Council Worksession
City Hall Council Chambers
February 26, 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**
   a. City Council Discussion Items
   b. Other Items
3. **Adjourn**

CITY COUNCIL MEETING
City Hall Council Chambers
February 26, 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.

5. Invocation - Graves

6. Approval of Agenda and Consent Agenda

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

a. Approval of Minutes

- Motion to approve the following meetings:

- *01/22/24 Work Session Meeting*
- *01/22/24 Regular Meeting*
- *02/12/24 Work Session Meeting*
- *02/12/24 Regular Meeting*
- *02/12/24 CC/EDA Meeting*

b. Approval of Licenses

- Motion to approve the licenses as presented.

c. An Ordinance Amending Chapter 23 of the Brooklyn Center City Code Regarding Special Events 23-2600 (1st Reading)

- Motion to approve the first reading of an Ordinance amending Chapter 23 of the Brooklyn Center City Code regarding Special Events 23-2600.

d. Resolution Authorizing and Supporting an Application for Hennepin County Transit-Oriented Development Funds Grant Application - Opportunity Site

- Motion authorizing a Hennepin County transit oriented communities (TOC) grant program application.

e. An Ordinance vacating a portion of the dedicated right-of-way in the plat of Joslyn Addition (1st Reading)

- Motion to approve a first reading of the requested ordinance vacating a portion of the dedicated right-of-way in the plat of Joslyn Addition, and set a second reading and public hearing for March 25, 2024.

f. 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)

Motion to approve a first 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 set the second reading for March 11, 2024.

g. 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

- Motion to approve a 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.

h. Resolution Appointing Election Judges for the 2024 Presidential Nomination Primary Election

- motion to approve a resolution appointing election judges for the March 5, 2024 Presidential Nomination Primary Election

7. Presentations/Proclamations/Recognitions/Donations

8. Public Hearings

9. Planning Commission Items

a. Resolution Approving 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)

Motion to adopt 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.

10. **Council Consideration Items**

11. **Council Report**

12. **Adjournment**

Council Regular Meeting

DATE: 2/26/2024

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 the following meetings:*
  - *01/22/24 Work Session Meeting*
  - *01/22/24 Regular Meeting*
  - *02/12/24 Work Session Meeting*
  - *02/12/24 Regular Meeting*
  - *02/12/24 CC/EDA Meeting*

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, Accountability, Transparency

ATTACHMENTS:

Description	Upload Date	Type
1.22.24 WS	2/20/2024	Backup Material
1.22.24 Regular	2/20/2024	Backup Material
02.12.24 WS	2/21/2024	Backup Material
02.12.24 Regular	2/21/2024	Backup Material
02.12 CC/EDA Work Session	2/20/2024	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
JANUARY 22, 2024
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in a Work Session called to order by Mayor/President April Graves at 6:01 p.m.

ROLL CALL

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

MISCELLANEOUS

Mayor Graves stated that at the last meeting, she suggested that council members identify three to four topics or items to be discussed, so please let her know if they did. She then asked if there were any miscellaneous discussion items.

Councilmember Jerzak stated that he emailed Dr. Edwards with some legislative priority suggestions. He stated that he met with the 252 Task Force and asked for feedback on priorities. He noted that they created a comprehensive justification statement, and he is hoping the council can discuss this at the appropriate time.

Councilmember Jerzak stated that Dr. Edwards gracefully reached out to Councilmember Jerzak and Lawrence-Anderson, and in their discussion, they discussed Dr. Martin Luther King Jr. Day and reflection. He stated that he shared a story with him from the assassination day. Dr. Edwards asked if he would share that story tonight during the invocation. Councilmember Lawrence-Anderson agreed to allow him to do so in place of her.

Mayor Graves stated that it could be discussed later in the session. She then asked if the council had looked over the agenda items and asked if there was anything the council wanted to bring forward.

Councilmember Lawrence-Anderson stated she would like an update on the Purchasing Policy and Deputy City Manager hiring process and the final draft of the Grant Policy language.

Councilmember Jerzak asked for clarification on the process for the work session and the Organizational Chart. He asked if the preference is that the council email discussion items to be discussed during the work session. He stated that he would like to look at what positions are funded using grant money and funding for next year on those positions. Also, he would like an update on the Chief recruitment and hiring process and the monthly finance reports.

Councilmember Kragness stated that she would also like an update on the Police Chief's replacement, publication of the position, and process. She also asked if there would be a retirement party for Police Chief McDaniel.

City Attorney Jason Hill recommended that items be prepared and discussed before the agenda is finalized before the meeting. Mayor Graves noted that she intended to gauge the items the council wanted to discuss to assess which items to prioritize discussion as a body rather than overlapping items.

Councilmember Larewnce Anderson stated that once the list is formulated for the year, she wants to see dates attached to each item so things don't get forgotten or dropped.

Mayor Graves stated that for the next Worksession and what she is hearing from the council, items that should be prioritized are the recruitment/hiring process for the Police Chief and Deputy City Manager. She stated that the monthly budget report would likely be a quick update rather than a long conversation. She suggested the purchasing and grant policies be discussed at the following meeting.

Assistant City Manager/City Clerk Suciu stated that the council has already voted on the grant policy, which is included in Section Two of the Council Policies.

Councilmember Lawrence-Anderson wanted to make sure the language relating to contract employees was included. Dr. Edwards stated that he would review the policy as he was unsure if the language was specific to contract employees, but rather stated that all new hires must presented to the council.

Councilmember Lawrence-Anderson stated that if we are lucky enough to have grant funds and choose to pilot a program, she wants to ensure that it doesn't become a tax burden for citizens as taxpayers without the council being aware of budget issues. Dr. Edwards reiterated that it would come back to the council as stated in policy.

Councilmember Kragness stated that during the finance commission, they addressed and clarified this, and the language reflects that it does include employees on a contract basis if/when applicable.

Councilmember Butler stated that she would like to address the goals for city cleanup and the budget process related to a more efficient process. Mayor Graves suggested the discussion begin in March or April in terms of timing for the budget process. Councilmember Butler stated she would like the council to have the option of providing feedback on the process and ideas on how

to improve it. She would also like staff to review the budget process so that other cities can find a more efficient way of completing it.

Councilmember Jerzak stated he is concerned with commissions not meeting quorums and would like to address this issue. Mayor Graves agreed that this is an ongoing frustration. He noted that she had forwarded two financial commission appointments to the City Clerk and that there were four vacancies, one for the housing commission and one for the planning commission, with two active applications for vacancies. She noted that she reached out to the applicants and encouraged the council to think about anyone they may know or hear from to apply for any open vacancies.

Councilmember Jerzak believes it is the council members' responsibility to reach out to the community and encourage people to get involved.

Mayor Graves stated that items she wants to see addressed and discussed are the legislative breakfast, the City of Crystal legislative breakfast in February, recent news about NLC crime prevention, and 2024 public safety conferences. Mayor Graves noted that the City of Crystal asked that people RSVP.

Mayor Graves read an email that was received from the National League of Cities, which stated that she had been selected as a member of the 2024 Public Safety and Crime Convention Federal Advocacy Committee. She stated that the first meeting is on March 10; they meet three times per year, and she would need the city council's approval for her to attend. She stated that she would forward the information to the council for review.

Councilmember Jerzak asked Mayor Graves if she had the bandwidth and time to commit to this; Mayor Graves said she did.

Mayor Graves reminded the council that she will be out of town from February 5 through 13.

Councilmember Lawrence-Anderson noted the letter from Jason Hill, which outlined a small change to the typical introduction to the open forum due to a group that is not located in, or part of, Brooklyn Center using the Zoom platform for malicious reasons.

Dr. Edwards asked the council to continue thinking about the differences between the Worksessions now that the new process has started, compared to typical Work Session items. He stated that many of the outlined items are similar to those that would be discussed in a typical work session, and asked the council to consider what they had sought to accomplish during this time.

Dr. Edwards stated that he recollects that the council wanted the space to discuss conflict issues when there currently isn't a good space to have those discussions, as well as other topics such as running for office and having a space to discuss and share, as well as how best to work as a team, priorities, and what each councilmember believes is important. Some topics are not necessarily formal issues for the city but relate to the group dynamics among the council. He asked the council to continue to think about this and how best to utilize the time and space.

Dr. Edwards offered a few items not identified by the council but that he believes are essential, including the Police Chief, Police Chief Deputies, and searches. He added that the search for a new Police Chief began has begun. This should be posted within the next few weeks. Brooklyn Center will use a focus group and conversations with staff and the community. The search will be national, and there will be an appointed interview panel, which could include staff, community members, and experts in the field. The hope is to have a new Police Chief by early April. Commander Tony Gruenig will serve as the interim Police Chief while searching for a replacement.

presented the organizational chart; why did you want this; conflicted issues; what are your priorities; working as a team; police chief process onboarded national search; scheduling time, engagement community onboarding early April

The hiring process for a Deputy City Manager will have a month lag, beginning in the next week or so. The hope is that the position will be filled within thirty days after hiring a new Police Chief.

Dr. Edwards stated that there will be a celebration or party for the departure of Police Chief McDaniel and will communicate that with the council once it has been discussed. He stated that Brooklyn Center is very grateful and thankful for his service.

CITY COUNCIL ITEMS
ORGANIZATIONAL CHART

Dr. Edwards presented the Organization Chart. He stated that the chart is an operation tool used to reflect how we function and work within the organization and discussed the structure. He stated that at the top of the chart sits the residents, who provide direction to the council, who then provide direction to the City Manager. Below that are the tiers as they reflect the functions of the organization.

Dr. Edwards stated that the current organizational chart shows the Office of Equity and Human Resources and the Office of Community Prevention and Health and Safety. The second tier does not mean span control or control and command in the context that that second level dictates what happens on the third level to indicate how we function. The first tier shows the functions of Public Works, Community Development, Financial Services, Administration, Recreation, Fire Department and Police Department. These departments carry out the functions of the organization.

So, it has those two offices and then those functions below. The reason why it has the two offices above the Office of Equity and Human Resources and the Office of Prevention and Health and Safety is because of the direction in which we were trying to go when we first created those offices. In this particular structure, because of everything we do, we want to ensure that there's an equity and a human capacity part of the thought and the thinking of what we do. In addition to everything that we do, there's a sense of prevention and health in the community, and it is community-centered, as well as part of how we think and what we do. So they inform how we function. They don't dictate what we do, but they dictate how we do them.

The City Manager ensures that those values and principles are lived out if you will, or those principles are lived out within all the functions in which we do so. So, on the organization chart, a couple of solid lines show control and command; in essence, the functions of those departments follow the direction of the city manager.

There are a couple of dotted lines that show a direct kind of coordination or influence. So the Office of Equity and Human Resources, as well as the Office of Community Prevention and Safety, is tied to every department so that it may influence all we do within those departments.

Councilmember Kragness stated that she believes the purpose of a chart is to simplify things and to make them easier. She believes the chart to be very confusing and would like to see it reflect precisely what the organization is trying to say and show the chain of command.

Councilmember Butler agreed that it needs to be simplified.

Councilmember Jerzak agreed that it is confusing.

Mayor Graves stated that she believes an organizational chart can often appear as though it makes a big difference to the people in leadership positions. Yet, it doesn't make a whole lot of difference to the work the people on the ground do. She noted that if it clears things up for others, she will support it. She also stated that he wants to see Finance on the first tier with the Human Resources and Equity and Office of Community Prevention Health and Safety.

Dr. Edwards stated that during the retreat, there was much discussion about the format, and it was articulated that sometimes staff may have things that they want to come to take or not have all the answers to. On the current chart, he changed the title of the Recreation Department to Parks and Recreation. One reason is that that's a shared function between our public works and our recreation. Public works maintain bills and maintain our parks, while recreation deals with the programming of people within the park. He then asked if there were any thoughts or concerns about changing this.

Councilmember Kragness stated that they initially didn't have a concern with it. I thought it was weird when I started on the council to call it CARS, even though it stands for Community Activity Recreation Services, but that's a pretty long mouthful.

Dr. Edwards stated we want to just get the City Council's perspective. They thought that two years ago, we were stepping two feet into a mindset around being community-centered and how to be more intentional around the engagement and participation in the thought about community and everything we do. And so, how do we embody that in our work? Oftentimes, that transformation change starts with how we think about things. So one of the other thoughts about how we think about our services and how the public views us, our services, the thought about putting community in the front of department names.

Councilmember Butler stated that she would like to know what it looks like moving forward

because although some of the departments serve the community, she doesn't believe the community is at the center of all of them. She believes it's important to outline the meaning before making any changes.

Councilmember Kragness stated that simplifying the names to make it easier for people to recognize what they do would be very helpful and expressed concern that the longer names may cause more confusion.

Mayor Graves stated that as time is wrapping up, it would be a good idea to discuss the Informal Open Forum and how to handle it, as there are many people present to discuss an agenda item.

ADJOURNMENT

Councilmember/Commissioner Jerzak moved and Councilmember/Commissioner Kragness seconded adjournment of the City Council Work Session at 6:57 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
JANUARY 22, 2024
CITY HALL – COUNCIL CHAMBERS

1. CALL TO ORDER

The Brooklyn Center City Council met in an Informal Open Forum called to order by Mayor Graves at 7:04 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, Director of Fiscal & Support Services Angela Holm, Liquor Store Operations Manager Tom Agnes, Assistant City Manager/City Clerk Barb Suciu, and City Attorney Jason Hill.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

4. INFORMAL OPEN FORUM WITH CITY COUNCIL

CALL TO ORDER INFORMAL OPEN FORUM

Mayor April Graves opened the meeting with Informal Open Forum.

Emily Truseth stated my husband and I bought our home here 14 years ago and we've raised our children here. I love living in Brooklyn Center. However, the last few years have made it abundantly clear that we have a lot of work to do to make Brooklyn Center a safe place for all of our residents. Evidence of the needs for, for this work can be found within our community spaces online, where residents use racist dog whistles and bully folks that call out racism in the city or even in the online spaces. Additionally, evidence can be found during the few City Council meetings that I've attended via Zoom that include ridiculous amounts of gatekeeping, including the proposed measures suggested tonight to close any national discussion. There have been a number of racist comments in online forums and the Council meetings include a ridiculous amount of gatekeeping. Brooklyn Center does not exist in a vacuum, and the national issues can and do affect our community. Additionally, these gate keepings make it difficult for the average resident to participate, and the regular, unchecked, racially coded comments that are dehumanizing, harmful, and exclusionary. And of course, the most glaring and shameful evidence that police have murdered two of our residents.

Mayor Graves stated that she was going to have to stop Ms. Truseth because it sounds like it's related to one of our agenda items. And I did say that I was going to prevent people from speaking on that tonight.

Julie Bourque noted accessibility continues to be an issue with Council meetings and Commission meetings. She explained it is difficult for her to leave her home due to health issues and being a single parent. She should have access to any public meetings and information. She added it is concerning that the first hour of the meeting will no longer be televised or accessible. It is not inclusive or equitable. Additionally, it is an issue that the Charter Commission doesn't have any remote viewing options, nor are the agendas and minutes available online. The strategic planning sessions mentioned the importance of accessibility, but that is not being upheld.

Mayor Graves pointed out that the decision to stop televising the first hour is only for a trial period of three months. The intention is to allow the Council to have more discussion without interruptions.

Katie Wright stated there is a Blue Lives Matter flag with "KP" written on it in the Brooklyn Center Police Department's roll call room, which refers to Kim Potter. If that is a reflection of what the City wants to represent, it is very disheartening. It is very offensive not only to her family but to the community. She questioned what the city is telling the new police chief when they come on, and new officers, as well as felons who have been charged with similar crimes as Kim Potter. She suggested the Council and Staff address the matter and that anyone with knowledge of the current flag be considered for disciplinary action.

Katie Wright noted her agreement with the comments of Julie B. regarding the lack of transparency in the first hour of the meeting. The lack of transparency is unacceptable.

Toshira Garroway explained she has worked closely with the families of Duante Wright and Kobe Dimock-Heisler. Many attendees are present to hear the outcome of the vote on Council Consideration Item 10a. Resolution Directing the Adoption of Traffic Stop and Consent Search Policies for the Brooklyn Center Police Department. The mothers of Duante Wright and Kobe Dimock-Heisler have an interest in speaking publicly following the vote. Duante Wright's murder was well-covered in the media.

Toshira Garroway. added it is difficult to hear the Mayor state she has no interest in hearing from the community on the issue. She stated it was hurtful to hear this. She was rooting for Mayor Graves during the election, but her character is now questionable. She asked that after the vote, we have a chance to speak.

Mayor Graves stated there have been several opportunities for the community to provide feedback and commentary on Council Consideration Item 10a. Resolution Directing the Adoption of Traffic Stop and Consent Search Policies for the Brooklyn Center Police Department. It is the consensus of the Council to move ahead with the agenda item in line with the rules of the meeting. She urged the Council to keep up with technological accessibility.

Randy Christensen noted he was surprised that the meeting was no longer being televised for the first hour. The lack of communication and transparency is disheartening. It is also frustrating that there isn't an option to speak on agenda items and that more public meetings are not available remotely.

Lillian McDonald thanked the Council for their hard work. She thanked the community for the work they are trying to do. We are a healing city right now, and it's time we turn the page. Everyone has to be on the same page to move forward.

Lillian McDonald stated the City needs to address homelessness and local encampments. She explained she represents her neighborhood, which is near a large encampment. The City needs to come together to find a path forward. She has emailed Staff multiple times asking for updates with few responses. The City needs to promote safety, health, and building community. The encampment is also concerned with the cold weather in mind.

Lillian McDonald thanked the meeting attendees for their involvement in the Council meeting.

Councilmember Butler moved, and Councilmember Jerzak seconded to close the Informal Open Forum at 7:20 p.m.

Motion passed unanimously.

2. INVOCATION

Councilmember Jerzak noted City Manager Dr. Reggie Edwards had reached out to him to ask what he did for Martin Luther King Jr.'s Day. He traded the invocation with Councilmember Lawrence-Anderson to share his experience.

Councilmember Jerzak explained he and his family were in Memphis when Martin Luther King Jr. was murdered. While traveling, he saw signs that segregated the use of drinking fountains on the basis of race.

A member of the audience began speaking. Mayor Graves stated the commenter would be asked to leave if she continued to interrupt the meeting.

Councilmember Jerzak stated Martial law had been imposed, so there were checkpoints. His father showed his military ID to pass through the checkpoints. He asked his father if they would be okay. His father said, "Our family will be okay, but I don't know if the country will be okay."

Councilmember Jerzak noted the country hasn't come all that far since then, though there have been some improvements. He shared more quotes from his father regarding race.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

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

6a. APPROVAL OF MINUTES

1. January 8, 2024 – Study Session
2. January 8, 2024 – Regular Session

6b. LICENSES

ON-SALE WINE

Ogamadam Kitchen, LLC	6000 Shingle Creek Parkway

ENTERTAINMENT

Ogamadam Kitchen, LLC	6000 Shingle Creek Parkway

RENTALS

INITIAL (TYPE IV – six-month license)

3901 Burquest Lane	P OGUNTI & M ZARZAR

INITIAL (TYPE III – one-year license)

4200 Lakebreeze Avenue N	AZ Rental Apartment
3613 54th Avenue N	STEPHEN ZEKPA

RENEWAL (TYPE IV – six-month license)

4201 Lakeside Avenue N, #104	JMG PROPERTY LLC
2118 Ericon Drive	Marco Panora
3312 62nd Avenue N	Hpa Us1 Llc
5556 Emerson Avenue N	Thomas D Belting
6015 Aldrich Avenue N	Akat LLC
6107 Emerson Avenue N	Lydia Yeboah
6931 Toledo Avenue N	SFR II BORROWER 2021-3 LLC
7037 Fremont Avenue N	Edwina P Mcgill
7131 Ewing Avenue N	The Next Edison Trust

RENEWAL (TYPE III – one-year license)

7015 Brooklyn Boulevard	Willow Lane Estates LLC

RENEWAL (TYPE II – two-year license)	
2813 64th Avenue N	Everest Holdings LLC
3808 France Place	Ih2 Property Illinois Lp
3912 61st Avenue N	Nazneen H Khatoon
5636 Irving Avenue N	Bruce A Goldberg
6908 Unity Avenue N	Sun LLC
RENEWAL (TYPE I – three-year license)	
5338-40 Queen Avenue N	5338 Queen, LLC
5322 Logan Avenue N	Mary Jo Schwanz Rev Trust

6c. RESOLUTION NO. 2024-15; ACKNOWLEDGING AWARDED FUNDS FOR THE HENNEPIN YOUTH FACILITY AND PLAY SPACES GRANT AND AUTHORIZING ACCEPTANCE OF GRANT FUNDS

6d. RESOLUTION NO. 2024-16; ACKNOWLEDGING AWARDED FUNDS FOR THE HENNEPIN COUNTY HEALTHY TREE CANOPY GRANT AND AUTHORIZING ACCEPTANCE OF GRANT FUNDS

6e. RESOLUTION NO. 2024-17; APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS, IMPROVEMENT PROJECT NO. 2024-01 ORCHARD LANE EAST IMPROVEMENTS

6f. RESOLUTION NO. 2024-18; ACCEPTING STATE CONTRACT PRICING AND AWARDING A CONTRACT, PROJECT NO. 2024-11, 2024 PARK PLAYGROUND REPLACEMENTS

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

8. PUBLIC HEARINGS

8a. RESOLUTION NO. 2024-19; AUTHORIZING CONTINUATION OF MUNICIPAL LIQUOR OPERATIONS IN THE CITY OF BROOKLYN CENTER

City Manager Reggie Edwards introduced the item and invited Liquor Store Operations Manager Tom Agnes to make the staff presentation.

Liquor Store Operations Manager Tom Agnes explained municipal liquor operations are authorized by State statute and were originally authorized as a means to control the sale of alcohol. Profitable liquor operations are a source of revenue to supplement traditional tax and fee revenues necessary for City operations.

Mr. Agnes stated City of Brooklyn Center currently operates two municipal liquor stores. Operations began in December of 1949. The location in Shingle Creek Crossing is owned and operated by the City while the location on Brooklyn Boulevard occupies rental space in a strip mall.

Mr. Agnes stated each year the State issues an "Analysis of Municipal Liquor Store Operations" report annually. It usually comes out in the fall and addresses activity for the prior calendar year. It provides comparative data on municipal liquor operations owned by Minnesota cities. There are 176 cities in Minnesota that operate municipal liquor establishments. Of the 211 stores, there are 18 in the Seven-County Metro Area.

Mr. Agnes pointed out that Brooklyn Center liquor operations had a net loss of $51,171 in the fiscal year 2021 and a net loss of $59,236 in the fiscal year 2022. The City's municipal liquor operation sustained net losses due primarily to the impact of COVID-19 business interruptions and losses sustained during the localized civil unrest surrounding the killing of Daunte Wright.

Mr. Agnes noted Minnesota statute 340A.602 requires that the City Council of any city with a municipal liquor operation that sustains net losses in any two of three consecutive years hold a public hearing regarding the continuation of the operation.

Mayor Graves asked if there was a net loss in 2023. Mr. Agnes stated the numbers for 2023 are not yet available.

Mr. Agnes showed a graph with liquor sales over the past 10 years and then a graph of total profit including net profit, depreciation, and transfers.

Councilmember Kragness thanked Mr. Agnes for the presentation. She asked if the preliminary 2023 numbers were positive or negative. Mr. Agnes noted there are a number of influential factors. A bond payment is converting from interest only to principal, which will result in a large jump up. Also, they will always have a depreciation number. 2023 started off well, but the closing of Walmart negatively impacted Liquor Store One's profits. That store is down around 100,000 transactions from previous years.

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

Motion passed unanimously.

Lilian McDonald asked Mr. Agnes what had been done to improve profits.

Mayor Graves reminded the attendees of decorum and to address the presiding officer with any comments or questions.

Mr. Agnes stated there are promotions on social media, which seem to have a lot of traction. Also, they are trying to hire solid employees as they are currently down eight employees.

Kevin Scherber stated the cans seem to cater to the biggest drinkers. He suggested the stores provide more variety.

Jeff Lewis asked if the City has considered leasing out the location owned by the City to a private entity.

Mike Crosby asked the Council to help the municipal liquor stores as it is a method to pay for City services. He asked if the new cannabis laws create competition for the City and how the City's income will be impacted.

Mr. Agnes stated the municipal stores have started to carry THC products and they have been selling well. He pointed out some cities have reported an increase in THC sales along with a decrease in alcohol sales.

Julie Bourque stated the stores are convenient and have great employees. She noted her support of the stores.

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

Motion passed unanimously.

Councilmember Jerzak moved and Mayor Graves seconded to adopt Resolution No. 19; Authorizing the Continuation of the City's Municipal Liquor Operations.

Motion passed unanimously.

9. PLANNING COMMISSION ITEMS

None.

10. COUNCIL CONSIDERATION ITEMS

10a. RESOLUTION NO. 2024-20; DIRECTING THE ADOPTION OF TRAFFIC STOP; RESOLUTION NO. 2024-21; CONSENT SEARCH POLICIES FOR THE BROOKLYN CENTER POLICE DEPARTMENT

City Manager Reggie Edwards introduced the item and provided a history of the resolution. He explained in May 2021, the City Council of the City of Brooklyn Center adopted Resolution No.

2021-73, a resolution adopting the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act. Since February 28, 2022, the Implementation Committee has conducted regular meetings, and working with experts to gather data and consider City Code amendments, ordinances, resolutions, policies, and guidelines with regard to public health-oriented approaches to community safety. In September of 2022, the Committee developed and prepared policy recommendations regarding traffic stops and consent searches.

Dr. Edwards pointed out in June 2023 that staff made recommendations to the City Council regarding traffic stops and consent searches based upon the review of the recommendations made earlier by the Implementation Committee. Following Staff's presentation, the Council directed Staff to bring back a resolution adopting a policy for traffic stops and consent searches.

Dr. Edwards noted Staff reviewed reasons for traffic stops and assigned safety ratings. The intention is to promote traffic safety while mitigating potentially dangerous interactions. They also separated the traffic and consent search policies. It was a recommendation from the Implementation Committee for the measures to be introduced as policies instead of ordinances. There was also a preference for community education on consent searches.

Dr. Edwards explained the item before the Council is to adopt both the traffic stop and consent search policies. They were drafted by City Attorney Jason Hill.

Mr. Hill noted the policies have been thoroughly reviewed by the City Staff, Council, and the Implementation Committee. There has been a large amount of community engagement. The first item before the Council is a traffic stop policy that eliminates seven reasons for traffic stops. The regulations would be enacted through the adoption of policies rather than ordinances, and standalone policies should be incorporated into the Brooklyn Center Police Department Policy Manual. He stated that there are seven specific items in here that are to be kept out as initiating a traffic stop. The language would be incorporated into the police department's manual. It includes a language that came out of the implementation committee and its original ordinance format.

Mr. Hill added the second resolution is regarding consent searches. As Dr. Edwards indicated, it's not a resolution adopting a specific policy at this time, but is more about gathering data and creating a tracking system than changing any current practices. There is also a direction to research and create a balance of powers statement for the Police Department to use during consent searches.

Mayor Graves stated a timeline needs to be established regarding the crafting of the balance of powers statement and the creation of the tracking system, should the resolutions pass. There was no disagreement from the Council.

Mayor Graves read a prepared statement to reflect on the process. "Too often in today's political and cultural climate, perspectives and voices become polarized. And because of this, policy and systems change become stagnant, services become inadequate and harmful, issues are left unaddressed, and relationships become sour, reducing the public trust. People shut down and walk away from important conversations because they get burned out and feel like their voices and perspectives are not valued.

They believe that it's a waste of time, that nothing will ever get done. Since becoming mayor last year, I have worked intentionally to try to change that pattern of interaction in Brooklyn Center. I always approach issues with an attitude of collaboration and coordination. Issues that impact the larger community should never be made in the vacuum.

And our own personal perspectives should never become the sole focus of our collective work to create a more just safe, healthy culture, community, and society. A willingness to compromise becomes crucial to progress. The recommendations we see before us today are the result of hours of research, many, many courageous conversations with community, staff, council, and a willingness to step into uncomfortable spaces and dialogue with people that we may not have in the past.

It has become an imperfect, it has been an imperfect process, and we are imperfect human beings. But I'm proud of the progress that we have made, and I'm proud of the recommendations that we have in front of us this evening. Make no mistake, these recommendations are a compromise. They are a balance between the larger recommended changes presented by the Dante Wright Colby Dimock Heisler Implementation Committee, and the alternative where we do nothing to enact changes that work to prevent further harm.

As leaders, public servants, elected officials, it is our duty to improve the way we serve our community. We know Brooklyn Center faces many of the same public safety challenges. and racial and economic disparities that are prevalent nationally. I know that there will be some people in this room that feel that these recommendations don't go far enough.

And I know that there will be some people here that believe that they go too far. But if nine plus years in public office has taught me anything, it is that it is impossible to please everyone all the time. Nonetheless, it is my hope that as the council votes tonight, that we can see clearly and value the important work that has been done to get us here.

We stepped out of our comfort zones, we worked to listen to understand one another, and we came up with recommendations that took multiple perspectives into account. I also hope that we can learn from what has worked, what hasn't worked, and that we can build upon this moment, sustain and grow our relationships, cultivate deeper understanding of another's lived experience, and hold ourselves and one another accountable to the continued and even more intentional collaborations across our differences.

I strongly believe if we do this, it will improve our collective ability to be compassionate and knowledgeable stewards of our community and to create a more safe, healthy, and just Brooklyn Center now and into the future. The collaborative work has been extremely important. Systems change can become stagnant, and community members may feel discouraged during the process. It has been her goal as Mayor to promote collaboration. Decisions should never be made in a vacuum, nor should decisions reflect only one person’s preferences. The recommendations before the Council are a result of countless research, community dialogues, and Staff review. She is proud of the progress and the recommended resolutions. She pointed out the resolutions are ultimately a

compromise between various parties."

Councilmember Butler stated it is her eighth and final year on the Council, meaning she was on the Council for the deaths of both Daunte Wright and Kobe Dimock-Heisler. She regrets that the Council didn't have the courage following the death of Kobe Dimock-Heisler to implement any changes. It could have impacted the life of Daunte Wright.

Councilmember Butler recognized the courage of the mothers and the time they have contributed to improving the community. Also, the Implementation Committee spent a number of hours working with professionals and forming recommendations. They were criticized for their work, but they should be thanked for their efforts.

Councilmember Butler agreed the policies were a compromise and were not what she wanted to approve for the City. However, it will move Brooklyn Center in the right direction. Two years ago, they were going to be a leader in the Nation. The City has fallen behind, but it has learned what does and doesn't work in implementing change.

Councilmember Butler moved, and Mayor Graves seconded to adopt a Resolution adopting the traffic stop policy for the Brooklyn Center Police Department.

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

Amity D. stated shame on you, shame on you. Swear to god, I hope your kids die.

Councilmember Butler moved and Mayor Graves seconded to adopt a Resolution adopting the consent search policy for the Brooklyn Center Police Department.

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

Katie W. stated you guys are some sorry people and more people are going die and you can't do the right thing. She has been fighting for three years, and her son has been dead for two years and nine months, and you guys say no to a policy that is going to protect people. Why? Because Councilmember Jerzak is the most racist person on this city council and I am going to make sure everyone knows that.

Mayor Graves called for a recess.

Mayor Graves asked for a motion to adjourn the meeting.

Mr. Hill, stated there needs to be a motion to table item 10b.

10b. APPROVAL OF THE 2024 LEGISLATIVE PRIORITIES

Councilmember Butler moved, and Mayor Graves seconded to table Council Consideration Item 10b. Approval of the 2024 Legislative Priorities.

Motion passed unanimously.

11. COUNCIL REPORT

This item was not addressed.

12. ADJOURNMENT

Councilmember Jerzak moved, and Councilmember Kragness seconded adjournment of the City Council meeting at 8:20 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

WORK SESSION
FEBRUARY 12, 2024
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Work Session called to order by Mayor Pro Tem Kris Lawrence-Anderson at 6:00 p.m.

ROLL CALL

Mayor Pro Tem Kris Lawrence-Anderson and Councilmembers Marquita Butler, Dan Jerzak, and Teneshia Kragness. Mayor April Graves was absent and excused. Also present were City Manager Reggie Edwards, Director of Fiscal & Support Services Angela Holm, Director of Public Works Elizabeth Heyman, Assistant City Manager/City Clerk Barb Suciu, and City Attorney Jason Hill.

CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

Councilmember Jerzak asked if there will be on-site support for the clientele, referring to Consent Agenda Item 6e., Resolution Accepting Livable Communities Demonstration Account (LCDA) Funding Grant for New Generations LLC - Veterans Housing.

City Manager Reggie Edwards stated he believes there will be support, but a full-scale presentation will be made to the City Council in the future. Councilmember Jerzak stated he is willing to wait for the presentation, but it is one of his concerns.

Councilmember Jerzak asked if Brooklyn Center had participated in a similar contract to Consent Agenda Item 6l., Resolution Authorizing the City of Brooklyn Center to Enter into a Contract with Hennepin County for Local Food Purchase Assistance (HS00001632). Dr. Edwards stated he would find the information and report back to Council. Councilmember Jerzak also asked if the agreement was directly with the farmers.

Councilmember Kragness asked if the disparaging comments referred to in the previous minutes should be detailed. She requested the minutes be pulled from the Consent Agenda. There was consensus from the Council for Consent Agenda Item 6a. Approval of Minutes to be removed.

Mayor Pro Tem Kris Lawrence-Anderson stated they would also be removing Consent Agenda Item 6g., An Ordinance Vacating a Portion of the Dedicated Right-of-Way in the Plat of Joslyn Addition (1st Reading).

MISCELLANEOUS

CITY COUNCIL DISCUSSION ITEMS

Councilmember Jerzak asked if the Miscellaneous items are intended to be in a particular order and if the item needed to be submitted prior to the meeting.

Dr. Edwards explained it is the will of the Council. The City Attorney recommended topics be submitted to Staff so they could be prepared with information. However, the Council has expressed interest in an organic time to discuss topics as they may arise.

Mayor Pro Tem Lawrence-Anderson stated most City buildings have a sign instructing no weaponry is allowed. She suggested similar signage be added to the City Hall. Councilmember Kragness noted her support of the suggestion.

City Attorney Jason Hill stated he could prepare a memorandum on the issue. There are very specific requirements for such signage.

Councilmember Jerzak stated the first round of utility bills with the new rates were sent out. Staff received an increased number of calls with concerns about the increased rates. He pointed out he voted against the increase. It was a large increase, and there is about $500,000 in arrears. He asked if the meter situation has been corrected. It is unfair if residents aren't being billed accurately due to their meters.

Dr. Edwards pointed out Staff is working on a plan to replace the problematic meters. There are some new meters that the City obtained at a lower rate.

Public Works Director Elizabeth Heyman explained an order of new meters has been received. They are working on a plan of how to access the homes that need replacements. She added there is a full replacement in the Capital Improvement Plan slated for 2028 or 2029.

Director of Fiscal & Support Services Angela Holm stated there was a meeting today regarding the malfunctioning meters.

Councilmember Jerzak asked how many meters are failing and the amount of the revenue loss. Ms. Heyman stated she doesn't have the numbers in front of her. There are two or three issues with the meters, so the number has to be recalculated.

Councilmember Jerzak asked if there is a relationship between the faulty meters and accounts that are in default. Ms. Holm explained the failed meters have a number of issues. The high number of receivables is due to people not paying their bill.

Councilmember Jerzak asked why people are struggling to pay their bills. Ms. Holm stated she hasn't heard anything specifically for reasoning. There are a number of methods to pay the bills.

Councilmember Kragness asked if there was an update on the water pipeline. Ms. Heyman stated the City has until August to report the numbers. About 3,000 of the 8,000 data points have been collected. There have been several survey responses, and there has been success with door knocking.

Mayor Pro Tem Lawrence-Anderson asked if all homeowners need to report to Staff. Ms. Heyman confirmed all residents should report the status of their pipes to the City. Anyone that doesn't report will receive a letter requesting the information. However, it is not mandatory.

Councilmember Kragness asked if there is a protocol on how to handle disparaging comments received via Zoom during the Council meetings. Dr. Edwards noted the topic is slated for discussion later on in the meeting.

Mayor Pro Tem Lawrence-Anderson requested the Council take a photo with Dan Halverson during Presentations/Proclamations/Recognitions/Donations 7a., Proclamation Declaring February 12, 2024 as Don Halverson Day in Honor of his 101st birthday and Commemorate his Military Service in WWII.

LEGISLATIVE PROCESS

Dr. Edwards explained the items are intended for discussion and potential Staff direction. He noted there was a recent Legislative Breakfast, and some Councilmembers were able to attend. Also, the Council has been given a legislative timeline. In previous sessions, there wasn't enough time to discuss legislative priorities and the process. There is a desire to set a specific legislative process and for the legislative priorities to be set earlier on.

Councilmember Jerzak suggested there be a memorandum regarding what was discussed at the Legislative Breakfast. He agreed Councilmembers should meet with their local representatives earlier to relay their legislative priorities.

Mayor Pro Tem Lawrence-Anderson suggested inviting their local representatives to a Work Session to ensure they are all on the same page.

Councilmember Kragness agreed the discussion regarding legislative priorities and alignment with local representatives should take place sooner than later.

Councilmember Jerzak noted his appreciation of the networking opportunity following the Legislative Breakfast. He suggested planning more time for networking.

Mayor Pro Tem Lawrence-Anderson pointed out she attended Day on the Hill previously. She suggested the Councilmembers reach out to their representatives in advance to schedule a meeting during the event. Dr. Edwards noted Staff could help with the process.

Dr. Edwards added there may be a Legislative lunch or Legislative dinner in future years. Also, Staff will prepare a professional document that will highlight key points of the legislative priorities.

Councilmember Jerzak suggested Staff and Councilmembers avoid congregating with like people at future events.

CITY COUNCIL CHAMBERS SAFETY AND DECORUM

Dr. Edwards pointed out there are efforts to disrupt Council meetings throughout the country due to the political climate. Staff is working to develop a more robust safety plan. A decorum document was provided to the Council.

Mayor Pro Tem Lawrence-Anderson asked if it is necessary to read the entire document regarding decorum at every meeting. Dr. Edwards stated it is up to the Council. The same information is available on a poster outside of Chambers and can be made available online.

Councilmember Kragness stated it should be read at every meeting. However, there is an issue of following the decorum.

Mr. Hill noted it is fine to have expectations, but the public open forum is designated for folks to express their First Amendment rights. There isn't much the Council can do in the way of enforcement, and there are strict processes to follow if someone needs to be removed from a public space. As for Zoom interruptions, the City can limit the scope of comments to City issues. Nonetheless, commenters have protected rights to say what they want, no matter how horrible.

Mayor Pro Tem Lawrence-Anderson asked if the Council has to allow public comment through Zoom. Mr. Hill stated some cities have begun to prohibit comments from digital means while still allowing remote viewing. If that is the desire of the Council, he recommended an all-or-nothing approach with receiving comments to avoid issues of discretion.

Mayor Pro Tem Lawrence-Anderson asked if the Council was interested in prohibiting comments from Zoom for the current meeting. She suggested a more complete discussion be held once Mayor Graves was present.

Councilmember Butler stated she understands the concern, but Brooklyn Center hasn't received issues with comments related to political happenings. Also, Zoom viewing and commentary has increased engagement and there wasn't proper notice given to community members to limit Zoom comments.

Councilmember Jerzak agreed there wasn't proper notice provided. Other cities have stopped remote commentary, but that should be decided once the full Council is present.

Councilmember Jerzak asked if the presiding officer is the only person who can establish time limits for commentary. Dr. Edwards stated it is the purview of the Council.

Mr. Hill pointed out there is a policy regarding time limits. He suggested any changes be reflected in policy.

Councilmember Kragness explained her concern is about consistency and contradicting themselves when it comes to decorum.

Councilmember Butler suggested a visual timer be used for commenters to be aware of their time limits. She asked if there is a legal difference between attacking people and free speech.

Mr. Hill stated the City has to be careful about restricting comments based on the content of the speech. The establishment of open forum triggers First Amendment rights.

Mayor Pro Tem Lawrence-Anderson stated the Council would share in reading the decorum document for the present meeting.

Councilmember Jerzak noted Minneapolis has a process for limiting comments based on time. He added while people may be passionate about a topic, the Councilmembers can only remain engaged with a speaker for a limited time.

Mayor Pro Tem Lawrence-Anderson requested the item be on the agenda for the following meeting.

ADJOURNMENT

Mayor Pro Tem Lawrence-Anderson moved and Councilmember Jerzak seconded to close the Study Session at 6:52 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 12, 2024
CITY HALL – COUNCIL CHAMBERS

1. CALL TO ORDER

The Brooklyn Center City Council met in Informal Open Forum called to order by Mayor Pro Tem Lawrence-Anderson at 7:00 p.m.

2. ROLL CALL

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

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

4. INFORMAL OPEN FORUM

Mayor Pro Tem Lawrence-Anderson opened the meeting for the purpose of Informal Open Forum. The Councilmembers took turns reading the document regarding decorum.

Lori B. noted she tries to offer solutions when she provides commentary to the Council. Following the deaths of Kobe Dimock-Heisler and Duante Wright, the community responded with protests and the like. From there, the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Resolution was passed. The Implementation Committee has been disrespected time and time again by Brooklyn Center. She asked why the Council voted against an extremely watered-down version of the Resolution. She asked what the City's plan is for when someone else is killed. The Implementation Committee has been labeled and treated as extremists.

Lori B. stated there should be opportunities for conversations. Similar changes are happening nationwide, whether the Council likes it or not. The suggested changes would benefit the majority of the Brooklyn Center population, and the Council needs to consider its white privilege. Safety looks different for everyone. Protests are a form of communication when people are left unheard. The Council needs to listen when people are angry rather than retreat. She shared a quote from Martin Luther King Jr. regarding the response to times of challenge and controversy.

Sandy R. of Big Brothers Big Sisters Twin Cities explained it is the largest and oldest youth support organization in the Metro. She shared some values of the organization including justice, equity,

diversity, and inclusion. There are over 500 youth waiting to be matched in the program, with a larger majority identifying as people of color. Most of the unmatched youth are from Minneapolis, St. Paul, Brooklyn Center, and Brooklyn Park. She requested anyone interested in youth mentorship sign up online.

Charmaigne B. introduced herself as an employee of Big Brothers Big Sisters and parent of Big Brothers Big Sisters youth. She explained the program helps youth feel they belong. Mentorship is a solution to issues of policing and school concerns. She reiterated that 500 youth, mostly from Brooklyn Center and the surrounding area, are waiting for a mentor. Her son has been transformed due to his time in the program.

Councilmember Kragness asked how many children are assigned to each program. Charmaigne B. explained it varies by program. There is a one-year commitment of mentors for on-to-one mentorship, which is the largest program. There is also a school-based program and an arts-based program with less of a commitment. There is also a program that supports students who are about to graduate.

Katie W. introduced herself as co-founder of Duante and Kobe No More Names Initiative. She noted it was heartbreaking for the Council to discuss their own safety while ignoring the safety of community members. It is disheartening for three of the five Councilmembers to be afraid of progress and change.

Katie W. pointed out she is a Brooklyn Center resident, referring to comments made about her residency in the past.

Katie W. added there have been comments that the Duante Wright Memorial was going to be vandalized by the husband of a Councilmember whose name is Gary. She offered to provide screenshots of the Facebook comments.

Nancy L. explained she has some concerns about her neighborhood. There are salvage cars being towed into her neighborhood and being sold from that home. There are anywhere from seven to 15 cars on her street and the surrounding neighborhood. They do not have license plates and have salvage markings.

Nancy L. added the sod laid from the 2020 project was diseased. She has called the City multiple times due to the bad lawns, but the Staff hasn't done anything about it. The 2020 street project made her street into a thoroughfare and cars are speeding up to 70 miles per hour. Again, the Staff has not done anything regarding her concerns.

Nancy L. pointed out that feral cats are also out of control. Others have already voiced concerns about the cats, and the City needs to do something about it as they are impacting properties.

Councilmember Butler asked if Nancy L. had used the online form to submit an anonymous complaint regarding the salvaged cars. Nancy L. confirmed she has used the online submission. The cars will clear out for a couple of days and inevitably return.

Lori-Ann M. noted the County now charges the residents for composting. She asked if the City was going to provide bins to receive composting as an alternative to residents having yet another bin at their homes. Also, folks would have to request a composting bin from the City.

Lori-Ann M. pointed out City Commissions and Committees have a decorum standard they must abide by. Anyone representing the City on a Commission or Committee should be held to a higher standard such as the decorum rules as opposed to enacting their First Amendment rights.

Julie B. stated there is an issue of accessing the meeting remotely. It is unclear why the change was made, and it shows a lack of transparency.

Julie B. added a Councilmember can be censured immediately and potentially removed from his position on the Council due to the seriousness of the findings against him regarding harassment and intimidation of a Staff member. It is documented in a recent investigation. Julie B. stated he has damaged her reputation due to false comments he has made against her. He has also used the Charter Commission to attack initiatives from the Implementation Committee when he couldn't block their efforts by other means.

Mayor Pro Tem Lawrence-Anderson stated no direct attacks could be made against Councilmembers.

Julie B. requested Lori-Ann M. be removed from serving on a Commission due to her inappropriate and false comments online regarding Director of Community Prevention, Health and Safety LaToya Turk.

Mayor Pro Tem Lawrence-Anderson cut her off and requested she stop commenting.

Councilmember Kragness moved and Councilmember Jerzak seconded to close the Informal Open Forum at 7:22 p.m.

Motion passed unanimously.

5. INVOCATION

Councilmember Butler acknowledged it was Black History Month. She shared a quote from James Baldwin, "Not everything that is faced can be changed, but nothing can be changed until it is faced."

6. APPROVAL OF AGENDA AND CONSENT AGENDA

Councilmember Jerzak moved and Councilmember Kragness seconded to approve the Agenda and Consent Agenda, as amended with the removal of Consent Agenda Item 6a. Approval of Minutes and 6g. An Ordinance Vacating a Portion of the Dedicated Right-of-Way in the Plat of Joslyn Addition (1st Reading), and the following consent items were approved:

6a. APPROVAL OF MINUTES

1. January 22, 2024 – Regular Session

This item was removed from the Consent Agenda

6b. LICENSES

GASOLINE SERVICE STATION

Brooklyn Center Municipal Garage	6844 Shingle Creek Parkway

HOSPITALITY ACCOMODATIONS

Suburban Studios	2701 Freeway Boulevard

MECHANICAL

Associated Mechanical	1257 Marschall Road Shakopee 55379
Joel Smith Heating & AC	4672 236th Lane NE Bethel 55005
John M Pohl Mechanical LLC	5891 Moore Lake Drive W Fridley 55432
Northern Plumbing & Softening	7401 Central Avenue NE Fridley 55432
Professional Mechanical Services LLC	19640 200 NW, Suite 9 Big Lake 55309
St. Marie Sheet Metal	7940 Spring Lake Park Road NE Spring Lake Park 55432

RENTAL

INITIAL (TYPE III – one-year license)	
5333 James Avenue N	THE MNHOMES2GO INC
INITIAL (TYPE II – two-year license)	
4700 Lakeview Avenue N	PETER NGUYEN & LILY PHAM
RENEWAL (TYPE IV – six-month license)	
3501 47th Avenue N	6939 Baird Llc
3601 47th Avenue N	8411 Balboa Llc
4204 Lakebreeze Avenue N	AZ RENTAL APARTMENTS LLC

6700 Humboldt Avenue N	MIMG CLXXXIV STERLING SQ SUB
6710 Orchard Lane	Marvin Gardens Townhomes Lp
4207 Lakeside Avenue N, #226	The Beach Apt Owners Assn
5408 Girard Avenue N	Janice & Robert Gardner Sr.
1605 56th Avenue N	Fyr Sfr Borrower Llc
2113 55th Avenue N	Ih3 Property Minnesota Lp
3007 Ohenry Road	Ih3 Property Minnesota Lp
4213 63rd Avenue N	Buster F Fallah
5410 France Avenue N	SFR BORROWER 2022-1 LLC
6019 Camden Avenue N	Inang Ekah
6213 Lee Avenue N	Emmanuel Benson
6445 James Circle N	Kaswa Hospitality Inc
6918 Grimes Avenue N	Olakunle F Ojo

RENEWAL (TYPE III – one-year license)

4216 Lakebreeze Avenue N	Lake Breeze Holdings LLC
818 Woodbine Lane	QZ Funding LLC
2208 69th Avenue N	ASCENT EQUITY LLC
3319 66th Avenue N	Thr Property Illinois L P
3328 49th Avenue N	From Mat To Life Llc
5356 71st Circle	Xiaoyan Hu Trust
7013 Fremont Avenue N	Ih2 Property Illinois Lp
7025 Drew Avenue N	SFR BORROWER 2022-1 LLC

RENEWAL (TYPE II – two-year license)

6907 Dupont Avenue N	Evang Luth Ch Of The Master
2804 67th Lane N	Bryan D Aitkens
3707 61st Avenue N	Cel Monton Llc
3819 France Place	R & M Real Estate Llc
5431 Logan Avenue N	Cosco Property 3 Llc
5549 Brooklyn Boulevard	Western Sky Properties Llc
5724 Logan Avenue N	Konstantin Ginzburg
6430 June Avenue N	E B Brewer & D S Brewer

RENEWAL (TYPE I – three-year license)

1307 65th Avenue N	Pa Nou Vang & Chia Thao
3800 Commodore Drive	C Gindorf/t J Sweetman Et Al
3808 61st Avenue N	Adedamola O Ogundipe
5807 Dupont Avenue N	D & T Properties Llc

SIGNHANGER

Install This Awning & Sign	4835 Lyndale Avenue N Minneapolis 55430

6c. RESOLUTION NO. 2024-22; DECLARING A PUBLIC NUISANCE AND ORDERING THE ABATEMENT OF NUISANCE AT 3606 URBAN AVENUE N

6d. RESOLUTION NO. 2024-23; ACCEPTING LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) FUNDING GRANT FOR ACER'S INNOVATION AND CATALYST CENTER

6e. RESOLUTION NO. 2024-24; ACCEPTING LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) FUNDING GRANT FOR NEW GENERATIONS LLC - VETERANS HOUSING

6f. RESOLUTION NO. 2024-25; APPROVING SETTLEMENT AGREEMENT FOR BROOKLYN BOULEVARD CORRIDOR PROJECT PHASE 2 IMPROVEMENTS, PROJECT NO. 2021-05

6g. AN ORDINANCE VACATING A PORTION OF THE DEDICATED RIGHT-OF-WAY IN THE PLAT OF JOSLYN ADDITION (1ST READING) This item was removed from the Consent Agenda

6h. RESOLUTION NO. 2024-26; APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS, IMPROVEMENT PROJECT NO. 2024-05 65TH STORM SEWER REHABILITATION.

6i. RESOLUTION NO. 2024-27; AUTHORIZING GRANTING A TRAIL EASEMENT OVER CITY PROPERTY IN FAVOR OF CREST LIMITED PARTNERSHIP

6j. RESOLUTION NO. 2024-28; ACCEPTING AND APPROVING A UTILITY FACILITIES EASEMENT AGREEMENT WITH CREST LIMITED PARTNERSHIP

6k. RESOLUTION NO. 2024-29; ACKNOWLEDGING AWARDED FUNDS FOR THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES RELEAF COMMUNITY FORESTRY GRANT AND AUTHORIZING ACCEPTANCE OF GRANT FUNDS

6l. RESOLUTION NO. 2024-30; AUTHORIZING THE CITY OF BROOKLYN CENTER TO ENTER INTO A CONTRACT WITH HENNEPIN COUNTY FOR LOCAL FOOD PURCHASE ASSISTANCE (HS00001632)

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

7a. PROCLAMATION DECLARING FEBRUARY 12, 2024 AS DON HALVERSON DAY IN HONOR OF HIS 101ST BIRTHDAY AND COMMEMORATE HIS MILITARY SERVICE IN WWII

Mayor Pro Tem Lawrence-Anderson read in full a Proclamation to commemorate Mr. Halverson's 101st birthday, his military service in WWII, and his 64 years as a resident of the City of Brooklyn Center. February 12, 2024, was declared as "Don Halverson Day." The Council took a photo with Mr. Halverson.

8. PUBLIC HEARINGS

8a. RESOLUTION NO. 2024-31; APPROVING THE PROJECTED USE OF FUNDS FOR THE 2024 URBAN HENNEPIN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND AUTHORIZING SIGNATURE OF A SUBRECIPIENT AGREEMENT WITH HENNEPIN COUNTY

City Manager Reggie Edwards introduced the item and invited Community Development Director Jesse Anderson to make the Staff presentation.
Community Development Director Jesse Anderson explained Staff is seeking direction regarding the allocation of 2024-2025 Community Development Block Grant (CDBG) funds. CDBG funds are provided by the U.S. Department of Housing and Urban Development (HUD). The funds are intended to help with community development activities that benefit low- and moderate-income persons.

Mr. Anderson noted Hennepin County receives CDBG funds directly from HUD as part of a consolidated pool of funds, which is administered on behalf of participating suburban Hennepin County communities. Brooklyn Center is considered a Direct Allocation City and is a sub-recipient of the funds through Hennepin County.

Mr. Anderson pointed out that the Federal Authorizing Statute for the CDBG program requires that each funded CDBG activity meet one of three national objectives: benefiting low-income persons, preventing or eliminating slums and/or blight, and/or meeting urgent community needs. The Federal Law also specifies that each recipient receiving funds must insure at least 70 percent of the CDBG expenditures during the program.

Mr. Anderson stated as part of the administration of the CDBG funds, Hennepin County adopts a 5-year funding plan, which further defines the priority needs of the program and clarifies what activities are eligible for funding. These include: Priority Need 1: Preserve & Create Rental Opportunities, Priority Need 2: Preserve & Create Homeowners Opportunities, Priority Need 3: Housing Opportunities for Homeless Populations, Priority Need 4: Support Education, Outreach, and Services, Priority Need 5: Encourage Neighborhood Revitalization, and Priority Need 6: Stimulate Economic Development.

Mr. Anderson stated because Hennepin County is responsible for the monitoring and reporting of the CDBG funds, the County oversees the use of funds within the consolidated pool. It is estimated Brooklyn Center will receive approximately $214, 488.55, which is around nine percent of the money received by the County. The allocation amount will be adjusted by HUD. Hennepin County receives the lump sum from HUD and determines the allocation among the participating cities based on a formula that takes into account population and need.

Mr. Anderson noted the recommendation from Staff is to allocate the entire amount of money to the Home Rehab Program due to the high number of applicants waiting to access the program. There are 282 applicants waiting to access the program.

Councilmember Butler asked how much money an applicant can receive from the Home Rehab Program. Mr. Anderson stated a participant can receive up to $30,000 in rehabilitation funds, but some asks are closer to $4,000. The money is given out on a first-come, first-serve basis.

Councilmember Jerzak asked that allocations from the Home Rehab Program be included in weekly updates to the Council. Councilmember Kragness noted her disagreement with

Councilmember Jerzak. She stated she would prefer the recipients remain anonymous. Councilmember Jerzak clarified he wanted information on the projects completed rather than the name of the recipient.
Mayor Pro Tem Lawrence-Anderson agreed with Councilmember Jerzak.

Mayor Pro Tem Lawrence-Anderson asked if the $214,000 is the entire allocation to Brooklyn Center. Mr. Anderson explained that 15 percent of the allocation was already removed to go to community organizations.

Mayor Pro Tem Lawrence-Anderson stated she would like seniors to be added to the list of potential beneficiaries for the funds. Councilmember Jerzak stated he would like seniors to be served as well. However, it is the County that sets such parameters.

Mr. Anderson stated the 15 percent allocated to local agencies can be directed toward seniors in the community.

Councilmember Kragness noted her support of funding the Home Rehab Program, just as she had in previous years.

Councilmember Kragness moved and Councilmember Jerzak seconded to open the Public Hearing.

Motion passed unanimously.

Samuel V. introduced himself as the Branch Manager of the new Chase Bank. He explained the bank receives a lot of questions regarding City programs that could help support their house projects. He asked what sort of community outreach is done to inform residents of the program.

Mayor Pro Tem Lawrence-Anderson requested the commenter provide his contact information to Mr. Anderson for follow-up.

Councilmember Kragness moved and Councilmember Jerzak seconded to close the Public Hearing.

Motion passed unanimously.

Councilmember Kragness moved and Councilmember Jerzak seconded to adopt RESOLUTION NO. 2024-31, a resolution approving the projected use of funds for the 2024 Urban Hennepin County Community Development Block Grant program and authorizing the signature of a subrecipient agreement with Hennepin County.

Motion passed unanimously.

9. PLANNING COMMISSION ITEMS

None.

10. COUNCIL CONSIDERATION ITEMS

10a. APPOINTMENT OF CITY COMMISSIONS

Mayor Pro Tem Lawrence-Anderson noted Commission appointments had been faltering in recent years. The Mayor has recommended the appointment of Gretchen Enger and Jeff Lewis to the Financial Commission, Erin Wixten to the Housing Commission, and Stephen Schonning to the Planning Commission.

There were no objections from the Council.

Councilmember Butler moved and Councilmember Jerzak seconded to ratify Mayoral appointments to the City Commissions as presented.

Motion passed unanimously.

Mayor Pro Tem Lawrence-Anderson recognized and thanked the Commissioners for their service to the City.

10b. APPROVAL OF THE 2024 LEGISLATIVE PRIORITIES

City Manager Reggie Edwards introduced the item and summarized recent discussions regarding the legislative priorities. He explained the City of Brooklyn Center works together with its partners to support proposals for new legislation in Minnesota designed to strengthen the community. The following list of legislative priorities and positions, along with those prepared by the Brooklyn Center Economic Development Authority (EDA), constitute the Brooklyn Center's legislative agenda for the 2024 legislative session.

Dr. Edwards pointed out that the legislative priorities document includes a statement on diversity, equity, and inclusion. He read, “The City of Brooklyn Center, with our rich racial, ethnic, and demographic diversity is committed to supporting local, State, and Federal policies and investments that advance the goals of eliminating racial and economic disparities in areas such as housing, employment, transportation, health care, safety, etc., and works towards a more inclusive economy. Many of the details advocated for in this document strive to achieve these goals.”

Dr. Edwards listed a number of legislative priorities including Official Notifications and Information Access, Election Judge Recruitment and Retention, Funding for Cultural Centers/Museums and Other Community Building Assets, Brooklyn Center Public Works Garage, Ensuring Housing Security, Tenant Protections, Affordable Housing, Small Business Development, Business Tenant Protection, Group Homes and Assisted Living Licensures, Building Officials, Youth Tax Credit, Workforce Readiness, TIF District Flexibility, TIF District Extension, 4D Transition Aid, Metro Area Fiscal Disparities, Sales Tax Exemption Simplification, Property Tax Relief, Local Government Aid LGA, Permanent Prevention and Intervention Public

Safety Aid, Race Identification on Driver's License, Cop Autism Response Education and Vitals App, Juveniles in Municipal Jails, 21st Century Policing, Fencing Consortium, Joint EOC and Indoor Regional Fire Training Facility, Regional Live Fire Training Facility, continued and increased funding to MNFIRE and MBFTE, Public Safety Responder Mental Health and Well Being, Highway 252/I 94 Project, MVLST Funding, and Transportation Funding.

Dr. Edwards stated a top priority is for TIF District flexibility and extension because the clock has started for the City to access the funding. The City has made significant investments in the acquisition and demolition of properties to achieve redevelopment goals laid out in the Master Plan. Market forces are also leading to significant delays in the development of the property. Both factors diminish the effectiveness of TIF within the Opportunity Site.

Dr. Edwards pointed out another top priority is addressing Metro Area fiscal disparities due to 4D Transition Aid. He explained the surrounding region needs more units of affordable housing and deeper levels of affordability. Brooklyn Center supports initiatives to increase the affordable housing supply in the state. The recent legislative changes to the 4D tax classification, however, disproportionality affects cities with several 4D properties whose tax bases are already stressed. Brooklyn Center is expected to lose over $250,000 in tax capacity over 2021 levels when the new rate is effective in 2025. This translates to $166,000 in the City's portion of taxes assuming pay 2023 tax rates.

Dr. Edwards added a top priority is Permanent Prevention and Intervention Public Safety Aid. In 2023, the State Legislature passed one-time funding "Public Safety Aid" for purposes of supporting public safety, including community violence prevention and intervention programs, community engagement; mental health crisis; victim service; training programs; first responder-wellness; equipment related to fire, rescue, emergency services; or to pay other personnel or equipment costs. Public safety response strategies alone are not sustainable financially or for the well-being and health of humans. Cities, counties and communities have little to no ability to fund the critical public safety strategies of prevention and intervention. Permanent funding of community-centered public safety prevention and intervention will lead to a more sustainable, healthier, and well-being of people.

Dr. Edwards noted the final top priority for the City is regarding the Highway 252/I-94 Project. The City of Brooklyn Center supports the State in addressing the long-standing safety issues on Trunk Highway (TH) 252, while at the same time protecting human health, promoting regional equity, and enhancing the livability and prosperity of Brooklyn Center. The TH 252 corridor is dangerous by design. According to the Minnesota Department of Transportation (MnDOT), the full length of Highway 252 and I-94 within the project area has a demonstrated crash problem, and crossing Highway 252, on foot or by bike, can be difficult due to the number of lanes, crossing distances, and busy intersections. Brooklyn Center has long advocated that the safety issues along the corridor must be addressed. However, the solution to the problem needs to ensure the project protects human health, promotes regional equity, and enhances the livability and prosperity of Brooklyn Center. Specifically, the City supports using racial and economic equity factors when considering state and local cost shares for the Highway 252/I-94 Project and creating funding strategies to mitigate the impact the project will have on the local tax base.

Mayor Pro Tem Lawrence-Anderson requested the Council reexamine the tenant protection efforts in place. She didn't agree with what was written in the legislative priorities regarding tenant protections.

Councilmember Jerzak stated he has concerns regarding rent control. It has been proven to be an issue over in St. Paul. He noted his support of the top priorities. Also, MnDOT has not been receptive to local concerns regarding Hwy 252. The Hwy 252 Task Force has offered alternative language to MnDOT.

Mayor Pro Tem Lawrence-Anderson added she accepts the presented legislative priorities, but she would like further discussion about certain topics. She foresees the need for edits in the future.

Dr. Edwards stated the Council has full authority over the document. He requested the list of priorities be approved in order for Staff to move forward on the top priorities. The Council can edit details later on.

Councilmember Jerzak requested the Council only accept the top priorities. Dr. Edwards stated he would prefer the Council hold back on the few items of concern rather than just approving the top priorities.

Councilmember Jerzak requested BCLG 05-2024 Ensure Housing Security, BCLG 06-2024 Tenant Protections, BCLG 07-2024 Affordable Housing be removed until there can be further discussion.

Councilmember Kragness stated she doesn't want to keep delaying things, and the City is already behind schedule. The information is the same as previously presented. Therefore, she would like to approve all of the priorities.

Councilmember Butler noted her agreement with Councilmember Kragness. The community has spoken about their priorities which are reflected in the legislative priorities. She added she has some legal concerns that she will plan to discuss with Mr. Hill.

Mayor Pro Tem Lawrence-Anderson agreed she does not want to remove any legislative priorities.

Councilmember Jerzak stated the items could be discussed at a later date as needed.

Councilmember Butler moved and Councilmember Kragness seconded to approve the 2024 legislative priorities.

Motion passed unanimously.

11. COUNCIL REPORT

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

- Attended multiple Minnesota League of Cities meetings
- Met with several constituents

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

- Adopted a new puppy from a local rescue
- Wished everyone a Happy Valentine's Day
- Wished her husband a Happy 38th Anniversary

12. ADJOURNMENT

Councilmember Kragness moved and Councilmember Jerzak seconded adjournment of the City Council meeting at 8:09 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 12, 2024
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

(1:15:15 granicus) The Brooklyn Center City Council/Economic Development Authority (EDA) met in Work Session called to order by Mayor/President Pro Tem Lawrence-Anderson at __ p.m.

ROLL CALL

Acting Mayor/President Pro Tem Kris Lawrence-Anderson and Councilmembers/Commissioners Marquita Butler, Dan Jerzak, and Teneshia Kragness. Mayor/President April Graves was absent and excused. Also present were City Manager Reggie Edwards, Director of Fiscal & Support Services Angela Holm, Liquor Store Manager Tom Agnes, and City Clerk Barb Suciu.

ACTIVE DISCUSSION ITEMS

NEW LIQUORE STORE #2 PROJECT UPDATE

City Manager Reggie Edwards introduced the item and invited Liquor Store Manager Tom Agnes to continue the Staff presentation.

Liquor Store Manager Tom Agnes stated before 2000, Brooklyn Center operated three stores. In 2000, the City scaled back operations to one store and added a second store back in 2003. The City signed a 10-year lease for Store #2 with an option to extend another 10 years. In 2013, the City exercised the lease extension option. In 2023, the City negotiated another extension of the lease for an additional 18 months.

Mr. Agnes explained Boulevard Market is the current location of Store #2. In 2003, Johnco LLC opened the complex and started the City's lease. Ownership was turned over to the bank for a period. In 2008, Nabee LLC bought the property. In 2021, Allied Property Management LLC bought the property. The renegotiation in 2023 was with Allied.

Mr. Agnes stated in 2003, the City paid $7,780 for rent on units two through six. In 2022, Allied asked the City to pay base rent plus a Common Area Maintenance (CAM) of $6,622 for a total of $14,402 per month. The additional expense was not in the lease language and was not paid. In 2023, the City Council/EDA approved a lease extension for 18 months with the same base rent and an additional $2,075 for CAM and some utilities.

Mr. Agnes pointed out in 2018, the City hired Shenehon to do a feasibility study to see if the City should own and operate the facilities and potentially add a third store. Staff decided to wait until the leases expired on the current locations before moving forward with securing new locations. Store #1 was completed in 2020. Options for Store #2 are being evaluated, and options for Store #3 will be evaluated in future years.

Mr. Agnes noted the study suggested Store #2 remain in the northwest trade sector. Staff narrowed down viable locations to five options. There is an EDA-owned property at 70th and Brooklyn Boulevard. Staff suggested a Liquor Store with office condos. This option lost viability for various reasons such as the County denying access from Brooklyn Boulevard and they were unable to reach agreement with the neighboring church property for access and property separation.

Mr. Agnes stated the extended lease agreement will expire in June 2025. Lease provisions stated that rent will double for subsequent lease extensions. Staff anticipate that CAM will continue to increase. Capital improvements would also likely be needed. One of the other five properties remains a viable option and fits with the recommendations from the study.

Mr. Agnes added there are three options before the City Council/EDA. The City could remain in the current location and continue the lease beyond June 2025, the City could continue shopping for land and construct a new building, or the City can look for existing properties to purchase and use as a store. Staff recommended the third option.

Councilmember/Commissioner Butler asked if Staff has considered closing Store #2. Mr. Agnes stated it is an option. It is important to note Store #2 is increasing in sales faster than Store #1 is. Store #2 does compete with Brooklyn Park locations, however. Closing Store #2 would result in significant loss.

Councilmember/Commissioner Jerzak asked if the legalization of edibles will impact liquor sales. He added he has concerns about building too soon until they see the impact of edibles and the like. The stores haven't contributed well to enterprise funds in recent years. Mr. Agnes agreed some studies have shown edibles have decreased alcohol sales. That hasn't been the case so far at Liquor Store #2, but that could change when there are new regulations in 2025.

Councilmember/Commissioner Jerzak asked if sales will be impacted by pending legislation regarding more liquor sales in grocery stores. Mr. Agnes stated he doesn't believe the item will see a hearing, so it is not of concern.

Councilmember/Commissioner Jerzak asked if Staff would present potential sites for retrofitting a store. He doesn't want to discourage their effort, but they should move forward slowly. The purpose of enterprise funds is to reduce taxes, and that isn't happening in recent years.

Councilmember/Commissioner Kragness stated it isn't financially reasonable to pay double the rent, as suggested in the first option. A last resort would be closing the store for a period of time until a viable location was found.

Dr. Edwards noted there is a viable opportunity, but they legally cannot share specifics. However, if the City Council/EDA allows Staff to move forward with analysis on the potential site, then they could present the details to the City Council/EDA at a future meeting.

Mayor/President Pro Tem Lawrence-Anderson agreed paying double the rent is not a reasonable option. Her preference would be to use land currently owned by the EDA. She asked if other EDA-owned sites have been considered. She would like Staff to move forward with finding a location and to keep the City Council/EDA informed.

Councilmember/Commissioner Jerzak noted his support of Staff's recommendation and his trust in their expertise. He agreed paying double the rent by extending the lease is not reasonable.

Mayor/President Pro Tem Lawrence-Anderson stated the third option is her favorite. She noted any condo option must be for-profit.

The consensus of the City Council/EDA was in support of the option recommended by Staff, which is for Staff to look for existing properties to purchase and use as a store.

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

(1:33:40 granicus) Councilmember/Commissioner Kragness moved and Councilmember/Commissioner Jerzak seconded adjournment of the City Council/Economic Development Authority Work Session at __ p.m.

Council Regular Meeting

DATE: 2/26/2024

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

SUBJECT: Approval of Licenses

Requested Council Action:

- *Motion to approve the licenses as presented.*

Background:

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

Mechanical
Stern Heating and Cooling, Inc.
34181 180th Avenue, Red Wing 55066

Consumer Fireworks - Permanent Structure
American Promotional Events, DBA: TNT
3245 County Road 10

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

Strategic Priorities and Values:

Accountability, Transparency

ATTACHMENTS:

Description	Upload Date	Type

Rental Criteria	6/20/2023	Backup Material
Rentals	2/20/2024	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 2.26.24

Location Address	License Subtype	Renewal/Initial	Owner	Property Code Violations	License Type	Police CFS*	Final License Type **	Previous License Type***	Consecutive Type IV's
2100 55th Ave N	Single	Initial	Olusola Olakunde	4	Type II	N/A	Type II	N/A	N/A
4600 69th Ave N	Single	Initial	Aisheh Wazwaz & Sami Ameri	44	Type IV	N/A	Type IV	N/A	0
5437 Logan Ave N	Single	Initial	Nicholas Kaufman	9	Type III	N/A	Type III	N/A	N/A
700 66th Ave N	Multiple Family 24 Bldgs 92 Units	Renewal	Georgetown-bc Company Lllp Did not meet requirements	214 = 2.3 per unit	Type III	3 Calls = No affect 10/13/23 Robbery 10/29/23 Disorderly Conduct 11/20/23 Robbery	Type IV	Type IV	2
5500 Bryant Ave N	Multiple Family 1 Bldg 4 Units	Renewal	N Mejia-morales & V Idrovo Met Requirements	9 = 2.5 per unit	Type III	0	Type III	Type IV	4
7200 Camden Ave N	Multiple Family 5 Bldgs 80 Units	Renewal	Namaka Evergreen, LLC Did not meet requirements	217 = 2.71 per unit	Type III	0	Type IV	Type IV	2
7250 West River Rd	Multiple Family 1 Bldg 4 Units	Renewal	P R Barli & L I Barli	1	Type I	0	Type I	Type I	N/A
4207 Lakeside Ave N, #234	Condo	Renewal	Cynthia Patrick Met Requirements	4	Type II	0	Type II	Type III	N/A
5337-39 Queen Ave N	Two Family	Renewal	Edith Perlin/gregory Perlin Met Requirements	13	Type IV	0	Type IV	Type IV	6
5340 Russell Ave N	Two Family	Renewal	Cloeshette King Torboh	1	Type I	0	Type II	Type II	N/A
6811-6813 Noble Ave N	Two Family	Renewal	Jerome English & J Garrison	1	Type I	0	Type I	Type I	N/A
6825 Noble Ave N	Two Family	Renewal	Robert Gardner Jr Met Requirements	3	Type II	0	Type II	Type III	N/A
1012 72nd Ave N	Single	Renewal	Hpa Us1 Llc	8	Type III	0	Type III	Type II	N/A
1312 68th La	Single	Renewal	Markon Rentals LLC Did not meet requirements	7	Type III	0	Type III	Type III	N/A
2018 55th Ave N	Single	Renewal	Lancelot Properties LLC	8	Type III	0	Type III	Type I	N/A
2701 65th Ave N	Single	Renewal	Trinh Quang Vu	4	Type II	0	Type II	Type I	N/A
3100 Thurber Rd	Single	Renewal	Tyler Morgan Henderson Met Requirements	0	Type I	0	Type I	Type IV	N/A

3301 Lawrence Rd	Single	Renewal	Mnhomes2go Llc Did not meet requirements	0	Type I	0	Type IV	Type IV	4
3307 Ohenry Rd	Single	Renewal	Henry S Dolopei Did not meet requirements	2	Type I	0	Type III	Type III	N/A
3612 Commodore Dr	Single	Renewal	Ih2 Property Illinois Lp	9	Type III	0	Type III	Type III	N/A
3701 66th Ave N	Single	Renewal	Victor O Ogunbanwo Did not meet requirements	2	Type I	0	Type IV	Type IV	4
3816 France Pl	Single	Renewal	Segun B Olatayo	10	Type IV	0	Type IV	Type II	0
5019 61st Ave N	Single	Renewal	Saylee Suworgo	8	Type III	0	Type III	Type III	N/A
5218 Paul Dr	Single	Renewal	Sj & Olas Properties Llc Did not meet requirements	3	Type II	0	Type IV	Type IV	2
5351 71st Cir	Single	Renewal	Pyarali Revoc Trust	5	Type II	0	Type II	Type II	N/A
5406 70th Cir.	Single	Renewal	Mohammed G Aaser	14	Type IV	0	Type IV	Type II	0
5661 Northport Dr	Single	Renewal	Allan Kemboi Did not meet requirements	1	Type I	0	Type IV	Type IV	4
5739 James Ave N	Single	Renewal	Rifive Investments Llc	4	Type II	0	Type II	Type II	N/A
6015 Dupont Ave N	Single	Renewal	Home Sfr Borrower Llc Did not meet requirements	14	Type IV	0	Type IV	Type IV	2
6325 Xerxes Ave N	Single	Renewal	Linus N Amajuoyi Met Requirements	0	Type I	0	Type I	Type IV	N/A
6336 Beard Ave N	Single	Renewal	Cosco Property I LLC	30	Type IV	0	Type IV	Type II	0
6430 Toledo Ave N	Single	Renewal	Touchstones Properties Llc Met Requirements	2	Type I	0	Type I	Type IV	N/A
6712 Beard Ave N	Single	Renewal	Mlmjr Properties & Invst Llc Did not meet requirements	26	Type IV	0	Type IV	Type IV	2
6800 Quail Ave N	Single	Renewal	Emmanuel Williams Met Requirements	0	Type I	0	Type I	Type IV	N/A
6835 Colfax Ave N	Single	Renewal	HP MINNESOTA I LLC	7	Type III	0	Type III	Type II	N/A
6912 Unity Ave N	Single	Renewal	Geri L Williams Did not meet requirements	4	Type II	0	Type IV	Type IV	2
7030 Regent Ave N	Single	Renewal	Rifive Inc	10	Type IV	0	Type IV	Type I	0

7048 France Ave N	Single	Renewal	Tai Hon Llc	2	Type I	0	Type I	Type I	N/A
7055 Perry Ave N	Single	Renewal	ICC PROPERTIES LLC Did not meet requirements	6	Type III	0	Type III	Type III	N/A

*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: 2/26/2024

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

SUBJECT: An Ordinance Amending Chapter 23 of the Brooklyn Center City Code Regarding Special Events 23-2600 (1st Reading)

Requested Council Action:

- *Motion to approve the first reading of an Ordinance amending Chapter 23 of the Brooklyn Center City Code regarding Special Events 23-2600.*

Background:

The City Council enacted a Special Event Permit for large gatherings within the city in 2021. Staff has been issuing these permits since then. Within the last year, staff determined that the ordinance needed to be modified.

The modifications include:

- increasing the large party from 50 to 100. There appears to be duplication with people that apply for a park permit. Most of the parks have a capacity between 50 - 100;
- increasing the permit submission for events with 1,000 people or more;
- adding specific language for events that need traffic barricades with the applicant being responsible for obtaining these.

Tonight, is the first reading and the ordinance will come back for a public hearing at the March 25 City Council meeting.

Budget Issues:

- none

Inclusive Community Engagement:

- none

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Provide quality services with fair and equitable treatment

ATTACHMENTS:

Description	Upload Date	Type
Ordinance	2/21/2024	Ordinance

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of _____, 2024, at 7:00 p.m. or as soon thereafter as the matter may be heard to consider an ordinance related to tenant protections. City Council meetings are being conducted by electronic means under Minnesota Statutes, section 13D.021 and information on how to connect to the meeting is provided on the City's website. Please notify the City Clerk at 763-569-3306 if there are any questions about how to connect to the meeting.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 23 SPECIAL EVENTS

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

ARTICLE I. Brooklyn Center City Code Chapter 23 is hereby amended by adding Sections 23-2600 through Section 23-2616 as follows:

SPECIAL EVENTS

Section 23-2600. PURPOSE. The purpose of these Sections 23-2600 through 23-2616 (collectively, these "Sections") is to set forth procedures required to be followed by organizers of special events within the City. Special events can be disruptive to neighboring properties and place a strain on City resources, particularly if they are conducted on City parks or streets. These Sections impose reasonable regulations on special events to address the impacts such events can have on the City and its residents. Persons wishing to sponsor or hold a special event in the City are required to obtain a special event permit from the City and to comply with the requirements of these Sections and the City Code generally.

Section 23-2601. DEFINITIONS. For the purposes of these Sections, the following terms shall have the meaning given them in this section.

A. "Activity" means a parade, event, procession, carnival, community picnic, celebration, dance, promotional or fundraiser event, performance, entertainment or amusement event, party, dance, market, concert, large assembly, or other similar event. <u>For an activity on City streets, you must submit a detailed plan of the route and traffic control arrangements. A certified vendor should prepare this plan following the standards outlined in the Manual of Uniform Traffic Control Devices.</u>

B. "Ancillary activities" means the use or presence of any of the following at a special event: mobile food unit; commercial tent or stand; inflatable device; search or spot light; live music or a band; or sales of food, beverages, or merchandise.

C. "City" means the City of Brooklyn Center, Minnesota.

D. "City property" means any property owned or controlled by the City including, but not limited to, City parks, City rights-of-way, or other real property in which the City has a property interest.

E. "Inflatable device" means an amusement device that employs a high strength fabric or other material that achieves its strength, shape, and stability by tensioning from internal air pressure. The term includes, but is not limited to, bounce houses, slides, obstacle courses, movie screens, pools, and other devices that need to be inflated for proper use.

F. "Event organizer" means any person or entity who conducts, manages, promotes, presents, sponsors, organizes, aids, or solicits attendance at a special event.

G. "Preapproved event" means a special event the City has agreed to provide some support services to without a charge. The preapproved events currently include the following, but the City Council may designate others by resolution:

1. Dudley Softball Tournament;

2. Brooklyn Center Community Celebration;

3. Music in the Park;

4. Movies in the Park; and

5. National Night Out.

H. "Right-of-way" means all portions of a city street, including the traveled surface, parking areas, sidewalks, ditches, and all other portions in which the City has an interest.

I. "Special event" or "event" means a temporary, organized activity sponsored by an event organizer involving the gathering of people to attend, participate in, or observe an activity occurring entirely or partly outside on City property or private property, and which is reasonably anticipated to involve one or more of the following:

1. Support services from the City;

2. Obstruct, delay, or interfere with the free and normal use of a right-of-way;

3. Attendance of 100 ~~50~~ or more people;

4. Ancillary activities; or

5. Sound amplification, public address system, loud speaker, or other audio devices likely to result in noise levels that will unreasonably disturb others in the immediate area or that constitutes a nuisance in violation of Chapter 19.

This term does not include activities occurring entirely within an enclosed building.

J. "Special event permit" or "permit" means the permit that must be obtained from the City to conduct a special event in the City.

K. "Support services" means City services or equipment requested by the event organizer or that is otherwise reasonably needed to support the special event that exceeds the normal level of service provided by the City in conducting its regular service duties. Support services include, but are not limited to, additional services provided by the City police, fire, public works, or parks departments to perform activities such as closing streets, crowd control, security, or traffic control. Support services also includes City equipment used to support the event, such as barricades to close streets and related signage.

Section 23-2602. SPECIAL EVENT PERMIT REQUIRED.

A. An event organizer is required to obtain a special event permit from the City at least 45 days prior to holding a special event in the City. For large-scale events involving 1,000 participants or more, applications must be made 90 days in advance.

B. If a special event requires more than one permit from the City, the City Manager, or designee, is authorized, but not required, to:

1. Waive the requirement to obtain a special event permit if the other required permit or permits are obtained. The City Manager, or designee, may add conditions to the permits issued for the event to address the purpose of the special event permit.

2. Waive the requirement to obtain one or more other permits if a special event permit is obtained. The City Manager, or designee, may add conditions to the special event permit as needed to address the purpose of the other permits.

The waiver of the requirement to obtain one or more permits is not valid unless the waiver is specifically noted in the permit issued for the event.

C. Special events occurring on the same property shall not extend for more than three consecutive days unless the City Manager, or designee, determines the event organizer has demonstrated as part of the application process that special circumstances exist to justify allowing an event to extend beyond three days. The special event permit must indicate the allowed period of the event. An event exceeding the specifically allowed period shall constitute a violation of the City Code.

D. Special events that are scheduled to occur on a regular basis, or continuously, throughout an entire season or other extended period of time may seek a single special event permit for the entire period, not exceeding 12 months. The event organizer must specifically identify the extended period being requested and the City Manager, or designee, shall determine the actual length of the special event permit. The City Manager is not obligated to grant a special event permit for the entire period requested by the event organizer. The special event permit must indicate the allowed period of the event. An event exceeding the specifically allowed period shall constitute a violation of the City Code.

Section 23-2603. EXCEPTIONS. A special events permit is not required for any of the following, but all such activities shall be conducted in accordance with the City Code and all applicable laws.

A. Expressive Activities. Rallies, marches, demonstrations and picketing which take place on public sidewalks, crossing streets only at pedestrian crosswalks in accordance with traffic regulations and laws applicable to use of public sidewalks.

B. Outdoor Demonstrations on Public Property. Demonstrations on publicly owned property (other than public rights-of-way), unless:

1. The activity is likely to obstruct, delay, or interfere with the free and normal use of such public property or the public rights-of-way; or

2. The activity is likely to result in the need for the City to provide support services in response to or arising out of the special event.

C. Block Parties. A block party occurring with a permit issued pursuant to Sections 25-901 through 25-908 and conducted in compliance with those sections.

D. City Activities. An event conducted by or at the request of the City. The City agreeing to cosponsor an event does not exempt the event from the requirements of these Sections.

E. Funeral Processions. Funeral processions by a licensed mortuary or funeral home.

F. Wedding Processions. Wedding processions conducted on public rights-of-way in compliance with applicable traffic regulations, laws, and controls.

G. Regularly Scheduled Athletic Events. Regularly scheduled outdoor athletic events conducted on property where such events are normally held.

H. Governmental Activities. Activities conducted by a governmental entity acting within the scope of its authority.

Section 23-2604. APPLICATION. An application for a special event permit is available from the City Clerk's office and, if approved, the application shall become a part of the permit. Incomplete applications will be returned without processing.

Section 23-2605. PERMIT FEE. The event organizer is required to pay the permit fee determined by the City to obtain a special event permit for the event. The permit fee includes the administrative costs, support services costs, and the other costs required to be prepaid by the event organizer under these Sections. The City Council shall establish all such rates and costs as part of the City's fee schedule. The City will determine the amount of the required permit fee within 10 business days of the submission of a complete application based on the information provided in the application. The City will provide the event organizer written notice of the permit fee amount, which shall be paid in full to the City within 10 days of the notice. Failure to timely submit the required permit fee shall be deemed an automatic denial of the requested special event permit. The City will provide the event organizer written notice of denial for failure to submit the required permit fee.

Section 23-2606. INSURANCE. Except for marches, demonstrations, and other events protected by the First and Fourteenth Amendments of the U.S. Constitution, the event organizer must secure and maintain in full force and effect throughout the duration of the event the types and amounts of insurance coverages required in this section.

A. Commercial General Liability Insurance. Commercial general liability insurance or equivalent special event coverage protecting it from claims for damages for bodily injury and property damage which may arise from or in connection with the event and the use of any City property. The policy shall be written on an occurrence basis and provide not less than $1,000,000 per occurrence, combined single limits, and $2,000,000 aggregate, unless waived by the City. The insurance policy shall be written

on an occurrence basis and shall be written for a period not less than 24 hours prior to the event and extending for a period not less than 24 hours following the completion of the event. The City shall be named as an additional insured on the policy if any portion of the event is conducted on City property.

B. Automobile Insurance. If automobiles will be used during the event, automobile liability insurance with a minimum combined single limit of $1,000,000 per occurrence. Coverage shall include liability for owned, non-owned, and hired automobiles.

C. Alcohol Liability. If alcohol will be sold or served as part of the event, liquor liability (dram shop) insurance in the minimum amount of $1,000,000 per occurrence.

D. Certificate of Insurance. The event organizer must submit to the City a certificate of insurance showing the required coverages and the additional insured endorsement if applicable. The certificate of insurance shall require written notice be provided to the City for at least the same period of notice required to the insured of cancellation or nonrenewal.

E. Modifications. The City reserves the right to modify these insurance requirements depending on the nature and scope of the event.

Section 23-2607. SUPPORT SERVICES. The event organizer is responsible for identifying in the application materials any support services it is requesting from the City related to its event. The event organizer is strongly encouraged to contact the City prior to submitting an application to help determine the needed amount and availability of support services for a proposed event. The rates for support services are set out in the City's fee schedule. The City shall review the request and determine if it has sufficient resources to provide the requested support services or if the amount of support services actually needed for the event will likely exceed those requested. The City may deny a permit if it determines it does not have sufficient resources available to provide the needed support services for the event. The City will identify the support services it intends to provide and the costs of such services as part of the permit fee notice. The City does not guarantee it will be able to provide the identified support services for the event if those services are needed to respond to an emergency or other incident requiring an immediate response from the City.

Section 23-2608. CITY SUPPORT SERVICES FOR PREAPPROVED EVENTS. The City will provide basic support services to preapproved events without charge. Any additional support services that may be needed, as determined by the City, will be charged as part of the permit fee. The City will notify the event organizer of a preapproved event in the permit fee notice if it determines more than basic support services will be needed for the event and the associated costs.

Section 23-2609. CITY SUPPORT SERVICES FOR CO-SPONSORED EVENTS. The City may agree to co-sponsor certain events with other organizations if the City Council determines the proposed event is in the general interest of the public and advances the City's public image. The City may provide financial support to these events as determined in the annual budget appropriation. These events must meet the other requirements of these Sections and the event organizer is required to pay as part of the permit fee any City costs in excess of the support level authorized by the budget appropriation. Approval of an event does not require the City to approve similar events or a repeat of the same event. Each event will be reviewed separately.

Section 23-2610. CITY SUPPORT SERVICES FOR NON-PROFIT EVENTS. The City may provide support services to assist a special event conducted by a non-profit organization without charge up to the amount established in the City's fee schedule. The event must comply with the requirements of these Sections and the event organizer is required to pay as part of the permit fee any City costs in excess of this support level. An event organizer submitting an application for a non-profit event submit a current IRS 501(c)(3) statement with its application. Approval of an event does not require the City to approve similar events or a repeat of the same event. Each event will be reviewed separately.

Section 23-2611. CITY SUPPORT SERVICES FOR FOR-PROFIT EVENTS. The City may allow a special event operated by a for-profit event organizer that are beneficial to the City and the public. The event is subject to an additional use charge per day for the use of the public property as established in the City's fee schedule, must pay 100% of all City costs related to the event, and shall comply with all other requirements of these Sections. The costs will be set out in the permit fee notice. Approval of an event does not require the City to approve similar events or a repeat of the same event. Each event will be reviewed separately.

Section 23-2612. FEES FOR SUPPORT SERVICES.

A. Hourly Rates. The event organizer shall be responsible for paying the City for any support services for which it is responsible under these Sections based on an hourly rate associated with the type of support services provided. The hourly rates are established by the City Council in the City's fee schedule and are subject to change without notice. The hourly rates shall include expenses related to the City's employee, including any applicable benefits.

B. Purchased or Rental Materials. The event organizer shall be responsible for paying the City for the actual costs of all materials purchased or rented by the City for use at the event.

C. Equipment Charges. The event organizer shall be responsible for paying the City for all equipment used by the City for the event at the current equipment usage rates as established by the City.

D. Replacement Costs. The event organizer shall be responsible for paying the City for any of its equipment or supplies that end up missing or damaged as a result of the event.

Section 23-2613. ISSUANCE. The City Manager, or designee, shall determine whether to issue a special event permit based on criteria identified in the following section. Approval of a permit is at the City's sole discretion. The City may impose conditions on the permit and the event organizer shall be responsible for ensuring compliance with all such conditions, the requirements of these Sections, and of all other applicable laws, rules, regulations, and ordinances. Issuance of a permit in no way indicates City sponsorship of the event and does not obligate the City to approve similar events in the future. Each application for an event will be reviewed and acted on separately.

Section 23-2614. CRITERIA. The City Manager, or designee, shall consider the following criteria with respect to the proposed special event and any ancillary activities to determine whether to issue a special event permit. The City Manager, or designee, must determine with respect to the special event and any ancillary activities that they:

A. Will not be detrimental to the public health, safety, or welfare, nor injurious to property or improvements in the immediate vicinity of the special event;

B. Will not cause noise, light, or glare which unreasonably impacts surrounding uses;

C. Will not endanger the participants, spectators, or the public;

D. Will not unreasonably interfere with rights-of-way or vehicular or pedestrian traffic flow at the proposed location;

E. Are supported by adequate plans for parking that meet the need generated by the proposed special event;

F. Are supported by adequate plans for sanitation and refuse facilities that meet the need generated by the proposed special event;

G. Are supported by adequate plans to return the area or routes to the same condition or cleanliness as existed prior to the event;

H. Are supported by adequate proof of insurance; and

I. Do not exceed the resources available for the City to provide the support services requested by the event organizer or that the City determines are otherwise needed for the special event.

Section 23-2615. REGULATIONS AND PROCEDURES.

A. Legal Compliance. The event must be conducted in compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances. The event organizer is responsible for obtaining all other permits or permissions that may be required related to the event.

B. Traffic Control Measures. The event organizer is required to pay all costs for traffic control measures and traffic control personnel.

C. Traffic Barricades. The event organizer ~~shall, through a bona fide~~ must hire a city approve vendor to provide, install, and remove all equipment required by the City's public works department. The installation and removal of barricades by the public works department is subject to the hourly rates established by the City.

A detour must be established and signed for street closures lasting over 15 minutes to provide an alternative route. A certified vendor should create a detailed plan following the Manual of Uniform Traffic Control standards.

Events with street closures must include an emergency plan, written by a certified vendor, that ensures access to emergency vehicles. Road closures are only permitted in areas with alternate access options for businesses or residents.

D. Notice to Property Owners. The event organizer may be required to provide notice to surrounding owners about a special event as stipulated by the City Manager or designee.

E. Indemnification. The event organizer shall indemnify, defend, and hold the City harmless against any claims, demands, actions, causes of action, charges, and expenses, including reasonable attorney fees, arising out of the event or by reason of conducting the event. This obligation shall not apply to claims arising solely from the City's own negligence.

F. Damages. The event organizer shall be responsible for reimbursing the City for all damages that may result to any real or personal property of the City as a result of an event.

G. Supervision. The event organizer is required maintain adult supervision of the event at all times. The event organizer shall provide security for the event as stipulated by the City's Chief of Police or designee. Any security provided by the City as part of its support services will be billed at the established hourly rate.

H. Clean-up. The event organizer shall, at no cost to the City, immediately clean up, remove, and properly dispose of all litter or material of any kind, which is placed or left on City property because of the event. If the event organizer neglects or fails to proceed with clean up of City property within a two-hour period immediately following the end of the event, or if the cleanup is done in an inadequate manner, the City may conduct the cleanup and charge event organizer at the established hourly rate.

I. Trash Disposal. The event organizer will provide plans for trash disposal including the company contracted for trash disposal as part of the special event permit application.

J. Restrooms. The event organizer shall provide plans for providing restrooms including the company contracted for supplying restrooms as part of the special event permit application.

K. Use of City Utilities. The event organizer shall not use City utilities for any event, unless permission has been granted by the City.

L. Food Permits. If required, the event organizer shall obtain a Minnesota Department of Health food license and shall comply at all times with the applicable health codes and regulations. Proof of license shall be provided to the City Clerk at least seven days before the event and kept on site for immediate inspection.

M. Mobile Food Units. If one or more mobile food units will be used at the event, the event organizer shall provide a mobile food unit license to the City prior to the event.

N. Alcoholic Beverages on Public Property. The sale of alcohol at an event may only occur if approved as part of the permit and then only if all required liquor licenses are in place. The event organizer shall obtain a temporary liquor license for the sale of any alcohol in accordance with Section 11-111. The event organizer is required to follow the City's procedures and policies regarding the use of City property. All of the following apply to any special events involving the sale of alcohol:

1. Fencing surrounding the defined area for the service of alcoholic beverages will be secured to establish the outdoor event area. All liquor sales and containers used for consumption must remain in the defined space.

2. There should be controlled access to the event with event security personnel to identify and wrist band those of legal age to consume. The gate/emergency exit of the fenced area will need to be

continuously staffed to prevent patrons from leaving with alcoholic beverages.

3. Events are "21 and over" after 9 p.m. when alcohol is being served.

4. All alcohol service will cease at 10 p.m. All patrons must exit the defined space by 10:30 p.m.

5. Event security will assist the police department in clearing the event at closing time. The closing time should be prominently displayed throughout so there is no confusion at the end of the evening when patrons are asked to leave.

6. Event organizers may be required to hire uniformed police officers to supplement their security staff. Monitoring of those consuming alcohol will be done by the event organizer and the City's police officers who have been hired to assist with the oversight of the event.

O. Outdoor Music. No outdoor music or amplified sound is allowed during the hours of 10 p.m. and 7 a.m. The City's Police Chief or designee has the ability to direct the event organizer to control the level of noise and/or terminate the event at any time. Any plans for outdoor music or amplified sound must be described in the special event permit application.

P. Outdoor Tents. ~~A building permit must be obtained for any tents exceeding 200 square feet. Erection of tents, canopies, or similar structures as part of the event is allowed; however, the event organizer cannot drive stakes, nails, screws, posts, or otherwise disturb paved City parking lots, or either paved or unpaved surfaces within a right-of-way to secure such features~~.

Q. Waivers. The event organizer may request a waiver from the strict application of one or more requirements of these Sections. The event organizer shall submit the waiver request in writing, identify the specific requirement to be modified, describe the requested modification, and the factors that the City Manager, or designee, should consider when determining the proposed waiver. The City Manager, or designee, is authorized to deny, approve, or approve with modifications the requested waiver. Waiver requests must be submitted with the special event permit application. Approval of a waiver does not require the City to approve similar waivers for any future events. Each waiver will be reviewed separately.

R. Cancellation. The event organizer may cancel an event by giving at least 10 days written notice to the City. The City will refund the unused portion

of permit fee to the event organizer. If less than 24 hours' notice is given to cancel an event that required support services, staff will be compensated for a 2-hour minimum charge. City staff has the authority to cancel or stop an event, or place additional restrictions on the event, in order to protect public health, safety, or welfare. The City will notify the event organizer as soon as is practically possible if it cancels the event or if it modifies the conditions imposed on the event. The City may also immediately terminate an event in an emergency if needed to protect public safety. Any such cancellation or termination of an event by the City constitutes a revocation of the permit. It is a violation of these Sections to conduct, or continue to conduct, the event once it is cancelled or terminated by the City.

S. Additional Requirements. City staff may place any additional requirements on any event. These requirements may include specific staff levels for police, fire, public works, or other personnel. Expenses for any additional support services will be invoiced to the event organizer as additional costs as provided in these Sections.

Section 23-2616. ADDITIONAL COSTS.

A. Addition Costs. The event organizer shall be responsible for reimbursing the City for any additional costs the City incurs related to a special event. Additional costs are any costs the City incurs that exceed the permit fee and include, but are not limited to the following:

1. Damage to or loss of any City equipment or property related to the event;

2. Support services exceeding the planned for level of support; and

3. Clean up costs if the event organizer fails to clean up and restore City property to its pre-event condition.

B. Invoicing. The City will provide an itemized invoice for the additional costs the event organizer is required to pay the City. The invoice will identify the specific types and amounts of additional costs. The event organizer shall pay the full amount of the additional costs within 15 days of the date of the invoice. Failure to timely pay the additional costs may result in the denial of any future special event permit applications for the same or similar event or submitted by the same event organizer.

C. Collection. All amounts the event organizer is required to pay the City under these Sections shall constitute a service charge collectable by the City under Minnesota Statutes, section 366.012, which is available to the City under Minnesota Statutes, section 415.01, subdivision 1, on any

property the event organizer owns in the state. Any portion of the service charge not paid, including collection costs, may be certified for collection on the property taxes of the event organizer. The City may also pursue any other options available to it under law to recover the amounts owed by the event organizer, including the costs of collection.

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

Adopted this ___ day of _____ 2024.

_____

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

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

Council Regular Meeting

DATE: 2/26/2024

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

SUBJECT: Resolution Authorizing and Supporting an Application for Hennepin County Transit-Oriented Development Funds Grant Application - Opportunity Site

Requested Council Action:

- *Motion authorizing a Hennepin County transit oriented communities (TOC) grant program application.*

Background:

This year, Hennepin County has $2.2 million available for Transit-Oriented Communities (TOC).

The County's TOC program aims to create walkable, mixed-use, human-centered communities around high-quality transit service. TOC projects have specific design features to enhance the public realm, reduce parking, support pedestrian and bicycle connections, increase density, and preserve open space.

In 2023, the City received $400,000 for the Opportunity Site (Phase 1) project through this program, with the funds granted to support the development of public infrastructure on the site. The City will be seeking additional funds this year to continue to support the Opportunity Phase 1 development. Eligible uses include clearing and preparation of property for site improvements and infrastructure, public realm improvements, public amenities on private property, public plazas, and public infrastructure improvements (such as streets, sidewalks, lighting, landscaping, ect).

Since 2019, City staff have been working with Alatus LLC and their development partners Project for Pride in Living and Resurrecting Faith World Ministries, on build out of Phase 1 of the Opportunity Site. The proposed 15-acre mixed use development is to include over 700 units of mixed income housing, a small business incubator, and a conference center with associated service retail.

Phase 1 will also include the delivery of public infrastructure critical to the immediate, and long term buildout of the broader 80-acre Opportunity Site. Phase 1 public infrastructure encompasses a new approximately 1800' multimodal roadway segment with quality streetscaping, connecting Shingle Creek Crossing to John Martin Drive, and a regional stormwater pond system to provide the required stormwater management for approximately 60% of the Opportunity Site, and the entirety of the Phase 1 development site.

Without these public infrastructure elements, the community-derived vision of both Phase 1 and the Opportunity Site becomes effectively infeasible.
Anticipated funding for Phase 1 includes a mix of private financing, TIF financing, a collection of grants from Hennepin County and the Metropolitan Council, and, pending final financing. In effort to secure project

funding while reducing the fiscal burden to the City of Brooklyn Center, City staff and the Alatus development team regularly seek out eligible grant programs to support the Phase 1 development project and its public infrastructure.

Budget Issues:

Inclusive Community Engagement:

This item will support the community-driven development vision of the Opportunity Site, allowing for ongoing alignment with intended development goals.

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
Resolution	2/15/2024	Resolution Letter
TOC Guidelines	2/15/2024	Backup Material

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. 2024-

RESOLUTION AUTHORIZING A HENNEPIN COUNTY TRANSIT ORIENTED COMMUNITIES (TOC) GRANT PROGRAM APPLICATION

WHEREAS, the Hennepin County Transit Oriented Communities (TOC) program was created to finance walkable, mixed-use, human-centered neighborhoods around high-quality transit service; and

WHEREAS, the City of Brooklyn Center will submit an application to the TOC program to fund infrastructure improvements to Phase 1 of the 80 Opportunity Site, which is the most significant development opportunity within the City of Brook1yn Center; and

WHEREAS, Phase 1 will establish the preliminary, foundational transportation and stormwater infrastructure, and include an approximately 1800ft new multimodal roadway, referred to as the "Parkway", which includes sidewalks, shared use trail, and boulevard; and

WHEREAS, Phase I public infrastructure is critical to anchor and support both immediate and future development. Due to a lack of and/or insufficient existing infrastructure, without Phase 1 infrastructure elements, the community-driven vision for the Opportunity Site becomes effectively infeasible.

WHEREAS, that, the City of Brooklyn Center, has established a TIF district to support Phase 1 redevelopment, and that the City has committed to being a fiscal partner and supporter of the Phase 1 redevelopment project.

WHEREAS, that the City of Brooklyn Center has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate construction, operation, maintenance, and replacement of the proposed project for its design life.

WHEREAS, that the City of Brooklyn Center has not violated any Federal, State, or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practice.

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

1. That upon approval of its application by the County, the City of Brooklyn Center may enter into an agreement with Hennepin County for the above-referenced project, and that it will comply with all applicable laws and regulations as stated in all contract agreements, that the City of Brooklyn Center will repay the grant if milestones are not realized by the completion date identified in the Application.

2. Authorizes the City Manager to act as the legal sponsor for the project contained in the TOC Program Application to be submitted on February 29th, 2024, and that the City Manager is hereby authorized to apply to Hennepin County Economic Development for funding of this project on behalf of the City of Brooklyn Center, and is hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project(s) on behalf of the applicant.

RESOLUTION NO. 2024-

February 26, 2024
Date

Mayor

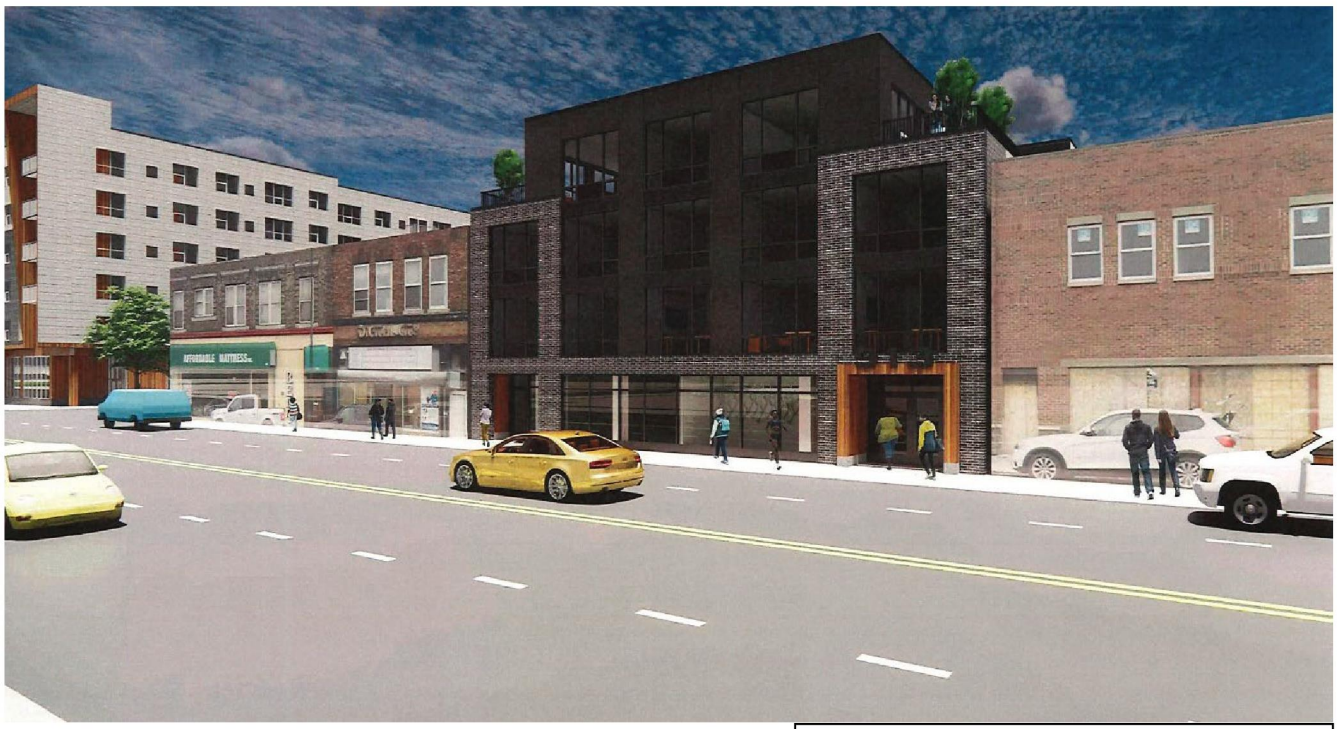
ATTEST: _____
City Clerk

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

HENNEPIN COUNTY
MINNESOTA

2024 Request for Applications

Transit Oriented Communities (TOC) Program



Satori Lofts, Minneapolis

Publication:	**January 12, 2024**
Application period opens:	**Thursday, February 1, 2024**
Applications due:	**Thursday, February 29, 2024 BY 3 p.m.**

Hennepin

TOC Program Guidelines

BACKGROUND

Transit Oriented Development (TOD) is a response, an alternative, to auto-oriented development patterns that have dominated the American landscape for over 70 years. When done well, TOD projects and adjacent public realm infrastructure incorporate details that prioritize people, supporting or creating walkable, mixed-use, human-centered communities that leverage transit service: a transit-oriented community (TOC). Basic principles of TOCs include compact development and efficient land use, building forms that are human-scaled, reduced or shared parking, streets that prioritize people over cars, and a mix of uses.

Transit-oriented communities facilitate an increased ability to walk or bike to access daily needs and services, improved connections to employment and service destinations, and a reduced need to drive and own a car. Benefits of transit-oriented communities include improved public health outcomes due to increased walking, biking, and transit ridership. TOCs also allow for a more diverse mix of housing options; reduced vehicle emissions, opportunities for district energy and stormwater systems, and lower combined housing and transportation costs.

To realize these benefits, these projects must address the details of providing a quality public realm, such as building orientation, pedestrian infrastructure, parking placement, and open space amenities that fully prioritize the pedestrian over the car. Vibrant transit-oriented communities additionally increase the economic competitiveness of Hennepin County to attract new residents, enhance the quality of life for existing residents, and provide economic resilience via more productive land use and reduced infrastructure costs.

TOC FUNDING AVAILABLE

Approximately $2,200,000 is available for award in 2024 through the Hennepin County Housing and Redevelopment Authority (HCHRA) TOC program. The program is highly competitive and regularly oversubscribed. Additional funds may be available at the HCHRA Board's discretion.

1. Prior awards have ranged from $25,000 to $1,000,000
2. HCHRA reserves the right to offer either grants or loans to approved applicants
3. Funds are available on a reimbursement basis for actual costs incurred for activities approved in the TOC award contract
4. Only approved activities that occur after the date of TOC award are eligible for reimbursement

ADDITIONAL FUNDING AVAILABLE

Hennepin County ("County") offers additional funding opportunities for projects that meet specific criteria. Projects in designated Community Works Corridors may be eligible for additional funding consideration by submitting a TOC application in 2024. This funding is restricted to certain project types and generally local government entities only. Hennepin County will determine project eligibility, funding sources, and total funding amounts. Awards will be in the form of a grant, and available on a reimbursement basement for approved activities that occur after date of grant award.

Projects that meet Community Works qualifications will be evaluated in that category. In the event Community Works requests are oversubscribed, eligible project types may be considered for funding in the TOC program.

1. **Bottineau Community Works (BCW) and Southwest Community Works (SWCW)**
   Projects will be evaluated to the degree they advance BCW or SWCW goals and the priorities below.
   Bottineau Community Works | Hennepin County
   Southwest Community Works | Hennepin County (swlrtcommunityworks.org)

   Eligibility
   - Projects must be within a TOC Eligible Area along the Blue Line or Green Line Extension
   - Applicants must be a local government agency
   - Eligible activities: only hard costs for the construction/installation of permanent infrastructure
     - Bike trails, sidewalk connections, street extensions, improving station area connectivity
     - Infrastructure to support new TOC projects, such as regional stormwater management systems
     - Streetscaping, lighting or wayfinding related to station connectivity

   Priorities for funding consideration
   - Readiness for the project to proceed, considering milestones such as status of site control, necessary construction drawings, and other funding committed
   - The degree to which projects improve pedestrian and bike connectivity to a station
   - Last mile connections to expand the ridership area
   - Degree that project supports climate mitigation or adaptation strategies

2. **HOME and Affordable Housing Incentive Fund (AHIF)**
   Through a separate application process, HOME and AHIF funds are available for affordable housing projects. HOME funds are available to projects located in suburban Hennepin County, while AHIF funds are available for projects located throughout the entire county. More information on this application process can be found on the Development Requests for Proposals web page.

3. **Environmental Response Fund**
   Through a separate application process held on a biannual basis, the Environmental Response Fund supports the assessment and cleanup of contaminated sites where conditions present a threat to human health or the environment. More information on this program can be found on the Environmental Response Fund page.

REQUIREMENTS

GENERAL REQUIREMENTS

1. Submission of completed application and required attachments **by 3:00 p.m. February 29, 2024**. Applications **must** be submitted via Hennepin County's online grant management system located on the Hennepin County TOC webpage. Incomplete applications and applications submitted outside of the required grant system may not be reviewed.
2. The project must be located within a municipally designated Redevelopment Area, or the municipality must express its intent to establish a Redevelopment Area at time of application. The Redevelopment Area must be established before an award agreement will be signed.
3. The municipality in which the project is located must agree to enter into a multi-jurisdictional agreement with the HCHRA for any project receiving an award, if applicable. A council resolution from the municipality, approving the project, is required before an award agreement will be signed.
4. Funded activities must be completed by December 31, 2026.
5. Projects must comply with the Hennepin County Construction and Demolition Waste Policy. See excerpt in "Definitions" section.

ELIGIBLE APPLICANTS

- For-profit developer
- Nonprofit developer or organization
- City, county, or housing/development/port authority

ELIGIBLE LOCATIONS

The project must be located in Hennepin County within a TOC Eligible Area as shown on this map.

Note: Suburban areas with transit service where it can be demonstrated the project area is transitioning to a more transit-oriented community area through policies, planning efforts, and/or other investments may be considered at the discretion of County staff.

ELIGIBLE PROJECTS

- New development, redevelopment, or the rehabilitation/renovation of vacant commercial/retail/office/industrial buildings
- Mixed-use, commercial/retail/manufacturing (jobs projects), housing
  Priority projects are mixed-use, diversify land uses in the transit area, and those that include wealth-building opportunities for local small business owners, affordable commercial spaces, and/or jobs and community ownership opportunities in low-income communities.

- Comprehensive public infrastructure investments, distinct from a development project, related to improving walkability & development potential in select situations
  Examples of potential projects include new streets to improve intersection density and create better development parcels; street reconstruction and associated infrastructure such as sidewalks; district stormwater or energy systems. Standalone activities such as just landscaping or lighting are ***not*** *eligible.*
- Strategic site acquisition by local government agencies

ELIGIBLE USES OF TOC FUNDS

For projects that meet eligibility criteria, applicants may request funding for certain capital expenditures or hard costs, listed below as eligible uses. Uses must demonstrate a public purpose and have a demonstrated need for County funds and can include projects located within the public realm.

Eligible uses may include, but are not limited to:

- Real estate development/redevelopment projects
  - Hard construction costs related to the completion of the real estate development project, building rehabilitation, and adjacent public realm improvements, such as:
    - Site preparation and demolition
    - Site integrated transit shelters, beyond standard MetroTransit facilities, at approved transit stops
    - Stormwater management features, other than retention ponds

- Public infrastructure improvements, distinct from a development project, such as:
  - Public plazas
  - New streets that improve connectivity and provide demonstrated benefit to pedestrians
  - Sidewalks, lighting, landscaping related to new streets, and street reconstruction
  - Pedestrian and bicycle facilities that improve safety

- Strategic acquisition of real property, by a local government agency or community-based landholding organization, for the purpose of preserving a TOC opportunity and removing, preventing, or reducing blight, blighting factors, or the causes of blight. Eligible only in some cases where a non-TOC project is likely.

Ineligible uses of funds include project administration or other financing applications; conceptual design services; other soft costs such as fees and taxes; refinancing of existing debt; working capital, impermanent items, inventory, equipment, or motor vehicles; billboards.

PROGRAM PRIORITIES

Projects are evaluated to the extent they best demonstrate the following:

District and community



The Artery, Hopkins

a. The project contributes to a more transit-oriented community by diversifying uses, housing options, public realm improvements, or improved pedestrian and bicycle connections

b. Site and building construction strategies that advance climate mitigation and adaptation best practices (e.g., stormwater reuse, renewable energy, "green building" techniques, reuse and waste management, resource efficient materials and processes etc.)

c. An intensification of land use emphasizing the pedestrian environment and transit service with transition from auto-oriented landscape

d. High quality, diversified, and employee-intensive businesses are created, or retained, providing job opportunities for the full employment of a diverse set of skills

e. New opportunities are created to promote local small business development, arts/cultural-based businesses, community services, inclusive entrepreneurial opportunities, and affordable commercial space

f. The degree to which the project is fulfilling an identified area need (e.g., affordable housing, retail space, public amenities, job-base, etc.)

g. The likelihood of catalyzing development, stimulating private investment, and enhancing the tax base

h. Aligns with the Affordable Housing Incentive Fund priorities if affordable housing is included

Design

a. Supports a high-quality pedestrian-engaging environment, TOD design principles (e.g., building orientation and articulation, active first floor space, reclaiming underutilized space, placing parking behind buildings, limiting curb cuts, etc.)

b. Promotes bicycling (e.g., providing obvious bike parking, short-term and long-term, includes bike repair facilities, etc.)

c. Attractive, comfortable, accessible transit facilities are available or provided

d. For public infrastructure projects: the degree to which the infrastructure project will support and catalyze transit-oriented development and improve connectivity in the transit area.

Need for funding

a. Financial need and demonstration that other private and public resources are insufficient

b. Public financing request is commensurate with the public benefit

c. Demonstration that the project, or project elements, will not move forward without TOC funding

Readiness

a. The likelihood the project moves forward and completes the eligible activities within the award period

b. Plans, policies, or ordinances by the municipality that support such development

c. The impact of an award at this point in the project's development process

d. For site acquisition without a specific development project: the threat that a non-TOD project may be constructed

REQUEST FOR APPLICATIONS (RFA) PROCESS

Applications will only be accepted through the online grant program accessed on the Hennepin County TOC webpage. The application is a web-based form, and all required attachments will be uploaded to the same system.

- To apply, you must first register at the application website. Only submit requested materials; do not submit additional, unlisted documents, nor additional sheets for expanded narrative.
- Applicants are urged to be as complete with their application as possible, knowing projects may change. Concise brevity is appreciated, and bulleted points are encouraged.
- Applicants are strongly encouraged to make their submissions well in advance of the application due date as the process may take some time to complete. Failure to submit an application on time may be grounds for rejection of the application; however, the County reserves the right, in its sole and absolute discretion, to accept applications after the time and date specified.

INQUIRIES

Please direct questions to Ryan Kelley, Manager, Transit Oriented Development, at: ryan.kelley@hennepin.us by February 15, 2024. Technical Assistance sessions are available by scheduling a meeting on the TOC website.
Potential applicants are **strongly encouraged** to discuss their project with Mr. Kelley prior to submittal.

APPLICATION EVALUATION AND RECOMMENDATION FOR SELECTION

A selection committee including HCHRA staff and additional contributors, as needed, will review applications and may request additional information. The HCHRA may elect to allocate funding to Hennepin County projects that best meet TOC Program criteria and may not allocate funding if projects do not meet program priorities. Evaluation consideration is also given to geographic distribution of projects and demonstrated need for TOC funding. Staff anticipates presenting funding

recommendations to the HCHRA Board in June 2024.

The County and HCHRA may require the entities selected to participate in negotiations to submit fiscal, technical, or other revisions of their applications that may result from negotiations.

This RFA does not commit the County to award a contract. Submission of a proposal shall neither obligate nor entitle an Applicant to enter into a contract with the County. The County reserves the following rights, to be exercised in the County's sole and absolute discretion: 1) to determine whether any aspect of a proposal satisfactorily meets the criteria established in this RFA; 2) to seek clarification or additional information from any Applicant; 3) to negotiate, sequentially or simultaneously, pricing and/or terms with any Applicant or vendor; 4) to reject any or all proposals with or without cause; 5) to waive any irregularities or informalities in a proposal; 6) to cancel or amend by addenda this RFA, in part or entirely; 7) to award multiple contracts to Applicants; and/or 8) award a contract to a respondent that did not submit an application.

ADDENDA

The County reserves the right to modify the RFA at any time prior to the application due date. If the RFA is modified, addenda to the RFA will be provided to all applicants known to have received a copy of the RFA. It is the responsibility of each prospective applicant to assure receipt of all addenda.

The County will modify the RFA only by formal written addenda. The application should be based on the specifications herein and any formal written addenda from the County, not oral or other interpretations or clarifications.

COUNTY'S RIGHT TO WITHDRAW, CANCEL, SUSPEND AND/OR MODIFY RFA

The County reserves the right to withdraw, cancel, suspend, and/or modify this RFA for any reason and at any time with no liability to any prospective applicant for any costs or expenses incurred in connection with the RFA or otherwise. Hennepin County and the HCHRA reserve the right to accept or reject any or all applications received, to accept or reject any late applications, to rescind the request for 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 in part or in its entirety this request for applications, if it is in the best interest of Hennepin County and the HCHRA to do so.

PROPOSER'S RIGHT TO EDIT OR CANCEL APPLICATION

An application may be withdrawn on written request of the applicant prior to the application due date. Prior to the application due date, changes may be made, provided the change is submitted in writing and signed by an officer or authorized representative of the applicant. No modification, unless in writing, will be accepted.

APPLICATIONS WILL NOT BE RETURNED

Upon submission, applications will not be returned.

PUBLIC DISCLOSURE OF APPLICATION DOCUMENTS

Under Minnesota law, applications are private or nonpublic until the applications are opened on the application due date. Once the applications are opened, the name of the Proposer becomes public. All other data in the application is private/nonpublic data until completion of the evaluation process. The evaluation process is completed when the County enters into a contract with a Proposer. At that time, all remaining data submitted by all Proposers is public with the exception of data classified as private/non-public trade secret data under Minn. Stat. § 13.37 of the Minnesota Government Data Practices Act.

Proposers must not submit trade secret material, as defined by Minn. Stat. § 13.37, as part of their application. The County does NOT consider cost or prices to be trade secret material, as defined by the statute. Proposers may present and discuss trade secret information during an interview or demonstration, if applicable.

The Proposer agrees, as a condition of submitting its application, that the County will not, as between the parties, be liable or accountable for any loss or damage which may result from a breach of confidentiality related to the application. The Proposer agrees to indemnify and hold the County, its officials, agents, and employees harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision. This indemnification survives the County's award of a contract. In submitting an application in response to this RFA, the Proposer agrees that this indemnification survives as long as the Application is in the County's possession. The County is required to keep all the basic documents related to its contracts, including RFA applications, for a minimum of seven years.

USE OF APPLICATION IMAGES

By submitting any renderings, images, perspectives, sections, diagrams, photos, or other copyrightable materials (collectively, "copyrightable materials") with an application, applicant certifies that applicant's organization is the owner of the copyrightable materials or is fully authorized to grant permissions regarding the copyrightable materials and that those materials do not infringe upon the copyrights of others. Applicant also agrees that: 1) Hennepin County has a nonexclusive royalty-free license and all necessary permissions to reproduce and publish any copyrightable materials for noncommercial purposes, including but not limited to press releases, presentations, reports, and on the internet; and 2) your organization will not hold Hennepin County responsible for the unauthorized use of the copyrightable materials by third parties. If applicant desires attribution on the copyrightable materials, you may include a discreet transparent watermark.

APPLICANT'S COSTS

The County or HCHRA shall not be responsible for any costs incurred by applicant in connection with this RFA. Applicant shall bear all costs associated with application preparation, submission, and attendance at presentation interviews, or any other activity associated with this RFA or otherwise. These same costs are not eligible for TOD grant funding.

COLLUSION

If the County determines that collusion has occurred among applicants, none of the applications of the participants in such collusion shall be considered. The County's determination shall be final.

CONFLICT OF INTEREST

Applicant affirms that, to the best of its knowledge, its application does not present a conflict of interest with any party or entity, which may be affected by the terms of a contract resulting from this RFA. The applicant agrees that, should any conflict or potential conflict of interest become known, it will immediately notify the County of the conflict or potential conflict and will advise the County whether it will or will not resign from the other engagement or representation. Further, the County may make reasonable efforts to avoid, mitigate, or neutralize an organizational conflict of interest by an applicant in all competitive procurements. To avoid an organizational conflict of interest by an applicant, the County may utilize methods including disqualifying an applicant from eligibility for a contract award or canceling the contract if the conflict is discovered after a contract has been issued. To mitigate or neutralize an organizational conflict of interest by an applicant, the County may use methods such as revising the scope of work to be conducted, allowing applicant to propose the exclusion of task areas that create a conflict, or providing information to all applicants to assure that all facts are known to all applicants. The County may, at its sole and absolute discretion, waive any conflict of interest.

DEFINITIONS

- "Proposals" means "application" in this document and both words can be used interchangeably.
- "Proposer" means "applicant" in this document and both words can be used interchangeably.

CONSTRUCTION AND DEMOLITION REUSE AND RECYCLING POLICY

All non-hazardous building material generated during the project should be sorted by material type for recycling or, if collected as mixed waste, sent to a facility that achieves a minimum 60% recycling rate. If sorting by material type, at a minimum, the following materials should be separated for recycling: concrete, metals, untreated wood, and roofing material. Removal of building materials for reuse is encouraged where feasible. New construction, renovation, rehabilitation, and remodeling projects are encouraged to incorporate reused and recycled content building materials in their designs.

ADDITIONAL RESOURCES

The following resources are provided for reference purposes only.

Transit Oriented Development		
Metropolitan Council Transit Oriented Development Guide	Policy and Planning Guide	Guide intended for planners, elected officials and planning commissioners which explains the roles and responsibilities of various levels of government in implementing TOD, and houses case studies and best practices to emphasize.
Institute for Transportation and Development Policy, What is TOD	Best Practices and Scorecard	A policy brief providing core principles of inclusive TOD based on ITDP's Principles of Urban Development for Transport in Urban Life, and an assessment tool for plans and projects.
National Resources & Technical Assistance for Transit-Oriented Development, FTA and Smart Growth America	Guidebooks, Research Papers, Fact Sheets	The TOD Technical Assistance Initiative is a project of the Federal Transit Administration and Smart Growth America that provides technical assistance to support transit-oriented development, improve access to public transportation, and build new economic opportunities and pathways to employment for local communities.
Reconnecting America, Center for Transit-Oriented Development	Best Practices Database	Collection of case studies, research, technical and policy documents on a variety of topics related to transit-oriented development and livable communities. Continuation of Best Practices database originally funded by the Federal Transit Administration.
Minneapolis' "What Does Density Look Like?"	Guide	Pamphlet illustrating building form at various densities and heights.
Saint Paul Transit-Oriented Development Guidebook for the Central Corridor	Guidebook	A reference guide including business tips, guiding plans, and design development principles for the Central Corridor in Saint Paul.

Community Engagement		
Metropolitan Council Community Engagement Resources	Checklists, Presentations, Best Practices	A variety of community engagement resources compiled by the Metropolitan Council Community Development Division and Community Engagement staff. Resources include checklists, best practices, and planning worksheets

Metropolitan Council PlanIt Series –Workshops	Workshop Presentations	Community Engagement presentations include Community Engagement Best Practices; Interactive Community Engagement; Re-Thinking Engagement Strategies; and Community Engagement
Community Engagement Institute Resources	Assessment Tool, Background Guide	The Community Engagement Institute from Nexus Community Partners provides a series of trainings and additional resources to advance community engagement practice. A self-assessment tool helps teams determine how they currently do engagement and identify areas to expand.
Public Engagement Primer	Introduction Guide	Overview of core principles of community engagement with examples of engagement strategies, including focus groups, stakeholder dialogues, and community conversations.
Equitable Development		
Twin Cities Equitable Development Principles and Scorecard	Scorecard	The Scorecard offers guidance to assess a development project or potential project in the following areas: housing, transportation, land use, community engagement, and economic development.
King County Equity Impact Review Tool	Project Toolkit	The Impact Tool guides project teams through a series of questions to assess the racial equity impact of their project.
Complete Streets		
New York City Active Design Guidelines	Guidebook	Strategies for designing public spaces that encourage active transportation and recreation. Relationships between active living and sustainable design is also addressed.
Minnesota Complete Streets Coalition	Toolkits, Design Guides, Policy Guides	Design toolkits, guides, and policy case studies are available. Example complete streets resolutions are also available.
Hennepin County		

Hennepin County Active Living	Workshops, Tools, Policy and Planning Guides	The Hennepin County Active Living initiative provides a variety of resources on developing environments that promote active living. Resources include bike and pedestrian planning, design checklists, and workshop materials.
Hennepin County Bike Plan	Planning Guide	The plan provides information on the County's build out of the bike network.
Hennepin County Pedestrian Plan	Planning Guide	This document guides the implementation of improved opportunities for walking within Hennepin County.
Hennepin County Sustainable Landscape Guidelines	Guidebook	A collection of best management practices for implementation tailored for specific County departments.

Council Regular Meeting

DATE: 2/26/2024

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

SUBJECT: An Ordinance vacating a portion of the dedicated right-of-way in the plat of Joslyn Addition (1st Reading)

Requested Council Action:

- Motion to approve a first reading of the requested ordinance vacating a portion of the dedicated right-of-way in the plat of Joslyn Addition, and set a second reading and public hearing for March 25, 2024.

Background:

City staff received a request to vacate a portion of city right-of-way that is encroaching upon an existing privately-owned storm retention pond on 4849 Azelia Avenue North. The portion of the right-of-way to be vacated is indicated in Exhibit B.

The area of the right-of-way proposed to be vacated appears to have been dedicated as a cul-de-sac, which has not been constructed and is not in alignment with the existing constructed road surface and use of Azelia Avenue North. City staff has determined that there is no public need to retain the proposed Vacated ROW and the current dedicated right-of-way interferes with the existing stormwater retention pond, which is necessary for drainage in the area

Consistent with the City's Charter, a first reading of the proposed ordinance to vacate certain easements is requested, with a subsequent request to schedule the second reading and public hearing on March 25, 2024.

Budget Issues:

There are no budget issues to consider.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type

Ordinance	2/16/2024	Ordinance
Exhibit	2/16/2024	Exhibit

CITY OF BROOKLYN CENTER

Please take notice that the City Council of the City of Brooklyn Center will hold a public hearing on Monday, _____, 2024 at approximately 7:00 p.m. at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, Minnesota. Said public hearing will include a second reading and proposed adoption of an ordinance vacating a portion of Azelia Avenue North within the plat of Joslyn Addition. Meeting materials can be accessed by visiting the City of Brooklyn Center's website at: https://www.ci.brooklyn-center.mn.us/. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

ORDINANCE NO. _____

AN ORDINANCE VACATING A PORTION OF AZELIA AVENUE NORTH IN THE PLAT OF JOSLYN ADDITION IN THE CITY OF BROOKLYN CENTER, HENNEPIN COUNTY, MINNESOTA

WHEREAS, the City of Brooklyn Center (the "City") is a municipal corporation, organized and existing under the laws of Minnesota and the City Charter of Brooklyn Center, Minnesota (the "Charter"); and

WHEREAS, ERG-CP France Ave BP Owner LLC ("Owner") is the fee owner of certain real property located at 4837 Azelia Avenue North (PID 10-118-21-23-0006) and 4849 Azelia Avenue North (PID 10-118-21-24-0032) in the City and legally described in the attached Exhibit A (the "Property"); and

WHEREAS, the Owner submitted an application to vacate a portion of the dedicated right-of-way in the plat of Joslyn Addition ("Plat"), as legally described in the attached Exhibit B and as depicted in the attached Exhibit C ("Vacated ROW"); and

WHEREAS, the area of the right-of-way proposed to be vacated appears to have been dedicated as a cul-de-sac, which has not been constructed and is not in alignment with the existing constructed road surface and use of Azelia Avenue North; and

WHEREAS, a stormwater retention pond is located on the Property and encroaches upon the proposed Vacated ROW; and

WHEREAS, City staff has determined that there is no public need to retain the proposed Vacated ROW and the current dedicated right-of-way interferes with the existing stormwater retention pond, which is necessary for drainage in the area; and

WHEREAS, the City Council does not object to the vacation of the proposed Vacated ROW; and

WHEREAS, after due notice and public hearing, the City Council has determined that the Vacated ROW will no longer be needed and it is in the public interest to vacate the Vacated ROW.

NOW, THEREFORE, the City Council of the City of Brooklyn Center does ordain as follows:

Section I. Recitals. The above recitals are hereby adopted as findings and incorporated into this Ordinance.

Section II. Right-of-Way Vacation. The Vacated ROW described above and in Exhibit B and Exhibit C is hereby vacated.

Section III. Effective Date. This Ordinance shall be effective after adoption and thirty days following its legal publication.

Section IV. Notice of Completion. Upon the Ordinance becoming effective, the City Clerk is directed to prepare a Notice of Completion of Vacation Proceedings and to record it with the Hennepin County Recorder or Hennepin County Registrar of Titles, as appropriate.

Adopted this ___ day of _____, 2024.

_____
April Graves, Mayor

ATTEST: _____
Barbara Suciu, City Clerk

Date of Publication _____

Effective Date _____

EXHIBIT A

Legal Description of the Property

PID No. 10-118-21-23-0006:

Lot 1, Block 1, Joslyn Addition, Hennepin County, Minnesota.

PID No. 10-118-21-24-0032:

Lot 2, Block 1, Joslyn Addition, Hennepin County, Minnesota.

EXHIBIT B

Legal Description of Vacated Right-of-Way

That part of the dedicated Azelia Avenue North, JOSLYN ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota, lying West of the following described line:

Commencing at the Southeast corner of Lot 1, Block 1, of said plat; thence on an assumed bearing of North 00 degrees 34 minutes 44 seconds West along said East line of said Lot 1, a distance of 176.05 feet to the Point of Beginning of the line herein described; thence northeasterly 26.49 feet along a non-tangential curve, concave to the northwest, radius of 40.00 feet, central angle of 37 degrees 57 minutes 01 seconds, chord bearing North 19 degrees 02 minutes 01 seconds East, 26.01 feet; thence North 01 degrees 54 minutes 27 seconds West, 118.70 feet more or less to the northerly right of way of Azelia Avenue North and there terminating.

Subject area contains 0.15 acres, more or less (6,731 SF)

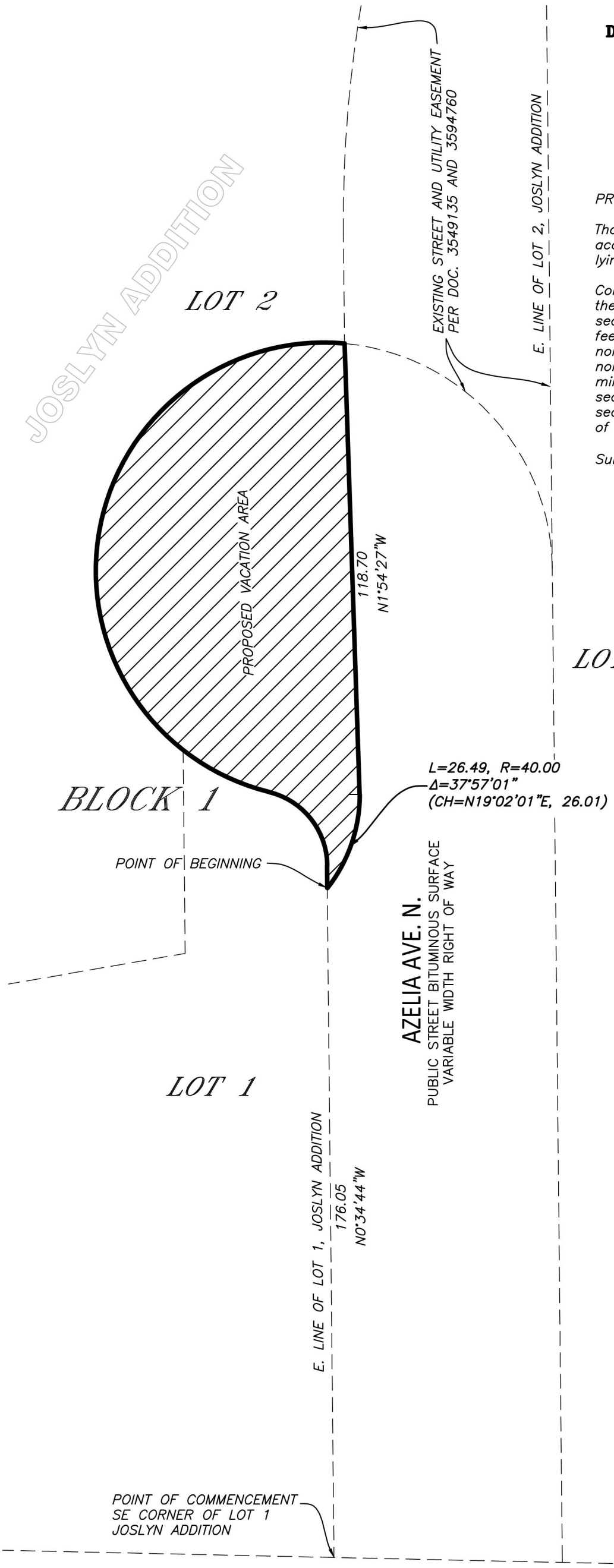
EXHIBIT C

Depiction of Vacated Right-of-Way

(attached hereto)

RIGHT OF WAY VACATION EXHIBIT

**FOR A PORTION OF AZELIA AVENUE NORTH,
DEDICATED ON THE PLAT OF JOSLYN ADDITION,
HENNEPIN COUNTY, MINNESOTA**

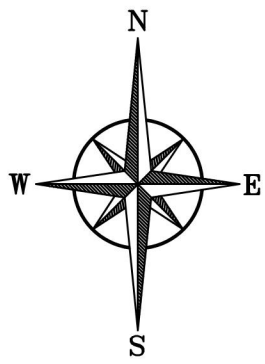


PROPOSED DESCRIPTION FOR RIGHT OF WAY VACATION:

That part of the dedicated Azelia Avenue North, JOSLYN ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota, lying West of the following described line:

Commencing at the Southeast corner of Lot 1, Block 1, of said plat; thence on an assumed bearing of North 00 degrees 34 minutes 44 seconds West along the East line of said Lot 1, a distance of 176.05 feet to the Point of Beginning of the line herein described; thence northeasterly 26.49 feet along a non–tangential curve, concave to the northwest, radius of 40.00 feet, central angle of 37 degrees 57 minutes 01 seconds, chord bearing North 19 degrees 02 minutes 01 seconds East, 26.01 feet; thence North 01 degrees 54 minutes 27 seconds West, 118.70 feet more or less to the northerly right of way of Azelia Avenue North and there terminating.

Subject area contains 0.15 acres, more or less (6,731 SF)



SCALE
1"= 30'

30 0 30 60

*BEARINGS ARE BASED ON NAD83(2011)
HENNEPIN COUNTY COORDINATE SYSTEM*

NORTHWESTERN
SURVEYING & ENGINEERING, INC.
P.O. Box 3067 ~ Bemidji Minnesota ~ 56619

*AMERICAN NATIONAL
VACATION EXHIBIT*

JOB#: 23699G DRAWN BY: TJB
FILENAME: 23699G

REV#	DESCRIPTION	DATE

I HEREBY CERTIFY THAT THIS SURVEY, PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

KALEB J. KADELBACH (LIC. NO. 57070) *DATE:*

Council Regular Meeting

DATE: 2/26/2024

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 (First Reading)

Requested Council Action:

Motion to approve a first 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 set the second reading for March 11, 2024.

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

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).

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 (First Reading)	2/21/2024	Backup Material

DATE: February 26, 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 – First Reading

Recommendation:

Motion to approve a first 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 set the second reading for March 11, 2024.

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
Dwelling Units per Acre	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)
Dwelling Units per Acre	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 35-4103~~200~~ 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 (m~~M~~inimum)	5 feet
Other Standards		
G~~F~~	Primary structure height (maximum)	32~~25~~ feet
H	Accessory Structure height (m~~M~~aximum)	16 feet
I	Density	3-5 units/acre
J	Primary Dwelling Width and Depth (minimum)	18 feet

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)

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

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		
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)	40 feet
D	Lot area – (minimum)	4,000 sq. ft. per unit
E	Lot width – (minimum)	25 feet
F	Accessory Structure setback, Interior Side or Rear (minimum)	5 feet
Other Standards		
G~~F~~	Primary structure height (maximum)	35 feet
H	Accessory structure height (m~~M~~aximum)	16 feet
I	Density	5-15~~0~~ 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
AP	Airport

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: ~~25~~32 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	MX-N1	MX-N2	MX-C	TOD	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~~ persons) or Licensed Group Family Day Care Facilities (14 and fewer ~~children~~ persons)	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	MX-N1	MX-N2	MX-C	TOD	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 persons)	P	P	~~P~~			~~P~~	~~P~~		~~P~~					
Licensed Residential Facility (7 and greater persons)			C	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	TOD	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(~~C~~c)
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	TOD	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				
Licensed Day Care Facilities (13 and greater persons)			C	C	C	C	C	C	C					35-4302(c)
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	C	C			C				C			C		35-4302(c)

Stand-alone ATMs							A	A	A	A				
Pawn shops										C				
Sauna and massage establishments							P~~A~~	P~~A~~	P~~A~~	P~~A~~				
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(c).~~

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), in feet (ft) unless noted.												
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 SF	10,000 SF	--	--	--	--	--	--
Primary Dwelling Width and Depth	18	18											

(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~~32	~~25~~32	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-R~~4~~2 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 district 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.

~~c.~~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)

DOC NUM 11251241

Certified, filed and/or recorded on
Dec 12, 2023 4:30 PM

Office of the County Recorder
Hennepin County, Minnesota
Amber Bougie, County Recorder
Daniel Rogan, County Auditor and Treasurer

Deputy 119 Pkg ID 2629383M

Document Recording Fee	$46.00
Document Total	$46.00

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

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

Table of Contents

SECTION I. PURPOSE AND AUTHORITY 1
SECTION II. TITLE AND SHORT TITLE 2
SECTION III. DEFINITIONS AND RULES OF CONSTRUCTION 2
SECTION IV. AIRSPACE OBSTRUCTION ZONING 6
SECTION V. LAND USE ZONING 9
SECTION VI. AIRPORT ZONING LIMITS AND CRYSTAL AIRPORT ZONING MAP 10
SECTION VII. NONCONFORMING USES 10
SECTION VIII. AIRPORT ZONING PERMITS 11
SECTION IX. VARIANCES 13
SECTION X. HAZARD MARKING AND LIGHTING 14
SECTION XI. ZONING ADMINISTRATOR 14
SECTION XII. BOARD OF ADJUSTMENT 15
SECTION XIII. APPEALS 16
SECTION XIV. JUDICIAL REVIEW 17
SECTION XV. PENALTIES AND OTHER REMEDIES 18
SECTION XVI. RELATION TO OTHER LAWS, REGULATIONS, AND RULES 18
SECTION XVII. SEVERABILITY 19
SECTION XVIII. EFFECTIVE DATE 19
EXHIBIT A – AIRPORT BOUNDARY 21
EXHIBIT B – JAZB LAND USE ZONE 1 22
EXHIBIT C – JAZB LAND USE ZONE 2 23
EXHIBIT D – AIRPORT BOUNDARY AND AIRSPACE ZONING LIMITS 24
EXHIBIT E – AIRPORT BOUNDARY AND AIRSPACE CONTOURS 25
EXHIBIT F – AIRPORT BOUNDARY AND LAND USE ZONING LIMITS 26

AIRSPACE ZONES, INDEX SHEET AND PLATES A - A2 TO A - F6 27
MAXIMUM CONSTRUCTION HEIGHTS WITHOUT PERMIT, INDEX SHEET AND PLATES MCH - A2 TO MCH - F6 62
SAFETY ZONES, INDEX SHEET AND PLATES SZ - A2 TO SZ - F6 97

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.

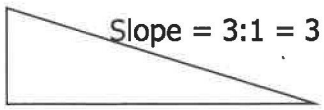
21. ***Runway 6R-24L.*** "Runway 6R-24L" means the existing 1,669-foot visual crosswind runway. Both the Runway 6R and 24L ends are within the City of Crystal.

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, 2023.



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, Chair
Crystal Airport Joint Airport Zoning Board

Date: NOV 8, 2023

Rebecca Townsend, Secretary
Crystal Airport Joint Airport Zoning Board

Date: Nov 8, 2023

Subscribed and sworn to before me this 8th day of November, 2023 by Richard Weyrauch and Rebecca Townsend, Chair and Secretary respectively, of the Crystal Airport Joint Airport Zoning Board.

State of Minnesota
County of Hennepin

Notary Public

ANDREW MARTIN HANSON
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2026

Drafted by Crystal Airport Joint Airport Zoning Board

EXHIBIT A – AIRPORT BOUNDARY

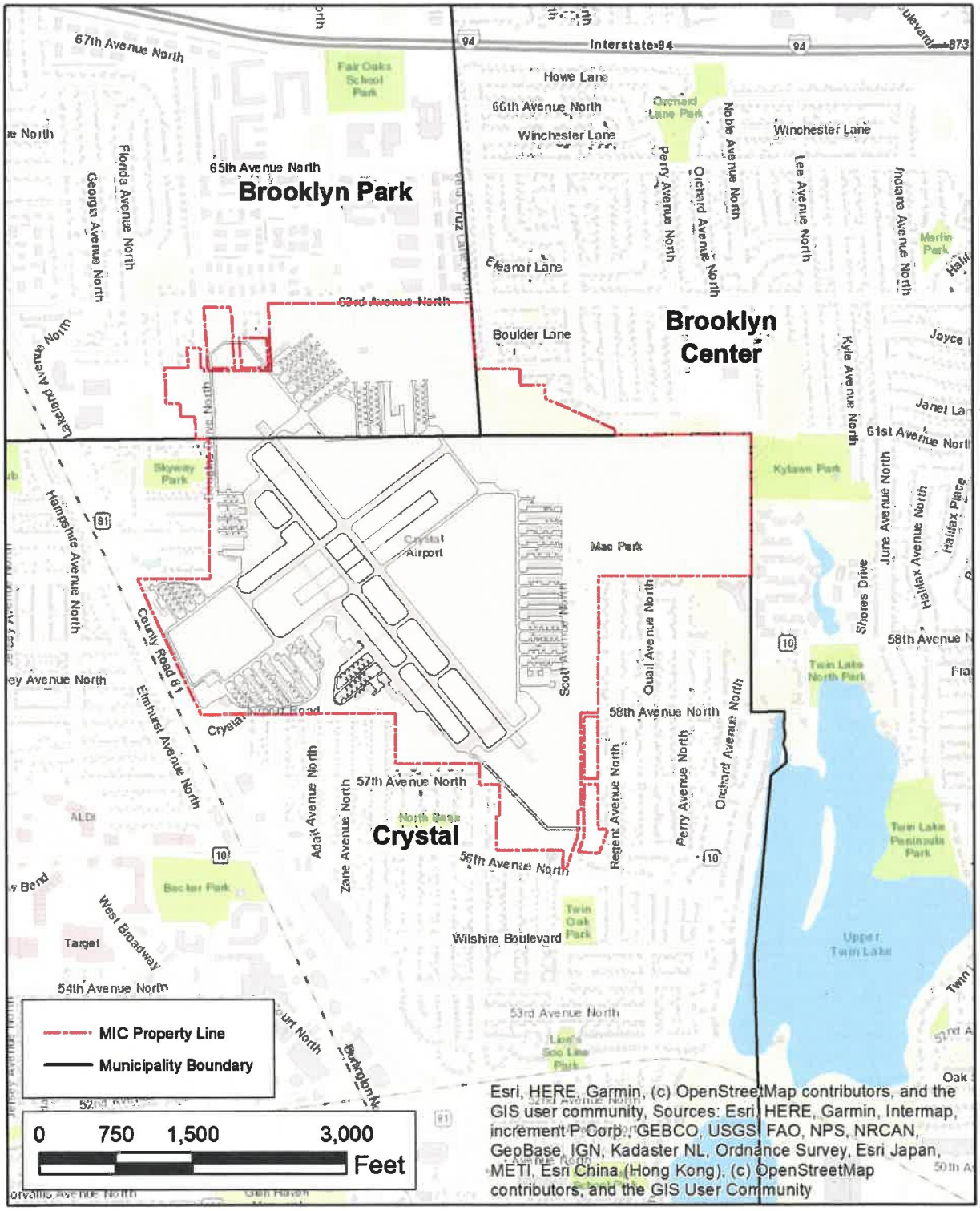


EXHIBIT B – JAZB LAND USE ZONE 1

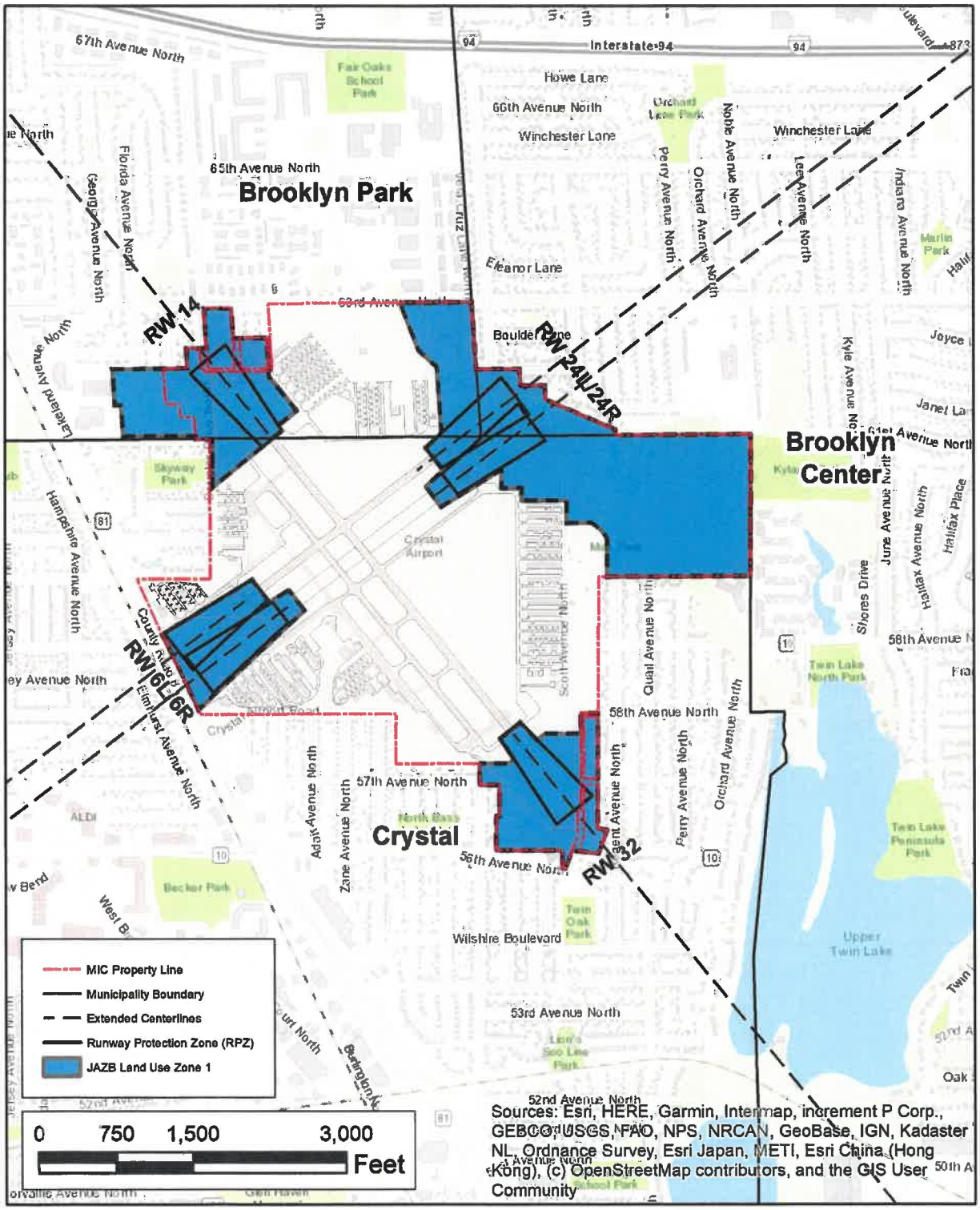


EXHIBIT C – JAZB LAND USE ZONE 2

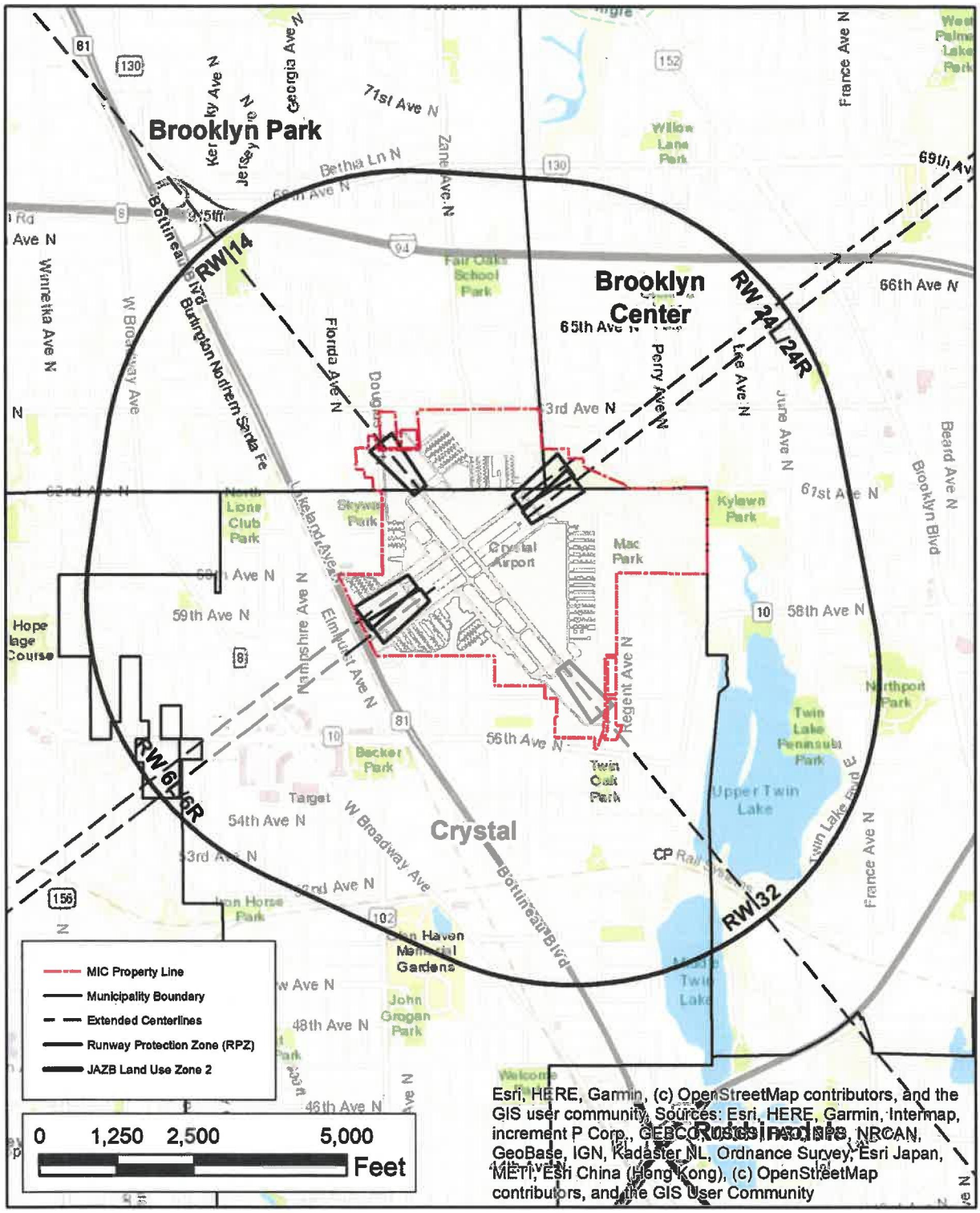


EXHIBIT D – AIRPORT BOUNDARY AND AIRSPACE ZONING LIMITS

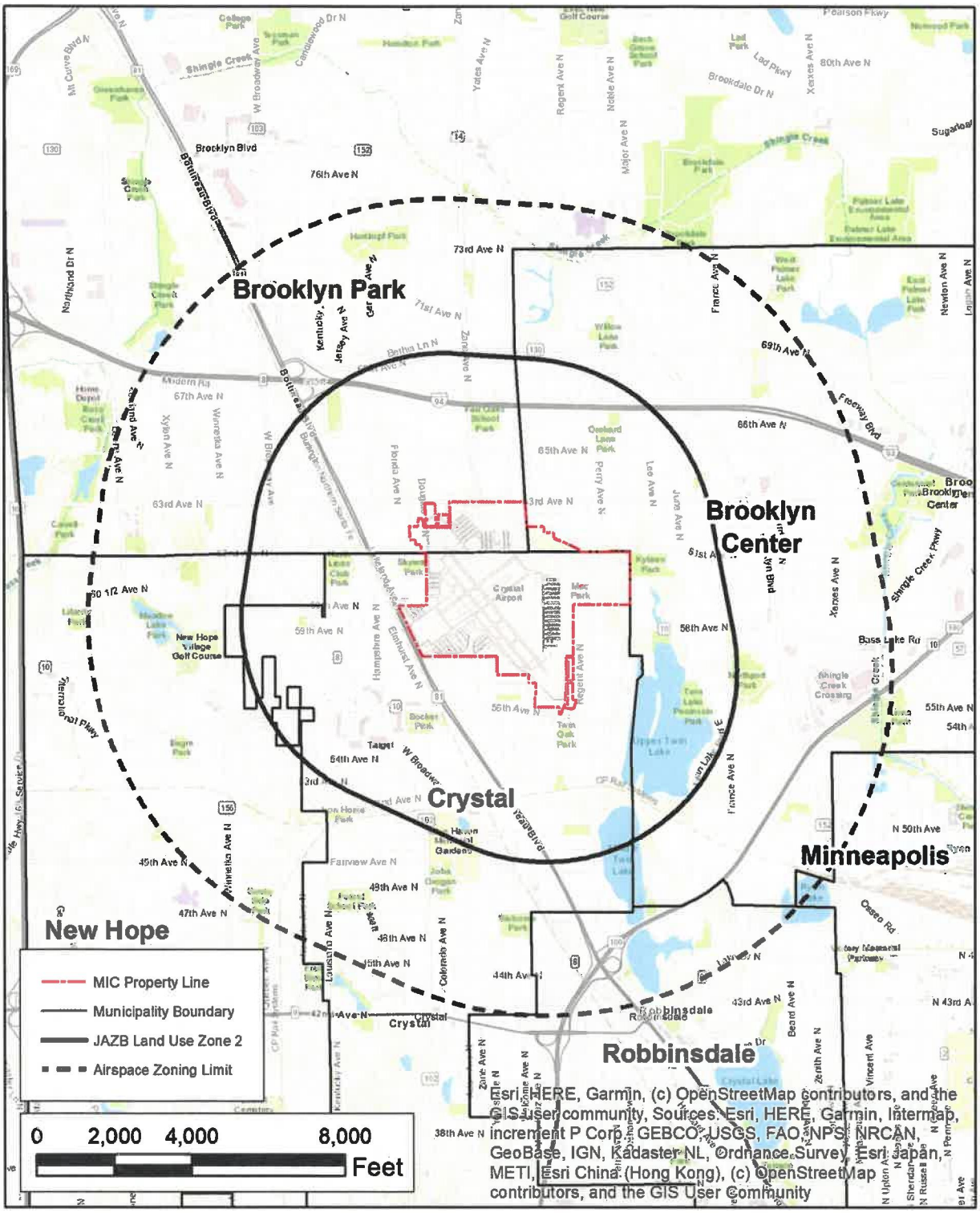


EXHIBIT E – AIRPORT BOUNDARY AND AIRSPACE CONTOURS

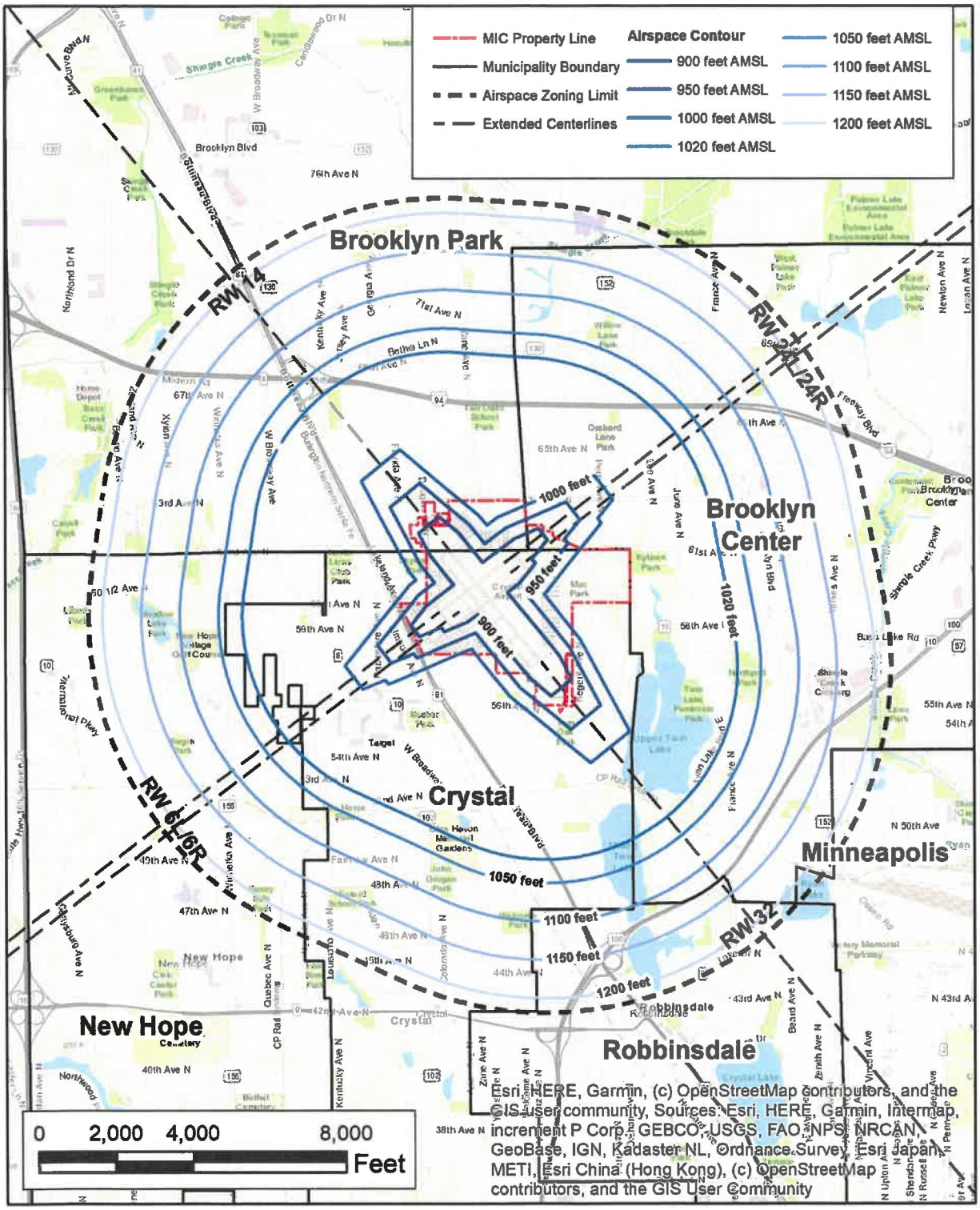
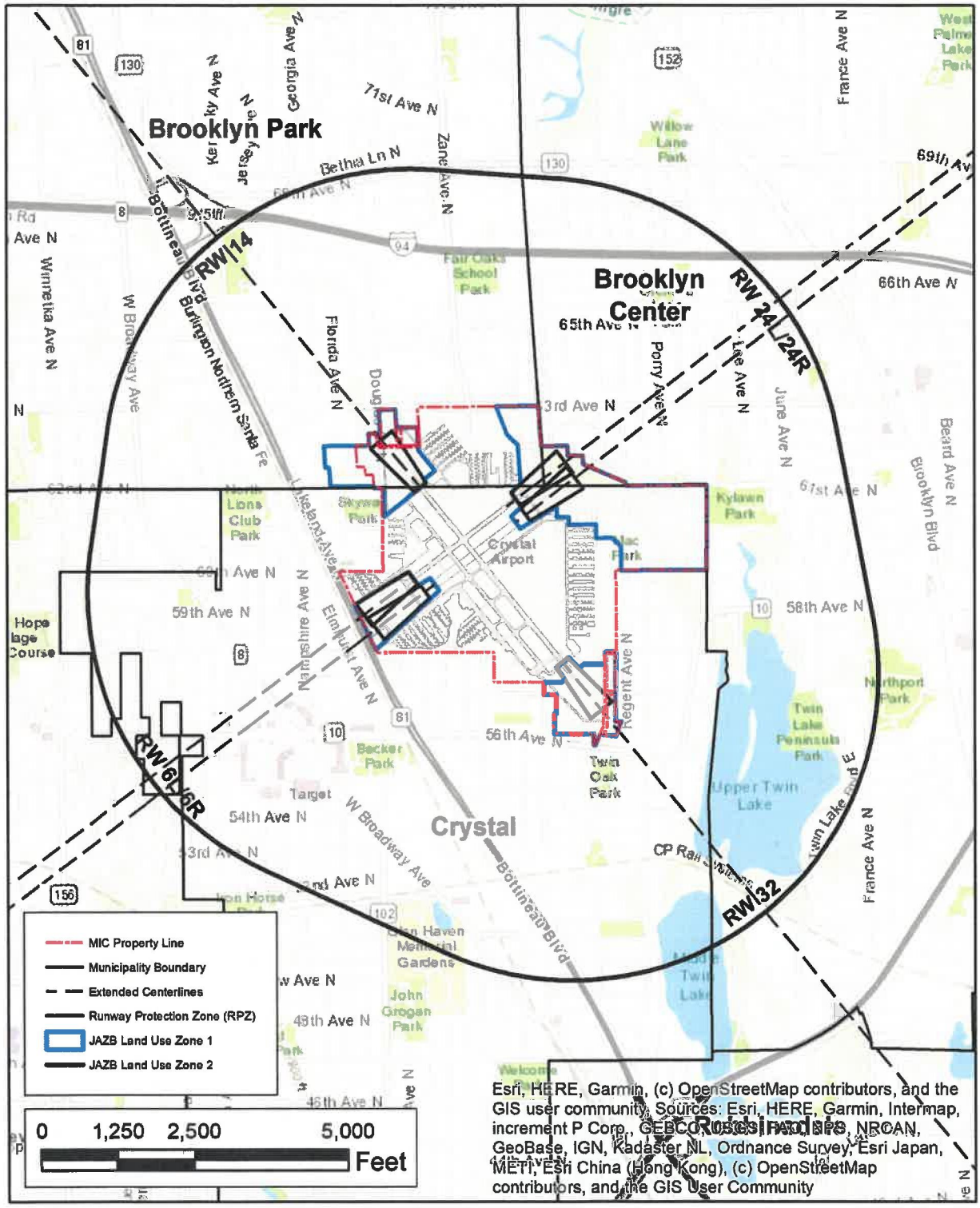


EXHIBIT F – AIRPORT BOUNDARY AND LAND USE ZONING LIMITS



Brooklyn Center Zoning Map

Brooklyn Center, MN

DRAFT

Airport Zoning Overlays

February 2024

BOLTON & MENK

BROOKLYN PARK

BROOKLYN CENTER

CRYSTAL

ROBBINSDALE

FRIDLEY

MINNEAPOLIS

130 COUNTY

94

252 MINNESOTA

694

10 COUNTY

100 MINNESOTA

1 COUNTY

57 COUNTY

8 COUNTY

152 COUNTY

9 COUNTY

81 COUNTY

Legend

City Boundaries

Crystal Airport Zoning Overlays

- JAZB (Joint Airport Zoning Board) Zone 1
- JAZB (Joint Airport Zoning Board) Zone 2
- Airspace Zoning Limit

Zoning Districts

- R1 : Low Density Residential
- R2 : Medium Low Density Residential
- R3 : Medium Density Residential
- R4 : Medium High Density Residential
- R5 : High Density Residential
- MX-N1 : Neighborhood Mixed-Use
- MX-N2 : Neighborhood Mixed-Use
- MX-B : Business Mixed Use
- I : General Industrial
- MX-C : Commercial Mixed-Use
- C : Commerce - Service/Office
- TOD : Transit Oriented Development
- O : Public Open Space
- PUD/C1 : Planned Unit Development/Commercial 1
- PUD/C2 : Planned Unit Development/Commercial 2
- PUD/C1A : Planned Unit Development/Office-Service
- PUD/I1 : Planned Unit Development/Industrial 1
- PUD/R1 : Planned Unit Development/Residential 1
- PUD/R3 : Planned Unit Development/Residential 3
- PUD/MX-C : Planned Unit Development/Commercial Mixed-Use
- PUD/MX-B : Planned Unit Development/Business Mixed Use
- PUDMIXED : Planned Unit Development/Mixed
- PUD/TOD : Planned Unit Development/Transit Oriented Development

0 1 Miles

Source: MnGeo, Hennepin County

Map Document: \\arcserver1\GIS\BRCN_Basemap\ESRI\Pro\Zoning\ZoningMap\ZoningMap.aprx | Username: davidsa | Date Saved: 2/1/2024 3:40 PM

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: _____

Exhibit B

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

Council Regular Meeting

DATE: 2/26/2024

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

SUBJECT: 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

Requested Council Action:

- Motion to approve a 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.

Background:

Tonight before you is a 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.

Upon a vote of the Brooklyn Center Charter Commission on October 12, 2023, the Charter Commission transmitted to the City Council on October 15, 2023, a recommendation for an Amendment to the Brooklyn Center City Charter.

The Charter Commission requested that the City Council consider and unanimously approve the following charter amendment:

Section 6.07. The City shall maintain a grant policy.

The request was made in accordance with Minnesota Statutes, section 410.12, subd. 7, which provided for the adoption of charter amendments by a City Council by ordinance on a unanimous vote of all members of the City Council.

The charter amendment had its first reading and public hearing at the November 27 City Council meeting. The amendment passed unanimously. The second reading and adoption was held at the December 11 City Council meeting, which the motion failed 5-1.

With the failed vote, the charter amendment has come back at to the city council as a 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.

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
Resolution	2/20/2024	Resolution Letter

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. 2024-____

CITY OF BROOKLYN CENTER, MINNESOTA

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

WHEREAS, on October 15, 2023, the Brooklyn Center Charter Commission ("Charter Commission") submitted to the City Council a proposed amendment to the Brooklyn Center City Charter ("Charter Amendment") for consideration for adoption by the City Council by ordinance in accordance with Minnesota Statutes, section 410.12, subd. 7 and Section VIII(B)(3)(a) of the Charter Commission's Rules of Procedures ("Charter Commission Rules"); and

WHEREAS, the proposed Charter Amendment would amend Chapter 6 of the City Charter by adding language requiring the City to maintain a grant policy; and

WHEREAS, on November 27, 2023, the City Council approved the first reading of the proposed Charter Amendment ordinance and on December 11, 2023, the City Council held the second reading and public hearing on the proposed Charter Amendment ordinance; and

WHEREAS, in accordance with Minnesota Statutes, section 410.12, subd. 7, notice of the public hearing and proposed Charter Amendment was published within one month of receiving the proposed Charter Amendment from the Charter Commission, and the public hearing was held at least two weeks but not more than one month after the notice was published; and

WHEREAS, on December 11, 2023, the Charter Amendment did not receive an affirmative vote of all members of the City Council, and therefore, it was not approved; and

WHEREAS, on January 14, 2024, the Charter Commission transmitted the proposed Charter Amendment, attached hereto as Exhibit A, to be submitted to the City's voters in the City's next general election on November 5, 2024 in accordance with Minnesota Statutes, section 410.12, subd. 4 and Section VIII(B)(3)(b) of the Charter Commission Rules; and

WHEREAS, the proposed Charter Amendment was accepted by a two-thirds vote of the actual membership of the Charter Commission; and

WHEREAS, in accordance with Minnesota Statues, section 410.12, subdivision 4, the City Council is required to fix the form of the ballot and submit charter amendments to the voters as in the case of the original charter; and

WHEREAS, the City Council hereby finds and determines as follows:

1. The Charter Commission has duly submitted a proposed amendment to the City Charter in accordance with Minnesota Statutes, section 410.12, subd.'s 1 and 4;

2. The proposed Charter Amendment will be submitted to the voters of the City at the special election to be held (as part of the general election) on Tuesday, November 5, 2024, and the election will be held and conducted in accordance with the laws of the State of Minnesota relating to municipal elections and the City's Charter;

3. The proposed Charter Amendment is not unlawful and does not violate the Constitution of the United States of America, the Constitution of the State of Minnesota or any other federal or state laws, rules or regulations; and

4. The form of the ballot, and the language of the title and the question to be posed to the City's voters in the ballot, is sufficient to identify the proposed Charter Amendment clearly and has been approved by the City Attorney.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Brooklyn Center, based on the recitals and the findings contained herein, as follows:

1. The City Clerk is authorized and directed to cause a notice of election or sample ballot, or both, in substantially the form attached hereto as Exhibit B to be posted and published as required by law and as follows:

   (a) The notice of election, including the complete text of the proposed Charter Amendment, will be published in the official newspaper of the City once a week for two successive weeks prior to the election;

   (b) The notice of election and a sample ballot will be posted in the office of the City Clerk and made available for public inspection at least two weeks prior to the election, and a sample ballot will be posted at each polling place on election day; and

   (c) The sample ballot will be published in the official newspaper of the City at least two weeks prior to the election.

2. The City Clerk is authorized and directed to provide written notice of the election to the Hennepin County Auditor at least 74 days before the election, including the date of the election and title and language for the ballot question.

3. The polling places, hours of election and the respective judges for the election will be those established by the City for general elections. The polls will be open from 7:00 a.m. until 8:00 p.m.

4. The City Clerk is authorized and directed to prepare the ballot in substantially the following form, subject to the requirements of Minnesota Statutes, section 206.61:

SPECIAL ELECTION BALLOT
CITY SPECIAL ELECTION
CITY OF BROOKLYN CENTER
November 5, 2024

INSTRUCTIONS TO VOTERS:
To vote, completely fill in the oval next to your choice like this: 

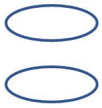
City Questions

To vote for a question, fill in the oval next to the word "Yes" on that question. To vote against a question, fill in the oval next to the word "No" on that question.

City Question

PROPOSED CHARTER AMENDMENT

Should the Brooklyn Center City Charter be amended to add language requiring the City to maintain a grant policy?



Yes

No

5. The City Clerk is authorized and directed to provide each polling place with at least two sample ballots which are facsimiles of the card to be voted on in that precinct, in accordance with Minnesota Statutes, section 206.62.

6. The City Clerk is authorized and directed to take any such further actions as may be necessary to submit the ballot question to the City's voters at the November 5, 2024 election in accordance with applicable law and to carry out the intent of this Resolution.

7. The City Council shall meet in City Hall on November 12, 2024, at 5:30 p.m. to canvass the results of the election and to declare the results thereof.

February 26, 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.

EXHIBIT A

Proposed Charter Amendment

Chapter 6 of the City Charter of the City of Brooklyn Center is hereby amended by adding the double-underlined material as follows:

Section 6.07. GRANT POLICY. The City shall maintain a grant policy.

EXHIBIT B

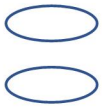
Notice of Special Election

NOTICE OF SPECIAL ELECTION
CITY OF BROOKLYN CENTER
HENNEPIN COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN that a special election will be held in and for the City of Brooklyn Center, Hennepin County, Minnesota, on Tuesday, the 5th day of November, 2024, at which the following proposition will be submitted to the voters of the City for their approval or rejection:

PROPOSED CHARTER AMENDMENT

Should the Brooklyn Center City Charter be amended to add language requiring the City to maintain a grant policy?



Yes

No

The polling places for said election are as follows:

[insert all addresses]

The polls for said election will be open at 7:00 a.m. and will remain open until closing at 8:00 p.m.

Any qualified registered voter of the City is entitled to vote at said election at the polling place for the precinct in which the voter resides, and any resident of the City not previously registered as a voter may register on election day.

BY ORDER OF THE CITY COUNCIL

_____
City Clerk

Dated: _____, 2024.

Council Regular Meeting

DATE: 2/26/2024

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

SUBJECT: Resolution Appointing Election Judges for the 2024 Presidential Nomination Primary Election

Requested Council Action:

- motion to approve a resolution appointing election judges for the March 5, 2024 Presidential Nomination Primary Election

Background:

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

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

Budget Issues:

- none

Inclusive Community Engagement:

- none

Antiracist/Equity Policy Effect:

- none

Strategic Priorities and Values:

Provide quality services with fair and equitable treatment

ATTACHMENTS:

Description	Upload Date	Type
Resolution	2/22/2024	Resolution Letter
Exhibit A	2/22/2024	Backup Material

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPOINTING ELECTION JUDGES FOR THE 2024 PRESIDENTIAL NOMINATION PRIMARY ELECTION

WHEREAS, the Presidential Nomination Primary Election is March 5, 2024; and

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

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

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

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

February 26, 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.

EXHIBIT A
Election Judges

Arneson	Susan	Johnson	Richard
Bennethum	Tedd	Johnson	Charlene
Bennethum	Lynn	Khan	Nahid
Bentrud	Andrea	Koenig	Patricia
Bueckers	Kenneth	Landt	Emma
Bumgarner	Don	Leonard	Owen
Carlson	Jean	Long	Stephen
Christians	Carol	Malcolm	Sandra
Cooper	Pat	Merritt	Gayle
Cramer	Thomas	Mesenbrink	Patty
Crest	Dale	Mitlying	Deborah
DeRosier	Jon	Nelson	Kathleen
Einberger McDonough	Wendi	Olson	Diane
Esele	Chidiebere	Perrault	Dale
Gersetich	Mary	Peterson	Vanissa (Patti)
Green	Carolyn	Phillips	Toby
Hancock	Allan	Preble	Tanya
Hanna	Melody	Saathoff	Holly
Henrichs	Philip	Shold	Stephanie
Higgins	Sherry	Speltz	Honey
Huot	Lori	Steinhaus	Charles
Ishola	Taofeek	Truran	Beverly
Jablonski	Joseph	Turner	Yvonne
		Viste	Mark

Council Regular Meeting

DATE: 2/26/2024

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Community Development Director
BY: Krystin Eldridge, Associate Planner

SUBJECT: Resolution Approving 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)

Requested Council Action:

Motion to adopt 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.

Background:

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

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.

The Subject 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 closure of the Goodyear automotive and tire shop, Big O Tires occupied the space for a time before closing last year. The Subject Property has remained vacant since.

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 are seeking

to expand their presence across the Twin Cities metro and throughout greater Minnesota. DVS employees carry out vehicle re-certification inspections on prior salvage (totaled) vehicles that have been fully repaired, ensuring vehicles are roadworthy and that all parts were obtained legally. DVS indicated that *n o* repairs would take place on site of the Subject Property and the existing hoists would be removed.

City staff brought the proposal for the Subject Property to the January 8, 2024 City Council meeting for a concept review as the proposed was not clearly defined within the City's Unified Development Ordinance (Chapter 35), and was therefore considered an "unlisted use." Unlisted uses under City Code require 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."

During the work session, City staff provided a brief presentation on the proposal and use, along with high level renderings of the proposed re-cladding of the building, a high-level circulation layout for the queuing of vehicles, and a narrative from the State of Minnesota Department of Public Safety regarding the proposed use and operations at the Subject Property. Although concept reviews are considered non-binding, the Councilmembers appeared to show general support for the proposal.

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 10K Architecture and Launch Properties, were in attendance, and answered questions relating to traffic impacts, the business model, anticipated employment, circulation, and façade improvements.

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 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.

In subsequent conversations with the Property Owner and representatives, it was determined that installation of any fire sprinkler system may constitute a hardship given the 1 ½-inch water main that currently runs to the building, which is notably undersized for any fire sprinkler service. City staff, including the Building Official, Fire Chief, and Fire Marshal, are currently exploring the exception provisions provided for under Minnesota Building Code for sprinkler systems. As such, City staff has revised the conditions language under the provided resolution to allow for these conversations to continue.

A copy of the Planning Commission Report for Planning Commission Application No. 2024-001, dated February 8, 2024 and City Council resolution regarding the aforementioned request is included with this memorandum.

Budget Issues:

None to consider at this time.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
Staff Report and Exhibits - 5501 Xerxes Avenue North (CUP)	2/21/2024	Backup Material
Resolution-5501 Xerxes Avenue North-CUP	2/21/2024	Resolution Letter
powerpoitn	3/2/2024	Presentation

Planning Commission Report
Meeting Date: February 8, 2024

- Application Filed: 01/09/2024
- Review Period (60-day) Deadline: 03/09/2024
- Extension Declared: No
- Extended Review Period Deadline:

Application No.	2024-001
Applicant | Property Owner:	Totem Foods Inc
Location:	5501 Xerxes Avenue North, Brooklyn Center, MN 55430
Requests:	Conditional Use Permit



Map 1. Subject Property Location.

Requested Action

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

A public hearing notice for the conditional use permit request was published in the Brooklyn Center *Sun Post* on January 25, 2024—Refer to Exhibit B. Notifications were mailed to those physical addresses and

property owners located within a 350-foot radius of the Subject Property, and a copy of the public hearing notice was published to the City of Brooklyn Center website.

Existing Conditions











Image 1. Existing Site Conditions at Subject Property.

Background

The Subject 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. As originally contemplated, the Subject Property was to primarily serve as a tire retail store and installation center. The Subject Property is approximately 8,250 square feet and was originally approved with a total of 61 on-site surface parking spaces, and 10 interior bay spaces. Although the striping has deteriorated over the years, a survey conducted of the Subject Property in 2022 appears to show a revised configuration with 44 on-site surface spaces.

The Subject Property is serviced on the west side by a private road, along with neighboring properties running between 55th Ave North and 56th Ave North, and on the east side by Xerxes Avenue North. The Subject Property has convenient access off Highway 100. The property has multiple curb cuts located off the west side of the property, adjacent to the private road, and one (1) curb cut off Xerxes Avenue North, which is shared with the neighboring Pearle Vision building. Per Planning Commission Application No. 66060, it appears the Superette (Pearle Vision) and former Goodyear (Subject Property) were to share an entrance onto Xerxes Avenue North rather than having two separate curb cuts. Both sites have additional curb cuts providing alternative ingress and egress to their respective properties.

The Applicant purchased the property in May 2023, and with the abrupt closure of Big O Tires in the fall of 2023, the Subject Property has remained vacant since.

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, which closed last year, 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 are seeking to expand their presence across the Twin Cities metro and throughout greater Minnesota. DVS employees carry out vehicle re-certification inspections on prior salvage (totaled) 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 Subject Property and the existing hoists would be removed. The State of Minnesota DPS further indicated that approximately 80% of the vehicles inspected at their sites come from auto dealers and all inspections are scheduled in advance online.

In discussing the proposed use with City staff, City staff determined that the closest “use” under the City’s

Unified Development Ordinance (UDO) was likely that of an, "automobile and truck repair and service station," which are permitted as a *conditional use* in the Commercial Mixed-Use (MX-C) District where the Subject Property is located. Although the building occupying the Subject Property today was originally constructed in 1966 as a Goodyear tire and auto shop and would have historically required issuance of a special use permit, City staff indicated that they did not see a path forward for reuse of a use permit as the proposed use and overall functionality of the inspection location differs from that of an auto shop.

The City's Unified Development Ordinance notes that, "if a use is not listed, it shall be considered a Prohibited Use, unless the City Council determines that the use is substantially similar in nature and potential impacts on the surrounding community as an existing use in the use table" are addressed.

Given this, City staff brought the proposal for the Subject Property to the January 8, 2024 City Council meeting for a concept review. During the work session, City staff provided a brief presentation on the proposal and use, along with high level renderings of the proposed re-cladding of the building, a high-level circulation layout for the queuing of vehicles, and a narrative from the State of Minnesota Department of Public Safety regarding the proposed use and operations at the Subject Property. Although concept reviews are considered non-binding, the Councilmembers appeared to show general support for the proposal.

Site Data:

2040 Land Use Plan:	Transit-Oriented Development (TOD)
Neighborhood:	Centennial
Current Zoning:	Commercial Mixed-Use (MX-C)
Site Area:	Approximately 1.06 acres

Surrounding Area:

Direction	2040 Land Use Plan	Zoning	Existing Land Use
North	Transit Oriented Development (TOD)	MX-C (Commercial Mixed-Use) District	Commercial (Pearle Vision)
South	Transit Oriented Development (TOD)	MX-C (Commercial Mixed-Use) District	Commercial (Firestone| Arby's)
East	Transit Oriented Development (TOD)	PUD/C2 (Planned Unit Development/Commercial) District	Commercial (Future Pollo Campero)
West	Transit Oriented Development (TOD)	MX-C (Commercial Mixed-Use) District	Commercial (Falafel King)

REQUEST

Conditional Use Permit

As previously 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. During these initial discussions, the State of Minnesota indicated an interest in the Subject Property for its convenient and visible location and the desire to rebrand with a more "retail look" than other existing inspection station locations, which might be perceived as more industrial in nature.

During initial conversations with the representatives of the Property Owner and the State of Minnesota,

concerns were expressed as to the overall fit of the use, the potential queuing of vehicles in the City right-of-way (Xerxes Avenue North) and blocking of the Metro Transit Bus Rapid Transit (BRT) route, blocking of traffic along the private road to the west, the industrial feel of the use given other locations, concerns with the potential for buses and recreational vehicles to be inspected on-site (parking lot), and the overall state of the building and property.

It was through these discussions that the Applicant and Property Owner engaged with an architect (10K Architecture, PLLC) and a commercial real estate development firm (Launch Properties), and in coordination with the State of Minnesota, to pull together a plan to address deficiencies with the property (i.e. lighting, building and site conditions), and provide a clear proposal for how the use would be symbiotic with neighboring retail uses and not cause queuing issues in the public and private streets.

Conditional use permits, as outlined under Section 35-7700, are those uses which 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 the City Council.

The conditional use permit process regulates: the location, magnitude, and design of conditional uses consistent with the 2040 Comprehensive Plan, and the regulations, purposes, and procedures of this Unified Development Ordinance (UDO).

A conditional use permit ***may not*** be granted by the City Council unless the following criteria have been satisfied (**Note:** Applicant responses are transcribed from the submitted narrative—Exhibit A):

a. The conditional use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO.

   Applicant Response: The use will be in the MX-C: Commercial Mixed-Use zoning district. It will be in accordance with the general objectives of the City's Comprehensive Plan in that it will help provide a stable business for an unoccupied site. This will keep the site in good condition and help keep it and the surrounding area attractive, clean and safe.

   City Staff Response (Finding): As noted above, the Subject Property is located within the City's Commercial Mixed-Use (MX-C) District, and is future guided as Transit-Oriented Development (TOD) under the City's 2040 Comprehensive Plan. The MX-C zoning district and future land use designation of TOD are brand new to the City as of 2023 and 2019, respectively.

   The Subject Property contains an existing building with no plans for building expansion, which minimizes potential opportunities to address some of the desires for new pedestrian ways and creation of a safe pedestrian network. Although the Subject Property is located along the Metro Transit Bus Rapid Transit (BRT) line along Xerxes Avenue North and 55th Avenue North, the site itself, as it stands, does not necessarily fit as a transit-minded development.

   The 2040 Comprehensive Plan does acknowledge that, "even though the City is supportive and planning for redevelopment, it is also possible that some of these areas will not redevelop within this planning period." The proposal would bring life back to the currently vacant Subject Property and address one of the City's 2040 Community Image, Economic Competitiveness & Stability Goals

in promoting, “Brooklyn Center as an exceptional place for businesses, visitors, and residents, both existing and new, because of its locational advantage and accessibility within the region.” As the service provided by the State of Minnesota will bring visitors to the City for a service, there may be additional benefits and visits made to neighboring businesses.

With respect to the Subject Property’s zoning designation (Commercial Mixed-Use or MX-C), the purpose of the MX-C District is to, “accommodate a hybrid urban form of commercial, office, retail, service, and residential uses. This designation is intended primarily for areas adjacent to the TOD (zoning district), and is planned to have a more significant proportion of land use designated for commercial, office, retail, and service uses, with supporting residential uses.”

While City staff would have supported opportunities to create greater pedestrian connections, the placement of the building in the center of the site, paired with the existing parking lot configuration and near 100% impervious site make it difficult to achieve without potentially contemplating a complete redevelopment of the Subject Property. It is in City staff’s opinion that this seems wasteful if there are opportunities to repurpose the building and extend the building’s life.

b. The establishment, maintenance, or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.

Applicant Response: 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. This acts as a deterrence against theft of autos and parts. It will also bring stable occupancy to the site. This will help keep the property in good condition and prevent it from becoming an eyesore. This will also help keep the area more secure and be less inviting to crime.

City Staff Response (Finding): City staff initially expressed concerns regarding the deterioration of the building and property, and the seemingly industrial nature of the use at other inspection station locations in Minnesota. During a meeting with the State of Minnesota Department of Public Safety and Property Owner representatives, City staff addressed the condition of the exterior and brickwork, trash enclosure, and site lighting, which City staff noted as having been stripped of wiring and seemingly non-functional. Further concerns were outlined regarding the site which is almost entirely impervious (pavement), and the potential for landscaping, where possible.

Following the meeting, the Applicant and Property Owner engaged with an architect who has since provided renderings to address the deterioration of the building as well as modernization, given it was constructed in 1966. While the submitted request does not trigger the need for a minor or major site and building plan amendment under Section 35-7600, City staff requested draft copies be provided for review and as supplemental information for addressing the conditional use permit criteria questions as outlined under Section 35-7700. Copies of these preliminary plans are included for reference under Exhibit A.

The Applicant also notes plans to replace the existing site lighting and has provided a photometric plan with lighting specifications for review. As always, any proposed alterations and replacements will need to meet City Code requirements as outlined under Chapter 35 (Unified Development

Ordinance) for proposed building materials and exterior lighting.

City staff further requested plans that would clearly detail the proposed on-site circulation for the use. The State of Minnesota has indicated plans to create one-way flow through the site given the double door bays, and propose installation of on-site directional signage (e.g. "Do Not Enter"). Vehicles would enter off Xerxes Avenue North for queuing purposes. Once a vehicle inspection is complete, vehicles would exit through the second bay door and out to the private road located on the west side of the property. The State of Minnesota noted that there are no plans to store any customer vehicles on site, although they noted plans to store some state vehicles within the bays during non-business hours. City staff re-iterated at numerous points throughout these discussions that in no way can any vehicles obstruct City sidewalks, City right-of-way, or the path of travel along the private road.

c. 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.

Applicant Response: The use will not be injurious to the use and enjoyment of other properties, nor will it diminish their value. Having an occupied site helps maintain values and create synergy for adjacent businesses. The automotive inspection use of the site will be less impactful than traditional automotive uses that have operated there. Repairs will not be done at the site, so there will not be noise related with repairs. There will be no vehicle parts/tires stored at the site. Other than a couple State vehicles that would be parked inside overnight, no vehicles would be stored at the site.

City Staff Response (Finding):
City staff initially outlined concerns early on regarding the lack of proposed improvements to the Subject Property and the more "industrial nature" of other inspection station locations. City staff further inquired on how the proposed use would complement surrounding businesses. In response, the Applicant provided a narrative that noted the, "intent is to be in a location that has more of a retail look and accessibility rather than industrial. This is for better customer service in perception and accessibility. This location accomplishes those objectives."

As stated above, the Applicant and Property Owner worked with an architect to propose a re-cladding of the building. They have also engaged with a lighting contractor and provided lighting specifications and a photometric plan to address the site lighting, with is no longer functional.

While the State initially indicated that semis, buses, and recreational vehicles were sometimes scheduled for inspections at these stations, the State later noted that these types of vehicles would *not* be inspected at this location, and that this location would solely serve passenger-type vehicles. City staff had initially expressed concerns about these inspections due to the size of vehicles, the proposed queuing path for vehicles, and the fact that these types of vehicles would need to be inspected in the parking lot as they would not fit through the bay doors.

d. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

Applicant Response: The State's intended use will not impede development. There is nothing with

the use that restricts surrounding uses and/or development. It is less impactful than an automotive repair shop or tire shop.

City Staff Response (Finding): The area surrounding the Subject Property is developed. The only properties that are currently looking to be developed or redeveloped are located across Xerxes Avenue North and to the east of the Subject Property. City staff expressed concerns early in the process regarding the proposed circulation on-site and queuing. The State of Minnesota noted that they do not accept walk-in appointments and only schedule using their online appointment system. As noted previously, they intend to circulate traffic from the east side of the site (Xerxes Avenue North), into a bay, and then out onto the private road located to the west of the property (private road). As proposed, the inspection station would be open Monday though Friday from 8 a.m. to 5 p.m.

e. Adequate measures have been or will be taken to provide ingress, egress, and parking so designed as to minimize traffic congestion in the public streets.

Applicant Response: Adequate measures are/will be in place to minimize traffic congestion. For the most part, traffic will flow in the front of the property and out the back. This primarily one-way flow helps minimize opposing traffic coming in and out of the site, and it also decreases the amount of traffic going directly to Xerxes. There is plenty of parking and space at the site for the use. This site will not be conducting inspections of large vehicles such as semis and RVs.

City Staff Response (Finding): Based on the provided narrative, the traffic flow enters on the east and exits on the westerly side of the property onto a private road. This road provides access to a number of other businesses, including Falafel King, Starbucks, Pearle Vision, 50s Grill, etc. The curb cut along Xerxes Avenue North is a shared entry between Pearle Vision and the Subject Property, but there is clear parcel delineation. Although the Subject Property and neighboring Pearle Vision (5515 Xerxes Avenue North) were approved under Planning Commission Application No. 66060 with this shared entry, City staff was unable to identify any recorded agreements for the shared access and parking. The Applicant and Property Owner should coordinate with the neighboring owner to ensure any necessary agreements are in place.

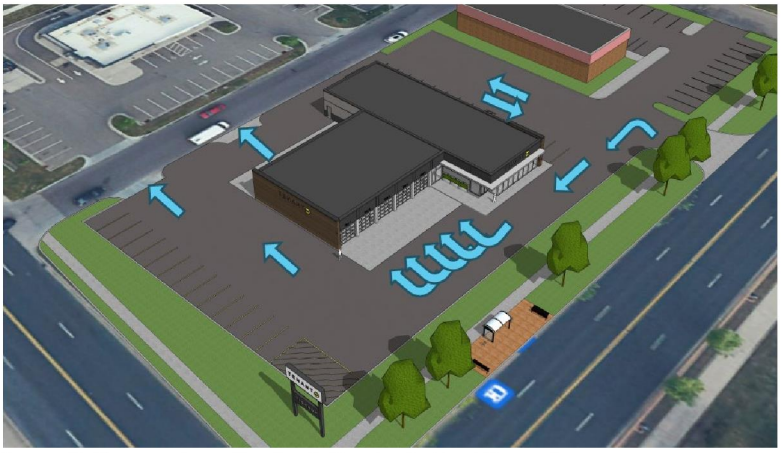


Image 2. Proposed on-site circulation for Subject Property.

City Staff asked the State to provide a diagram noting the proposed traffic flow on-site. The

Applicant provided detailed marked circulation with traffic moving from east to west—refer to Image 2 above. As part of City staff's review, it was noted in the provided documentation that the State of Minnesota estimated a maximum of 15 vehicles per hour, with each inspection typically taking 20 minutes to complete. Assuming an automobile service center of similar size, the peak hour traffic count would be between 35-55 cars. With the presented maximum of 15 cars per hour, this would potentially result in a 40% reduction in traffic from the previous use of the Subject Property. As there are five (5) bay doors, this would allow for up to three (3) vehicle inspections per bay per hour.

Under Planning Commission Application No. 66060, which contemplated a Goodyear tire shop and Superette (5515 Xerxes Avenue North), a total of 106 parking spaces were required between the two properties; however, in reviewing the parking calculations and parking calculations required for the uses, it was determined that these sites were substantially overparked when calculating under the City's current parking standards. Although the approvals under Planning Commission Application No. 66060 required some parking for the adjacent property (5515 Xerxes Avenue North) on the Subject Property, a calculation using today's City parking requirement calculations would deem this unnecessary.

Parking Calculations + Requirements	Subject Property (5501 Xerxes Avenue North)	Adjacent Property (5515 Xerxes Avenue North)
PC Application No. 66060 (1966)		
Automobile Service/Bays	20	
Retail Store	41	34
Total Parking (1966):	61	
PC Application No. 2024-001 (2024)		
Automobile Service/Bays	18	
Other Retail Stores or Centers	13	11
Total Parking (2024):	**31**	11

Table 1. Parking Requirement Comparisons of Subject Property and Adjacent Property (PC Application No. 66060) to Today's City Parking Requirements for Use.

The calculations noted in above Table 1 assume 6 full-time employees for the proposed State of Minnesota vehicle inspection station for the Subject Property located at 5501 Xerxes Avenue North. The "automobile service stations" calculation assumes:

Automobile Service Stations	Three spaces for each enclosed bay plus one space for each day shift employee plus a minimum of two spaces for service vehicles and one additional space for each service vehicle over two in number.

Given the proposed use was considered "unlisted," but with a closest "use" of an automobile service station, City staff also considered the following provision under Section 35-5506 (*Required Parking Spaces*):

Uses not covered by this list	Spaces as required for the most similar use as determined by the Zoning Administrator.

With respect to the retail component, Chapter 35 (Unified Development Ordinance) notes the following for retail locations under 10,000-square feet in size:

Other retail stores or centers and financial institutions	Maximum allowable spaces are determined by the building's Gross Floor Area (GFA) as follows: Less than 10,000 sq. ft. = 3 spaces per 1,000 sq. ft. Greater than 10,000 sq. ft.=4 spaces per 1,000 sq. ft In multi-tenant retail centers, no additional parking spaces beyond those allowed by the retail formula shall be required of restaurant uses which altogether occupy not more than 15% of the gross floor area of the center. The parking formula for eating and drinking establishments shall apply proportionately to the seats and employees occupying space in the center over and above 15% of the gross floor area.

As mentioned previously in the report, there are no plans to store customer vehicles on-site as no repairs are being conducted and the repairs being inspected have already been repaired. The only vehicles the State of Minnesota indicated may be stored on-site are state vehicles, which would be stored within the bays during non-business hours. As no "retail" sales would be occurring at the Subject Property, the existing retail area would serve more as a waiting room for customers.

f. Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses.

Applicant Response:
Given that there will be no automotive repairs that will occur at the site, there will be no noise that a traditional automotive repair shop might have. It is intended to be roughly an 8 am – 5 pm business operation, Monday – Friday, and existing exterior lighting will be repaired by the owner of the property. All of these mitigate negative impacts on nearby uses.

City Staff Response (Finding): The Applicant and Property Owner has made strides to provide modifications to the Subject Property that will bring the property into substantial compliance with respect to site lighting. This alone will help mitigate potentially negative impacts on nearby users as none of the site lighting appears to be operational currently. As no automotive repairs will take place on-site, City staff believes the proposed use will be a lesser intensity use than the previous users (i.e. Big O Tires, Goodyear), and any noise will likely be minimal.

g. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

Applicant Response: There are no known regulations with which the use would not be complying.

City Staff Response (Finding): With respect to the City's current Chapter 35 (Unified Development Ordinance) regulations, there are no plans to expand the non-conforming building. The Applicant and Property Owner intends to renovate the 1966 building to serve a new long-term tenant and address non-compliance issues (e.g. non-functional/code compliant site lighting, faded private stop sign off Xerxes Avenue North, lack of striping, address existing trash enclosure).

Although City staff would appreciate any opportunities to meet current standards under the City's Unified Development Ordinance, such as the provision of landscaping and better pedestrian connections, a reduction of impervious surfacing, and relocation of the building, these requests would ultimately result in other implications (e.g. meeting current Shingle Creek/West Mississippi

Watershed Commission requirements, complete redevelopment, etc.).

Assistant City Engineer's Review
As addressed in the above criteria, Assistant City Engineer James Soltis reviewed the proposal, which contemplates no more than 15 appointments per hour. As a typical automobile service center of this size would have a peak hourly traffic of between 35-55 cars, the proposal represents a potential 40% reduction in traffic from the previous use of the Subject Property. Upon an initial review, City Engineering staff did not see any major issues relating to potential traffic coming on and off this site and given the proposed use.

With respect to erosion control, the submitted narrative does not discuss potential areas of site disturbance. As such, this would be reviewed as part of the building permit process. City Code requires ground disturbance of greater than 10,000-square feet to have an approved erosion control plan in place and issuance of a City land disturbance permit. Any disturbance greater than 0.5 acres would require the incorporation of permanent water quality best management practices (BMPs) to meet Shingle Creek Watershed Commission standards.

Building Official Review
Building Official Dan Grinsteinner conducted a cursory review of the proposed reuse of the former Big O Tires site at 5501 Xerxes Avenue North and for the intended use as a State of Minnesota vehicle inspection station. Given the re-classification of the building (refer to Exhibit C), it is anticipated the building will require installation of a fire sprinkler system. Additionally, a Metropolitan Council SAC (Sewer Availability Charge) determination for the change of use shall be submitted prior to issuance of any permits.

ANTICIPATED PERMITTING AND CONDITIONS
Following a review of the submittal materials and the request, City staff recommends the following conditions be attached to any positive recommendation on the approval of Planning Commission Application No. 2024-001 for the Subject Property located at 5501 Xerxes Avenue North and approval of a conditional use permit to operate a State of Minnesota Department of Public Safety and Division of Driver and Vehicle Services inspection station:

1. Any major changes or modifications made to the previously approved site and building plan, and as outlined within the City Code, can only be made by an amendment to the approved site and building plan as approved by the City Council.
    i. Applicant and Property Owner shall work with City staff to address exterior modifications to the building that meet City Code requirements with respect to building materials in accordance with 35-5203 (*Building Materials*).
    ii. Applicant and Property Owner shall work with City staff to provide exterior site lighting in accordance with Section 35-5400 (*Exterior Lighting*).
    iii. Applicant and Property Owner shall work with City staff to re-stripe the surface parking lot as necessary to provide sufficient parking for the use, clear circulation, and on-site directional signage to minimize confusion by customers.
2. Building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits, and with respect to the cursory review comments provided in the Building Official's memorandum dated February 2, 2024.
3. The Applicant shall work to ensure all applicable Minnesota Fire Code requirements have been met as part of any site plan approval and with respect to the proposed modifications to the building.

i. A fire sprinkler system is required to be installed and shall be maintained on a consistent basis per City Code requirements.

4. A SAC Determination shall be submitted by the Applicant to the Metropolitan Council and any associated fees paid at time of any permit issuance.
5. Any outside trash disposal facilities and rooftop or ground mechanical equipment shall be appropriately screened from view per City Code requirements and a detail sheet provided.
6. The Applicant shall work with the adjacent property owner located at 5515 Xerxes Avenue North to determine necessity of or amendment to a shared access agreement for the driveway access off Xerxes Avenue North.
7. The Applicant and Property Owner shall adhere to the provisions as outlined under Section 35-7700 (*Conditional Use Permit*), and shall coordinate with City staff to file a copy of the City Council resolution approving the requested conditional use permit, along with a legal description of the Subject Property for which the permit was issued, and list of any conditions set forth by City Council as a condition of said conditional use permit. A certified copy shall be recorded by the Applicant with the Hennepin County Recorder-Registrar of Titles within 60 days of approval of said resolution.
    i. Issuance of a conditional use permit for the Subject Property shall be limited to the inspection of passenger type motor vehicles and the operator shall not conduct inspections of larger vehicles (e.g. semis, recreational vehicles, buses).
8. The Applicant shall ensure appointments are scheduled so as to avoid blocking the shared driveway (Xerxes Avenue North), adjacent private road, public sidewalks, or queuing vehicles in the City right-of-way. Should any of the aforementioned issues arise, City staff may request a review of its on-site operations and spacing of appointment windows.
9. The Applicant shall submit a Sign Permit Application for any proposed new or replacement signage (e.g., wall, freestanding) and receive issuance of a permit prior to any installation. All signage shall conform to City requirements.
    i. Any proposed on-site directional signage shall be submitted for review and approval by City staff in advance of install.

RECOMMENDATION

Based on the above-noted findings, Planning Staff recommends the Planning Commission recommends City Council approval of Planning Commission Application No. 2024-001 for approval of a conditional use permit (CUP) for the Subject Property located at 5501 Xerxes Avenue North for a State of Minnesota Department of Vehicle Services (DVS) inspection station, subject to the Applicant complying with the Approval Conditions.

ATTACHMENTS

Exhibit A – Planning Commission Application No. 2024-001 Plans and Documents, submitted January 9, 2024, and last revised January 18, 2024.

Exhibit B – Public Hearing Notice, submitted for publication in the Brooklyn Center *Sun Post*, and dated January 25, 2024.

Exhibit C – Review Memorandum, prepared by Building Official Dan Grinsteinner, and last revised February 2, 2024.

Exhibit A

City of Brooklyn Center

Narrative for the State of Minnesota Department of Public Safety, Vehicle Inspections

5501 Xerxes Avenue North, Brooklyn Center

The State of Minnesota Department of Public Safety, Driver and Vehicle Services (DVS) - Vehicle Inspections will use the site to provide legal inspections to auto dealers and individuals who have reconstructed and repaired vehicles. This involves the inspection of vehicles and the visual inspection of parts that were used in the repaired vehicles. The inspections will be carried out by DVS employees, and visual inspections will be done in bays that are normally used for the repair of vehicles. This location is an ideal site for DVS because of its previous use as an auto shop and the existing bays onsite can be used by DVS to pull cars into bays for inspection. Additionally, the existing bays are drive-through, which allows for safer one-way traffic with the clients and the surrounding area.

By inspecting fully repaired vehicles, DVS can validate that parts were obtained legally and update the branding within our systems. Inspections are carried out by DVS employees, and approximately 80% of those visiting a vehicle inspection station are auto dealers with whom DVS has a working relationship. All visits are scheduled with the intent of not having queuing lines at the site.

The intent is to be in a location that has more of a retail look and accessibility rather than industrial. This is for better customer service in perception and accessibility. This location accomplishes those objectives.

Regarding Section 35-7703 conditional use permit criteria, here is how the criteria will be met.

a. **The use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO (Unified Development Ordinance).** The use will be in the MX-C: Commercial Mixed-Use zoning district. It will be in accordance with the general objectives of the City's Comprehensive Plan in that it will help provide a stable business for an unoccupied site. This will keep the site in good condition and help keep it and the surrounding area attractive, clean and safe.

b. **The establishment, maintenance, or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.** 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. This acts as a deterrence against theft of autos and parts. It will also bring stable occupancy to the site. This will help keep the property in good condition and prevent it from becoming an eyesore. This will also help keep the area more secure and be less inviting to crime.

c. **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 use will not be injurious to the use and enjoyment of other properties, nor will it diminish their value. Having an occupied site helps maintain values and create synergy for adjacent businesses. The automotive inspection use of the site will be less impactful than traditional automotive uses that have operated there. Repairs will not be done at the site, so there will not be noise related with repairs. There will be no vehicle parts/tires stored at the site. Other than a couple State vehicles that would be parked inside overnight, no vehicles would be stored at the site.

d. **The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.** The State's intended use will not impede development. There is nothing with the use that restricts surrounding uses and/or development. It is less impactful than an automotive repair shop or tire shop.

e. **Adequate measures have been or will be taken to provide ingress, egress, and parking so designed as to minimize traffic congestion in the public streets.** Adequate measures are/will be in place to minimize traffic congestion. For the most part, traffic will flow in the front of the property and out the back. This primarily one-way flow helps minimize opposing traffic coming in and out of the site, and it also decreases the amount of traffic going directly to Xerxes. There is plenty of parking and space at the site for the use. This site will not be conducting inspections of large vehicles such as semis and RVs.

f. **Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses.** Given that there will be no automotive repairs that will occur at the site, there will be no noise that a traditional automotive repair shop might have. It is intended to be roughly an 8 am – 5 pm business operation, Monday – Friday, and existing exterior lighting will be repaired by the owner of the property. All of these mitigate negative impacts on nearby uses.

g. **The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.** There are no known regulations with which the use would not be complying.

LAUNCH PROPERTIES

Narrative: 5501 Xerxes Ave. N.



Proposed
Vehicle Inspection Service Location

DEPARTMENT OF PUBLIC SAFETY
STATE OF MINNESOTA

Purpose

- The purpose of the Vehicle Inspection Service is to provide convenient, clean, safe, easy-to-use, easy-to-find, vehicle re-certification inspections for the general public and professionals for their repaired vehicles to get back on the road, for private use or for sale after having been previously designated as “total losses” by an insurance company.

Aerial of Existing Vacant Site



Current Condition







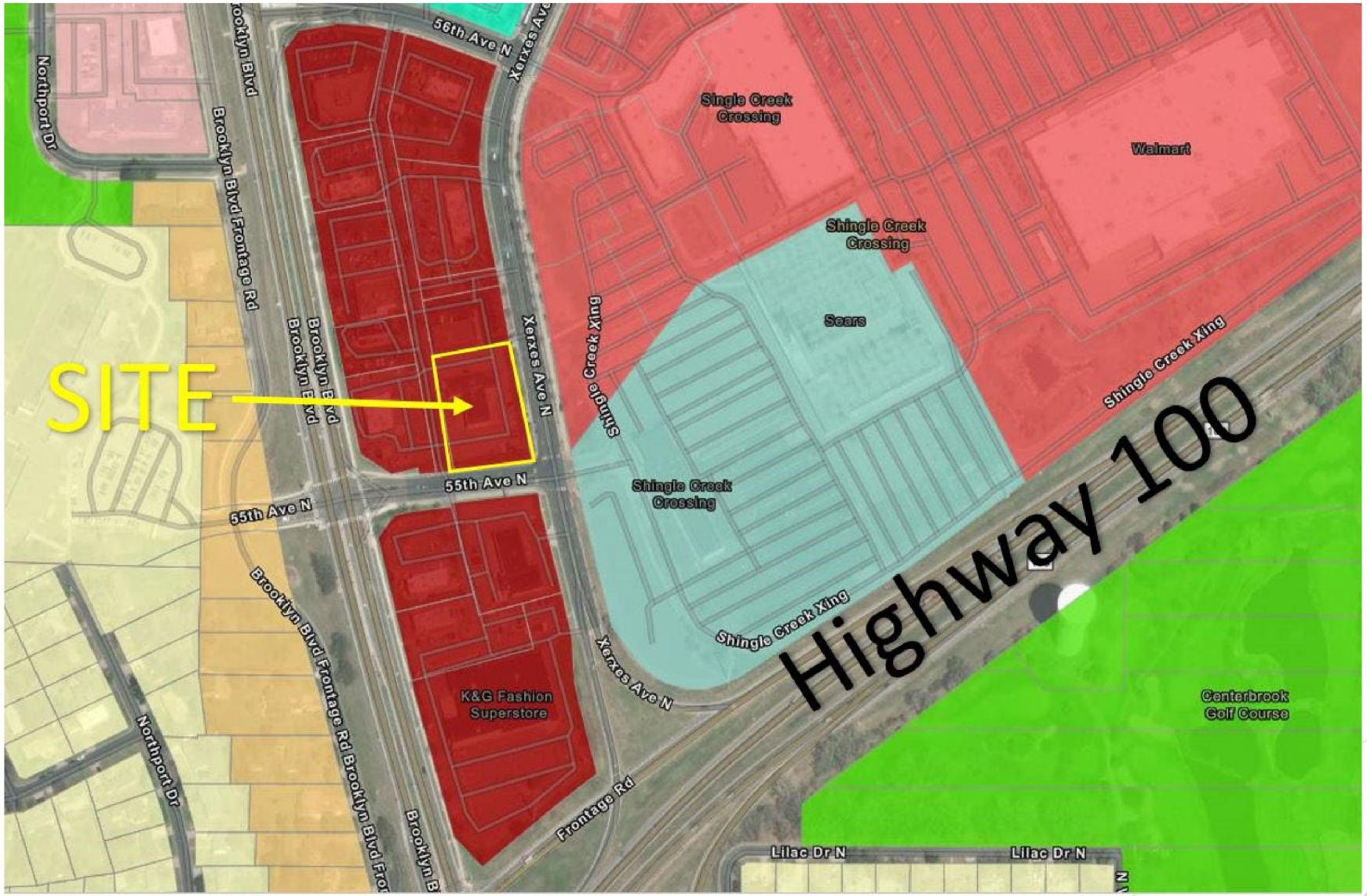








Zoning



- I : General Industrial
- MX-C : Commercial Mixed-Use
- C : Commerce - Service/Office
- TOD : Transit Oriented Development
- O : Public Open Space

Renderings



Renderings



Renderings



General Information

- Hours of Operation: Monday – Friday 8am – 5pm
- Full-Time Employees: 6
- Part-Time Employees: 0
- Lease Commitment: 10 Years
- Inspection Bays: 5
- Advance Appointments Required: Yes
- Fee: $35.00

FAQ's

- Q. How long does each appointment take?
  A. Approximately 20 minutes

- Q. How many appointments per hour?
  A. Up to 15 maximum

- Q. Why are cars being inspected?
  A. They have been declared "Totaled" by an insurance company and then repaired. A successful inspection prepares the car for sale or use.

- Q. What condition are the cars being inspected?
  A. Generally Spotless. Clean. Like-new.

- Q. What is typical "totaled" damage that can be repaired?
  A. Common repaired damage is: Hail Damage and Air Bag Deployment.

FAQ's

- Q. Who is driving the vehicle in?
  A. Employees from car dealerships (appx 80%)
  and private owners from the general public (appx. 20%).

- Q. When did the State of Minnesota start this service?
  A. 1989.

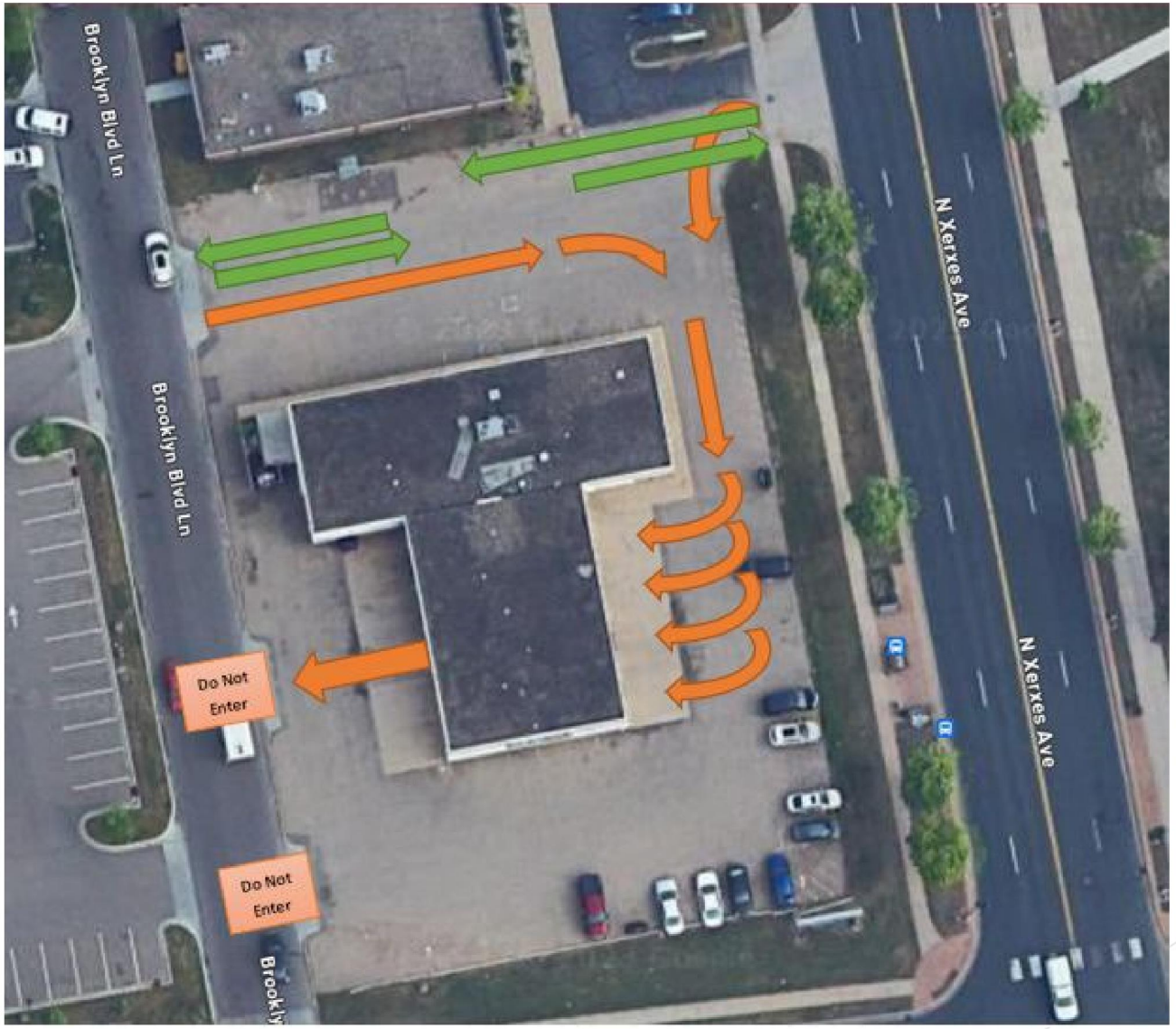
- Q. Why do you want to be at this location?
  A. We want an easy-to-find, convenient, safe, clean location in and amongst the community for our customers. Not hidden. We want a location in the western metro and this facility has everything we need

- Q. Will stolen vehicles be coming through here?
  A. No. The vehicles have a prior documented history.

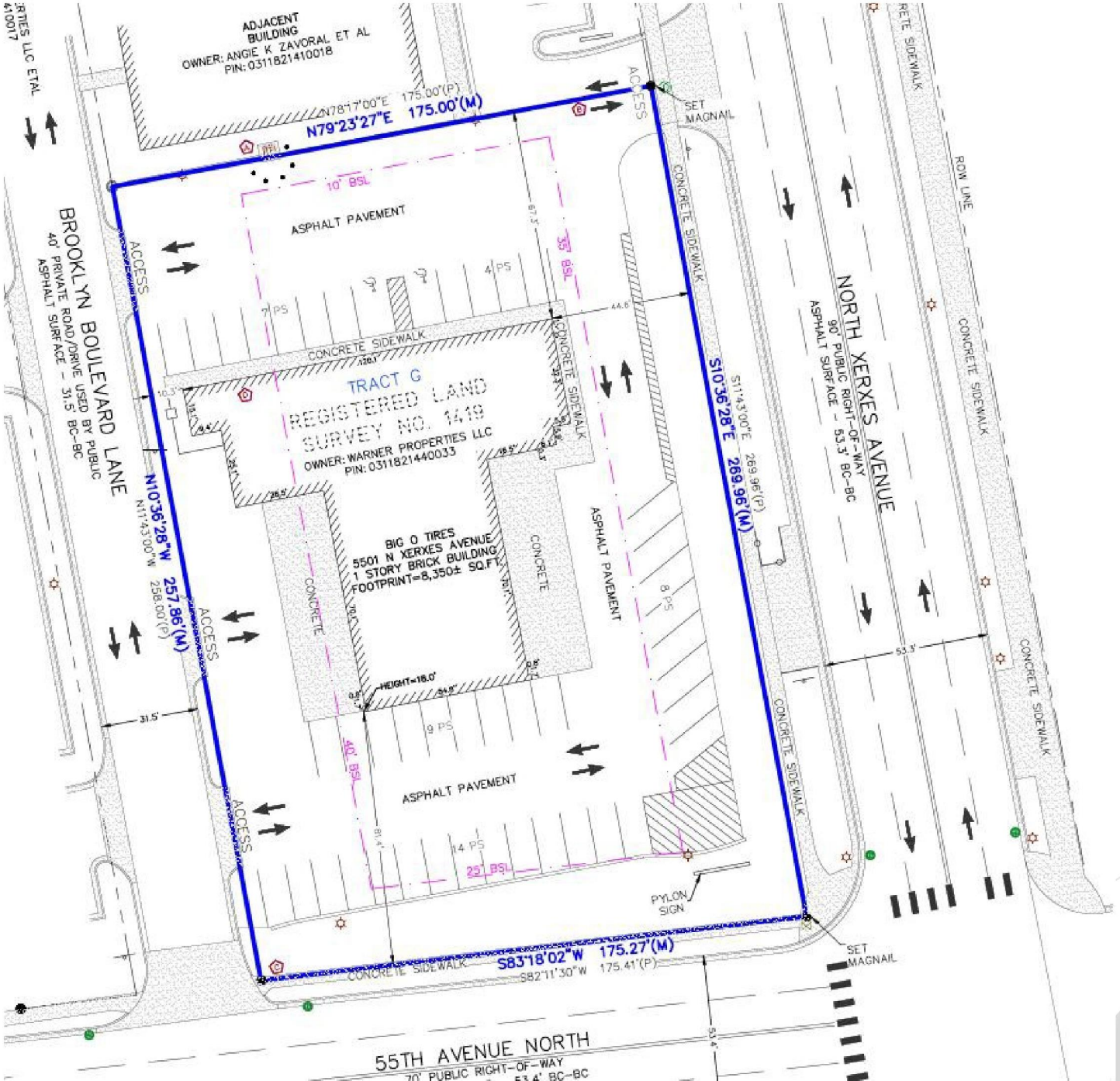
Benefits for City and Community

- Affordable cars for underrepresented people.
- Helps vehicle supply chain.
- No parked or stored vehicles.
- Helps small auto dealers compete.
- No car stacking. Controlled customer flow.
- Positive experience with Department of Public Safety.
- Brings Activity and new visitors to the area.

Traffic Flow



Survey


ADJACENT BUILDING
OWNER: ANGIE K ZAVORAL ET AL
PIN: 0311821410018
N78°17'00"E 175.00'(P)
N79°23'27"E 175.00'(M)
SET MAGNAIL
ACCESS
10' BSL
ASPHALT PAVEMENT
35' BSL
7 PS
4 PS
CONCRETE SIDEWALK
TRACT G
REGISTERED LAND
SURVEY NO. 1419
OWNER: WARNER PROPERTIES LLC
PIN: 0311821440033
BIG O TIRES
5501 N XERXES AVENUE
1 STORY BRICK BUILDING
FOOTPRINT=8,350± SQ.FT
HEIGHT=18.0'
CONCRETE
ASPHALT PAVEMENT
8 PS
9 PS
40' BSL
14 PS
25' BSL
PYLON SIGN
S10°36'28"E 269.96'(M)
S11°43'00"E 269.96'(P)
N10°36'28"W 257.86'(M)
N11°43'00"W 258.00'(P)
S83°18'02"W 175.27'(M)
S82°11'30"W 175.41'(P)
BROOKLYN BOULEVARD LANE
40' PRIVATE ROAD/DRIVE USED BY PUBLIC
ASPHALT SURFACE - 31.5' BC-BC
NORTH XERXES AVENUE
90' PUBLIC RIGHT-OF-WAY
ASPHALT SURFACE - 53.3' BC-BC
ROW LINE
55TH AVENUE NORTH
70' PUBLIC RIGHT-OF-WAY

The Development Team

- Architect: 10K Architecture
- Civil Engineer: Kimley-Horn
- General Contractor: Rochon
- Project Management: Launch Properties
- Property Management: Summerhill Commercial
- Real Estate Brokers: Avison & Young
- Financing: Sunrise Bank
- Tenant: State of Minnesota Department of Public Safety
- Owner: Totem Foods Inc.

Narrative Conclusion

The Development Team is excited to bring forth this new concept and we look forward to your support with these main benefits in mind:

- **Process provides affordable vehicles to the market.**
- **Brings clean, safe activity to the area.**
- **Stable, long-term tenant.**
- **Highlight 4:**



10K ARCHITECTURE

Vehicle Inspection Facility - 5501 Xerxes, Brooklyn Center

Date Issued: 01.09.24





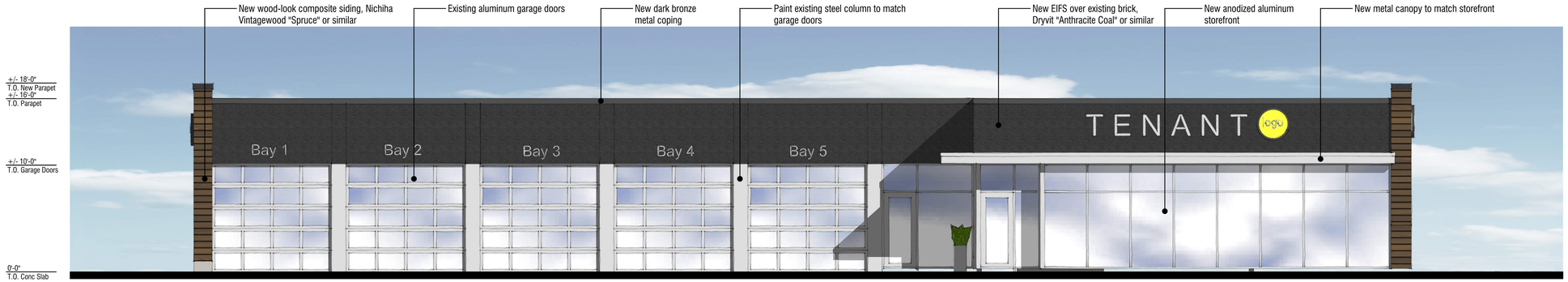




10K ARCHITECTURE

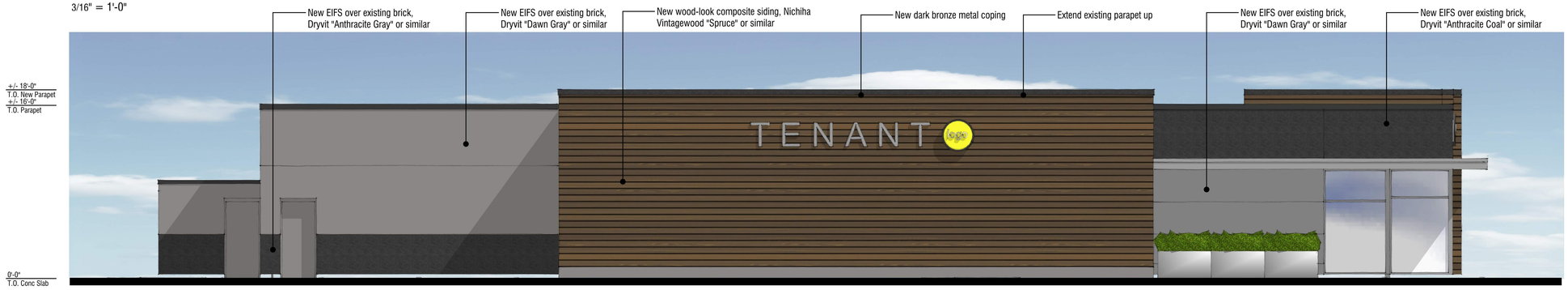
Vehicle Inspection Facility - 5501 Xerxes, Brooklyn Center

Date Issued: 01.09.24



East Elevation

3/16" = 1'-0"



South Elevation

3/16" = 1'-0"



West Elevation

3/16" = 1'-0"



West Elevation

3/16" = 1'-0"

ELEVATION	TOTAL FAÇADE AREA (SF)	EIFS AREA (SF)	EIFS (PERCENTAGE)	NICHIHA AREA (SF)	NICHIHA (PERCENTAGE)	CAST STONE AREA (SF)	CAST STONE (PERCENTAGE)	GLASS (SF), INCLUDES GLASS GARAGE DOORS	GLASS (PERCENTAGE)	MISC. (COPING, DOORS, METALS, CANOPIES, SOLID GARAGE DOORS)	MISC. (PERCENTAGE)
SOUTH ELEVATION	1916	781	40.76%	868	45.30%	55	2.87%	115	6.00%	97	5.06%
WEST ELEVATION	1785	910	50.98%	27	1.51%	2	0.11%	412	23.08%	434	24.31%
NORTH ELEVATION	1843	1453	78.84%	311	16.87%	20	1.09%	0	0.00%	59	3.20%
EAST ELEVATION	1785	595	33.33%	27	1.51%	4	0.22%	1001	56.08%	158	8.85%
TOTALS	7329	3739	51.02%	1233	16.82%	81	1.11%	1528	20.85%	748	10.21%

10K ARCHITECTURE

Vehicle Inspection Facility - 5501 Xerxes, Brooklyn Center

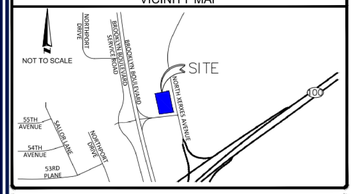
Date Issued: 01.09.24

Schedule										
Symbol	Label	Quantity	Manufacturer	Catalog Number	Description	Number Lamps	Lumens Per Lamp	LLD Factor	Wattage
	AA	3	COOPER LIGHTING SOLUTIONS - Roadway Lighting (FORMERLY EATON's)	CAN1B-SA1A-T4FT-HS	VOLUM AREA REV ROADWAY LUMINAIRE 13-70 CRI, 4000K, 8 CELLS, TYPE II MEDIUM, SINGLE UNIT, ARM MOUNTED, HOUSING TAN/DK BRONZE, WITH HOUSE SIDE SHIELD	32	3514	1	94
	AA1	2	COOPER LIGHTING SOLUTIONS - Roadway Lighting (FORMERLY EATON's)	CAN1B-MA2C-T4S-U-HS-BT	VOLUM AREA REV ROADWAY LUMINAIRE 13-70 CRI, 4000K, 8 CELLS, TYPE II MEDIUM, CONFIGURED WITH 10 LEAD SOCK AND BOTTOM MOUNTED ARM, HOUSING TAN	32	4301	1	113
	BB	6	Lithonia Lighting	RADIUS LED XL ADE SERIES WITH	RADIUS LED XL ADE SERIES - PERFORMANCE PACKAGE, 4000K CCT, 70 CRI, FORWARD THROW OPTICS, WITH HOUSE SIDE SHIELD	1	2291	1	19.9423
	BB1	5	Lithonia Lighting	RADIUS LED XL ADE SERIES WITH	RADIUS LED XL ADE SERIES - PERFORMANCE PACKAGE, 4000K CCT, 70 CRI, FORWARD THROW OPTICS, WITH HOUSE SIDE SHIELD	1	4527	1	36.4169
	BB2	1	Lithonia Lighting	RADIUS LED XL ADE SERIES WITH (TYPE 5 LE	RADIUS LED XL ADE SERIES - PERFORMANCE PACKAGE, 4000K CCT, 70 CRI, TYPE 5 WIDE OPTICS, WITH HOUSE SIDE SHIELD	1	5486	1	51.1215
	BB3	2	Lithonia Lighting	RADIUS LED XL ADE SERIES WITH	RADIUS LED XL ADE SERIES - PERFORMANCE PACKAGE, 4000K CCT, 70 CRI, FORWARD THROW OPTICS, WITH HOUSE SIDE SHIELD	1	4527	1	44.4169
	CC	6	Lithonia Lighting	DSXO LED 20C 530MA SQ MVOLT HSS	DSXO LED 20 SERIES SQUARE LUMINAIRE, 20 LED, 530MA DRIVE CURRENT, 4000K CCT, 70 CRI, TYPE 3 OPTICS, WITH HOUSE SIDE SHIELD	1	2400	1	19.37

Statistics

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Building Entry/Side Walk	+	12.8 fc	15.4 fc	10.4 fc	1.5:1	1.2:1
Building Entry/Side Walk	+	12.9 fc	14.4 fc	11.5 fc	1.3:1	1.1:1
Building Entry/Side Walk	+	13.7 fc	14.0 fc	13.3 fc	1.1:1	1.0:1
Building Entry/Side Walk	+	17.5 fc	23.9 fc	11.1 fc	2.2:1	1.6:1
Light Trespass	+	0.0 fc	1.0 fc	0.0 fc	N/A	N/A

VICINITY MAP



BASIS OF BEARING

BEARINGS AND DISTANCES ARE BASED ON HENNEPIN COUNTY COORDINATE SYSTEM NAD83 (1996) MNCORS

FLOOD INFORMATION

FLOOD NOTE: BASED ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AVAILABLE ONLINE AT WWW.MSC.FEMA.GOV, AND BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS LOCATED IN ZONE "X" (HAZARDS UNDETERMINED) ON FLOOD INSURANCE RATE MAP NUMBER 27053C0212F, WHICH BEARS AN EFFECTIVE DATE OF 11/04/2016 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA. BY REVIEWING FLOOD MAPS PROVIDED BY THE NATIONAL FLOOD INSURANCE PROGRAM WE HAVE LEARNED THIS COMMUNITY DOES PARTICIPATE IN THE PROGRAM. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THE ACCURACY OF THE MAPS AND/OR TO APPLY FOR A VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

OBSERVED SIGNIFICANT OBSERVATIONS

1. TRANSFORMER W/CONCRETE PAD CROSSES ONTO ADJOINER 4.6'
2. NO EASEMENT FOR APPARENT SHARED ACCESS TO XERXES AVE
3. CONCRETE SIDEWALK CROSSES ONTO SUBJECT PROPERTY 1.1'
4. BUILDING CROSSES INTO SETBACK 29.7'

UTILITY NOTE

THE SURVEY SHOWS THE LOCATION OF UTILITIES EXISTING ON OR SERVING THE SURVEYED PROPERTY AS DETERMINED BY OBSERVED EVIDENCE COLLECTED PURSUANT TO ALTA SECTION 5 E IV

ZONING INFORMATION

ITEM	REQUIRED	CONTACT: PARTNER
ZONING DESIGNATION	C2	REPORT DATE: 8/4/2022
MINIMUM LOT AREA (SQ. FT.)	NA	REPORT #: 22-379963.3
MINIMUM FRONTAGE	NA	
MINIMUM LOT WIDTH	270'	
MAX IMPERVIOUS COVERAGE	NA	PARKING REQUIREMENTS:
MAX BUILDING HEIGHT	NA	3 X 5 Bays = 8 (Maximum number of employees) = 2 Spaces = 1 (Maximum of 1 Service Vehicles) =26 TOTAL REQUIRED SPACES
MINIMUM SETBACKS		
FRONT	35'	
INTERIOR SIDE/CORNER SIDE	10'/25'	
REAR	40'	

NOTES:

SURVEYOR'S NOTES

1. ALL STATEMENTS WITHIN THE CERTIFICATION, AND OTHER REFERENCES LOCATED ELSEWHERE HEREON, RELATED TO UTILITIES, IMPROVEMENTS, STRUCTURES, BUILDINGS, PARTY WALLS, EASEMENTS, SERVITUDES, FOUNDATIONS AND POSSIBLE ENCROACHMENTS ARE BASED SOLELY ON ABOVE GROUND, VISIBLE EVIDENCE, UNLESS ANOTHER SOURCE OF INFORMATION IS SPECIFICALLY REFERENCED HEREON.

2. SUBJECT TRACT HAS DIRECT PHYSICAL DRIVEWAY ACCESS TO NORTH XERXES AVENUE A PUBLICLY DEDICATED ROAD AND BROOKLYN BOULEVARD LANE A PRIVATE ROAD.

3. THE DIMENSIONS AND AREA OF THE BUILDING(S) SHOWN ARE BASED ON THE BUILDING'S EXTERIOR FOOTPRINT AT GROUND LEVEL.

4. THE POINT OF HEIGHT MEASUREMENT IS IDENTIFIED ON THE SURVEY AND WAS TAKEN FROM THE NEAREST ADJACENT GRADE AT SAID POINT. THIS POINT REPRESENTS THE HEIGHT OF THE STRUCTURE AS OBSERVED FROM GROUND LEVEL.

5. NO UNDERGROUND UTILITIES HAVE BEEN LOCATED AND/OR SHOWN ON THIS SURVEY. ONLY VISIBLE AND APPARENT ABOVE GROUND UTILITY APPURTENANCES ARE SHOWN.

6. THERE IS NO OBSERVABLE EVIDENCE OF EARTH MOVING WORK, OR BUILDING CONSTRUCTION ON THE SURVEYED PROPERTY.

7. THERE ARE NO OBSERVABLE EVIDENCE OF ANY CHANGES IN STREET RIGHT-OF-WAYS OR RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIR.

8. THERE IS NO OBSERVABLE EVIDENCE OF CEMETERIES ON THE SURVEYED PROPERTY.

9. ALL RECIPROCAL EASEMENT AGREEMENTS ("REAS") THAT HAVE BEEN REPORTED BY THE TITLE REPORT PROVIDED HAVE BEEN DENOTED ON THE SURVEY AND ARE SHOWN HEREON. THE LIMITS OF ANY OFFSITE APPURTENANT EASEMENTS THAT HAVE BEEN REPORTED BY THE TITLE REPORT PROVIDED HAVE BEEN DENOTED ON THE SURVEY AND ARE SHOWN HEREON.

10. THIS SURVEY DOES NOT PROVIDE A DETERMINATION OR OPINION CONCERNING THE LOCATION OR EXISTENCE OF WETLANDS, FAULT LINES, TOXIC OR HAZARDOUS WASTE AREAS, SUBSIDENCE, SUBSURFACE AND ENVIRONMENTAL CONDITIONS OR GEOLOGICAL ISSUES. NO STATEMENT IS MADE CONCERNING THE SUITABILITY OF THE SUBJECT TRACT FOR ANY INTENDED USE, PURPOSE OR DEVELOPMENT.

11. UNLESS SHOWN OTHERWISE, THE SURVEYED BOUNDARY SHOWN HEREON ARE CONTIGUOUS WITH ADJOINING PROPERTIES AND/OR RIGHTS OF WAY WITHOUT ANY GAPS, GORES OR OVERLAPS

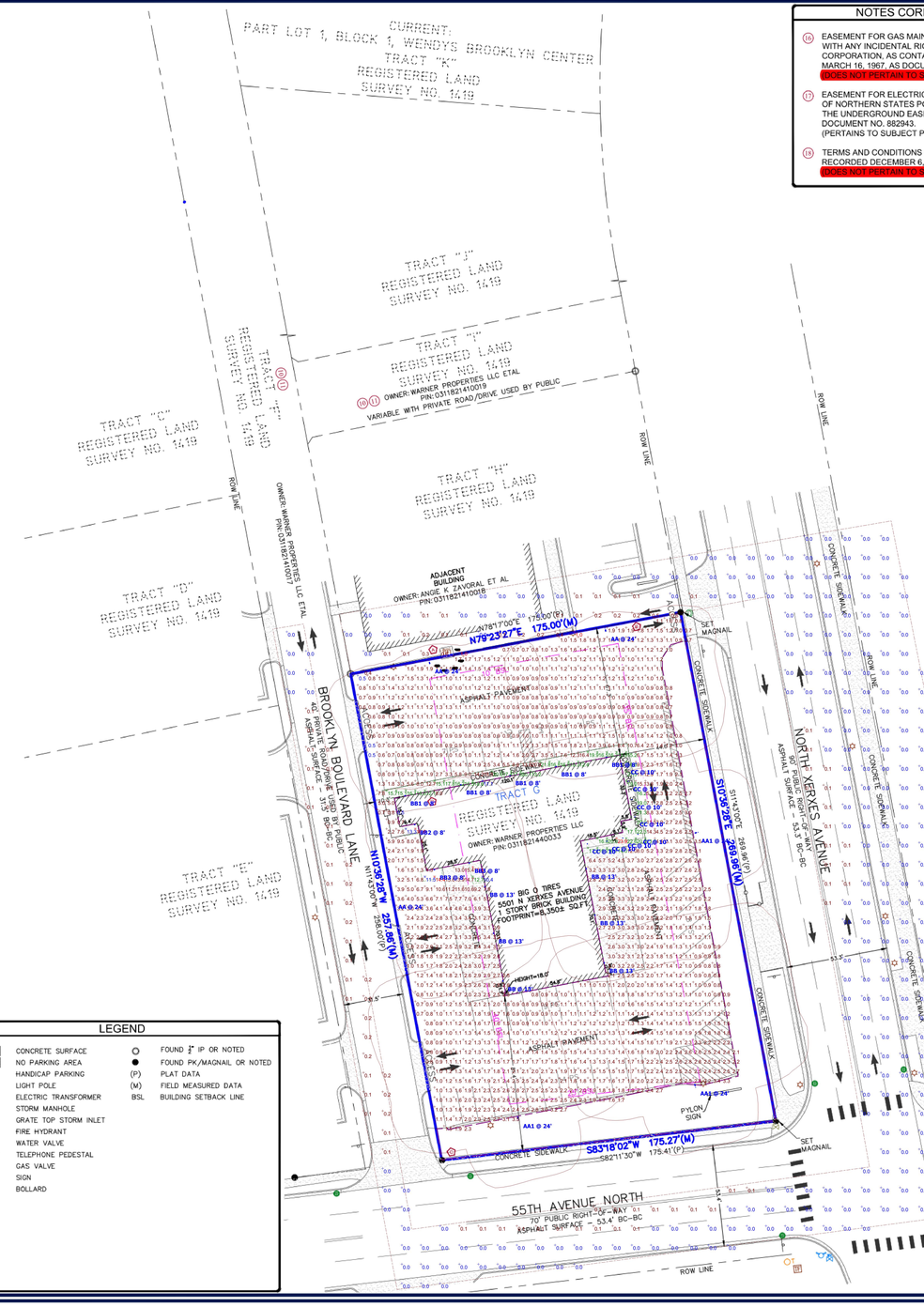
12. UNLESS SHOWN OTHERWISE, NO VISIBLE EVIDENCE OF SUBSTANTIAL AREAS OF REFUSE WERE OBSERVED AT THE TIME THE FIELDWORK WAS PERFORMED.

13. THIS SURVEY MAY NOT SHOW ALL RECORDED OR UNRECORDED PROPERTY RIGHTS OR INTERESTS. THIS SURVEY DOES NOT DETERMINE OWNERSHIP OF IMPROVEMENTS SHOWN HEREON. THIS SURVEY ONLY SHOWS INFORMATION PROVIDED TO THE SURVEYOR BY THIRD PARTIES, INFORMATION GATHERED BY THE SURVEYOR PURSUANT TO THIS SURVEY REQUEST AND AGREED SCOPE OF WORK AND CONDITIONS AT THE TIME OF FIELD SURVEY.

14. THIS SURVEY IS VALID FOR THIS ALTA LAND TITLE TRANSACTION ONLY AND IS TO BE RELIED UPON BY THE PARTIES TO THIS SPECIFIC TRANSACTION AND NO OTHERS. USE OF THIS SURVEY FOR OTHER PURPOSES, INCLUDING BUT NOT LIMITED TO THE PLANNING OR CONSTRUCTION OF IMPROVEMENTS, IS VOID AND AT USER'S OWN RISK. THE FINAL SIGNED PDF AND OR PRINT OF THIS SURVEY SHALL BE THE OFFICIAL VERSION.

15. IF SHOWN HEREON, PARCEL OWNERSHIP AND TAX IDENTIFICATION NUMBERS HAVE BEEN DETERMINED BY PUBLICLY AVAILABLE INFORMATION FROM A GIS, ASSESSOR/TREASURER OR OTHER GOVERNMENT DATABASE. THERE MAY BE ERRORS OR PENDING CHANGES THAT THE SURVEYOR IS UNAWARE OF.

16. IF SHOWN HEREON, "ACCESS" INDICATES PHYSICAL VEHICULAR ACCESS ONTO OR FROM THE SUBJECT PROPERTY. THIS MAY OR MAY NOT REPRESENT LEGAL ACCESS OR PERMITTED ACCESS, UNLESS EXPRESSLY NOTED HEREON.



LEGEND

	CONCRETE SURFACE	○	FOUND ½" IP OR NOTED
	NO PARKING AREA	●	FOUND PK/MAGNAIL OR NOTED
	HANDICAP PARKING	(P)	PLAT DATA
	LIGHT POLE	(M)	FIELD MEASURED DATA
	ELECTRIC TRANSFORMER	BSL	BUILDING SETBACK LINE
	STORM MANHOLE		
	GRATE TOP STORM INLET		
	FIRE HYDRANT		
	WATER VALVE		
	TELEPHONE PEDESTAL		
	GAS VALVE		
	SIGN		
	BOLLARD		

Plan View
Scale - 1" = 30ft

NOTES CORRESPONDING TO SCHEDULE "B" ITEMS

16. EASEMENT FOR GAS MAINS, SERVICE PIPES AND APPURTENANCES THERETO, TOGETHER WITH ANY INCIDENTAL RIGHTS, IN FAVOR OF MINNEAPOLIS GAS COMPANY, A DELAWARE CORPORATION, AS CONTAINED IN THE EASEMENT, DATED NOVEMBER 4, 1966, RECORDED MARCH 16, 1967, AS DOCUMENT NO. 870698. (DOES NOT PERTAIN TO SUBJECT PROPERTY)

17. EASEMENT FOR ELECTRIC PURPOSES, TOGETHER WITH ANY INCIDENTAL RIGHTS, IN FAVOR OF NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, AS CONTAINED IN THE UNDERGROUND EASEMENT, DATED JULY 26, 1967, RECORDED AUGUST 4, 1967, AS DOCUMENT NO. 882943. (PERTAINS TO SUBJECT PROPERTY, NOT PLOTTED HEREON AS IT IS BLANKET IN NATURE)

18. TERMS AND CONDITIONS AS CONTAINED IN AGREEMENT, DATED DECEMBER 2, 1968, RECORDED DECEMBER 6, 1968, AS DOCUMENT NO. 928745. (DOES NOT PERTAIN TO SUBJECT PROPERTY)

TITLE DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF HENNEPIN, STATE OF MN, AND IS DESCRIBED AS FOLLOWS:

TRACT G, REGISTERED LAND SURVEY NO. 1419, HENNEPIN COUNTY, MINNESOTA.

AN UNDIVIDED 46,197/336, 308THS INTEREST IN AND TO:

TRACTS F AND I, REGISTERED LAND SURVEY NO. 1419, HENNEPIN COUNTY, MINNESOTA.

(TORRENS PROPERTY - CERTIFICATE OF TITLE NO. 1548344)

NOTES CORRESPONDING TO SCHEDULE "B" ITEMS

9. SUBJECT TO A SNOW FENCE EASEMENT DITCH AND DRAINAGE RIGHTS AND A LIMITATION OF THE RIGHT OF ACCESS FROM SAID PREMISES TO TRUNK HIGHWAY NO. 100 AS CONTAINED IN INSTRUMENT OF RECORD IN BOOK 2035 OF DEEDS, PAGE 7, SHOWN AS A RECITAL ON THE CERTIFICATE OF TITLE. (DOES NOT PERTAIN TO SUBJECT PROPERTY)

10. TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR ROADWAY PURPOSES OVER AND UPON THE UNDIVIDED 290,111/336,308THS OF SAID TRACTS I AND K, REGISTERED LAND SURVEY NO. 1209, AS SHOWN IN DEED DOCUMENT NO. 928744, FILES OF REGISTRAR OF TITLES; (SEE INST) (NOW AS TO TRACTS F AND I), SHOWN AS A RECITAL ON THE CERTIFICATE OF TITLE. (PLOTTED HEREON)

11. RESERVING A NON-EXCLUSIVE EASEMENT FOR ROADWAY PURPOSES OVER AND UPON THE UNDIVIDED 46,197/336,308THS OF SAID TRACTS I AND K, REGISTERED LAND SURVEY NO. 1209 AS SHOWN IN DEED DOCUMENT NO. 928774, FILES OF REGISTRAR OF TITLES; (SEE INST) (NOW AS TO TRACTS F AND I), SHOWN AS A RECITAL ON THE CERTIFICATE OF TITLE. (PLOTTED HEREON)

12. SUBJECT TO RESTRICTIONS RELATING TO USE AND IMPROVEMENT, AS SHOWN IN DEED DOCUMENT NO. 928744, SHOWN AS A RECITAL ON THE CERTIFICATE OF TITLE. (DOES NOT PERTAIN TO SUBJECT PROPERTY)

13. EASEMENT FOR HIGHWAY PURPOSES, TOGETHER WITH ANY INCIDENTAL RIGHTS, IN FAVOR OF THE VILLAGE OF BROOKLYN CENTER, A MINNESOTA MUNICIPAL CORPORATION, AS CONTAINED IN HIGHWAY EASEMENT, DATED JUNE 5, 1962, RECORDED MARCH 8, 1963, AS DOCUMENT NO. 720378. (DOES NOT PERTAIN TO SUBJECT PROPERTY)

14. EASEMENT FOR HIGHWAY AND UTILITY PURPOSES, TOGETHER WITH ANY INCIDENTAL RIGHTS, IN FAVOR OF THE VILLAGE OF BROOKLYN CENTER, A MINNESOTA MUNICIPAL CORPORATION, AS CONTAINED IN HIGHWAY & UTILITY EASEMENT, DATED FEBRUARY 1, 1963, RECORDED APRIL 4, 1963, AS DOCUMENT NO. 722501. (DOES NOT PERTAIN TO SUBJECT PROPERTY)

15. EASEMENT FOR SANITARY SEWER PURPOSES, TOGETHER WITH ANY INCIDENTAL RIGHTS, IN FAVOR OF THE VILLAGE OF BROOKLYN CENTER, A MINNESOTA MUNICIPAL CORPORATION, AS CONTAINED IN THE QUIT CLAIM DEED, DATED SEPTEMBER 15, 1965, RECORDED SEPTEMBER 21, 1965, AS DOCUMENT NO. 821683. (DOES NOT PERTAIN TO SUBJECT PROPERTY)

LAND AREA

TRACT G: 46,197 SQ. FT.

PARKING

REGULAR:	42
COVERED:	00
HANDICAP:	02
TOTAL PARKING:	44

BUILDING AREA

BUILDING 1: 8,350 SQ. FT.

BUILDING HEIGHT

BUILDING 1: 18.0' ±

SCALE : 1" = 30'
0' 15' 30' 60'

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TITLE COMMITMENT INFORMATION

THE LANDS SURVEYED, SHOWN AND DESCRIBED HEREON ARE THE SAME LANDS DESCRIBED IN THE FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT NO. 1002-368957-RTT BEARING AN EFFECTIVE DATE OF JULY 04, 2022 AT 7:30 A.M.

SURVEYOR'S CERTIFICATE

TO: FIRST AMERICAN TITLE INSURANCE COMPANY; WARNER PROPERTIES LLC

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 6(A), 6(B), 7(A), 7(B)(1), 7(C), 8, 9, 13, 14, 16, 17 AND 19 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON 07/29/2022. DATE OF PLAT OR MAP: 08/17/2022

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

Signature — Dated
AEC Geospatial LLC
By: CEO Jason M. Gustafson, PLS — License Number: 42596
PO Box 297, Hammond, WI 54015
p: 866-423-2436 email: jmg@aecgeo.com
My license renewal date is June 30, 2024
Pages or sheets covered by this signature and seal: 1 of 1

The use of the word "certify" or "certification" by a licensed land surveyor in the practice of land surveying constitutes an expression of professional opinion regarding those facts or findings which are the subject of the certification and does not constitute a warranty or guarantee, either express or implied. This survey certification is limited to current parties in privity to this specific transaction only.

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2021 ALTA/NSPS LAND TITLE SURVEY

BIG O TIRES

5501 N. XERXES AVE
CITY OF BROOKLYN CENTER
HENNEPIN COUNTY, MINNESOTA

PARTNER PROJECT NUMBER: 22-379963.4

COORDINATED BY

PARTNER

CORPORATE OFFICE
2154 Torrance Boulevard
Torrance, CA 90501
Phone: 888-213-7479
ALTA@partneresi.com
www.partneresi.com

DATE	REVISIONS	DRAWN BY:	DRAWING SCALE: 1"= 30'
8/18/22	MISC	CHECKED BY:	JOB NO.: 220152
.	.	FILENAME: 220152.DWG	
.	.		
.	.		
.	.		

SURVEYED BY

AEC GEOSPATIAL LLC
PO BOX 297
HAMMOND, WI 54015
866-423-2436
JMG@AECGEO.COM

THIS SURVEY WAS COORDINATED, NOT PERFORMED, BY PARTNER. SURVEY OBTAINED FROM AND CERTIFIED TO BY A PROFESSIONAL SURVEYOR LICENSED TO PRACTICE IN THE SAME STATE THE SUBJECT PROPERTY IS LOCATED

SHEET 1 OF 1

CITY VIEW ELECTRIC INC.

Visual Lighting Software

Designer
Amber Forester
Date
01/11/2024
Scale
Not to Scale
Drawing No.
L1
Summary
LIGHTING CALCULATIONS

1 of 1

Exhibit B

CITY OF BROOKLYN CENTER
NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN:

Please take notice that the Planning Commission of the City of Brooklyn Center will hold an in-person public hearing on **Thursday, February 8, 2024** at approximately 7:00 p.m. Meeting materials can be accessed by visiting the City of Brooklyn Center's website at: https://www.brooklyncentermn.gov/. A definite time for this application to be considered cannot be given as it will depend on the progression of the agenda items.

TYPE OF REQUEST: Conditional Use Permit

APPLICANT | PROPERTY OWNER: Totem Foods Inc

PROPERTY ADDRESS | PID: 5501 Xerxes Avenue North, Brooklyn Center, MN 55430 | 03-118-21-44-0033

BRIEF STATEMENT OF CONTENTS OF PETITION: The Applicant/Property Owner is proposing to convert the former Big O Tires location, located at 5501 Xerxes Avenue North to a State of Minnesota DVS vehicle inspection station. Upon review of the proposal, it was determined that the Applicant/Property Owner will require approval of a conditional use permit.

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
1369291

Exhibit C

Community Development
763-569-3300

February 2, 2024

5501 Xerxes Ave

Building review comments for the remodel/change of occupancy for the Proposed Vehicle Inspection Service Location to be located at 5501 Xerxes Ave.

Previous Building Occupancy Classification was: M (Retail) with an S1 (repair garage) as an accessory use
Proposed Building Occupancy Classification: B (Business) with an S2 (parking garage – open or enclosed) for vehicle inspection bays.

1. The building will be required to have a sprinkler system installed. City of Brooklyn Center ordinance 3-101 B. (2) as adopted by the Minnesota State Building code 1306 Special Fire Protection system 1306.0020 Subp. 2.
    - **Existing and new buildings**. Automatic sprinkler systems for new buildings, buildings increased in total floor area (including the existing building), or buildings in which the occupancy classification has changed, must be installed and maintained in operational condition within the structure. The requirements of this subpart apply to structures that fall within the occupancy classifications established in part 1306.0030, Items A to D.
    - **1306.0030**; For purpose of this chapter, area separation, fire barriers, or fire walls do not establish separate buildings. Gross square footage means the floor area as defined in the International Building Code. The floor area requirements established in items A to D are based on the gross square footage of the entire building and establish thresholds for these requirements. The following occupancy groups must comply with sprinkler requirements of this Chapter, unless specified otherwise:

        B. Group B, F, M and S occupancies with 2,000 or more gross square feet of floor area or with three or more stories in height.

2. Prior to a Building permit being issued. A SAC determination for the Change of use will need to be done by MET Council and SAC determination letter received.

Sincerely,

Dan Grinsteinner
Building Official
City of Brooklyn Center
763-569-3313

Member introduced the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION APPROVING PLANNING COMMISSION APPLICATION NO. 2024-001 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 (LOCATED AT 5501 XERXES AVENUE NORTH)

WHEREAS, Planning Commission Application No. 2024-001, submitted by Totem Foods, Inc ("the Applicant") and in coordination with proposed tenant, the State of Minnesota Department of Vehicle Safety (DPS), requests review and consideration of an application requesting issuance of a conditional use permit for the former Big O Tires located at 5501 Xerxes Avenue North ("the Subject Property") that would allow for a re-use of the building as a State of Minnesota Driver and Vehicle Services (DVS) inspection station; and

WHEREAS, the Subject Property is situated in the City's MX-C (Commercial Mixed-Use) District, and, as the use is unlisted as outlined under Section 35-4100 (*Use Regulations*), the use shall be considered "prohibited," unless the City Council determines that the use is substantially similar in nature and its potential impacts on the surrounding community as an existing use are addressed; and

WHEREAS, following a review of Section 35-4103 (*Allowed Use Table*), the closest use to the proposed vehicle inspection station appeared to be that of an "automobile and truck repair and service station," which is allowed through approval of a conditional use permit in the MX-C District; and

WHEREAS, a concept review was held at the January 8, 2024 City Council meeting where a high-level overview of the proposal was provided and questions posed regarding the use and the determination that the proposed use appeared substantially similar to that of an automobile and truck repair and service station, and the City Council was supportive of the requested re-use of the Subject Property; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota held a duly noticed and called public hearing on February 8, 2024, whereby a planning staff report was presented and public testimony regarding the conditional use permit were received; and

WHEREAS, the Planning Commission of the City of Brooklyn Center, Minnesota considered the conditional use permit request in light of all testimony received, the guidelines and standards for evaluating the conditional use permit contained in Section 35-7700 (*Conditional Use Permit*), the City's 2040 Comprehensive Plan, as well as information provided by the Applicant with respect to the proposed use's operations and any potential impacts, and the request generally satisfies the criteria as outlined within the above Sections; and

RESOLUTION NO.

WHEREAS, the City Council finds as follows regarding Planning Commission Application No. 2024-001, submitted by Totem Foods, Inc:

a) The proposed use is substantially similar in nature and its potential impacts on the surrounding community as an "automobile and truck repair and service station" are addressed as set forth within Section 35-4103 (Allowed Use Table);
b) The proposed use is allowed through approval of a conditional use permit in the MX-C District;
c) The conditional use, as proposed, will be in accordance with the general objectives of the City's Comprehensive Plan and the City's Unified Development Ordinance;
d) The establishment, maintenance, or operation of the conditional use will promote or enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals, or comfort;
e) 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;
f) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
g) Adequate measures have been taken to provide ingress, egress, and parking so designated as to minimize traffic congestion in the public streets;
h) Impacts such as noise, hours of activity, and exterior light have been sufficiently addressed to mitigate impacts on nearby uses; and
i) The conditional use will conform to the applicable regulations of the district in which it is located.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota that it hereby approves Planning Commission Application No. 2024-001 for the requested conditional use permit, which would allow for the conversion of the former Big O Tires to a State of Minnesota Department of Public Safety Division of Driver and Vehicle Services inspection station at 5501 Xerxes Avenue North, and conditioned on compliance with all of the following:

1. Any major changes or modifications made to the previously approved site and building plan, and as outlined within the City Code, can only be made by an amendment to the approved site and building plan as approved by the City Council. The Applicant and Property Owner shall work with City staff to address:
    a. Exterior modifications to the building that meet City Code requirements with respect to building materials in accordance with 35-5203 (*Building Materials*);
    b. Exterior site lighting in accordance with Section 35-5400 (*Exterior Lighting*); and
    c. The re-striping of the surface parking lot as necessary to provide sufficient

parking for the use, clear circulation, and on-site directional signage to minimize confusion by customers.

2. Building plans are subject to review and approval by the Building Official with respect to applicable codes prior to the issuance of permits, and as provided for within the Building Official's memorandum dated February 2, 2024.

3. The Applicant shall work to ensure all applicable Minnesota Fire Code requirements have been met with respect to the proposed modifications to the building.

4. A SAC Determination shall be submitted by the Applicant to the Metropolitan Council and any associated fees paid at time of any permit issuance.

5. Any outside trash disposal facilities and rooftop or ground mechanical equipment shall be appropriately screened from view per City Code requirements and a detail sheet provided.

6. The Applicant shall coordinate with the adjacent property owner located at 5515 Xerxes Avenue North to determine necessity of or amendment to a shared access agreement for the driveway access off Xerxes Avenue North.

7. The Applicant and Property Owner shall adhere to the provisions as outlined under Section 35-7700 (*Conditional Use Permit*), and coordinate with City staff to file a copy of the City Council resolution approving the requested conditional use permit, along with a legal description of the Subject Property for which the permit was issued, and list of any conditions set forth by City Council as a condition of said conditional use permit. A certified copy shall be recorded by the Applicant with the Hennepin County Recorder-Registrar of Titles within 60 days of approval of said resolution.
    a. Issuance of a conditional use permit for the Subject Property shall be limited to the inspection of passenger type motor vehicles and the operator shall not conduct inspections of larger vehicles (e.g. semis, recreational vehicles, buses).

8. The Applicant shall ensure appointments are scheduled so as to avoid blocking the shared driveway (Xerxes Avenue North), adjacent private road, public sidewalks, or queuing vehicles in the City right-of-way. Should any of the aforementioned issues arise, City staff may request a review of its on-site operations and spacing of appointment windows.

9. The Applicant shall submit a Sign Permit Application for any proposed new or replacement signage (e.g., wall, freestanding) and receive issuance of a permit prior to any installation. All signage shall conform to City requirements.

RESOLUTION NO.

a. Any proposed on-site directional signage shall be submitted for review and approval by City staff in advance of install.

February 26, 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.

Totem Foods Inc (5501 Xerxes Ave N)



REQUEST:

Conditional Use Permit

City Council Meeting| February 26, 2024
Krystin Eldridge, Associate Planner

Requested Action

Totem Foods Incorporated ("the Applicant") is requesting approval of a conditional use permit that would convert the former Big O Tires located at 5501 Xerxes Ave North "(the Subject Property") into an inspection station for the State of Minnesota Department of Public Safety (DPS) and Division of Driver and Vehicle Services (DVS).

- The Subject Property approximately 1.06 acres with 8,250-square foot tire retail store that previously provided on-site installation services.
- Big O Tires closed last fall and has been vacant since.

Background

- The Subject 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. The Subject Property was to primarily serve as a tire retail store and installation center.
- The Subject Property was originally approved with a total of 61 on-site surface parking spaces, and 10 interior bay spaces. A survey conducted of the Subject Property in 2022 appears to show a revised configuration with 44 on-site surface spaces and 5 bays.
  - City staff calculated parking under the UDO requirements and it appears the use would require 31 parking spaces.
- This 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.

3



4

Background (cont.)

- 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, which closed last year, 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 are seeking to expand their presence across the Twin Cities metro and throughout greater Minnesota.

5

Background (cont.)

- The property has multiple curb cuts located off the west side of the property, adjacent to a private road, and one (1) shared curb cut off Xerxes Avenue North with Pearle Vision building. Both sites have additional curb cuts providing alternative ingress and egress to their respective properties.
- Eighty (80%) percent of the vehicles inspected come from auto dealers and are scheduled in advance online.
- DVS employees carry out vehicle re-certification inspections on prior salvage (totaled) 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 and the existing hoists would be removed.

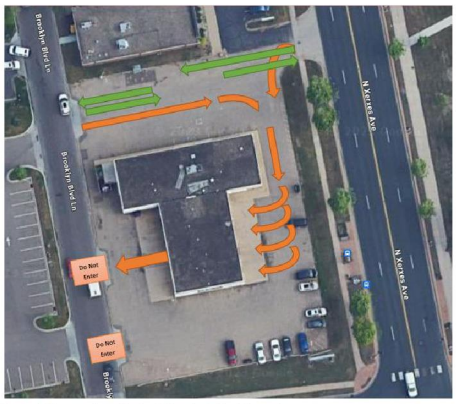


Image 1. Proposed on-site circulation for Subject Property.

6

Conditional Use Permit

- City staff determined that the closest "use" under the City's Unified Development Ordinance (UDO) was that of an, "automobile and truck repair and service station," *which are permitted as a conditional use* in the Commercial Mixed-Use (MX-C) District where the Subject Property is located.
  - A concept review was held at the January 8, 2024 City Council Work Session where the proposal and question of use was presented.
- Conditional Use Permits, as outlined under Section 35-7700, are those uses which 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.
- Conditional Use Permit process regulates: location, magnitude, and design of conditional uses consistent with the Comprehensive Plan, and the regulations, purpose, and procedures of the City's Unified Development Ordinance (UDO).
- A Conditional Use Permit ***may not*** be granted by City Council unless the following criteria have been satisfied:

7

Conditional Use Permit (cont.)

The conditional use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO

> **Applicant Response:** City's Comprehensive Plan in that it will help provide a stable business for an unoccupied site. This will keep the site in good condition and help keep it and the surrounding area attractive, clean and safe.

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

> **Applicant Response:** 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.

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

> **Applicant Response:** The use will not be injurious to the use and enjoyment of other properties, nor diminish their value. The automotive inspection use will be less impactful than traditional automotive uses. There will not be noise related with repairs. There will be no vehicle parts/tires stored at the site. State vehicles that would be parked inside overnight.

8

Conditional Use Permit (cont.)

The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district

Applicant Response: The State's intended use will not impede development. There is nothing with the use that restricts surrounding uses and/or development.

Adequate measures have been or will be taken to provide ingress, egress, and parking so designed as to minimize traffic congestion in the public streets

Applicant Response: 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 use. This site will not be conducting inspections of large vehicles such as semis and RVs.

Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses

Applicant Response: Given that there will be no automotive repairs that will occur at the site, there will be no noise that a traditional automotive repair shop might have. It is intended to be roughly an 8 am – 5 pm business operation, Monday – Friday, and existing exterior lighting will be repaired by the owner of the property.

9

Conditional Use Permit (cont.)

The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

Applicant Response: There are no known regulations with which the use would not be complying.

10

Additional Reviews

- Engineering reviewed plans and provided high level comments dated January 3, 2024.
  - As a typical automobile service center of this size would have a peak hourly traffic of between 35-55 cars, the proposal represents a **potential 40% reduction in traffic** from the previous use of the Subject Property.
    - As proposed, the state vehicle inspection station would anticipate 15 vehicles per hour across 5 bays.
  - With respect to erosion control, the submitted narrative does not discuss potential areas of site disturbance. As such, this would be reviewed as part of the building permit process.
- 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 SAC (Sewer Availability Charge) determination for the change of use shall be submitted prior to issuance of any permits.

Summary and Notifications

- Public hearing notice was published in the *Sun Post* on January 25, 2024 for the conditional use permit request and mail notices sent to surrounding property owners and physical addresses.
- Public hearing notice published on City website as link
- Planning Commission held public hearing at their meeting on Feb 8, 2024
  - 2 Community members attended the Public Hearing
    - One community member expressed support for the project at the hearing
    - No comments submitted in advance of meeting
  - Planning Commissioners inquired on:
    - Traffic Circulation (queuing, congestion with neighboring businesses and along private road)
    - Façade and Site Improvements
    - Reasons for expansion as a DVS program
  - Planning Commissioners showed consensus in re-activation of the Subject Property
- **Planning Commission unanimously recommended approval (5-0) of conditional use permit request.**

Recommendation

Motion to adopt 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.

Council/EDA Work Session
City Hall Council Chambers
February 26, 2024

AGENDA

ACTIVE DISCUSSION ITEMS

1. Abatement Process Review for Property Nuisance Code Violations and Vacant Properties

   Staff request the City Council review the abatement process for public nuisance code violations and vacant properties and consider adopting a streamline process similar to the vacant building abatement process.

2. Repeat Type IV Rental License and Rental License at New Construction

   Staff request that the City Council hear and discuss the issue of repeat Type IV rental licenses and rental licenses at new construction.

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
   - 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

Council/EDA Work Session

DATE: 2/26/2024

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Community Development Director
BY: Xiong Thao, Housing and Community Standards Manager

SUBJECT: Abatement Process Review for Property Nuisance Code Violations and Vacant Properties

Requested Council Action:

Staff request the City Council review the abatement process for public nuisance code violations and vacant properties and consider adopting a streamline process similar to the vacant building abatement process.

Background:

Nuisance code violations are found in Chapter 19-103. PUBLIC NUSSIANCES FURTHER DEFINED. Property nuisance code violations are either found during a routine sweep inspection or on a complaint basis. Once a property nuisance code violation is found, staff will work to exhaust all options such as issuing at least two compliance notices, extensions or an acceptable time table for cleaning up the property, and/or Administrative Citations before issuing abatement orders.

City code 19-105 ABATEMENT OF NUSIANCE AND ASSESSMENT OF COST authorizes the abatement once a compliance notice is provided allowing the property owner to correct the violation within a maximum 10 day period. This section then references 12-1206 EXECUTION OF COMPLIANCE ORDERS BY PUBLIC AUTHORITY which then outlines the process for abating the violation.

City Code 12-1206 states that if there has not been an appeal or the property owner has not complied with the order, the request for an abatement shall be brought to City Council and a resolution shall be adopted to remedy the issue. The cost of the remedy shall then be collected as a single installment as a special assessment.

In practice, staff would find a property in violation of city code during a routine sweep or from a compliant. Staff would attempt to talk to the property owner and send a compliance notice with a follow up inspection. After the follow up inspection, if the property code remain in violation, staff would at again attempt to talk to the property owner and send a second compliance notice with another follow up date. After the follow up inspection, staff may either work with the property owner on an extension or issue an Administrative Citation if there is no progress towards compliance. Staff will continue to do follow up inspections and issue Administrative Citations until the maximum daily amount has been reached. Staff would then prepare a council memo and resolution to abate the property code violation.

The vacant building abatement process references the same process for nuisance abatements. The vacant building code chapters 12-1501 – 12-1511 authorizes the vacant building registration and requirement that vacant properties are maintained. Section 12-1504.3 states that if the owner does not maintain or correct

nuisance violations, the City may abate the items. The abatement process references 19-105 which defaults to 12-1206 as the process to abate the nuisance violations, which requires city council action.

In section 12-1507 MAINTENANCE OF VACANT BUILDINGS, the property owner is responsible for maintaining the exterior of the property which includes abating tall grass and weeds, removing junk and debris, ensuring that the property is secured from trespassers, removal of abandoned or junk vehicles, removal of any animals on the premise, and the removal of any disease trees.

Under section 12-1507.14 EMERGENCY ABATEMENT it allows for the abatement of public nuisance or maintenance items at the discretion of the Compliance Official. In most cases, the owners are absent and/or bank representatives are difficult to track down which can delay compliance with the vacant building registration process and maintenance of the property. A compliance notice will be sent to the last owner of record, giving the property owner a maximum of 10 days to correct the violation. If the violation is not corrected, staff would initiate the abatement process, which does not require city council authorization. Utilizing this tool allows for staff to address exterior and property maintenance issues quickly and efficiently while still allowing the owner an opportunity bring the property into compliance.

1208 57th Ave N is an example that created a large public nuisance which led the City to abate all the violations. The property was occupied, however, after several attempts the owner could not be found. There were several police calls to the property and the city received a lot of complaints about the exterior property conditions. Several notices were sent for the exterior storage of trash, junk, debris and exterior property code violations on the house and garage. The city issued several thousands of dollars in Administrative Citations and after there was no compliance the violations were brought to City Council for approval to abate the code violations. Once City Council approved the action, the items were immediately abated. The entire process took approximately 4 months to complete.

The inability to quickly resolve cases that require abatement may result in exacerbating the issue or create additional violations. In some cases, the property owner has the inability to pay for the items to be abated and to issue or continue to issue Administrative Citations only puts additional hardship on the property owner. Further, if Administrative Citations were issued, the total cost of the Administrative Citations may exceed the cost of the abating the property code violation.

The policy consideration before Council is:

The abatement process for public nuisance requires that the request is brought to city council for approval by a resolution. Before the abatement request is brought to city council, staff would have completed multiple inspections and issued several citations due to non-compliance with city code. The delay in abatement often generate additional complaints and create additional violations on the property. After several Administrative Citations, the abatement request will be brought to City Council for approval. Along with the Administrative Citation costs, the abatement costs will be specially assessed to the property.

Staff is requesting that the council 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. The process would be similar to the vacant property emergency abatement process. The vacant property emergency abatement process allows the city to abate the violation after a compliance notice is issued.

Budget Issues:

There are no budget issues to consider.

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Council/EDA Work Session

DATE: 2/26/2024

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Community Development Director
BY: Xiong Thao, Housing and Community Standards Manager

SUBJECT: Repeat Type IV Rental License and Rental License at New Construction

Requested Council Action:

Staff request that the City Council hear and discuss the issue of repeat Type IV rental licenses and rental licenses at new construction.

Background:

The City Council requested that staff bring the discussion of repeat Type IV rental licenses and rental licenses at new construction back to the Council after staff has met with the Housing Commission.

Repeat Type IV License Information:
The rental license program has four license categories ranging from three years down to a 6-month provisional license. The license is determined by the number of code violations found during the initial rental license inspection. Below is a table of the license category and the number of violations allowed for each license type.

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 3+ units	0-2 0-0.75
Type II – 2 Year	1-2 units 3+ units	Greater than 2 but not more than 5 Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units 3+ units	Greater than 5 but not more than 9 Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units 3+ units	Greater than 9 Greater than 3

Below is a chart of the total current (as of 2/20/2024) rental license data. The total counts may contain a repeat of several property addresses, and it will depend on the status of the license. For example, a license can have an Active rental license but also be in the "Accepted" milestone since they are in the renewal process. Similarly, the rental license can be Expired and have a license in the "Accepted" milestone.

License Milestone	Total Count
Active rental license	777
Expired	97

Accepted – waiting to schedule inspection, inspection has been scheduled, or in the inspection process	140
Pending – rental license is paid for by property owner, waiting for staff to accept and schedule inspection	2
Pending waiting city council approval	8
Outstanding Utility / Tax	4
Unpaid waiting for property owner to pay fee	0
Not Approved – When there will be significant delays in completing the rental license such as a pending eviction	5

Currently, there are 53 active Type IV rental licenses. Of the current 53 Type IV licenses, there are 18 that have repeat Type IV licenses. Of the 18 repeat Type IV licenses, there are 13 that are a 1x repeat Type IV license, 1 – 2x repeat Type IV, 3 – 3x repeat Type IV, and 1 – 4x repeat Type IV license. There were 7 licenses that were repeat due to failure to meet the Mitigation plan requirements and the other 11 licenses were a combination of having more than 10 code violations and/or failure to meet Mitigation plan requirements.

Staff met with the Housing Commission on October 17, 2023 to go over the repeat Type IV rental license data. During that meeting the following data was presented.

In the years 2015-2017 there were a total of 347 total Type IV licenses. In 2022 there were 189 and in 2023 (YTD) there were 120. In 2022, 76 licenses (40%) of the licenses were a repeat type IV license. In 2023, 75 licenses (62.5%) were a repeat Type IV license.

In 2022, 31 licenses (40%) of the repeat licenses were due to property code violations which equated to 16% of all the 2022 repeat Type IV licenses. In 2023, 18 licenses (24%) were repeat licenses due to property code violations which equated to 15% of all Type IV licenses.

In 2022, 13 licenses (17%) were repeat licenses due to failure to meet the rental plan requirements which equated to 6% of all licenses. In 2023, 7 licenses (9%) were repeat licenses due to failure to meet the rental plan requirements which equated to 5% of all licenses.

The chart below shows the number of licenses with repeat Type IV licenses.

Type 4 Information	2022	2023
2 times consecutive Type 4	34	49
3 times consecutive Type 4	14	16
4 times consecutive Type 4	7	8
5 times consecutive Type 4	1	5
6 times consecutive Type 4	1	2

Staff also discussed the options of revoking, suspending, or non-renewing a rental license. The ordinance specifically outlines this as an option and authorizes this action up to one year. Once the specified time has lapsed, the owner can then apply for new rental license.

There were a few questions from the Housing Commission members about the rental license program.

1. Is it possible for an owner to get caught up on inspections every six months? Staff explained

the rental license process and explained that a property owner is able to get out from under a Type IV rental license by improving on their rental inspection and completing all the items on the Mitigation plan. Staff also shared that Minneapolis has a similar program that is also a tiered system related to code violations.

2. How does the city collect Administrative Citations and where does the funds go? Staff explained that property owners can pay at City Hall or allow it to be specially assessed to their property taxes. The Administrative Citations, fees, and abatement costs goes to the City. Specially assessed fees are paid directly to the County.

3. How often are inspections conducted? Staff explained that after an initial inspection, staff will schedule the inspection out for at least 30 days and do a follow up inspection until the items are corrected. Typically new code violations are not added at follow up inspections unless it is a health life safety or pointed out by the occupant. The initial inspection results determine the license type.

There were no recommendations from the Housing Commission about the repeat Type IVs.

<u>New Construction Rental License:</u>

Staff brought the new construction rental licenses to 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 2 year rental license. The rental inspection for new construction is completed during the certificate of occupancy inspection conducted by the Building Official. Before the certificate of occupancy can be issued all code violations need to be corrected.

In the past few years there has been a few new multifamily properties built, there has been no new single family that has been converted to a rental property.

1. **Sonder House**: A multi-family development with 127 units was given their Certificate of Occupancy on March 26, 2021. Initial rental license was issued on May 10, 2021 as a Type II – 2 year rental license with an expiration date of May 31, 2023. The license renewal was submitted on March 1, 2023 and the fee of $2,486.00 was paid. The initial inspection was completed on April 26, 2023 and had 159 property code violations and 15 police nuisance calls for service. A follow up inspection was completed and all the items were corrected. A Type II – 2 year rental license was issued on August 16, 2023 with an expiration date of May 31, 2025. The police nuisance calls for service did not impact the license type that the property would qualify for.

2. **Sonder Point**: A multi-family development with 143 units was given their Certificate of Occupancy on July 28, 2021. The initial rental license was issued on August 9, 2021 as a Type II – 2 year rental license with an expiration date of August 31, 2023. The license renewal was submitted on May 30, 2023 and the fee of $3,324.00 was paid. The initial inspection was completed on July 12, 2023 and had 155 property code violations and 1 police nuisance calls for service. A follow up inspection was completed and all the items were corrected. A Type II – 2 year rental license was issued on September 26, 2023 with an expiration date of August 31, 2025. The police nuisance calls for service did not impact the license type that the property would qualify for.

3. **The Sanctuary**: A multi-family development with 158 units. The initial rental license was issued as a Type II – 2 year rental license with an expiration date of March 31, 2020. The license renewal was submitted and the fee of $3,044 was paid. The initial inspection was completed and 27

property code violations were found. The rental license was issued on September 29, 2020 as a Type I – 3 year rental license with an expiration date of Mach 31, 2023. A second license renewal was submitted on February 16, 2023 and the initial inspection was completed on June 20, 2023. During the initial rental license inspection 82 code violations were found and a Type I – 3 year rental license was issued with an expiration date of March 31, 2026. There were no police nuisance calls for service.

4. **Maranatha** – A multi-family development with 34 units. The initial rental license was issued as a Type II – 2 year rental license with an expiration date of August 31, 2019. The license renewal was submitted and the fee of $812.00 was paid. The rental license was issued on August 27, 2019 as a Type I – 3 year rental license with an expiration date of August 31, 2022. A second license renewal was submitted on September 6, 2022 and the initial inspection was completed on October 27, 2022. During the initial rental license inspection 16 code violations were found and a Type I – 3 year rental license was issued with an expiration date of August 31, 2025. There were no police nuisance calls for service.

Staff presented four options for the Housing Commission to consider for discussion. The options were discussed with the City Attorney prior to discussion with the Housing Commission.

1. New developments can only quality for a Type III – 1 year rental license and require an Action Plan. This option would require a change to the City Code and the rental license category criteria.
2. New rental licenses can qualify for a Type II – 2 year rental license with a review during the 1 year mark. 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 2 year rental license but doing an inspection at the 1 year period. It would be easier to change it to a Type III rental license.
3. The new rental license would be issued as a 6 month provisional license and a mitigation plan would be required. The police calls for service would be part of the license determination. This option would require additional changes to the City Code. Issuing a 6 month provisional license to the applicant. It is a short period of time for a new construction building, and doing an inspection in a short time period, may not be a good representative of the of the overall building and management practices. This option does pose some concern in regards to legal impact and a potential claim that it is too strict.
4. Keeping the current license ordinance that allows for a new rental license property qualify for a Type II. Properties that have been found to operate illegal without a license would only qualify for a Type III.

During the Housing Commission meeting, there were lots of questions and concerns from the Commission members about the different license categories and how a property qualifies for a license category, the use of police nuisance calls for service to determine license types, the targeting of low income and families of color in Brooklyn Center, and a discussion about creating a new license category for affordable housing. All of the questions and concerns were addressed by staff based on data that is available and current policies on rental license criteria.

It was further explained that this would be in response to the proposed 1,000 or so units that will be built on the Opportunity Site. Many of the Commissioners wanted more information about the issue and how this would impact future housing and low-income residents. There was no consensus on a recommendation to Council from the Housing Commission. However, there was some support to review the police nuisance calls for service at a new property after one year.

Budget Issues:

With the increase in groups homes and licensed rental properties, rental inspection staff have full schedules and are at times fully booked out for more than a month for rental inspections. Possible changes to the licensing could result in additional challenges with the current level of staffing.

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Strengthen and diversify business development and housing

ATTACHMENTS:

Description	Upload Date	Type
Housing Commission Powerpoint Repeat Rentals	2/21/2024	Backup Material
Housing Commission Powerpoint - New Construction	2/21/2024	Backup Material

Community Development Department



Repeat Type IV License Review

Jesse Anderson, Community Development Director

Rental Licensing Program History

- The City of Brooklyn Center has had a rental licensing program since the 1970's. In 2010 the City Council adopted modifications to the Ordinance.
  - The modifications created a 4-tier performance-based system.
- In 2018 the program was modified.
  - Each Category had an increase in 1 violation to allow for more properties to qualify for a higher license.
  - Monthly updates and ARM Meeting requirements were removed.

12-900 – 12-1301 Rental Ordinance

This section covers all of the following:

- Rental License requirement and license renewal
- Rental license types and length
- Requirements for each license type
- License suspension and revocation process
- Police calls for service and what is considered a validated nuisance call
- Crime free housing program requirements
- Tenant Protection

Rental Licensing Criteria

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

Rental Licensing Criteria

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 Licensing Type Requirements

DIAGRAM I

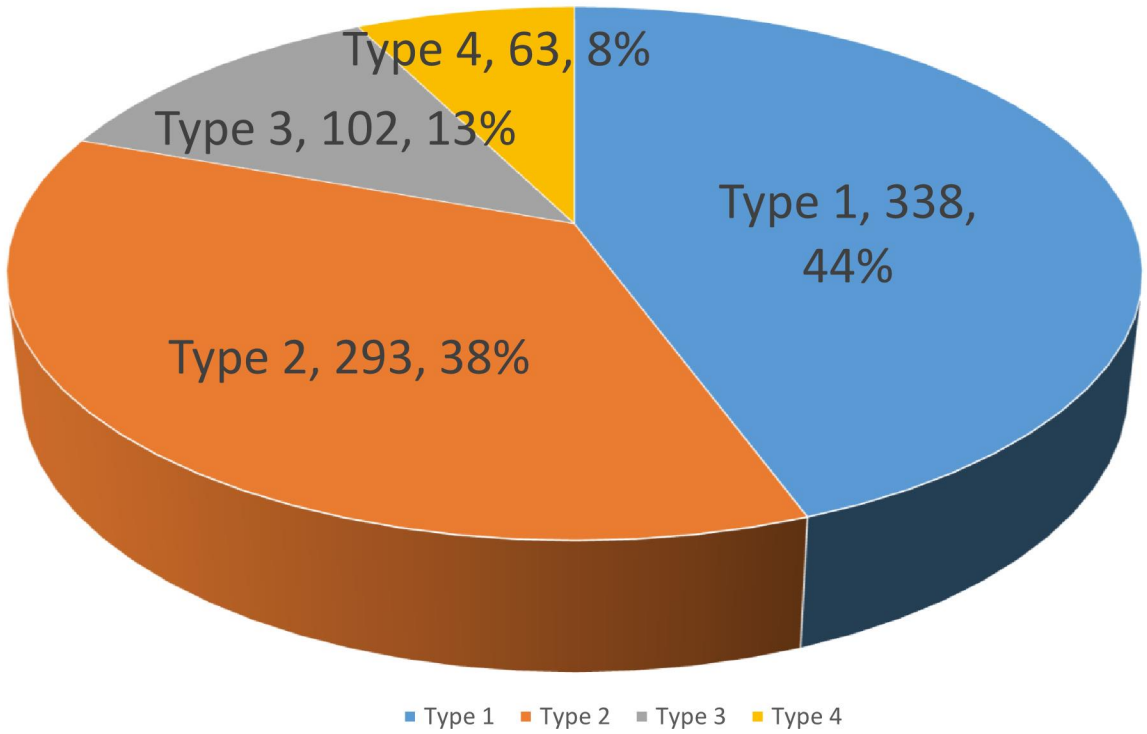
Licensing Category	Licensing Period	Min. Inspection Frequency	Crime Free Housing	Plans
Type I	3 year	Min. 1 time in 3 years, upon request, or as needed as determined by City	Phase I Recommended	
Type II	2 year	Min. 1 time in 2 years, upon request, or as needed as determined by City	Phase I Required	
Type III	1 year	Min. 1 time per year, upon request, or as needed as determined by City	Phase I, II Required	Action Plan Required
Type IV Provisional	6 months	Min. every 6 months, upon request, or as needed as determined by City, or as otherwise specified by Mitigation Plan	Phase I, II, and III Required	Mitigation Plan Required

Repeat Type IV (current license is Type IV)

- Two ways to qualify for a repeat Type IV
  - Code Violations
    - Renew license
    - Complete inspection
    - Review property code violations for council approval
  - Not meeting Mitigation Plan requirements
    - Failure to turn in a mitigation plan
      - Received a back dated rental license which already expired
      - Received notice but never submitted a plan after notifications
    - Not meeting the Crime Prevention Through Environmental Design (CPTED)requirements
      - 8 hour Crime Free Housing course
      - Security Assessment

Active Rental License By Type

As of 11/14/2023



Type IV License Review

Type 4 Information	2015, 2016, 2017	2022, 2023
Total Type IV	347	2022 - 189 / 2023 -215
Total Repeat Type IV	155 (44%)	2022 – 76 (40%) / 2023- 125 (58%)
Repeat due to code violations only	48(30% of repeats)(14% of all Type IV)	2022 – 31 (40% of repeats) (16% of all Type IV) 2023 – 33 (25% of repeats) (15% of all Type IV)
Repeat for ARM or Monthly Update	90 (58% or repeats)(25% of all IV)	92 – did not meet plan requirements (73% of all repeats)
Met Plan Requirements but had code violations	20 (13% of repeats)(6% of all IV)	2022 – 13 (17% of repeats) (6% of all IV) 2023 – 21 (16% of repeats) (10% of all IV)
Improving on Inspection of all previous Type IV	86%	2022 – 93% / 2023 - 79%
Didn't Repeat as Type IV of all	55%	2022 – 59% / 2023 - 33%

Repeat License Type Review

Type 4 Information	2022	2023
2 Times Consecutive Type 4	34	68
3 Times Consecutive Type 4	14	39
4 Time Consecutive type 4	7	12
5 Time Consecutive Type 4	1	6
6 Time Consecutive Type 4	1	3

12-910: License Suspension, Revocation, Denial, and Non Renewal

- Unoccupied or Vacated Rental Units. In the event that a license is suspended, revoked, or not renewed by the City Council, it shall be 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.
- Suspension. Licenses may be suspended for up to ninety (90) days and may, after the period of suspension, be reinstated subject to compliance with this Chapter and any conditions imposed by the City Council at the time of suspension.
- Revocation, Denial, Nonrenewal. 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 Council's written decision, which shall not exceed one year.

Community Development Department



New Rental License Type Review

Jesse Anderson, Interim Director of Community Development

Rental Licensing Program History

- The City of Brooklyn Center has had a rental licensing program since the 1970's. In 2010 the City Council adopted modifications to the Ordinance.
  - The modifications created a 4-tier performance-based system.
- In 2018 the program was modified.
  - Each Category had an increase in 1 violation to allow for more properties to qualify for a higher license.
  - Monthly updates and ARM Meeting requirements were removed.

12-900 – 12-1301 Rental Ordinance

This section covers all of the following:

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- Crime free housing program requirements
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Rental Licensing Criteria

Property Code and Nuisance Violations Criteria		
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Type I – 3 Year	1-2 units	0-2
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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

Rental Licensing Criteria

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 Licensing Type Requirements

DIAGRAM I

Licensing Category	Licensing Period	Min. Inspection Frequency	Crime Free Housing	Plans
Type I	3 year	Min. 1 time in 3 years, upon request, or as needed as determined by City	Phase I Recommended	
Type II	2 year	Min. 1 time in 2 years, upon request, or as needed as determined by City	Phase I Required	
Type III	1 year	Min. 1 time per year, upon request, or as needed as determined by City	Phase I, II Required	Action Plan Required
Type IV Provisional	6 months	Min. every 6 months, upon request, or as needed as determined by City, or as otherwise specified by Mitigation Plan	Phase I, II, and III Required	Mitigation Plan Required

12-901.2.3 – License Term

New Licenses. 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.

12-901.2.3 – License Term Interpretation

- 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
    - Does an inspection for building code and maintenance code violations

  - In order for a Certificate of Occupancy to be issues all of the violations need to be corrected
  - Exception: Exterior items that cannot be completed due to weather or does not impact the interior occupancy of the property

- There has been no single family new construction converted to rental.

Sonder House – 127 units

Rental License Type: Type 2 - 2 years
Expiration date: 5/31/2023
Number of code violations: 0 violations
License fee: $2,486.00

Renewal: Inspection process underway
License renewal fee Paid: $2,486.00

- An full inspection was conducted on April 26 with the new property management and maintenance staff.
- A total of 168 property maintenance code violations. (1.32 per unit)
- The majority of the units had few or no property code violations, and the common areas (parking lot, underground garage, stairwells, etc.) were well maintained during the inspection.
- Several units had multiple property code violations, which caused a large number of property code violations.
- City staff also discussed the concerns regarding the property.
- They informed property management staff that the City is willing to work with and participate/partner with Sonder House on an event to engage residents.
- A follow-up rental license inspection is scheduled.

Sonder Point – 143 units

Rental License Type: Type 2 - 2 years
Expiration date: 8/31/2023
Number of code violations: 0 violations

Renewal: Due (Renewal fee paid and initial inspection schedule for July 12, 2023)
License renewal fee: $2,486.00

Sanctuary – 158 units

Rental License Type: Type 2 - 2 years
Expiration date: 3/31/2020
Number of code violations: 0 violations
License fee: $3,044.00

Rental License Type: Type 1 - 3 years
Expiration date: 3/31/2023
Number of code violations: 27 violations
Police calls for service: 6
License fee: $3,044.00

Renewal: Due (Renewal fee paid and initial inspection schedule for June 20, 2023)
License renewal fee: $3,044.00

Maranatha – 5401 69th (34 units)

Rental License Type: Type 2 - 2 years
Expiration date: 8/31/2019
Number of code violations: 0 violations
License fee: $812.00

Rental License Type: Type 1 - 3 years
Expiration date: 8/31/2022
Number of code violations: 8 violations
Police calls for service: 0
License fee: $812.00

Rental License Type: Type 1 - 3 years
Expiration date: 8/31/2025
Number of code violations: 16 violations
License fee: $812.00

City Attorney Response to Option 1

1. New developments can only qualify for a Type 3 - 1 year license and require an Action Plan.

This would require the fewest number of changes to the existing City Code and the Rental License Category Criteria Policy. As it stands, new licenses start at Type 2. Type 3 requires an action plan, so this requirement would automatically be in place. The language of the City's form Rental License Plan would have to be tweaked because it assumes that the property has been placed in the Type 3 category for known nuisances and calls. I'm assuming the City still require Phase I and II of Crime Free Housing for new, Type 3 licenses? Phase II includes a security assessment, and I believe that was another concern with regard to new construction.

City Attorney Response to Option 2

2. New license can qualify for a Type 2 - 2 year license but will be reviewed at the 1 year mark and if their license changes based on code violations or validated nuisance police calls for service, it would be change to that new license type.

This would require a few more additions and changes to the City Code. If the goal is a one-year review, rather than saying that a new license qualifies for Type 2 (2 years), I would recommend a one-year provisional/probationary license that will be reviewed at one year, and at that time, placed in the proper category. You could include whatever other requirements you would initially want (action plan, Crime Free Housing). It may be confusing for a licensee if they think they have a two year Type II license, with everything that comes with that, but it's not really a two year license. It seems like it would be cleaner to just say it's a one year license. Indeed, this option would essentially be the same as option 1 – You just wouldn't call a new license a Type 3. It would just be provisional/probationary.

City Attorney Response to Option 3

3. 6 month and requiring a mitigation plan. The police calls for service will be part of the review.

As we discussed, six months seems like a pretty short period of time for the initial license period and may not necessarily be representative of a longer period of time, for example, if they have a difficult six month period but then they respond and get things cleaned up. With the mitigation plan requirement, this would effectively be a Type 4 provisional license from the outset and would be particularly restrictive for potential landlords. Of the three options, this is the only one that pose some concerns with regard to the legal impact and a potential claim that it is too restrictive.

Option 4 –

Keep current licensing ordinance that provides for a 2 year license maximum for initial rental license at New Construction.

New Licenses. 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.

Council/EDA Work Session

DATE: 2/26/2024

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
- 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

Background:

Budget Issues:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values: