT

Councilmember Lawrence-Anderson moved and Councilmember Jerzak seconded adjournment of the City Council meeting at 7:39 p.m.

Motion passed unanimously.

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

WORK SESSION
FEBRUARY 26, 2024
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 April Graves at 7:39 p.m.

ROLL CALL

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

ACTIVE DISCUSSION ITEMS

**ABATEMENT PROCESS REVIEW FOR PROPERTY NUISANCE CODE VIOLATIONS
AND VACANT PROPERTIES**

City Manager Reggie Edwards provided an overview of the item and invited Community Development Director Jesse Anderson to continue the presentation.

Mr. Anderson noted violations for a non-vacant residence include garbage, debris, and rubbish under the Nuisance Property Code, 19-103. Abatement authorization is located in 19-105 which allows the owner up to ten days to correct the violation. The abatement process is located in 12-1206. If there has been no appeal, the request for abatement shall be brought to the City Council/EDA, and a resolution must be adopted to abate the violation.

Mr. Anderson explained if the Staff finds a violation of the City Code, they attempt to door knock and speak with the resident. They then send a compliance notice with a follow-up date. Staff completes a follow-up inspection which includes another attempt to speak with the resident. If the residence is still in violation, a second compliance notice is sent out with a new follow-up date. If the residence remains in violation, Staff may issue a citation. Staff will do several follow-up inspections and attempt to make contact to discuss the violation. After no compliance, Staff will bring the violation of nuisance abatement into consideration by writing a City Council/EDA memo for the City Council/EDA to review. He showed example images.

Mr. Anderson pointed out there is a different process for the abatement of vacant property. Vacant properties are discussed under 12-1501 to 12-1511. 12-507 requires property owners to maintain and secure their property. 12-1504.3 allows for the abatement of violations on the property while 12-1507.14 allows for emergency abatements. In the case of emergency abatements, compliance notice is given for a maximum of ten days to correct the violation and does not require City Council/EDA authorization.

Mr. Anderson shared an example of the non-vacant property at 1208 57th Avenue North. The property was occupied by someone who didn't own the property. Staff received several complaints. Several notices and inspections were completed, but the owner was not located. The property had exterior violations such as the accumulation of trash, debris, and rubbish. The property also had excessive calls for service. Eventually, the case was brought to the City Council/EDA. The City Council/EDA approved the abatement, and the property was abated. The entire process took four months to complete. He showed images of the property.

Mr. Anderson asked if the City Council/EDA would be open to changing the abatement process for occupied properties to make it more similar to the emergency vacant abatement process. If so, after several inspections, Staff can post the property for an abatement of the violation. The abatement will be conducted after the compliance period expires and will not need City Council/EDA approval.

Councilmember/Commissioner Jerzak noted his ample experience with City Codes and abatements. There are countless opportunities for the owners to fix the violations. The process is difficult and often includes distressed neighbors. There are already a lot of checks and balances in place, and the process is fair. Brooklyn Center is one of the last cities doing the abatement process in this manner. He urged his fellow Councilmembers to consider changing the process. He added there is an issue of privacy when abatements are brought before the City Council/EDA.

Councilmember/Commissioner Kragness asked if there would be a benefit for the property owner to come before the City Council/EDA to speak. Mr. Anderson stated the appeal process could include the opportunity to speak before the Council.

Mayor/President Graves stated she wants to make the process easier. Mr. Anderson pointed out abatement isn't the first choice of Staff. Instead, it is a last resort or used for extreme circumstances.

The majority consensus of the City Council/EDA was to move forward with the Staff recommendation to review the abatement process and consider adopting an ordinance that allows for Staff to abate the public nuisance violation and vacant building abatement process without bringing each case in front of council for consideration.

REPEAT TYPE IV RENTAL LICENSE AND RENTAL LICENSE AT NEW CONSTRUCTION

City Manager Reggie Edwards provided an overview of the item and invited Community Development Director Jesse Anderson to continue the presentation.

Mr. Anderson explained the City has had a rental licensing program since the 1970s. In 2010, the City Council/EDA adopted modifications to the Ordinance to create a four-tier performance-based system. The program was modified again in 2018. Each category had an increase in one property code violation to allow for more properties to qualify for a higher license. Also, monthly updates and meeting requirements were removed.

Mr. Anderson stated that 12-901 to 12-1301 is the Rental Ordinance and covers rental license requirements, license renewal, license types and length, the suspension and revocation process, information on police nuisance calls, crime-free housing program requirements, and tenant protection rights.

Mr. Anderson showed a table depicting the rental licensing criteria related to code violations. The category is based on the number of property code violations per inspected unit. The category determines the renewal time period among other things.

Mr. Anderson showed a table depicting the rental licensing criteria related to police service calls, which include events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft, and arson.

Mr. Anderson showed another table with inspection frequency, crime-free housing, and action plan requirements for each category of rental license. Type I, a three-year license, has the fewest requirements while the Type IV license has the most requirements.

Mr. Anderson stated there are two ways to qualify as a repeat Type IV license. First, it could be due to code violations. The property owner must renew the license, complete an inspection, and review property code violations for Council approval. Alternatively, one may become a repeat Type IV license by not meeting the Mitigation Plan requirements. This could occur by failing to turn in a Mitigation Plan or not meeting the Crime Prevention Through Environmental Design (CPTED) requirements.

Mr. Anderson explained that 44 percent of rentals are Type I, 34 percent are Type II, 14 percent are Type III, and only seven percent of rental licenses are Type IV. Of the 54 Type IV licenses in Brooklyn Center, 18 licenses are repeat Type IV with various levels of repetition. Seven repeat Type IV licenses are due to failure to meet the Mitigation Plan and 11 are a combination of Code violations and failure to meet the Mitigation Plan.

Mr. Anderson showed a table depicting previous years' data on repeat Type IV licenses. The percentage of repeated Type IV licenses increased in 2023. In 2023, 90 percent of repeat Type IV

licenses improved on their inspections but failed to meet other requirements. In 2023, three residences were six-time repeat Type IV licenses.

Mr. Anderson explained in the event that a license is suspended, revoked, or not renewed by the City Council/EDA, it is unlawful for the owner or the owner's duly authorized agent to thereafter permit any new occupancies of vacant or thereafter vacated rental units until such time as a valid license may be restored by the City Council/EDA. Licenses may be suspended for up to ninety days and may, after the period of suspension, be reinstated subject to compliance with this Chapter and any conditions imposed by the City Council/EDA at the time of suspension.

Mr. Anderson added licenses that are revoked will not be reinstated until the owner has applied for and secured a new license and complied with all conditions imposed at the time of revocation. Upon a decision to revoke, deny, or not renew a license, no approval of any application for a new license for the same facility will be effective until after the period of time specified in the City Council/EDA's written decision, which shall not exceed one year. The City Council/EDA shall specify in its written decision the date when an application for a new license will be accepted for processing. A decision not to renew a license may take the form of a suspension or revocation. A decision to deny an initial application for a new facility will not take the form of a suspension or revocation unless false statements have been made by the applicant in connection with the application. A decision to deny an initial application shall state the conditions of reapplication.

Mr. Anderson stated there were a few questions from the Housing Commission, but they were more general about the rental licensing program. The Commission did not provide any recommendations after Staff presented the repeat Type IV information to them. However, Staff would recommend the program remain how it currently operates. An alternative option would be to reduce the license type to one or two license categories if the applicant fails to meet or submit a Mitigation Plan.

Mr. Anderson asked how the City Council/EDA wants to address a property that qualifies as a repeat Type IV rental license.

Councilmember/Commissioner Lawrence-Anderson noted she has been involved with the Housing Commission since 2000. She has been frustrated that a landlord who is following the rules and recommendations of the City is being charged the same amount as a property manager which may be costing the City a lot of money.

Mayor/President Graves stated that Type IV licenses have to pay for a renewal every six months whereas those with a Type I license only have to pay the fee every three years. Mr. Anderson stated a landlord with a repeated Type IV license may have to pay up to \$1800 over the same time period as someone with a Type I license.

Councilmember/Commissioner Lawrence-Anderson asked if there is an inspection fee. Mr. Anderson stated there are two inspections included with the licensing fee. Any additional inspections require an additional fee.

Councilmember/Commissioner Jerzak pointed out tenants may see increased rent as the landlords need to pay more fees for licensing and inspections. Also, it is unfair that tenants are punished for landlords not paying utility fees. He added it is extremely rare for a residence to have too many calls for service and it is a lot of work for the Staff to track. It is likely the tenants causing any issues would be evicted or leave on their own. Eliminating the calls for service requirements would fast-track the process.

Councilmember/Commissioner Kragness asked how many repeat Type IV licenses there are. Mr. Anderson stated there are currently 54 Type IV licenses and, of those, 18 licenses that are repeated. There are also expired Type IV licenses on top of that. Councilmember/Commissioner Kragness pointed out the pie chart is missing one percent. Mr. Anderson stated the percentages were rounded.

Councilmember/Commissioner Kragness asked if the six-month or one-year time period is based on calendar years or from the date of the initial application. Mr. Anderson stated it is based on the inspection date.

Mayor/President Graves asked if there is a difference since the required meetings stopped. Mr. Anderson stated that attendance dropped drastically. They were almost unproductive due to the low attendance. The communication is more individualized now. Mayor/President Graves suggested something similar could benefit businesses, though that is a separate conversation.

Mayor/President Graves noted there could be more information and education regarding Mitigation Plans. She shared an example of a friend who was confused by the timing and the process with a Type IV rental license.

Mr. Anderson stated the delinquent utilities don't impact the licensing category, though it may hold back the process. The special assessment addresses the delinquent utilities.

Mr. Anderson explained properties that have legally not been required to have a rental license due to new construction or a change from owner-occupied to rental will qualify for a Type II License. Properties found operating without a valid rental license from the City or failing to meet City Code requirements or that have been the subject of enforcement actions such as criminal prosecution or civil penalties for violation of this Chapter, will only qualify for a Type III License.

Mr. Anderson stated there hasn't been any single-family new construction converted to rental. As for multi-family new construction, rental license inspection is done during the Certificate of Occupancy inspection with the Building Official. The Building Official goes into every unit and common area and does an inspection for violations. In order for a Certificate of Occupancy to be issued, all of the violations need to be corrected. There is an exception for exterior items that cannot be completed due to weather or do not impact the interior occupancy of the property.

Mr. Anderson noted a recent new construction was Sonder House which included 127 units and is an affordable housing development. Their Type II license expired on May 31, 2023. Upon

renewal, it was found there were 159 violations and 15 police nuisance calls for service. They qualified for a Type II license again.

Mr. Anderson explained Sonder Point is a senior housing development with 143 units. Their Type II license expired on August 31, 2023. As part of the renewal process, 155 violations were found with zero nuisance calls. They also qualified for a Type II license.

Mr. Anderson stated The Sanctuary is another senior housing development whose initial Type II license expired on March 31, 2020. The first renewal included 27 violations which allowed them to qualify for a Type I license. Their second renewal included 83 violations, and they continued to qualify for a Type I license.

Mr. Anderson added Maranatha is an affordable housing development with 137 units. Their initial Type II license expired on August 31, 2019. Their first renewal resulted in a Type I license. The second renewal showed 16 violations and resulted in another Type I license.

Mr. Anderson explained there are four options for new construction rental licensing. First, the ordinance could remain the same but have some clearer language.

Mr. Anderson noted another option new rental licenses could qualify for a Type II license with a review at the one-year mark. This is the preference of the Housing Commission. The license would be changed if the property did not meet the property code violation or validated nuisance police calls for service for a Type II rental license. The rental license would then be adjusted to the new license type that the property qualifies for. This option would require additional changes to the City Code. This could cause some confusion with the applicant due to the issuance of a two-year rental license but doing an inspection during the one-year period. It would be easier to change it to a Type III rental license.

Mr. Anderson stated the third option would be for the new construction properties to qualify for a Type II license. Lastly, an option would be for a property to qualify for a Type IV license. This would require the license to be renewed at three months along with a full inspection.

Mr. Anderson pointed out Staff brought the new construction rental licenses to the Housing Commission for review on July 18, 2023. During the Housing Commission meeting, Staff explained the City ordinance regarding new rental licenses citing that the ordinance allows for a Type II license. There were concerns about tenants refusing to call the police for fear of retaliation. There was no consensus on a recommendation to the Council. However, there was some support to review the police nuisance calls for service at a new property after one year and then to adjust the license if necessary.

Councilmember/Commissioner Lawrence-Anderson noted the desire of the Housing Commission to do a one-year check-in was for the City to provide resources to the property if needed. There are new construction projects coming up, and they need to get a handle on the licensing.

Councilmember/Commissioner Lawrence-Anderson pointed out that between Sonder House and

Sonder Point, hundreds of new units were added. She asked how many new inspectors were hired. Mr. Anderson stated a rental inspector hasn't been added in several years.

Councilmember/Commissioner Lawrence-Anderson stated an additional hire should be considered in the upcoming budget. If the City is increasing the number of units, they need to have the appropriate Staff. She added she would like to know if there have been improvements at Sonder House and Sonder Point.

Mayor/President Graves stated she hasn't heard additional complaints from the tenants at Sonder House, but that doesn't necessarily mean the issues have been resolved. She stated it would be beneficial to do a one-year check-in if there is Staff available. The responsibility lies in the management of the building and should be reviewed.

Mr. Anderson stated Staff is doing a hard look at revenue for the upcoming budget year and will propose some Staff changes.

PENDING LIST FOR FUTURE WORK SESSIONS

UPCOMING ITEMS

- Memorial Policy
- Special Assessment Policy/Franchise Fees (referred to Financial Commission)
- Beautification and Public Art Commission
- New and Repeat Type IV Rental License Review (referred to Housing Commission)
- Food Truck Ordinance/License
- Emerald Ash Borer Policy Review (referred to Park & Rec Commission November)
- Opioid Settlement
- ARPA Funds
- Grants: Revenues & Expenses
- Purchasing Policy
- Interveners Impact
- Revisit Resolution 2021-73
- Planning Application Process

ADJOURNMENT

Councilmember/Commissioner Butler moved and Councilmember/Commissioner Jerzak seconded adjournment of the City Council/Economic Development Authority Work Session at 8:27 p.m.

Motion passed unanimously.

Council Regular Meeting

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Barb Suciu, Assistant City Manager/City Clerk

BY: Shannon Pettit, Deputy City Clerk

SUBJECT: Approval of Licenses

Requested Council Action:

- *motion to approve the licenses as presented.*

Background:

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

Hospitality Accommodations

Super 8
6445 James Circle N

Mechanical

Wencl Services
8148 Pillsbury Ave S, Bloomington 55420

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

ATTACHMENTS:

Description	Upload Date	Type
Rental Criteria	6/20/2023	Backup Material
Rentals	3/4/2024	Backup Material

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

b. Police Service Calls.

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

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

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

Rental Licenses for Council Approval 3.11.24

Location Address	License Subtype	Renewal/Initial	Owner	Property Code Violations	License Type	Police CFS*	Final License Type**	Previous License Type***	Consecutive Type IV's
4018 58th Ave N	Single	Initial	Mains'l Properties Llc	3	Type II	N/A	Type II	N/A	N/A
3614 50th Ave N	Multiple Family 1 Bldg 3 Units	Renewal	Devlin Wubbena Did not meet requirements	2	Type I	0	Type IV	Type IV	4
6100 Summit Dr	Multiple Family 1 Bldg 140 Units	Renewal	Lux Apartments Llc	195 = 1.39 per unit	Type II	0	Type II	Type I	N/A
4207 Lakeside Ave N, #138	Condo	Renewal	Patrick Hall Did not meet requirements	3	Type II	0	Type III	Type III	N/A
1900 Brookview Dr	Single	Renewal	lh3 Property Minnesota Lp Did not meet requirements	2	Type I	0	Type IV	Type IV	3
3200 63rd Ave N	Single	Renewal	Adedamola O Ogundipe	1	Type I	0	Type I	Type I	N/A
3412 62nd Ave N	Single	Renewal	Excel Properties Llc	1	Type I	0	Type I	Type II	N/A
4307 66th Ave N	Single	Renewal	Fyr Sfr Borrower Llc Did not meet requirements	4	Type II	0	Type IV	Type IV	2
4522 Kathrene Dr	Single	Renewal	Ejimadu Properties Llc	10	Type IV	0	Type IV	Type II	0
4600 65th Ave N	Single	Renewal	AUX Funding LLC Met Requirements	12	Type IV	0	Type IV	Type III	0
5312 Northport Dr	Single	Renewal	SFR II BORROWER 2021-3 LLC Met Requirements	8	Type III	0	Type III	Type IV	N/A
5344 Twin Lake Blvd E	Single	Renewal	Takasi Sibuya Met Requirements	0	Type I	0	Type I	Type III	N/A
5420 Fremont Ave N	Single	Renewal	Herman Capital Ptnrs Iii	5	Type II	0	Type II	Type I	N/A
5701 James Ave N	Single	Renewal	Sunset View Rentals Llc	10	Type IV	0	Type IV	Type II	0
5728 Logan Ave N	Single	Renewal	Konstantin Ginzburg	6	Type III	0	Type III	Type II	N/A
6012 York Ave N	Single	Renewal	MNHOMES2GO LLC Did not meet requirements	12	Type IV	0	Type IV	Type IV	4

6106 Aldrich Ave N	Single	Renewal	Home Sfr Borrower Llc Did not meet requirements	2	Type I	0	Type IV	Type IV	6
6225 Unity Ave N	Single	Renewal	HPA CL2 LLC Did not meet requirements	2	Type I	0	Type IV	Type IV	3
6325 Kyle Ave N	Single	Renewal	Cuong Pham Met Requirements	7	Type III	0	Type III	Type IV	N/A
6436 June Ave N	Single	Renewal	Spirit Properties, LLC	15	Type IV	0	Type IV	Type II	0
6618 Colfax Ave N	Single	Renewal	Dhanraj Khemraj Did not meet requirements	3	Type II	0	Type IV	Type IV	2

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

**License type being issued

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

All properties are current on City utilities and property taxes

Council Regular Meeting

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Barb Suciu, Assistant City Manager/City Clerk

SUBJECT: Amending the 2024 City Council Meeting Schedule

Requested Council Action:

- *motion to amend the 2024 City Council meeting schedule to accommodate the revised budget schedule*

Background:

At the December 11, 2023, City Council meeting, the 2024 City Council meeting schedule was approved. Since the adoption of the schedule, there have been discussions of modifying the budget meetings format. Attached is the amended 2024 City Council meeting schedule with the revised budget meetings.

These changes reduce the original eight (8) budget meetings to three (3). These meetings will start at 5:00 p.m. and end at 9:00 p.m. If approved this evening, staff will adjust the Council's calendars and city's website to reflect the changes.

Budget Issues:

- none

Inclusive Community Engagement:

- none

Antiracist/Equity Policy Effect:

- none

Strategic Priorities and Values:

Maintain a strong financial position

ATTACHMENTS:

Description	Upload Date	Type
2024 Revised CC Meeting Schedule	3/5/2024	Backup Material



2024 City Council Meeting Schedule

Regular City Council Meetings

Meetings will be held in person

Study/Work Session 6:00 p.m.

Informal Open Forum 6:45 p.m.

Regular Session 7:00 p.m.

Work Session – After regular session

Brooklyn Center City Council regularly meets on the 2nd and 4th **Monday** of each month, unless Monday is a holiday.

January 8	January 22
February 12	February 26
March 11	March 25
April 8	April 22
May 13	May 27
June 10	June 24
July 8	July 22
August 12	August 26
September 9	September 23
October 14	October 28
November 12	November 25
December 9	

Optional Work Session dates:

February 5

May 6

August 5

Special City Council Meetings

All dates are **Monday** unless otherwise noted

April 1	7:00 p.m.
Board of Appeal & Equalization	CC
April 15	6:00 p.m.
Board of Appeal & Equalization Reconvene	CC
June 3 May 6	5:00 p.m.
Capital Improvement Fund, Council Priorities, Revenues	CCR
June 26	5:00 p.m.
Budget - Audit Presentation/ Revenue Overview	CCR
July 15	6:00 p.m.
Budget – Department Presentations	CCR
July 29	6:00 p.m.
Budget – Department Presentations	CCR
Aug. 5	6:00 p.m.
Budget – Department Presentations	CCR
Aug. 19	5:00 p.m.
Dept. Budgets, Debt Serv Funds, Central Garage	CCR
Oct. 7 Nov. 18	5:00 p.m.
Budget - Special Revenue Funds	CCR
Oct. 21	6:00 p.m.
Budget – Enterprise Funds	CCR
Dec. 2	6:30 p.m.
Budget - 2025 Budget Hearing	CC

CC - Council Chambers

CCR - Council Commission room located on main level City Hall

All dates are subject to change. Contact City Hall at 763-569-3300 to verify dates and times.

Council Regular Meeting

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Jesse Anderson, Community Development Director

BY: Krystin Eldridge, Associate Planner

SUBJECT: Resolution Identifying the Need for Living Communities Demonstration Account (LCDA) Funding and Authorizing an Application for Grant Funds for the Centre for Asian Pacific Islanders (CAPI)

Requested Council Action:

- motion to approve the resolution identifying the need for Livable Communities Demonstration Account (LCDA) Pre-Development funding and authorizing the submission of application for grant funds for the Centre for Asian and Pacific Islanders (CAPI).

Background:

Livable Communities Act (LCA) grants are awarded to communities that participate in the Livable Communities Program in the seven-county metro region. Through four different grant programs, LCA grants help communities achieve development goals that create more housing choices, support living wage job creation, and connect jobs, housing, and regional amenities to create a more equitable region.

Each of the four LCA programs have a different focus.

- Livable Communities Demonstration Account (LCDA) supports development and redevelopment projects that link housing, jobs and services, and use community and regional infrastructure efficiently
- LCDA - Transit Oriented Development (LCDA-TOD) grants are focused on high density projects that contribute to a mix of uses in TOD-eligible areas.
- The Tax Base Revitalization Account (TBRA) helps clean up contaminated land and buildings for subsequent development. These grants are intended to provide the greatest public benefit for the money spent, strengthen the local tax base, and create and preserve jobs and/or affordable housing. TBRA has three different funding opportunities: Contamination Cleanup, Site Investigation, and SEED.
- The Local Housing Incentives Account (LHIA) helps expand and preserve lifecycle and affordable housing, both rented and owned. LHIA applications are submitted through the Minnesota Housing Super RFP, as opposed to directly to Met Council.

On July 11, 2022, City Council approved a resolution to support the Centre for Asian and Pacific Islanders (CAPI) in their Capital Campaign by applying for grant funding from Metropolitan Council Pre-Development funding. In their first phase, CAPI completed community engagement, explored site and building design, expanding services and operations and preliminary schematics to fit the needs of the immigrant communities they serve. CAPI has reached the design phase and will further refine building design and prepare for construction phase with a new application to Metropolitan Council grant program.

CAPI approached city staff for the second phase to refine building design and draft construction documents for an expected construction start date in mid 2025.

Staff has determined that CAPI's project is eligible for LCDA Pre-development funding.

Budget Issues:

There are no budget items to consider at this time. No funding match is required for the use of grant funds.

Inclusive Community Engagement:

- none

Antiracist/Equity Policy Effect:

- none

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
2022 Resolution Applying for LCDA Grant	2/28/2024	Backup Material
Resolution	2/28/2024	Resolution Letter
CAPI Narrative	3/4/2024	Backup Material
CAPI Project Background	3/4/2024	Backup Material

Member Elliott introduced the following resolution and moved its adoption:

RESOLUTION NO. 2022- 67

RESOLUTION IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES
DEMONSTRATION ACCOUNT (“LCDA”) FUNDING AND AUTHORIZING AN
APPLICATION FOR GRANT FUNDS

WHEREAS, the City of Brooklyn Center is a participant in the Metropolitan Livable Communities Act (“LCA”) Local Housing Incentives Program for 2022 as determined by the Metropolitan Council, and is therefore eligible to apply for LCA Livable Communities Demonstration Account and Tax Base Revitalization Account Transit Oriented Development (Collectively, “TOD”) funds; and

WHEREAS, the City has identified a proposed project within the City that meets LCDA purposes and criteria and is consistent with and promotes the purposes of the Metropolitan Livable Communities Act and the policies of the Metropolitan Council’s adopted metropolitan development guide; and

WHEREAS, the City has the institutional, managerial and financial capability to adequately manage an LCDA grant; and

WHEREAS, the City certifies that it will comply with all applicable laws and regulations as stated in the grant agreement; and

WHEREAS, the City acknowledges LCDA grants are intended to fund projects or project components that can serve as models, examples or prototypes for LCDA development or redevelopment elsewhere in the Region, and therefore represents that the proposed project or key components of the proposed project can be replicated in other metropolitan-area communities; and

WHEREAS, only a limited amount of grant funding is available through the Metropolitan Council’s Livable Communities LCDA initiative during each funding cycle and the Metropolitan Council has determined it is appropriate to allocate those scarce grant funds only to eligible projects that would not occur without the availability of LCDA grant funding.

NOW, THEREFORE, BE IT RESOLVED that, after appropriate examination and due consideration, the governing body of the City:

1. Finds that it is in the best interests of the City’s development goals and priorities for the following proposed LCDA project to occur at this particular site at this particular time:

Center for Asian and Pacific Islanders (CAPI)

2. Finds that that LCDA Project component(s) for which Livable Communities LCDA funding is sought:

RESOLUTION NO. 2022- 67

- a. Will not occur solely through private or other public investment within the reasonable foreseeable future; and
 - b. Will occur within the term of the grant award (two years for Pre-Development grants, and three years for Development grants,) only if Livable Communities LCDA funding is made available for this project at this time.
3. Authorizes the City Manager to submit on behalf of the City an application for Metropolitan Council Livable Communities LCDA grant funds for the LCDA project components identified in the application, and to execute such agreements as may be necessary to implement the LCDA Project on behalf of the City.

July 11, 2022

Date

ATTEST:


City Clerk


Mayor

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

Member
and moved its adoption:

introduced the following resolution

RESOLUTION NO. _____

RESOLUTION IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES
DEMONSTRATION ACCOUNT ("LCDA") FUNDING AND AUTHORIZING
AN APPLICATION FOR GRANT FUNDS

WHEREAS, the City of Brooklyn Center is a participant in the Metropolitan Livable Communities Act ("LCA") Local Housing Incentives Program for 2022 as determined by the Metropolitan Council, and is therefore eligible to apply for LCA Livable Communities Demonstration Account and Tax Base Revitalization Account Transit Oriented Development (Collectively, "TOD") funds; and

WHEREAS, the City has identified a proposed project within the City that meets LCDA purposes and criteria and is consistent with and promotes the purposes of the Metropolitan Livable Communities Act and the policies of the Metropolitan Council's adopted metropolitan development guide; and

WHEREAS, the City has the institutional, managerial and financial capability to adequately manage an LCDA grant; and

WHEREAS, the City certifies that it will comply with all applicable laws and regulations as stated in the grant agreement; and

WHEREAS, the City acknowledges LCDA grants are intended to fund projects or project components that can serve as models, examples or prototypes for LCDA development or redevelopment elsewhere in the Region, and therefore represents that the proposed project or key components of the proposed project can be replicated in other metropolitan-area communities; and

WHEREAS, only a limited amount of grant funding is available through the Metropolitan Council's Livable Communities LCDA initiative during each funding cycle and the Metropolitan Council has determined it is appropriate to allocate those scarce grant funds only to eligible projects that would not occur without the availability of LCDA grant funding.

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

1. Finds that it is in the best interests of the City's development goals and priorities for the following proposed LCDA project to occur at this particular site at this particular time:

Center for Asian and Pacific Islanders (CAPI)

RESOLUTION NO. _____

2. Finds that that LCDA Project component(s) for which Livable Communities LCDA funding is sought:

- a. Will not occur solely through private or other public investment within the reasonable foreseeable future; and
- b. Will occur within the term of the grant award (two years for Pre-Development grants, and three years for Development grants,) only if Livable Communities LCDA funding is made available for this project at this time.

3. Authorizes the City Manager to submit on behalf of the City an application for Metropolitan Council Livable Communities LCDA grant funds for the LCDA project components identified in the application, and to execute such agreements as may be necessary to implement the LCDA Project on behalf of the City.

March 11, 2024

Date

Mayor

ATTEST: _____
City Clerk

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

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

Narrative for Round 2 Funding Application: CAPI Immigrant Opportunity Center Design Fees

Project Overview: The CAPI Immigrant Opportunity Center is a crucial endeavor aimed at providing essential services and support to immigrants in Brooklyn Center. The project aims to create a welcoming and functional space where immigrants can access resources, education, and support to integrate successfully into society. Locus Architecture, Ltd has been entrusted with the architectural design for this project, with a commitment to creating a space that reflects the values of inclusivity, accessibility, and community engagement.

Round 1 Accomplishments: During the initial phase of Community Planning and Development (PD), we laid the foundation for the project by conducting extensive community outreach and needs assessments. This allowed us to understand the specific requirements and aspirations of the immigrant community we aim to serve. In the subsequent phase of Schematic Design (SD), we developed a preliminary design concept that received approval and enthusiastic support from stakeholders. This phase was completed within the allocated budget and timeline, demonstrating our commitment to efficient project management.

Round 2 Objectives: In Round 2, our objectives encompass two critical phases: Design Development (DD) and Construction Documents (CD).

Design Development (DD) Phase Objectives:

- Further refine the design concept based on feedback from stakeholders and consultants.
- Develop detailed floor plans, elevations, and sections to illustrate spatial relationships and design intent.
- Specify materials, finishes, and systems to ensure functionality, durability, and sustainability.
- Incorporate accessibility features and comply with relevant building codes and regulations.
- Coordinate with structural engineers to integrate structural elements into the design.

Construction Documents (CD) Phase Objectives:

- Translate the approved design into comprehensive construction documents.
- Create detailed drawings, schedules, and specifications necessary for bidding and construction.
- Coordinate with structural, mechanical, electrical, plumbing, and civil engineers to integrate their systems into the design.
- Ensure clarity and accuracy in documentation to facilitate smooth construction execution.
- Obtain necessary permits and approvals from regulatory authorities.



Budget Breakdown for Round 2: The proposed budget for Round 2 includes design fees for Architectural, Structural, Civil, and Cost Estimating services. For the Design Development (DD) phase, the total cost is \$151,080, which includes architectural services and structural engineering. Additionally, \$144,836 is allocated for the Construction Documents (CD) phase. This comprehensive allocation ensures the successful completion of both phases, laying the groundwork for the subsequent construction phase.

Total for Round 2: Total Design Development and Construction Documents Fees for Round 2: \$295,916.

Timeline: We have set ambitious yet achievable milestones for Round 2, with the goal of completing both the Design Development and Construction Documents phases by May 1, 2025. This timeline allows for thorough design refinement, collaboration with consultants and stakeholders, and the creation of comprehensive construction documentation. Subsequently, we will be prepared to initiate the construction phase and transform the design vision into a tangible reality.

Conclusion: The CAPI Immigrant Opportunity Center is a project of immense significance, representing our commitment to supporting and empowering immigrant communities. With Round 1 successfully completed and Round 2 poised to advance the project towards construction, we are confident in our ability to deliver a transformative space that will positively impact countless lives. We are grateful for the opportunity to continue our partnership and respectfully request funding support for Round 2 to ensure the successful realization of this important endeavor.



guiding self-determination & social equality

CAPITAL CAMPAIGN CASE FOR SUPPORT



"CREATING A WELCOMING SPACE FOR ALL"

MISSION

CAPI's mission is to guide refugees and immigrants in their journey toward self-determination and social equality.

VISION

Our vision is that all refugees and immigrants can lead successful lives and exercise fully their civic rights and responsibilities.



Donate or make a pledge
to CAPI's Immigrant
Opportunity Expansion:



www.capiusa.org



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LETTER FROM THE CEO

Mary Niedermeyer



During the height of the COVID-19 pandemic, Olufunmilayo Abiodun, a single mother of two, lost her job. She turned to CAPI for help and found more than just food support. CAPI provided her with a unique opportunity to learn new skills through online classes, despite her initial difficulties with technology. The program not only helped her overcome these obstacles but also provided her with a sense of community and support. "CAPI taught me how to fish so I can eat throughout my life," she said. Olu and her classmates were a part of CAPI's first-ever virtual graduation ceremony. She now hopes to pursue a career in healthcare by continuing her education in nursing.

As a non-profit organization dedicated to assisting immigrant and refugee communities, CAPI has been a fixture in the Twin Cities for over 40 years. By moving to Brooklyn Center in 2018, we have become more accessible to those who need our services the most. We take pride in the trust we have built with our participants, like Olu, and strive to be a positive force in their lives.

CAPI's building expansion will become a vital community resource hub for immigrants, refugees, and other local communities. The goal is to see an increase in job creation, greater financial empowerment opportunities for our participants, increased food shelf capacity, and support for small business growth. Furthermore, the addition of a greenhouse and community gardens will provide a much-needed green space to the neighborhood.

CAPI is an established organization with a nationally recognized proven impact. Our desire is not to create a bigger CAPI, but to better serve the growing needs of our communities. We seek to create more opportunities for learning and collaboration amongst the few, but dedicated organizations in Brooklyn Center. This will allow us to share resources, knowledge, and build a brighter future for our communities.

Sincerely,

Mary Niedermeyer

SECTION 1: CAPI USA

CAPI USA was founded in 1982 as The Centre for Asian and Pacific Islanders by a coalition of church groups dedicated to helping Southeast Asian refugees settle in Minnesota in the aftermath of the Vietnam War.



The organization initially began as a culturally specific food shelf but evolved to meet the changing needs of the communities calling Minnesota home.



In 2008, The Centre for Asian and Pacific Islanders became CAPI USA, or simply CAPI. This change reflected the increasingly multicultural focus and diverse client base of the organization as it embraced new refugees and immigrants from all over the world,

including East and West Africa, India, Nepal, Myanmar, Bhutan, Thailand, and Burma, among others. In 2018, CAPI moved its headquarters to the heart of Brooklyn Center and today serves more than 12,000 individuals through its integrated basic needs, economic empowerment, civic engagement, and refugee services programming.

Margret is a mother of four in a single-parent household. While working two jobs, Margret made the time to educate herself and obtain stable housing for her family. She came to CAPI seeking assistance in our Financial Services department after visiting the food shelf, where she saw the opportunity to acquire more financial education, especially surrounding her credit and savings.



After working with the Financial Services team, she is now a homeowner in the city of Brooklyn Park. Margret's oldest son said, "Thank you for helping my mom. I finally have my own room!"

3

CAPI'S 4 PILLARS

CAPI is a social services nonprofit with a mission to serve immigrants and refugees in the greater Twin Cities metro. We do this through our 4 pillars which provide holistically integrated services to our community members.

Basic Needs

Our Basic Needs department includes a number of programs such as our culturally-specific food shelf; community health initiatives; benefits enrollment center; and more. Our food shelf is typically the first point of entry for many of our participants and how they begin to connect with our other departments to utilize the services provided.



Economic Empowerment

CAPI's Economic Empowerment department focuses on longer-term family stability through providing credentialed training and job placement services; financial and homeownership programs; and also working with community members in the Minnesota Family Investment Program (MFIP), the state's welfare reform program for low-income families with children.



"CAPI helped me a lot and I'm thankful there is CAPI to help people like me."
-Zang Yang

Refugee Services

CAPI's Refugee Services department works primarily with the Afghan community on housing stability, employer engagement, and English language acquisition. CAPI is also preparing to launch the Community Friend Program which will partner interested Afghan families with community members for social support, language practice, job search help, and other activities to help them feel more at home.

Civic Engagement & Public Policy

Our Civic Engagement and Public Policy team is dedicated to making voting more accessible through our phone banking, canvassing, educational events, roundtables, and more. They also participate in moving legislation forward at the Capitol through advocacy work with the community.

4

RECOGNITION

CAPI is recognized as a community leader for its work in the refugee and immigrant communities. In 2022, CAPI was selected as a recipient of the inaugural Hometown Hero Award by Major League Soccer (MLS), Minnesota United FC, and Black Players for Change. This award recognized CAPI's work in the field of food security and also acknowledged and celebrated the work of four other diverse, innovative, and impactful leaders making positive change in the Minneapolis-Saint Paul communities.

In 2023, CAPI was a recipient of the Twin Cities Business Magazine's Community Impact Award in the area of Community Building. CAPI received this award in recognition of its resettlement efforts for newly arriving Afghan refugees, culturally-specific food shelf, and other critical services provided by the organization to immigrant and refugee communities.



(From left: Paul Andinghetti, Victor Yang, Tamaryanna Williams, Sec. of State Steve Simon, Mary Nedemeyer, Sarah Shiri)

CAPI also received the National Association of Secretaries of State (NASS) Medallion Award which honors individuals, groups, or organizations with an established record of promoting the goals of NASS.

In July of 2023, CAPI's Communications Director, Monique Hernandez, received the L'Etoile Du Nord (Star of the North) award from MN UFC. This award is given to a community member who represents the values of the soccer club: resilience, inclusivity, dedication, passion, teamwork, and respect.



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SECTION 2: VISION FOR THE FUTURE

In our 41-year history, CAPI has built strong relationships and trust in Minnesota. We now have the opportunity to sink our roots deep into the Brooklyn Center community and serve as an anchor in the Northwest Suburbs, to provide capacity to other nonprofits and strengthen our neighbors around us.



CAPI USA proposes to build a 3-story, 16,000 sq. ft. expansion to its Immigrant Opportunity Center (IOC 2.0) to create new wealth-building services on a vacant .84-acre parcel of land owned by CAPI at 5950 Brooklyn Boulevard in Brooklyn Center.



CAPI's 16,000 sq. ft. expansion is expected to cost \$7.5 million to complete, financed by bonding, contributions, and CAPI reserves. Ground-breaking is expected to begin by 5/2025, with a 6/2026 completion date. In its first year of operation, CAPI expects to provide wealth-building services to more than 5,000 individuals, creating more than 75 new jobs, supporting more than 20 small businesses, and realizing a significant economic impact in the Brooklyn Center area.

6

EQUITABLE DEVELOPMENT

CAPi's Immigrant Opportunity Center Expansion will respond to the rapid growth in community demand for CAPi's services while positioning the region to respond to current and future needs.

According to the latest census and Metropolitan Council data, Brooklyn Center has the second-highest poverty rate of all MN cities (39.5%), and 65.5% of its residents identify as BIPOC. The proposed redevelopment at 5930/5950 Brooklyn Boulevard is centrally located, transit-accessible, and within an area designated 'economically distressed' by the Community Development Financial Institutions (CDFI) Fund.



REGIONAL RESILIENCY

With a decades-long history of supporting immigrants and refugees, CAPi is increasingly sought by local, state, and federal agencies to support the resettlement of newly arrived refugees. With mass displacement from conflict and climate crises continuing to surge globally, these local resettlement pressures will assuredly escalate in coming years. CAPi's Immigrant Opportunity Center Expansion creates a dignified 'welcome center' and critical infrastructure to support Minnesota's ability to effectively resettle newcomers seeking refuge here.

7

THE IMMIGRANT OPPORTUNITY CENTER EXPANSION

Community is at the heart of everything CAPi does. As we embark on this endeavor, one quickly sees that this is about building a better future for our communities. Our revitalized Immigrant Opportunity Center will be a 16,000-square-foot expansion to our existing building in Brooklyn Center. The purpose of this expansion is to serve as a community resource hub, increase food access, and build wealth in our community.

When you first walk into the Center, you will step into a café, which will face Brooklyn Boulevard and provide a welcoming space to community members and visitors. Right next door, there will be retail space for an immigrant small business.



When you walk outside, you will find a patio where folks are eating, drinking, and socializing. Around the corner, you will find community gardening plots and a beautiful greenhouse.

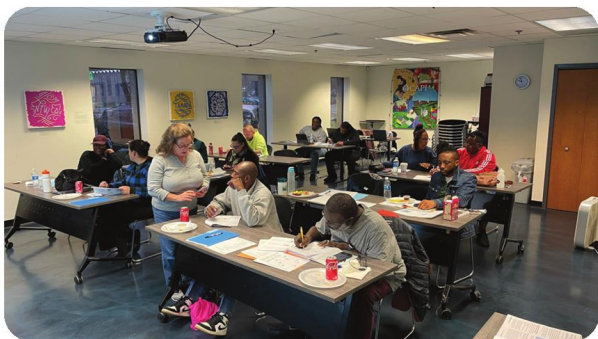
The new CAPi greenhouse and community gardens will offer our participants the opportunity to grow culturally-specific food year-round and allow them to provide for their families, sell produce to the café, and donate surplus produce to the CAPi food shelf.



These two social enterprises, our new café and greenhouse, plus business incubator space, will create at least 20-30 new jobs in the community.

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We envision a place where our community feels safe and welcome. A place where they can access multiple services in one location that address their needs holistically, find avenues that empower them toward self-sufficiency, and access additional services through partner tenants housed in the Center: an immigration law firm, mental health professionals, and other specialized services.



Our desire is to foster organic relationships where we are not duplicating our services but rather, finding intersections with other providers. To establish a community covenant with all tenants where the services that we collectively provide truly get to the root of the needs in the community.

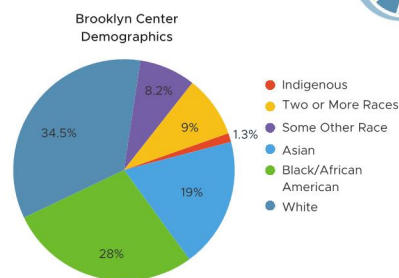


This new community hub for our participants means when they walk through the doors, they will discover, not just a new building, but a place that has been intentionally created to be a welcoming space for people to come in and have their needs met holistically.

9

THE GROWING COMMUNITY NEED

The Brooklyn Center community houses a 65.5% BIPOC-identifying population as seen in the graph on the right; and people who are Hispanic or Latino make up 13.8% of the city's population, making it the most ethnically diverse city in the state of Minnesota. Over the last 25 years, Brooklyn Center has seen an exodus of jobs, decline in median income, and a rise in poverty.



With 2 major grocery stores in the area shutting down (Aldi and Walmart), the residual economic impact from the pandemic, and the arrival of new refugee and immigrant communities settling in the Twin Cities – the demand for CAPi's services has increased. As a result of that demand, CAPi has nearly tripled in size since 2018.

In 2021, the Twin Cities saw an influx of refugees arriving from Afghanistan. These individuals and families starting from ground zero needed housing, transportation, stable employment, and help enrolling their children into school. This is a minor list of basic needs that needed to be met, and in which CAPi played a role in meeting. The longer-term support of finding community and a place to belong is something that our residents at large can participate in.

As our communities secure education, training, and employment, the entire state benefits from this. As of 2018, there were over 18,000 immigrant entrepreneurs, employing 53,239 workers. There are significant financial barriers for immigrants seeking to start their own business—through the resources that CAPi provides in our financial services department and through the many relationships we have developed with financial institutions, the opportunity to build a system of knowledge and equity is strengthened.

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SECTION 3: FINANCIALS

GROWING TO MEET DEMAND

Since 2018, CAPI's annual revenue increased by 26.1% and expenses by 17.15%, demonstrating both demands for services and community support. Sources of revenue include Hennepin County; the State of Minnesota; United Way; private grants and contributions from foundations, corporations, and individuals.

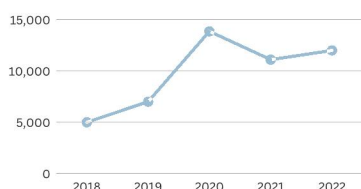
Yearly Revenue vs. Expenses



Total Participants Served Across Programs

The number of community participants served has grown 25% since 2018.

As an immigrant and BIPOC-led organization, CAPI mobilizes 55 FTE staff (76% staff of color), more than 12 different sub-granted partners, 2 tenant agency partners and more than 200 volunteers to advance the social and economic position of diverse constituents. CAPI's \$6.3MM annual budget is stewarded by its diverse 8-member management team (70% BIPOC) and governing board of directors (75% BIPOC).



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ESTIMATED FINANCIALS FOR CAPITAL PROJECT

CAMPAIGN BUDGET

Construction	\$ 5,256,250
Contingency	\$ 561,750
Fixtures, Furnishings & Equipment (FFE)	\$ 358,500
Architecture/ Design	\$ 474,781
Environmental including soil borings	\$ 11,349
Survey	\$ 10,200
SAC/ WAC Fees	\$ 19,800
Project Management & Consulting Fees	\$ 231,253
Insurance and Legal Fees	\$ 70,544
Soft Cost Contingency	\$ 11,250
Construction Loan Fees & Interest	\$ 54,323
Site Costs (greenhouse, fencing, terrace, landscaping)	\$ 400,000
Entitlement Costs	\$ 40,000

**Total Development Cost
\$7,500,000**

BUILDING AND SITE PREPARATION

Acquisition of land was accomplished in 2018 resulting in no acquisition fees for the building. Building construction costs are estimated at \$325 per square foot for a 16,000 square foot expansion project.

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FOUR YEAR OPERATING HISTORY

Revenue	2018	2019	2020	2021
Contributions and grants	\$3,276,399	\$2,587,955	\$4,042,911	\$4,504,253
Program service revenue	\$36,269	\$44,990	\$142,232	\$0.00
Investment income	\$513	\$357	\$507	\$15,377
Other revenue	\$7,705	\$19,913	\$9,822	\$91,764
Total revenue	\$3,320,886	\$2,653,215	\$4,195,472	\$4,611,394
Expenses	2018	2019	2020	2021
Grants and similar amounts paid	\$0.00	\$0.00	\$568,671	\$314,813
Benefits paid to or for members	\$0.00	\$0.00	\$0.00	\$0.00
Salaries, other compensation, employee benefits	\$1,150,107	\$1,207,753	\$1,702,285	\$2,090,207
Total fundraising expenses	\$193,161	\$79,001	\$130,568	\$242,311
Other expenses	\$1,162,234	\$1,209,494	\$1,528,578	\$1,448,088
Total expenses	\$2,361,016	\$2,536,775	\$3,779,534	\$3,880,783
Revenue less expenses	\$959,870	\$116,440	\$415,938	\$730,611
Total assets	\$4,546,920	\$4,426,585	\$4,936,142	\$5,356,141
Total liabilities	\$1,285,922	\$1,049,147	\$1,162,766	\$825,124
Net assets or fund balances	\$3,260,998	\$3,377,438	\$3,773,376	\$4,503,987

*Information from CAPI's Form 990 2018-2021 and can be found at capiusa.org

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SECTION 4: CREATING A WELCOMING SPACE FOR ALL

CAMPAIGN PREPARATION

August 2023-October 2023

CAPI will establish a Capital Campaign Committee and an Internal Steering Committee. The internal steering committee will consist of board members and senior leadership and function as support and structure for the Capital Campaign Committee. The Capital Campaign Committee will develop the capital campaign and appeals strategy and be paramount in engaging substantial donorship through personal networks.

APPEALS STRATEGY

October 2023-October 2026

CAPI will draw upon the strength of its long history, established community relationships, and innovative approach to raise the remaining funds.

FUNDING PROGRESS

\$4.1M+ currently secured through Capital Bonding Appropriation, Foundations, Business and Individual Giving.



Fundraising Goals:

- Year 2024: \$600,000
- Year 2025 : \$800,000
- Year 2026: \$1,000,000

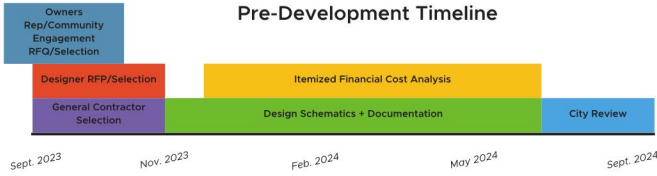
TOTAL: \$2,400,000

*\$1M of New Market Tax Credits is still pending



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CAPITAL PROJECT TIMEFRAME



Expansion	September 2023	June 2026
Project Management Planning	September 2023	October 2024
Public Engagement	November 2023	April 2024
Design	November 2023	July 2024
Pre-Construction	October 2024	April 2025
Construction	March 2025	May 2026
Closing	May 2026	June 2026

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SECTION 5: APPENDIX



BOARD OF DIRECTORS

Board Chair

Vinothini Ambrose

Deployment Consulting Director, Marcus Buckingham Company

Vice-Chair

Mike Thorsteinson

Retired Executive Director at Three Rivers Community Action

Treasurer

Valerie Bosmans

Senior Vice President & Chief Audit Executive at DXC Technology

Secretary

Nkechi Anyamele

Assistant Vice President & Development Consulting Director, Wells Fargo

Milton Liu

CEO at Stir Foods

Lucky Wagner

Manager of Compliance Vendor Oversight at Medica

Louiza Kiritopoulos-Adams

Organizational Psychologist at LK2Connect

Sillys Heilman

Homemaker

Ali Tranvik

Lead Pastor at Cross of Glory Church in Brooklyn Center

Laura Martin

Managing Director, US Head of HR, BMS Group

Bernadette Theis

Administrator at Jardin, Logan & O'Brien P.L.L.P.

Ellisun Wolterstorff

Chief Experience Officer at Allegro Group Inc.

KEY STAFF MEMBERS

Interim CEO

Mary Niedermeyer

CAP USA

Development Director

Paul Andrighetti

CAP USA

Director of Finance and Operations

David Monterrosa

CAP USA

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CAP Immigrant Opportunity Center:
5930 Brooklyn Blvd, Brooklyn Center, MN
55429

CAP South Minneapolis:
3702 East Lake Street, Minneapolis, MN 55406



guiding self-determination & social equality

Scan the QR code to donate or make a pledge to
CAP's Expansion Project. Or visit our website:



www.capiusa.org

Council Regular Meeting

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Elizabeth Heyman, Director of Public Works

BY: Kory Andersen Wagner, Public Works Planner

SUBJECT: Resolution Acknowledging Awarded Funds for the Hennepin County Active Living Technical Assistance Program and Authorizing Acceptance of Grant Funds

Requested Council Action:

- motion to approve a resolution acknowledging the awarded funds for the Hennepin County Active Living Technical Assistance Program and authorizing acceptance of grant funds

Background:

The City of Brooklyn Center desires to use the funds to acquire temporary speed tables to address cut-through neighborhood traffic and speeding issues. Speed tables will aid Public Works in planning for permanent solutions. The speed table acquisition is part of a citywide effort to be more responsive, community-centered, and data-driven in developing permanent speeding and traffic-calming solutions. The first application will occur this summer in the East Palmer Lake Neighborhood, where Public Works will study the effectiveness of speed tables in reducing speeding on Newton Avenue and adjacent streets.

Additional Information:

The Active Living program offers funding and technical assistance to cities and local agencies, focusing on enhancing the walkability and bike-ability of business and community nodes. The support includes policy and plan development (e.g., bike and pedestrian plans, wayfinding plans), demonstration projects (e.g., walk, bike, and roll assessments, pop-up placemaking events), and programming/equipment investments to promote a culture of walking and biking. The program aims to address inequities, test potential improvements, and engage communities in fostering a more pedestrian and bike-friendly environment.

Budget Issues:

The technical assistance grant is \$15,000. The City will use the entire amount to purchase speed tables. Matching funds are not required. The estimated total cost for four (4) speed tables is \$20,224. The City will cover the remaining \$5,224 with operation funds.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Maintain and enhance public places, Improve community and employee safety

ATTACHMENTS:

Description	Upload Date	Type
Resolution Letter	3/4/2024	Resolution Letter
Background Information on Active Living Grant	3/4/2024	Backup Material

Member
and moved its adoption:

introduced the following resolution

RESOLUTION NO. _____

RESOLUTION ACKNOWLEDGING AWARDED FUNDS FOR THE
HENNEPIN COUNTY ACTIVE LIVING TECHNICAL ASSISTANCE
PROGRAM AND AUTHORIZING ACCEPTANCE OF GRANT FUNDS

WHEREAS, the Hennepin County Active Living Technical Assistance Program Grants, provides funds to create healthy, livable, and people-centered communities where people can walk, bike, and take transit to everyday destinations. It supports county priorities including disparity reduction, complete streets, climate resilience, and health equity, and;

WHEREAS, The City of Brooklyn Center desires to use the funds to acquire temporary speed tables to address cut-through neighborhood traffic and speeding issues. Speed tables will aid Public Works in planning for permanent solutions.

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

1. Authorizes its City Manager to accept awarded funds on behalf of the City for the Hennepin County Active Living Technical Assistance Program Grant and to execute such agreements as may be necessary to implement the project on behalf of the City.

March 11, 2024

Date

Mayor

ATTEST: _____
City Clerk

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

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

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

HENNEPIN COUNTY
MINNESOTA

2023 Active Living Technical Assistance Program Guidelines

Application period opens: October 16, 2023

Applications due: November 16, 2023



2023 Active Living Technical Assistance Program Guidelines

Hennepin County's Active Living program aims to create healthy, livable, and people-centered communities where people can walk, bike, and take transit to everyday destinations. It supports county priorities including disparity reduction, complete streets, climate resilience, and health equity. Since 2014, the program has successfully invested over \$350,000 in 35 projects to support healthy and active communities.

Through the Active Living Technical Assistance program, Hennepin County's Housing and Economic Development (HED) department is offering financial and technical resources to municipalities and other local agencies within the Hennepin County's Public Health jurisdiction for activities that improve the walkability and bikeability of business and community nodes.

Eligible activities must support walkable and bikeable business and community destinations, focusing on the **routes** to the destinations or the **destinations** themselves. In addition, projects should prioritize the needs of residents most likely to experience health disparities, including low-income residents, communities of color and indigenous people, seniors, young people, and people with disabilities.

Eligible Applicants

To be eligible for the Grant, the applicant must be located within Hennepin County's Public Health jurisdiction, which includes all cities/jurisdictions except Bloomington, Edina, Minneapolis, and Richfield. Any city, park district, watershed district, or other public agency is eligible to apply if the project is located in Hennepin County outside those four cities.

Eligible Activities

The Active Living Technical Assistance program funds should be used to advance local government's efforts to create more walkable and bikeable communities. Activities can include policy creation, plan development, assessments, demonstration projects, and implementation strategies. Capital projects are not eligible for funding.

Policy and plan development are key first steps to creating a built environment that promotes and supports physical activity and healthy communities. Any proposal should focus on plans or policies that will advance to the creation of compact, walkable places while highlighting the needs of populations experiencing inequities. Examples include:

- Bike and pedestrian plans
- Wayfinding plans
- Travel demand management plans
- Complete streets policies
- Active Living policies

Funding can be used to support an entire planning effort, or to support a specific component of a planning process (eg. community engagement efforts to inform development of a bike or pedestrian plan).

Demonstration projects show how potential changes or improvements will influence pedestrian and bike behavior without a large financial or time commitment. They can test multiple concepts, provide experiential education to potential users, engage community and stakeholders in conversations, and help leverage later infrastructure investments. A proposed project should either be derived from current community plans / policies, or have a role in informing development of a policy or plan.

Examples of this type of project include:

- Walk, bike, and roll assessments to document current conditions within an area
- Pop-up placemaking events to activate public spaces and/or engage the community about potential improvements
- Temporary bike lanes/trails and pedestrian improvements to test concepts prior to implementation

Demonstration projects should include community and/or stakeholder engagement to get feedback for evaluating the project and identifying next steps.

Programming and equipment investments aim to create a culture of walking and biking in a community and can be done to support implementation of planning efforts or demonstration projects. Improvements can include investment in hard goods (benches or bike facilities) or investment in programming that aims to educate and encourage people to walk, bike or roll. Efforts should tie to a broader strategy to increase walking and biking in the community and also should specifically target populations experiencing health disparities (seniors, youth, persons with disabilities, low-income residents, and communities of color). Examples include:

- Equipment investments that are tied to specific efforts to support biking and walking among communities experiencing health disparities (e.g. benches, bike facilities, signage/wayfinding).
- Programs aimed to educate, encourage and engage the community to increase walking or biking to a route or a destination in a community (e.g., learn-to-bike courses, bike-benefits programs in business districts, or activities that help experience and collect input on a project).

Projects must demonstrate how they are part of a more comprehensive strategy to support walkable, bikeable communities and not a stand-alone effort. Projects should also consider how their results / findings will influence or be integrated into other projects or future work.

Eligible expenses

Technical assistance resources can be used for the following items:

- Planning, design, engineering, or engagement consultants
- Engagement supplies or outreach materials
- Communications, marketing, or program materials

- Equipment that is part of a larger planning effort (e.g. a plan to develop a wayfinding strategy could include purchase of wayfinding signage)
- Materials to support demonstration projects and temporary/pilot projects (e.g. bollards, temporary barriers) to support a pedestrian or bike improvement that will inform the planning and implementation of longer term development or transportation project

Funding

Maximum County funding per project is \$15,000. A total of approximately \$75,000 is available for 2024. Funded elements of projects must be completed by October 15, 2024.

Examples of Past Projects

Hennepin County has partnered to create bikeable, walkable places that support healthy communities for the past 10 years. Examples of past partnerships include:

- Technical assistance to the cities of Osseo and St. Louis Park to develop policy language that supports health for inclusion in the cities' 2018 **comprehensive plan** updates
- **Complete Streets** policies or resolutions in nine cities
- Funding for the **ARTery experiment** in the City of Hopkins
- **Active Living Design Checklist** for new development projects, adopted by the City of Brooklyn Center
- Funding for **demonstration projects** that tested placemaking and active transportation improvements in the cities of Brooklyn Center, New Hope, Osseo, and St. Louis Park
- **Walking and cycling assessments** in Crystal, Dayton, Golden Valley, and Robbinsdale
- **Targeted engagement** including communities of color, seniors, youth, and persons with disabilities to inform projects and plans in Brooklyn Center, Brooklyn Park, and Minnetonka
- **Bicycle Parking ordinance** adopted by the City of New Hope

Application Process

The Request for Proposal is expected to be released on **October 16**, with applications due on **November 16, 2023**, via the Hennepin County Supplier Portal. Funding recommendations are anticipated by the end of November, with funding awarded in February 2024. Awards are not final until approved by the Minnesota Department of Health and Hennepin County Board or its delegated authority.

Potential applicants are strongly encouraged to review projects with Denise Engen prior to application submittal. County staff will be available to provide technical assistance to applicants prior to

submitting their applications, but not later than **October 13, 2023**. Email: Denise Engen, denise.engen@hennepin.us

Application Evaluation

Applications will be evaluated using the following criteria:

- Proposal provides a clear project description and project map.
- Proposal has clear description of how it will improve the walk and bike environment on a route or within a business or community node; and explains why this project is expected to lead to that result.
- Proposal describes how it ties into a larger scale effort to advance walking and biking in the area, and how this project will further advance that work.
- Proposal demonstrates clear plan for engaging stakeholders, especially low-income, communities of color, seniors, youth, and persons with disabilities.
- The need, and degree of need, for why county resources are needed for this project.

Applications will be reviewed by a committee consisting of Hennepin County Housing and Economic Development and Public Health staff to thoroughly evaluate applications.

Contracting and Reporting

Hennepin County will work with funded entities to identify best method for completing the work, which could include a contract with the city or a direct contract with any consultants.

Hennepin County requires all awarded projects to include a final report summarizing the process, outcomes, and impacts of the completed work and a memorandum, upon request, detailing feedback on how to improve the Active Living technical assistance program and application process.

Hennepin County is obligated to follow the Minnesota Data Practices Act, which means that applications will likely be public data after the evaluation and selection process. A statement identifying data as copyrighted or otherwise protected does not prevent public access to the data contained in the response if such data does not qualify as trade secret data.

Hennepin County is not obligated to pay any costs incurred in the preparation of an application. Hennepin County reserves the right to accept or reject any or all applications received, to accept or reject any late applications, to request additional information as deemed necessary to review any application, to negotiate with all qualified proposers, to use any or all proposer ideas and/or approaches presented, or to cancel this application process, if it is in the best interest of Hennepin County to do so.

Receiving funds through this program does not guarantee that future capital funding will be made available.

Council Regular Meeting

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Jesse Anderson, Community Development Director

BY: Ginny McIntosh, Planning Manager

SUBJECT: An Ordinance Amending Chapter 35 of the City Code of Ordinances Regarding the Crystal Airport Zoning Ordinance, Fence Permits and Standards, Commercial Vehicle Standards, Dimensional and Structural Standards in the R1, R2, R3 and R4 Zoning Districts, Nonconforming Structures and Uses, Public Notice Sign Requirements and Use Amendments for Licensed Day Cares, Licensed Group Family Day Cares, Licensed Residential Facilities, and Massage and Sauna Establishments (Second Reading)

Requested Council Action:

(1) Motion to approve a second reading regarding the adoption of an ordinance amending Chapter 35 of the City Code of Ordinances regarding the Crystal Airport Zoning Ordinance, fence permits and standards, commercial vehicle standards, dimensional and structural standards in the R1, R2, R3, and R4 zoning districts, nonconforming structures and uses, public notice sign requirements, and use amendments for licensed day cares, licensed group family day cares, licensed residential facilities, and massage and sauna establishments.

(2) Motion to approve a resolution for summary publication of the aforementioned ordinance amendments in the Brooklyn Center *Sun Post*.

Background:

Prior to January 2023, the City's zoning code had not been meaningfully updated since the 1960s. In 2019, the City adopted the 2040 Comprehensive Plan and embarked on a major overhaul of the City's zoning (Chapter 35), sign (Chapter 34), and platting (Chapter 15) codes with consultant Bolton & Menk, as these chapters presented significant barriers, difficulties, and confusion in their ease of use and overall accessibility for not only City staff, but residents, business owners, and prospective developers as well. Further, these chapters were out of compliance with state law, opening the City up to legal risks. City staff worked with Bolton & Menk to merge the three chapters into one, unified document (Unified Development Ordinance), which was adopted in January 2023.

During the adoption process for the City's current UDO, City staff recognized that no UDO is perfect, and that updating and writing land use policies is as much an "art" as it is a technical process. Given the fact that the City was attempting to re-write a 1960s code to address the needs of "now," the intent of the updated UDO was to serve as a robust living, breathing document that modernizes City land use policies, and that can be further revised and evolve over time. City staff was to the understanding that the UDO *should* be reviewed on a regular basis.

In keeping with this, City staff has identified a number of proposed changes to the UDO—these changes are

included as an attachment. It should be noted that the majority of proposed changes address general cleanup; however, the driver for these amendments at this time are primarily due to the recent update to the Crystal Airport Zoning Ordinance and its adoption, and a surge in interested parties wanting to open larger daycares in the City.

A public hearing notice was published in the Brooklyn Center *Sun Post* on January 25, 2024, and a copy of the notice was published to the City of Brooklyn Center website. Additional notification was sent to the Minnesota Department of Natural Resources (DNR) for the proposed modifications to the MRCCA Overlay District provisions and Metropolitan Airports Commission (MAC) for the proposed adoption of the Crystal Airport Zoning Ordinance.

The Planning Commission held a public hearing on February 8, 2024 regarding the requested amendments. No comments or questions were relayed to City staff in advance of the public hearing.

A few members of the general public were present virtually for the meeting, but presented no concerns regarding the outlined amendments. One resident had general questions regarding the fence permitting process. The Commissioners engaged in discussion of the Crystal Airport Zoning Ordinance approval process and some direction City staff was seeking regarding the proposed new primary structure height maximums in the R1, R2, and MRCCA RN Districts.

As proposed, City staff recommended the height maximums adjust from 25 feet to 30 feet; however, City staff was also amenable to allowing for up to 32 feet. Conversation was held regarding how height is calculated and certain assumptions for a typical home (e.g. ceiling heights, roof pitch, house styles and typical heights), and the Commissioners appeared to be generally supportive of offering greater flexibility to residents at the 32 foot height maximum. City staff wanted to bring this to City Council's attention for consideration and has updated the proposed amendment language to reflect a 32-foot maximum height for primary structures in the R1, R2, and MRCCA RN Districts.

Following close of the public hearing, the Planning Commission unanimously recommended (5-0) City Council approval of the requested amendments.

At the February 26, 2024 City Council meeting, a first reading of the requested ordinance amendments to Chapter 35 (Unified Development Ordinance) of the City Code were presented on consent. No comments or feedback were provided by City Council at that time.

A copy of the the proposed amendment language is included as Exhibit A with this memo, as well as an updated memo summarizing the requested changes to Chapter 35 (Unified Development Ordinance). A standalone copy of the ordinance amendment language as well as a resolution approving summary publication of the requested ordinance amendments are also provided as attachments to this memo.

Budget Issues:

None to consider at this time.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Provide quality services with fair and equitable treatment, Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
Council Memo with Exhibits - An Ordinance Amending Chapter 35 of the City Code of Ordinances (Second Reading)	3/5/2024	Backup Material
Ordinance-UDO Amendments (03.11.2024)	3/5/2024	Ordinance
Resolution-Summary Publication-UDO Amendments (03.11.2024)	3/5/2024	Resolution Letter
presentation	3/13/2024	Presentation



DATE: March 11, 2024

TO: Dr. Reggie Edwards, City Manager

THROUGH: Jesse Anderson, Community Development Director

FROM: Ginny McIntosh, Planning Manager

SUBJECT: An Ordinance Adopting Comprehensive Amendments to Chapter 35 (Unified Development Ordinance) of the City Code of Ordinances – Second Reading

Recommendation:

(1) Motion to approve a second reading regarding the adoption of an ordinance amending Chapter 35 of the City Code of Ordinances regarding the Crystal Airport Zoning Ordinance, fence permits and standards, commercial vehicle standards, dimensional and structural standards in the R1, R2, R3, and R4 zoning districts, nonconforming structures and uses, public notice sign requirements and use amendments for licensed day cares, licensed group family day cares, licensed residential facilities, and massage and sauna establishments, and **(2)** motion to approve a resolution for summary publication of the aforementioned ordinance amendments in the Brooklyn Center *Sun Post*.

Background:

Prior to January 2023, the City's zoning code had not been meaningfully updated since the 1960s. In 2019, the City adopted the 2040 Comprehensive Plan and embarked on a major overhaul of the City's zoning (Chapter 35), sign (Chapter 34), and platting (Chapter 15) codes with consultant Bolton & Menk, as these chapters presented significant barriers, difficulties, and confusion in their ease of use and overall accessibility for not only City staff, but residents, business owners, and prospective developers as well. Further, these chapters were out of compliance with state law, opening the City up to legal risks. City staff worked with Bolton & Menk to merge the three chapters into one, unified document (Unified Development Ordinance), which was adopted in January 2023.

City staff worked through a complete overhaul of the UDO, with the intent to:

- Align the UDO with the City's 2040 Comprehensive Plan;
- Bring the UDO into compliance with state law, particularly with waterbody protections and development review requirements;
- Reorganize the UDO so it is clearer and easier to use;
- Modernize regulations to ensure they meet community needs and promote equity; and
- Improve customer service and regional competitiveness

Key changes to the updated UDO included:

- The consolidation of zoning districts;
- Clarifying and modernizing allowed uses within each zoning district;

- Bringing environmental preservation policies into alignment with state law; and
- Clarifying city land use approval and review policies to better support staffs' ability to effectively administer the UDO

During the adoption process for the City's current UDO, City staff recognized that no UDO is perfect, and that updating and writing land use policies is as much an "art" as it is a technical process. Given the fact that the City was attempting to re-write a 1960s code to address the needs of "now," the intent of the updated UDO was to serve as a robust living, breathing document that modernizes City land use policies, and that can be further revised and evolve over time. City staff was to the understanding that the UDO *should* be reviewed on a regular basis.

In keeping with this, City staff has identified a number of proposed changes to the UDO—refer to Exhibit A.

A public hearing notice was published in the Brooklyn Center *Sun Post* on January 25, 2024, and a copy of the notice was published to the City of Brooklyn Center website—refer to Exhibit B. Additional notification was sent to the Minnesota Department of Natural Resources (DNR) for the proposed modifications to the MRCCA Overlay District provisions and Metropolitan Airports Commission (MAC) for the proposed adoption of the Crystal Airport Zoning Ordinance.

The Planning Commission held a public hearing on February 8, 2024 regarding the below-requested amendments. Following closure of the public hearing, the Planning Commission unanimously recommended (5-0) City Council approval of the requested amendments.

Adoption of the Crystal Airport Zoning Ordinance

The Crystal Joint Airport Zoning Board (JAZB) was formed in 2021 with the intent to update the Crystal Airport's zoning ordinance, which had not been updated since 1983. Minnesota State Statutes 360.063, Subd. 3(2)(b) requires that, "a joint board shall have as members two representatives appointed by the municipality owning or controlling the airport and two from the county or municipality, or in case more than one county or municipality is involved, two from each county or municipality, in which the airport hazard area is located, and in addition a chair is elected by a majority of the members so appointed." For the Crystal Airport, these member cities included: Crystal, Brooklyn Park, Brooklyn Center, New Hope, Minneapolis, Robbinsdale, and the Metropolitan Airports Commission (MAC).

As constituent counties and municipalities had 60 days to join in creating a Joint Airport Zoning Board, City Council adopted Council Resolution No. 2021-100, which authorized the City of Brooklyn Center to join the Joint Airport Zoning Board and appointed representatives to said Board. The Joint Airport Zoning Board ultimately convened numerous times between October 2021 and November 2023 to develop an updated airport zoning ordinance that would achieve a reasonable level of safety while considering compatible community development and social and economic costs of redistricting land uses. This ordinance was also crafted in response to certain improvements made at the Crystal Airport in 2020, including: lengthening the main runway, converting the parallel runway to a parallel taxiway, and shortening the turf runway.

A public comment period commenced on April 4, 2023 and closed on May 3, 2023. During this time, a draft copy of the Crystal Airport Zoning Ordinance was made available to the general public at Brooklyn Center City Hall and on the City's website, and the Metropolitan Airports Commission (MAC) mailed notices to those affected parcels and property owners. A public hearing and open house was held on April 19, 2023 at the Crystal Community Center in Crystal, Minnesota, in which 44 people were present (25 of which were members of the public). On June 15, 2023, the Joint Airport Zoning Board elected to submit

the draft Airport Zoning Ordinance to the MnDOT Commission of Transportation for review and approval. On September 24, 2023 the Joint Airport Zoning Board received notice that the Crystal Airport Zoning Ordinance was approved.

On November 8, 2023 the Crystal Joint Airport Zoning Board met and considered the Commissioner's Order; the draft Airport Zoning Ordinance approved by the Commissioner; and the Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order. Ultimately, the JAZB elected to approve the aforementioned documents with the understanding that each municipality would need to incorporate the new Crystal Airport Zoning Ordinance into their respective zoning ordinances and update their official zoning map to reflect the new airport zones.

Following discussion with the City Attorney, City staff agreed to create a new overlay district within Chapter 35 (Unified Development Ordinance) of the City Code. For clarity's sake, the Crystal Airport Zoning Ordinance (document) is proposed for incorporation as an appendix. Draft copies of the new airport safety zones on the City's zoning map are also included as reference.

Permit Requirements for Placement of Fences

Fence permits are required prior to any installation of fencing—these requirements are namely to ensure fences are installed in compliance with the City's regulations regarding materials, height, and setbacks off property lines. Prior to January 2023, the City did not have a fence permitting process. As requested, the identified amendments would provide clarity on when permits are required, and the specific requirements in the residential, Business Mixed-Use (MX-B), and General Industry (I) Districts. Additional language has been added regarding the addressing of potential visual obstructions and vehicle queuing in right-of-way. Examples where this language would benefit is in scenarios where there may be controlled access (e.g. Medtronic, CenturyLink/Lumen).

It should be noted that the fencing requirements outlined under Section 35-5609 are separate from the screening requirements, which are intended to provide a visual buffer between incompatible uses, outlined under Section 35-5608.

Commercial Vehicles as an Accessory Use

When Chapter 35 (Unified Development Ordinance) was adopted in January 2023, accommodations were made to allow residents who drive commercial vehicles and reside in the R1 or R2 District to park their vehicle at their place of residence, subject to certain requirements. As one of the requirements outlines restrictions to the dimensions of a commercial vehicle, City staff initially proposed a definition that followed the Minnesota Department of Transportation's vehicle classification scheme (Classes 1-4); however, this has proven difficult to utilize, and fails to capture some of the vehicles City staff thought options for parking should be afforded to (e.g. food trucks).

Although City staff had wholly intended and noticed for proposed changes to this section, City staff will require additional time to work through the current language in Chapter 35 (Unified Development Ordinance) and additional language found in Chapter 19 (Public Nuisances and Petty Offenses). The provided amendment language contains some light cleanup under Section 35-4402 (*Accessory Uses*), but otherwise remains the same.

Width and Depth Requirements in the R1 and R2 Districts

Following the adoption of the new Chapter 35 (Unified Development Ordinance) in January 2023, City staff noted that a provision regarding a minimum 18-foot width and depth requirement for (main portions of) primary dwellings in the R1 and R2 District, which had been in place for decades, was no longer in the document.

City staff is requesting language regarding minimum width and depth requirements for a dwelling in the R1 and R2 Districts be re-introduced to Sections 35-2201 (*R1-Low Density Residential*), 35-2202 (*R2-Medium Low Density Residential*), and 35-5501 (*Dimensional Standards Summary*).

Definition of Structure Height and Height Requirements in the R1, R2, and R3 Zoning Districts and MRCCA Overlay District

The adoption of the new Chapter 35 (Unified Development Ordinance) also introduced two new overlay districts: MRCCA (Mississippi River Corridor Critical Area) and Shoreland. MRCCA was adopted pursuant to certain authorizations and policies contained in Minnesota State Statutes, Chapter 116G, Minnesota Rules, Parts 6106.0010-6106.0180, and the planning and zoning enabling legislation in Minnesota Statutes, Chapters 462 and 473. The Legislature of Minnesota delegated responsibility to local governments of the state to regulate the subdivision, use, and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems, and provide for the wise use of these areas. Similarly, the Shoreland Ordinance regulations adopted by the City of Brooklyn Center serve as an important land use regulation to help protect surface water quality, near shore habitat, and shoreland aesthetics.

In utilizing the new Unified Development Ordinance, City staff determined that the only definition for “height” was the definition provided by the DNR that defines the “height of structure,” which is written as follows:

Height of Structure. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or ~~average height of~~ the highest gable of a pitched or hipped roof.

City staff debated creating another definition for height for those parcels located outside the MRCCA Overlay District; however, with the requested adoption of the Crystal Airport Zoning Ordinance, which *also* contains a definition for height, this would have resulted in three different definitions of “height.” City staff is requesting removal of the language “average height of” as there have been a couple occasions now where, despite the maximum height of a detached accessory structure being 16 feet, plans for detached garages have resulted in garages that are, in fact, taller than 16 feet, but meet the requirements by definition due to the “average height” language.

The current definition, as it stands, allows for the measurement to be taken from the mid-point of the roof. Depending on how steep an accessory structure’s roof is, this could and has resulted in accessory structures that are in actuality over 20 feet in height. City staff is requesting the removal of the average height language as this not only creates confusion surrounding the height maximum listed for accessory structures, and including detached Accessory Dwelling Units (ADUs), but makes it more difficult to field verify height for primary and accessory structures during inspections.

With the requested removal of the “average height” language from the definition for “height of structure,” City staff is also requesting that the maximum height provisions for principal structures located in the R1 and R2 Districts be modified from 25 feet **to 30 feet**, which should be able to accommodate a two-story home with one (1) foot foundation block, two (2) foot rim, a two (2) foot truss—which is oversized, and 9-foot ceilings, assuming a 26-foot wide home and 6/12 pitch roof, which is fairly typical in Brooklyn Center.

City staff did discuss potentially allowing for perhaps 32 feet in height as a maximum, but were trying to determine adequate scale and compromise given a large majority of homes in Brooklyn Center are one-

story ramblers under 20 feet in height. City staff is not opposed to allowing for up to 32 feet in these districts, but is operating from a more conservative stance. In accommodating these heights, this further addresses certain goals and objectives laid out in the City’s 2040 Comprehensive Plan, and specifically with regard to serving multi-generational households and the creation of more housing options and affordable housing through potential internal or attached accessory dwelling units (ADUs).

As the MRCCA provisions under Section 35-3103 (*CA-Mississippi River Corridor Critical Area*) also outlines a maximum structure height provision of 25 feet in the River Neighborhood (RN) District, City staff is also requesting this be revised to 30 feet as almost all properties located within this District, with the exception of two existing R4 (Medium High Density Residential) District properties, are zoned R1 (Low Density Residential) District. The MRCCA model ordinance initially noted a height maximum of 35 feet in the RN District, so the requested amendments to principal structure heights would fall below that.

In discussions with the Planning Commission at their February 8, 2024 meeting, the Commissioners appeared generally supportive of providing greater flexibilities in terms of height and **there appeared to be consensus in supporting the higher, 32-foot height maximum for primary structures located within the R1, R2 and MRCCA RN Districts.** Given this, the originally drafted amendment language has been updated to reflect a proposed 32-foot primary structure height maximum in the R1, R2, and MRCCA RN Districts.

Amendments to the Density Range for the R3 District

City staff requests an amendment to the outlined density range within Section 35-2203 (*R3—Medium Density Residential*). The current density range provided for in the R3 District is 3-10 dwelling units per acre (DU/Acre); however, Section 35-5100 (*Dimensional Standards Summary*) provides for a density range of 5-15 dwelling units per acre for the R3 District. In reviewing the density ranges for the surrounding zoning districts, and the density ranges identified in the 2040 Comprehensive Plan future land use designations, City staff believes the adjustment to **5-15** dwelling units per acre (DU/Acre) is supported. See Table 1 below for a comparison chart with an assumption of 5-15 dwelling units per acre (DU/Acre) in the R3 District.

City Residential Zoning Districts	R1	R2	R3	R4	R5	MX-N1 MX-N2	MX-C	TOD
<i>Dwelling Units per Acre</i>	3-5	3-10	5-15	10-25	20-31	15-31	10-60	31-130

2040 Comprehensive Plan	Low Density Residential (LDR)	Medium Density Residential (MDR)	High Density Residential (HDR)	Neighborhood Mixed-Use (N-MU)	Commercial Mixed-Use (C-MU)	Transit-Oriented Development (TOD)
<i>Dwelling Units per Acre</i>	3.01-5	5.01-15	15.01-31	15.01-31	10.01-60	31.01-130

Table 1. Comparison of Allowable Density Ranges between City Unified Development Ordinance Zoning Districts and 2040 Comprehensive Plan.

Language Regarding Nonconforming Structures and Uses

In the process of updating the City’s zoning code provisions to the new Chapter 35 (Unified Development Ordinance), nonconformity provisions were included under Sections 35-3101 (*FP—Floodplain*), 35-3103 (*CA—Mississippi River Corridor Critical Area*), and 35-6300 (*Nonconforming Signs*); however, no general provisions for nonconformities were provided for elsewhere in Chapter 35.

Although nonconformity provisions are outlined within Section 462.357 (*Official Controls: Zoning Ordinance*) of the Minnesota State Statutes, City staff wanted clear language referenced within Chapter

35, and considering nonconformity language is already in place for certain overlay districts and signage. Following discussions with the City Attorney, language was crafted under a new section (35-1605—*Nonconformities*), which outlines potential scenarios (e.g. alterations, enlargements, restorations, and abandonments) and how each situation should be handled in the case of an existing nonconformity.

Public Notice Sign Requirements for Public Hearings

City staff is requesting changes to the language currently outlined under Section 35-7500 (*Public Hearings*) and specifically in instances where a notification sign is to be installed in advance of a scheduled public hearing. Currently, Section 35-7504 (*Sign Notice*) dictates that a sign shall be installed in cases where a proposal will result in a district boundary change of five (5) acres or more. City staff is recommending that notification signage be installed whenever there is a proposed re-zoning. Installation of a public notice sign is already required for construction or major alteration of the a structure, except one and two-family dwellings, and buildings accessory thereto.

Additionally, the current provisions stipulate that the property owner of a subject property under review as part of Planning Commission application install said public notice sign with content to be approved by the City’s Zoning Administrator. City staff is requesting that this language be altered as the City has purchased heavy duty metal signs with the language “Development Proposal Under Review” and contact information for the City’s Community Development Department. These signs can be reused multiple times as needed and are stored at the Public Works garage until needed. See Image 1 below for an example.



Image 1. Example of City of Brooklyn Center standard public notification signage.

Amendments to Allowed Use Table

Licensed Day Cares and Group Family Day Cares

Following the adoption of the new Chapter 35 (Unified Development Ordinance), City staff became aware that the provisions outlined for daycares did not account for larger day cares (13 or more persons). City staff is requesting a new use category be added to Section 35-4103 (*Allowed Use Table*), which would allow for licensed day care facilities (13 or more persons) in the R3, R4, R5, MX-N1, MX-N2, MX-C, and TOD Districts through approval of a conditional use permit or CUP. Larger daycares would also be permitted through the issuance of, or amendment to, a conditional use permit for places of religious assembly and public and private elementary and secondary schools in the R1 and R2 District.

As proposed, the requirements outlined for licensed day care facilities under Section 35-4302 (c) would also be updated to align with Minnesota State Statute requirements outlined under Chapter 245A and Minnesota Rules Chapter 9502. Additional requirements are outlined to restrict the size of a licensed daycare to allowable occupancies and the availability of parking, and the location of pick up and drop off areas.

Licensed Residential Facilities

Per Minnesota Statutes, Section 462.357, subdivision 7, and with limited exceptions, a state licensed residential facility serving 6 or fewer persons (and oftentimes referred to as “group homes,” although this term is not recognized by either the Minnesota Department of Health or Department of Human Services) are considered a permitted single-family residential use of property. In reviewing Section 35-4103 (*Allowed Use Table*), City staff noted that the maximum occupancies of Licensed Residential Facilities did not align with either the City’s allowable density range for certain zoning districts or the City’s 2040 Comprehensive Plan.

As such, City staff is requesting the table be updated to remove the “Licensed Residential Facility (6 and fewer persons)” use from the R4 (10-25 DU/Acre), MX-N1 (15-31 DU/Acre), MX-N2 (DU/Acre), and TOD (31-130 DU/Acre) Districts, as the allowable density ranges are in conflict with and do not align with the use. City staff is requesting the addition of the use to the R3 (5-15 DU/Acre) District.

Massage and Sauna Establishments

The City of Brooklyn Center has historically been extremely restrictive with allowing massage and sauna establishments. Under the City’s old zoning code (pre-January 2023), “sauna establishments and massage establishments, provided they do not abut any residential (R1 through R7) district, including abutment at a street line,” were allowed in the C2 District by issuance of a special use permit only. In the Central Commerce Overlay District, which was retired as part of the adoption of the new Unified Development Ordinance in January 2023, sauna and massage establishments were outright prohibited within this overlay district.

As the majority of C2 properties were located within the Central Commerce Overlay District, this effectively prohibited the establishment of one in the City. Further, the City’s current massage establishment licensure provisions and fees, as outlined under Chapter 23 (*Licensing*) of the City Code, make it difficult to establish a massage business in the City and when comparing the use regulations and licensing fees in other neighboring cities.

Although the City’s new Unified Development Ordinance does allow for “sauna and massage establishments” as an accessory use in the MX-N2, MX-C, TOD, and C Districts, this again makes it difficult for someone to establish a business in the City as use must be “incidental and subordinate to the principal use on the same lot.” Most recently, a business owner was looking to expand their business in the City with a float spa/massage establishment; however, due to the accessory use restrictions, the business owner was looking at other cities who allowed for the use and who had lower annual licensing fees.

As a comparison, and in addition to the allowance of massage and sauna establishments as an accessory use only, the City’s annual licensing fee for a massage establishment is \$3,000, with an investigation fee of \$1,500, and additional fees for masseurs/masseuses (\$50 annually), and their individual investigation fee (\$150 per masseur/masseuse). Although City staff understand potential concerns regarding the operations of massage establishments, the City should potentially look at revisions to the licensure process to not only make the City competitive with other cities by reviewing the fees as compared to surrounding cities (many of which are under \$1,000 per year), but other methods of ensuring the City has

quality massage and sauna establishments. Such changes could potentially include placing a maximum cap on the number of licenses in the City, which would be addressed through Chapter 23 (*Licensing*).

CITY OF BROOKLYN CENTER

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING THE CRYSTAL AIRPORT ZONING ORDINANCE, FENCE PERMITS AND STANDARDS, COMMERCIAL VEHICLE STANDARDS, DIMENSIONAL AND STRUCTURAL STANDARDS IN THE R1, R2, R3 AND R4 ZONING DISTRICTS, NONCONFORMING STRUCTURES AND USES, PUBLIC NOTICE SIGN REQUIREMENTS AND USE AMENDMENTS FOR LICENSED DAY CARES, LICENSED GROUP FAMILY DAY CARES, LICENSED RESIDENTIAL FACILITIES AND MASSAGE AND SAUNA ESTABLISHMENTS

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

Article I. Brooklyn Center City Code, Chapter 35, Section 35-1301 k. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- k. For example, under Minnesota Statutes, Section 462.357, subdivision 7, with limited exceptions, requires a state licensed residential day-care facility serving 6 or fewer persons, a licensed day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children shall ~~to~~ be considered a permitted single-family residential use of property. As such, this Chapter shall be interpreted as allowing that specific use as a permitted residential use, ~~but only up to a capacity of 12 persons.~~ A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly permitted in the particular zoning district by this Chapter.

Article II. Brooklyn Center City Code, Chapter 35, Section 35-1600 is amended by adding the following double-underlined language as the new Section 35-1605:

Section 35-1605. NONCONFORMITIES.

- a. Continuance of Nonconformities. The lawful use of any land or building existing at the time of the adoption of this UDO may be continued, even if such does not conform to the regulations of this ordinance, except as provided below:
 - 1) Alterations: A nonconforming building or structure shall not be reconstructed or altered unless such building or structure is changed to conform with the regulations of this UDO.
 - 2) Enlargement: A nonconforming building or structure shall not be added to or

enlarged in any manner unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this UDO.

- 3) Restoration: A nonconforming building or structure which is damaged by fire or other causes to the extent of more than fifty percent (50%) of its market value, unless a formal application for a building permit has been applied for within one hundred eighty (180) days of when the property was damaged, shall not be restored except in conformity with the regulations of this UDO.
- 4) Abandonment: A nonconforming use of a building which has been discontinued for a period of more than one (1) year shall not be reestablished, and any future use shall be in conformity with the regulations of this UDO.
- 5) Maintenance: Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.
- 6) Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than fifty percent (50%) of the square footage of the building shall require the entire building to meet architectural control standards.

b. Nonconforming use of building or land.

- 1) Extension: No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the time of the effective date of this UDO.
- 2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the time of the effective date of this ordinance.
- 3) If any such nonconforming use of land or building ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

Article III. Brooklyn Center City Code, Chapter 35, Section 35-2201 a. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- a. PURPOSE. The purpose of the R1 (Low Density Residential) zoning district is to conserve low-density, single- family neighborhoods. This district primarily supports one family dwellings. Allowed uses are shown in Section 35-4103200 Allowed Use Table.

Article IV. Brooklyn Center City Code, Chapter 35, Section 35-2201 b. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Building Setbacks		
A	Front building setback (minimum)	35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot)
B	Side building setback (minimum)	10 feet
C	Rear building setback (minimum)	25 feet
D	Lot area – (minimum)	9,500 sq. ft. (interior lot) or 10,500 sq. ft. (corner lot)
E	Lot width – one family (minimum)	75 feet (interior lot) or 90 feet (corner lot)
<u>F</u>	Accessory Structure setback, Interior Side or Rear (<u>m</u> Minimum)	5 feet
Other Standards		
<u>G</u> F	Primary structure height (maximum)	<u>32</u> 25 feet
<u>H</u>	Accessory Structure height (<u>m</u> Maximum)	16 feet
<u>I</u>	Density	3-5 units/acre
<u>J</u>	<u>Primary Dwelling Width and Depth (minimum)</u>	<u>18 feet</u>

Article V. Brooklyn Center City Code, Chapter 35, Section 35-2202 a. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- a. PURPOSE. The purpose of the R2 (Medium Low Density Residential) zoning district is to allow for smaller lot sizes or two-family dwellings in residential neighborhoods. Allowed uses are shown in Section 35- 4103~~200~~.

Article VI. Brooklyn Center City Code, Chapter 35, Section 35-2202 b. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Building Setbacks		
A	Front building setback (minimum)	35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot)
B	Side building setback (minimum)	10 feet
C	Rear building setback (minimum)	20 feet
D	Lot area – one family per unit (minimum)	7,600 sq. Ft. (interior lot) or 8,500 sq. Ft. (corner lot)
E	Lot area – two family (minimum)	5,000 sq. Ft./unit (interior and corner lot)
F	Lot width – one family (minimum)	60 feet (interior lot) or 75 feet (corner lot)

<u>G</u>	Lot width – two family (minimum)	75 feet (interior lot) or 90 feet (corner lot)
<u>H</u>	Accessory Structure setback, Interior Side or Rear (m Minimum)	5 feet
Other Standards		
I <u>H</u>	Primary structure height (maximum)	32 <u>25</u> feet
<u>J</u>	Accessory Structure Height (m Maximum)	16 feet
<u>K</u>	Density	3-10 units/acre
<u>L</u>	<u>Primary Dwelling Width and Depth (minimum)</u>	<u>18 feet</u>

Article VII. Brooklyn Center City Code, Chapter 35, Section 35-2203 a. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- a. PURPOSE. The purpose of the R3 (Medium Density Residential) zoning district is to provide medium-density housing in townhouses, or condominium single family attached dwelling units. This district primarily supports attached single-family dwellings, but small lot, detached single-family dwellings are permitted as well. Allowed uses are shown in Section 35-4103~~200~~ – Allowed Use Table.

Article VIII. Brooklyn Center City Code, Chapter 35, Section 35-2203 b. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Building Setbacks		
<u>A</u>	Front building setback (minimum)	35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot)
<u>B</u>	Side building setback (minimum)	10 feet
<u>C</u>	Rear building setback (minimum)	40 feet
<u>D</u>	Lot area – (minimum)	4,000 sq. ft. per unit
<u>E</u>	Lot width – (minimum)	25 feet
<u>F</u>	Accessory Structure setback, Interior Side or Rear (minimum)	5 feet
Other Standards		
G <u>F</u>	Primary structure height (maximum)	35 feet
<u>H</u>	Accessory structure height (m Maximum)	16 feet
<u>I</u>	Density	5-1 <u>50</u> units/acre

Article IX. Brooklyn Center City Code, Chapter 35, Section 35-3100 is amended by adding the following double-underlined language:

Section 35-3100. OVERLAY DISTRICTS.

The following overlay districts are hereby established for the City:

Overlay Districts	
FP	Floodplain
SL	Shoreland
CA	Mississippi River Corridor Critical Area
<u>AP</u>	<u>Airport</u>

The boundaries of the overlay districts are shown on the Zoning Map.

Article X. Brooklyn Center City Code, Chapter 35, Section 35-3101 k. 1) E. 2203 a. is amended by deleting the following ~~stricken~~ language:

- E. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this Unified Development Ordinance. ~~The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.~~

Article XI. Brooklyn Center City Code, Chapter 35, Section 35-3103 f. 2) A. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- 2) STRUCTURE HEIGHT. Structures and facilities must comply with the following standards unless identified as exempt in Section 35-3103(l):

- A. RN District: 2532 feet in residential districts, except for places of religious assembly. 35 feet for all other districts.

Article XII. Brooklyn Center City Code, Chapter 35, Section 35-3100 is amended by adding the following double-underlined language as the new Section 35-3104:

Section 35-3104. A P – AIRPORT

- a. PURPOSE AND INTENT. The Airport Overlay District is established to adopt by reference and implement the Crystal Airport Zoning Ordinance, as adopted on November 8, 2023 by the Crystal Airport Joint Airport Zoning Board (“JAZB”). The Crystal Airport Zoning Ordinance creates zones and establishes boundaries that extend into the City. It is the purpose of the Airport Overlay District to protect the public health, safety, general welfare and ensure land use compatibility to prevent potential obstructions or hazards to air traffic in the air space above and around the City within the airport overlay district.
- b. ADOPTION. The Crystal Airport Zoning Ordinance, together with Exhibits A – F

and additional attached sheets (collectively, the “Airport Ordinance”), are incorporated herein by reference, are available at the Zoning Administrator’s office at City Hall and is codified as Appendix A to the City Code. The Airport Overlay District shall apply to all land within the city designated to be within one of the safety zones set forth in the Airport Ordinance. No use shall be made of any land in any of the safety zones identified in the Airport Ordinance that is contrary to the provisions set forth in the Airport Ordinance.

- c. DESIGNATION OF ZONING ADMINISTRATOR. The City’s Zoning Administrator shall administrate and enforce this section. The City’s Zoning Administrator is designated as the City official entitled to administer and enforce the Crystal Airport Zoning Ordinance.

Article XIII. Brooklyn Center City Code, Chapter 35, Section 35-4013 Allowed Use Table is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE														
	Residential					Commercial/ Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	M X-N1	M X-N2	M X-C	TO D	C	MX-B	I	O	
RESIDENTIAL USES														
HOUSEHOLD LIVING														
Dwelling, one family	P	P												
Dwelling, two family		P												
Townhouse or Condominium Single Family Attached Dwelling Units			P			P	P		P					
Dwelling, live/work						C	C	P	P	A	C			35-4301(a)
Dwelling, multiple family				P	P	P	P	P	P					
Accessory dwelling unit (ADU)	A	A												35-4403
Accessory structures including but not limited to, detached garages, carports, gazebos, sheds, patios, decks, porches, amateur radio equipment,	A	A	A	A	A	A	A	A	A					35-4400

etc.; for use by the occupants of the principal use														
Playground equipment and recreation installations, including Private swimming pools and sport courts	A	A	A	A	A	A	A	A	A					
Licensed Day Care Facilities (12 and fewer children <u>persons</u>) or Licensed Group Family Day Care Facilities (14 and fewer children <u>persons</u>)	P	P	P			P	P			P				35-4302(c)

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE

	Residential					Commercial/ Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	M X-N1	M X-N2	M X-C	TO D	C	MX - B	I	O	
The renting of not more than two sleeping rooms in the principal building by a resident family, provided adequate off-street parking is provided	A	A												
GROUP LIVING														
Nursing homes			C	C	C	C	C							
Assisted living homes			C	C	C	C	C	C	C					
Licensed Residential Facility (6 and fewer <u>persons</u>)	P	P	P			P	P		P					
Licensed Residential Facility (7 and greater <u>persons</u>)			<u>C</u>	C	C	C	C	C	C					
Licensed Day Care Facility (13 and greater person)			C	C	C	C	C	C	C					

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE

EATING, DRINKING, AND LODGING

	Residential					Commercial/Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	M X-N1	M X-N2	M X-C	TO D	C	MX-B	I	O	
Brewpub, micro-winery, and micro-distillery						P	P	P	P	P	P	P		
Clubrooms and lodges						C	C	C	C	C				
Drive-thru eating establishments							C	C		C				35-4402(Cc)
Eating establishments						P	P	P	P	P	P	A		
Banquet, Event, or Conference Facility							C	C	C	C	A			
Hospitality lodging and associated uses							C	C	C	C	C			

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE

	Residential					Commercial/ Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	M X-N1	M X-N2	M X-C	TO D	C	MX-B	I	O	

COMMERCIAL USES

Business to business services						P	P	P	P	P	P	P		
Financial institutions including, but not limited to, full-service banks and savings and loan associations							P	P	P	P				
<u>Licensed Day Care Facilities (13 and greater persons)</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>					<u>35-4302(c)</u>
<u>Licensed Day Care Facilities (13 and greater persons) associated with Places of Assembly or Public and Private Elementary and Secondary Schools Offering a Regular Course of Study</u>	<u>C</u>	<u>C</u>			<u>C</u>				<u>C</u>			<u>C</u>		<u>35-4302(c)</u>

Stand-alone ATMs							A	A	A	A				
Pawn shops										C				
Sauna and massage establishments							PA	PA	PA	PA				
Office						P	P	P	P	P	P	P		
Personal services				A	A	P	P	P	P	P				
Contractor's Offices										C	P	P		
A real estate office for the purpose of leasing or selling apartment units in the development in which it is located				A	A	A	A	A	A					
Allowable Home occupations (not to include Conditional Home Occupations)	A	A	A	A	A	A	A	A	A					35-4402 (d)

Article XIV. Brooklyn Center City Code, Chapter 35, Section 35-4302 c. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

c. **GROUP LICENSED DAY CARE FACILITIES.**

- 1) The structure in which a licensed day care facility is located must be in continual compliance with all building, fire, zoning, and health codes of the city and state, in addition to all requirements of Minnesota Statutes, Chapter 245A and Minnesota Rules, Chapter 9502. In the case of group day care facilities, outside recreational facilities are required, and shall be appropriately separated from the parking and driving areas by a wood fence not less than four feet in height; or a Council approved substitute; shall be located contiguous to the day care facility; shall not be located in any yard abutting a major thoroughfare unless buffered by a device set forth in Section 35-5600; shall not have an impervious surface for more than half the playground area; and shall be a minimum of 50 square feet square feet per child in attendance unless otherwise noted in Minnesota Rules, part 9502.0425, subpart 2.
- 2) Group Licensed day care facilities shall be permitted where noted in Section 35-4103.200, provided that such developments, in each specific case, are demonstrated to be:
 - A. ~~Compatible with existing adjacent land uses as well as with those uses permitted in the zoning district generally.~~

- ~~B. Complementary to existing adjacent land uses as well as to those uses permitted in the zoning district generally.~~
- ~~C. Of comparable intensity to permitted zoning district land uses with respect to activity levels.~~
- ~~D. Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.~~
- ~~E. Traffic generated by other uses on the site will not pose a danger to those served by the day care use.~~

3) Licensed day care facilities in residential zoning districts are subject to the following additional requirements:

- A. For one and two-family dwellings, 12 or fewer persons.
- B. For non one and two-family dwellings, 12 or fewer persons (except places of religious assembly and public or private elementary and secondary schools).
- C. The size of the licensed day care facility in a place of religious assembly or public or private elementary or secondary school is based on the size and capacity of the structure and the availability of parking.

~~3) Group day care facilities shall be allowed as an accessory use to places of religious assembly and educational uses, as noted in Section 35-4200, and shall demonstrate provisions as outlined in 35-4302(e).~~

4) Licensed day care facilities in non-residential zoning districts are subject to the following additional requirements:

- A. The size of the licensed day care facility is dependent on the size and capacity of the structure and the availability of parking.
- B. The size of the licensed day care facility in a place of religious assembly or public or private elementary or secondary school is based on the size and capacity of the structure and the availability of parking.
- C. Pick up/drop-off area(s) must be located in close proximity to the front of the building and adjacent to a pedestrian area.

- 4)5) When required, ~~group~~ day care facilities shall be licensed by the Minnesota Department of Human Services (“DHS”) pursuant to a valid license application. A copy of said license and application shall be submitted annually to the City.

Article XV. Brooklyn Center City Code, Chapter 35, Section 35-4402 d. 4) G. ii. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language

- ii. Conditional Home Occupations. No Conditional Home Occupation shall cause traffic congestion on the streets adjacent thereto. A Conditional Home Occupation may store and/or park off-street up to one commercial vehicle that is accessory and necessary to the approved on-site business, provided that the commercial vehicle is licensed and operable meets the requirements set forth in Section 35-5512 and is designated within vehicles classes 1-4 only, as defined by the Minnesota Department of Transportation in their official vehicle classification scheme.

Article XVI. Brooklyn Center City Code, Chapter 35, Section 35-5100 Dimensional Standards Summary table is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Dimensional Standards													
	Lot Dimensions (Minimum, only for lots created after the effective date), <u>in feet (ft) unless noted.</u>												
Zoning Districts	R1	R2	R3	R4	R5	MX-N1	MX-N2	MX-C	TOD	C	MX-B	I	O
Lot area (SF/Unit)	9,500 (Interior) 10,500 (Corner)	7,600 (One-family Interior), 8,500 (one-family corner), 5,000 (two-family)	4,000	2,200	1,400	--	--	Minimum 2 Acres Contiguous Parcel for Residential Use	2000 ft perimeter (max)	--	--	--	--
Density (Units/Acre)	3-5	3-10	5-15	10-25	20-31	15-31	15-31	10-60	31 – 130	--	--	--	--
Maximum size of individual non-residential use	--	--	--	--	--	7,500 <u>SF</u>	10,000 <u>SF</u>	--	--	--	--	--	--
<u>Primary Dwelling Width and Depth</u>	<u>18</u>	<u>18</u>											

(minimum)													
Lot width (Interior)	75	60 (one-family) 75 (two-family)	25	100	100	--	--	100	--	100	100	100	--
Lot width (Corner)	90	75 (one-family) 90 (two-family)	25	100	100	--	--	100	--	100	100	100	--
Setbacks (Principal Structure)													
Front build-to line	--	--	--	--	--	5-20	5-20	--	0-10	--	--	--	--
Front (Interior)	35	35	35	35	35	NA	NA	10	NA	35	35	35	--
Secondary Front (Corner)	15	15	15	35	35	5-20	5-20	10	0-10	35	35	35	--
Side (Interior)	10	10	10	10	10	10	10	10	10 - 50	10	10	10	--
Rear	25	20	40	40	40	20	10	20	10 - 50	40	25	25	--
Additional Standards													
Impervious surface coverage (maximum)	--	--	--	--	80%	80%	80%	80%	85%	80%	--	--	--
Primary structure height (maximum)	25 <u>32</u>	25 <u>32</u>	35	40	48	48	48	NA	NA	40	NA	48	--
Accessory structure height (maximum)	16	16	16	16	16	20	20	20	20	16	16	16	--

Article XVII. Brooklyn Center City Code, Chapter 35, Section 35-5512 is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Section 35-5512. COMMERCIAL VEHICLES PARKED IN R1 AND R2 DISTRICTS.
For each dwelling unit, off-street parking of not more than one licensed and operable commercial motor vehicle is permitted provided that:

- a. Any such vehicle must be operated by a resident of that dwelling unit.
- b. Such parking is only permitted in a garage, driveway or improved hard surface in accordance with the requirements of ~~the UDO~~ Section 35-2200 and 35-2202 for R1 and R2 districts.

- c. Only class 1-4 vehicles may occupy off-street parking space in R1 and R2 districts, as defined by the Minnesota Department of Transportation's vehicle classification scheme.
- d. Under no circumstances shall a semi-truck or tractor-trailer combination be parked or stored off-street in an R1-R42 District.

Article XVIII. Brooklyn Center City Code, Chapter 35, Section 35-5512 is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Section 35-5609. FENCES. Fences may be erected, placed, or maintained along or adjacent to a lot line. The fence owner shall be responsible for properly locating all property lines before fence construction.

a. PERMIT REQUIRED.

- 1) ~~For fences located in any district which are six (6) feet in height or greater, a~~ A permit is required before any work may commence on the installation of a fence.

b. FENCE STANDARDS.

- 1) Allowable heights in residential districts.
 - A. Front yard. No fence shall exceed four (4) feet in height at the front property lines.
 - B. No fence shall exceed six (6) feet in height at the side and rear property lines.
 - C. No fence shall encroach within the Clear View Triangle, unless otherwise permitted by the Zoning Administrator.
- 2) Allowable heights in MX-B and I districts.
 - A. Front yard. A non-opaque fence shall not exceed eight (8) feet in height at the front property line.
- 3) Clear view triangle, visual obstructions, and vehicle queuing. No fence shall encroach within the Clear View Triangle, as defined in Section 35-9000, unless otherwise permitted by the Zoning Administrator. Additionally, any proposed fence shall be set back a sufficient distance from sidewalks and rights-of-way to ensure adequate space and safety for pedestrians and adequate space for vehicles entering the property through a gate or other entry through the fence.

2)4) Permitted materials.

- A. Fences shall be constructed of wood, metal, bricks, masonry or other similar materials, designed for permanent fencing. Fences constructed of wood shall be resistant to decay. Fences on a single property may not be constructed of more than two different materials. All fence materials shall be uniform in color with the exception of minimal hardware and fasteners, including screws, and gate hinges and latches.

3)5) Prohibited materials.

- A. Fences shall not be constructed of electrically charged wire, barbed wire, razor wire, or other similar materials not specifically manufactured for permanent fencing.
- B. Any materials not listed here should be considered prohibited unless approval is provided by the Zoning Administrator.

4)6) Posts and supporting members.

- A. All fence posts and related supporting members of the fence shall be erected so that the finished side or sides of the fence face the adjacent property or public right-of-way.

5)7) Maintenance.

- A. Every fence and retaining wall on or adjacent to residential property shall be kept well maintained and in good repair.

Article XIX. Brooklyn Center City Code, Chapter 35, Section 35-7504 is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Section 35-7504. SIGN NOTICE. When an zoning application involves ~~changes in district boundaries affecting an area of five acres or more,~~ a change of a zoning district, or construction or major alteration of a structure, except one and two family dwellings and buildings accessory thereto, the City shall property owner must post a public notice sign on the subject property, in coordination and with the consent of the property owner, and in accordance with the following:

- a. Public notice signs shall be posted on any property subject to the public hearing provisions. Public notice signs shall be installed by the owner of the property for which the public hearing is required.

~~b.a.~~ **DISPLAY PERIOD.** Public notice signs shall be installed on the subject property no less than ten days prior to an established public hearing date, and shall be removed no more than seven days following application determination by City Council.

~~e.b.~~ Public notice signs shall be posted according to the following standards:

- 1) Number. One sign shall be posted along each public street frontage.
- 2) Location. Whenever practical, signs shall be set back ten (10) feet from a public street right- of-way and positioned in a manner to best inform the vehicle and pedestrian traffic, without creating a safety hazard.
- 3) Size and Content. All public notice signs shall be of adequate size and design to be clearly visible and legible to passing vehicles and pedestrians. At a minimum, a public notice sign shall notify the public of the subject of the public hearing and provide the public with contact information for any questions or comments relating to the subject of the public hearing specify the time, date and location of the scheduled public hearing, the general nature of the hearing, and a phone number for the Zoning Administrator for additional information.
- 4) ~~All sign content, location, and size must be reviewed and approved in writing by the Zoning Administrator.~~

Article XX. Brooklyn Center City Code, Chapter 35, Section 35-9200 is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language for the following definitions:

Height of Structure. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or ~~average height of the highest gable of a pitched or hipped roof.~~

Home Occupation, Allowable. Subject to the further limitations of Section 35-4402 (d) of the UDO, a home occupation is any gainful occupation or profession, carried on within a dwelling unit, by a family member residing within a dwelling unit, which is clearly incidental and secondary to the residential use of the dwelling unit and the lot upon which it is constructed, including, dressmaking, secretarial services, professional services, answering services, individual music or art instruction, individual hobby crafts, and unlicensed day care and similar activities.

Licensed Day Care Facility. A facility required to be licensed by the state, county or City that provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own dwelling unit. Licensed day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, drop-in and school age child care homes, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers, and day services as defined by Minnesota State statutes. ~~Residential day care~~

~~facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes related to sex offenses may not be considered a licensed residential day care facility.~~

Licensed Residential Facility (Group Home). A facility required to be licensed by the state or county that provides one or more persons with 24 hour per day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation or treatment that cannot be furnished in the person's own home. Licensed residential facilities (group homes) are limited to those facilities licensed or regulated by the Department of Human Services or the Department of Health. This does not include licensed facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes related to sex offenses or facilities licensed by the Department of Corrections.

Article XXI. Crystal Airport Zoning Ordinance – Appendix A. The Brooklyn Center City Code is hereby amended by adding the Crystal Airport Zoning Ordinance, together with Exhibits A-F and additional attached sheets, as Appendix A to the City Code.

Article XXII. Table of Contents and Non-Substantive Changes. City staff is authorized and directed to amend the table of contents for Chapter 35 as part of incorporating the amendments adopted by this Ordinance into the Brooklyn Center City Code and to make any other non-substantive corrections as may be needed as part of incorporating the amendments adopted by this Ordinance into the Brooklyn Center City Code, including the renumbering of sections, subsections, subdivisions, and paragraphs as needed.

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

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

Adopted this ____ day of _____, 2024.

April Graves, Mayor

ATTEST: _____
Barb Suciu, City Clerk

Date of Publication _____

Effective Date _____

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



LAND TYPE Abstract (A)

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Amber Bougie, County Recorder
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Crystal Airport Zoning Ordinance

Adopted November 8, 2023

Adopted by the
Crystal Airport Joint Airport Zoning Board

Contact Person:
Crystal Joint Airport Zoning Board
c/o Rebecca Townsend, JAZB Secretary
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, Minnesota 55450

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**CRYSTAL AIRPORT
ZONING ORDINANCE
ADOPTED BY THE
CRYSTAL AIRPORT JOINT AIRPORT ZONING BOARD**

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE CRYSTAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS; REFERRING TO THE CRYSTAL AIRPORT ZONING MAP; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; IMPOSING PENALTIES; AND SUPERSEDING ALL PRIOR CRYSTAL AIRPORT ZONING ORDINANCES.

THEREFORE, IT IS HEREBY ORDAINED BY THE CRYSTAL AIRPORT JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES §§ 360.061 – 360.074, THAT THE CRYSTAL AIRPORT ZONING ORDINANCE BE EFFECTIVE AS FOLLOWS:

SECTION I. PURPOSE AND AUTHORITY

The CRYSTAL Airport Joint Airport Zoning Board, created and established by joint action of the Metropolitan Airports Commission and the Cities of Crystal, Brooklyn Park, Brooklyn Center, Minneapolis, New Hope, and Robbinsdale, pursuant to the provisions and authority of Minnesota Statutes § 360.063, hereby finds and declares that:

- A. An Airport Hazard endangers the lives and property of users of the Airport and property or occupants of land in its vicinity, and also may reduce the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Airport and the public investment therein.
- B. The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Airport.
- C. For the protection of the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards.

- D. The prevention of these Airport Hazards should be accomplished, to the extent legally possible, by the exercise of police power without compensation.
- E. The elimination or removal of existing land uses or their designation as nonconforming uses is not in the public interest and should be avoided whenever possible, consistent with reasonable standards of safety.
- F. In addition, the social and economic costs of disrupting land uses around the Airport often outweigh the benefits of a reduction in Airport Hazards, requiring a balance between the social and economic costs to surrounding communities and the benefits of regulation.
- G. Preventing the creation or establishment of Airport Hazards and eliminating, removing, altering, mitigating, or marking and lighting of existing Airport Hazards are public purposes for which political subdivisions may raise and expend public funds, levy assessments against land, and acquire land and property interests therein.

SECTION II. TITLE AND SHORT TITLE

This ordinance shall be known as the "Crystal Airport Zoning Ordinance."

SECTION III. DEFINITIONS AND RULES OF CONSTRUCTION

- A. **Definitions.** As used in this Crystal Airport Zoning Ordinance, unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall have the meanings indicated. All words and phrases not defined shall have their common meaning.
 - 1. ***Airport.*** "Airport" means Crystal Airport located in Hennepin County, Minnesota.
 - 2. ***Airport Boundary.*** "Airport Boundary" means the boundary shown on Exhibit A – Airport Boundary, attached hereto and made a part hereof.
 - 3. ***Airport Hazard.*** "Airport Hazard" means any Structure, Tree, or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the Airport; and, any use of land that is hazardous to Persons or property because of its proximity to the Airport.
 - 4. ***Airport Zoning Permit.*** "Airport Zoning Permit" means zoning permits as required under Section VIII.

5. ***Airspace Surfaces.*** "Airspace Surfaces" means the surfaces established in Section IV.A.
6. ***Airspace Zones.*** "Airspace Zones" means the land use zones established in Section IV.A.
7. ***Board of Adjustment.*** "Board of Adjustment" means the body established in Section XII.
8. ***Commissioner.*** "Commissioner" means the Commissioner of the Minnesota Department of Transportation or, if either the position of Commissioner or the Minnesota Department of Transportation shall no longer exist or serve its present functions, such successor state official or officials or entity or entities as shall either singularly or collectively perform or serve such functions.
9. ***Crystal Airport Zoning Map.*** "Crystal Airport Zoning Map" means the Crystal Airport Zoning Map as defined in Section VI.C.
10. ***Effective Date.*** "Effective Date" means the effective date set forth in Section XVIII.
11. ***Existing.*** "Existing" means the current layout of the airport environment, including alignment, location, and length of each runway at Crystal Airport at the time this Crystal Airport Zoning Ordinance on the Effective Date.
12. ***FAA.*** "FAA" means the Federal Aviation Administration or, if the Federal Aviation Administration shall no longer exist or serve its present functions, such successor federal entity or entities as shall either singularly or collectively perform or serve such functions.
13. ***FAA 7460 Obstruction Evaluation.*** Established FAA process for conducting aeronautical studies conducted under the provisions of Title 14 CFR, Part 77 (for proposed construction or alteration) or Federal Aviation Act of 1958 (for existing structures), or any successor to this process.
14. ***Lot.*** "Lot" means a designated parcel, tract, or area of land established by plat or subdivision, or otherwise permitted by law.
15. ***Nonconforming Structure.*** "Nonconforming Structure" means any Structure in existence in any Airspace Zone or Land Use Zone but not conforming to the provisions of this Crystal Airport Zoning Ordinance on the Effective Date.

16. ***Nonconforming Use.*** "Nonconforming Use" means any use of land in existence in any Airspace Zone or Land Use Zone but not conforming to the provisions of this Crystal Airport Zoning Ordinance on the Effective Date.
17. ***Person.*** "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
18. ***Runway.*** "Runway" means any existing surface of the Airport which is specifically designated and used to be used for the landing and/or taking off of aircraft. The individual Runways at the Airport are defined in this Crystal Airport Zoning Ordinance based on the compass heading of landing and departing aircraft.
19. ***Runway 14-32.*** "Runway 14-32" means the existing 3,750-foot non-precision primary runway. The Runway 14 end is within the City of Brooklyn Park, and the Runway 32 end is within the City of Crystal.
20. ***Runway 6L-24R.*** "Runway 6L-24L" means the existing 2,500-foot visual crosswind runway. Both the Runway 6L and 24R ends are within the City of Crystal.
21. ***Runway 6R-24L.*** "Runway 6R-24L" means the existing 1,669-foot visual crosswind runway. Both the Runway 6R and 24L ends are within the City of Crystal.
22. ***Runway Protection Zone.*** "Runway Protection Zone" means a zone mandated by FAA regulations that is longitudinally centered on the extended centerline at each end of Runways 14-32, 6L-24R and 6R-24L, whose inner edge is at the same width and elevation as, and coincides with, the end of the Primary Surfaces for Runway 14-32 (500 feet), Runway 6L-24R (250 feet), and Runway 6R-24L (250 feet). The Runway 14-32 protection zone extends outward a horizontal distance of 1,000 feet, expanding uniformly to a width of 700 feet. Runways 6L-24R and 6R-24L have protection zones extending outward a horizontal distance of 1,000 feet, expanding uniformly to a width of 450 feet.
23. ***Land Use Zones.*** "Land Use Zones" means the land use zones established in Section V.A.

24. **School.** "School" means any private or public educational institution for people in kindergarten through grade 12 and any private or public day care or pre-school facility that enrolls more than 50 children.
25. **Slope.** "Slope" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



26. **Structure.** "Structure" means anything anchored, attached, built, constructed, erected, gathered, located, placed, or piled on the ground or in or over a water body, whether temporary or permanent, moveable or immovable, including antennae, buildings, canopies, cranes, decks, derricks, docks, edifices, equipment, fences, overhead transmission lines, patios, piers, piles, ponds, posts, roadways, signs, smokestacks, towers, utility poles, wires, and anything attached to any of the foregoing either temporarily or permanently.
27. **Tree.** "Tree" means any object of natural growth.
28. **Zoning Administrator.** "Zoning Administrator" means the public official in each affected municipality as set forth in Section XI.B.
- B. **Rules Of Construction.** In the construction of this Crystal Airport Zoning Ordinance, the following rules shall be observed and applied, except where the context clearly indicates otherwise.
1. **Computing Time.** In computing the period of time within which an act may or must be done, the first calendar day from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.
 2. **Conflicts Between Ordinance Provisions.** If a provision of this Crystal Airport Zoning Ordinance conflicts with any other provision of this Crystal Airport Zoning Ordinance, the more restrictive provision shall prevail.
 3. **Height.** "Height" shall be expressed as elevation in feet above Mean Sea Level, North American Vertical Datum, 1988 Adjustment, except in reference

to maximum construction height without an Airport Zoning Permit when it shall be expressed as distance in feet above ground shown on the Maximum Construction Heights Without Permit Plates in the Crystal Airport Zoning Map.

4. ***Including, Not Limited To.*** The word "including" means including but not limited to.
5. ***Land To Include Water Surfaces And Bodies.*** The word "land" shall include water bodies and surfaces for the purpose of establishing Airspace Zones and Land Use Zones.
6. ***May, Permissive.*** The word "may" is permissive.
7. ***Shall, Mandatory.*** The word "shall" is mandatory and not discretionary.
8. ***Singular And Plural.*** The singular shall include the plural, and the plural the singular.
9. ***Tense.*** The present tense shall include the future.

SECTION IV. AIRSPACE OBSTRUCTION ZONING

- A. **Airspace Surfaces And Zones.** In order to carry out the purpose of this Crystal Airport Zoning Ordinance as set forth in Section I., the following Airspace Surfaces and Airspace Zones are hereby established, subject to the airspace zoning limits in Section VI.A.

1. ***Primary Surface.*** An imaginary surface longitudinally centered on each Runway extending 200 feet beyond each end of Runways 14-32, 6L-24R, and 6R-24L. Runway 14-32 has uniform width of 500 feet, while Runways 6L-24R and 6R-24L have a uniform width of 250 feet. The elevation of any point on the Primary Surface is the same as the elevation of the nearest point on the Runway centerline.
2. ***Primary Zone.*** All that land which lies directly under a Primary Surface.
3. ***Horizontal Surface.*** An imaginary surface that is 1,019.3 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the Primary Surface of each Runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet for Runways 14-32, 6L-24R, and 6R-24L.
4. ***Horizontal Zone.*** All that land which lies directly under the Horizontal Surface.

5. **Conical Surface.** An imaginary surface extending upward and outward from the periphery of the Horizontal Surface at a Slope of 20 to 1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the Horizontal Surface.
 6. **Conical Zone.** All that land which lies directly under the Conical Surface.
 7. **Approach Surface.** An imaginary surface longitudinally centered on the extended centerline at each end of Runways 14-32, 6L-24R, and 6R-24L. The inner edge of this surface is at the same width and elevation as, and coincides with, the end of the Primary Surface. For Runways 14-32, 6L-24R, and 6R-24L, this surface inclines upward and outward at a Slope of 20 to 1 for a horizontal distance of 5,000. For Runway 14-32, the outer width of this surface is 2,000 feet. For both Runways 6L-24R and 6R-24L, the outer width of this surface is 1,250 feet.
 8. **Approach Zone.** All that land which lies directly under an Approach Surface.
 9. **Transitional Surface.** An imaginary surface extending upward and outward at right angles to the centerline and extended centerline of Runways 14-32, 6L-24R, and 6R-24L at a Slope of 7 to 1 from both sides of each Primary Surface and from both sides of each Approach Surface of Runway 14-32, 6L-24R, and 6R-24L until it intersects the Horizontal Surface or the Conical Surface.
 10. **Transitional Zone.** All that land which lies directly under a Transitional Surface.
- B. **Height Restrictions.** Except as otherwise provided in this Crystal Airport Zoning Ordinance, and except as necessary and incidental to Airport operations, the following height restrictions shall apply. Where a Lot is beneath more than one Airspace Surface, the height of the more restrictive (lower) Airspace Surface shall control.
1. **Structures.** No new Structure shall be constructed or established; and no existing Structure shall be altered, changed, rebuilt, repaired, or replaced in any Airspace Zone so as to project above any Airspace Surface. Nor shall any equipment used to accomplish any of the foregoing activities be allowed to project above any Airspace Surface.
 2. **Trees.** No Tree shall be allowed to grow or be altered, repaired, replaced, or replanted in any Airspace Zone so as to project above any Airspace Surface.

Nor shall any equipment used to accomplish any of the foregoing activities be allowed to project above any Airspace Surface.

- a. Public Nuisance; Order. If the whole or any part of any Tree shall be determined to be an Airport Hazard by the FAA, or any successor entity, after proper investigation, the Zoning Administrator may issue an order in writing for the owner or owners, agent or occupant of the property upon which such hazardous tree is located, to forthwith cause such hazardous tree, or portion thereof if the removal of a portion will remove the hazard, to be taken down and removed.
- b. Notice. Said order is to be mailed to the last known address of the owner, agent or occupant and shall be accompanied by a notice setting forth the authority to remove such hazardous Tree at such owner's, agent's or occupant's expense in the event such owner, agent or occupant fails to comply with or file a notice of appeal from said order within 10 days of mailing. The notice shall include instructions for filing a notice of appeal from said order.
- c. Removal. If within 10 days after said order has been mailed, as above provided for, the owner or owners, agent or occupant of the property upon which such hazardous Tree is located neglects or refuses to comply with said order, or has failed to file a notice of appeal from said order with the Zoning Administrator, then the Administrator or its designee(s) may enter upon said premises and take down or remove said tree or portion thereof declared to be hazardous, and to do any and all things which in his opinion may be necessary for the protection of life, limb or property.
- d. Assessment of Expense. If, after the notice hereinbefore provided for has been given, the owner, agent or occupant has failed to remove such hazardous tree or portion thereof, and it becomes necessary for the Zoning Administrator to remove same, the Zoning Administrator or its designee shall mail a statement of the expense of such removal to the owner, agent or occupant of the property from which such tree or portion thereof has been removed, and if within 30 days therefrom the owner, agent or occupant has not remitted to the Zoning

Administrator for the expense incurred by the Zoning Administrator in said removal, the Zoning Administrator or its designee may forthwith recover the amount of such expense from the owner or owners of said property in any civil court of competent jurisdiction, in the manner provided by law.

- C. **FAA 7460 Obstruction Evaluation.** All construction of new Structures or alteration of existing Structures in an Airspace Zone shall comply with the requirements for filing notice to the FAA under the FAA 7460 Obstruction Evaluation process.

SECTION V. LAND USE ZONING

- A. **Land Use Zones.** In order to carry out the purpose of this Crystal Airport Zoning Ordinance, as set forth in Section I., the following Land Use Zones are hereby established, subject to the land use zoning limits in Section VI.B.

1. ***Land Use Zone 1.*** Designated land, the extents of which are shown in Exhibit B. Land Use Zone 1 overlies the Runway Protection Zones.
2. ***Land Use Zone 2.*** All land enclosed within the perimeter of the Horizontal Zone, as shown in Exhibit C, except that land within Land Use Zone 1.

- B. **Land Use Restrictions.**

1. ***General Restrictions.*** Subject at all times to the height restrictions set forth in Section IV.B. and the FAA 7460 Obstruction Evaluation process, no use shall be made of any land in any of the Land Use Zones that creates or causes interference with the operations of radio or electronic facilities at the Airport or with radio or electronic communications between Airport and aircraft, makes it difficult for pilots to distinguish between Airport lights and other lights, results in glare in the eyes of pilots using the Airport, impairs visibility in the vicinity of the Airport, is deemed a "hazard" to air navigation by FAA or MNDOT as part of an FAA 7460 Obstruction Evaluation, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
2. ***Land Use Zone 1 Restrictions.*** Subject at all times to the height restrictions set forth in Section IV.B. and to the general restrictions contained in Section V.B.1., areas designated as Land Use Zone 1 for each end of Runways 14-32, 6L-24R, and 6R-24L shall contain no buildings, exposed high-voltage transmission lines, or other similar land use structural hazards, and

shall be restricted to those uses which will not create, attract, or bring together a dense, confined assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, wildlife habitat, light outdoor recreation, cemeteries, roadways and vehicle parking, railroads, and other approved aeronautical uses. Where Land Use Zone 1 overlies the Runway Protection Zone, land uses and Structures within the Runway Protection Zone will be governed by Federal laws and regulations or by FAA advisory circulars, orders, or guidance.

3. ***Land Use Zone 2 Restrictions.*** No land use in Land Use Zone 2 shall violate the height restrictions set forth in Section IV.B. or the general restrictions contained in Section V.B.1.

SECTION VI. AIRPORT ZONING LIMITS AND CRYSTAL AIRPORT ZONING MAP

- A. **Airspace Zoning Limits.** Exhibit D – Airport Boundary and Airspace Zoning Limits and Exhibit E – Airport Boundary and Airspace Contours, attached hereto and made a part hereof, show these limits.
- B. **Land Use Zoning Limits.** Exhibit F – Airport Boundary and Land Use Zoning Limits, attached hereto and made a part hereof, shows these limits.
- C. **Crystal Airport Zoning Map.** The locations and boundaries of the Airspace Surfaces, Airspace Zones, Land Use Zones, and the Maximum Construction Heights without an Airport Zoning Permit established by this Crystal Airport Zoning Ordinance are set forth on the Crystal Airport Zoning Map consisting of 102 plates – Airspace Zones, Plates A-A2 to A-F6; Maximum Construction Heights Without Permit, Plates MCH-A2 to MCH-F6; and Land Use Zones, Plates SZ-A2 to SZ-F6 prepared by the Metropolitan Airports Commission, attached hereto and made a part hereof. These plates, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, heights, data, surface and zone boundaries, and other information thereon, shall be and the same are hereby adopted as part of this Crystal Airport Zoning Ordinance.

SECTION VII. NONCONFORMING USES

- A. **Crystal Airport Zoning Ordinance.** The provisions of this Crystal Airport Zoning Ordinance shall not be construed to require the removal, lowering, other change, or

alteration of any Nonconforming Structure or Tree, or otherwise interfere with the continuance of any Nonconforming Use. Nonconforming Structures and Nonconforming Uses are permitted under this Crystal Airport Zoning Ordinance, subject to the provisions in Section VIII. (Airport Zoning Permits) and Section IX. (Variances). Nothing herein contained shall require any change in the construction, alteration, or intended use of any Structure, the construction or alteration of which was begun prior to the Effective Date, and was diligently prosecuted and completed within 2 years of the Effective Date.

SECTION VIII. AIRPORT ZONING PERMITS

A. **Permit Required.** The following activities shall not take place on a Lot in any Airspace Zone or Land Use Zone unless an Airport Zoning Permit shall have been granted therefore by the Zoning Administrator for the jurisdiction in which the Lot is located.

1. ***Existing Structures.*** Except as specifically provided in Section VIII.B., no existing Structure shall be altered, changed, rebuilt, repaired, or replaced.
2. ***New Structures.*** Except as specifically provided in Section VIII.B., no Structure shall be newly constructed or otherwise established.
3. ***Nonconforming Structures.*** No Nonconforming Structure shall be replaced, substantially altered or repaired, or rebuilt.

B. **Exception To Permit Requirement.**

1. ***Maximum Construction Height Without A Permit.*** No Airport Zoning Permit shall be required for an existing Structure to be altered, changed, rebuilt, repaired, or replaced on a Lot, or for a new Structure to be constructed or otherwise established on a Lot, if the highest point on the Structure or on any equipment used to accomplish any of the foregoing activities, whichever is higher (measured in feet from curb level or from natural grade at a point 10 feet away from the front center of the Structure, whichever is lower) does not exceed the "maximum construction height above ground without an Airport Zoning Permit" shown for the Lot on the applicable Maximum Construction Heights Without Permit Plate in the Crystal Airport Zoning Map.
2. ***No Violation Of Height Or Land Use Restriction Permitted.*** Nothing in this Section VIII.B. shall be construed as permitting or intending to permit a

violation or a greater violation of any provision of this Crystal Airport Zoning Ordinance.

- C. **Permit Application.** An Airport Zoning Permit application for activities on a Lot shall be made in the manner and on the form established by the Zoning Administrator of the jurisdiction in which the Lot is located as designated in Section XI.B.
- D. **Permit Standard.** An Airport Zoning Permit shall be granted unless the Zoning Administrator determines that granting the permit (1) would allow a conforming Structure or use to violate any provision of this Crystal Airport Zoning Ordinance or (2) would permit a Nonconforming Structure or a Nonconforming Use to become a greater violation of any provision of this Crystal Airport Zoning Ordinance. Any Airport Zoning Permit may be granted subject to any reasonable conditions that the Zoning Administrator may deem necessary to effectuate the purpose of this Crystal Airport Zoning Ordinance. In making any determination, the Zoning Administrator need not give public notice of, or hold a public hearing on, the Airport Zoning Permit application or the determination.
- E. **Abandoned Or Deteriorated Nonconforming Uses.** Whenever a Zoning Administrator determines that a Nonconforming Structure, Nonconforming Use, or Tree has been abandoned or more than 80% torn down, deteriorated, or decayed, no Airport Zoning Permit shall be granted that would allow such Nonconforming Structure, Nonconforming Use, or Tree to exceed the height restrictions of Section IV.B. or otherwise violate any provision of this Crystal Airport Zoning Ordinance. Whether application is made for an Airport Zoning Permit or not, a Zoning Administrator may order the owner of the abandoned, torn down, deteriorated, or decayed Nonconforming Structure, Nonconforming Use, or Tree at the owner's expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this Crystal Airport Zoning Ordinance. In the event the owner shall neglect or refuse to comply with such order for 10 days after receipt of written notice of such order, the Zoning Administrator may, by appropriate legal action, proceed to have the Nonconforming Structure, Nonconforming Use, or Tree lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the Nonconforming Structure, Nonconforming Use, or Tree is, or was, located. Unless such an assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of 8% per

annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes, all as authorized by Minnesota Statutes § 360.067.

SECTION IX. VARIANCES

- A. **Variance Application.** Any Person desiring to use his or her property in violation of any provision of this Crystal Airport Zoning Ordinance, whether to construct or establish a new Structure; to alter, change, rebuild, repair, or replace an existing Structure; to allow a Tree to grow higher; to alter, repair, replace, or replant a Tree; or to otherwise use his or her property in violation of any provision of this Crystal Airport Zoning Ordinance, may apply to the Board of Adjustment for a variance from such provision. A variance application shall be made by sending the application on the form provided by the Board of Adjustment by certified United States Mail to (1) the members of the Board of Adjustment and (2) the Board of Adjustment at the mailing address specified in Section XII.C. The applicant shall also mail a copy of the application by regular United States Mail to the Zoning Administrator of the jurisdiction in which the Structure or property is located, as designated in Section XI.B. The Board of Adjustment may charge a fee for processing the application.
- B. **Failure Of Board To Act.** If the Board of Adjustment fails to grant or deny the variance within 4 months after the last Board member receives the variance application, the variance shall be deemed to be granted by the Board of Adjustment, but not yet effective. When the variance is granted by reason of the failure of the Board of Adjustment to act on the variance, the Person receiving the variance shall send notice that the variance has been granted by certified United States Mail to (1) the Board of Adjustment at the mailing address specified in Section XII.C. and (2) the Commissioner. The applicant shall include a copy of the original application for the variance with the notice to the Commissioner. The variance shall be effective 60 days after this notice is received by the Commissioner, subject to any action taken by the Commissioner pursuant to Minnesota Statutes § 360.063, subd. 6.a.
- C. **Variance Standard.** A variance shall be granted where it is found that a literal application or enforcement of the provisions of this Crystal Airport Zoning Ordinance would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but do substantial justice and be in accordance

with the spirit of this Crystal Airport Zoning Ordinance and Minnesota Statutes Chapter 360. Any variance granted may be granted subject to any reasonable conditions that the Board of Adjustment, or the Commissioner acting under Section IX.B., may deem necessary to effectuate the purpose of this Crystal Airport Zoning Ordinance or Minnesota Statutes Chapter 360.

SECTION X. HAZARD MARKING AND LIGHTING

- A. **Nonconforming Structure.** The Metropolitan Airports Commission may require the owner of any Nonconforming Structure to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Metropolitan Airports Commission to indicate the presence of the Structure to the operators of aircraft in the vicinity of the Airport. Such markers and lights shall be installed, operated, and maintained at the expense of the Metropolitan Airports Commission.
- B. **Permits And Variances.** Any Airport Zoning Permit or variance granted by a Zoning Administrator or the Board of Adjustment may, if such action is deemed advisable to effectuate the purpose of this Crystal Airport Zoning Ordinance and be reasonable in the circumstances, be granted subject to a condition that the owner of the Structure in question permit the Metropolitan Airports Commission, at its expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an Airport Hazard.

SECTION XI. ZONING ADMINISTRATOR

- A. **Duties.** It shall be the duty of each Zoning Administrator to administer and enforce the provisions of this Crystal Airport Zoning Ordinance. Applications for Airport Zoning Permits shall be made to a Zoning Administrator as provided herein. A Zoning Administrator may charge a fee for processing the application. Airport Zoning Permit applications shall be considered and acted upon by the Zoning Administrator in accordance with the provisions of this Crystal Airport Zoning Ordinance and within the timelines established by Minnesota Statutes § 15.99, as it may be amended. The Zoning Administrator shall remind each applicant that it is the responsibility of the applicant to record any conditions of an Airport Zoning Permit, if required by law.

- B. **Designated Zoning Administrators.** For the purpose of this Crystal Airport Zoning Ordinance, the Zoning Administrator shall be the official entitled as follows: the Crystal Zoning Administrator for lands located in the City of Crystal; the Brooklyn Park Zoning Administrator for lands located in the City of Brooklyn Park; the Brooklyn Center Zoning Administrator for lands located in Brooklyn Center; the Minneapolis Zoning Administrator for lands located in Minneapolis; the New Hope Zoning Administrator for lands located in New Hope; and the Robbinsdale Zoning Administrator for lands located in Robbinsdale. In the event that 1 or more of the above-described Zoning Administrators fails to administer or enforce this Crystal Airport Zoning Ordinance as provided by law, the Crystal Airport Joint Airport Zoning Board hereby appoints the Metropolitan Airports Commission to administer or enforce this Crystal Airport Zoning Ordinance in the municipality or municipalities. If any official position designated above as a Zoning Administrator ceases to exist or to perform or serve its present function, the successor position as designated by the applicable entity shall become the Zoning Administrator for that entity and shall perform or serve such functions.

SECTION XII. BOARD OF ADJUSTMENT

- A. **Establishment Of Board And Selection Of Chair.** There is hereby established a Board of Adjustment that shall consist of 5 members appointed by the Metropolitan Airports Commission, and each shall serve for a term of 3 years and until a successor is duly appointed and qualified. Of the members first appointed, 1 shall be appointed for a term of 1) year, 2 for a term of 2 years, and 2 for a term of 3 years. Upon their appointment, the members shall select a chair to act at the pleasure of the Board of Adjustment. Members shall be removable by the Metropolitan Airports Commission for cause, upon written charges, after a public hearing.
- B. **Board Powers.** The Board of Adjustment shall have the power to hear and decide appeals from any order, requirement, decision, or determination made by any Zoning Administrator or the Metropolitan Airports Commission in the enforcement of this Crystal Airport Zoning Ordinance and to hear and grant or deny variances.
- C. **Board Procedures.**
1. ***Rules, Meetings, And Records.*** The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Crystal Airport Zoning Ordinance. Meetings of the Board of Adjustment shall be held

at the call of the chair and at such other times as the Board of Adjustment may determine. The chair, or in his or her absence the acting chair, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the offices of the Metropolitan Airports Commission and the Zoning Administrator of the jurisdiction in which the affected Structure or Lot is located, and shall be a public record.

2. ***Written Findings And Conclusions.*** The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in affirming, modifying, or reversing an order, requirement, decision, or determination of a Zoning Administrator or the Metropolitan Airports Commission and in granting or denying a variance.
3. ***Majority Vote Required.*** The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to affirm, modify, or reverse an order, requirement, decision, or determination of a Zoning Administrator or the Metropolitan Airports Commission, to decide to grant or deny a variance, or to act on any other matter upon which the Board of Adjustment is required to pass under this Crystal Airport Zoning Ordinance.
4. ***Mailing Address.*** The mailing address for the Board of Adjustment is:
Crystal Airport Zoning Ordinance Board of Adjustment
c/o Executive Director
Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, MN 55450

SECTION XIII. APPEALS

- A. **Who May Appeal.** Any Person aggrieved, or any taxpayer affected by any order, requirement, decision, or determination of a Zoning Administrator made in administration of this Crystal Airport Zoning Ordinance may appeal to the Board of

Adjustment. Such appeals may also be made by any governing body of a municipality or county, or any joint airport zoning board, which is of the opinion that an order, requirement, decision, or determination of a Zoning Administrator is an improper application of this Crystal Airport Zoning Ordinance as it concerns such governing body or board.

- B. **Commencement Of Appeals.** All appeals hereunder must be commenced within 30 days of a Zoning Administrator's decision by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment the notice of appeal and all papers constituting the record upon which the order, requirement, decision, or determination appealed from was taken.
- C. **Stay Of Proceedings.** An appeal shall stay all proceedings in furtherance of the order, requirement, decision, or determination appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.
- D. **Appeal Procedures.** The Board of Adjustment shall fix a reasonable time for hearing an appeal, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in Person, by agent, or by attorney.
- E. **Decision.** The Board of Adjustment may, in conformity with the provisions of Minnesota Statutes Chapter 360 and this Crystal Airport Zoning Ordinance, affirm or reverse, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances and, to that end, shall have all the powers of a Zoning Administrator.

SECTION XIV. JUDICIAL REVIEW

Any Person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment or any action of the Commissioner taken under Minnesota Statutes 360.063, subd. 6 or 6a, or any governing body of a municipality or county, or any joint airport zoning board, which is of the opinion that an

order, requirement, decision, or determination of the Board of Adjustment or action of the Commissioner is illegal, may seek judicial review as provided in Minnesota Statutes § 360.072. The petitioner must exhaust the remedies provided in this Crystal Airport Zoning Ordinance before availing himself or herself of the right to seek judicial review as provided by this Section XIV.

SECTION XV. PENALTIES AND OTHER REMEDIES

Every Person who violates any provision of this Crystal Airport Zoning Ordinance, any zoning approval granted hereunder, any condition of any zoning approval granted hereunder, or any order, requirement, decision, or determination of a Zoning Administrator or the Board of Adjustment shall be guilty of a misdemeanor and shall be punished by a fine, imprisonment, or both of not more than the fine and imprisonment established for misdemeanors by state law. Each day a violation continues to exist shall constitute a separate offense for the purpose of the penalties and remedies specified in this section. This Crystal Airport Zoning Ordinance may also be enforced through such proceedings for injunctive relief and other relief as may be proper under Minnesota Statutes § 360.073, as it may be amended, and other applicable law.

SECTION XVI. RELATION TO OTHER LAWS, REGULATIONS, AND RULES

- A. **Compliance Required.** In addition to the requirements of this Crystal Airport Zoning Ordinance, all Structures, Trees, and uses shall comply with all other applicable city, local, regional, state, or federal laws, regulations, and rules, including Minnesota Statutes §§ 360.81-360.91 – Regulation Of Structure Heights, Minnesota Rules 8800.1100 – Regulation Of Structure Heights, and 14 Code of Federal Regulations Part 77 – Objects Affecting Navigable Airspace.
- B. **Conflicts With Other Regulations.** Where a conflict exists between any provision of this Crystal Airport Zoning Ordinance and any city, local, regional, state, or federal law, regulation, or rule applicable to the same area, whether the conflict be with respect to the height of Structures or Trees, the use of land, or any other matter, the more stringent law, regulation, or rule shall govern and prevail.
- C. **Current Versions And Citations.** All references to city, local, regional, state, and federal laws, regulations, and rules in this Crystal Airport Zoning Ordinance are intended to refer to the most current version and citation. If such references are no longer valid due to repeal or renumbering, the new laws, regulations, or rules intended to replace those cited, regardless of the citation, shall govern.

SECTION XVII. SEVERABILITY

- A. **Effect Of Taking.** In any case in which the provisions of this Crystal Airport Zoning Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular Structure, Lot, or Tree to such an extent, or to be so onerous in their application to such a Structure, Lot, or Tree, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Crystal Airport Zoning Ordinance as to other Structures, Lots, and Trees, and, to this end, the provisions of this Crystal Airport Zoning Ordinance are declared to be severable.
- B. **Validity Of Remaining Provisions.** Should any section or provision of this Crystal Airport Zoning Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Crystal Airport Zoning Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

SECTION XVIII. EFFECTIVE DATE

This Crystal Airport Zoning Ordinance shall take effect on the 1st day of January, 2024. Copies thereof shall be filed with the Commissioner and the Registers of Deeds for Hennepin County, Minnesota.

Passed and adopted after public hearings by the Crystal Airport Joint Airport Zoning Board this 8th day of November, 202~~3~~⁷.



I hereby certify that this is a complete, true, and correct copy of the *Crystal Airport Zoning Ordinance* as adopted by the Crystal Airport Joint Airport Zoning Board on November 8, 2023.

Richard Weyrauch

Richard Weyrauch, Chair

Crystal Airport Joint Airport Zoning Board

Date: NOV 8, 2023

Rebecca Townsend

Rebecca Townsend, Secretary

Crystal Airport Joint Airport Zoning Board

Date: Nov 8, 2023

Subscribed and sworn to before me this 8th day of November, 202~~2~~³ by Richard Weyrauch and Rebecca Townsend, Chair and Secretary respectively, of the Crystal Airport Joint Airport Zoning Board.

State of Minnesota
County of Hennepin

Andrew Martin Hanson

Notary Public



Drafted by Crystal Airport Joint Airport Zoning Board

EXHIBIT A – AIRPORT BOUNDARY

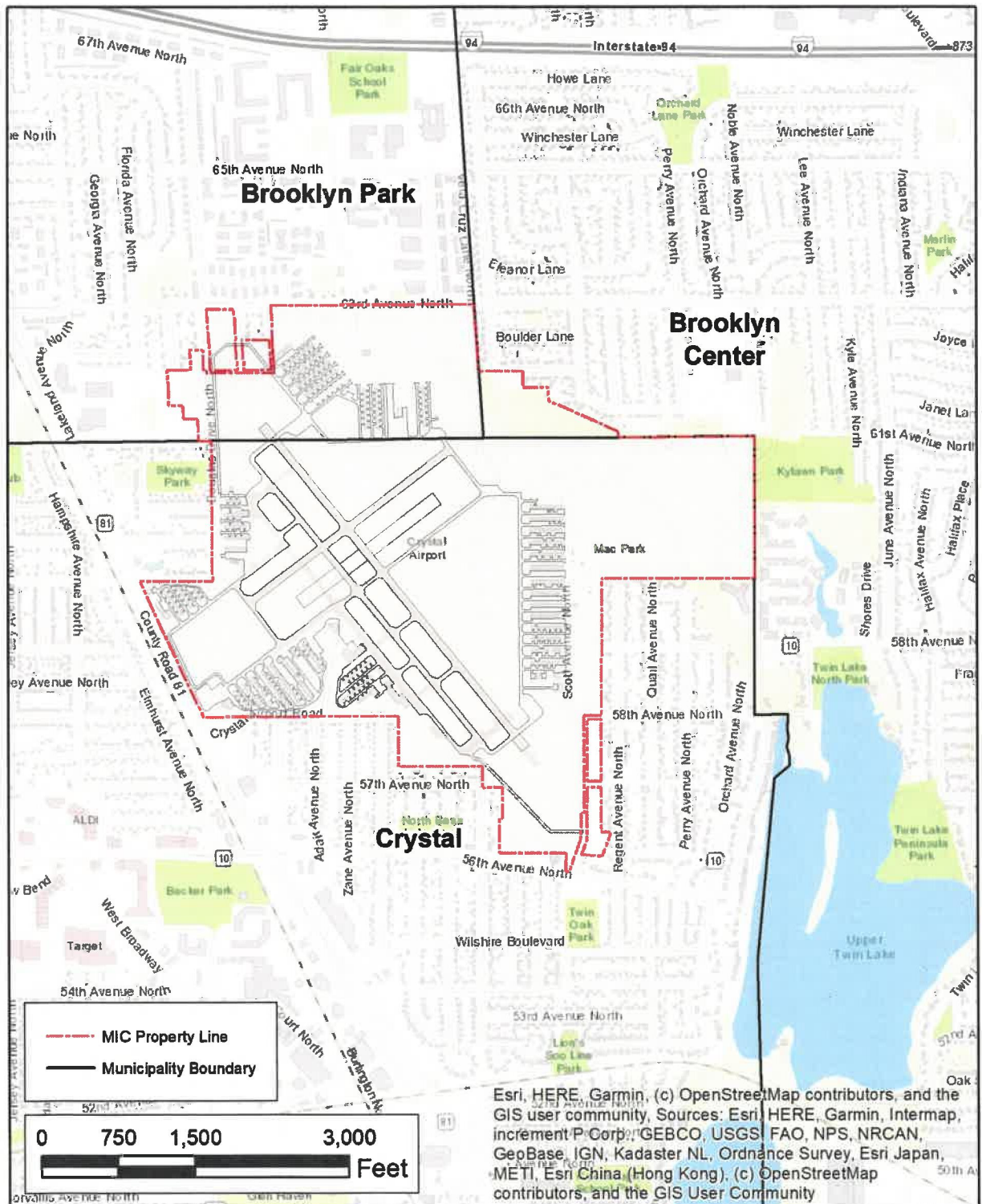


EXHIBIT B – JAZB LAND USE ZONE 1

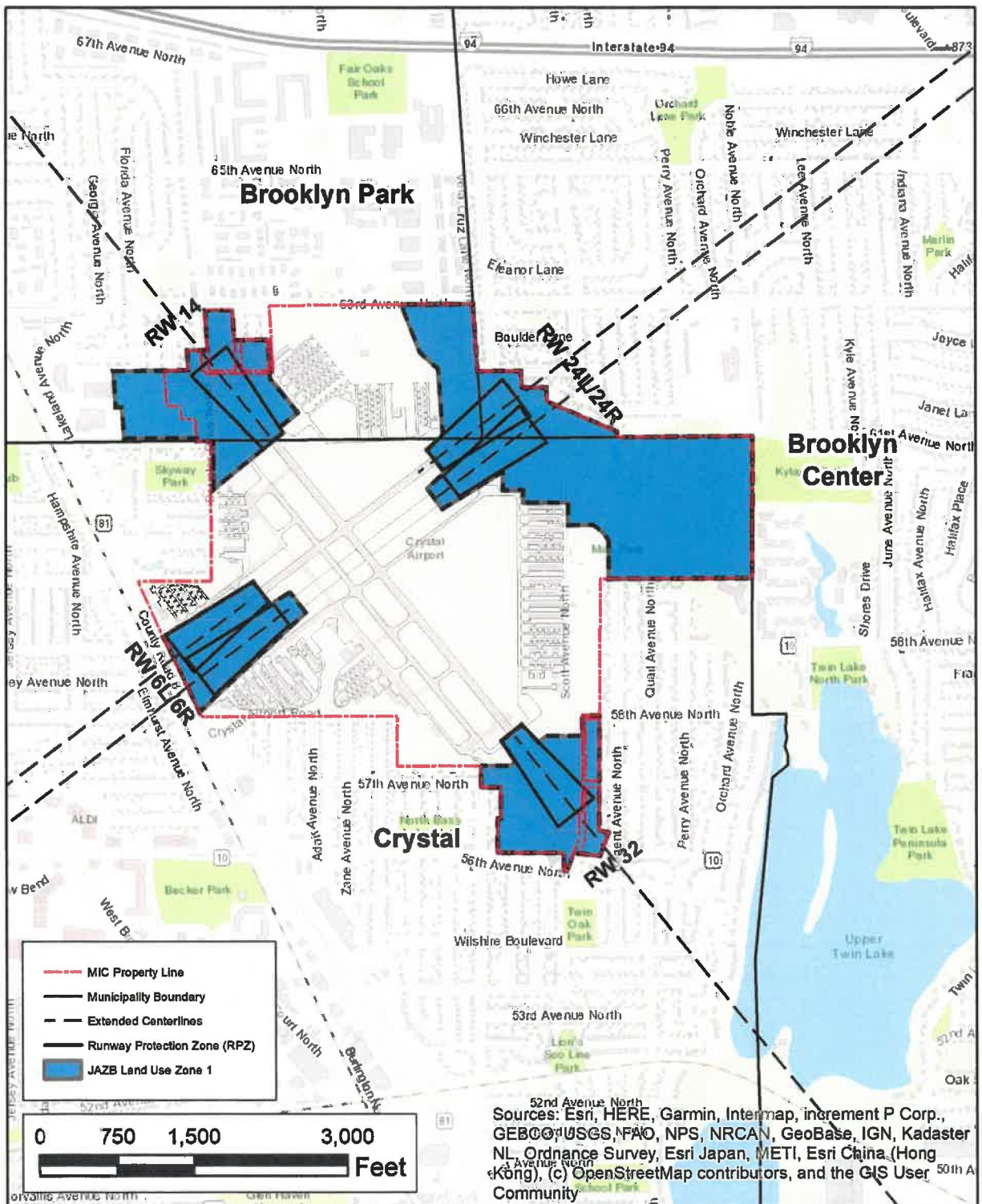


EXHIBIT C – JAZB LAND USE ZONE 2

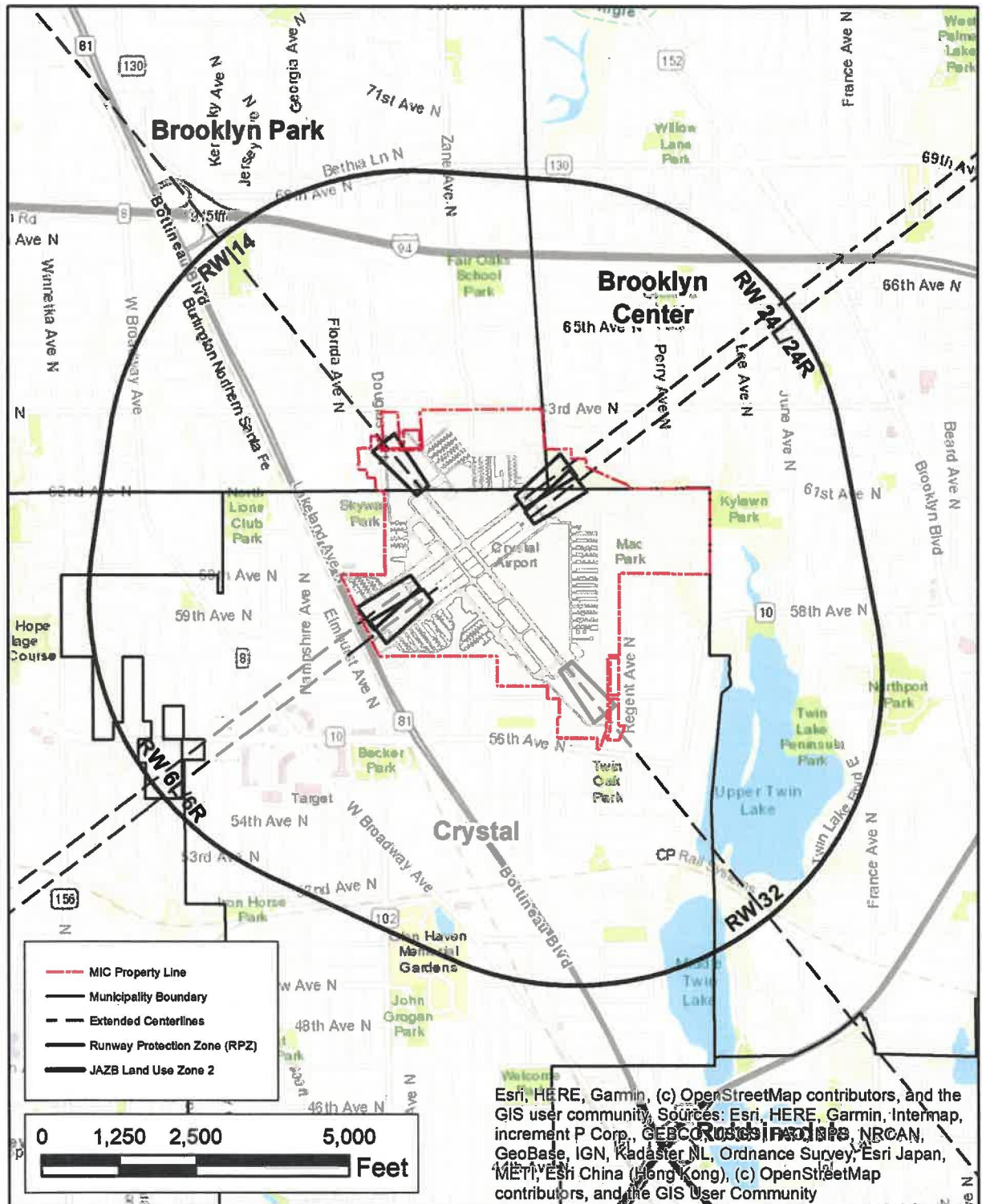


EXHIBIT D – AIRPORT BOUNDARY AND AIRSPACE ZONING LIMITS

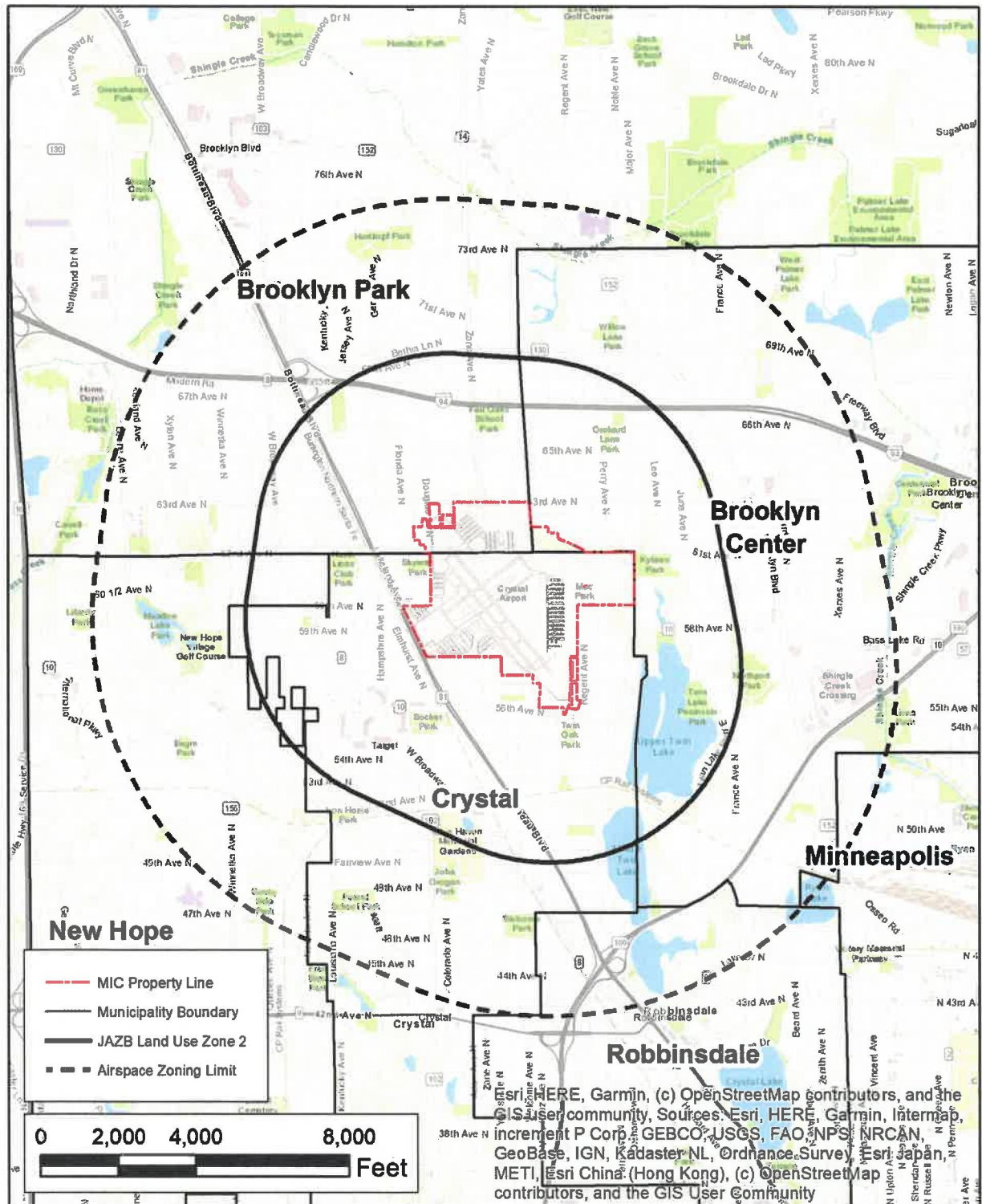


EXHIBIT E – AIRPORT BOUNDARY AND AIRSPACE CONTOURS

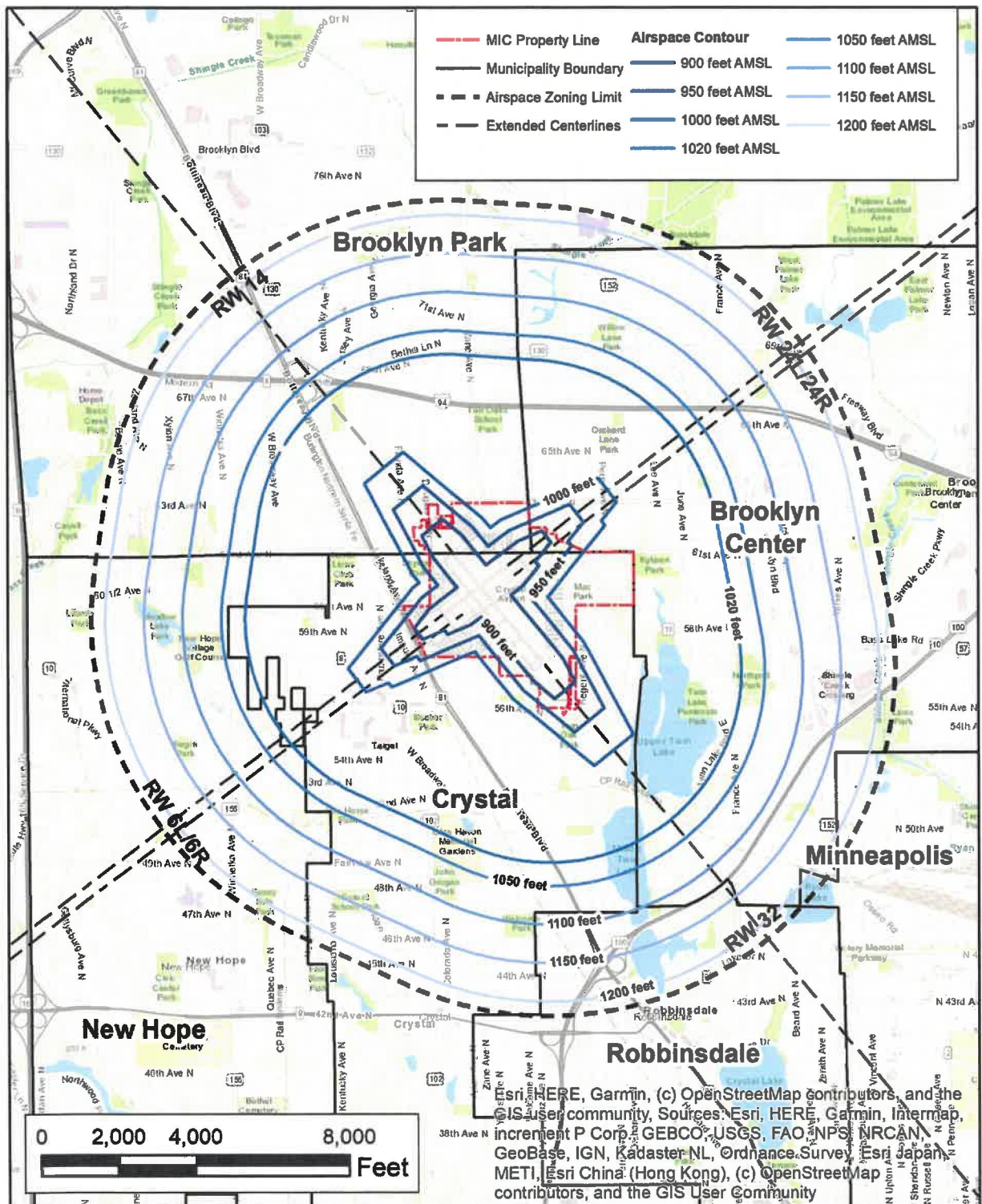
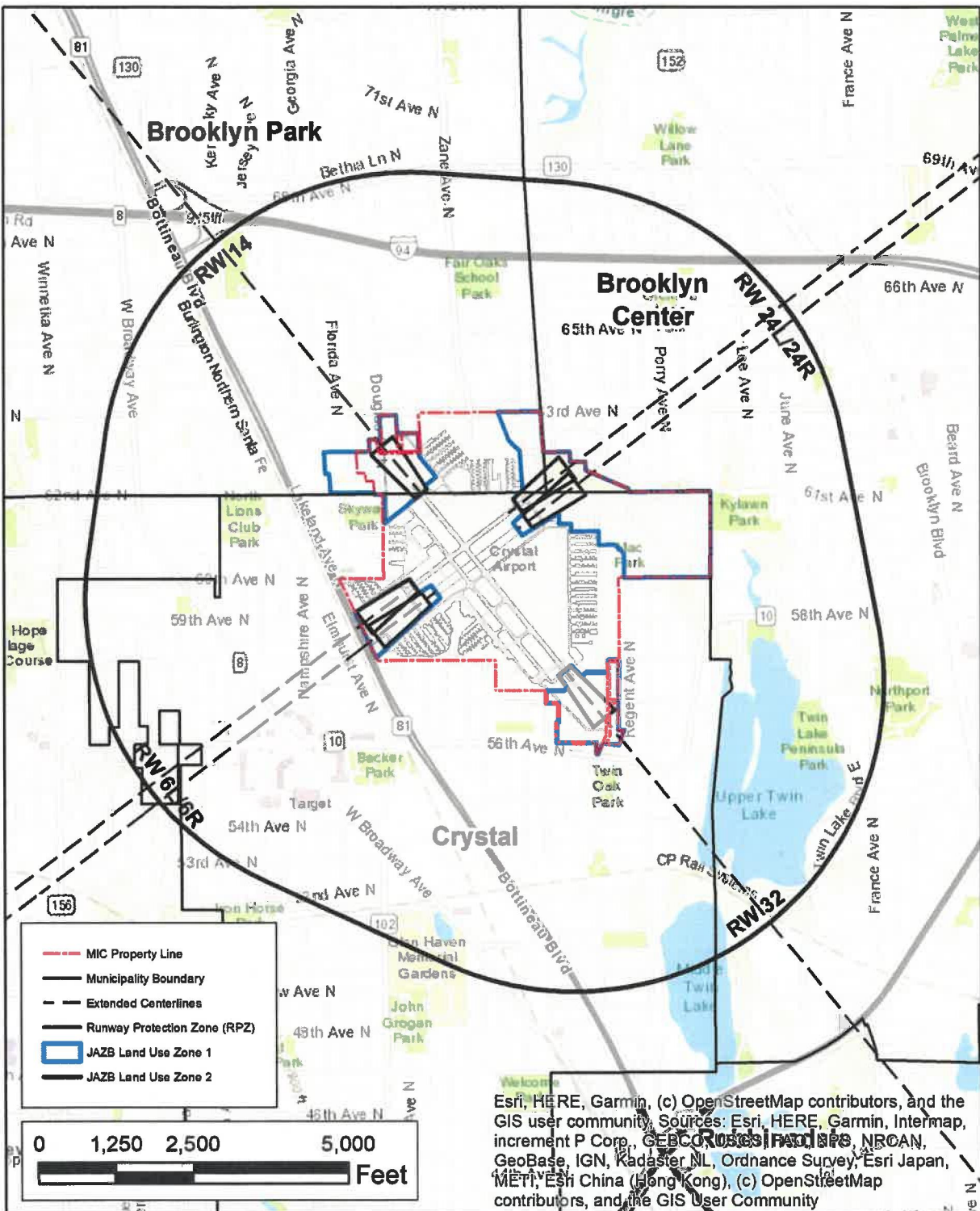
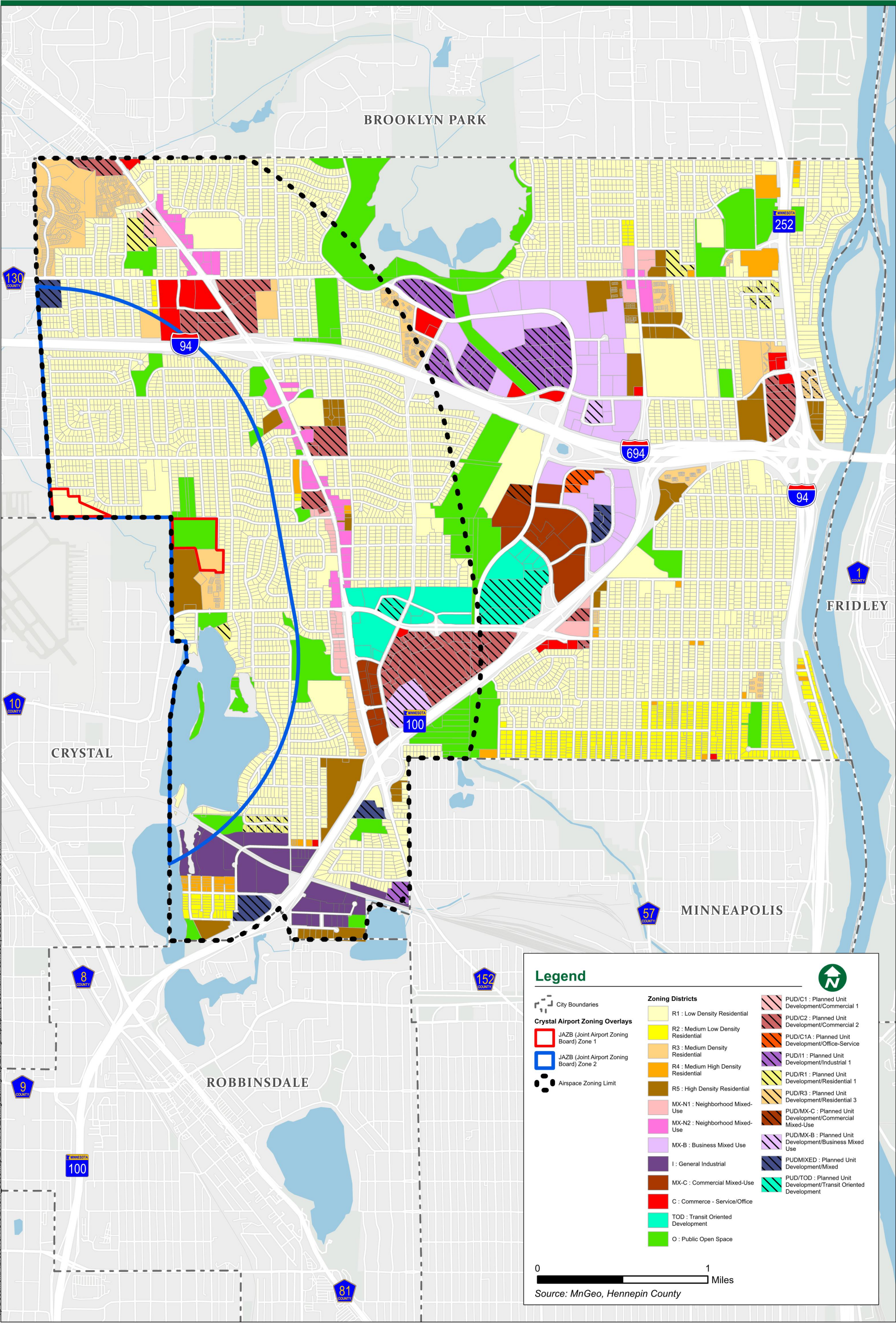


EXHIBIT F – AIRPORT BOUNDARY AND LAND USE ZONING LIMITS



DRAFT



STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF:

Docket No. 191
Order No. 644

The approval of zoning regulations for
Crystal Airport

**FINDINGS, CONCLUSIONS AND
ORDER**

FINDINGS

1. The Joint Airport Zoning Board of the Crystal Airport has drafted the "CRYSTAL AIRPORT ZONING ORDINANCE" and supporting record including a detailed analysis that explains how the proposed custom airport zoning regulations addressed the factors listed in Minnesota Statutes, Section 360.0656, Subd. 1 to provide a reasonable level of safety.
2. The Joint Airport Zoning Board of the Crystal Airport provided notice to the commissioner of their intention to establish and adopt a custom airport zoning ordinance under the regulations of Minnesota Statutes, Section 360.0656.
3. A public hearing on the proposed "CRYSTAL AIRPORT ZONING ORDINANCE" was held on April 19, 2023 giving parties in interest and citizens an opportunity to be heard. Notice of this hearing was published three times during the period between 15 days and 5 days before the hearing in an official newspaper, a second newspaper of wide circulation in the area affected by the proposed regulations and on the Joint Airport Zoning Board's website. No notices were published in the legal section of either newspaper.
4. Notice was sent by mail at least 10 days before the hearing to persons and landowners where the location or size of a building, or density of population, will be regulated, and to persons or municipalities that had previously requested such notice.
5. A copy of the notice and a list of the owners and addresses to which the notice was sent was attested to by the responsible person and made a part of the records of the proceedings.
6. The Joint Airport Zoning Board of the Crystal Airport submitted the proposed "CRYSTAL AIRPORT ZONING ORDINANCE" and supporting record to the commissioner for review on June 27, 2023.

CONCLUSIONS

1. Adoption of the proposed “CRYSTAL AIRPORT ZONING ORDINANCE” is necessary for both the operation of the Airport and the safety of both the public frequenting that airport and the occupants of land in its vicinity.
2. The proposed “CRYSTAL AIRPORT ZONING ORDINANCE” and supporting record evaluate the criteria under 360.0656, Subd. 1 and provide a reasonable level of safety.
3. A bona fide effort to comply with the requirements of Minnesota Statutes, Section 360.065, Subd. 1, was made prior to the approval of the proposed “CRYSTAL AIRPORT ZONING ORDINANCE”.

Based upon the foregoing Findings and Conclusions, the substantial evidence contained in the record, and the applicable law, the Director of the Office of Aeronautics of the Department of Transportation of the State of Minnesota, issues the following:

ORDER

The proposed “CRYSTAL AIRPORT ZONING ORDINANCE” is hereby approved.

**BY ORDER OF THE DIRECTOR OF THE
OFFICE OF AERONAUTICS OF THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MINNESOTA**

Ryan Gaug
Director Office of Aeronautics
Minnesota Department of Transportation

DATE: _____

CRYSTAL AIRPORT JOINT AIRPORT ZONING BOARD

In the Matter of Adopting a
Crystal Airport
Zoning Ordinance

FINAL STATEMENT OF LEGAL
AUTHORITY, FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER

The Crystal Airport Joint Airport Zoning Board (the “**Crystal JAZB**”) convened to consider adoption of a Crystal Airport Zoning Ordinance (“**Airport Zoning Ordinance**”), which will regulate the use of property and the height of structures and objects of natural growth in the vicinity of the Crystal Airport (“**Airport**”).

The Crystal JAZB, having reviewed and considered the public record before it, intends to adopt the Airport Zoning Ordinance. In support of its action, the Crystal JAZB hereby summarizes its legal authority; and finds, concludes and orders as follows.

I. LEGAL AUTHORITY

A. State Law: Authority and Purpose of Airport Zoning

1. The general authority to zone around the Airport is established in Minnesota Statutes, sections 360.061 – 360.074 (“**Airport Zoning Statute**”).
2. In the Airport Zoning Statute, the Minnesota Legislature (“**Legislature**”) found that airport hazards endanger lives and property of users of an airport and of occupants of land in its vicinity and may reduce the size of the area available for the landing, taking-off, and maneuvering of aircraft, thereby impairing the utility of an airport. *See* Minn. Stat. § 360.062.
3. The Legislature also found that the social and financial costs of disrupting existing land uses around airports often outweigh the benefits of a reduction in airport hazards. *See* Minn. Stat. § 360.062.
4. The Legislature then declared that the creation of airport hazards is a public nuisance and an injury to the community served by the airport, and that the creation of airport hazards should be prevented. *See* Minn. Stat. § 360.062.
5. The Legislature also declared that the elimination or removal of existing land uses is not in the public interest and should be avoided whenever possible consistent with reasonable standards of safety. *See* Minn. Stat. § 360.062.
6. The Legislature allows airport zoning regulations to regulate in airport hazard areas: (1) land use; (2) height restrictions; (3) the location, size, and use of buildings; and (4) the density of population. *See* Minn. Stat. § 360.063.

B. State Law: Joint Airport Zoning Boards

7. Joint airport zoning boards (“**JAZB**”) are authorized where “an airport is owned or controlled by a municipality and an airport hazard area appertaining to the airport is located within the territorial limits of another county or municipality ...” Minn. Stat. § 360.063, subd. 3.
8. JAZBs have the authority to adopt, administer, and enforce airport zoning regulations. *See* Minn. Stat. § 360.063, subd. 3.
9. The Metropolitan Airports Commission (“**MAC**”) is recognized as an “owning or controlling municipality” for purposes of the Airport Zoning Statute, and is required to request creation of a JAZB for the Airport. *See* Minn. Stat. § 360.063, subd. 3.
10. If an invited county or municipality fails to join in creating a JAZB, MAC or a JAZB created without participation by the entity that failed to join, may itself adopt, administer, and enforce airport zoning regulations. *See* Minn. Stat. § 360.063, subd. 3.
11. If a JAZB fails to adopt airport zoning regulations in accordance with the Airport Zoning Statute, the Minnesota Commissioner of Transportation (“**Commissioner**”) may adopt airport zoning regulations for the airport. *See* Minn. Stat. § 360.063, subd. 6.

C. State Law: Requirements and Considerations for Airport Zoning Regulations

12. A JAZB may base airport zoning regulations on standards promulgated by the Commissioner, or may develop custom airport zoning regulations after providing notice to the Commissioner. *See* Minn. Stat. § 360.0655, subd. 1.
13. When developing custom airport zoning regulations, a JAZB must include in the record a detailed analysis explaining how the proposed regulations address the factors set forth in Minn. Stat. § 360.0656, subd. 1(c) to ensure a reasonable level of safety.
14. Airport zoning regulations must be reasonable, and none can impose a requirement or restriction that is not reasonably necessary to effectuate the purposes of the Airport Zoning Statute. *See* Minn. Stat. § 360.066, subd. 1.
15. The JAZB’s zoning regulations cannot require that any structure or tree that does not conform to the regulations when adopted be removed, lowered, altered, or interfered with, except as provided in Minn. Stat § 360.067. *See* Minn. Stat § 360.066, subd. 2.

D. State Law: Process for Adopting Airport Zoning Regulations

16. The JAZB must hold a public hearing on its proposed zoning regulations. Notice of the public hearing must be provided as described in the Airport Zoning Statute. *See* Minn. Stat. § 360.065, subd. 1.
17. After the public hearing, the JAZB must submit its proposed zoning regulations to the Commissioner for review. For custom airport zoning regulations, the Commissioner must determine whether the proposed custom regulations and supporting record (1)

- evaluate the criteria in Minn. Stat. § 360.0656, subd. 1, and (2) provide a reasonable level of safety. *See* Minn. Stat. § 360.0656, subd. 2.
18. The Commissioner must examine the proposed regulations within 90 days of receipt and report to the JAZB the Commissioner's approval or objection. The Commissioner may request additional information from the JAZB within the 90-day review period. *See* Minn. Stat. § 360.0656, subd. 2.
 19. The JAZB cannot adopt the proposed custom airport zoning regulations until they are approved by the Commissioner. *See* Minn. Stat. § 360.0656, subd. 2.
 20. If changes are made to the proposed zoning regulations, after the initial public hearing, that alter the regulations placed on a parcel of land, the JAZB must hold a second public hearing before final adoption of the proposed zoning regulations. *See* Minn. Stat. § 360.065, subd. 1.

E. State Law: Incorporation into Local Zoning

21. Airport zoning regulations adopted by a JAZB must be incorporated, administered, and enforced in connection with local comprehensive zoning ordinances applicable to the same area. *See* Minn. Stat. § 360.064.

F. Federal Standards

22. The Federal Aviation Administration (“FAA”) has established airspace safety standards in Federal Aviation Regulation Part 77.
23. FAA has also established standards for the establishment of runway protection zones (“FAA RPZ”). *See* FAA Advisory Circular 150/5300-13B.
24. There are no federal airport safety land use zoning standards beyond the FAA RPZs.

II. FINDINGS OF FACT

A. Crystal JAZB

25. Pursuant to Minn. Stat. §360.063, subd. 3, MAC requested formation of the Crystal JAZB in July of 2021.
26. The Crystal JAZB consists of two members each from the City of Crystal, the City of New Hope, the City of Brooklyn Park, the City of Robbinsdale, the City of Minneapolis, as well as two members from MAC. In addition, a chair was elected and appointed by the Crystal JAZB members.
27. The Crystal JAZB conducted its first meeting on October 12, 2021, and met eight times between October 2021 and April 2023 (including once for the public hearing). All meetings of the Crystal JAZB were open to the public.
28. At its February 11, 2022, meeting, the JAZB considered the Airport Zoning Statute, the standards promulgated by the Commissioner, the option to develop custom airport zoning regulations, and features of the Crystal Airport and vicinity land uses. At this meeting, the JAZB elected to pursue custom zoning for the Crystal Airport.

29. On March 16, 2022, the JAZB sent notice to the Commissioner that the JAZB elected to establish and adopt custom airport zoning regulations.
30. At its July 13, 2022 and October 12, 2022, meetings, the JAZB considered the custom zoning factors set forth in the Airport Zoning Statute as they apply to the Crystal Airport, including a detailed safety/risk analysis. The JAZB also considered information regarding airspace zoning and land use zoning, including an analysis of accident probabilities in areas surrounding the Airport and the costs and burdens of imposing land use restrictions. At this meeting, the JAZB directed MAC to create a formal proposal for a custom airport zoning ordinance based on the information presented at the meeting.
31. At its November 16, 2022 and December 14, 2022 meetings, the JAZB considered drafts of an Airport Zoning Ordinance establishing proposed height and land use regulations (including appropriate airspace and land use safety zones), providing for nonconforming uses, zoning permits, and variances, and addressing administration, enforcement, and appeals. The JAZB considered whether the proposed ordinance provided a reasonable level of safety. The JAZB addressed several administrative concerns including the interplay between city enforcement actions under the Airport Zoning Ordinance and the FAA's 7460 process. At the December 14, 2022 meeting, the JAZB decided to advance the draft Airport Zoning Ordinance to a public hearing as required by Minnesota Statutes, section 360.065, subd. 1.

B. Public Hearing

32. Two public comment periods were held between February 7, 2023, through March 8, 2023, and April 4, 2023, through May 3, 2023. The first public comment period was associated with a Public Hearing scheduled for February 23, 2023. This meeting was cancelled due to weather. The second public comment period was associated with a rescheduled Public Hearing held on April 19, 2023.
33. Notice of the public hearing was provided as required by Minn. Stat. § 360.065, subd. 1.
34. Forty-four people signed in on the attendance sheets. All persons in attendance and wishing to do so were given an opportunity to testify or provide written comments.
35. The proceedings of the public hearing were transcribed by a qualified court reporter.
36. A full record of the public hearing process is set forth in the Draft Crystal Airport Zoning Ordinance Public Hearing Report, including responses to public comments.

C. Submittal to the Commissioner

37. Prior to adopting custom airport zoning regulations, a JAZB must submit the proposed regulations and supporting record to the Commissioner. The Commissioner must determine whether the proposed regulations and supporting record (1) evaluate the applicable criteria in Minnesota Statutes, section 360.0656, subd. 1, and (2) provide a reasonable level of safety. *See* Minn. Stat. § 360.0656, subd. 2.

38. At its June 15, 2023, meeting, the Crystal JAZB accepted a report on the public hearing and considered clarifications of the draft Airport Zoning Ordinance in response to questions received during the public hearing process. The JAZB also considered the procedural requirements associated with submittal of the draft Airport Zoning Ordinance to the Commissioner. The JAZB approved submission of the following materials to the Commissioner:
 - a. Crystal JAZB Meeting Record
 - b. Public Hearing Report;
 - c. Analysis of Custom Airport Zoning Factors; and a
 - d. draft of the Airport Zoning Ordinance.
39. On June 26, 2023, the Crystal JAZB chair, Richard Weyrauch, transmitted the above-listed materials to the Commissioner.

D. Commissioner's Order and Approval

40. On September 24, 2023, the Commissioner issued Order No. 644 (“**Commissioner's Order**”).
41. The Commissioner concluded the following:
 - a. Adoption of the draft Crystal Airport Zoning Ordinance is necessary for both the operation of the Crystal Airport and the safety of both the public frequenting that airport and the occupants of land in its vicinity.
 - b. The draft Crystal Airport Zoning Ordinance and supporting record evaluate the criteria under Minnesota Statutes, section 360.0656, subd. 1 and provide a reasonable level of safety.
 - c. A bona fide effort to comply with the requirements of Minnesota Statutes, section 360.065, subd. 1, was made prior to the approval of the proposed Crystal Airport Zoning Ordinance.
42. The Commissioner approved the Crystal Airport Zoning Ordinance.

E. Adoption by the Crystal JAZB

43. On November 8, 2023, the Crystal JAZB met and considered the Commissioner's Order; the draft Airport Zoning Ordinance approved by the Commissioner; and this Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order.
44. No changes were made to the draft Airport Zoning Ordinance approved by the Commissioner.
45. The Crystal JAZB approved this Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order; and adopted the draft Airport Zoning Ordinance as the final Crystal Airport Zoning Ordinance.

III. CONCLUSIONS OF LAW

46. The Crystal JAZB was properly constituted as required by Minnesota Statutes, section 360.063.
47. The Crystal JAZB complied with the procedural requirements for approval and adoption of airport zoning regulations, as required by Minnesota Statutes, sections 360.065 and 360.0656.
48. The Crystal JAZB complied with the statutory requirements in developing and adopting custom airport zoning regulations, as required by Minnesota Statutes, section 360.0656.
49. The Crystal Airport Zoning Ordinance complies with the requirements of the Airport Zoning Statute.
50. The Crystal Airport Zoning Ordinance provides a reasonable level of safety.
51. The Crystal Airport Zoning Ordinance meets or exceeds federal standards for the establishment of airspace and land use safety zones.
52. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

IV. ORDER

Based upon the foregoing findings and conclusions, the substantial evidence contained in the record, and the applicable law, the Crystal JAZB concludes that the Crystal Airport Zoning Ordinance should be adopted.

Approved on November 8, 2023.

I hereby certify that this is a complete, true, and correct copy of the Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order as approved by the Crystal JAZB on November 8, 2023.

Richard D. Weyrauch, Chair

Crystal Joint Airport Zoning Board

Date: _____

Rebecca Townsend, Secretary

Crystal Joint Airport Zoning Board

Date: _____

**CITY OF
BROOKLYN CENTER
NOTICE OF
PLANNING COMMISSION
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, February 8, 2024** at 7:00 p.m. at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430 to hear from the public, discuss, and make a recommendation upon an ordinance addressing comprehensive amendments to Chapter 35 of the City Code, including the following: (1) the adoption and incorporation of the Crystal Airport Zoning Ordinance, (2) permit requirements for the placement of fences, (3) amendments to the use of commercial vehicles as an accessory use, (4) amendments to minimum width and depth requirements in the R1 and R2 zoning districts, (5) amendments to the definition of structure height and height requirements in the R1, R2 and R3 zoning districts, and the MRCCA Overlay District, (6) amendments to the density range for the R3 zoning district, (7) supplemental language regarding nonconforming structures and uses, (8) amendments to public notice sign requirements for public hearings, and (9) amendments to the allowed use table with regard to licensed day cares, licensed group family day cares, licensed residential facilities and massage and sauna establishments. Public hearing materials, including a copy of the ordinance, can be accessed and will be available in advance of the meeting by visiting the City of Brooklyn Center's website at: <https://www.brooklyncentermn.gov/>. Interested persons are welcome to attend the hearing and be heard regarding this matter.

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

Meeting Number (Access Code):
2632 698 5044
Password: BCPC02082024
By Phone: 1 (312) 535-8110
(Enter Access Code)

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

Respectfully,
Ginny McIntosh
Planning Manager

Published in the
Sun Post
January 25, 2024
1369306

CITY OF BROOKLYN CENTER

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING THE CRYSTAL AIRPORT ZONING ORDINANCE, FENCE PERMITS AND STANDARDS, COMMERCIAL VEHICLE STANDARDS, DIMENSIONAL AND STRUCTURAL STANDARDS IN THE R1, R2, R3 AND R4 ZONING DISTRICTS, NONCONFORMING STRUCTURES AND USES, PUBLIC NOTICE SIGN REQUIREMENTS AND USE AMENDMENTS FOR LICENSED DAY CARES, LICENSED GROUP FAMILY DAY CARES, LICENSED RESIDENTIAL FACILITIES AND MASSAGE AND SAUNA ESTABLISHMENTS

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

Article I. Brooklyn Center City Code, Chapter 35, Section 35-1301 k. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- k. For example, under Minnesota Statutes, Section 462.357, subdivision 7, with limited exceptions, requires a state licensed residential day-care facility serving 6 or fewer persons, a licensed day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children shall ~~to~~ be considered a permitted single-family residential use of property. As such, this Chapter shall be interpreted as allowing that specific use as a permitted residential use, ~~but only up to a capacity of 12 persons.~~ A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly permitted in the particular zoning district by this Chapter.

Article II. Brooklyn Center City Code, Chapter 35, Section 35-1600 is amended by adding the following double-underlined language as the new Section 35-1605:

Section 35-1605. NONCONFORMITIES.

- a. Continuance of Nonconformities. The lawful use of any land or building existing at the time of the adoption of this UDO may be continued, even if such does not conform to the regulations of this ordinance, except as provided below:
 - 1) Alterations: A nonconforming building or structure shall not be reconstructed or altered unless such building or structure is changed to conform with the regulations of this UDO.
 - 2) Enlargement: A nonconforming building or structure shall not be added to or

enlarged in any manner unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this UDO.

- 3) Restoration: A nonconforming building or structure which is damaged by fire or other causes to the extent of more than fifty percent (50%) of its market value, unless a formal application for a building permit has been applied for within one hundred eighty (180) days of when the property was damaged, shall not be restored except in conformity with the regulations of this UDO.
- 4) Abandonment: A nonconforming use of a building which has been discontinued for a period of more than one (1) year shall not be reestablished, and any future use shall be in conformity with the regulations of this UDO.
- 5) Maintenance: Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.
- 6) Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than fifty percent (50%) of the square footage of the building shall require the entire building to meet architectural control standards.

b. Nonconforming use of building or land.

- 1) Extension: No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the time of the effective date of this UDO.
- 2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the time of the effective date of this ordinance.
- 3) If any such nonconforming use of land or building ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

Article III. Brooklyn Center City Code, Chapter 35, Section 35-2201 a. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- a. PURPOSE. The purpose of the R1 (Low Density Residential) zoning district is to conserve low-density, single- family neighborhoods. This district primarily supports one family dwellings. Allowed uses are shown in Section 35-4103200 Allowed Use Table.

Article IV. Brooklyn Center City Code, Chapter 35, Section 35-2201 b. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Building Setbacks		
A	Front building setback (minimum)	35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot)
B	Side building setback (minimum)	10 feet
C	Rear building setback (minimum)	25 feet
D	Lot area – (minimum)	9,500 sq. ft. (interior lot) or 10,500 sq. ft. (corner lot)
E	Lot width – one family (minimum)	75 feet (interior lot) or 90 feet (corner lot)
F	Accessory Structure setback, Interior Side or Rear (<u>m</u> Minimum)	5 feet
Other Standards		
<u>G</u>	Primary structure height (maximum)	<u>32</u> 25 feet
<u>H</u>	Accessory Structure height (<u>m</u> Maximum)	16 feet
<u>I</u>	Density	3-5 units/acre
<u>J</u>	<u>Primary Dwelling Width and Depth (minimum)</u>	<u>18 feet</u>

Article V. Brooklyn Center City Code, Chapter 35, Section 35-2202 a. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- a. PURPOSE. The purpose of the R2 (Medium Low Density Residential) zoning district is to allow for smaller lot sizes or two-family dwellings in residential neighborhoods. Allowed uses are shown in Section 35- 4103200.

Article VI. Brooklyn Center City Code, Chapter 35, Section 35-2202 b. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Building Setbacks		
A	Front building setback (minimum)	35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot)
B	Side building setback (minimum)	10 feet
C	Rear building setback (minimum)	20 feet
D	Lot area – one family per unit (minimum)	7,600 sq. Ft. (interior lot) or 8,500 sq. Ft. (corner lot)
E	Lot area – two family (minimum)	5,000 sq. Ft./unit (interior and corner lot)
F	Lot width – one family (minimum)	60 feet (interior lot) or 75 feet (corner lot)

<u>G</u>	Lot width – two family (minimum)	75 feet (interior lot) or 90 feet (corner lot)
<u>H</u>	Accessory Structure setback, Interior Side or Rear (m Minimum)	5 feet
Other Standards		
I <u>H</u>	Primary structure height (maximum)	32 <u>25</u> feet
<u>J</u>	Accessory Structure Height (m Maximum)	16 feet
<u>K</u>	Density	3-10 units/acre
<u>L</u>	<u>Primary Dwelling Width and Depth (minimum)</u>	<u>18 feet</u>

Article VII. Brooklyn Center City Code, Chapter 35, Section 35-2203 a. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- a. PURPOSE. The purpose of the R3 (Medium Density Residential) zoning district is to provide medium-density housing in townhouses, or condominium single family attached dwelling units. This district primarily supports attached single-family dwellings, but small lot, detached single-family dwellings are permitted as well. Allowed uses are shown in Section 35-4103~~200~~ – Allowed Use Table.

Article VIII. Brooklyn Center City Code, Chapter 35, Section 35-2203 b. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Building Setbacks		
<u>A</u>	Front building setback (minimum)	35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot)
<u>B</u>	Side building setback (minimum)	10 feet
<u>C</u>	Rear building setback (minimum)	40 feet
<u>D</u>	Lot area – (minimum)	4,000 sq. ft. per unit
<u>E</u>	Lot width – (minimum)	25 feet
<u>F</u>	Accessory Structure setback, Interior Side or Rear (minimum)	5 feet
Other Standards		
G <u>F</u>	Primary structure height (maximum)	35 feet
<u>H</u>	Accessory structure height (m Maximum)	16 feet
<u>I</u>	Density	5-1 <u>50</u> units/acre

Article IX. Brooklyn Center City Code, Chapter 35, Section 35-3100 is amended by adding the following double-underlined language:

Section 35-3100. OVERLAY DISTRICTS.

The following overlay districts are hereby established for the City:

Overlay Districts	
FP	Floodplain
SL	Shoreland
CA	Mississippi River Corridor Critical Area
<u>AP</u>	<u>Airport</u>

The boundaries of the overlay districts are shown on the Zoning Map.

Article X. Brooklyn Center City Code, Chapter 35, Section 35-3101 k. 1) E. 2203 a. is amended by deleting the following ~~stricken~~ language:

- E. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this Unified Development Ordinance. ~~The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.~~

Article XI. Brooklyn Center City Code, Chapter 35, Section 35-3103 f. 2) A. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

- 2) STRUCTURE HEIGHT. Structures and facilities must comply with the following standards unless identified as exempt in Section 35-3103(l):

- A. RN District: 2532 feet in residential districts, except for places of religious assembly. 35 feet for all other districts.

Article XII. Brooklyn Center City Code, Chapter 35, Section 35-3100 is amended by adding the following double-underlined language as the new Section 35-3104:

Section 35-3104. A P – AIRPORT

- a. PURPOSE AND INTENT. The Airport Overlay District is established to adopt by reference and implement the Crystal Airport Zoning Ordinance, as adopted on November 8, 2023 by the Crystal Airport Joint Airport Zoning Board (“JAZB”). The Crystal Airport Zoning Ordinance creates zones and establishes boundaries that extend into the City. It is the purpose of the Airport Overlay District to protect the public health, safety, general welfare and ensure land use compatibility to prevent potential obstructions or hazards to air traffic in the air space above and around the City within the airport overlay district.
- b. ADOPTION. The Crystal Airport Zoning Ordinance, together with Exhibits A – F

and additional attached sheets (collectively, the “Airport Ordinance”), are incorporated herein by reference, are available at the Zoning Administrator’s office at City Hall and is codified as Appendix A to the City Code. The Airport Overlay District shall apply to all land within the city designated to be within one of the safety zones set forth in the Airport Ordinance. No use shall be made of any land in any of the safety zones identified in the Airport Ordinance that is contrary to the provisions set forth in the Airport Ordinance.

- c. DESIGNATION OF ZONING ADMINISTRATOR. The City’s Zoning Administrator shall administrate and enforce this section. The City’s Zoning Administrator is designated as the City official entitled to administer and enforce the Crystal Airport Zoning Ordinance.

Article XIII. Brooklyn Center City Code, Chapter 35, Section 35-4013 Allowed Use Table is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE														
	Residential					Commercial/ Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	M X-N1	M X-N2	M X-C	TO D	C	MX-B	I	O	
RESIDENTIAL USES														
HOUSEHOLD LIVING														
Dwelling, one family	P	P												
Dwelling, two family		P												
Townhouse or Condominium Single Family Attached Dwelling Units			P			P	P		P					
Dwelling, live/work						C	C	P	P	A	C			35-4301(a)
Dwelling, multiple family				P	P	P	P	P	P					
Accessory dwelling unit (ADU)	A	A												35-4403
Accessory structures including but not limited to, detached garages, carports, gazebos, sheds, patios, decks, porches, amateur radio equipment,	A	A	A	A	A	A	A	A	A					35-4400

etc., for use by the occupants of the principal use														
Playground equipment and recreation installations, including Private swimming pools and sport courts	A	A	A	A	A	A	A	A	A					
Licensed Day Care Facilities (12 and fewer children <u>persons</u>) or Licensed Group Family Day Care Facilities (14 and fewer children <u>persons</u>)	P	P	P			P	P			P				35-4302(c)

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE

	Residential					Commercial/ Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	M X-N1	M X-N2	M X-C	TO D	C	MX - B	I	O	
The renting of not more than two sleeping rooms in the principal building by a resident family, provided adequate off-street parking is provided	A	A												
GROUP LIVING														
Nursing homes			C	C	C	C	C							
Assisted living homes			C	C	C	C	C	C	C					
Licensed Residential Facility (6 and fewer <u>persons</u>)	P	P	P			P	P		P					
Licensed Residential Facility (7 and greater <u>persons</u>)			<u>C</u>	C	C	C	C	C	C					
Licensed Day Care Facility (13 and greater person)			C	C	C	C	C	C	C					

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE

EATING, DRINKING, AND LODGING

	Residential					Commercial/Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	M X-N1	M X-N2	M X-C	TO D	C	MX-B	I	O	
Brewpub, micro-winery, and micro-distillery						P	P	P	P	P	P	P		
Clubrooms and lodges						C	C	C	C	C				
Drive-thru eating establishments							C	C		C				35-4402(Cc)
Eating establishments						P	P	P	P	P	P	A		
Banquet, Event, or Conference Facility							C	C	C	C	A			
Hospitality lodging and associated uses							C	C	C	C	C			

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE

	Residential					Commercial/ Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	M X-N1	M X-N2	M X-C	TO D	C	MX-B	I	O	

COMMERCIAL USES

Business to business services						P	P	P	P	P	P	P		
Financial institutions including, but not limited to, full-service banks and savings and loan associations							P	P	P	P				
<u>Licensed Day Care Facilities (13 and greater persons)</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>					<u>35-4302(c)</u>
<u>Licensed Day Care Facilities (13 and greater persons) associated with Places of Assembly or Public and Private Elementary and Secondary Schools Offering a Regular Course of Study</u>	<u>C</u>	<u>C</u>			<u>C</u>				<u>C</u>			<u>C</u>		<u>35-4302(c)</u>

Stand-alone ATMs							A	A	A	A				
Pawn shops										C				
Sauna and massage establishments							PA	PA	PA	PA				
Office						P	P	P	P	P	P	P		
Personal services				A	A	P	P	P	P	P				
Contractor's Offices										C	P	P		
A real estate office for the purpose of leasing or selling apartment units in the development in which it is located				A	A	A	A	A	A					
Allowable Home occupations (not to include Conditional Home Occupations)	A	A	A	A	A	A	A	A	A					35-4402 (d)

Article XIV. Brooklyn Center City Code, Chapter 35, Section 35-4302 c. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

c. **GROUP LICENSED DAY CARE FACILITIES.**

- 1) The structure in which a licensed day care facility is located must be in continual compliance with all building, fire, zoning, and health codes of the city and state, in addition to all requirements of Minnesota Statutes, Chapter 245A and Minnesota Rules, Chapter 9502. In the case of group day care facilities, outside recreational facilities are required, and shall be appropriately separated from the parking and driving areas by a wood fence not less than four feet in height; or a Council approved substitute; shall be located contiguous to the day care facility; shall not be located in any yard abutting a major thoroughfare unless buffered by a device set forth in Section 35-5600; shall not have an impervious surface for more than half the playground area; and shall be a minimum of 50 square feet square feet per child in attendance unless otherwise noted in Minnesota Rules, part 9502.0425, subpart 2.
- 2) Group Licensed day care facilities shall be permitted where noted in Section 35-4103.200, ~~provided that such developments, in each specific case, are demonstrated to be:~~
 - A. ~~Compatible with existing adjacent land uses as well as with those uses permitted in the zoning district generally.~~

- ~~B. Complementary to existing adjacent land uses as well as to those uses permitted in the zoning district generally.~~
- ~~C. Of comparable intensity to permitted zoning district land uses with respect to activity levels.~~
- ~~D. Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.~~
- ~~E. Traffic generated by other uses on the site will not pose a danger to those served by the day care use.~~

3) Licensed day care facilities in residential zoning districts are subject to the following additional requirements:

- A. For one and two-family dwellings, 12 or fewer persons.
- B. For non one and two-family dwellings, 12 or fewer persons (except places of religious assembly and public or private elementary and secondary schools).
- C. The size of the licensed day care facility in a place of religious assembly or public or private elementary or secondary school is based on the size and capacity of the structure and the availability of parking.

~~3) Group day care facilities shall be allowed as an accessory use to places of religious assembly and educational uses, as noted in Section 35-4200, and shall demonstrate provisions as outlined in 35-4302(e).~~

4) Licensed day care facilities in non-residential zoning districts are subject to the following additional requirements:

- A. The size of the licensed day care facility is dependent on the size and capacity of the structure and the availability of parking.
- B. The size of the licensed day care facility in a place of religious assembly or public or private elementary or secondary school is based on the size and capacity of the structure and the availability of parking.
- C. Pick up/drop-off area(s) must be located in close proximity to the front of the building and adjacent to a pedestrian area.

- 4)5) When required, ~~group~~ day care facilities shall be licensed by the Minnesota Department of Human Services (“DHS”) pursuant to a valid license application. A copy of said license and application shall be submitted annually to the City.

Article XV. Brooklyn Center City Code, Chapter 35, Section 35-4402 d. 4) G. ii. is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language

- ii. Conditional Home Occupations. No Conditional Home Occupation shall cause traffic congestion on the streets adjacent thereto. A Conditional Home Occupation may store and/or park off-street up to one commercial vehicle that is accessory and necessary to the approved on-site business, provided that the commercial vehicle is licensed and operable meets the requirements set forth in Section 35-5512 and is designated within vehicles classes 1-4 only, as defined by the Minnesota Department of Transportation in their official vehicle classification scheme.

Article XVI. Brooklyn Center City Code, Chapter 35, Section 35-5100 Dimensional Standards Summary table is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Dimensional Standards													
	Lot Dimensions (Minimum, only for lots created after the effective date), <u>in feet (ft) unless noted.</u>												
Zoning Districts	R1	R2	R3	R4	R5	MX-N1	MX-N2	MX-C	TOD	C	MX-B	I	O
Lot area (SF/Unit)	9,500 (Interior) 10,500 (Corner)	7,600 (One-family Interior), 8,500 (one-family corner), 5,000 (two-family)	4,000	2,200	1,400	--	--	Minimum 2 Acres Contiguous Parcel for Residential Use	2000 ft perimeter (max)	--	--	--	--
Density (Units/Acre)	3-5	3-10	5-15	10-25	20-31	15-31	15-31	10-60	31 – 130	--	--	--	--
Maximum size of individual non-residential use	--	--	--	--	--	7,500 <u>SF</u>	10,000 <u>SF</u>	--	--	--	--	--	--
<u>Primary Dwelling Width and Depth</u>	<u>18</u>	<u>18</u>											

(minimum)													
Lot width (Interior)	75	60 (one-family) 75 (two-family)	25	100	100	--	--	100	--	100	100	100	--
Lot width (Corner)	90	75 (one-family) 90 (two-family)	25	100	100	--	--	100	--	100	100	100	--
Setbacks (Principal Structure)													
Front build-to line	--	--	--	--	--	5-20	5-20	--	0-10	--	--	--	--
Front (Interior)	35	35	35	35	35	NA	NA	10	NA	35	35	35	--
Secondary Front (Corner)	15	15	15	35	35	5-20	5-20	10	0-10	35	35	35	--
Side (Interior)	10	10	10	10	10	10	10	10	10 - 50	10	10	10	--
Rear	25	20	40	40	40	20	10	20	10 - 50	40	25	25	--
Additional Standards													
Impervious surface coverage (maximum)	--	--	--	--	80%	80%	80%	80%	85%	80%	--	--	--
Primary structure height (maximum)	25 <u>30</u>	25 <u>30</u>	35	40	48	48	48	NA	NA	40	NA	48	--
Accessory structure height (maximum)	16	16	16	16	16	20	20	20	20	16	16	16	--

Article XVII. Brooklyn Center City Code, Chapter 35, Section 35-5512 is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Section 35-5512. COMMERCIAL VEHICLES PARKED IN R1 AND R2 DISTRICTS.
For each dwelling unit, off-street parking of not more than one licensed and operable commercial motor vehicle is permitted provided that:

- a. Any such vehicle must be operated by a resident of that dwelling unit.
- b. Such parking is only permitted in a garage, driveway or improved hard surface in accordance with the requirements of ~~the UDO~~ Section 35-2200 and 35-2202 for R1 and R2 districts.

- c. Only class 1-4 vehicles may occupy off-street parking space in R1 and R2 districts, as defined by the Minnesota Department of Transportation's vehicle classification scheme.
- d. Under no circumstances shall a semi-truck or tractor-trailer combination be parked or stored off-street in an R1-R42 District.

Article XVIII. Brooklyn Center City Code, Chapter 35, Section 35-5512 is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Section 35-5609. FENCES. Fences may be erected, placed, or maintained along or adjacent to a lot line. The fence owner shall be responsible for properly locating all property lines before fence construction.

a. PERMIT REQUIRED.

- 1) ~~For fences located in any district which are six (6) feet in height or greater, a~~ A permit is required before any work may commence on the installation of a fence.

b. FENCE STANDARDS.

- 1) Allowable heights in residential districts.
 - A. Front yard. No fence shall exceed four (4) feet in height at the front property lines.
 - B. No fence shall exceed six (6) feet in height at the side and rear property lines.
 - C. No fence shall encroach within the Clear View Triangle, unless otherwise permitted by the Zoning Administrator.
- 2) Allowable heights in MX-B and I districts.
 - A. Front yard. A non-opaque fence shall not exceed eight (8) feet in height at the front property line.
- 3) Clear view triangle, visual obstructions, and vehicle queuing. No fence shall encroach within the Clear View Triangle, as defined in Section 35-9000, unless otherwise permitted by the Zoning Administrator. Additionally, any proposed fence shall be set back a sufficient distance from sidewalks and rights-of-way to ensure adequate space and safety for pedestrians and adequate space for vehicles entering the property through a gate or other entry through the fence.

2)4) Permitted materials.

- A. Fences shall be constructed of wood, metal, bricks, masonry or other similar materials, designed for permanent fencing. Fences constructed of wood shall be resistant to decay. Fences on a single property may not be constructed of more than two different materials. All fence materials shall be uniform in color with the exception of minimal hardware and fasteners, including screws, and gate hinges and latches.

3)5) Prohibited materials.

- A. Fences shall not be constructed of electrically charged wire, barbed wire, razor wire, or other similar materials not specifically manufactured for permanent fencing.
- B. Any materials not listed here should be considered prohibited unless approval is provided by the Zoning Administrator.

4)6) Posts and supporting members.

- A. All fence posts and related supporting members of the fence shall be erected so that the finished side or sides of the fence face the adjacent property or public right-of-way.

5)7) Maintenance.

- A. Every fence and retaining wall on or adjacent to residential property shall be kept well maintained and in good repair.

Article XIX. Brooklyn Center City Code, Chapter 35, Section 35-7504 is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language:

Section 35-7504. SIGN NOTICE. When an zoning application involves ~~changes in district boundaries affecting an area of five acres or more,~~ a change of a zoning district, or construction or major alteration of a structure, except one and two family dwellings and buildings accessory thereto, the City shall property owner must post a public notice sign on the subject property, in coordination and with the consent of the property owner, and in accordance with the following:

- a. Public notice signs shall be posted on any property subject to the public hearing provisions. Public notice signs shall be installed by the owner of the property for which the public hearing is required.

~~b.a.~~ **DISPLAY PERIOD.** Public notice signs shall be installed on the subject property no less than ten days prior to an established public hearing date, and shall be removed no more than seven days following application determination by City Council.

~~e.b.~~ Public notice signs shall be posted according to the following standards:

- 1) Number. One sign shall be posted along each public street frontage.
- 2) Location. Whenever practical, signs shall be set back ten (10) feet from a public street right- of-way and positioned in a manner to best inform the vehicle and pedestrian traffic, without creating a safety hazard.
- 3) Size and Content. All public notice signs shall be of adequate size and design to be clearly visible and legible to passing vehicles and pedestrians. At a minimum, a public notice sign shall notify the public of the subject of the public hearing and provide the public with contact information for any questions or comments relating to the subject of the public hearing specify the time, date and location of the scheduled public hearing, the general nature of the hearing, and a phone number for the Zoning Administrator for additional information.
- 4) ~~All sign content, location, and size must be reviewed and approved in writing by the Zoning Administrator.~~

Article XX. Brooklyn Center City Code, Chapter 35, Section 35-9200 is amended by adding the following double-underlined language and deleting the following ~~stricken~~ language for the following definitions:

Height of Structure. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or ~~average height of the highest gable of a pitched or hipped roof.~~

Home Occupation, Allowable. Subject to the further limitations of Section 35-4402 (d) of the UDO, a home occupation is any gainful occupation or profession, carried on within a dwelling unit, by a family member residing within a dwelling unit, which is clearly incidental and secondary to the residential use of the dwelling unit and the lot upon which it is constructed, including, dressmaking, secretarial services, professional services, answering services, individual music or art instruction, individual hobby crafts, and unlicensed day care and similar activities.

Licensed Day Care Facility. A facility required to be licensed by the state, county or City that provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own dwelling unit. Licensed day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, drop-in and school age child care homes, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers, and day services as defined by Minnesota State statutes. ~~Residential day care~~

~~facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes related to sex offenses may not be considered a licensed residential day care facility.~~

Licensed Residential Facility (Group Home). A facility required to be licensed by the state or county that provides one or more persons with 24 hour per day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation or treatment that cannot be furnished in the person's own home. Licensed residential facilities (group homes) are limited to those facilities licensed or regulated by the Department of Human Services or the Department of Health. This does not include licensed facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes related to sex offenses or facilities licensed by the Department of Corrections.

Article XXI. Crystal Airport Zoning Ordinance – Appendix A. The Brooklyn Center City Code is hereby amended by adding the Crystal Airport Zoning Ordinance, together with Exhibits A-F and additional attached sheets, as Appendix A to the City Code.

Article XXII. Table of Contents and Non-Substantive Changes. City staff is authorized and directed to amend the table of contents for Chapter 35 as part of incorporating the amendments adopted by this Ordinance into the Brooklyn Center City Code and to make any other non-substantive corrections as may be needed as part of incorporating the amendments adopted by this Ordinance into the Brooklyn Center City Code, including the renumbering of sections, subsections, subdivisions, and paragraphs as needed.

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

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

Adopted this ____ day of _____, 2024.

April Graves, Mayor

ATTEST: _____
Barb Suciu, City Clerk

Date of Publication _____

Effective Date _____

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

Member introduced the following resolution and moved its adoption:

CITY OF BROOKLYN CENTER
HENNEPIN COUNTY

RESOLUTION NO. 2024-__

RESOLUTION APPROVING SUMMARY PUBLICATION OF AN ORDINANCE
AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING THE
CRYSTAL AIRPORT ZONING ORDINANCE, FENCE PERMITS AND STANDARDS,
COMMERCIAL VEHICLE STANDARDS, DIMENSIONAL AND STRUCTURAL
STANDARDS IN THE R1, R2, R3 AND R4 ZONING DISTRICTS, NONCONFORMING
STRUCTURES AND USES, PUBLIC NOTICE SIGN REQUIREMENTS, AND USE
AMENDMENTS FOR LICENSED DAY CARES, LICENSED GROUP FAMILY DAY
CARES, LICENSED RESIDENTIAL FACILITIES AND MASSAGE AND SAUNA
ESTABLISHMENTS

WHEREAS, the City Council of the City of Brooklyn Center acted at its March 11, 2024 meeting to adopt Ordinance No. 2024-__, “An Ordinance Amending Chapter 35 of the City Code of Ordinances Regarding the Crystal Airport Zoning Ordinance, Fence Permits and Standards, Commercial Vehicle Standards, Dimensional and Structural Standards in the R1, R2, R3 and R4 Zoning Districts, Nonconforming Structures and Uses, Public Notice Sign Requirements, and Use Amendments for Licensed Day Cares, Licensed Group Family Day Cares, Licensed Residential Facilities and Massage and Sauna Establishments” (“Ordinance”); and

WHEREAS, Minnesota Statutes, section 412.191, subdivision 4 allows publication of adopted ordinances by title and summary in the case of lengthy ordinances or those containing maps or charts; and

WHEREAS, the City Council determines publishing the entire text of the Ordinance is not in the best interests of the City as the Ordinance is readily available to the public on the City’s website and by contacting City Hall; and

WHEREAS, the City Council determines the following summary clearly informs the public of the intent of Ordinance and where to obtain a copy of the full text.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Brooklyn Center hereby approves publication of the following summary language as publication of the Ordinance:

CITY OF BROOKLYN CENTER
SUMMARY PUBLICATION
Ordinance No. 2024-__

AN ORDINANCE AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING THE CRYSTAL AIRPORT ZONING ORDINANCE, FENCE PERMITS AND STANDARDS, COMMERCIAL VEHICLE STANDARDS, DIMENSIONAL AND STRUCTURAL STANDARDS IN THE R1, R2, R3 AND R4 ZONING DISTRICTS, NONCONFORMING STRUCTURES AND USES, PUBLIC NOTICE SIGN REQUIREMENTS AND USE AMENDMENTS FOR LICENSED DAY CARES, LICENSED GROUP FAMILY DAY CARES, LICENSED RESIDENTIAL FACILITIES AND MASSAGE AND SAUNA ESTABLISHMENTS

The Brooklyn Center City Council adopted the above-referenced ordinance amending Chapter 35 of the City Code of Ordinances. The ordinance includes (1) the adoption and incorporation of the Crystal Airport Zoning Ordinance, (2) fence permit requirements and standards, (3) commercial vehicle standards, (4) dimensional and structural standards in the R1, R2, R3 and R4 zoning districts, including dwelling width and depth standards, structure height standards and density requirements, (5) amended and additional language for nonconforming structures and uses, (6) public notice sign requirements for certain land use applications, and (7) permitted and conditional use amendments and performance standard requirements for licensed day cares, licensed group family day cares, licensed residential facilities, and massage and sauna establishments.

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.

Chapter 35 UDO Amendments



City Council Meeting | March 11, 2024
Ginny McIntosh, Planning Manager

Background

- Prior to January 2023, the City's zoning code had not been meaningfully updated since the 1960s.
- In 2019, the City adopted the 2040 Comprehensive Plan and embarked on a major overhaul of the City's zoning (Chapter 35), sign (Chapter 34), and platting (Chapter 15) codes with consultant Bolton & Menk, as these chapters presented significant barriers, difficulties, and confusion in their ease of use and overall accessibility for not only City staff, but residents, business owners, and prospective developers as well.
 - These chapters were also out of compliance with state law, opening the City up to legal risks.
 - These three chapters were eventually merged into one unified document (Unified Development Ordinance), which was adopted in January 2023.



Background (Cont).

- City staff recognized that no UDO is perfect, and that updating and writing land use policies is part “art,” and part “technical process.”
- UDO is intended to serve as robust living/breathing document that modernizes City land use policies, and that can be further revised and evolved over time.
- City staff is to understanding that UDO should be reviewed on a regular basis.
- City staff has identified number of proposed changes to UDO (Exhibit A).
- Public hearing notice was published in Brooklyn Center *Sun Post* on January 25, 2024, notice was published to City website, and to DNR and MAC.
 - No questions or responses to date.



3

Adoption of Crystal Airport Ordinance

- The Crystal Joint Airport Zoning Board (JAZB) was formed in 2021 with the intent to update the Crystal Airport’s zoning ordinance, which had not been updated since 1983.
 - Two representatives appointed by City Council Resolution No. 2021-100, along with representatives from Brooklyn Park (2), New Hope (2), Robbinsdale (2), Crystal (2), Minneapolis (2), and the Metropolitan Airports Commission (2).
 - JAZB convened multiple times between October 2021 and November 2023 to develop and updated airport zoning ordinance that would achieve a reasonable level of safety while considering compatible community development and social and economic costs of redistricting land uses.
 - New ordinance also addresses more recent improvements to the airport in 2020, including: lengthening the main runway, converting the parallel runway to a taxiway, and shortening the turf runway.



4

Adoption of Crystal Airport Ordinance (Cont.)

Draft Airport Zoning Ordinance went through public comment period between April and May of 2023, and a public hearing/open house was held at the Crystal Community Center on April 19, 2023.

- City of Brooklyn Center had copies of draft ordinance available at City Hall and on the City's website
- MAC sent mail notification to those affected properties
- 44 people in attendance – 25 from the general public
- **June 15, 2023:** JAZB elected to submit draft Airport Zoning Ordinance to the MnDOT Commission of Transportation for review and approval.
- **September 24, 2023:** JAZB received notice that Crystal Airport Zoning Ordinance was approved.
- **November 8, 2023:** JAZB met and considered Commissioner's Order; the draft Airport Zoning Ordinance approved by the Commissioner, and the Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order.
 - JAZB elected to approve the document with understanding each municipality would need to incorporate new Crystal Airport Zoning Ordinance into respective zoning ordinances and update zoning maps to reflect new airport zones.



5

Adoption of Crystal Airport Ordinance (Cont.)

Proposed amendment to UDO identifies a new Airport Overlay District under Section 35-3104 as well as language surrounding the adoption of the Crystal Airport Ordinance, purpose and intent, and designation of a zoning administrator to enforce the ordinance.

Section 35-3104. A P – AIRPORT

a. PURPOSE AND INTENT. The Airport Overlay District is established to adopt by reference and implement the Crystal Airport Zoning Ordinance, as adopted on November 8, 2023 by the Crystal Airport Joint Airport Zoning Board (JAZB). The Crystal Airport Zoning Ordinance creates zones and establishes boundaries that extend into the City. It is the purpose of the Airport Overlay District to protect the public health, safety, general welfare and ensure land use compatibility to prevent potential obstructions or hazards to air traffic in the air space above and around the City within the airport overlay district.

b. ADOPTION. The Crystal Airport Zoning Ordinance, together with Exhibits A – F and additional attached sheets (collectively, the "Airport Ordinance"), are incorporated herein by reference, are available at the Zoning Administrator's office at City Hall and is codified as Appendix A to the City Code. The Airport Overlay District shall apply to all land within the city designated to be within one of the safety zones set forth in the Airport Ordinance. No use shall be made of any land in any of the safety zones identified in the Airport Ordinance that is contrary to the provisions set forth in the Airport Ordinance.

c. DESIGNATION OF ZONING ADMINISTRATOR. The City's Zoning Administrator shall administer and enforce this section. The City's Zoning Administrator is designated as the City official entitled to administer and enforce the Crystal Airport Zoning Ordinance.



6

Adoption of Crystal Airport Ordinance (Cont.)

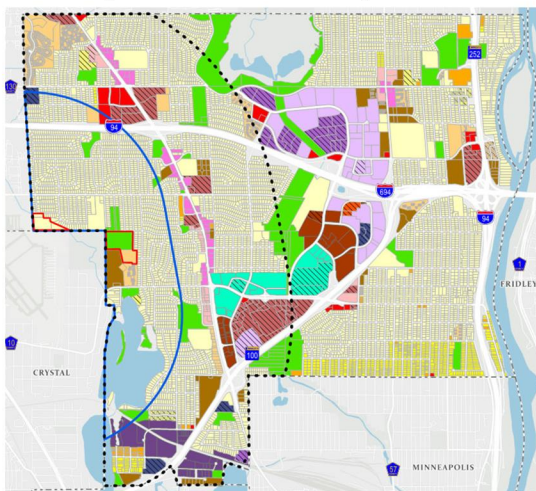
New Crystal Airport Zoning Ordinance creates the following:

- | | |
|---|--|
|  <p>JAZB (Joint Airport Zoning Board) Zone 1</p> | <p>Height restrictions, and restrictions on uses that create or cause interference with the operations of radio or electronic facilities at the Airport (e.g. lighting, glare). No buildings, high voltage transmission lines, or other similar land use structural hazards, and shall be restricted to uses that will not create, attract, or bring together a dense, confined assembly of persons thereon.</p> |
|  <p>JAZB (Joint Airport Zoning Board) Zone 2</p> | <p>Height restrictions to prevent projection into the Crystal Airport's Airspace surface as defined under IV.a of the Airport Ordinance.</p> |
|  <p>Airspace Zoning Limit</p> | <p>Provisions for existing, new, and nonconforming structures, and maximum allowable construction heights.</p> |



7

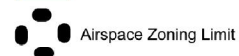
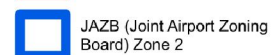
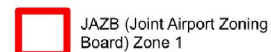
Adoption of Crystal Airport Ordinance (Cont.)



Legend



Crystal Airport Zoning Overlays



8

Permit Requirements for Placement of Fences

- Fence permits are required prior to any installation of fencing—these requirements are namely to ensure fences are installed in compliance with the City’s regulations regarding materials, height, and setbacks off property lines. Prior to January 2023, the City did not have a fence permitting process.
 - Proposed amendments would provide clarity on when permits are required, and the specific requirements in the residential, Business Mixed-Use (MX-B), and General Industry (I) Districts.
 - Additional language has been added regarding the addressing of potential visual obstructions and vehicle queuing in right-of-way.



9

Permit Requirements for Placement of Fences

10. FENCE STANDARDS

Section 35-5600. LANDSCAPING, SCREENING, AND FENCES.

Section 35-5609. FENCES. Fences may be erected, placed, or maintained along or adjacent to a lot line. The fence owner shall be responsible for properly locating all property lines before fence construction.

a. PERMIT REQUIRED.

- ~~For fences located in any district which are six (6) feet in height or greater, a permit is required before any work may commence on the installation of a fence.~~

b. FENCE STANDARDS.

- Allowable heights in residential districts.
 - Front yard. No fence shall exceed four (4) feet in height at the front property lines.

B. No fence shall exceed six (6) feet in height at the side and rear property lines.

~~C. No fence shall encroach within the Clear View Triangle, unless otherwise permitted by the Zoning Administrator.~~

2) Allowable heights in MX-B and I districts.

~~A. Front yard. A non-opaque fence shall not exceed eight (8) feet in height at the front property line.~~

- Clear view triangle, visual obstructions, and vehicle queuing. No fence shall encroach within the Clear View Triangle, as defined in Section 35-9000, unless otherwise permitted by the Zoning Administrator. Additionally, any proposed fence shall be set back a sufficient distance from sidewalks and rights-of-way to ensure adequate space and safety for pedestrians and adequate space for vehicles entering the property through a gate or other entry through the fence.



10

Commercial Vehicles as an Accessory Use

- When Chapter 35 (Unified Development Ordinance) was adopted in January 2023, accommodations were made to allow residents who drive commercial vehicles and reside in the R1 or R2 District to park their vehicle at their place of residence, subject to certain requirements.
- One of the requirements outlines restrictions to the dimensions of a commercial vehicle, City staff initially proposed a definition that followed the Minnesota Department of Transportation's vehicle classification scheme (Classes 1-4); however, **this has proven difficult to utilize**, and fails to capture some of the vehicles City staff thought options for parking should be afforded to (e.g. food trucks).
- City staff originally intended to bring forward a larger re-write of this section; however, City staff will require additional time to work through language in Chapter 35 and Chapter 19 (*Public Nuisances and Petty Offenses*).
- As provided, general light clean up of language under Section 35-4402 (*Accessory Uses*).



11

Commercial Vehicles as Accessory Use

9. COMMERCIAL VEHICLE AMENDMENTS

Section 35-5500. PARKING AND DRIVEWAYS.

Section 35-5512. COMMERCIAL VEHICLES PARKED IN R1 AND R2 DISTRICTS. For each dwelling unit, off-street parking of not more than one licensed and operable commercial motor vehicle is permitted provided that:

- Any such vehicle must be operated by a resident of that dwelling unit.
- Such parking is only permitted in a garage, driveway or improved hard surface in accordance with the requirements of the UDO-Section 35-2200 and 2202 for R1 and R2 districts.
- Only class 1-4 vehicles may occupy off-street parking space in R1 and R2 districts, as defined by the Minnesota Department of Transportation's vehicle classification scheme.
- Under no circumstances shall a semi-truck or tractor-trailer combination be parked or stored off-street in an R1-R2²⁴ District.

G. Traffic congestion and parking.

- Allowable Home Occupations. No Allowable Home Occupation shall cause traffic congestion on the lot containing the Allowable Home Occupation or on the streets adjacent thereto.
- Conditional Home Occupations. No Conditional Home Occupation shall cause traffic congestion on the streets adjacent thereto. A Conditional Home Occupation may store and/or park off-street up to one **commercial** vehicle that is accessory and necessary to the approved on-site business, provided that the **commercial** vehicle is licensed and operable **meets the requirements set forth in Section 35-5512 and is designated within vehicles classes 1-4 only, as defined by the Minnesota Department of Transportation in their official vehicle classification scheme.**



12

Width/Depth Requirements | R1 + R2 Districts

- Following the adoption of the new Chapter 35 (Unified Development Ordinance) in January 2023, City staff noted that a provision regarding a minimum 18-foot width and depth requirement for (main portions of) primary dwellings in the R1 and R2 District, which had been in place for decades, was no longer in the document.
- City staff is requesting language regarding minimum width and depth requirements for a dwelling in the R1 and R2 Districts be re-introduced to Sections 35-2201 (*R1-Low Density Residential*), 35-2202 (*R2-Medium Low Density Residential*), and 35-5501 (*Dimensional Standards Summary*).



13

Width/Depth Requirements | R1 + R2 Districts

b. R1 DIMENSIONAL STANDARDS

Other Standards	
GF Primary structure height (maximum)	30 25 feet
H Accessory Structure height (mMaximum)	16 feet
I Density	3-5 units/acre
J Primary Dwelling structure Width and Depth (minimum)	18 feet

b. R2 DIMENSIONAL STANDARDS

Other Standards	
IH Primary structure height (maximum)	30 25 feet
JJ Accessory Structure Height (Maximum)	16 feet
K Density	3-10 units/acre
L Primary Dwelling structure Width and Depth (minimum)	18 feet

Section 35-5100. DIMENSIONAL STANDARDS SUMMARY.

Zoning Districts	R1	R2
Primary Dwelling Width and Depth (minimum)	18	18



14

Definition of Structure Height | Heights in R1, R2 + MRCCA RN Districts

- **Note:** Original public notice identified changes to height requirements for R3 District; however, no proposed changes at this time.
- The adoption of the new Chapter 35 (Unified Development Ordinance) also introduced two new overlay districts: MRCCA (Mississippi River Corridor Critical Area) and Shoreland. MRCCA was adopted pursuant to certain authorizations and policies contained in Minnesota State Statutes and Rules to preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems, and provide for the wise use of these areas.
- In utilizing new UDO, City staff noted only definition for “height” was the definition provided by the DNR that defines “height of structure.”



15

Definition of Structure Height | Heights in R1, R2 + MRCCA RN Districts

- City staff debated creating another definition for height for those parcels located outside the MRCCA Overlay District; however, with the requested adoption of the Crystal Airport Zoning Ordinance, which *also* contains a definition for height, this would have resulted in three different definitions of “height.”
- City staff is requesting **removal** of the language “average height of” as there have been a couple occasions now where, despite the maximum height of a detached accessory structure being 16 feet, proposed structures are much greater than 16 feet in actuality.
- Measuring from grade to peak makes it easier to calculate and field verify.
- With removal of the “average height of” language, City staff is also requesting modifications to the maximum heights for the R1, R2, and MRCCA RN District properties, **from 25 feet to 30 feet.**



16

Definition of Structure Height | Height in R1, R2 + MRCCA RN Districts

Section 35-5100. DIMENSIONAL STANDARDS SUMMARY.

Zoning Districts	R1	R2

Section 35-9200. DEFINITIONS AND TERMS OF MEASUREMENT.

Height of Structure. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or ~~average height of~~ the highest gable of a pitched or hipped roof.

b. R1 DIMENSIONAL STANDARDS

Other Standards	
G F Primary structure height (maximum)	30 25 feet
H Accessory Structure height (mMaximum)	16 feet
I Density	3-5 units/acre
J Primary Dwelling structure Width and Depth (minimum)	18 feet

b. R2 DIMENSIONAL STANDARDS

Other Standards	
JH Primary structure height (maximum)	30 25 feet
IJ Accessory Structure Height (Maximum)	16 feet
K Density	3-10 units/acre
L Primary Dwelling structure Width and Depth (minimum)	18 feet



17

Definition of Structure Height | Height in R1, R2 + MRCCA RN Districts

Section 35-5100. DIMENSIONAL STANDARDS SUMMARY.

Zoning Districts	R1	R2
Primary structure height (maximum)	25 30	25 30

Section 35-3103. CA – MISSISSIPPI RIVER CORRIDOR CRITICAL AREA (MRCCA)

f. STRUCTURE HEIGHT AND PLACEMENT AND LOT SIZE.

1) **PURPOSE.** To establish standards that protect primary conservation areas and public river corridor views from development impacts and ensure that new development is sited consistent with the purpose of the MRCCA.

2) **STRUCTURE HEIGHT.** Structures and facilities must comply with the following standards unless identified as exempt in Section 35-3103(f)

A. RN District: 25 30 feet in residential districts, except for places of religious assembly. 35 feet for all other districts.

B. SR District: Height is determined by underlying zoning, provided the allowed height is consistent with that of the mature tree line, where present, and existing surrounding development, as viewed from the OHWL of the opposite shore.



18

Amendments to Density Range | R3 District

- City staff requests an amendment to the outlined density range within Section 35-2203 (*R3—Medium Density Residential*). The current density range provided for in the R3 District is 3-10 dwelling units per acre (DU/Acre); however, Section 35-5100 (*Dimensional Standards Summary*) provides for a density range of 5-15 dwelling units per acre for the R3 District.
- In reviewing the density ranges for the surrounding zoning districts, and the density ranges identified in the 2040 Comprehensive Plan future land use designations, City staff believes the adjustment to 5-15 dwelling units per acre (DU/Acre) is supported.



19

Amendments to Density Range | R3 District

City Residential Zoning Districts	R1	R2	R3	R4	R5	MX-N1 MX-N2	MX-C	TOD
<i>Dwelling Units per Acre</i>	3-5	3-10	5-15	10-25	20-31	15-31	10-60	31-130

2040 Comprehensive Plan	Low Density Residential (LDR)	Medium Density Residential (MDR)	High Density Residential (HDR)	Neighborhood Mixed-Use (N-MU)	Commercial Mixed-Use (C-MU)	Transit-Oriented Development (TOD)
<i>Dwelling Units per Acre</i>	3.01-5	5.01-15	15.01-31	15.01-31	10.01-60	31.01-130



20

Amendments to Density Range | R3 District

Section 35-2203. R3 – MEDIUM DENSITY RESIDENTIAL.

b. R3 DIMENSIONAL STANDARDS

Other Standards	
E G Primary structure height (maximum)	35 feet
H Accessory structure height (m Maximum)	16 feet
I Density	5-1 0 units/acre

Section 35-5100. DIMENSIONAL STANDARDS SUMMARY.

Zoning Districts	R1	R2	R3
Density (Units/Acre)	3-5	3-10	5-15



21

Language Regarding Nonconformities

- In the process of updating the City's zoning code provisions to the new Chapter 35 (Unified Development Ordinance), nonconformity provisions were included under Sections 35-3101 (*FP—Floodplain*), 35-3103 (*CA—Mississippi River Corridor Critical Area*), and 35-6300 (*Nonconforming Signs*); however, no general provisions for nonconformities were provided for elsewhere in Chapter 35.
- Although nonconformity provisions are outlined within Section 462.357 (*Official Controls: Zoning Ordinance*) of the Minnesota State Statutes, City staff wanted clear language referenced within Chapter 35, and considering nonconformity language is already in place for certain overlay districts and signage.
- Following discussions with the City Attorney, language was crafted under a new section (35-1605—*Nonconformities*), which outlines potential scenarios (e.g. alterations, enlargements, restorations, and abandonments) and how each situation should be handled in the case of an existing nonconformity.
- Amendment to Section-3101.k.1.E (*FP-Floodplain*) for removal of assessor language.



22

Language Regarding Nonconformities

Section 35-3101. FP – FLOODPLAIN.

k. NONCONFORMITIES.

1) Continuance of Nonconformities.

~~E. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this Unified Development Ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.~~



23

Language Regarding Nonconformities

Section 35-1605. NONCONFORMITIES.

a. Continuance of Nonconformities. The lawful use of any land or building existing at the time of the adoption of this UDO may be continued, even if such does not conform to the regulations of this ordinance, except as provided below:

1) Alterations: A nonconforming building or structure shall not be reconstructed or altered unless such building or structure is changed to conform with the regulations of this UDO.

2) Enlargement: A nonconforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this UDO.

3) Restoration: A nonconforming building or structure which is damaged by fire or other causes to the extent of more than fifty percent (50%) of its market value, unless a formal application for a building permit has been applied for within one hundred eighty (180) days of when the property was damaged, shall not be restored except in conformity with the regulations of this UDO.

4) Abandonment: A nonconforming use of a building which has been discontinued for a period of more than one (1) year shall not be reestablished, and any future use shall be in conformity with the regulations of this UDO.

5) Maintenance: Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.

6) Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than fifty percent (50%) of the square footage of the building shall require the entire building to meet architectural control standards.



24

Language Regarding Nonconformities

b. Nonconforming use of building or land.

- 1) Extension: No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the time of the effective date of this UDO.
- 2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the time of the effective date of this ordinance.
- 3) If any such nonconforming use of land or building ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.



25

Public Notice Sign Requirements | Hearings

- City staff is requesting changes to the language currently outlined under Section 35-7500 (*Public Hearings*) and specifically in instances where a notification sign is to be installed in advance of a scheduled public hearing. Currently, Section 35-7504 (*Sign Notice*) dictates that a sign shall be installed in cases where a proposal will result in a district boundary change of five (5) acres or more.
- City staff is recommending that notification signage be installed whenever there is a proposed re-zoning. Installation of a public notice sign is already required for construction or major alteration of the a structure, except one and two-family dwellings, and buildings accessory thereto.
- Current provisions stipulate that the property owner of a subject property under review as part of Planning Commission application install said public notice sign with content to be approved by the City's Zoning Administrator. City staff is requesting that this language be altered as the City has purchased heavy duty metal signs with the language "Development Proposal Under Review" and contact information for the City's Community Development Department.



26

Public Notice Sign Requirements | Hearings



Section 35-7504. SIGN NOTICE. When an zoning-application involves changes in-district-boundaries-affecting-an-area-of-five-acres-or-more, a change of a zoning district, or construction or major alteration of a structure, except one and two family dwellings and buildings accessory thereto, the City shall property-owner-must post a public notice sign on the subject property, in coordination and with the consent of the property owner, and in accordance with the following:

- a. ~~Public notice signs shall be posted on any property subject to the public hearing provisions. Public notice signs shall be installed by the owner of the property for which the public hearing is required.~~
- 3) **Size and Content.** All public notice signs shall be of adequate size and design to be clearly visible and legible to passing vehicles and pedestrians. At a minimum, a public notice sign shall notify the public of the subject of the public hearing and provide the public with contact information for any questions or comments relating to the subject of the public hearing specify the time, date and location of the scheduled public hearing, the general nature of the hearing, and a phone number for the Zoning-Administrator for additional information.
- 4) ~~All sign content, location, and size must be reviewed and approved in writing by the Zoning-Administrator.~~



27

Amendments to Allowed Use Table

Licensed Day Cares and Group Family Day Cares

- City staff became aware that the provisions outlined for daycares did not account for **larger day cares (13 or more persons)**.
 - City staff is requesting a new use category be added to Section 35-4103 (*Allowed Use Table*), which would allow for licensed day care facilities (13 or more persons) in the R3, R4, R5, MX-N1, MX-N2, MX-C, and TOD Districts through approval of a conditional use permit or CUP.
 - Larger daycares would also be permitted through the issuance of, or amendment to, a conditional use permit for places of religious assembly and public and private elementary and secondary schools in the R1 and R2 District.
 - Requirements outlined for licensed day care facilities under Section 35-4302 (c) would also be updated to align with Minnesota State Statute requirements outlined under Chapter 245A and Minnesota Rules Chapter 9502.
 - Revisions to additional requirements to provide restrictions on size, parking, and pick up/drop off.



28

Amendments to Allowed Use Table

6. LICENSED DAY CARE FACILITY STANDARDS

Section 35-4300. USE SPECIFIC STANDARDS

Section 35-4302. COMMERCIAL USES.

c. GROUP LICENSED DAY CARE FACILITIES.

- 1) ~~The structure in which a licensed day care facility is located must be in continual compliance with all building, fire, zoning, and health codes of the city and state, in addition to all requirements of Minnesota Statutes, Chapter 245A and Minnesota Rules, Chapter 9502. In the case of group day care facilities, outside recreational facilities are required, _____ and shall be appropriately separated from the parking and driving areas by a wood fence not less than four feet in height; or a Council approved substitute; shall be located contiguous to the day care facility; shall not be located in any yard abutting a major thoroughfare unless buffered by a device set forth in Section 35-5600; shall not have an impervious surface for more than half the playground area; and shall be a minimum of 50 square feet square feet per child in attendance unless otherwise noted in Minnesota Rules, part 9502.0425, subpart 2.~~
- 2) ~~Group Licensed day care facilities shall be permitted where noted in Section 35-4103.200, provided that such developments, in each specific case, are demonstrated to be:~~
 - A. ~~Compatible with existing adjacent land uses as well as with those uses permitted in the zoning district generally.~~
 - B. ~~Complementary to existing adjacent land uses as well as to those uses permitted in the zoning district generally.~~
 - C. ~~Of comparable intensity to permitted zoning district land uses with respect to activity levels.~~
 - D. ~~Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.~~
 - E. ~~Traffic generated by other uses on the site will not pose a danger to those served by the day care use.~~



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Amendments to Allowed Use Table

6. LICENSED DAY CARE FACILITY STANDARDS

Section 35-4300. USE SPECIFIC STANDARDS

Section 35-4302. COMMERCIAL USES.

c. GROUP LICENSED DAY CARE FACILITIES.

- 3) ~~Licensed day care facilities in residential zoning districts are subject to the following additional requirements:~~
 - A. ~~For one and two-family dwellings, 12 or fewer persons.~~
 - B. ~~For non one and two-family dwellings, 12 or fewer persons (except places of religious assembly and public or private elementary and secondary schools).~~
 - C. ~~The size of the licensed day care facility in a place of religious assembly or public or private elementary or secondary school is based on the size and capacity of the structure and the availability of parking.~~
- 4) ~~Licensed day care facilities in non-residential zoning districts are subject to the following additional requirements:~~
 - A. ~~The size of the licensed day care facility is dependent on the size and capacity of the structure and the availability of parking.~~
 - B. ~~The size of the licensed day care facility in a place of religious assembly or public or private elementary or secondary school is based on the size and capacity of the structure and the availability of parking.~~
- 3) ~~Group day care facilities shall be allowed as an accessory use to places of religious assembly and educational uses, as noted in Section 35-4200, and shall demonstrate provisions as outlined in 35-4302(e).~~
- 4) ~~5) When required, group day care facilities shall be licensed by the Minnesota Department of Human Services (DHS) pursuant to a valid license application. A copy of said license and application shall be submitted annually to the City.~~



30

Amendments to Allowed Use Table

6. LICENSED DAY CARE FACILITY STANDARDS

Section 35-4300, USE SPECIFIC STANDARDS

Section 35-4302, COMMERCIAL USES.

c. GROUP LICENSED DAY CARE FACILITIES.

3) Licensed day care facilities in residential zoning districts are subject to the following additional requirements:

A. For one and two-family dwellings, 12 or fewer persons.

B. For non one and two-family dwellings, 12 or fewer persons (except places of religious assembly and public or private elementary and secondary schools).

C. The size of the licensed day care facility in a place of religious assembly or public or private elementary or secondary school is based on the size and capacity of the structure and the availability of parking.

4) Licensed day care facilities in non-residential zoning districts are subject to the following additional requirements:

A. The size of the licensed day care facility is dependent on the size and capacity of the structure and the availability of parking.

B. The size of the licensed day care facility in a place of religious assembly or public or private elementary or secondary school is based on the size and capacity of the structure and the availability of parking.

C. The pick up/drop-off area(s) must be located in close proximity to the front of the building and adjacent to a pedestrian area.

3) Group day care facilities shall be allowed as an accessory use to places of religious assembly and educational uses, as noted in Section 35-4200, and shall demonstrate provisions as outlined in 35-4302(e)

4) When required, group day care facilities shall be licensed by the Minnesota Department of Human Services (DHS) pursuant to a valid license application. A copy of said license and application shall be submitted annually to the City.



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Amendments to Allowed Use Table

Section 35-4103, ALLOWED USE TABLE

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE

	Residential					Commercial/ Mixed Use			Nonresidential				Use-Specific Standards	
	R1	R2	R3	R4	R5	MX-N1	MX-N2	MX-X-C	TO-D	C	MX-B	I		O
HOUSEHOLD LIVING														
Licensed Day Care Facilities (12 and fewer <u>children</u> persons) or Licensed Group Family Day Care Facilities (14 and fewer <u>children</u> <u>persons</u>)	P	P	P			P	P		P					35-4302(c)
COMMERCIAL USES														
Licensed Day Care Facilities (13 and greater <u>persons</u>)			C	C	C	C	C	C						35-4302(c)
Licensed Day Care Facilities (13 and greater <u>persons</u>) associated with <u>Places of Assembly or Public and Private Elementary and Secondary Schools Offering a Regular Course of Study</u>	C	C				C			C			C		35-4302(c)

Section 35-1300, INTERPRETATION AND CONFLICTING PROVISIONS.

Section 35-1301, RULES OF INTERPRETATION. In their interpretation, the provisions of this Unified Development Ordinance shall be held to be the minimum requirements necessary to promote and preserve the public health, safety, morals, and welfare.

k. For example, under Minnesota Statutes, Section 462.357, subdivision 7, with limited exceptions, requires a state licensed residential day care facility serving 6 or fewer persons, a licensed day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children shall be considered a permitted single-family residential use of property. As such, this Chapter shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of 12 persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly permitted in the particular zoning district by this Chapter.



32

Amendments to Allowed Use Table

Licensed Residential Facilities

- Per Minnesota Statutes, Section 462.357, subdivision 7, and with limited exceptions, a state licensed residential facility serving 6 or fewer persons (and oftentimes referred to as “group homes,” although this term is not recognized by either the Minnesota Department of Health or Department of Human Services) are considered a permitted single-family residential use of property.
- In reviewing Section 35-4103 (*Allowed Use Table*), City staff noted that the maximum occupancies of Licensed Residential Facilities did not align with either the City’s allowable density range for certain zoning districts or the City’s 2040 Comprehensive Plan.
- As such, City staff is requesting the table be updated to remove the “Licensed Residential Facility (6 and fewer persons)” use from the R4 (10-25 DU/Acre), MX-N1 (15-31 DU/Acre), MX-N2 (DU/Acre), and TOD (31-130 DU/Acre) Districts, as the allowable density ranges are in conflict with and do not align with the use. City staff is requesting the addition of the use to the R3 (5-15 DU/Acre) District.



33

Amendments to Allowed Use Table

Section 35-4103. ALLOWED USE TABLE

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE

	Residential					Commercial/ Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	MX-N1	MX-N2	MX-C	TO-D	C	MX-B	I	O	
GROUP LIVING														
Licensed Residential Facility (6 and fewer persons)	P	P	P			P	P	P	P					
Licensed Residential Facility (7 and greater persons)			C	C		C	C	C	C					

Licensed Residential Facility (Group Home). A facility required to be licensed by the state or county that provides one or more persons with 24 hour per day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation or treatment that cannot be furnished in the person's own home. Licensed residential facilities (group homes) are limited to those facilities licensed or regulated by the Department of Human Services or the Department of Health. This does not include licensed facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes related to sex offenses or facilities licensed by the Department of Corrections.



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Amendments to Allowed Use Table

Sauna and Massage Establishments

- The City of Brooklyn Center has historically been extremely restrictive with allowing massage and sauna establishments. Under the City's old zoning code (pre-January 2023), "sauna establishments and massage establishments, provided they do not abut any residential (R1 through R7) district, including abutment at a street line," were allowed in the C2 District by issuance of a special use permit only.
- In the Central Commerce Overlay District, which was retired as part of the adoption of the new Unified Development Ordinance in January 2023, sauna and massage establishments were outright prohibited within this overlay district.
- Majority of C2 properties were located within the Central Commerce Overlay District, so this effectively prohibited the establishment of one in the City. Further, the City's current massage establishment licensure provisions and fees, as outlined under Chapter 23 (*Licensing*) of the City Code, make it difficult to establish a massage business in the City and when comparing the use regulations and licensing fees in other neighboring cities.



35

Amendments to Allowed Use Table

Section 35-4103. ALLOWED USE TABLE

P = PERMITTED USE, C = CONDITIONAL USE, I = INTERIM USE, A = ACCESSORY USE														
	Residential					Commercial/ Mixed Use				Nonresidential				Use-Specific Standards
	R1	R2	R3	R4	R5	MX-N1	MX-N2	MX-C	TO-D	C	MX-B	I	O	
COMMERCIAL USES														
Sauna and massage establishments								PA	PA	PA	PA			



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Summary

- The Planning Commission held a public hearing at their meeting on February 8, 2024 regarding the requested amendments.
- No comments or questions were relayed in advance of the public hearing.
- A few members of the general public were present virtually, but presented no concerns regarding the outlined amendments.
 - One resident had general questions regarding the fence permitting process.
 - Commissioners engaged in discussion of the Crystal Airport Zoning Ordinance approval process and some direction City staff was seeking regarding the proposed new primary structure height maximums in the R1, R2, and MRCCA RN Districts.
 - City staff initially recommended that the height maximums adjust from 25 feet to 30 feet; however, City staff was also amenable to allowing for up to 32 feet.
 - Conversations held regarding how height is calculated and certain assumptions on typical homes (e.g. ceiling heights, roof pitch, house styles), and Commissioners appeared to be generally supportive of offering greater flexibility to residents at the 32 foot height maximum.
- Following close of the public hearing, the Planning Commission unanimously recommended **(5-0)** City Council approval of the requested amendments.



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Recommendation

Motion to:

- Motion to approve a second reading regarding the adoption of an ordinance amending Chapter 35 of the City Code of Ordinances regarding the Crystal Airport Zoning Ordinance, fence permits and standards, commercial vehicle standards, dimensional and structural standards in the R1, R2, R3, and R4 districts, nonconforming structures and uses, public notice sign requirements, and use amendments for licensed day cares, licensed group family day cares, licensed residential facilities, and massage and sauna establishments.
- Motion to approve a resolution for summary publication of the aforementioned ordinance amendments in the Brooklyn Center *Sun Post*.



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**Council/EDA Work
Session**

City Hall Council Chambers
March 11, 2024

AGENDA



ACTIVE DISCUSSION ITEMS

1. Special TIF Legislation for the Opportunity Site Update
- *None – Discussion only*
2. Review of the Draft Opportunity Site Master Plan
None - Discussion Only

PENDING LIST FOR FUTURE WORK SESSIONS

1. Upcoming Items
 - Memorial Policy
 - Special Assessment Policy/Franchise Fees (*referred to Financial Commission*)
 - Beautification and Public Art Commission
 - Food Truck Ordinance/License
 - Emerald Ash Borer Policy Review (*referred to Park & Rec Commission November*)
 - Opioid Settlement
 - ARPA Funds
 - Grants: Revenues & Expenses
 - Purchasing Policy
 - Interveners Impact
 - Revisit Resolution 2021-73
 - Planning Application Process
 - Group Homes

Council/EDA Work Session

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Jesse Anderson, Community Development Director

BY: Jason Aarsvold, EDA Project Management - Ehlers

SUBJECT: Special TIF Legislation for the Opportunity Site Update

Requested Council Action:

- None – Discussion only

Background:

While working toward redevelopment of the Opportunity Site, staff recognized that existing tax increment financing options were not going to be adequate to achieve the City's development objectives on the site. The challenges stemmed from two primary issues:

1. Alatus' Phase 1 project is located within the City's existing TIF District #7. This district is already collecting increment, so the clock started ticking on the district's duration. In the best-case scenario, the Alatus project would have only 18 years of increment to work with, instead of the full 26 years in a new district.
2. Many of the buildings in the Opportunity Site either have or will be torn down. The creation of new redevelopment TIF districts relies on the presence of substandard buildings. Without buildings on a particular redevelopment site, the city would not be able to create a new redevelopment TIF district under current statute.

Having the ability to leverage TIF Districts throughout the Opportunity site with a full 26-year duration is going to be critical to financial feasibility. The cost of infrastructure, development financing gaps, and other community benefits are significant. These TIF districts are the City's primary mechanism to help pay for these costs.

Given this need, Brooklyn Center staff worked with the city council, legislature, the city's lobbyist, Kennedy and Graven, and Ehlers to advance special TIF legislation for the Opportunity Site. Through conversations with Senator Susan Pha, senate legal staff, and Senator Ann Rest (tax chair), the parties arrived at language that both meets Brooklyn Center's needs and can be advanced by Senators Pha and Rest.

On March 4, Senator Pha introduced S.F. No. 4586: A bill for an act relating to taxation; tax increment financing; providing special tax increment financing authority for the city of Brooklyn Center. The bill allows for creation of one or more redevelopment TIF districts within the Opportunity Site, even if those areas cannot qualify based on existing statutory requirements. The proposed legislation also provides flexibility for spending (or pooling) tax increments throughout the Opportunity Site to cover areawide costs such as infrastructure, stormwater, and parking.

If this bill passes, the City will be able to decertify parcels from TIF District No. 7 and create a new redevelopment TIF district for Alatus' phase 1 project. This will help with the financial feasibility of that project. In addition, the City would be able to create additional redevelopment TIF districts, as needed,

through the entire Opportunity Site even in areas where buildings have already been removed. This will provide an effective tool for the City to meet its goals within the Opportunity Site.

Next Steps:

Staff and the legislative team are currently working to have a companion bill introduced in the House of Representatives. Both the House and the Senate will hold hearings on these TIF bills soon. City representatives will need to be present to answer questions and testify on the need for the special law.

Following these hearings, the bills are generally laid over for inclusion in the larger Omnibus Tax Bill. At that point, the entire Omnibus Tax Bill must be passed for the special TIF legislation to be approved. Staff and team will be following this process closely and provide regular updates to the City Council

Budget Issues:

This item is for discussion only will have no immediate effect on the budget.

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
SF 4586	3/6/2024	Cover Memo
presentation	3/13/2024	Presentation

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4586

(SENATE AUTHORS: PHA)
DATE
03/04/2024

D-PG
Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1

A bill for an act

1.2

relating to taxation; tax increment financing; providing special tax increment

1.3

financing authority for the city of Brooklyn Center.

1.4

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5

Section 1. CITY OF BROOKLYN CENTER; TIF AUTHORITY.

1.6

Subdivision 1. Establishment. Under the special rules established in subdivision 2, the

1.7

economic development authority of the city of Brooklyn Center or the city of Brooklyn

1.8

Center may establish one or more redevelopment tax increment financing districts located

1.9

wholly within the area in the city identified as the "Opportunity Site," which includes the

1.10

area bounded by Shingle Creek Parkway from Hennepin County State-Aid Highway 10 to

1.11

Summit Drive North; Summit Drive North from Shingle Creek Parkway to marked Trunk

1.12

Highway 100; marked Trunk Highway 100 from Summit Drive North to Hennepin County

1.13

State-Aid Highway 10; and Hennepin County State-Aid Highway 10 from marked Trunk

1.14

Highway 100 to Shingle Creek Parkway, together with internal and adjacent roads and rights

1.15

of way.

1.16

Subd. 2. Special rules. If the city or the authority establishes a tax increment financing

1.17

district under this section, the following special rules apply:

1.18

(1) the district is deemed to meet all the requirements of Minnesota Statutes, section

1.19

469.174, subdivision 10;

1.20

(2) Minnesota Statutes, section 469.176, subdivision 4j, does not apply to the district;

1.21

and

2.1 (3) increment generated from the district may be expended on activities within the area
2.2 described in subdivision 1 and all such expenditures are deemed expended on activities
2.3 within the district for purposes of Minnesota Statutes, section 469.1763.

2.4 Subd. 3. **Expiration.** The authority to approve a tax increment financing plan to establish
2.5 a tax increment financing district under this section expires on December 31, 2030.

2.6 **EFFECTIVE DATE.** This section is effective the day after the governing body of the
2.7 city of Brooklyn Center and its chief clerical officer comply with the requirements of
2.8 Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Opportunity Site – Special TIF Legislation Update



Brooklyn Center City Council / EDA Work Session March 11, 2024
Jesse Anderson, Community Development Director; Jason Aarsvold, Ehlers

Opportunity Site Special TIF Legislation Update

- Need for Special Tax Increment Financing (TIF) Legislation
- Process to Date
- Proposed Legislation
- Next Steps



Need for Special Legislation

- TIF use and flexibility will be necessary for financial feasibility of the project
- The Alatus Phase 1 project is in the City's existing TIF District #7
 - Some increment already being collected – started the clock on the district's duration
 - Likely less than 18 years of increment left by the time Alatus moves forward
 - Based on previous financial review of the project, that will not be enough to achieve all objectives
- Many buildings throughout the Opportunity Site have or will be torn down
 - TIF statute requires districts be established before building demolition
 - No buildings means new districts cannot be created under existing law



3

Process to date

- City team kicked off the process to request special legislation in Fall, 2023
 - City staff; Lockridge Grindal Nauen PLLP (lobbyist); Ehlers; Kennedy and Graven
- Bill drafted to meet the City's needs and sent to the City's senator and representative for review and discussion
- Senator Pha engaged with the City's team, proposing alterations to the bill to earn support
 - City team worked with Senator Pha and legislative staff to make changes
- On March 4, 2024 Senator Pha introduced S.F. No. 4586, a special TIF bill for Brooklyn Center



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S.F. No. 4586

- Allows for creation of new Redevelopment TIF districts in the Opportunity Site, even where buildings have been removed
- Flexibility for spending (or pooling) tax increments throughout the Opportunity Site
- Can use this authority to create a new district for the Alatus Phase 1 project



5

Next Steps

- Continue working with both senate and house to advance bill(s) through the legislative process
- Hearings on the bills(s) will be held
 - City representatives will testify and answer questions
- Bills are often laid over for inclusion in the larger Omnibus Tax Bill
 - Omnibus tax bill must be passed for special TIF bill to be passed



6

Discussion and Questions



Council/EDA Work Session

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Jesse Anderson, Community Development Director

SUBJECT: Review of the Draft Opportunity Site Master Plan

Requested Council Action:

None - Discussion Only

Background:

Since 2019, City staff have been working on progressing a Master Plan for the 80-acre Opportunity Site. From the beginning, this Master Plan intended to shift expectations of development within the Opportunity Site to be more community-serving in process and outcomes. As such, the buildout of the Opportunity Site is to be guided by a Master Plan that establishes a community-driven, proactive vision for new neighborhoods, transportation system, and public spaces.

As the project team prepares for city consideration and adoption of the Master Plan, city staff want to provide an update on the master plan process and review key elements of the plan for discussion with Council.

Master Plans

- Master plans provide a guiding, authoritative long-range vision for an area that projects a city-approved expectation for area development, while giving confidence to private development as to the type of development that will be supported. The Opportunity Site Master Plan discusses topics including community benefits, neighborhood creation, sustainability, and alignment with city goals. Master plans are not intended to be unwaveringly prescriptive. Rather, they intend to convey the long-term parameters and framework in which an area should change.

Opportunity Site Master Plan

- The draft Opportunity Site Master Plan and includes:

- *Area visioning and guiding principles informed by a multi-year, multi-phased public engagement process.*
- *A land use framework intending to foster a new inclusive, mixed-use downtown*
- *A public realm network that anchors the site and provides places for all people*
- *Supportive multimodal transportation and public infrastructure guidance.*
- *Future-oriented scenarios for opportunities on the city's horizon, such as a new city hall and transit readiness.*
- *Guidance for and alignment of the "Phase 1" development site.*

Community-derived Guiding Principles of the Master Plan are:

- *Create a vibrant and distinctive destination for the community and region*
- *Embrace the growing diversity of the community*
- *Consider sustainability in the design of development*
- *Produce places that bring the community together*

In July 2021 Council adopted the Opportunity Site Infrastructure Framework. In November 2022 Council affirmed the Opportunity Site Public Realm Framework, which will be included as an appendix to the final master plan.

Next Steps

Upon completion of this review sessions, staff recommend completion of the Master Plan for submission for City consideration in mid-2024.

A draft copy of the Master Plan has been sent to Council, and has been uploaded to the becomingbrooklyncenter.com project website.

<https://clients.bolton-menk.com/brooklyncenter2019/opportunitysite>

Budget Issues:

This item will have no immediate effect on the budget.

Inclusive Community Engagement:

The Master Plan supports the community-driven development vision of the Opportunity Site, allowing for ongoing alignment with intended development goals.

Antiracist/Equity Policy Effect:

These items seek to promote equitable, community-serving outcomes of development within the Opportunity Site, as identified in the Opportunity Site Principles & Goals.

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
presentation	3/13/2024	Presentation



Opportunity Site Schedule

Work Completed 2019-2022

2019

- Phase I Public Engagement
- Master Planning Began

2020

- Phase II Public Engagement
- Master Planning - *continued*

2021

- Phase II Engagement - *continued*
- Infrastructure Framework Adoption

2022

- Phase III Public Engagement
- Phase 1 Alatus Development Support

Plan Status Today

Master Plan Status

- Finalizing Plan Content
- Developing Implementation Plan
- Supportive Appendices
- Ongoing Coordination with Alatus Phase 1 Development Site

Plan Completion 2023-2024

Plan Review

- Council Update - Oct 2023
- Council Review Work Sessions - early 2024

Adoption & Begin Implementation

- Consideration for any Comprehensive Plan Land Use Amendments
- Planning Commission, Council, Public Hearing

Continue Supporting Phase 1 Development:

- Public Infrastructure Design
- Public Realm Theme & Design
- Regional Stormwater
- Community Benefits Agreement



Master Plan Components



PLAN

- Exec. Summary
- Vision for a New Downtown
- Public Realm
- Access & Connectivity
- Neighborhood & Economic Development
- Implementation Plan

APPENDICES

- Staffing & Maintenance Plan
- Financial Impact Assessment
- Community Benefits Agreement Template
- Equitable Development Framework
- Opportunity Site Housing Framework



3

Master Plan vs Development Proposal



WHAT IS IT?	Big picture, values-driven plan to inform future Downtown Brooklyn Center	A specific proposal for what a developer wants to build
WHAT IS INCLUDED	Guiding vision for community goals, principles, and benefits development should support	Details and required city forms on what a developer will build if approved
WHAT IS NOT INCLUDED	Does NOT grant anyone permission to build here	ONLY authorizes a developer to build specifically what they propose
WHAT DOES "APPROVAL" MEAN?	The community agrees to a shared vision for the Opportunity Site that will guide future development	City approval for an agreed upon development, as allowed and approved by local and state policies

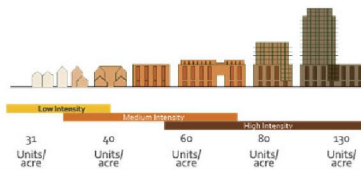


4

LAND USE



Multiple Building Types on each
Downtown Block

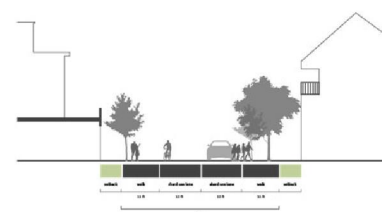


5

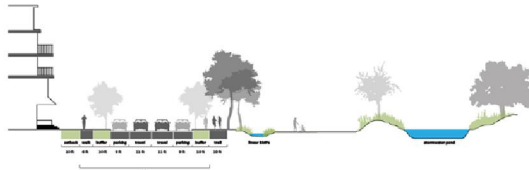
TRANSPORTATION



Neighborhood Streets



Garden Street



The Parkway



Main Street



6

PUBLIC SPACE



7

Next Steps



8

Opportunity Site Master Plan Update

Questions & Feedback?



Council/EDA Work Session

DATE: 3/11/2024

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Dr. Reggie Edwards, City Manager

SUBJECT: Upcoming Items

Requested Council Action:

- Memorial Policy
- Special Assessment Policy/Franchise Fees (*referred to Financial Commission*)
- Beautification and Public Art Commission
- Food Truck Ordinance/License
- Emerald Ash Borer Policy Review (*referred to Park & Rec Commission November*)
- Opioid Settlement
- ARPA Funds
- Grants: Revenues & Expenses
- Purchasing Policy
- Interveners Impact
- Revisit Resolution 2021-73
- Planning Application Process
- Group Homes

Background:

Budget Issues:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values: