City of Ramsey
Agenda
Regular Planning Commission
Thursday October 4, 2012
7:00 pm
Council Chambers, 7550 Sunwood Drive NW

1. Call to Order

2. Citizen Input

3. Approve Agenda

4. Approve Minutes

1. Approve the Following Planning Commission Meeting Minutes:

Planning Commission Meeting Minutes Dated September 6, 2012

5. Note City Council Minutes

1. Note the Following City Council Meeting Minutes:

City Council Meeting Minutes Dated July 10, 2012
City Council Meeting Minutes Dated July 24, 2012

6. Public Hearing/Commission Business

1. PUBLIC HEARING: Request for a Conditional Use Permit for Motor Vehicle, Implement, and Recreation Equipement Sales and Service at 7815 Riverdale Dr NW; Case of DSB Ventures, LLC

2. PUBLIC HEARING: Request for Site Plan and Conditional Use Permit Approval for Motor Fuel Sales and Car Wash for a Super America Located in the COR TWO Subdivision; Case of West Real Estate and Management Inc.

3. PUBLIC HEARING: Request for Sketch Plan Review of NORTHGATE ADDITION (Minor Plat) and Request for Site Plan Review and Conditional Use Permit for Northgate Performing Arts Center at the North East Intersection of Sunwood Drive and Peridot St; Case of PSD, LLC and Northgate Church

4. PUBLIC HEARING: Consider Ordinance to Amend City Code Section 117-118 (The COR) Approving Amendment to The COR Design Framework Related to Off-Street Parking, Signs, Parks and Trails, and Sub-District Boundaries

5. PUBLIC HEARING: Consider Ordinance to Amend City Code Chapter 117, Article II, Division 8 (Signs) Related to Temporary, Construction, Real Estate, and Off-Premise Signs

6. PUBLIC HEARING (continued): Consider Zoning Ordinance to Amend Chapter 117, Article II, Division 4, Subdivisions II, IV and V by Consolidating into One Subdivision (Shorelands)

7. Staff Update

8. Zoning Bulletins

7. Commission/Staff Input

8. Adjournment

Regular Planning Commission **4. 1.**

Meeting Date: 10/04/2012

By: JoAnn Shaw, Community Development

Information

Title:

Approve the Following Planning Commission Meeting Minutes:

Planning Commission Meeting Minutes Dated September 6, 2012

Background:

n/a

Notification:

Observations:

Funding Source:

Staff Recommendation:

Committee Action:

Attachments

09.06.12

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	09/26/2012 01:06 PM

Form Started By: JoAnn Shaw Started On: 09/26/2012 10:02 AM

Final Approval Date: 09/26/2012

PLANNING COMMISSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

The Ramsey Planning Commission conducted a regular meeting on Thursday, September 6, 2012, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present:	Chairperson Gary Levine Commissioner Randy Bauer Commissioner Ralph Brauer (arrived at 7:02 p.m.) Commissioner Joseph Field Commissioner Jessica Perez Commissioner Robert Schiller Commissioner Gary Van Scoy
Members Absent:	None
Also Present:	Development Services Manager Timothy Gladhill Associate Planner/Environmental Coordinator Chris Anderson Planning Consultant Tina Goodroad

1. CALL TO ORDER

Chairperson Levine called the regular meeting to order at 7:00 p.m.

2. CITIZEN INPUT

None.

3. APPROVAL OF AGENDA

Motion by Commissioner Schiller, seconded by Commissioner Field, to approve the agenda as presented.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Schiller, Field, Bauer, Perez, and Van Scoy. Voting No: None. Absent: Commissioner Brauer.

4. APPROVE PLANNING COMMISSION MINUTES

4.01: Approve the Following Planning Commission Minutes:

4.01.1: Planning Commission Meeting Minutes Dated August 2, 2012

Motion by Commissioner Bauer, seconded by Commissioner Van Scoy, to approve the following minutes as presented: Planning Commission Meeting Minutes dated August 2, 2012.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Van Scoy, Field, Perez, and Schiller. Voting No: None. Absent: Commissioner Brauer.

5. PUBLIC HEARINGS/COMMISSION BUSINESS

5.01: Public Hearing: Request for an Interim Use Permit to Allow for the Operation of a Church in the B-1 Business District on the Property Located at 5900 167th Avenue NW; Case of Rum River Retail Ventures, LLC

Public Hearing

Chairperson Levine called the public hearing to order at 7:01 p.m.

Presentation

Associate Planner/Environmental Coordinator Anderson presented the staff report indicating the applicant was requesting an Interim Use Permit to allow for the operation of a church in the B-1, Business District for the property at 5900 167th Avenue NW. The church is located in a multi-tenant facility and utilizes the space for church offices, Sunday services and for other services throughout the week.

Associate Planner/Environmental Coordinator Anderson explained there was an active IUP for this use on the subject property that will expire on October 3, 2012. The existing use triggered the requirement for the installation of a fire suppression system. The system is essentially complete and Staff recommends approving the IUP for a term of five (5) years, contingent upon the completion of the fire suppression system.

Chairperson Levine supported the request.

Citizen Input

None.

Motion by Commissioner Bauer, seconded by Commissioner Schiller, to close the public hearing.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Schiller, Brauer, Field, Perez, and Van Scoy. Voting No: None. Absent: None.

Chairperson Levine closed the public hearing closed at 7:06 p.m.

Commission Business

Motion by Commissioner Bauer, seconded by Commissioner Schiller, to recommend that City Council adopt a Resolution approving Findings of Fact relating to the request for an Interim Use Permit, contingent upon the completion of the fire suppression system by September 30, 2012.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Van Scoy, Brauer, Field, Perez, and Schiller. Voting No: None. Absent: None.

Motion by Commissioner Field, seconded by Commissioner Perez, to recommend that City Council adopt a Resolution approving the request for an Interim Use Permit and declaring the terms as proposed.

Further discussion

Associate Planner/Environmental Coordinator Anderson requested this motion also be contingent upon the completion of the fire suppression system.

Motion Amendment

Motion by Commissioner Field, seconded by Commissioner Perez, to recommend that City Council adopt a Resolution approving the request for an Interim Use Permit and declaring the terms as proposed, contingent upon the completion of the fire suppression system.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Field, Van Scoy, Bauer, Brauer, Perez, and Schiller. Voting No: None. Absent: None.

5.02: Public Hearing: Consider Resolution Approving Comprehensive Plan Amendment and Ordinance Approving Zoning Amendment in the WINDSORWOOD Subdivision Related to the City-Owned Lands Project

Public Hearing

Chairperson Levine called the public hearing to order at 7:09 p.m.

Presentation

Development Services Manager Gladhill presented the staff report explaining as a part of the annual City Council strategic planning process, developing an inventory of City owned land was identified as a priority. The goal of this initiative was to identify and dispose of parcels that are no longer needed for current or future City functions.

Development Services Manager Gladhill identified the property known as Windsorwood as surplus City owned land. In order to sell the subject property, the parcel must be marketable and rezoned. It has been proposed to change the zoning of the subject property to reflect the zoning of the surrounding properties (R1 Residential [Rural Developing]). He noted an adjacent property owner was interested in purchasing the site. Staff recommended the Commission amend the City's Comprehensive Plan to consider a subsequent Zoning Amendment to update the City's official controls.

Citizen Input

David Conroy, 8950 170th Circle explained he was interested in purchasing Lot 9. He commented he would be completing an appraisal and noted it was his intention to keep the lot vacant.

Leslie Reese-Sohonick, 8901 178th Avenue NW, commented she lived across the street from the vacant parcel and appreciated the privacy of this neighborhood. She explained she would not be in favor of another home being built on this lot.

Motion by Commissioner Schiller, seconded by Commissioner Field, to close the public hearing.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Field, Brauer, Perez, Schiller, and Van Scoy. Voting No: None. Absent: None.

Chairperson Levine closed the public hearing closed at 7:14 p.m.

Commission Business

Development Services Managers Gladhill commented that it appears that the subject property could not be further subdivided under the proposed zoning, which means at most, one single family home could be placed on the site.

Commissioner Van Scoy requested further information on the subject property and questioned the current zoning.

Development Services Manager Gladhill indicated the current zoning was Public/Quasi Public, which means the site could have been used for a park. However, the site was never dedicated to the public. He then reviewed the property profile in further detail.

Commissioner Brauer asked if this parcel was given to the City in lieu of park dedication fees.

Development Services Manager stated this may have been the case as the parcel could be converted to cash in the future to satisfy the park dedication obligation.

Commissioner Van Scoy inquired if there were other dedicated parcels in the neighborhood.

Development Services Manager Gladhill commented it was a lengthy process to un-dedicate a parcel and the City would look into this at a future date. A trail system was proposed to run through these properties.

Chairperson Levine questioned who got the first right to purchase the subject property.

Development Services Manager Gladhill indicated it was the City's intention to allow the adjacent property owners to have the first chance to purchase the lot after an appraisal was completed.

Mr. Conroy commented he was interested in purchasing the parcel after the appraisal was complete.

Commissioner Bauer recommended a motion be made to assure that the adjacent property owners were allowed to purchase the site first.

Development Services Manager Gladhill supported this recommendation and suggested this motion be made separately.

Commissioner Field requested this motion include all neighboring property owners and not just for adjoining property owners.

Commissioner Brauer suggested the sale be offered first to adjoining property owners.

Development Services Manager Gladhill agreed.

Motion by Commissioner Brauer, seconded by Commissioner Schiller, to recommend that City Council adopt a Resolution approving a Comprehensive Plan Amendment to change a Land Use Designation on the Property known as Windsorwood, PID 06-32-25-14-0009, from Public/Quasi Public, to Rural Developing, and Authorizing City Staff to submit an application to the Metropolitan Council for an Amendment to the Comprehensive Plan.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Brauer, Schiller, Bauer, Field, Perez, and Van Scoy. Voting No: None. Absent: None.

Motion by Commissioner Bauer, seconded by Commissioner Schiller, to recommend that City Council adopt Findings of Fact related to amending the official Zoning Map approving a zoning amendment to certain property from Public/Quasi Public to R-1 Residential (Rural Developing).

Further discussion

Commissioner Van Scoy asked if the submitted findings of fact differed from those used with past zoning amendments.

Development Services Manager Gladhill reviewed the Findings of Fact in detail with the Commission explaining Staff will find what is favorable for the parcel. He indicated if this was a concern, the Planning Commission could direct Staff on individual items.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Schiller, Brauer, Field, Perez, and Van Scoy. Voting No: None. Absent: None.

Motion by Commissioner Brauer, seconded by Commissioner Bauer, to recommend that City Council adopt an Ordinance amending Chapter 117, which is known as the Zoning and Subdivision Chapter of the City Code of Ramsey, Minnesota, amending the Official Map.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Brauer, Schiller, Bauer, Field, Perez, and Van Scoy. Voting No: None. Absent: None.

Motion by Commissioner Bauer, seconded by Commissioner Brauer, to offer the first right of refusal on the subject property to the adjoining property owners.

Further Discussion

Commissioner Field fully supported offering the subject property to the adjoining property owners first as one owner was present this evening and has expressed interest in the parcel.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Field, Brauer, Perez, Schiller, and Van Scoy. Voting No: None. Absent: None.

5.03: Public Hearing: Consider Zoning Ordinance to Amend Chapter 117, Article II, Division 4, Subdivision II, IV and I by Consolidating into One Subdivision (Shorelands)

Public Hearing

Chairperson Levine called the public hearing to order at 7:30 p.m.

Presentation

Development Services Manager Gladhill explained that in order to give proper time to review this item, he recommended the Commission table this item to the October Planning Commission meeting.

Commission Business

Motion by Chairperson Levine, seconded by Commissioner Bauer, to table action on the Zoning Ordinance to Amend Chapter 117, Article II, Division 4, Subdivisions II, IV and V by

consolidating into one subdivision (Shorelands) to the October 4, 2012 Planning Commission meeting.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Brauer, Field, Perez, Schiller, and Van Scoy. Voting No: None. Absent: None.

5.04: Public Hearing: Consider Proposed Zoning Ordinance Amendment to Create Section 117.117a. E-3 Employment (Office Park) District

Public Hearing

Chairperson Levine called the public hearing to order at 7:31 p.m.

Presentation

Planning Consultant Goodroad presented the staff report indicating Staff prepared a new E-3 Employment (Office Park) zoning district as an implementation step of the Comprehensive Plan. This zoning district was necessary to implement the Pearson Office Park south of Highway 10. The district would focus on corporate campuses, warehousing/logistics and light manufacturing. This area would also allow for full-service restaurants as a conditional use to support the intent of the district and to provide a mix of uses.

Planning Consultant Goodroad discussed several other proposed uses, such as motor vehicle sales, implement and recreational equipment sales or repair for this district and requested comment from the Commission. Staff recommended the Commission hold a public hearing and approve the proposed Zoning Ordinance amending City Code by establishing Section 117.117a. E-3 (Employment (Office Park) District.

Citizen Input

None.

Motion by Commissioner Field, seconded by Commissioner Brauer, to close the public hearing.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Field, Brauer, Bauer, Perez, Schiller, and Van Scoy. Voting No: None. Absent: None.

Chairperson Levine closed the public hearing closed at 7:37 p.m.

Commission Business

Commissioner Van Scoy supported the proposed Ordinance amendment and suggested the additional uses be made conditional uses in the E-3 zoning district.

Chairperson Levine requested to see a map of the proposed E-3 zoning district.

Planning Consultant Goodroad reviewed a map of the proposed area with the Commission noting it was south of Highway 10.

Commissioner Brauer questioned why Staff was proposing revisions for this zoning district. He indicated the proposed revisions may make future development more difficult.

Development Services Manager Gladhill explained the existing zoning for the subject property was R-1 Residential. Through the Comprehensive Plan review, it was suggested that this area be turned into corporate campuses without outside storage, which currently was not allowed in the E-1 or E-2 zoning districts.

Commissioner Bauer agreed with Commissioner Brauer and expressed concern with creating another zoning district. He recommended the site be either E-1 or E-2 and that modifications be made if necessary.

Chairperson Levine inquired why Staff was proposing a more restrictive zoning district.

Planning Consultant Goodroad stated the idea for this district was to create a distinguished district beyond the E-1 and E-2 areas in the City. The area would special for corporate campuses, which was recommended by the Comprehensive Plan. Staff was not proposing to change the E-1 or E-2 zoning districts at this time.

Chairperson Levine questioned what was special or different in the E-3 district.

Planning Consultant Goodroad described a vision for the district in detail with the Commission. She indicated the corporate campus would attract multiple users that would have an interior space focused for office, educational and technological uses. There would be common amenities with open space. She referred to several campuses in the metro area that fit this zoning.

Development Services Manager Gladhill stated the City's current employment districts were largely built out and the proposed E-3 district would create a new employment district that would attract corporate campuses. Another difference with the E-3 versus the E-2 is that it would be more office and less manufacturing. He recommended the item be tabled if the Commission wanted to revise the E-1 or E-2 zoning districts as this would allow Staff time to properly review and revise City Code.

Chairperson Levine asked how the Commission would like to proceed.

Commissioner Schiller supported the E-3 district moving forward with the conditional uses recommended by Staff.

Development Services Manager Gladhill requested further comment from the Commission on the architectural design standards and outdoor storage in the proposed E-3 district.

Commissioner Brauer questioned if the rezoning made the property today made it easier for a corporate campus to come to the City of Ramsey.

Development Services Manager Gladhill indicated the rezoning would simplify the process for future tenants of the site.

Commissioner Bauer inquired if offices were allowed in the E-1 and E-2 districts.

Development Services Manager Gladhill explained this was an allowed use in both districts currently.

Motion by Commissioner Bauer, seconded by Commissioner Schiller, to direct Staff to research and revise the existing E-1 and E-2 zoning districts to allow for a corporate campus and report back to the Commission.

Further discussion

Commissioner Van Scoy understood that E-1 or E-2 could fit this site. However, to properly guide the site into becoming a highly desirable site, the E-3 zoning district was necessary.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Brauer, Bauer, Field, Perez, and Schiller. Voting No: Van Scoy. Absent: None.

Chairperson Levine asked if the delay would affect any current proposals.

Development Services Manager Gladhill noted the City did not have any current development requests at this time.

5.05: Public Hearing: Review Zoning Ordinance Amendments Related to the 2030 Comprehensive Plan and General Updates

Public Hearing

Chairperson Levine called the public hearing to order at 8:00 p.m.

Presentation

Planning Consultant Goodroad presented the staff report and reviewed the proposed zoning ordinance amendments in detail related to the 2030 Comprehensive Plan. She explained that Staff has completed updates necessary to implement the 2030 Comprehensive Plane, as well as certain other previously discussed amendments. Many of the proposed changes are simply a

restructuring and consolidation of existing ordinances. Staff recommended the Commission discuss the proposed amendments and approve the zoning ordinance sections as presented.

Chairperson Levine recommended all references to ballfields be changed to athletic field.

Commissioner Van Scoy did not support this change as it would allow for advertisement to children on their athletic fields.

Commissioner Perez stated if advertisements were allowed on one field, it should be allowed on all fields.

Commissioner Schiller commented the advertisements allowed for a source of revenue.

Commissioner Field noted that advertisement was specifically allowed at larger ballfields and content related restrictions could be set.

Planning Consultant Goodroad indicated the current sign advertisement code was written specifically for baseball/softball complexes. She stated she would have to review this matter further to assure the City would not be addressing sign clutter at other athletic fields.

Development Services Manager Gladhill explained the Park and Recreation Commission would review all future sign requests. He commented this group would make final determinations regarding signage.

Commissioner Brauer was in favor of allowing signage on all athletic fields as this has become the practice in other communities.

Chairperson Levine asked the Commission how to proceed on this issue.

Commissioner Schiller also supported the advertising signs stating the Park and Recreation Department would make the final decision.

Commissioner Perez stated the signage allowed for a means to raise money to support sports in the community.

Chairperson Levine clarified that the Commission supported advertising signs at all athletic facilities.

Development Services Manager Gladhill suggested the Commission make a motion to amend the draft language to include this recommendation.

Motion by Commissioner Bauer, seconded by Commissioner Schiller, to amend the City Code draft for Section 117-122a to insert Athletic Facilities in place of Ballfields.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Schiller, Brauer, Field, and Perez. Voting No: Van Scoy. Absent: None.

Planning Consultant Goodroad reviewed the proposed changes to Section 117-116a with the Commission regarding special requirements and performance standards in all employment and office park districts.

Chairperson Levine questioned how this code would be expanded through the revisions.

Planning Consultant Goodroad reviewed the design elements that would be changed noting accents would be spelled out to future architects. An advantage to adding clarity to the code was that expectations were very clear to all applicants.

Development Services Manager Gladhill noted there would be a menu of design options to assist future developers while allowing for creativity without becoming too restrictive.

Planning Consultant Goodroad discussed the proposed changes to Section 117-116 regarding E-2 Employment District and E-1 Employment District. Minor revisions were made to add places of public assembly as an interim use.

Chairperson Levine suggested the Interim Use for public assembly be made a Conditional Use.

Commissioner Brauer excused himself from the meeting at 8:27 p.m.

Development Services Manager Gladhill reviewed the differences between interim use and conditional use based on zoning district. He commented the Planning Commission could make a change specific to the E-1 and E-2 zoning districts.

Motion by Commissioner Bauer, seconded by Commissioner Schiller, to amend the City Code draft for Section 117-116 allowing public assembly as a conditional use in the E-1 and E-2 zoning districts.

Further discussion

Commissioner Schiller supported this recommendation as the conditional use would allow for conditions for approval to be placed on the use.

Commissioner Bauer agreed.

Commissioner Field stated the interim use permit addressed more short-term needs, while the conditional use permit addressed long-term needs.

Development Services Manager Gladhill discussed the purpose and intent of the interim use permit. He noted it was a short-term solution for a site. He noted places of assembly did have

broad requirements and Staff would need to review this further and would provide adjustments to the City Council.

Commissioner Brauer returned to the meeting at 8:29 p.m.

Commissioner Brauer requested clarification on the motion on the table.

Chairperson Levine reviewed the motion in detail.

Commissioner Brauer questioned why the City was interested in limiting or creating a timeframe for a use.

Planning Consultant Goodroad stated many communities are reevaluating their industrial uses. The intent of the E-1 and E-2 district was to allow for heavy and light manufacturing. However, as cities become fully built out, open industrial sites are becoming attractive to new churches. The concern was, if the site was purchased by a non-profit, it would be removed from the City's tax rolls. On the other hand, an interim use or rental situation would keep the property on the tax rolls.

Commissioner Bauer still supported places of assembly becoming a conditional use.

Commissioner Van Scoy asked if a conditional use permit stayed with a property once approved.

Development Services Manager Gladhill explained this was the case. A conditional use permit would be in affect on a property until there was a one-year lapse in use.

Commissioner Brauer expressed concern with limiting church requests too much.

Development Services Manager Gladhill clarified that churches were being listed as places of assembly to assure there was no discrimination in reviewing the requests. These uses are not currently permitted in the districts being discussed.

Chairperson Levine commented there was a difference between interim and conditional use permits.

Associate Planner/Environmental Coordinator Anderson stated E-1 and E-2 zoning were clearly defined as the City's employment districts. He did not see that the City was being discriminatory against particular uses as they were allowed freely in other zoning districts.

Development Services Manager Gladhill indicated public assembly uses do have traffic concerns and the interim or conditional use permit would assure that each specific request was reviewed prior to approval by the City.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Field, Brauer, Perez, Schiller, and Van Scoy. Voting No: None. Absent: None.

Planning Consultant Goodroad reviewed the proposed revisions to Section 117.144a with regard to the Special Requirements and Performance Standards for the B-1, B-2 and B-3 zoning districts. She requested comment from the Commission on the proposed amendments.

Commissioner Van Scoy questioned what portion of the building Hope Fellowship occupied. He did not feel it was necessary to have this restriction.

Development Services Manager Gladhill was not certain of the exact percentage, but knew it was less than 50%. He indicated the new standards would assist in reducing the need for conditional uses. He noted there were less concerns in Commercial Districts than Business Districts for places of assembly given the fact there were residential businesses.

Chairperson Levine asked how the Commission would like to proceed on this item.

Commissioner Brauer did not see a need for this restriction.

Planning Consultant Goodroad explained churches were moving from Residential zoning districts to Business or Commercial districts. For this reason, the City needed to revise its code. The percentage provision assured that multi-tenant buildings would not be overtaken by places of assemblies.

Development Services Manager Gladhill noted places of assembly were not currently allowed in Commercial Districts. The City was now allowing this use in Business Districts to meet the needs of the City, while holding up to 20% of a multi-tenant building.

Further discussion ensured regarding the limitation within multi-tenant buildings.

Motion by Commissioner Bauer, seconded by Commissioner Van Scoy, to amend the City Code draft for Section 117-144a removing the 20% restriction for places of assembly in the B-1, B-2 and B-3 zoning districts.

Further discussion

Commissioner Brauer asked if the City would be moving toward points based zoning or away from this theory. He did not want to see the City becoming overly restrictive. He encouraged the City to be flexible and allow for innovations.

Development Services Manager Gladhill indicated the City has been making efforts to create a more user friendly Ordinance. He commented he would need additional training with regard to the points based zoning system. He understood this offered additional flexibility, but would need time and training in order to properly implement the new system.

Commissioner Brauer suggested the Council make the final decision on this issue as he was not criticizing Staff in any way.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Van Scoy, Brauer, Field, Perez, and Schiller. Voting No: None. Absent: None.

Planning Consultant Goodroad reviewed the proposed changes to Section 117-355 regarding Residential Development Off-Street Parking. She noted more detail was added with regard to residential uses and parking needs, in addition to commercial and industrial uses. The City was trying to reduce the abundance of over parking throughout the City. She discussed the proof of parking clause in the code. Staff requested comments from the Commission on this portion of code.

Development Services Manager Gladhill commented that parking lot landscaping did have baseline requirements within City Code and requested the Commission discuss this matter further and specify where plantings were to be made in and around the lots.

Associate Planner/Environmental Coordinator Anderson stated the intent of the current code was to provide for trees to the interior of the lot and not just around the perimeter. The new code would allow for flexibility on the placement of the trees.

Commissioner Van Scoy asked for the intent of the previous code.

Associate Planner/Environmental Coordinator Anderson believed the intent was to have interior parking lot plantings to break up the heat island effect. However, this was not clearly spelled out in the language.

Commissioner Van Scoy thanked Staff for the clarification.

Commissioner Schiller was in favor of the new language but stated the new landscaping requirements may cause concern on how to irrigate the islands.

Commissioner Field stated it was simpler to plant the trees around the perimeter of a property than to the interior. He questioned if the City should consider incentives for choosing to plant trees to the interior.

Development Services Manager Gladhill indicated the City could consider a break in storm water fees for choosing to plant trees to the interior of a site.

Commissioner Schiller recommended a percentage of trees be encouraged to be interior and that this not be a mandate.

Planning Consultant suggested the Commission select Alternative D, which would allow for an incentive-based program versus a mandate.

Development Services Manager Gladhill proposed a motion for the Commission to consider.

Motion by Commissioner Schiller, seconded by Commissioner Bauer, to amend the City Code draft for Section 117-356 accepting Alternative D, which is to include language within Alternative C for an incentive program.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Van Scoy, Bauer, Brauer, Field, Perez, and Schiller. Voting No: None. Absent: None.

Commissioner Schiller questioned if the City should be limiting the size of a parking lot.

Planning Consultant Goodroad stated there may be only a few days a year that Target or other big box parking lot was full. The other 360+ days in the year, the current requirements were adequate.

Commissioner Brauer explained that City Staff would work with future applicants to meet their parking needs.

Chairperson Levine agreed stating City Staff would make a good common sense decision on parking lot size based on future needs.

Motion by Commissioner Schiller, seconded by Commissioner Brauer, to amend the City Code draft for Section 117-356 eliminating the parking lot maximum language from the Code.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Schiller, Van Scoy, Bauer, Brauer, Field, and Perez. Voting No: None. Absent: None.

Planning Consultant Goodroad reviewed the proposed amendments to Section 117.363 regarding the Commercial and Industrial Landscaping Requirements. She noted the amendments would consolidate all landscaping requirements into one landscaping section, while assuring the landscaping was properly maintained after the two-year threshold. Staff requested comment from the Commission.

Commissioner Schiller questioned if landscaping could be completely removed and replaced with the new language.

Associate Planner/Environmental Coordinator Anderson stated this would be allowed through City approval, as there were a few prohibitive species. He called attention to Line 54, which addressed credit for keeping existing trees. He then discussed soil moisture sensors.

Development Services Manager Gladhill questioned the expense of a soil moisture sensor.

Associate Planner/Environmental Coordinator Anderson did not have an exact expense, but noted other cities had begun incentive programs for the use of these devices. He explained that in the long run, the property owner would see savings through reduced water usage. He commented the City of Ramsey was approached by the State to implement some water saving measures. The soil moisture sensor was a part of this program along with requiring top soil.

Commissioner Bauer suggested property owners with multiple roadway frontages be allowed greater flexibility with tree credits.

Development Services Manager Gladhill commented this could be considered.

Commissioner Field stated the additional expense of the soil moisture sensor may deter some new businesses. However, future cost saving benefits and use of these sensors could be encouraged.

Development Services Manager Gladhill indicated the City had four test plots with varying levels of top soil and soil moisture sensors. He explained that if the Commission would like to hold off on this mandate, further analysis would be available in the future.

Commissioner Bauer did not support the 50% building perimeter requirement.

Chair Levine was concerned with the sensors becoming a mandate.

Development Services Manager Gladhill stated Staff would report back to the Commission at a future date with further information as there was an aesthetic benefit.

Motion by Commissioner Schiller, seconded by Commissioner Brauer, to amend the City Code draft for the Consolidated Landscaping Section removing the soil moisture sensor mandate and the building perimeter requirement.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Brauer, Field, Perez, Schiller, and Van Scoy. Voting No: None. Absent: None.

Development Services Manager Gladhill reviewed the amendments made to the draft City Code this evening and recommended the Commission close the public hearing and take action on the amended sections of the zoning code.

Citizen Input

None.

Motion by Commissioner Van Scoy, seconded by Commissioner Bauer, to close the public hearing.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Van Scoy, Bauer, Brauer, Field, Perez, and Schiller. Voting No: None. Absent: None.

Chairperson Levine closed the public hearing closed at 9:40 p.m.

Commission Business

Motion by Commissioner Bauer, seconded by Commissioner Van Scoy, to recommend that City Council adopt a Resolution granting approval of the amended Sections of the Zoning Code with the revisions made this evening.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Van Scoy, Brauer, Field, Perez, and Schiller. Voting No: None. Absent: None.

Commissioner Field commended Planning Consultant Goodroad for the amendments and clarity provided to the Commission this evening.

5.06: Staff Update

The Staff Update was noted.

5.07: Zoning Bulletins

Zoning Bulletins were noted.

6. COMMISSION / STAFF INPUT

6.01: Happy Days

Chairperson Levine stated Happy Days would take place this weekend, September 8th and 9th. The events planned were discussed in detail. The Ramsey Foundation Pancake Breakfast would take place on Saturday morning. All events were noted in further detail on the City's website.

7. ADJOURNMENT

Motion by Commissioner Bauer, seconded by Commissioner Schiller, to adjourn the meeting.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Brauer, Van Scoy, Bauer, Field, Perez, and Schiller. Voting No: None. Absent: None.

The regular meeting of the Planning Commission adjourned at 9:44 p.m.

Respectfully submitted,

_____
Tim Gladhill
Development Services Manager

ATTEST:

_____
JoAnn Shaw
Planning Division Secretary

Drafted by Heidi Guenther
TimeSaver Off Site Secretarial, Inc.

Regular Planning Commission **5. 1.**

Meeting Date: 10/04/2012

By: JoAnn Shaw, Community Development

Information

Title:

Note the Following City Council Meeting Minutes:

City Council Meeting Minutes Dated July 10, 2012
City Council Meeting Minutes Dated July 24, 2012

Background:

n/a

Notification:

Observations:

Funding Source:

Staff Recommendation:

Committee Action:

Attachments

07.10.12

07.24.12

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	09/26/2012 01:06 PM

Form Started By: JoAnn Shaw Started On: 09/26/2012 10:16 AM

Final Approval Date: 09/26/2012

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CITY COUNCIL
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

The Ramsey City Council conducted a regular meeting on Tuesday, July 10, 2012, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Mayor Bob Ramsey
Councilmember Randy Backous
Councilmember David Elvig
Councilmember Colin McGlone (arrived at 7:02 p.m.)
Councilmember Sarah Strommen
Councilmember Jason Tossey
Councilmember Jeffrey Wise

Members Absent: None

Also Present: City Administrator Kurtis Ulrich
Police Chief James Way
City Clerk Jo Ann Thieling
Street Superintendent Grant Reimer
Senior Planner Timothy Gladhill
City Attorney William Goodrich
Development Manager Darren Lazan
Interim Engineer Ron Wagner

1. CALL TO ORDER

Mayor Ramsey called the regular meeting of the Ramsey City Council to order at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor Ramsey.

2. PRESENTATION

None.

3. CITIZEN INPUT

None.

4. CONSENT AGENDA

Motion by Councilmember Backous, seconded by Councilmember Elvig, to approve the following items on the Consent Agenda:

4.01: Note Name Change of Whiskey Jack's to Willy McCoys
4.02: Accept Resident Petition to Consider the Installation of a 4-Way Stop Sign at 145th Lane and Tungsten Way
4.03: Consider Request for Amendment to Declaration of Easements at 8071 Riverdale Drive NW; Case of Arbor Commercial Group
4.04: Approve the Following City Council Meeting Minutes:
1) City Council – Regular Meeting – May 22, 2012
2) City Council – Regular Meeting – June 12, 2012
4.05: Approve Licenses:

Special Events

City of Ramsey – Happy Days, 7550 Sunwood Drive NW, Ramsey, MN 55303

Peddler/Solicitor

Southwestern Advantage, 2451 Atrium Way, Nashville, TN 37214

4.06: Introduce Ordinance to Amend City Code Chapter 10 – Animals, Article III Dogs
4.07: Introduce Ordinance Amending the City Code Relating to Noise Nuisance/Sound Levels
4.08: Adopt Resolution #12-07-102 Approving Cash Disbursements made and Authorizing Payment of Accounts Payable Invoicing Received During the Period of June 21, 2012 through July 5, 2012
4.09: Adopt Resolution #12-07-103 Establishing an Absentee Ballot Board in the City o Ramsey
4.10: Adopt Resolution #12-07-104 Appointing Election Judges for the Primary Election on August 14, 2012

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Backous, Elvig, Strommen, Tossey, and Wise. Voting No: None. Absent: Councilmember McGlone.

5. APPROVE AGENDA

Motion by Councilmember Elvig, seconded by Councilmember Wise, to approve the agenda as presented.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Elvig, Wise, Backous, Strommen, and Tossey. Voting No: None. Absent: Councilmember McGlone.

Councilmember McGlone arrived at 7:02 p.m.

Due to an error in the "Ramsey City Council Candidates" article in the *Ramsey Resident* relating to At Large Ward 4 candidates, City Clerk Thieling read the corrected article.

6. PUBLIC HEARING

None.

7. COUNCIL BUSINESS

7.01: Consider Permanent Sign Permit Application for City Owned Property at 14550 Armstrong Boulevard NW; Case of Ramsey Raceway

Senior Planner Gladhill reviewed the staff report and answered questions of the Council relating to the request. He indicated the proposed sign will not impact drainage and Connexus will be asked to confirm the location does not conflict with its overhead lines. It was noted an escrow is not required; however, removal of the sign is tied into the Ramsey Raceway lease.

Motion by Councilmember Elvig, seconded by Mayor Ramsey, to approve the request for a permanent sign at 14550 Armstrong Boulevard NW as requested, contingent upon review by the Building Official.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Elvig, Backous, McGlone, Strommen, Tossey, and Wise. Voting No: None.

7.02: Consider Options Related to an Approved Conditional Use Permit for Motor Vehicle Sales at 8175 Riverdale Drive NW

Senior Planner Gladhill reviewed the staff report and indicated staff thinks the 60-day extension is adequate to complete City review and the LRRWMO approval process and still complete the project prior to frost. Staff will inform the Council if the terms of the CUP are not met.

Motion by Councilmember McGlone, seconded by Councilmember Wise, to approve a sixty (60) day extension so the Permittee and property owner can provide updated, complete grading/drainage plans for review and approval by the City and complete the installation of surfacing to comply with the approved conditional use permit.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers McGlone, Wise, Backous, Elvig, Strommen, and Tossey. Voting No: None.

7.03: Approve Amending Council Meeting Schedule

City Clerk Thieling reviewed the staff report.

Motion by Councilmember Backous, seconded by Mayor Ramsey, to cancel the August 7 City Council Work Session, reschedule the August 14 meetings to Monday, August 13, cancel the August 21 Public Works Committee meeting, cancel the November 6 Council Work Session, cancel the December 25 Regular City Council Meeting and the January 1 City Council Work Session, with the understanding that if something comes up that is timely, make-up meetings can be scheduled with proper notice.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Backous, Elvig, McGlone, Strommen, Tossey, and Wise. Voting No: None.

7.04: Consider Preliminary Plat, Final Plat and Zoning Amendment for COR THREE (North Commons) Located North of Bunker Lake Boulevard and East of Armstrong Boulevard; Case of City of Ramsey Housing and Redevelopment Authority (HRA)

Senior Planner Gladhill and Development Manager Lazan reviewed the staff report and answered questions of the Council relating to property use and drainage.

Motion by Mayor Ramsey, seconded by Councilmember Wise, to adopt Resolution #12-07-105 approving the Preliminary Plat for COR THREE (North Commons) Located North of Bunker Lake Boulevard and East of Armstrong Boulevard; Case of City of Ramsey Housing and Redevelopment Authority (HRA); adopt Resolution #12-07-106 approving the Final Plat for COR THREE (North Commons) Located North of Bunker Lake Boulevard and East of Armstrong Boulevard; Case of City of Ramsey Housing and Redevelopment Authority (HRA); and, to introduce an Ordinance Approving the Zoning Amendment for the Four (4) Single-Family Lots adjacent to North Commons from COR-5 to COR-4a, contingent upon:

1. Required amendments as outlined in the staff report file dated June 15, 2012
2. Approval of the Zoning Amendment for the four (4) single-family units within North Commons
3. Response from the Anoka County Highway Department

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Wise, Backous, Elvig, McGlone, Strommen, and Tossey. Voting No: None.

7.05: Consider Off-Street Parking Options for Game Fair Area

Senior Planner Gladhill reviewed the staff report and answered questions of the Council.

The Council discussed whether the location of parking should be extended. It was noted staff's intent was to locate parking near a crosswalk on Armstrong Boulevard to address pedestrian safety.

The consensus of the Council was to support a temporary two-week waiver of the City's off-street parking ordinance in regard to surfacing requirements for the Game Fair and allow past practice to provide off-street spectator parking through a combination of parking available at Central Park (with shuttle service provided by the Ramsey Lions) and adjacent residential units.

7.06: Sunwood Drive Construction Services Contract

City Administrator Ulrich reviewed the Council's previous discussion and clarified that Anoka County has indicated it did not have an issue working with Landform; however, had past issues with inspectors with which they were not familiar.

Interim Engineer Wagner indicated he looked at both contracts and found they were similar in cost. The Landform contract is $70,000 but does not include the Armstrong Boulevard plans,

which is estimated at $4,700. The WSB contract is $75,000. He indicated if Anoka County has no issue with Landform, it is at the discretion of the Council.

City Attorney Goodrich stated he reviewed the Landform contract and advised it is between the HRA and Landform, not the City. The project under consideration is a City project so the Council has the ability to contract with either firm.

Development Manager Lazan, representing Landform, advocated for approval of the Landform contract.

Tony Heppelmann, WSB & Associates Vice President, advocated for approval of the WSB contract.

Motion by Councilmember Elvig, seconded by Councilmember Backous, to approve Option 1: If the City Attorney's opinion matches the former City Engineer's interpretation of the HRA contract with Landform, staff's recommendation remains unchanged. Staff recommends that the City Council award the Project Engineering, Construction Staking and Record Plans components to WSB & Associates in the estimated amount of $75,000 with the City performing the Construction Administration and Inspection. Staff recommends awarding Landform a Project Engineering budget of $15,000 to assist in the interpretation of the Sunwood Drive plans and specifications.

Further discussion: The Council debated the cost of each contract component and asked questions of staff. Mayor Ramsey and Councilmembers McGlone and Wise voiced support to award the contract to Landform, believing it was the low bid. Councilmembers Backous, Elvig, Strommen and Tossey voiced support to award the contract to WSB, per staff's recommendation. City Administrator Ulrich indicated staff's recommendation has not changed, the prices are near level, and staff had clarified previous comments about the ability of Landform to do the job with Anoka County.

Motion by Councilmember Elvig, seconded by Councilmember Tossey, to call the question.

Motion to call the question carried. Voting Yes: Mayor Ramsey, Councilmembers Elvig, Tossey, Backous, McGlone, Strommen, and Wise. Voting No: None.

Motion carried. Voting Yes: Councilmembers Elvig, Backous, Strommen, and Tossey. Voting No: Mayor Ramsey, Councilmembers McGlone and Wise.

7.07: Consider Request for 100 Square Foot Temporary Sign for Game Fair

Senior Planner Gladhill reviewed the staff report.

Motion by Mayor Ramsey, seconded by Councilmember Backous, to authorize the display of a 100 square foot temporary sign to promote the Game Fair contingent upon compliance with all other temporary sign regulations, such as duration, location and obtaining the necessary permit,

and providing written authorization from the property owner of the parcel the sign will be located.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Backous, Elvig, McGlone, Strommen, Tossey, and Wise. Voting No: None.

8. MAYOR, COUNCIL AND STAFF INPUT

Mayor Ramsey announced upcoming events and asked those interested in volunteering for the Beyond the Yellow Ribbon effort to contact City Hall.

City Administrator Ulrich announced the upcoming recreational vehicle training session and events.

9. ADJOURNMENT

Motion by Councilmember Elvig, seconded by Councilmember Wise, to adjourn the meeting.

Motion carried.

The regular meeting of the City Council adjourned at 8:05 p.m.

Respectfully submitted,

_____
Kurtis G. Ulrich
City Administrator

ATTEST:

_____
Jo Ann M. Thieling
City Clerk

Drafted by Carla Wirth
TimeSaver Off Site Secretarial, Inc.

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CITY COUNCIL
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

The Ramsey City Council conducted a regular meeting on Tuesday, July 24, 2012, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Mayor Bob Ramsey
Councilmember Randy Backous
Councilmember David Elvig
Councilmember Colin McGlone
Councilmember Sarah Strommen
Councilmember Jason Tossey
Councilmember Jeffrey Wise

Members Absent: None

Also Present: Deputy City Administrator/Finance Director Diana Lund
Police Chief James Way
Human Resources Manager Colleen Lasher
City Clerk Jo Ann Thieling
Development Services Manager Timothy Gladhill
Assistant Planner/Environmental Coordinator Chris Anderson
Management Analyst Patrick Brama
City Attorney William Goodrich
Development Manager Darren Lazan
Interim Engineer Ron Wagner

1. CALL TO ORDER

Mayor Ramsey called the regular meeting of the Ramsey City Council to order at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor Ramsey.

2. PRESENTATION

None.

3. CITIZEN INPUT

Todd Embury, 9041 159th Lane NW, Ramsey, thanked the Council for the sidewalk on Alpine Drive and stated his concern with the obscured view at the western quadrant of the Puma Street and Alpine Drive intersection.

The Council thanked Mr. Embury for bringing forward this concern and directed staff to inspect this corner and determine whether it meets sight triangle requirements.

City Clerk Thieling advised of a correction to the July/August issue of the *Ramsey Resident* relating to candidates in the primary election.

4. CONSENT AGENDA

Motion by Councilmember Elvig, seconded by Councilmember Wise, to approve the following items on the Consent Agenda:

4.01: Receive May 2012 Financial Reports – General Fund and Enterprise Funds
4.02: Receive Cash and Investments for Period Ending May 31, 2012
4.03: Receive plans and specifications and authorization to bid City Project #12-23; SAP 199-107-009 Alpine Drive Reconstruction
4.04: Note the following Boards and Commissions Meeting Minutes:
1) June 4, 2012 – Environmental Policy Board Meeting Minutes
2) June 7, 2012 – Planning Commission Meeting Minutes
3) June 14, 2012 – Economic Development Authority Meeting Minutes
4.05: Approve Exemption for a Gambling License for True Calling Outdoors, Inc.
4.06: Approve License Applications:

Special Events

Freedom Christian Center, 6937 Highway #10 NW, Ramsey, MN 55303

4.07: Consider Change Order for City Improvement Project #12-24 Division B
4.08: Consider Street Light Installation Contract with Connexus Energy for Sunwood Drive Realignment
4.09: Adopt Resolution #12-07-107 adopting Findings of Fact #0904 regarding a Request for an Interim Use Permit for Grading and Mining Activities on Outlots A and B, Elmcrest Sanctuary; Case of Oakwood Land Development, Inc.; and adopt Resolution #12-07-108 approving the Interim Use Permit.
4.10: Adopt Resolution #12-07-109 Approving Cash Disbursements Made and Authorizing Payment of Accounts Payable Invoicing Received During the Period of July 6, 2012, through July 18, 2012
4.11: Adopt Resolution #12-07-110 Authorizing Partial Payment to Knutson Construction for IP 10-22 Municipal Parking Ramp, Phase II
4.12: Adopt Resolution #12-07-111 Authorizing Partial Payment to Julian M. Johnson Construction Corp. for IP 12-24 Storm Sewer Improvements Division B
4.13: Adopt Resolution #12-07-112 Authorizing Partial Payment to Dryden Excavating for IP 12-24 Storm Sewer Improvements Division A
4.14: Report from the Personnel Committee Meeting dated July 10, 2012:
1) Consider Resolution to Authorize Staff Position/Wage Modifications Due to Organizational Changes – *Ratify the recommendation of the Personnel Committee to adopt Resolution #12-07-113, which upon City Approval, will direct staff to make the following modifications based on already established pay scales:*

- *Change the Senior Planner position, occupied by Tim Gladhill, to that of the Development Services Manager, effective July 1, 2012, at Step 2 of the wage scale.*
- *Change the Human Resources Representative position, occupied by Colleen Lasher, to that of the Human Resources Manager, effective July 1, 2012, at Step 1 of the wage scale.*
- *Change the Senior Accountant position, occupied by Denelle McAlpine, to that of the Assistant Finance Director, effective July 1, 2012, at Step 1 of the wage scale.*
- *Change the Lieutenant position, occupied by Jeff Katers, to that of the Support Services Captain, effective July 1, 2012, at Step 5 of the wage scale.*
- *Change the Associate Planner/Environmental Coordinator's pay scale to that of the Associate Planner at Step 6 of the wage scale.*

2) Review of Recent Employee Exit Interviews – *Informational; no action required.*

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Elvig, Wise, Backous, McGlone, Strommen, and Tossey. Voting No: None.

5. APPROVE AGENDA

Motion by Mayor Ramsey, seconded by Councilmember Backous, to approve the agenda as revised to add Item 7.9, Update on Sunwood Drive Realignment Project, and Item 7.10, Update on Landform Billing.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Backous, Elvig, McGlone, Strommen, Tossey, and Wise. Voting No: None.

6. PUBLIC HEARING

None.

7. COUNCIL BUSINESS

7.01: Request for Amended Development Contract and Release from Previous Development Agreement (THE PONDS); Case of First Phoenix Group

Development Services Manager Gladhill reviewed the staff report and answered questions of the Council, noting this is strictly a matter of deferring payment.

Motion by Councilmember Elvig, seconded by Mayor Ramsey, to approve the amended development contract and release from previous development agreement (THE PONDS); Case of First Phoenix Group.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Elvig, Backous, McGlone, Strommen, Tossey, and Wise. Voting No: None.

7.02: Consider Approval of Five (5) Year Curbside Recycling Contract with ACE Solid Waste, Inc.

Assistant Planner/Environmental Coordinator Anderson reviewed the staff report.

Motion by Councilmember Wise, seconded by Mayor Ramsey, to approve a five-year curbside recycling contract with ACE Solid Waste, Inc.

Further discussion: The Council commended Assistant Planner/Environmental Coordinator Anderson for his work to improve the City's recycling program.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Wise, Backous, Elvig, McGlone, Strommen, and Tossey. Voting No: None.

7.03: Introduce Ordinance to Establish GF Game Fair Off-Street Parking Overlay District

Development Services Manager Gladhill reviewed the staff report.

Motion by Councilmember McGlone, seconded by Councilmember Wise, to introduce an Ordinance to Establish GF Game Fair Off-Street Parking Overlay District.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers McGlone, Wise, Backous, Elvig, Strommen, and Tossey. Voting No: None.

7.04: Adopt Ordinance Approving Zoning Amendment for COR THREE

Development Services Manager Gladhill reviewed the staff report.

Motion by Councilmember Ramsey, seconded by Councilmember Wise, to waive the City Charter requirement to read the ordinance aloud and adopt Ordinance #12-09 Approving Zoning Amendment for COR THREE.

A roll call vote was performed by the Recording Secretary:

Councilmember Elvig	aye
Councilmember McGlone	aye
Councilmember Wise	aye
Councilmember Backous	aye
Councilmember Tossey	aye
Councilmember Strommen	aye
Mayor Ramsey	aye

Motion carried.

7.05: Consider Resolution #12-07-XXX to Approve a Revised Comprehensive Plan Amendment for The COR

Development Services Manager Gladhill and Development Manager Lazan reviewed the staff report and answered questions of the Council relating to the proposed Comprehensive Plan amendment and process to update the original AUAR. It was noted reference to a community center is simply a placeholder in the Comprehensive Plan and the City is not considering that type of project at this point. They explained the need to update the AUAR and amend the Comprehensive Plan to address inconsistencies and assure the traffic counts and housing components are consistent and more trips will not be generated than the infrastructure can accommodate.

Councilmembers Elvig and Strommen expressed concern there would be financial ramifications to the City, now or in the future, if revised projections are not met or a reviewing agency does not support the updated AUAR.

Development Services Manager Gladhill explained that is the reason staff is taking the approach to update the AUAR, so those questions can be answered. He noted this is only an AUAR update and the City already has a lot of baseline information. Once updated, staff can pursue grant opportunities and properly plan for infrastructure needs.

Councilmember Strommen raised questions on the process of updating the AUAR, amending the Comprehensive Plan, and whether the review process may result in additional changes.

Development Services Manager Gladhill explained that the data in the AUAR and Comprehensive Plan dovetail. He described the process for review by the Environmental Quality Board and other agencies as well as the allowed comment period. The Council will be notified of agency comments, if any, and he is confident nothing major will come up during the AUAR comment period.

At the request of Councilmember Strommen, Development Services Manager Gladhill recapped the discussion held by the Planning Commission.

Councilmember Strommen suggested several formatting revisions to the technical memorandum to improve readability and clarity.

Motion by Mayor Ramsey, seconded by Councilmember Wise, to adopt Resolution #12-07-114 Approving a Revised Comprehensive Plan Amendment for The COR.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Wise, Backous, Elvig, McGlone, Strommen, and Tossey. Voting No: None.

7.06: Adopt Ordinance Amending the City Code Relating to Noise Nuisance/Sound Levels

Police Chief Way reviewed the staff report and advised that it met criteria to issue a citation if a complaint is received that the sound level is a nuisance. The complainant would be expected to give court testimony as to the level of annoyance.

Motion by Councilmember Elvig, seconded by Councilmember Backous, to waive the City Charter requirement to read the ordinance aloud and adopt Ordinance #12-10 Amending the City Code Relating to Noise Nuisance/Sound Levels.

A roll call vote was performed by the Recording Secretary:

Councilmember McGlone	aye
Councilmember Elvig	aye
Councilmember Backous	aye
Councilmember Wise	aye
Councilmember Tossey	aye
Councilmember Strommen	aye
Mayor Ramsey	aye

Motion carried.

7.07: Adopt Ordinance to Amend City Code Chapter 10 – Animals, Article III Dogs

Police Chief Way reviewed the staff report.

Motion by Councilmember Wise, seconded by Councilmember Backous, to waive the City Charter requirement to read the ordinance aloud and adopt Ordinance #12-11 Amending City Code Chapter 10 – Animals, Article III Dogs.

A roll call vote was performed by the Recording Secretary:

Councilmember Elvig	aye
Councilmember McGlone	aye
Councilmember Wise	aye
Councilmember Strommen	aye
Councilmember Backous	aye
Councilmember Tossey	aye
Mayor Ramsey	aye

Motion carried.

Councilmembers McGlone and Backous left the Council Chambers at 7:58 p.m.

7.08: Consider Acquisition of Tax Forfeit Properties and Resolution #12-07-XXX Authorizing Acquisition of Tax Forfeit Property for Utility Easement Purposes

Management Analyst Brama reviewed the staff report.

Motion by Councilmember Elvig, seconded by Councilmember Wise, to adopt Resolution #12-07-115 Authorizing Acquisition of Tax Forfeit Property for Utility Easement Purposes.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Elvig, Wise, Strommen, and Tossey. Voting No: None. Absent: Councilmembers Backous and McGlone.

7.09: Update on Sunwood Drive Realignment Project

Interim Engineer Wagner provided an update on the Sunwood Realignment Project and answered questions of the Council. It was noted that during the first few days of the project, work occurred on property the City did not own. Interim Engineer Wagner stated they would ask the contractor about that situation and whether a change order will result.

Councilmember Backous returned to the Council Chambers at 8:03 p.m.

The Council discussed the existing "roller coaster" grade of Zeolite Street and whether it was cost efficient to complete the final grade.

Mayor Ramsey indicated he had spoken with City Administrator Ulrich and Interim Engineer Wagner about this matter and it was concluded to be too late for that type of change because the manhole covers would also have to be lowered, causing significant delay in the project.

7.10: Update on Landform Billing

Mayor Ramsey explained that in response to a question raised why the City has paid Landform, The COR Development Management Team, "over $1 million over the last 2.5 years" he had asked Development Manager Lazan to provide clarification.

Development Manager Lazan presented the Development Management Contract costs for the first seven months of 2012 for each of the four primary categories: Administration, Incentive Based Compensation, Project Based Compensation, and Reimbursable Expenses.

Councilmember McGlone returned to the Council Chambers at 8:16 p.m.

Mayor Ramsey stated this information makes it clear that it would probably have cost twice this amount to complete the work in house. He noted the effort to consultants only increased 2% when the City lost the Deputy City Administrator.

In response to Councilmember Strommen, Development Manager Lazan indicated there was some overlap between Administration and Incentive and he had detailed Administration because he believed it was a fair reflection of what the City would have paid to complete that work.

To get a fair comparison, Councilmember Strommen requested the total costs for Landform and other consultants and contractors that have been involved in The COR. She also requested staff

provide information on staffing costs for The COR, noting positions have been eliminated; however, those functions remain and some may have been outsourced.

Councilmember Elvig stated his concern in the way this agenda item came about and was presented, noting it involved an HRA consideration.

8. MAYOR, COUNCIL AND STAFF INPUT

Upcoming meetings and events were announced.

9. ADJOURNMENT

Motion by Councilmember Backous, seconded by Councilmember Wise, to adjourn the meeting.

Motion carried.

The regular meeting of the City Council adjourned at 8:29 p.m.

Respectfully submitted,

_____
Diana Lund
Deputy City Administrator/Finance Director

ATTEST:

_____
Jo Ann M. Thieling
City Clerk

Drafted by Carla Wirth
TimeSaver Off Site Secretarial, Inc.

Regular Planning Commission **6. 1.**

Meeting Date: 10/04/2012

By: Tim Gladhill, Community Development

Information

Title:

PUBLIC HEARING: Request for a Conditional Use Permit for Motor Vehicle, Implement, and Recreation Equipement Sales and Service at 7815 Riverdale Dr NW; Case of DSB Ventures, LLC

Background:

The City has received a conditional use permit (CUP) application from DSB Ventures, LLC to allow motor vehicle, implement, and recreation equipment sales and service for Lake Region RV's, Inc. at 7815 Riverdale Drive NW. In 2009, this type of use was reclassified from a Permitted Use to a Conditional Use in the B-2 Highway Business District. The Subject Property has not been used for motor vehicle, implement, and recreation equipment sales and service. The Application also includes to expand the existing parking lot to the adjacent, vacant parcel consisting of asphalt with concrete curb and gutter.

Notification:

In accordance with State Statute and City Code, Staff attempted to notify all property owners within 350 of the Subject Property of the Public Hearing via Standard US Mail. A Notice of Public Hearing was published in the Anoka County Union.

Observations:

Lake Region RV, currently Ramsey business, is proposing to relocate its operation to the Subject Property later this year. The building is currently occupied by Canvas Craft. The Subject Property consists of two (2) separate parcels totaling 2.65 acres in size. Lot 2 (7815 Riverdale Drive) currently contains a building of approximately 6,000 square feet. The parcel directly adjacent to the west (Lot 1), is currently vacant. The Applicant is proposing to construct the parking lot improvements on Lot 1, and utilize the existing improvements on Lot 2. As Lot 1 would have a parking lot without a primary structure, a condition of the Permit shall be that the two (2) parcels cannot be sold separately unless used for a joint use related to Lot 2. Alternatively, the Applicant can combine the two (2) parcels into one (1). Initial indications are that the Applicant will propose to combine the two (2) parcels.

City Code requires one (1) space for every ten (10) items on display. It appears that between the existing parking lot and proposed expanded parking lot, there should be sufficient off-street parking.

Detailed terms of the Agreement are included in the attached Proposed Findings of Fact and Conditional Use Permit.

Funding Source:

The Applicant is responsible for all City costs incurred in administering and enforcing this Permit.

Staff Recommendation:

Staff recommends approval of the request for a Conditional Use Permit for Motor Vehicle, Implement, and Recreation Equipment Sales and Service at the Subject Property, contingent upon compliance with the Staff Review Letter dated September 28, 2012.

Committee Action:

Motion to recommend that the City Council approve the request for a Conditional Use Permit for Motor Vehicle, Implement, and Recreation Equipment Sales and Service at the Subject Property, contingent upon compliance with the Staff Review Letter dated September 28, 2012.

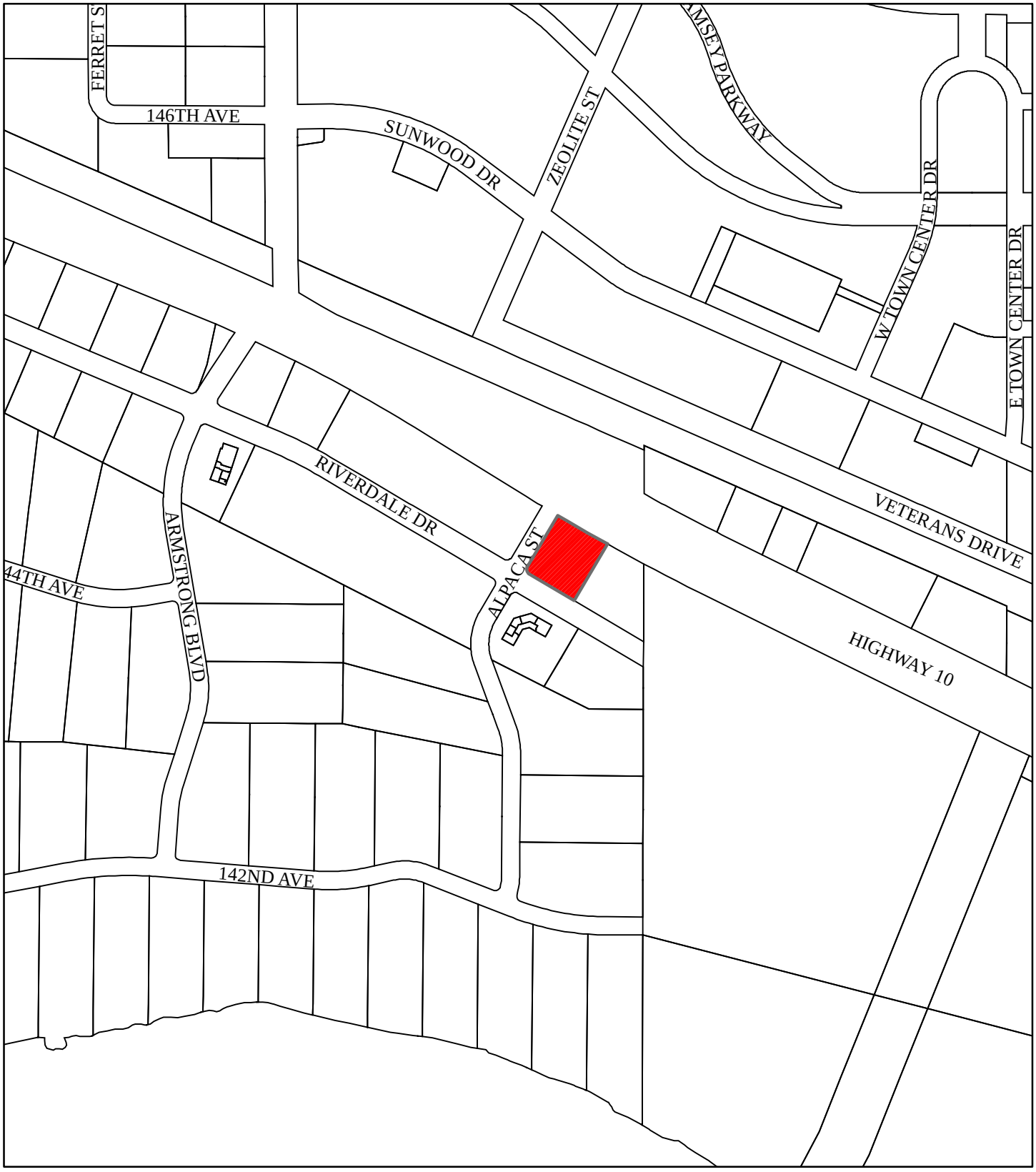
Attachments

Site Location Map
Site Plan Sheet 1
Site Plan Sheet 2
Proposed Findings of Fact
Proposed Conditional Use Permit
Review File

Form Review

Inbox	Reviewed By	Date
Tim Gladhill (Originator)	Tim Gladhill	09/28/2012 01:26 PM
Form Started By: Tim Gladhill		Started On: 09/19/2012 03:36 PM

Final Approval Date: 09/28/2012



City of RAMSEY

Lake Region RV

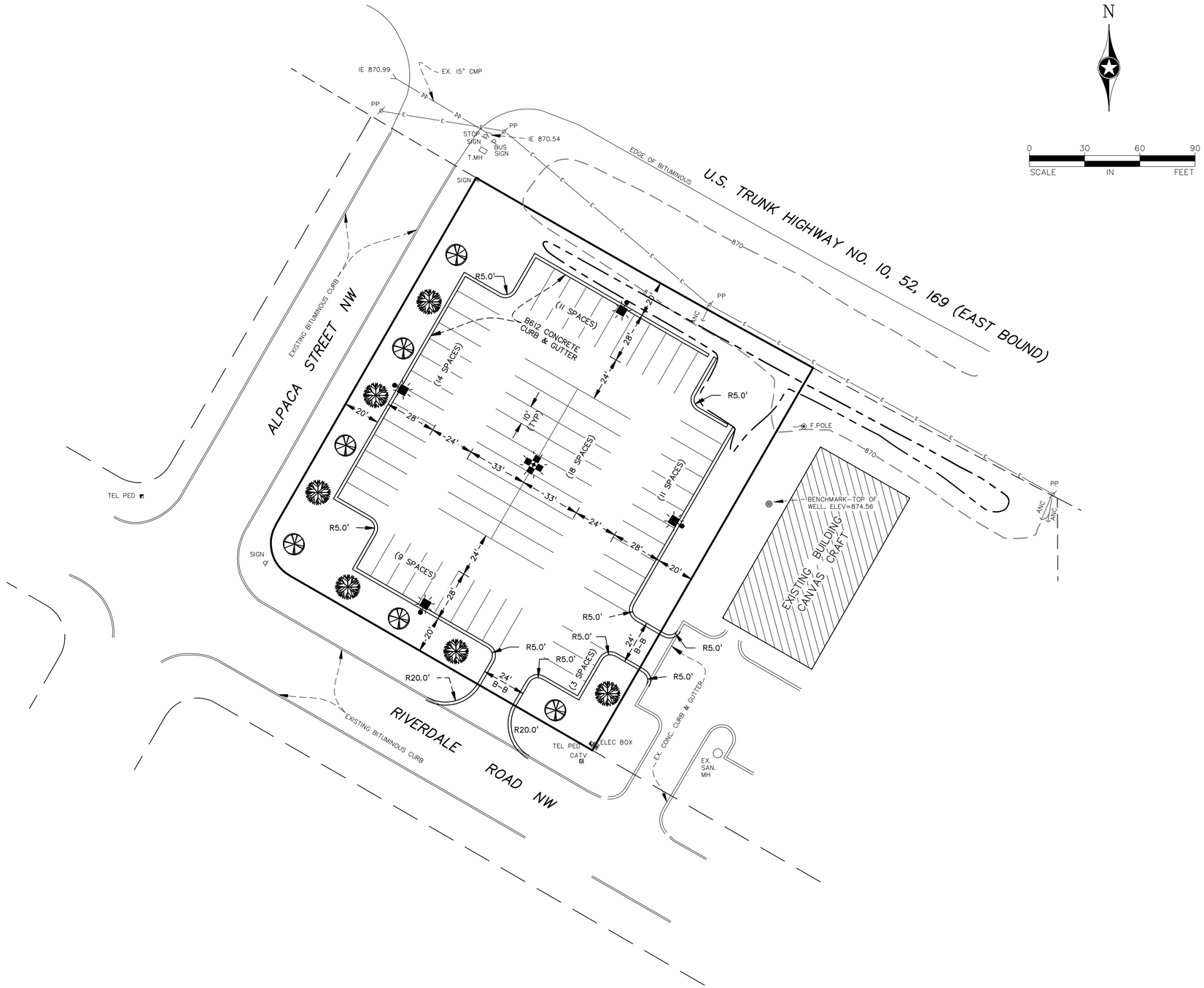
Legend

Site

Parcels

N

0 625 1,250 Feet

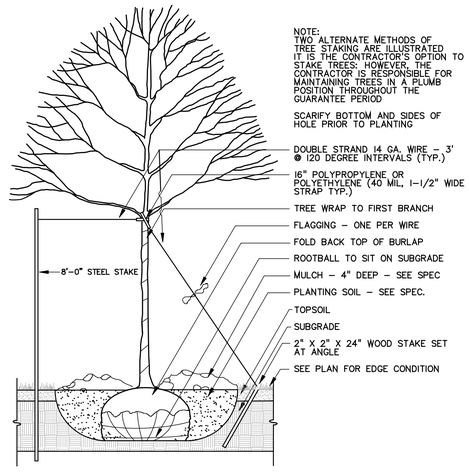


LEGEND

SIGN	DENOTES EXISTING SIGN
Well	DENOTES EXISTING WELL
TEL PED	DENOTES EXISTING TELEPHONE PEDISTALL
PP	DENOTES EXISTING POWER POLE
ANC	DENOTES EXISTING GUY WIRE
F.POLE	DENOTES EXISTING FLAG POLE
ELEC BOX	DENOTES EXISTING ELECTRIC TRANSFORMER BOX
CATV	DENOTES EXISTING CABLE TV BOX
EX. SAN. MH	DENOTES EXISTING SANITARY MANHOLE
E E	DENOTES EXISTING OVERHEAD ELECTRIC LINE
	DENOTES PROPOSED TREE – HONEY LOCUST (2 1/2" DIA.)
	DENOTES PROPOSED TREE – AUTUMN BLAZE MAPLE (2 1/2" DIA.)
	DENOTES PROPOSED LIGHT

NOTE:
ALL DISTURBED – NON PAVED AREAS EXCEPT POND AREA TO BE RESTORED WITH A MINIMUM OF 4" DEPTH OF TOPSOIL AND SOD.

POND BOTTOM SLOPES SHALL BE RESTORED WITH A MINIMUM 4" DEPTH OF TOPSOIL, SEED MNDOT 3876 SEED MIX 240 @ 75 LBS/Ac. AND WOOD OR STRAW FIBER BLANKET.



TREE PLANTING DETAIL

REV NO.	DATE	DESCRIPTION

DATE: 9/4/2012
DESIGN BY: RDA
DRAWN BY: BJC
CHECKED BY: RDA
DWG: 7857-10SITE
TEXT:
FILE NO.: 7857.10-03

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Signature: Ross D. Abel
Ross D. Abel, PE
Date: 9/4/2012
Lic. No. 16733

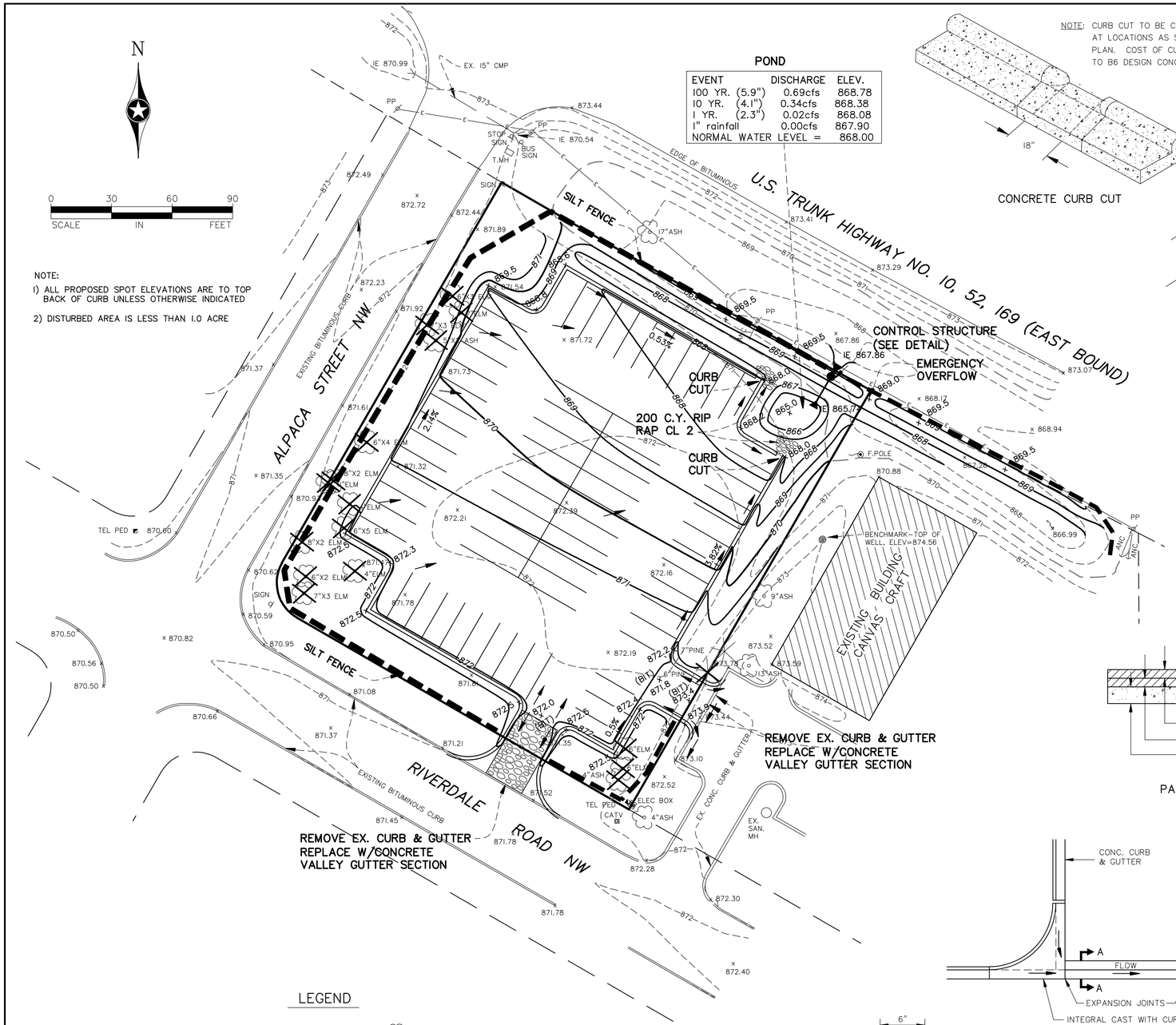
Oliver Surveying & Engineering, Inc.
Land Surveying • Civil Engineering • Land Planning
580 Dodge Ave. Elk River, Minnesota 55330
(763) 441-2072 - fax. (763) 441-5665
www.oliver-se.com

LAKE REGION R.V.'S
RAMSEY, MN

PREPARED FOR:
EBERT CONSTRUCTION

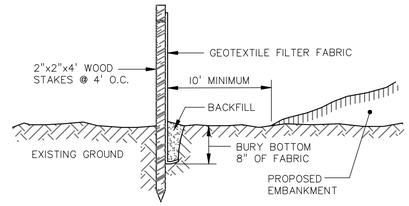
FINAL GRADING PLAN

SHEET NO. 1 OF 2



NOTE: CURB CUT TO BE CONSTRUCTED AT LOCATIONS AS SHOWN ON SITE PLAN. COST OF CUT TO BE INCIDENTAL TO B6 DESIGN CONCRETE CURB AND GUTTER.

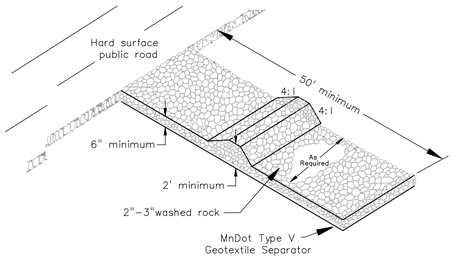
CONCRETE CURB CUT



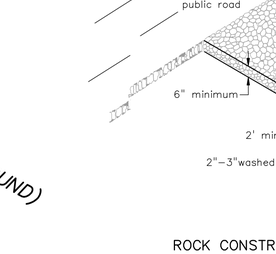
SILT FENCE-PREASSEMBLED

(TO BE PLACED AS DIRECTED BY THE ENGINEER)

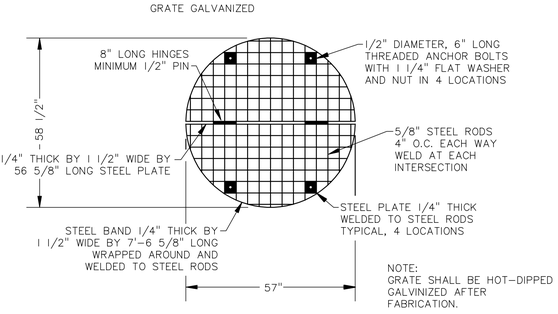
EROSION CONTROL SILT FENCE



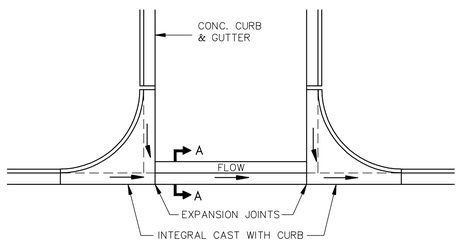
ROCK CONSTRUCTION ENTRANCE



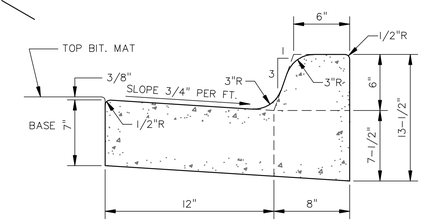
PARKING LOT SECTION



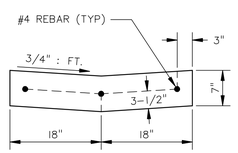
TOP VIEW



PLAN



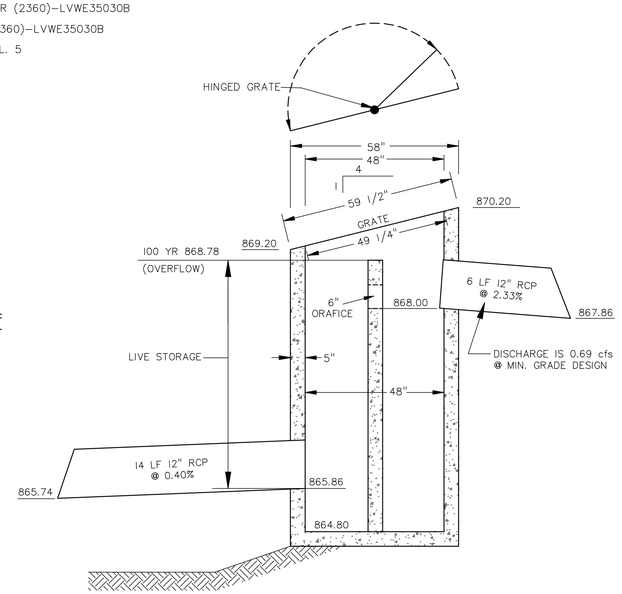
STANDARD GUTTER



SECTION A-A

"B" TYPE CONCRETE CURB & GUTTER

CONCRETE VALLEY GUTTER



OUTLET CONTROL SKIMMER STRUCTURE

NO SCALE

LEGEND

SIGN	DENOTES EXISTING SIGN
Well W	DENOTES EXISTING WELL
TEL PED	DENOTES EXISTING TELEPHONE PEDISTALL
PP	DENOTES EXISTING POWER POLE
ANC	DENOTES EXISTING GUY WIRE
F.POLE	DENOTES EXISTING FLAG POLE
ELEC BOX	DENOTES EXISTING ELECTRIC TRANSFORMER BOX
CATV	DENOTES EXISTING CABLE TV BOX
EX. SAN. MH	DENOTES EXISTING SANITARY MANHOLE
4"ASH	DENOTES EXISTING TREE
4"ASH	DENOTES EXISTING TREE TO BE REMOVED
E E	DENOTES EXISTING OVERHEAD ELECTRIC LINE
872	DENOTES EXISTING CONTOUR
872	DENOTES PROPOSED CONTOUR
x 867.3	DENOTES EXISTING SPOT ELEVATION
x 876.3	DENOTES PROPOSED SPOT ELEVATION
	DENOTES SILT FENCE
	DENOTES DIRECTION OF SURFACE DRAINAGE

REV NO.	DATE	DESCRIPTION

DATE: 9/4/2012
DESIGN BY: RDA
DRAWN BY: BJC
CHECKED BY: RDA
DWG: 7857-10FGRD
TEXT:
FILE NO.: 7857.10-03

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

Signature: Ross D. Abel
Ross D. Abel, PE
Lic. No. 16733
Date: 9/12/2012

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LAKE REGION R.V.s

RAMSEY, MN

PREPARED FOR:

EBERT CONSTRUCTION

FINAL GRADING PLAN

SHEET NO. 2 OF 2

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #_____

A RESOLUTION ADOPTING FINDINGS OF FACT #_____ RELATING TO A REQUEST FROM LAKE REGION RV TO PERMIT MOTOR VEHICLE SALES IN THE B-2 HIGHWAY BUSINESS DISTRICT AT THE PROPERTIES LOCATED AT 7815 RIVERDALE DR NW.

WHEREAS, Lake Region RV, hereinafter referred to as the "APPLICANT," has properly applied for a Conditional Use Permit to permit motor vehicle sales in the B-2 Highway Business District on the properties generally known as 7815 Riverdale DR NW and legally described as follows:

LOTS 1 & 2 BLOCK 3 ALPACA ESTATES, Anoka County, Minnesota, subject to easement of record.

("Subject Property")

NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA that the findings of fact relating to the request are determined to be as follows:

1. That the **APPLICANT** appeared before the Planning Commission for a public hearing pursuant to Section 117-51 of the Ramsey City Code on October 4, 2012, and that said public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.

2. That the Subject Property is zoned B-2 Highway Business District. Properties to the east, west and south of the Subject Property are also zoned B-2 Highway Business District and the properties north are separated by Highway 10.

3. That the Subject Property is approximately 2.65 acres in size (total).

4. That motor vehicle, implement, and recreation equipment sales and service is identified in City Code as a conditional use in the B-2 Highway Business District.

5. That prior to being identified as a conditional use, motor vehicle, implement, and recreation equipment sales and service were a permitted uses in the B-2 Business District.

6. That on September 4, 2012 the **APPLICANT** submitted an application requesting conditional use permit to permit motor vehicle sales on the Subject Property.

7. That the **APPLICANT** is also requesting to construct a parking and display surface consisting of asphalt with concrete curb and gutter, consistent with City Code requirements.

8. That the **APPLICANT** must comply with the minimum commercial off-street parking requirements as outlined in City Code Section 117-356 (Commercial off-street parking). The required spaces are calculated by a combination of: one (1) stall for each fulltime employee, three (3) stalls for each enclosed bay, and one (1) stall for each ten (10) motor vehicles displayed on the Subject Property.

9. That the **APPLICANT** shall submit grading, drainage and surfacing plans to the City for review and approval prior to commencement of site improvements. The **APPLICANT** shall ensure that surface water shall not directly discharge into the public right-of-way.

10. That the **APPLICANT** is responsible for obtaining all applicable permits prior to commencement of site improvements, including but not necessarily limited to, Lower Rum River Watershed Management Organization (LRRWMO) and National Pollutant Discharge Elimination System (NPDES) permits.

11. That the proposed use will/will not be unduly dangerous or otherwise detrimental to persons residing or working in the vicinity of the use or to the public welfare.

12. That the proposed use will/will not substantially adversely impair the use, enjoyment, or market value of any surrounding property.

13. That the proposed use will/will not be hazardous or disturbing to existing neighboring uses.

14. That the proposed use will/will not be served adequately by public facilities and services such as highways and streets.

15. That the proposed use will/will not create excessive additional requirements at public cost for public facilities and services

16. That the proposed use will/will not be detrimental to the economic welfare of the community.

17. That the proposed use will/will not involve activities and uses that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors.

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

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 23rd day of October, 2012.

_____
Mayor

ATTEST:

_____
City Clerk

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #12-10-___

A RESOLUTION APPROVING THE ISSUANCE OF A CONDITIONAL USE PERMIT TO PERMIT MOTOR VEHICHLE SALES IN THE B-2 HIGHWAY BUSINESS DISTRICT AND DECLARING TERMS OF SAME:

WHEREAS, Lake Region RV, hereinafter referred to as the "PERMITTEE" has properly applied for a Conditional Use Permit to permit motor vehicle sales in the B-2 Highway Business District on the properties generally known as 7815 Riverdale DR NW and legally described as follows:

LOTS 1 & 2 BLOCK 3 ALPACA ESTATES, Anoka County, Minnesota, subject to easement of record.

("Subject Property")

WHEREAS, the Planning Commission met on October 4, 2012, conducted the public hearing and recommended City Council approval of the request.

NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That based on Findings of Fact #_____, a Conditional Use Permit ("Permit") to permit motor vehicle sales is hereby granted to the **PERMITTEE**.

2. That this Permit specifically allows for the motor vehicle, implement, and recreation equipment sales and service on the Subject Property, based on the site plan prepared by Oliver Surveying and Engineering, Inc. dated September 4, 2012. Said plans shall not be attached to this Permit, but shall be kept in City files.

3. That the **PERMITTEE** must comply with the commercial off-street parking requirements as outlined in City Code Section 117-356. The required spaces are calculated by a combination of: one (1) stall for each fulltime employee, three (3) stalls for each enclosed bay, and one (1) stall for each ten (10) motor vehicles displayed on the Subject Property.

4. That the **PERMITTEE** must comply with public nuisance ordinance requirements related to inoperable vehicles and other public nuisances as outline in City Code Chapter 30 on the Subject Property.

5. That the **PERMITTEE** acknowledges that they must submit grading, drainage and surfacing plans to the City for review and approval prior to commencement of site improvements.

6. That the **PERMITTEE** is responsible for obtaining all applicable permits prior to commencement of site improvements, including but not necessarily limited to Lower Rum River Watershed Management Organization (LRRWMO) and National Pollutant Discharge Elimination System (NPDES) permits.

7. That this Permit shall be perpetual in duration as long as the terms are herein complied with.

8. That the Permittee shall be responsible for all City costs incurred in administering and enforcing this Permit.

9. That the City Administrator, or his/her designee, shall have the right to inspect the Subject Property for compliance and safety purposes annually or at any time, upon reasonable request.

10. That this Permit shall automatically expire if the use is not initiated by October 23, 2013 and approval of grading, drainage and surfacing plans constitute initiation.

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

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 23rd day of October, 2012.

PERMITTEE

Lake Region RV's, Inc., hereby acknowledges receipt of this Permit and that they have reviewed the conditions of this Permit and have agreed that they will comply with the terms of this Permit.

By:_____ Its:_____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

On this _____ day of _____, _____, before me, a Notary Public, personally appeared Dale Borstad, the President of Lake Region RV's, Inc., a Business Corporation (Domestic) under the laws of Minnesota, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

_____
Notary Public

PROPERTY OWNER: LOT 1, BLOCK 3, ALPACA ESTATES

Parent Profession Properties, LLC, hereby acknowledges receipt of this Permit and that they have reviewed the conditions of this Permit and have agreed that they will comply with the terms of this Permit.

By: _____ Its: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

On this _____ day of _____, _____, before me, a Notary Public, personally appeared _____, the _____ of Parent Professional Properties, LLC, a Limited Liability Company (Domestic) under the laws of Minnesota, on behalf of the Corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

PROPERTY OWNER: LOT 2, BLOCK 3, ALPACA ESTATES

Colonial Property Management, LLC, hereby acknowledges receipt of this Permit and that they have reviewed the conditions of this Permit and have agreed that they will comply with the terms of this Permit.

By: _____ Its: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

On this _____ day of _____, _____, before me, a Notary Public, personally appeared _____, the _____ of Colonial Property Management, LLC, a Limited Liability Corporation (Domestic) under the laws of Minnesota, on behalf of the Corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

CITY OF RAMSEY

By:_____ By:_____
Mayor City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, _____, before me a Notary Public personally appeared Bob Ramsey and Jo Ann M. Thieling, to me personally known, who, being each by me duly sworn, did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said Municipal corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council, and said Bob Ramsey and Jo Ann M. Thieling acknowledge said instrument to be the free act and deed of said Municipal Corporation.

_____
Notary Public

This document drafted by:
The City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

This document reviewed by:
Randall & Goodrich
2140 Fourth Avenue
Anoka, MN 55303

September 28, 2012

DSB Ventures, LLC
Attn: Dale S. Borstad, President
9421 Highway 10 NW
Ramsey, MN 55303

Re: Conditional Use Permit Request, Lake Region RV

Dear Mr. Borstad:

The City of Ramsey has received your application for a Conditional Use Permit and accompanying site plan to construct a parking lot expansion of approximately one (1) acre to be used in conjunction with adjacent building to operate a Motor Vehicles Sales Lot. Staff would recommend approval of the request contingent upon the following:

- Required amendments as outlined in the attached Staff Review File dated September 28, 2012
- Successful issuance of a Lower Rum River Watershed Management Organization (LRRWMO) Permit, Mn/DOT Right-of-Way and/or Drainage Permit (if necessary), or any other required agency permit
- Consent from Colonial Property Management, LLC

Please note: this is only a recommendation that is subject to review by the Planning Commission and approval by the City Council.

Copies of the review file and staff report are attached for your review. The Planning Commission will review the request on Thursday, October 4th at 7:00 p.m. in the Council Chambers. You, or a representative of the development, are highly encouraged to attend this meeting. Please contact me at your earliest convenience prior to the meeting to verify if you will be attending. Please let me know if you have any questions or concerns. I can be reached at 763-576-4308 or by email at tgladhill@ci.ramsey.mn.us.

Sincerely,

CITY OF RAMSEY

Tim Gladhill
Development Services Manager

CC: Matthew J. Frank, Parent Professional Properties
Greg Ebert, Ebert Construction

Enclosures

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CITY OF RAMSEY PLANNING DIVISION
REVIEW FILE

DATE	9/28/12	**PROJECT ADDRESS**	7815 RIVERDALE DR NW
PROJECT. TITLE	LAKE REGION RV		
REVIEW FILE #			
APPLICANT:	DSB VENTURES, LLC		
PRIMARY REVIEWER:	TIM GLADHILL– DEVELOPMENT SERVICES MANAGER PHONE: 763-576-4308 FAX: 763-433-9848 E-MAIL: TGLADHILL@CI.RAMSEY.MN.US		

We are in receipt of the proposed site plan for the Lake Region RV Conditional Use Permit request. The submittal consists of Sheets 1 and 2 dated September 4, 2012, prepared by Oliver Surveying and Engineering, Inc.

(the "Plans")

We offer the following comments regarding your site plan and plat submittal:

Planning and Zoning
Reviewer: Tim Gladhill, Development Services Manager
tgladhill@ci.ramsey.mn.us
763-576-4308

General: The proposal contains two (2) components. You are requesting to use Lot 2, Block 2, ALPACA ESTATES for Motor Vehicle Sales. Motor Vehicle Sales and Repair is a Conditional Use in the B-2 Highway Business District.

Zoning: The site is currently zoned B-2 Highway Business District. This area is intended to provide for and limit the establishment of motor vehicle oriented or dependent convenience type, high intensity commercial and service activities characteristically located along major traffic carriers. Motor vehicle, implement, and recreation equipment sales and service is a conditional use in this district.

Easements. Easements shall be required based on the final Stormwater design, as reviewed by the City Engineer.

Conditional Use Permit. The developer shall be required to enter into an agreement with the City in the form of a Conditional Use Permit. Said Permit shall be filed against the Property with the Anoka County Recorder. A draft is enclosed with this packet. Any entity with encumbrances against the Property, such as a mortgage, shall provide written consent to the Agreement.

Setbacks: The B-2 Highway Business District requires setbacks for parking, paving, and maneuvering areas of twenty (20) feet.

Off-Street Parking - Spaces Required: There shall be at least one (1) parking space for each ten (10) units displayed on the Property.

Signs: Please note that all signs for the proposed building must be approved through a separate sign permit process. Sign regulations can be found in City Code Chapter 117, Article II, Division 8. The developer is encouraged to review these sign regulations early in the process to avoid any unnecessary delays due to potential needs for special permits. Staff has received a photo of a potential, similar sign proposed to be used. Please provide dimensions of the sign for review. Ground signs are reviewed on the following:

- Maximum of 100 square feet per face (200 square feet aggregate)
- Maximum of 25 feet tall
- Dynamic Display is limited to 35% of the sign face
- The City has the flexibility to increase these maximums through the issuance of a Conditional use Permit

Landscape Review
Reviewer: Chris Anderson, Associate Planner/Environmental Coordinator
canderson@ci.ramsey.mn.us
763-433-9905

Landscaping: The only improvements proposed are additional parking stalls and therefore, the required landscaping is determined based only on the parking lot landscaping standards. In the B-2 District, for every ten (10) parking stalls, one (1) tree is required. The site plan indicates a total of sixty-six (66) parking stalls and includes twelve (12) new deciduous overstory trees. The following additional comments are offered regarding the Landscaping and Tree Preservation Plans:

- The following should be added to the notes section on sheet 1: Topsoil, whether imported or amending the existing topsoil, must meet or exceed Mn/DOT's Premium Topsoil specification (3877.3). The City has a list of 'pre-certified' suppliers that have submitted test results verifying the material meets this specification. If you opt to use an alternative supplier, or if amending onsite topsoil, documentation must be supplied to the City verifying that the material meets Mn/DOT's Premium Topsoil Borrow specification. A copy of the load tickets will also be required to pass the topsoil inspection.
- Any disturbed areas of right-of-way shall be restored to Mn/DOT(if along Highway 10) or City (along Alpaca St and Riverdale Dr) standards, whichever may be applicable.
- The Autumn Blaze maple shown at the intersection of Alpaca St and Riverdale Dr should be located closer to the corner of the parking area to provide as much unobstructed view of the intersection as possible.
- All parking lot landscaping areas shall include an in-ground irrigation system equipped with rain sensors and a backflow preventer.
- Planting detail shall be amended to include the following:
    - Planting depth shall be such that the first set of primary roots is at final grade.
    - Remove twine, wiring, ropes and burlap from top and sides of root ball.
    - At time of planting, only prune out dead or damaged branches. All necessary pruning cuts shall be made just outside of branch collar area.
    - Remove all tags and labels.
    - Wood chip mulch shall not be piled against the trunk of trees.
- A two (2) year maintenance guarantee is required on all landscaping after initial acceptance by the City. Please add this to the notes section of the sheets.

Tree Preservation: The site does have a few scattered trees, but the tree cover consists primarily of green ash and Siberian elm, neither species is desirable, the former due to concerns with emerald ash borer and the latter is an invasive species that warrants removal. Therefore, a tree preservation plan is not needed for this project.

Civil Engineering Review
Reviewer: Leonard Linton
llinton@ci.ramsey.mn.us

Grading and Drainage: The following comments are offered regarding the September 4, 2012 Grading and Utility Plans:

- The B612 concrete curb detail should be amended to include base material extending to 1' beyond the back of curb. The pedestrian ramp details have recently been modified at the state level. The plans must be revised to include the most recent MN/DOT approved details and design.
- Spot elevations must be called out as gutter or top of curb.
- The developer will be responsible for replacing any sidewalk or streetscape along Sunwood Drive that is damaged by construction of the building.
- A pedestrian detour plan must be submitted showing the pedestrian route along Sunwood Drive during construction of the building.

The project will require a permit from the Lower Rum River Water Management Organization (LRRWMO). Please copy the City on the submittal. The application deadline is the first Thursday of the month for the meeting on the third Thursday of the month. The LRRWMO requirements include infiltration of 1 inch of runoff from the site. Infiltration practices must be incorporated into the plans to meet this requirement. Please submit calculations routing the site runoff to the infiltration basin for the 1" 10 year and 100 year storms.

The following notes should be added or amended on the plan set:

- The contractor should have a sweeper on site or available within 3 hours. All material tracked onto City streets must be removed immediately upon discovery, or as directed by the City Engineer.
- Installation of silt fence and other down gradient sediment protection measures shall be completed and inspected prior to commencement of any site activities.

A maintenance agreement for the underground stormwater treatment system must be submitted.

Street and Building Access: One additional access point is being proposed for Lot 1, Block 3, ALPACA ESTATES. The access plan appears to be adequate.

Permits: The applicant is responsible to secure all required permits for this project; including but not limited to an MPCA NPDES construction permit, a Lower Rum River Watershed Organization permit, and Anoka County and MnDOT right-of-way permits. Additionally, the contractor performing the work will be required to obtain a City license and right-of-way permit.

Lighting: The City has not received a lighting plan for review. City standards require that the luminaire (light source) must not be visible from beyond the property line. Any lighting used to illuminate an off-street parking area, sign, or structure shall be arranged to deflect away from rights-of-way and adjacent properties.

REU Number: This property will be subject to a storm water utility charge based upon the amount of impervious surface on the site. The quarterly charge is dependent upon the number of Residential Equivalent Units (REU) calculated for this property. The site is proposed as 65.5% impervious. This leads to an REU of (1.36 x 3.31) 4.508 and a quarterly stormwater fee of $172.21.

GENERAL INFORMATION

Additional Review. Due to its location, the request has been forwarded to Mn/DOT for review and comment.

Next Steps. *Following review by the Planning Commission, the request will be forwarded to the City Council for final action. The City Council is tentatively scheduled to review the request at their October 23, 2012 meeting. Staff will follow up in writing at that time.*

All comments contained within this letter shall be included in the final set of plans submitted with the appropriate permits. The Applicant shall be responsible for all required permits including, but not limited to, the MPCA NPDES Permit and Lower Rum River Water Management Organization (LRRWMO) Permits.

Regular Planning Commission **6. 2.**

Meeting Date: 10/04/2012

By: Chris Anderson, Community Development

Information

Title:

PUBLIC HEARING: Request for Site Plan and Conditional Use Permit Approval for Motor Fuel Sales and Car Wash for a Super America Located in the COR TWO Subdivision; Case of West Real Estate and Management Inc.

Background:

The City has received applications for site plan approval and a conditional use permit for a proposed retail convenience store with motor fuel sales and an accessory, commercial car wash. The subject property is zoned COR-2b in which retail uses are permitted and motor fuel sales and accessory car washes are conditional uses.

Notification:

A public hearing is not required for the site plan review. However, in accordance with State Statute and City Code, Staff attempted to notify all property owners within 350 of the Subject Property of the Public Hearing for the conditional use permit via Standard US Mail. A Notice of Public Hearing was also published in the Anoka County Union.

Observations:

The site is approximately 1.25 acres and is located at the southwest corner of Sunwood Dr (near the roundabout). The proposal includes four (4) motor fuel islands with a total of eight (8) individual fuel dispensers. The fueling area will be located underneathe an overhead canopy that cannot exceed twenty (20) feet in height.

The Design Framework for The COR states that buildings should front the street to create a more urban feel. However, the COR-2b Sub-District is more auto-oriented and this standard creates some difficulty in site layout. The proposed building fronts the interior of the lot, as will the future buildings on Lots 3 & 4 and the existing buildings south of the site. Conceptually, Lots 3-5 Block 1 will act as one site even though they are comprised of individual lots. Each of the lots face the interior, creating more of a campus type of layout. While the accesses are all private, they will function much like public roads do and in that sense, the building faces a street. The private accesses will be encumbered by shared access easements.

The rear and right elevations (facing Sunwood Dr) could be architecturally enhanced to meet the intent of the Design Framework (fronting the public street). This may be accomplished through such means as greater roof articulation and varying roof pitches, addtional windows, awnings and/or other features. Enhancing the architecture along Sunwood Dr would enhance and emphasize the street presence, which would meet the intent of the Design Framework.

At least forty percent (40%) of the building facade is required to be within the build-to line (thirty [30] feet along the east/west strecth of Sunwood Dr and fifteen [15] feet along the north/south stretch of Sunwood Dr). However, the Design Framework allows for landscaping, decorative fencing and other certain features to be used in conjunction with the building facade to meet this standard. The proposal does include additional shrubbery and decorative fencing in sections along the Sunwood Dr frontage to better frame the site edge. Staff has requested more information on the decorative fencing as well as calculations to verify that the forty percent (40%) standard is being met.

The exterior finish of the building is proposed to consist of face brick, brick accent bands, clear tempered glass and dark bronze metal panels. The columns of the overhead canopy for the fueling station are proposed to also be face brick and brick accent bands. The waste enclosure also appears to consist of these same materials but will have

a gate that consists of a wood composite.

There are twelve (12) proposed parking stalls shown on the site plan. This appears to satisfy the parking requirements for the COR-2 Disrict, which include both minimum and maximum standards (for retail, a minimum of 2 stalls per 1,000 square feet of building and a maximum of 4 stalls per 1,000 square feet of building space). It is Staff's understanding that the intent may be to have shared parking between Lots 3-5 (again, the three parcels will act and feel more like one site).

Manueverability for passenger vehicles appears to sufficient. A truck manuevering exhibit has been submitted. Staff has some concern about the manueverability of fuel trucks and potential conflicts with passenger vehicles when the fuel truck would back up within the site. Staff has requested feedback from the applicant regarding site layout and truck manueverability.

The grading/drainage and landscaping plans are generally acceptable with requested revisions outlined in the Staff Review Letter.

Late in the week the applicant submitted revised plans and written responses to the Staff Review Letter. The revised plans and written responses are attached. Staff has not yet had time to review the revised plans.

Funding Source:

All cost associated with processing the application are the responsibility of the Applicant.

Staff Recommendation:

If the street facing elevations of the proposed building can be architecturally enhanced to generate a greater street presence, as is the intent of the Design Framework, Staff would recommend approval of both the conditional use permit and the site plan, contingent upon compliance with the Staff Review Letter dated September 28, 2012.

Committee Action:

Motion to recommend that the City Council adopt findings of fact favorable to the applicant and to approve the request for a Conditional Use Permit for motor fuel sales and an accessory car wash, contingent upon compliance with the Staff Review Letter dated September 28, 2012.

-and-

Motion to recommend that the City Council approve the proposed site plan, contingent upon compliance with the Staff Review Letter dated September 28, 2012.

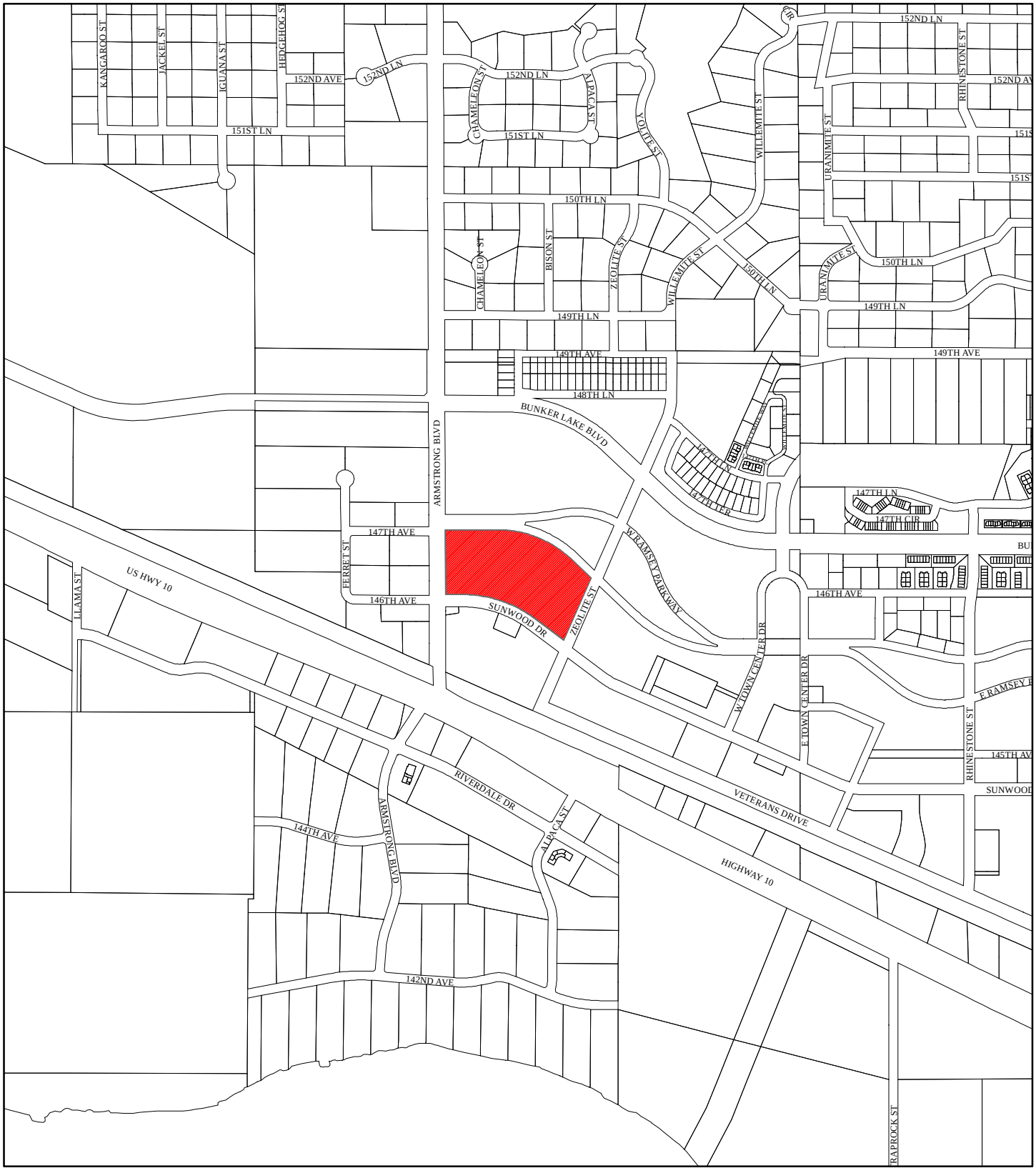
Attachments

Site Location Map
Revised Plan Submittal
Proposed Findings of Fact
Proposed Conditional Use Permit
Proposed Development Permit
Staff Report
Applicant Responses to Review Letter

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	09/26/2012 01:25 PM
Darren Lazan	Darren Lazan	09/26/2012 02:29 PM
Tim Gladhill	Tim Gladhill	09/27/2012 08:25 AM

Form Started By: Chris Anderson Started On: 09/25/2012 10:10 AM



City of RAMSEY

Super America

Legend

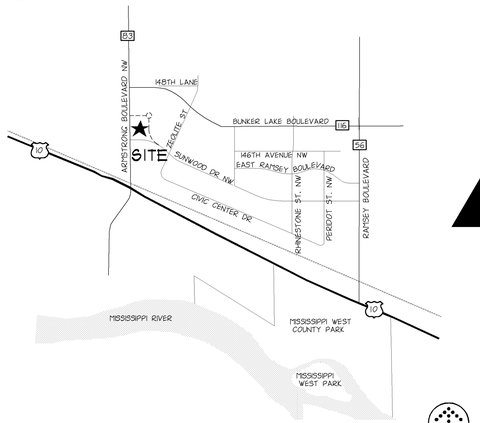
- Site
- Parcels

N

0 1,250 2,500 Feet

AREA LOCATION MAP

RAMSEY, MN



SUPERAMERICA SUNWOOD RETAIL

RAMSEY, MN

ABBREVIATIONS

@	Angle	JT.	Joint
&	And	L.F.	Lineal Feet
@	At	L.P.	Low Point / Liquid Petroleum
100 YR.	100 Year Flood Elevation	LB.	Pound
A.B.	Anchor Bolt	LGU	Local Government Unit
A.D.	Area Drain	LONG.	Longitudinal
A/C	Air Conditioning Unit	LT.	Light / Lighting
ADD.	Addendum	MAINT.	Maintenance
ADDL.	Additional	MAS.	Masonry
ADJ.	Adjacent / Adjust	MATL.	Material
AHU	Air Handling Unit	MAX.	Maximum
ALT.	Alternate	MECH	Mechanical
ALUM.	Aluminum	MED.	Medium
ANOD.	Anodized	MFR.	Manufacturer
APPROX.	Approximate	MH	Manhole
ARCH	Architect / Architectural	MIN.	Minimum / Minute
AUTO.	Automatic	MISC.	Miscellaneous
AVG.	Average	MNDOT	Minnesota Department Of Transportation
B.C.	Back of Curb	MOD.	Module / Modular
BM.	Benchmark	MUL.	Mullion
B/W	Bottom of Wall	N.	North
BFE	Basement Floor Elevation	N.I.C.	Not In Contract
BIT	Bituminous (Asphaltic)	NO. OR #	Number
BLDG	Building	NOM	Nominal
BSMT.	Basement	NTS	Not to Scale
C.F.	Cubic Feet	NWE	Normal Water Elevation
C.F.S.	Cubic Feet Per Second	NWL	Normal Water Level
C.G.	Corner Guard	O.C.	On Center
C.J.	Control Joint	O.D.	Outside Dimension
C.L.	Centerline	O.E.	Overhead Electric
C.M.U.	Concrete Masonry Unit	OH.	Overhead
C.O.	Cleanout	OHWL	Ordinary High Water Level
C.O.E.	U.S. Army Corps Of Engineers	OPNG.	Opening
C.Y.	Cubic Yards	ORIG.	Original
CB	Catch Basin	P.C.	Point of Curvature
CBMH	Catch Basin Manhole	P.I.	Point of Intersection
CEM.	Cement	PIV.	Post Indicator Valve
CIP.	Cast Iron Pipe	P.L. OR P/L	Property Line
CMP	Corrugated Metal Pipe	P.O.B.	Point of Beginning
CONC.	Concrete (Portland)	P.S.F.	Pounds Per Square Foot
CONN.	Connection	P.S.I.	Pounds Per Square Inch
CONST.	Construction	P.T.	Point of Tangency
CONT.	Continuous	P.V.C.	Point of Vertical Curvature
CONTR.	Contractor	P.V.I.	Point of Vertical Intersection
COP.	Copper	P.V.T.	Point of Vertical Tangency
CU.	Cubic	PE	Polyethylene
D.S.	Down Spout	PED.	Pedestal / Pedestrian
DEG.	Degree	PERF.	Perforated
DEMO.	Demolition / Demolish	PREP.	Preparation
DEPT.	Department	PROJ.	Project
DET.	Detail	PROP.	Proposed
DIA.	Diameter	PVC.	Poly-Vinyl-Chloride (Piping)
DIAG.	Diagonal	PVMT.	Pavement
DIM.	Dimension	QTR.	Quarter
DIP	Ductile Iron Pipe	QTY.	Quantity
DN	Down	R	Radius
DWG.	Drawing	RAD.	Radius
E.	East	R.D.	Roof Drain
E.J.	Expansion Joint	R.E.	Remove Existing
E.O.S.	Emergency Overflow Swale	R.O.	Rough Opening
E.W.	Each Way	R.P.	Radius Point
EA.	Each	RCP	Reinforced Concrete Pipe
EL.	Elevation	R.S.	Rough Slab
ELEC.	Electrical	RE.	Regarding
ELEV.	Elevation	REINF.	Reinforced
EMER.	Emergency	REQ'D	Required
ENGR.	Engineer	REV.	Revision / Revised
ENTR.	Entrance	RGU	Regulatory Government Unit
EQ.	Equal	ROW OR R/W	Right of Way
EQUIP.	Equipment	S.	South
EQUIV.	Equivalent	S.F.	Square Feet
EXIST.	Existing	SAN.	Sanitary Sewer
EXP.	Expansion	SECT.	Section
F & I	Furnish and Install	SE	Side Exit
F.B.O.	Furnished by Others	SEWO	Side Exit Walk Out
F.C.	Face of Curb	SHT.	Sheet
F.D.	Floor Drain	SIM.	Similar
F.D.C.	Fire Department Connection	SLNT.	Sealant
F.V.	Field Verify	SPEC.	Specification
FB	Full Basement	SQ.	Square
FBWO	Full Basement Walk Out	STMH	Storm Sewer Manhole
FBLO	Full Basement Look Out	STD.	Standard
FDN.	Foundation	STRUCT.	Structural
FES	Flared End Section	SYM.	Symetrical
FFE	Finished Floor Elevation	T	Thickness
FLR.	Floor	T/R	Top of Rim
FT. OR (')	Foot	T/W	Top of Wall
FUT.	Future	TEMP.	Temporary
G.B.	Grade Break	THK.	Thick / Thickness
G.C.	General Contractor	THN	Top Nut Hydrant
GAL.	Gallon	TYP.	Typical
GALV.	Galvanized	U.N.O.	Unless Noted Otherwise
GFE	Garage Floor Elevation	V.B.	Vapor Barrier
GL.	Glass	V.C.	Vertical Curve
GR.	Grade	V.I.F.	Verify In Field
H.	Height	VER.	Verify
H.P.	High Point	VERT.	Vertical
HDPE	High Density Polyethylene Pipe	VEST.	Vestibule
HGT.	Height	W	Width
HORIZ.	Horizontal	W.PT.	Working Point
HVAC	Heating, Ventilation, Air Conditioning	W.M.F.	Welded Wire Fabric
HYD	Hydrant	W/	With
I.D.	Inside Dimension	W/O	Without
IN. OR (")	Inches	WO	Walk Out
INFO.	Information	WETL.	Wetland
INL.	Inlet Elevation	WP	Waterproof
INSUL.	Insulation	WT.	Weight
INV.	Invert Elevation	YD.	Yard
		YR.	Year

SYMBOLS

EXISTING	DESCRIPTION	NEW	DESCRIPTION
123.4	CONTOUR	123.4	CONTOUR
	SPOT ELEVATION		SPOT ELEVATION
	BUILDING		BUILDING
	CANOPY / OVERHANG		UNDERGROUND STRUCTURE
	CONCRETE		RAILROAD
			CONCRETE
	CONCRETE CURB		CONCRETE CURB
	EDGE OF PAVEMENT		EDGE OF PAVEMENT
HEIGHT, TYP.	FENCING	HEIGHT, TYP.	FENCING
	GUARD RAIL		GUARD RAIL
	CONCRETE RETAINING WALL		CONCRETE RETAINING WALL
	FIELDSTONE RETAINING WALL		FIELDSTONE RETAINING WALL
	MODULAR RETAINING WALL		MODULAR RETAINING WALL
	SOIL BORING		DOORWAY
	LIGHT POLE		LIGHT STANDARD
	TREES	Ø##.	POWER POLE
	DENOTES TREE LIMITS	1.0%	SLOPE, DIRECTION OF FLOW
	MANHOLE		BOLLARD
	CATCH BASIN	X"STS	STORM SEWER
	FIRE HYDRANT	X"SAN	SANITARY SEWER-WASTE
	WATER VALVE	X"FM	FORCE MAIN
	FLARED END SECTION	X"RD	ROOF DRAIN COLLECTOR
	IRON MONUMENT FOUND	GATE VALVE X"WTR	WATER MAIN
	IRON PIPE MONUMENT SET	X"FIRE	FIRE LINE (IF SEPARATE)
	P.K. NAIL	FDC	FIRE DEPARTMENT CONNECTION
	POWERPOLE	X"WTR	DOMESTIC WATER SERVICE
	GUARD POST	SIZE, TYPE GATE VALVE	CULVERT & END SECTION
	UTILITY BOX (TV, TEL, ELEC)	X"SSD	GAS LINE
	TRAFFIC BOX		SOIL SUBDRAIN
	GAS METER	OE	ELECTRIC-OVERHEAD
	TRAFFIC SIGN	UE	ELECTRIC-UNDERGROUND
	GUY WIRE	OT	TELEPHONE-OVERHEAD
	REGISTRAR OF TITLES	UT	TELEPHONE-UNDERGROUND
R/T	COUNTY RECORDER	UTV	UNDERGROUND CABLE/TV
C/R		OTV	UNDERGROUND CABLE/TV
		LSS	LAWN SPRINKLER SLEEVE
X" STS	STORM SEWER LINE		
X" SAN	SANITARY SEWER LINE		
X" WTR	WATER MAIN		
G	UNDERGROUND GAS		
OT	OVERHEAD TELEPHONE		
UT	UNDERGROUND TELEPHONE		
UE	UNDERGROUND ELECTRIC		
OE	OVERHEAD ELECTRIC		
UTV	UNDERGROUND CABLE T.V.		
OTV	OVERHEAD CABLE T.V.		
	WELL		
	RESTRICTED ACCESS		
	NOTE NUMBER		
	DENOTES BITUMINOUS SURFACE		

EROSION CONTROL SYMBOLS

SYMBOL	DESCRIPTION
	SILT FENCE
	CONSTRUCTION LIMITS
	INLET PROTECTION

DRAWING SYMBOLS

SYMBOL	DESCRIPTION
3	NOTE REFERENCE
15	PARKING STALL COUNT
C7.2 / C2.1	LARGE SHEET DETAIL
	COORDINATE POINT
2	REVISION - ADDENDUM, BULLETIN, ETC.
	REVISED AREA (THIS ISSUE)

BENCHMARKS

PROJECT BENCHMARKS:
COR CONTROL POINT: "HYATT"
CONTROL POINT LOCATED AT S.E. ANGLE POINT OF ZEOLITE STREET & CIVIC CENTER DRIVE
ELEVATION = 878.61 (NGVD 29)

TOP NUT OF HYDRANT
LOCATED ON SOUTH SIDE OF BUNKER LAKE BLVD APPROX. 600 FT FROM ARMSTRONG BLVD
ELEVATION = 869.96 (NGVD 29)

LEGAL DESCRIPTION

LOT 3, BLOCK 1, COR TWO

CITY NOTES

1. SITE GRADING , LANDSCAPING AND UTILITY INSTALLATIONS MUST BE COMPLETED AS SHOWN WITHOUT ALTERATION. DEVIATIONS FROM PLANS MUST BE CHECKED AND APPROVED BY THE ENGINEERING DEPARTMENT AND/OR THE PLANNING COMMISSION PRIOR TO SAID CHANGE.
2. REQUIRED EROSION CONTROL DEVICES MUST BE INSTALLED AND MAINTAINED THROUGHOUT THE CONSTRUCTION PROCESS AS SHOWN.
3. MAIN JOB-SITE ENTRANCE MUST BE POSTED WITH THE PROJECT ADDRESS SO THAT IT IS CLEARLY VISIBLE FROM THE STREET. JOB-SITE ADDRESS SIGN MUST BE INSTALLED IN PLACE UNTIL FINAL OCCUPANCY.
4. IT IS THE CONTRACTOR'S RESPONSIBILITY TO ASCERTAIN THE LOCATION OF ALL EXISTING UTILITIES. THE CONTRACTOR SHALL VERIFY THE LOCATION, ELEVATION AND MARK ALL EXISTING UTILITIES 48 HOURS BEFORE CONSTRUCTION STARTS. THE ENGINEER, ARCHITECT, OR OWNER DOES NOT GUARANTEE THAT ALL UTILITIES ARE MAPPED OR IF MAPPED, ARE SHOWN CORRECTLY. CONTACT ONE CALL AT 811 FOR FIELD LOCATING EXISTING UTILITIES. CONTACT UTILITY OWNER IF DAMAGE OCCURS DUE TO CONSTRUCTION.

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E2.1	SITE PHOTOMETRICS

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MUNICIPALITY

City of RAMSEY

PROJECT

SUPERAMERICA
SUNWOOD RETAIL
RAMSEY, MINNESOTA

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REVISION HISTORY

CONTACT ENGINEER FOR ANY PRIOR HISTORY

DATE	REVISION	REVIEW
05 SEPT 2012	PRELIMINARY SITE PLAN SUBMITTAL	SES
27 SEPT 2012	RESPONSE TO CITY COMMENTS	SES

PROJECT MANAGER REVIEW

BY: SES DATE: 09/27/12

CERTIFICATION

IF THIS SIGNATURE, SEAL OR FOUR LINES DIRECTLY ABOVE ARE NOT VISIBLE, THIS SHEET HAS BEEN REPRODUCED BEYOND INTENDED READABILITY AND IS NO LONGER A VALID DOCUMENT. PLEASE CONTACT THE ENGINEER TO REQUEST ADDITIONAL DOCUMENTS.

SITE PLAN SUBMITTAL
27 SEPTEMBER 2012

LANDFORM
From Site to Finish

105 South Fifth Avenue
Suite 513
Minneapolis, MN 55401

Tel: 612-252-9070
Fax: 612-252-9077
Web: landform.net

FILE NAME C001RAM025.DWG

PROJECT NO. KPL12001

CIVIL TITLE SHEET

C0.1

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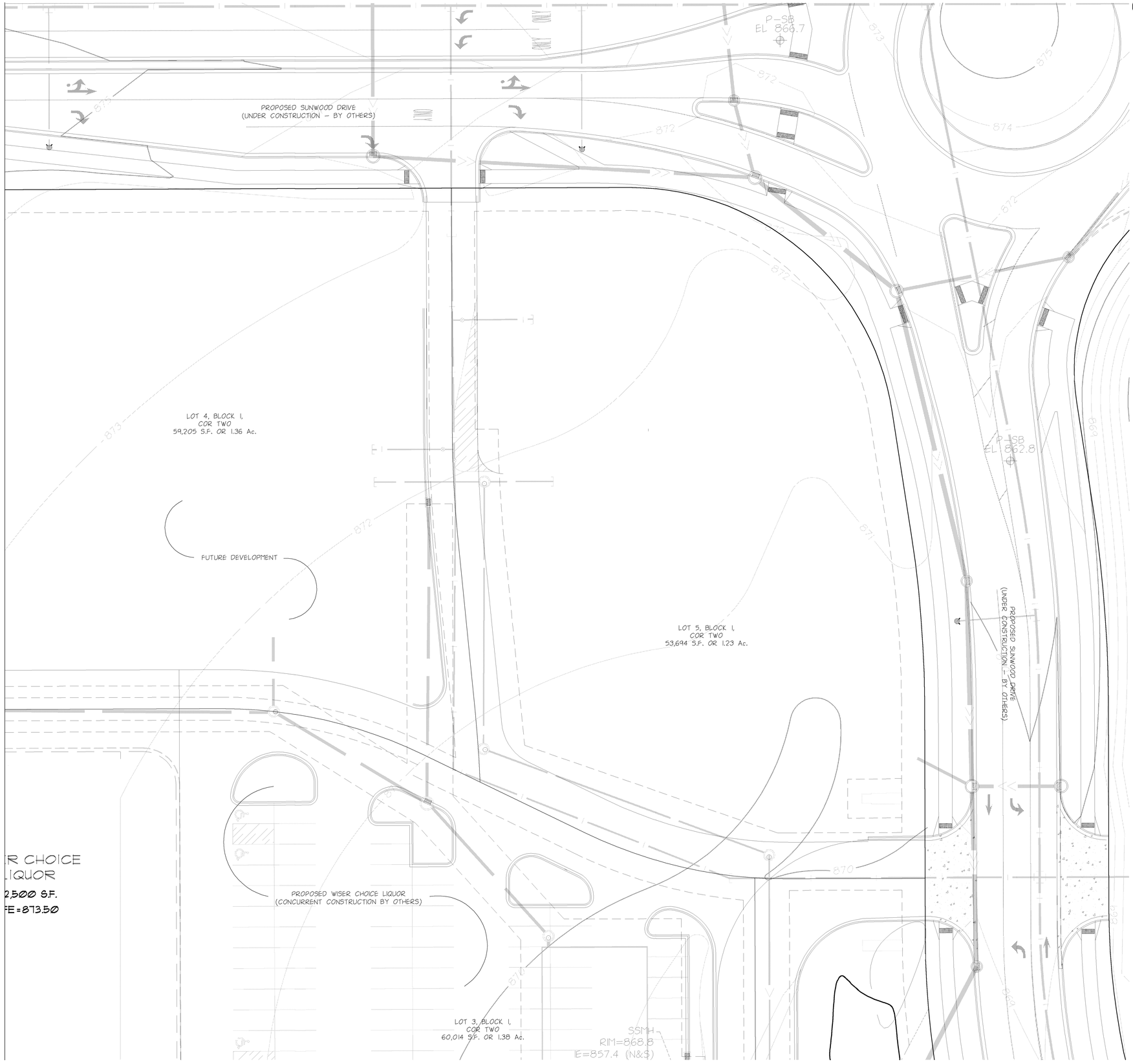

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Know what's **Below.**
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27 SEPT 2012	RESPONSE TO CITY COMMENTS	SES

PROJECT MANAGER REVIEW

BY SES DATE 09/27/12

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SITE PLAN SUBMITTAL
27 SEPTEMBER 2012

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Suite 513 Fax: 612-252-9077
Minneapolis, MN 55401 Web: landform.net

FILE NAME C101RAMxxx.DWG

PROJECT NO. KPL12001

EXISTING CONDITIONS

C1.1

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EXISTING LOT AREAS

OUTLOT F, RAMSEY TOWN CENTER	=846,384 SQ. FT. OR 19.43 ACRES
OUTLOT G, RAMSEY TOWN CENTER	=116,200 SQ. FT. OR 2.67 ACRES
OUTLOT H, RAMSEY TOWN CENTER	=528,273 SQ. FT. OR 12.13 ACRES
WEST RAMSEY PARKWAY (TO BE VACATED)	=143,718 SQ. FT. OR 3.30 ACRES
SUNWOOD DRIVE (TO BE VACATED)	=84,003 SQ. FT. OR 1.93 ACRES
LOT, 1, BLOCK 1, RAMSEY TOWN CENTER 3RD ADDITION	=388,683 SQ. FT. OR 8.92 ACRES
LOT, 2, BLOCK 1, RAMSEY TOWN CENTER 3RD ADDITION	=20,539 SQ. FT. OR 0.47 ACRES
OUTLOT A, RAMSEY TOWN CENTER 3RD ADDITION	=5,071 SQ. FT. OR 0.12 ACRES
TOTAL	=2,132,873 SQ. FT. OR 48.96 ACRES

PROPOSED LOT AREAS

LOT 1, BLOCK 1, COR TWO	= 417,291 SQ. FT. OR 1.09 ACRES
LOT 2, BLOCK 1, COR TWO	= 417,287 SQ. FT. OR 9.58 ACRES
LOT 3, BLOCK 1, COR TWO	= 60,013 SQ. FT. OR 1.38 ACRES
LOT 4, BLOCK 1, COR TWO	= 59,205 SQ. FT. OR 1.36 ACRES
LOT 5, BLOCK 1, COR TWO	= 53,694 SQ. FT. OR 1.23 ACRES
OUTLOT A, COR TWO	= 1,340,511 SQ. FT. OR 30.77 ACRES
SUNWOOD DRIVE RIGHT OF WAY	= 154,869 SQ. FT. OR 3.55 ACRES
TOTAL	=2,132,870 SQ. FT. OR 48.96 ACRES

PRELIMINARY PLAT INFORMATION

1. PROPOSED PLAT NAME: COR TWO
2. EXISTING LEGAL DESCRIPTION:
   OUTLOT F, G, AND H, RAMSEY TOWN CENTER ADDITION
   LOT 1 AND 2, BLOCK 1, RAMSEY TOWN CENTER 3RD ADDITION
   OUTLOT A, RAMSEY TOWN CENTER 3RD ADDITION
   VACATED WEST RAMSEY PARKWAY LYING BETWEEN ARMSTRONG BLVD. AND ZEOLITE STREET N.W.
   VACATED SUNWOOD DRIVE LYING BETWEEN ARMSTRONG BLVD. AND ZEOLITE STREET N.W.
3. OWNER/SUBDIVIDER: RAMSEY HRA
   7550 SUNWOOD DRIVE
   RAMSEY, MN 55303
4. DESIGNER/SURVEYER: LANDFORM
   105 SOUTH FIFTH AVENUE
   SUITE 513
   MINNEAPOLIS, MN 55401
5. AREA SUMMARY: SEE AREA TABLES
6. EXISTING ZONING: COR-2A
7. PROPOSED ZONING: COR-2

PROPOSED EASEMENTS

- PROPOSED ACCESS EASEMENT
- PROPOSED SUNWOOD DRIVE RIGHT OF WAY EASEMENT
- PROPOSED SIDEWALK EASEMENT
- PROPOSED SIGN EASEMENT
- PROPOSED PRIVATE UTILITY EASEMENT
- PROPOSED PRIVATE DRAINAGE EASEMENT

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05 SEPT 2012	PRELIMINARY SITE PLAN SUBMITTAL	SES
27 SEPT 2012	RESPONSE TO CITY COMMENTS	SES

PROJECT MANAGER REVIEW

BY SES DATE 09/26/12

CERTIFICATION

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SITE PLAN SUBMITTAL

27 SEPTEMBER 2012

LANDFORM
From Site to Finish

105 South Fifth Avenue Tel: 612-252-9070
Suite 513 Fax: 612-252-9077
Minneapolis, MN 55401 Web: landform.net

FILE NAME plat-RAM020

PROJECT NO. KPL12001

PRELIMINARY PLAT C1.2

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COR TWO

CITY OF RAMSEY
COUNTY OF ANOKA
SEC. 28, TWP. 32, RNG. 25

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Ramsey, a Minnesota Municipal Corporation, owner of the following described property:

OUTLOT A, RAMSEY TOWN CENTER 3RD ADDITION, ANOKA COUNTY, MINNESOTA

And that the Housing and Redevelopment Authority in and for the City of Ramsey, a public body politic and corporate under the laws of State of Minnesota, owner of the following described property:

OUTLOT F, G, AND H, RAMSEY TOWN CENTER ADDITION, ANOKA COUNTY, MINNESOTA

And that Sophia-Ramsey, LLC, a Minnesota limited liability company, owner of the following described property:

LOT 1 AND 2, BLOCK 1, RAMSEY TOWN CENTER 3RD ADDITION, ANOKA COUNTY, MINNESOTA

Have caused the same to be surveyed and platted as COR TWO and do hereby dedicate to the public for public use the drainage and utility easements as shown on this plat. Also dedicating to the County of Anoka the right of access onto County State Aid Highway Numbers 83 and 116 as shown on this plat.

In witness whereof said City of Ramsey, a Minnesota Municipal Corporation, has caused these presents to be signed by its proper officers this _____ day of _____ , 201____ .

CITY OF RAMSEY

_____ _____

Bob Ramsey, Mayor JoAnn M. Thieling, City Clerk

STATE OF _____

COUNTY OF_____

This instrument was acknowledged before me this _____ day of _____ , 201____ by Bob Ramsey, Mayor, and JoAnn M. Thieling, City Clerk, of the City of Ramsey, a Minnesota Municipal Corporation, on behalf of the corporation.

_____

_____

Notary Public, _____County, _____

My Commission Expires _____

In witness whereof said Housing and Redevelopment Authority in and for the City of Ramsey, a public body politic and corporate under the laws of State of Minnesota, has caused these presents to be signed by its proper officers this _____ day of _____ , 201____ .

HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RAMSEY

_____ _____

_____ _____

STATE OF _____

COUNTY OF_____

This instrument was acknowledged before me this _____ day of _____ , 201____

by _____ , its _____ and

by _____ , its _____ of the Housing and Redevelopment Authority in and for the City of Ramsey, a public body politic and corporate under the laws of State of Minnesota .

_____

_____

Notary Public,_____County, _____

My Commission Expires_____

In witness whereof said Sophia-Ramsey, LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officers this _____ day of _____ , 201____ .

SOPHIA-RAMSEY, LLC

_____

_____

STATE OF _____

COUNTY OF_____

This instrument was acknowledged before me this _____ day of _____ , 201____ by _____ , its _____ of Sophia-Ramsey, LLC, a Minnesota limited liability company.

_____

_____

Notary Public, _____County, _____

My Commission Expires _____

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

Dated this _____ day of _____ , 201____ .

_____

Scott C. Trosen

Licensed Land Surveyor

Minnesota License No. 47465

STATE OF MINNESOTA

COUNTY OF _____

This instrument was acknowledged before me this _____ day of _____ , 201____ by Scott C. Trosen.

_____

_____

Notary Public,_____County, _____

My Commission Expires_____

CITY COUNCIL, CITY OF RAMSEY, MINNESOTA

This plat of COR TWO was approved and accepted by the City Council of the City of Ramsey, Minnesota at a regular meeting thereof held this _____day of _____ , 201____ , and said plat is in compliance with the provisions of Minnesota Statutes, Section 505.03, Subd. 2.

CITY COUNCIL, CITY OF RAMSEY, MINNESOTA

_____ _____

Bob Ramsey, Mayor JoAnn M. Thieling, City Clerk

COUNTY SURVEYOR

I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this _____ day of _____ , 201____ .

_____

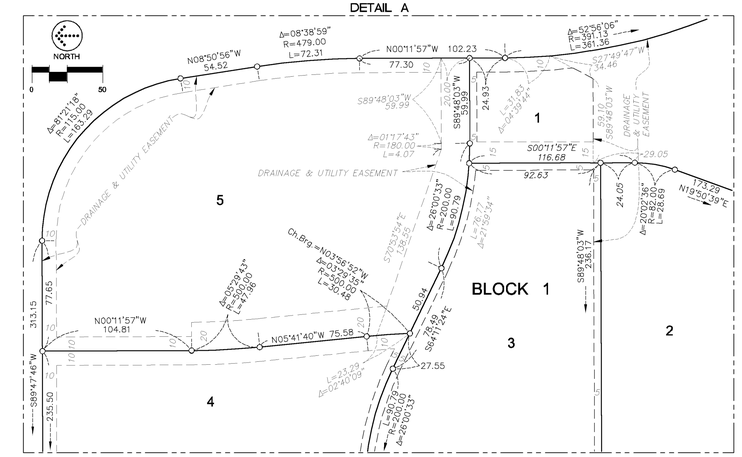
Larry D. Hoium, Anoka County Surveyor

LAND FORM
From Site to Finish

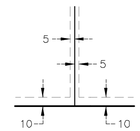
COR TWO

CITY OF RAMSEY
COUNTY OF ANOKA
SEC. 28, TWP. 32, RNG. 25

DETAIL A



DRAINAGE AND UTILITY EASEMENTS
ARE SHOWN AS THUS:
(NOT TO SCALE)



BEING 5 FEET IN WIDTH AND ADJOINING LOT LINES UNLESS OTHERWISE SHOWN AND BEING 10 FEET IN WIDTH AND ADJOINING RIGHT OF WAY LINES UNLESS OTHERWISE SHOWN

FOR THE PURPOSES OF THIS PLAT, THE WEST LINE OF OUTLOT H, RAMSEY TOWN CENTER ADDITION IS ASSUMED TO BEAR NORTH 00 DEGREES 11 MINUTES 57 SECOND WEST

- ● DENOTES IRON MONUMENT FOUND
- ○ DENOTES 1/2 INCH BY 14 INCH IRON MONUMENT, SET AND MARKED WITH MINNESOTA LICENSE NO. 47465
- ——△—— DENOTES RIGHT OF ACCESS DEDICATED TO COUNTY OF ANOKA

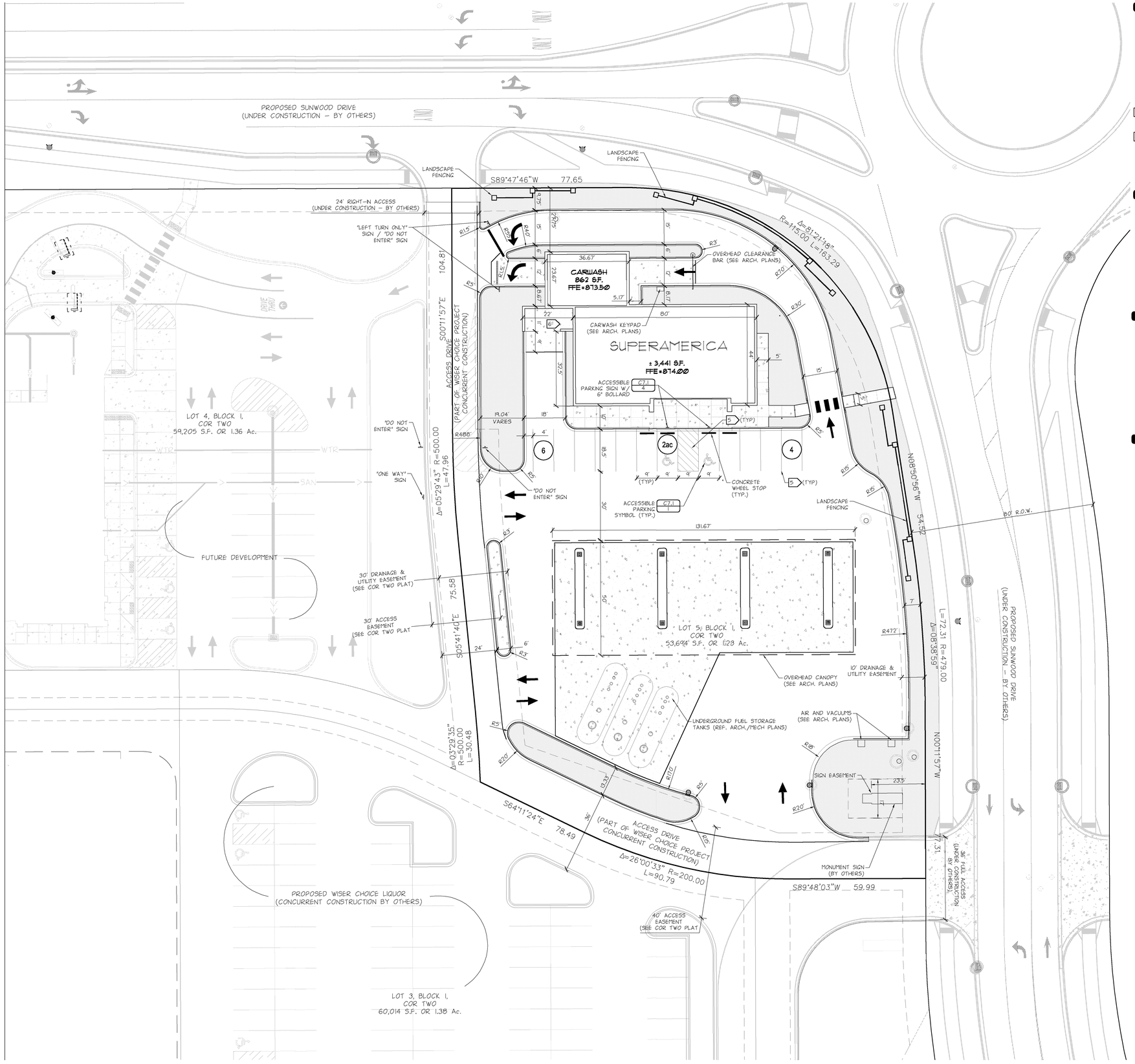
NORTH

0 100 200

SCALE IN FEET
1 INCH=100 FEET

LANDFORM
From Site to Finish

SHEET 2 OF 2 SHEETS



SITE PLAN NOTES

1. OBTAIN ALL NECESSARY PERMITS FOR CONSTRUCTION WITHIN, OR USE OF, PUBLIC RIGHT-OF-WAY.
2. THE DIGITAL FILE, WHICH CAN BE OBTAINED FROM THE ENGINEER, SHALL BE USED FOR STAKING. DISCREPANCIES BETWEEN THE DRAWINGS AND THE DIGITAL FILE SHALL BE REPORTED TO THE ENGINEER. THE BUILDING FOOTPRINT, AS SHOWN ON THESE DRAWINGS, AND THE DIGITAL FILE, SHALL BE COMPARED TO THE STRUCTURAL DRAWINGS PRIOR TO STAKING.
3. BUILDING LAYOUT ANGLES ARE PARALLEL WITH OR PERPENDICULAR TO THE PROPERTY LINE AT THE LOCATION INDICATED.
4. DIMENSIONS SHOWN ARE TO FACE OF CURB AND EXTERIOR FACE OF BUILDING UNLESS NOTED OTHERWISE.
5. DELINEATE PARKING STALLS WITH A 4-INCH WIDE WHITE/YELLOW PAINTED STRIPE. DELINEATE ACCESS AISLES WITH 4-INCH WIDE WHITE/YELLOW PAINTED STRIPES 18 INCHES ON CENTER AND AT 45 DEGREE ANGLE TO DIRECTION OF TRAVEL.
6. TRASH/RECYCLING AREAS: SEE ARCHITECTURAL DRAWINGS.

GREEN SPACE (LANDSCAPE AREA)

PARKING SUMMARY

REQUIRED PARKING LOT 5:

2 STALLS PER 1,000 SF OF BUILDING
4,303 SF TOTAL
4,303 SF X 2 = 9 STALLS

TOTAL PARKING STALLS REQUIRED	9 EA.

PROVIDED PARKING LOT 5:

STANDARD STALLS	(9'x18.5')	10 EA.
ACCESSIBLE STALLS	(9'x18.5')	2 EA.
TOTAL PARKING STALLS PROVIDED		12 EA.

AREA SUMMARY

EXISTING LOT 5:

PERVIOUS	47,657	S.F.	88.8%
IMPERVIOUS	6,037	S.F.	11.2%
TOTAL (1.233 Ac)	53,694	S.F.	100.0%

PROPOSED LOT 5:

PERVIOUS	9,325	S.F.	17.4%
IMPERVIOUS	40,066	S.F.	74.6%
CONVENIENCE STORE	3,441	S.F.	6.4%
CAR WASH	862	S.F.	1.6%
TOTAL (1.233 Ac)	53,694	S.F.	100.0%

ZONING AND PARKING SUMMARY

THE PROPERTY IS ZONED COR-2, COMMERCIAL

BUILDING SETBACK INFORMATION IS AS FOLLOWS:
FRONT YARD = 0-15 FT.
REAR = 0 FT.
SIDE = 0 FT.

LOT COVERAGE INFORMATION IS AS FOLLOWS:
LOT AREA MINIMUM = NONE
LOT WIDTH MINIMUM = 80 FT.

DEVELOPER

RAMSEY HRA
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
TEL. (763) 427-1410 · FAX (763) 427-5543

MUNICIPALITY

City of RAMSEY

PROJECT

SUPERAMERICA SUNWOOD RETAIL

RAMSEY, MINNESOTA

SHEET INDEX

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C4.1	UTILITIES
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L2.2	STREETSCAPE PLAN
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SITE PLAN SUBMITTAL

27 SEPTEMBER 2012

LANDFORM
From Site to Finish

105 South Fifth Avenue
Suite 513
Minneapolis, MN 55401

Tel: 612-252-9070
Fax: 612-252-9077
Web: landform.net

FILE NAME C201RAMxxx.DWG

PROJECT NO. KPL12001

PRELIMINARY SITE PLAN

C2.1

Know what's **Below.** **Call** before you dig.

NORTH

0 20 40

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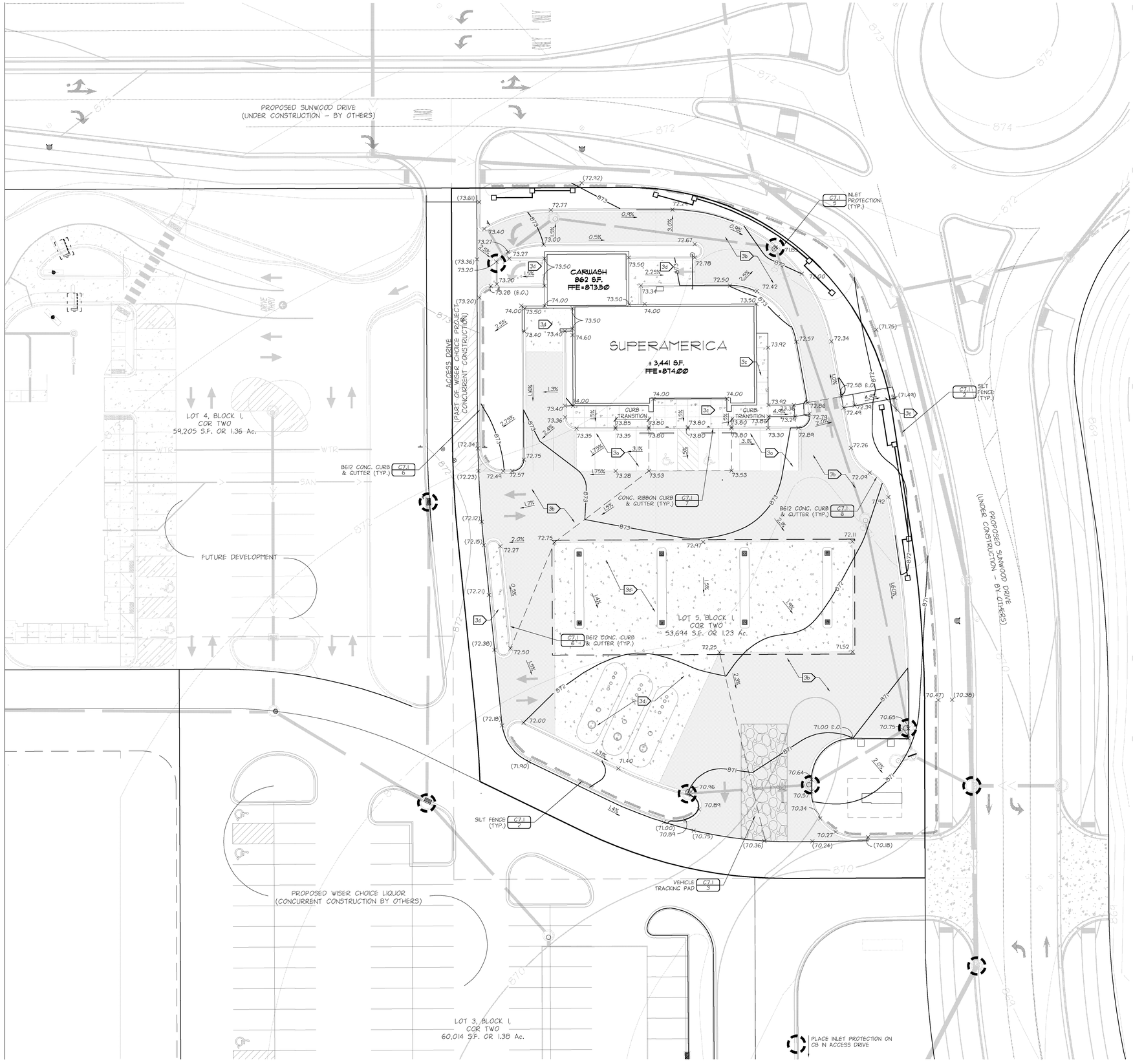

GRADING NOTES

1. CONTACT UTILITY SERVICE PROVIDERS FOR FIELD LOCATION OF SERVICES 72 HOURS PRIOR TO BEGINNING GRADING.
2. REMOVE TOPSOIL FROM GRADING AREAS AND STOCKPILE SUFFICIENT QUANTITY FOR REUSE.
3. REMOVE SURFACE AND GROUND WATER FROM EXCAVATIONS. PROVIDE INITIAL LIFTS OF STABLE FOUNDATION MATERIAL IF EXPOSED SOILS ARE WET AND UNSTABLE.
4. REFER TO STRUCTURAL SPECIFICATIONS FOR EARTHWORK REQUIREMENTS FOR BUILDING PADS.
5. AN INDEPENDENT TESTING FIRM SHALL VERIFY THE REMOVAL OF ORGANIC AND UNSUITABLE SOILS, SOIL CORRECTION, AND COMPACTION AND PROVIDE PERIODIC REPORTS TO THE OWNER.
6. PLACE AND COMPACT FILL USING LIFT THICKNESSES MATCHED TO SOIL TYPE AND COMPACTION EQUIPMENT TO OBTAIN SPECIFIED COMPACTION THROUGHOUT THE LIFT.
7. COMPACT MATERIAL IN PAVED AREAS TO 95% OF MAXIMUM DRY DENSITY, STANDARD PROCTOR (ASTM D698) EXCEPT THE TOP 3 FEET WHICH SHALL BE COMPACTED TO 100%. COMPACT TO 90% DENSITY WHERE FILL DEPTH EXCEEDS 10 FEET.

PAVING NOTES

1. SPOT ELEVATIONS AT CURBLINES INDICATE FLOWLINES UNLESS NOTED OTHERWISE. SEE SHEET C4.1 FOR RIM ELEVATIONS OF CATCH BASINS.
2. MEET AND MATCH EXISTING CURB.
3. PAVING SECTIONS (PRELIMINARY)
   a. BITUMINOUS PAVING (LIGHT DUTY)
      1.5-INCH WEAR
      TACK COAT
      1.5-INCH BASE
      6-INCH AGGREGATE BASE (MNDOT 3138, CLASS 5)
      COMPACTED SUBSOIL
   b. BITUMINOUS PAVING (HEAVY DUTY)
      1.5-INCH WEAR
      TACK COAT
      2.5-INCH BASE
      6-INCH AGGREGATE BASE (MNDOT 3138, CLASS 5)
      COMPACTED SUBSOIL
   c. CONCRETE WALKWAYS
      4-INCH CONCRETE WALK
      4-INCH AGGREGATE BASE (MNDOT 3138, CLASS 5)
      COMPACTED SUBSOIL
   d. CONCRETE DRIVES, APRONS, AND EXTERIOR SLABS
      8-INCH CONCRETE
      4-INCH AGGREGATE BASE (MNDOT 3138, CLASS 5)
      COMPACTED SUBSOIL

EROSION PREVENTION AND SEDIMENT CONTROL NOTES

1. INSTALL PERIMETER SEDIMENT CONTROLS PRIOR TO BEGINNING WORK AND MAINTAIN FOR DURATION OF CONSTRUCTION. REMOVE CONTROLS AFTER AREAS CONTRIBUTING RUN OFF ARE PERMANENTLY STABILIZED AND DISPOSE OF OFF SITE.
2. LIMIT SOIL DISTURBANCE TO THE GRADING LIMITS SHOWN. SCHEDULE OPERATIONS TO MINIMIZE LENGTH OF EXPOSURE OF DISTURBED AREAS.
3. MANAGEMENT PRACTICES SHOWN ARE THE MINIMUM REQUIREMENT. INSTALL AND MAINTAIN ADDITIONAL CONTROLS AS WORK PROCEEDS TO PREVENT EROSION AND CONTROL SEDIMENT CARRIED BY WIND OR WATER.
4. EXCAVATE PONDS EARLY IN THE CONSTRUCTION SEQUENCE. REMOVE SEDIMENT FROM PONDS PERIODICALLY AND AFTER AREAS CONTRIBUTING RUN OFF ARE PERMANENTLY STABILIZED.
5. RESTORE DISTURBED OPEN AREAS WITH TEMPORARY SEED OR SOD WITHIN 72 HOURS OF COMPLETING GRADING IN EACH AREA.
6. SEED, SOD, MULCH AND FERTILIZER SHALL MEET THE FOLLOWING SPECIFICATIONS, AS MODIFIED.

ITEM	SPECIFICATION NUMBER
SOD	MNDOT 3875
SEED	MNDOT 3876
TYPE 50 @ 40 LB/AC	
TYPE 110A @ 60 LB/AC	
MULCH (TYPE 1, DISC ANCHORED)	MNDOT 3882
FERTILIZER	MNDOT 3881
GENERAL PLACEMENT	MNDOT 2575

7. SEE LANDSCAPING SHEETS FOR PERMANENT TURF ESTABLISHMENT.
8. SWEEP ADJACENT STREETS CLEAN DAILY.
9. THE CONTRACTOR SHOULD HAVE A SWEEPER ON SITE OR AVAILABLE WITHIN 3 HOURS. ALL MATERIAL TRACKED ONTO CITY STREETS MUST BE REMOVED IMMEDIATELY UPON DISCOVERY, OR AS DIRECTED BY THE CITY ENGINEER.
10. INSTALLATION OF SILT FENCE AND OTHER DOWN GRADIENT SEDIMENT PROTECTION MEASURES SHALL BE COMPLETED AND INSPECTED PRIOR TO COMMENCEMENT OF ANY SITE ACTIVITIES.

NPDES AREA SUMMARY

	EXISTING*	PROPOSED	ULTIMATE
PERVIOUS	1.09 ACRES	0.21 ACRES	0.21 ACRES
IMPERVIOUS	0.14 ACRES	1.02 ACRES	1.02 ACRES
TOTAL	1.23 ACRES	1.23 ACRES	1.23 ACRES

*EXISTING AREA'S ARE BASED ON THE PROPOSED CONDITIONS OF THE SUNWOOD REALIGNMENT AND WISER CHOICE LIQUOR PLANS.

LEGEND

- CONSTRUCTION LIMITS
- SILT FENCE
- INLET PROTECTION
- GRADE BREAK

Know what's Below. Call before you dig.

NORTH

0 20 40

DEVELOPER

RAMSEY HRA
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
TEL (763) 427-1410 - FAX (763) 427-5543

MUNICIPALITY

City of RAMSEY

PROJECT

SUPERAMERICA
SUNWOOD RETAIL
RAMSEY, MINNESOTA

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27 SEPTEMBER 2012

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105 South Fifth Avenue
Suite 513
Minneapolis, MN 55401
Tel: 612-252-9070
Fax: 612-252-9077
Web: landform.net

FILE NAME C301RAW025.DWG

PROJECT NO. KPL12001

GRADING, DRAINAGE, PAVING & EROSION CONTROL PLAN
C3.1

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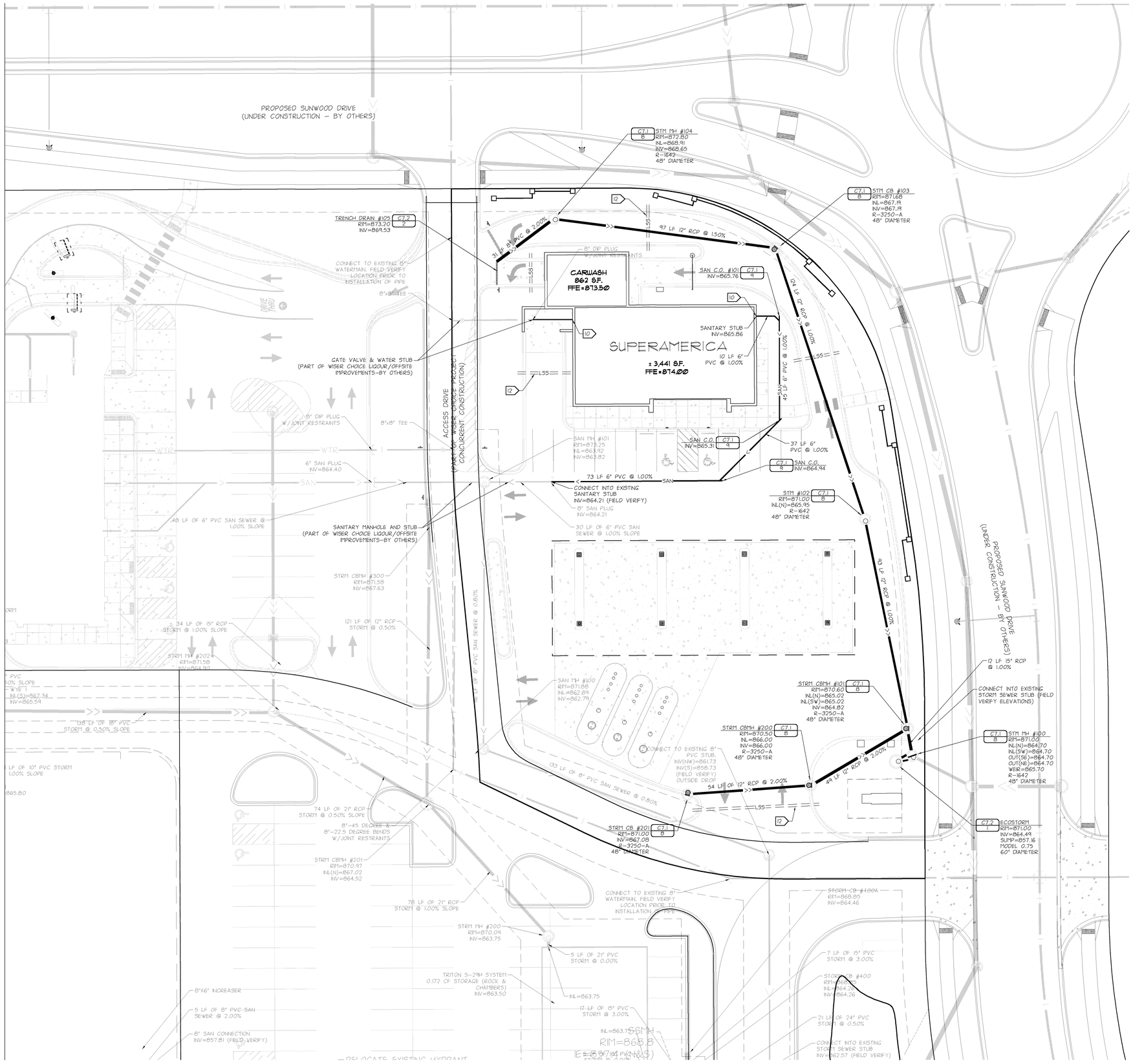

UTILITY NOTES

1. PIPE MATERIALS
   - WATER SERVICE — DIP CLASS 52
   - SANITARY SEWER — PVC SDR 35
   - STORM SEWER — RCP CLASS 5, PVC SDR 35
2. CONTACT UTILITY SERVICE PROVIDERS FOR FIELD LOCATION OF SERVICES 72 HOURS PRIOR TO BEGINNING.
3. COORDINATE WITH PRIVATE UTILITIES TO PROVIDE ELECTRIC, NATURAL GAS, AND COMMUNICATIONS SERVICES TO BUILDING.
4. PROVIDE MEANS AND MEASURES TO PROTECT ADJACENT PROPERTY FROM DAMAGE DURING UTILITY INSTALLATION.
5. PIPE LENGTHS SHOWN ARE FROM CENTER OF STRUCTURE TO CENTER OF STRUCTURE OR END OF END SECTION.
6. INSTALL TRACER WIRE WITH UTILITIES WITHIN THE PUBLIC RIGHT-OF-WAY OR EASEMENTS.
7. CONNECT TO CITY UTILITIES IN ACCORDANCE WITH CITY OF RAMSEY STANDARDS.
8. MAINTAIN 7.5 FEET OF COVER ON WATER.
9. CONTACT CITY OF RAMSEY BUILDING DEPARTMENT, FOR FLUSHING AND PRESSURE TEST INSPECTIONS.
10. BRING WATER AND SEWER SERVICES INTO BUILDING PER MECHANICAL DRAWINGS.
11. THE CONTRACTOR IS REQUIRED TO OBTAIN THE APPROPRIATE PERMIT FOR THE MN DNR IF DEWATERING IS REQUIRED TO COMPLETE ANY WORK. THE CITY NEEDS TO REVIEW EACH PERMIT PRIOR TO IMPLEMENTATION.
12. IRRIGATION SLEEVE TO BE 4" SCHEDULE 80 PVC IN DRIVE AISLES BURIED 24" BELOW GRADE. SLEEVES TO BE LOCATED AS SHOWN ON PLAN. EXTEND SLEEVES 2' BEYOND THE BACK OF CURB. COORDINATE WITH IRRIGATION CONTRACTOR.

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0 20 40

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7550 SUNWOOD DRIVE
RAMSEY, MN 55303
TEL (763) 427-1410 · FAX (763) 427-5543

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FILE NAME C401RAM0XX.DWG

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UTILITIES

C4.1

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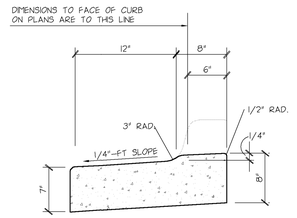
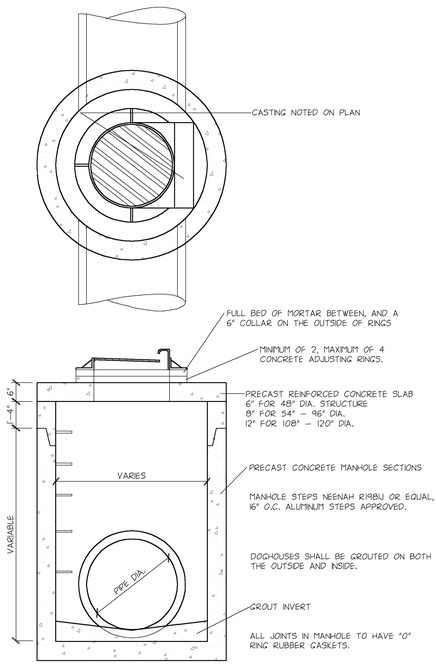


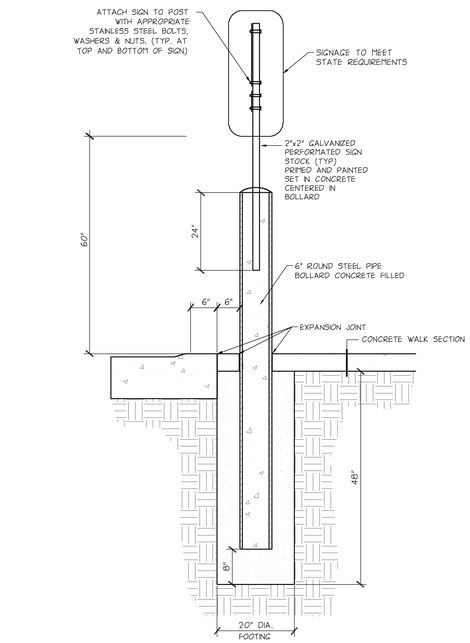
7 CONCRETE RIBBON CURB

NO SCALE



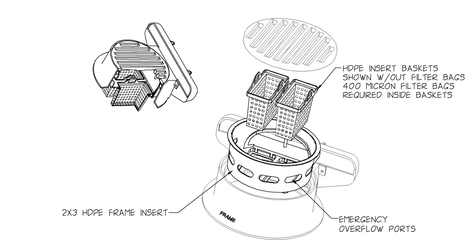
8 STORM SEWER CATCH BASIN MANHOLE

NO SCALE



4 ROUND BOLLARD W/ ACCESSIBLE SIGNAGE

NO SCALE



– MEET MN/DOT SPECIFICATION 3891.F "STORM DRAIN INLET PROTECTION – FILTER BAG INSERT"

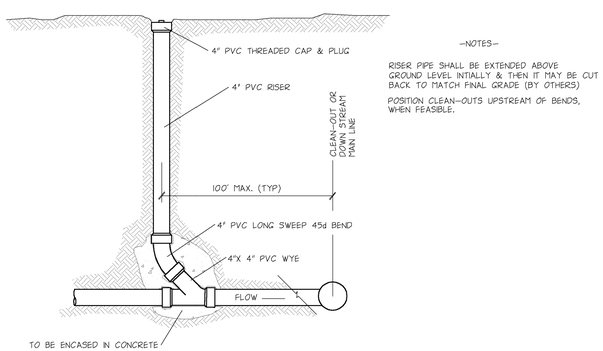
– DESIGNED FOR NEENAH R-3250-A OR R-3250-I (MNDOT 801) FRAME CASTING

INFRASAFE – DEBRIS COLLECTION DEVICE
AS MANUFACTURED BY: ROYAL ENVIRONMENTAL SYSTEMS

ALTERNATIVE ALLOWED AS APPROVED BY PERMITTING AUTHORITIES

5 INLET PROTECTION

NO SCALE



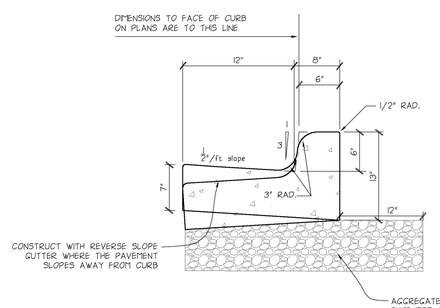
–NOTES–

RISER PIPE SHALL BE EXTENDED ABOVE GROUND LEVEL INTIALLY & THEN IT MAY BE CUT BACK TO MATCH FINAL GRADE (BY OTHERS)

POSITION CLEAN-OUTS UPSTREAM OF BENDS, WHEN FEASIBLE.

9 CLEAN-OUT STRUCTURE

NO SCALE



6 B612 CURB SECTION

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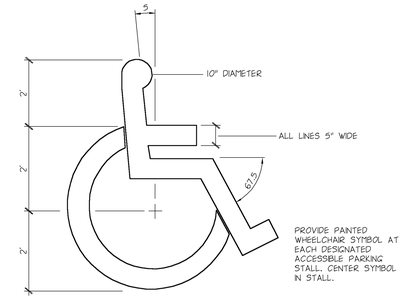

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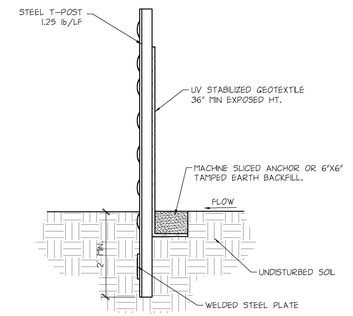
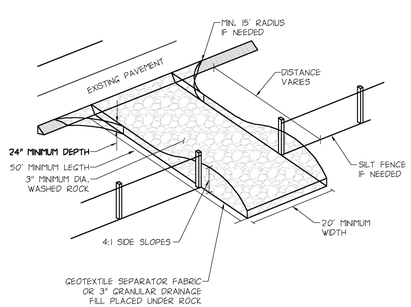


INSTALL ON CONTOUR AT CONSTANT ELEVATION.

VERIFY LOCAL REQUIREMENTS FOR:
- GEOTEXTILE TYPE
- METHOD OF ATTACHMENT
- ANCHORING
- POST SPACING
- BACKING FOR HEAVY DUTY APPLICATIONS

2 SILT FENCE

NO SCALE



3 VEHICLE TRACKING PAD

NO SCALE

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DEVELOPER

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MUNICIPALITY

City of RAMSEY

PROJECT

SUPERAMERICA
SUNWOOD RETAIL
RAMSEY, MINNESOTA

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REVISION HISTORY

CONTACT ENGINEER FOR ANY PRIOR HISTORY

DATE	REVISION	REVIEW
05 SEPT 2012	PRELIMINARY SITE PLAN SUBMITTAL	SES
27 SEPT 2012	RESPONSE TO CITY COMMENTS	SES

PROJECT MANAGER REVIEW

BY SES DATE 09/27/12

CERTIFICATION

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SITE PLAN SUBMITTAL
27 SEPTEMBER 2012

LANDFORM
From Site to Finish

105 South Fifth Avenue Tel: 612-252-9070
Suite 513 Fax: 612-252-9077
Minneapolis, MN 55401 Web: landform.net

FILE NAME C701RAM.xxx.DWG

PROJECT NO. KPL12001

CIVIL CONSTRUCTION DETAILS

C7.1

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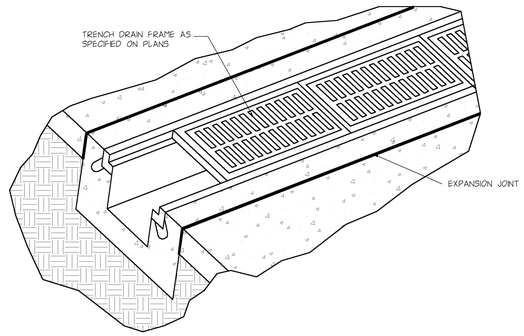
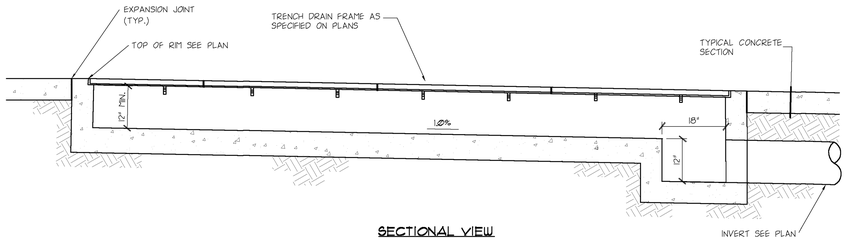


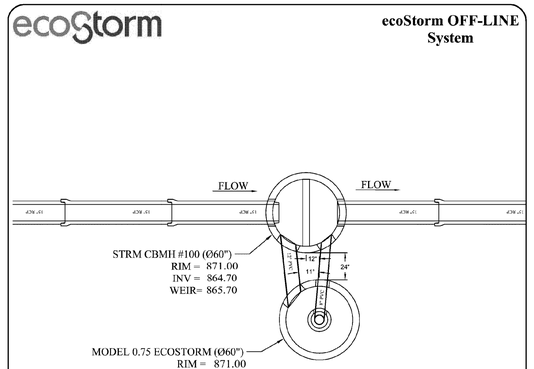
PERSPECTIVE VIEW



SECTIONAL VIEW

2 TRENCH DRAIN

NO SCALE



Royal ENVIRONMENTAL SYSTEMS, Inc.
A Division of Royal Enterprises America
(651) 462-2130
www.royalenterprises.net

Proprietary Information: Patent Pending Design, All rights reserved - Royal Environmental Systems, Inc.
Royal Environmental Systems not responsible for any field testing or mitigation procedures (if required).

Project: THE COR 2	*Location:* RAMSEY, MN
Owner:	*Scale:* 1" = 5'
Engineer: LANDFORM	*Designed By:* LRH
Contractor: TBD	*Date:* 8-31-12
Manufacturer: Royal Concrete Pipe	*Drawing # :* ecoStorm-Layout.dwg
Product Designation: ecoStorm - Gross Particulate Separation Technology	

Drawn By: 8-31-12 LRH
Rev. Date:

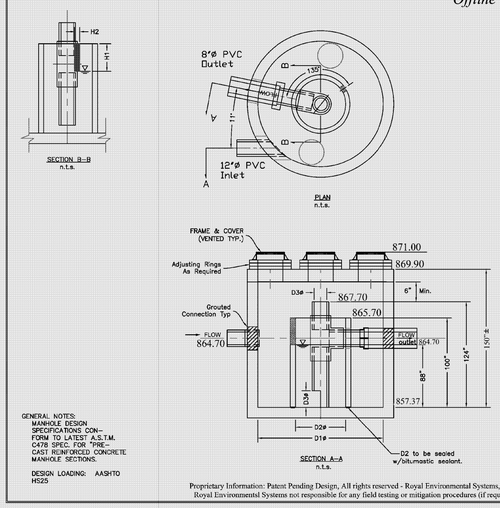
PROJECT:	THE COR 2	LOCATION:	RAMSEY, MN
OWNER:	<ENTER OWNER>	SCALE:	NONE
ENGINEER:	LANDFORM	DRAWN BY:	LRH
CONTRACTOR:	TBD	DATE:	8-31-12
MANUFACTURER:	Royal Concrete Pipe	DWG NO.:	RCP_CORE-Ramsey_STD.dwg
PRODUCT DESIGNATION:	ecoStorm - gross particulate separation technology		
DESIGNED BY: LRH	CHECK 1: RO	CHECK 2: SEG	

REVISIONS

ecoStorm

ecoStorm model no.	D1 dia. (ft.)	D2 dia. (ft.)	D3 dia. (in.)	vertical weir H1 (in.)	vertical weir H2 (in.)	"tee" PVC (in.)	Flow Diffuser Stainless Steel Diversion Plate	Flow Diffuser 45° pvc (in.)
0.75	5.00	1.25	8.00	12.00	6.00	8.00		

ecoStorm *Offline*



GENERAL NOTES:
MANHOLE DESIGN SPECIFICATIONS CONFORM TO LATEST A.S.T.M. C478 SPEC. FOR "PRECAST REINFORCED CONCRETE MANHOLE SECTIONS.

DESIGN LOADING: AASHTO HS25

Proprietary Information: Patent Pending Design, All rights reserved - Royal Environmental Systems, INC.
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1 ECOSTORM DETAILS

NO SCALE

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SITE PLAN SUBMITTAL
27 SEPTEMBER 2012

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FILE NAME C702KPL001.DWG

PROJECT NO. KPL12001

CIVIL CONSTRUCTION DETAILS

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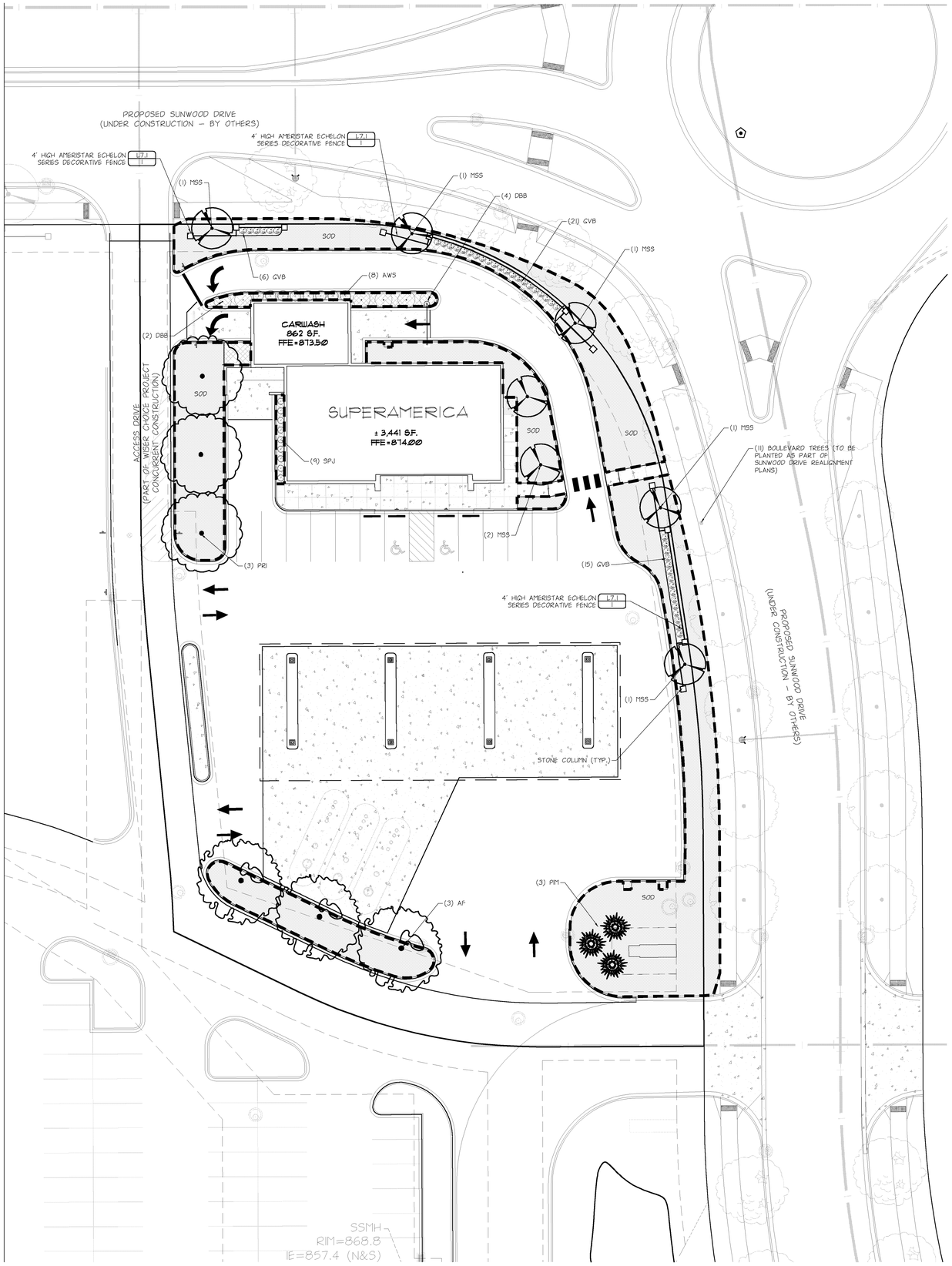

IRRIGATION NOTES

1. REVIEW AND COORDINATE WITH EXISTING SUNWOOD IRRIGATION SYSTEM. PRIMARY SYSTEM IMPROVEMENTS INCLUDE 2" IRRIGATION MAINLINE AND ZONE WIRES ALONG NORTH SIDE OF SUNWOOD DRIVE. SYSTEM HAS TWO WATER CONNECTIONS THAT SUPPLY THE IRRIGATION MAINLINE AND ARE INTERCONNECTED. TWO CONTROLLERS ON EACH END CONTROL THE WEST AND EAST HALF, RESPECTIVELY. THE CONTROLLER ON THE WEST END IS TO BE RELOCATED TO THE LOCATION SHOWN ON THE PLAN. WIRES ALONG MAINLINE ARE 48 ZONE AND 2 COMMON. THEY ARE TO BE CUT AT THE LOCATIONS SHOWN ON THE PLAN AND RECONNECTED TO THE RELOCATED CONTROLLER OR THE NEW CONTROLLER AS INDICATED ON THE PLAN.
2. RCT REMOTE CONTROL TO BE REMOTE CONTROL TECHNOLOGY. PROVIDE 1-TRC COMMANDER TRANSMITTER (WITH CASE), MODEL #01035 (01591 CASE). PROVIDE 2-PERMANENT RECEIVER CARDS FOR RAIN BIRD ESP MC (FOR 40 STATION), MODEL #01060. INSTALL PERMANENT RECEIVER CARDS INTO EXISTING RAIN BIRD ESP-MC CONTROLLERS.
3. RAIN BIRD ROOT WATERING SYSTEM IS TO BE INSTALLED NEAR THE ROOTBALL OF THE TREE. THE ROOT WATERING SYSTEM IS TO INCLUDE THE BASIC ROOT WATERING SYSTEM WITH 12" SWING ARM, GRATE, SAND SOCK, AND MODIFICATION OF THE BUBBLER TO DRIP. MODIFICATION OF BUBBLER INCLUDES: REMOVING BUBBLER, RETROFIT A DRIP CONVERSION, MICRO FLOW VALVE (CONTROL WATER), MICROTUBING, AND DRIP EMITTERS. DRIP EMITTERS TO WATER ROOTBALL OF TREE. PLACE THREE DRIP EMITTERS IN TRIANGULAR SPACING. DRIP EMITTER FLOW TO BE GREATER THAN DRIPLINE AND IDENTIFIED AND APPROVED IN THE FIELD. INTENT OF SYSTEM IS TO PROVIDE WATER CONTROL OF THE TREE SEPARATE FROM THE DRIPLINE, WITH THE ABILITY TO SHUT OFF TREE EMITTERS WITHOUT IMPACTING DRIPLINE OPERATION. THE BASIC ROOT WATERING SYSTEM AND GRATE IS TO SERVE AS AN AIR RELIEF PIPE, THAT WILL ALLOW OBSERVATION OF THE WATER TABLE WITHIN THE PLANTING BED.
4. PROVIDE AND INSTALL OPERATION INDICATOR AT END OF ZONE, TO ILLUSTRATE IF ZONE IS OPERATIONAL. DEVICE TO BE A POP-UP MODEL FOR DRIP ZONES, APPROVED BY IRRIGATION DESIGNER, AND SHALL NOT EMIT WATER. LOCATE WITHIN PLANTING BEDS TO MINIMIZE VISIBILITY.
5. IRRIGATION SYSTEM IS DIAGRAMMATIC. CONTRACTOR TO VERIFY AND DESIGN PER ACTUAL PRESSURE, PER LOCAL CODES, AND PER SITE REQUIREMENTS. FIELD VERIFY LOCATION OF COMPONENTS WITH ACTUAL CONDITIONS PRIOR TO INSTALLATION, ADJUST AS NEEDED FOR COMPLETE COVERAGE. SYSTEM TO INCLUDE ALL PLUMBING AND ELECTRICAL, INCLUDING CONDUIT, SLEEVING, AND WEATHER-PROOF ENCLOSURES. SYSTEM SHALL BE COMPLETE. CONTRACTOR TO PROVIDE SHOP DRAWINGS, DESIGN PRESSURE DESIGN CALCULATIONS, AND RELATED PRODUCT SHEETS FOR OWNER OR LANDSCAPE ARCHITECT APPROVAL. CONTRACTOR TO PROVIDE TWO "AS-BUILT" DRAWINGS OF IRRIGATION SYSTEM AT THE COMPLETION OF THE PROJECT. IRRIGATION PER PLANS ARE PART OF A LARGER SYSTEM, SEE PLANS FOR FURTHER INFORMATION. COORDINATE AND MODIFY IRRIGATION AS NEEDED TO INTEGRATE INTO PRIMARY SYSTEM.
6. ALL PIPE 1.5" OR GREATER SHALL BE SDR 26 CLASS 200 FOR MAINLINE AND CLASS 160 FOR LATERAL LINE PVC PIPE (DO NOT EXCEED 35 GPM FOR 1.5" AND 58 GPM FOR 2".) ALL PIPE 1.25" OR 1" SHALL BE 100 POLY PIPE AS INDICATED (DO NOT EXCEED 13 GPM FOR 1" AND 22 GPM FOR 1.25".) PIPE SIZE TO BE IDENTIFIED BY CONTRACTOR PER ZONE REQUIREMENTS. LOCATE IRRIGATION AWAY FROM PLANT MATERIAL.
7. ALL WIRING, BACKFLOW PREVENTOR, AND PLUMBING AS PER LOCAL CODE. WATER CONNECTION BY MECHANICAL AND UTILITY CONTRACTOR. VERIFY AND ADD BOOSTER PUMP AS REQUIRED.
8. ALL VALVES AND QUICK COUPLERS SHALL BE LOCATED IN VALVE BOXES SIZED FOR NORMAL MAINTENANCE, FLUSH WITH FINAL GRADE. PROVIDE (2) QUICK COUPLER KEYS AND HOSE SWIVELS.
9. THE IRRIGATION SYSTEM SHALL BE INSTALLED AS PER MANUFACTURER'S SPECIFICATION.
10. FIRST YEAR WINTERIZATION AND SPRING START UP OF SYSTEM SHALL BE PERFORMED BY IRRIGATION CONTRACTOR.
11. MINIMUM 4" PVC SCHEDULE 40 SLEEVING SHALL BE REQUIRED UNDER ALL WALKS AND ROADWAYS. PROVIDE 12" LENGTH OF #3 REBAR AT EACH TEMPORARILY SEALED END FOR FUTURE LOCATION. EXTEND SLEEVING AT LEAST 2 FEET BEYOND EDGE OF PAVEMENT. PROVIDE PVC STAND PIPE FOR LOCATING ENDS OF SLEEVING. PROVIDE TWO SIZES LARGER THAN PIPE SIZE. PROVIDE ADDITIONAL SLEEVING FOR WIRING, AS NEEDED.
12. BIDDING CONTRACTORS SHOULD BECOME THOROUGHLY FAMILIAR WITH ALL FACETS OF THE PROPOSED IRRIGATION SYSTEM. FAILURE TO CLARIFY MISUNDERSTANDINGS, OR INTENT OF THESE DRAWINGS AND SPECIFICATIONS BEFORE SUBMITTAL OF BID SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
13. THE IRRIGATION CONTRACTOR SHALL LOCATE ALL UNDERGROUND UTILITIES AND SHALL TAKE PROPER PRECAUTIONS NOT TO DAMAGE OR DISTURB UTILITIES OR EXISTING CONDITIONS. CONTRACTOR SHALL REPAIR/RESTORE ANY DAMAGE INVOLVING IRRIGATION INSTALLATION.

IRRIGATION NOTES

14. INSTALL RAIN SENSOR(S) ON EXTERIOR WEATHER EXPOSED VERTICAL SURFACE(S). COORDINATE WITH OWNER'S AUTHORIZED REPRESENTATIVE AS TO FINAL LOCATION.
15. ALL LANDSCAPED AREAS SHALL BE IRRIGATED AND THE IRRIGATION SYSTEM SHALL INCLUDE RAIN SENSORS AND A BACKFLOW PREVENTER DEVICE.
16. CONTROL WIRE WILL BE SOLID COPPER WIRE U.L. APPROVED FOR DIRECT BURIAL IN GROUND, MINIMUM GAUGE: MINIMUM #14 U.F. COMMON GROUND WIRE SHALL BE MINIMUM #12 GAUGE WHITE. PROVIDE TWO EXTRA CIRCUIT WIRES AND ONE EXTRA COMMON GROUND WIRE FOR ENTIRE MAINLINE LENGTH, MARK AS APPROPRIATE. PROVIDE ONE YELLOW #16 GAUGE TRACER WIRE FOR ALL LATERAL LINES, WIRE IS TO BE CONTINUOUS AND SPLICED ONLY IN VALVE BOXES.
17. 24 VAC WIRE SPLICING MATERIAL WILL BE DIRECT BURIAL SPLICE KIT AS MANUFACTURED BY 3M.
18. SOME AREAS MAY REQUIRE RISER EXTENSIONS FOR SPRINKLERS OR A FIXED RISER WITH A SHRUB HEAD OR SHRUB ADAPTOR TO OBTAIN PROPER COVERAGE. LARGE ROTOR NOZZLES = #4-FULL, #3-3/4, #2-1/2, #1-1/4. SMALL ROTOR NOZZLES = #3-FULL, #2-3/4, #1-1/2, #0.75-1/4. ADJUST AS NEEDED. SPRAY HEADS IN TURF AREAS TO BE 6" POP-UPS AND IN LANDSCAPE BEDS TO BE 12" POP-UPS.
19. FINAL LOCATION OF WATER SOURCE SET UP TO BE APPROVED BY OWNERS REPRESENTATIVE.
20. COORDINATE INSTALLATION OF IRRIGATION SYSTEM WITH OTHER IMPROVEMENTS.
21. ALL DRIP VALVES, FILTERS, AND PRESSURE REGULATORS SHALL BE IN A VALVE BOX. DRIP LINE SHALL BE LOOPED WITH CROSS CONNECTORS (25' MAXIMUM SPACING), NO DEAD ENDS. LOCATE PER PLANT MATERIAL. PLACE EMITTERS AT EACH PLANT AND ON HIGH SIDE IN SLOPED CONDITIONS. USE BLANK TUBING IN SLEEVES OR IN AREAS WHERE THERE IS NO PLANT MATERIAL. PLACE AIR RELIEF VALVES AT HIGH POINT AND FLUSH VALVES AT ENDS OF ZONE. PROVIDE 3/4" VALVE FOR DRIP ZONES OF 13 GPM OR LESS, USE 1" VALVE FOR DRIP ZONES GREATER THAN 13 GPM. EACH DRIP ZONE SHALL HAVE AN OPERATION INDICATOR, LOCATED WITHIN THE PLANT MATERIAL FOR FILTERED VISIBILITY. VERIFY LOCATION WITH OWNER.
22. PROVIDE 1" VALVES FOR SPRAY AND ROTAR ZONES FOR 25 GPM OR LESS, AND 1.5" VALVE FOR ZONES GREATER THAN 26 GPM.
23. CONTRACTOR TO SCHEDULE AND PROGRAM CONTROLLER AND VALVES FOR APPROPRIATE LANDSCAPE WATER REQUIREMENTS. VERIFY WITH OWNER AS TO TIME AND SPECIFIC REQUIREMENTS.

LANDSCAPE NOTES

24. CONTACT UTILITY SERVICE PROVIDERS FOR FIELD LOCATION OF SERVICES 72 HOURS PRIOR TO BEGINNING.
25. COORDINATE INSTALLATION WITH CONTRACTORS PERFORMING RELATED WORK.
26. PLANT MATERIAL SHALL CONFORM TO THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND BE OF HARDY STOCK, FREE FROM DISEASE, INFESTATION, DAMAGE, AND DISFIGURATION. FOR DISCREPANCY BETWEEN THE NUMBER OF PLANTS ON THE SCHEDULE AND THE NUMBER SHOWN ON THE DRAWING, THE DRAWING SHALL GOVERN.
27. PLANTING SOIL SHALL CONSIST OF 4 PARTS TOPSOIL TO 1 PART PEAT HUMUS, WITH 3 POUNDS OF COMMERCIAL FERTILIZER ADDED PER CUBIC YARD.
28. SPREAD A MINIMUM OF 6 INCHES OF TOPSOIL AND SOD ALL TURF AREAS DISTURBED BY CONSTRUCTION.
29. 4 INCHES OF MNDOT PREMIUM TOPSOIL BORROW SHALL BE APPLIED TO ALL AREAS NOT OTHERWISE IMPROVED WITH BUILDINGS AND IMPERVIOUS SURFACES.
30. EDGE SHRUB BEDS WITH 6-INCH BLACK VINYL EDGING (BLACK DIAMOND OR APPROVED EQUAL).
31. PLACE PLANTS ACCORDING TO LAYOUT WITH PROPER NOMINAL SPACING.
32. SEE DETAILS FOR DEPTH OF PLANTING SOIL.
33. INSTALL 4 INCH DEPTH OF SHREDDED HARDWOOD BARK MULCH IN SHRUB BED AREAS.
34. INSTALL A 4-FOOT DIAMETER SHREDDED HARDWOOD BARK MULCH DISH AROUND TREES NOT PLACED WITHIN A SHRUB OR PERENNIAL PLANTING BED. UNLESS NOTED OTHERWISE.

PRELIMINARY PLANT SCHEDULE

SYMBOL	QUANTITY	KEY	COMMON NAME	SCIENTIFIC NAME	PLANTING SIZE	ROOT COND.	MATURE SIZE
DECIDUOUS TREES							
	3	PRI	PRINCETON ELM	ULMUS AMERICANA 'PRINCETON'	2.5" CAL.	B&B	80'H X 60'W
	3	AF	AUTUMN BLAZE MAPLE	ACER X FREMANII 'JEFFERSED'	2.5" CAL.	B&B	50'H X 40'W
	7	MSS	SPRING SNOW CRABAPPLE	MALUS 'SPRING SNOW'	2.0" CAL.	B&B	20'H X 12'W
CONIFEROUS TREES							
	3	PIM	BLACK SPRUCE	PICEA MARIANA	6' HT.	B&B	50'H X 20'W
DECIDUOUS SHRUBS							
	6	DBB	DWARF BURNING BUSH	EUONYMUS ALTUS 'COMPACTUS'	5 GAL.	POT	8'H X 8'W
	8	AWS	ANTHONY WALTERER SPIREA	SPIRAEA X BUMALDA 'FROEBELII'	5 GAL.	POT	4'H X 5'W
	42	GVB	CHICAGOLAND BOXWOOD	BUXUS 'GLENCOE'	5 GAL.	POT	4'H X 5'W
	9	SPJ	LITTLE PRINCESS SPIREA	SPIRAEA JAPONICA 'LITTLE PRINCESS'	5 GAL.	POT	2'H X 3'W

:SOD

:IRRIGATION AREA

Know what's Below. Call before you dig.

NORTH

0 20 40

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MUNICIPALITY

City of RAMSEY

PROJECT

SUPERAMERICA SUNWOOD RETAIL

RAMSEY, MINNESOTA

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27 SEPTEMBER 2012

LANDFORM
From Site to Finish

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Fax: 612-252-9077
Web: landform.net

FILE NAME L201KPL001.DWG

PROJECT NO. KPL12001

LANDSCAPE PLAN

L2.1

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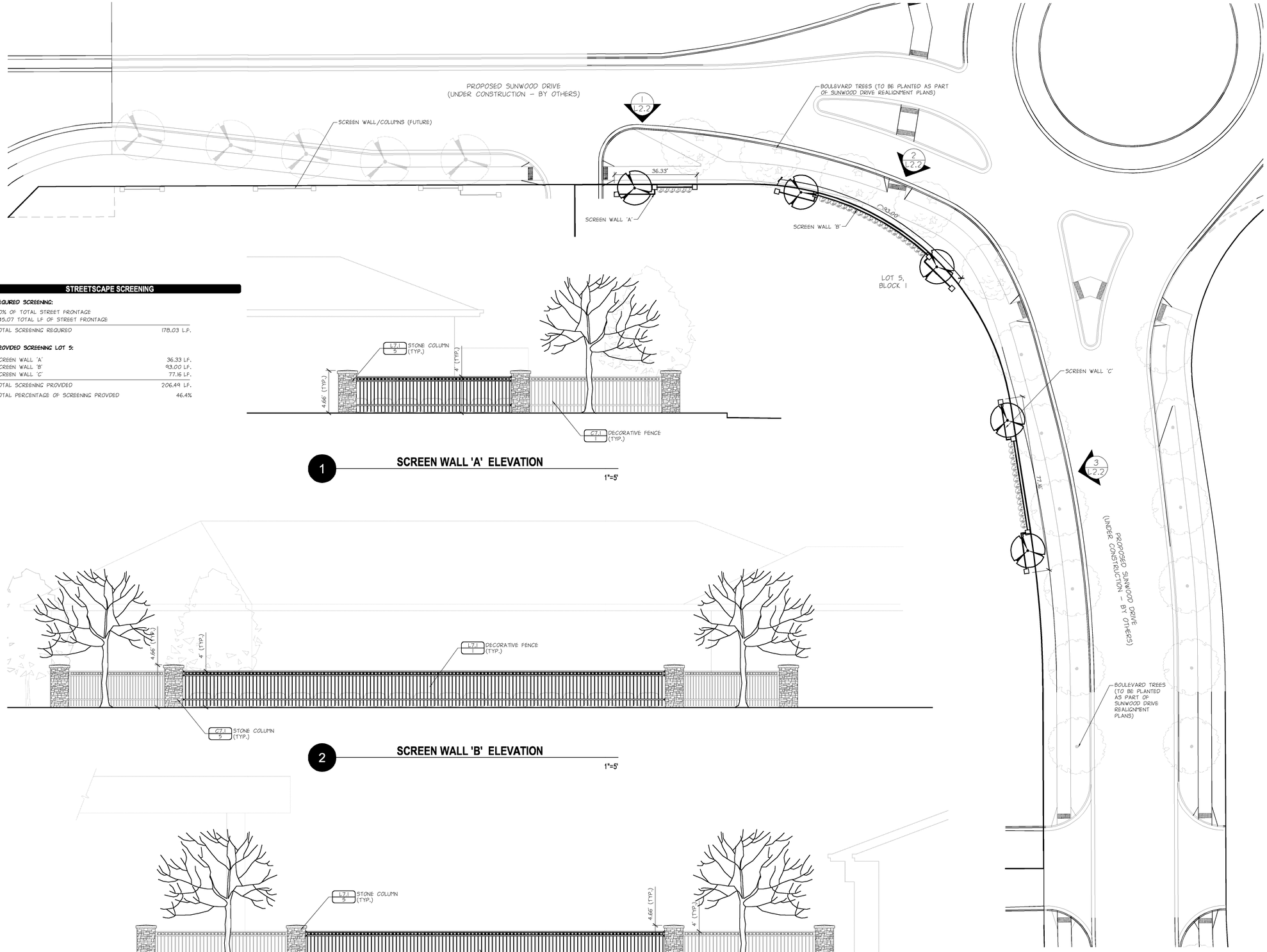


STREETSCAPE SCREENING

REQUIRED SCREENING:

40% OF TOTAL STREET FRONTAGE
445.07 TOTAL LF OF STREET FRONTAGE

TOTAL SCREENING REQUIRED	178.03 L.F.

PROVIDED SCREENING LOT 5:

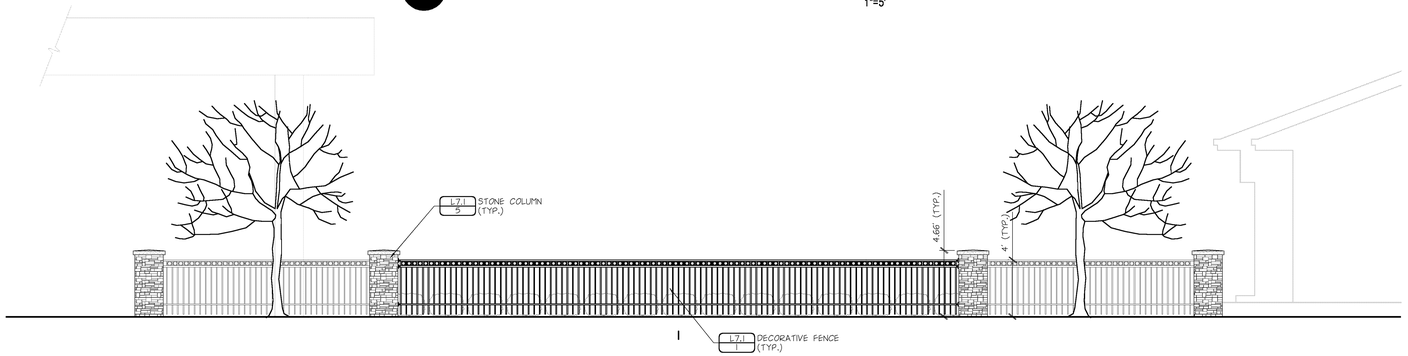
SCREEN WALL 'A'	36.33 L.F.
SCREEN WALL 'B'	93.00 L.F.
SCREEN WALL 'C'	77.16 L.F.
TOTAL SCREENING PROVIDED	206.49 L.F.
TOTAL PERCENTAGE OF SCREENING PROVDED	46.4%

1 **SCREEN WALL 'A' ELEVATION**

1"=5'

2 **SCREEN WALL 'B' ELEVATION**

1"=5'



3 **SCREEN WALL 'C' ELEVATION**

1"=5'

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05 SEPT 2012	PRELIMINARY SITE PLAN SUBMITTAL	SES
27 SEPT 2012	RESPONSE TO CITY COMMENTS	SES

PROJECT MANAGER REVIEW

BY SES DATE 09/27/12

CERTIFICATION

IF THE SIGNATURE, SEAL OR FOUR LINES DIRECTLY ABOVE ARE NOT VISIBLE, THIS SHEET HAS BEEN REPRODUCED BEYOND INTENDED READABILITY AND IS NO LONGER A VALID DOCUMENT. PLEASE CONTACT THE ENGINEER TO REQUEST ADDITIONAL DOCUMENTS.

SITE PLAN SUBMITTAL
27 SEPTEMBER 2012

LANDFORM
From Site to Finish

105 South Fifth Avenue
Suite 513
Minneapolis, MN 55401

Tel: 612-252-9070
Fax: 612-252-9077
Web: landform.net

FILE NAME	L202KPL001.DWG
PROJECT NO.	KPL12001

STREETSCAPE PLAN

L2.2

811 Know what's Below. Call before you dig.

NORTH

0 20 40

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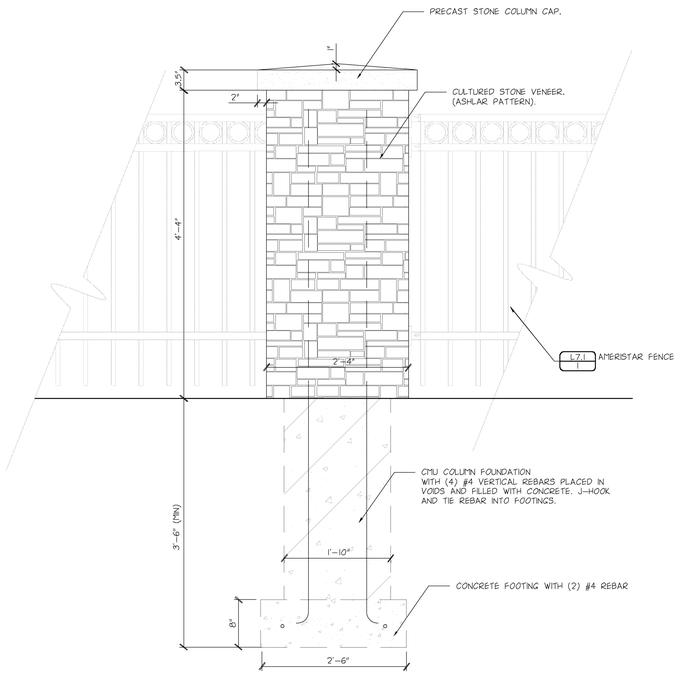
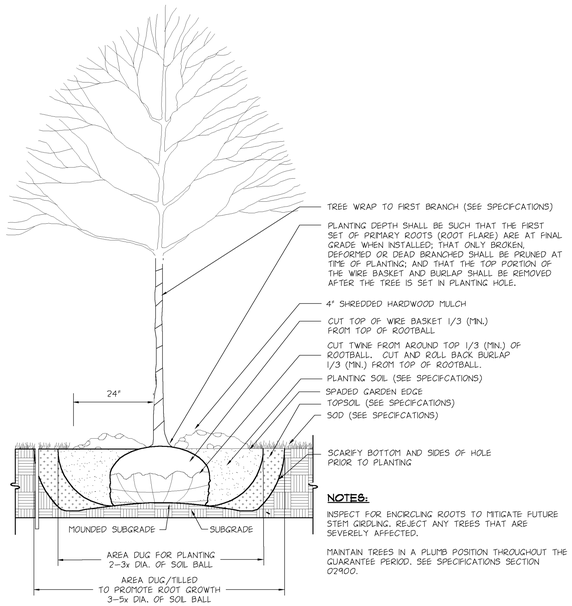


5 STONE COLUMN

NO SCALE



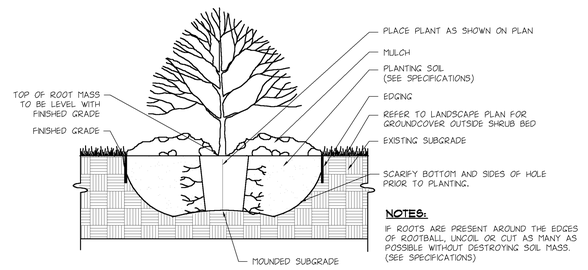
NOTES:

INSPECT FOR ENCRCLING ROOTS TO MITIGATE FUTURE STEM GIRDLING. REJECT ANY TREES THAT ARE SEVERELY AFFECTED.

MAINTAIN TREES IN A PLUMB POSITION THROUGHOUT THE GUARANTEE PERIOD. SEE SPECIFICATIONS SECTION 02900.

3 DECIDUOUS TREE PLANTING

NO SCALE

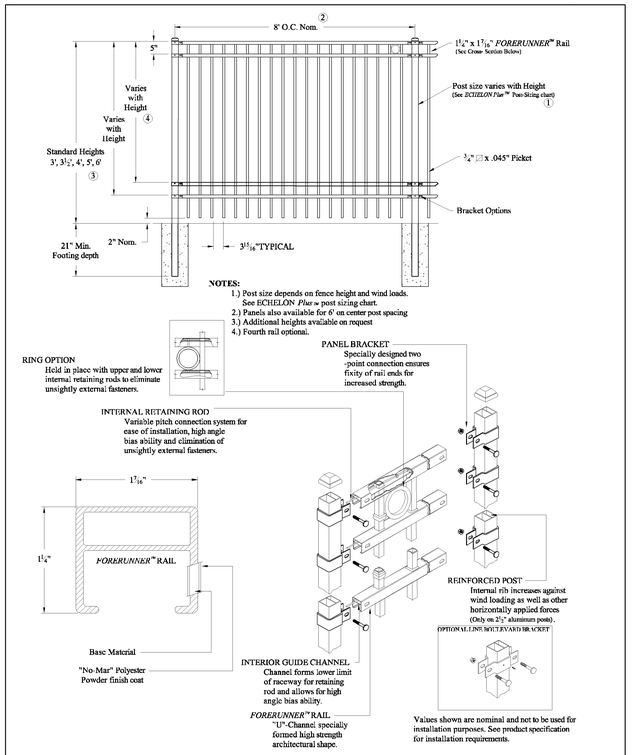


NOTES:

IF ROOTS ARE PRESENT AROUND THE EDGES OF ROOTBALL, UNCOIL OR CUT AS MANY AS POSSIBLE WITHOUT DESTROYING SOIL MASS. (SEE SPECIFICATIONS)

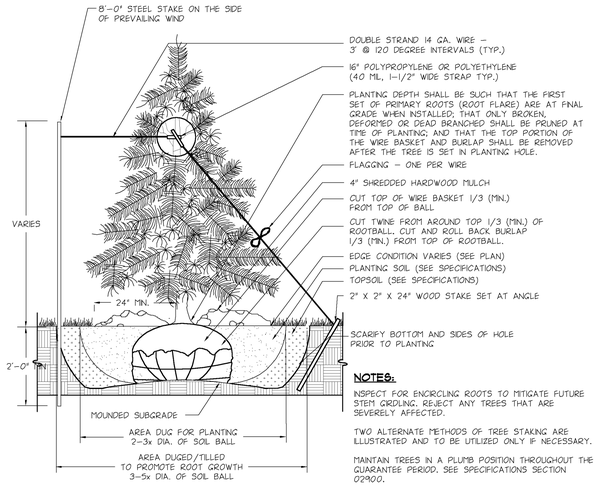
4 SHRUB PLANTING

NO SCALE



1 LANDSCAPE FENCING

NO SCALE



NOTES:

INSPECT FOR ENCRCLING ROOTS TO MITIGATE FUTURE STEM GIRDLING. REJECT ANY TREES THAT ARE SEVERELY AFFECTED.

TWO ALTERNATE METHODS OF TREE STAKING ARE ILLUSTRATED AND TO BE UTILIZED ONLY IF NECESSARY.

MAINTAIN TREES IN A PLUMB POSITION THROUGHOUT THE GUARANTEE PERIOD. SEE SPECIFICATIONS SECTION 02900.

2 CONIFEROUS TREE PLANTING

NO SCALE

© LANDFORM 2012

DEVELOPER

RAMSEY HRA
7550 SUNWOOD DRIVE
RAMSEY, MN 55303
TEL (763) 427-1410 - FAX (763) 427-5543

MUNICIPALITY

City of RAMSEY

PROJECT

SUPERAMERICA SUNWOOD RETAIL

RAMSEY, MINESOTA

SHEET INDEX

SHEET	TITLE
C0.1	CIVIL TITLE SHEET
C1.1	EXISTING CONDITIONS
C1.2	PRELIMINARY PLAT
C1.3	FINAL PLAT (SHEET 1 OF 2)
C1.4	FINAL PLAT (SHEET 2 OF 2)
C2.1	PRELIMINARY SITE PLAN
C3.1	GRADING, DRAINAGE, PAVING & EROSION CONTROL
C4.1	UTILITIES
C7.1	CIVIL CONSTRUCTION DETAILS
C7.2	CIVIL CONSTRUCTION DETAILS
L2.1	LANDSCAPE
L2.2	STREETSCAPE PLAN
L7.1	LANDSCAPE DETAILS
E2.1	SITE PHOTOMETRICS

REVISION HISTORY

CONTACT ENGINEER FOR ANY PRIOR HISTORY

DATE	REVISION	REVIEW
05 SEPT 2012	PRELIMINARY SITE PLAN SUBMITTAL	SES
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PROJECT MANAGER REVIEW

BY SES DATE 09/27/12

CERTIFICATION

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SITE PLAN SUBMITTAL

27 SEPTEMBER 2012

LANDFORM
From Site to Finish

105 South Fifth Avenue
Suite 513
Minneapolis, MN 55401

Tel: 612-252-9070
Fax: 612-252-9077
Web: landform.net

FILE NAME L701KPL001.DWG

PROJECT NO. KPL12001

LANDSCAPE DETAILS

L7.1

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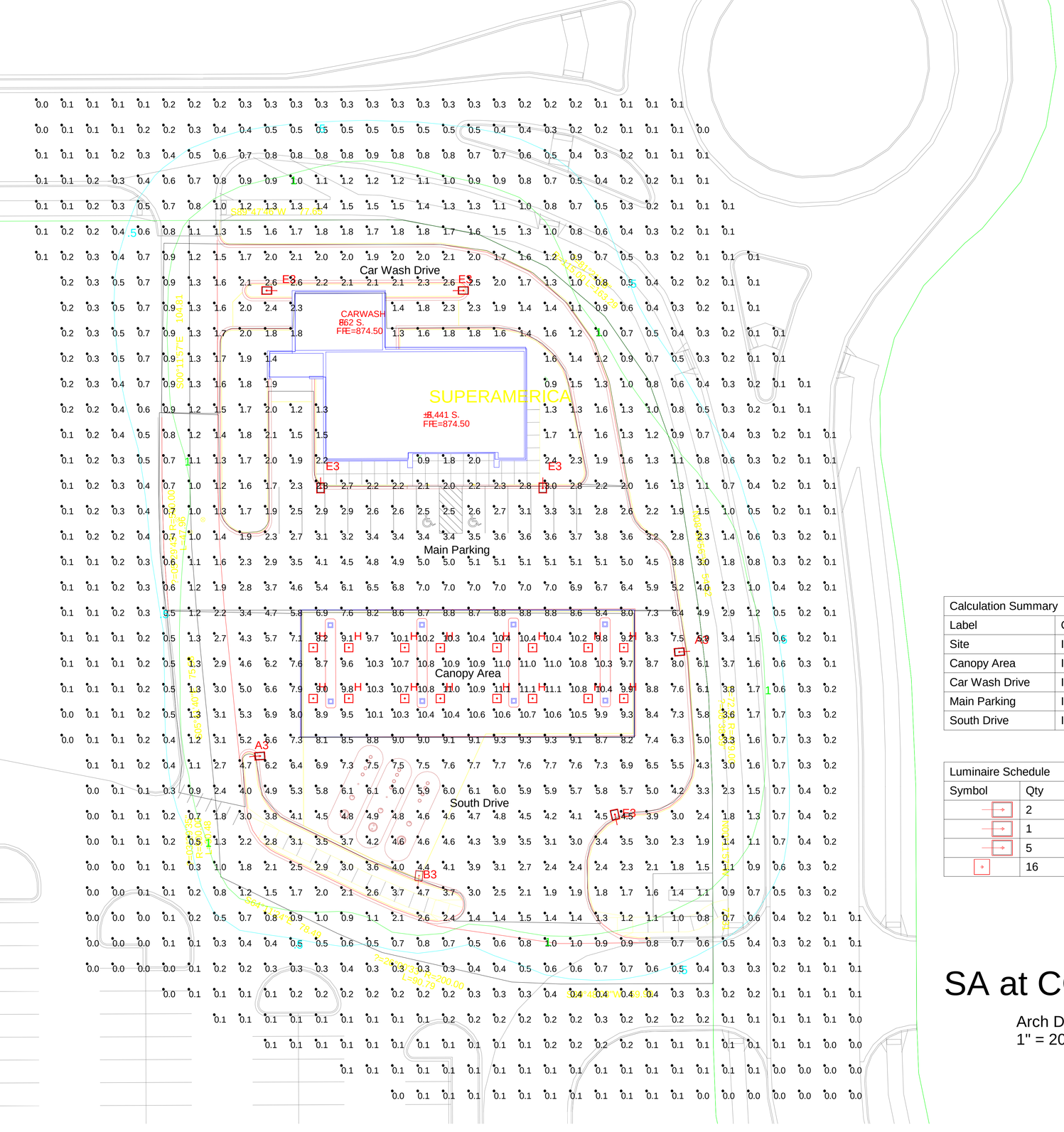

Car Wash Drive
CARWASH
862 S.
FFE=874.50
SUPERAMERICA
8,441 S.
FFE=874.50
Main Parking
Canopy Area
South Drive
E2
E3
E3
E3
E3
A3
B3
A3
B3
S69°47'46"W 77.65
S07°11'57"E 104.51
N69°47'46"E 78.49
S64°47'46"W 78.49
R=50.00'
L=47.96'
R=50.00'
L=47.96'
R=200.00'
L=90.79'
R=200.00'
L=90.79'
N69°47'46"E 78.49
S64°47'46"W 78.49
S07°11'57"E 104.51
S69°47'46"W 77.65

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #12-10-_____

A RESOLUTION ADOPTING FINDINGS OF FACT #_____ RELATING TO A REQUEST FOR A CONDITIONAL USE PERMIT TO CONSTRUCT AND OPERATE A COMMERCIAL GAS STATION AND ACCESSORY CAR WASH ASSOCIATED WITH A CONVENIENCE RETAIL BUSINES IN THE COR-2b ZONING DISTRICT

WHEREAS, West Real Estate and Management Inc., hereinafter referred to as the "Applicant," has properly applied for a Conditional Use Permit to allow for the construction and operation of a commercial gas station and accessory car wash on the property legally described as follows:

Lot 5, Block 1, COR TWO Addition, Anoka County, Minnesota

("Subject Property")

NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA that the findings of fact relating to the request are determined to be as follows:

1. That the Applicant appeared before the Planning Commission for a public hearing pursuant to Ramsey City Code on October 4, 2012, and that said public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.

2. That the Applicant has submitted a site plan to construct an approximately 4,300 square-foot retail convenience store that includes motor fuel sales and an accessory car wash within The COR development.

3. That the submitted site plan indicates a single, 862 square-foot commercial car wash attached to the northern wall of the retail convenience store and motor fuel dispensers located south of the retail convenience store.

4. That the submitted site plan indicates four (4) fueling islands with a total of eight (8) fuel dispensers.

5. That the COR-2b Zoning District states that gas stations and accessory car washes are only permitted as a conditional use within the District.

6. That the height of the overhead canopy over the fuel dispensers shall not exceed twenty (20) feet in height.

7. That the Subject Property is approximately 1.23 acres in size.

8. That the Subject Property is zoned COR-2b and is located inside the urban service area. (MUSA).

9. That the fuel dispensers are at least thirty (30) feet from any property line.

10. That the proposed accessory car wash is located on the northern side of the retail convenience building facing Sunwood Dr.

11. That the City has reviewed the accessory car wash and finds that the use will provide for proper and safe traffic circulation and provides for at least three (3) car wash stacking spaces for waiting vehicles.

12. That the proposed use will/will not adversely impact traffic in the area.

13. That the proposed use will/will not be unduly dangerous or otherwise detrimental to persons residing or working in the vicinity of the use or to the public welfare.

14. That the proposed use will/will not substantially adversely impair the use, enjoyment, or market value of any surrounding property.

15. That the proposed use will/will not be hazardous or disturbing to existing or future neighboring uses.

16. That the proposed use will/will not be served adequately by public facilities and services such as highways and streets.

17. That the proposed use will/will not create excessive additional requirements at public cost for public facilities and services, and it will/will not be detrimental to the economic welfare of the community.

18. That the proposed use will/will not involve activities and uses that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors.

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

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 23rd day of October, 2012.

Mayor

ATTEST:

_____

City Clerk

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #12-10-____

A RESOLUTION APPROVING THE ISSUANCE OF A CONDITIONAL USE PERMIT TO WEST REAL ESTATE AND MANAGEMENT INC TO CONSTRUCT AND OPERATE A GAS STATION AND AN ACCESSORY CAR WASH IN THE COR-2b ZONING DISTRICT AND DECLARING TERMS OF SAME

WHEREAS, West Real Estate and Management Inc, hereinafter referred to as the "Permittee" has properly applied to the City of Ramsey (the "City") for a Conditional Use Permit (the "Permit") to construct and operate a gas station and accessory commercial car wash associated with a retail convenience building in the COR-2b Zoning District on property legally described as follows:

Lot 5, Block 1, COR TWO Addition, Anoka County, Minnesota

("Subject Property")

WHEREAS, the Planning Commission met on October 4, 2012, conducted a public hearing and recommended City Council approval/denial of the request.

NOW THEREFORE, BE IT RESOLVED BY THIS CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

The **Permit** to construct and operate a gas station and accessory commercial car wash associated with a retail convenience building on the **Subject Property** is hereby granted to the **Permittee**.

1. Based on Findings of Fact #____, the **Permittee** is hereby permitted to construct and operate a gas station and accessory commercial car wash on the **Subject Property**.

2. That the **Permit** only applies to a gas station and accessory commercial car wash constructed and operated on the **Subject Property**.

3. That the **Permit** allows for an 862 square-foot attached, accessory commercial car wash to be constructed as well as four (4) fueling islands with a maximum of eight (8) fuel dispensers.

4. That the fueling islands and accessory commercial car wash shall only be located as shown on Sheet C2.1, prepared by Landform Professional Services and dated September 5, 2012, of the proposed site plan. Any relocation of the either the fueling islands or the accessory commercial car wash shall be reviewed and approved by the City Council.

5. That the area utilized for fueling services and the accessory commercial car wash shall be properly constructed and maintained in accordance with all applicable Staff Review letters, approved site plans, City Code, and Minnesota State Building Code.

6. That the hours of operation of the motor fuel sales and accessory commercial car wash shall be limited to 6:00 a.m. to 11:00 p.m. Any extension of the hours of operation shall require an amendment to the **Permit** and is subject to approval by the City Council.

7. That this **Permit** shall be perpetual in duration as long as the terms are herein complied with.

8. That the **Permittee** shall be responsible for all **City** costs incurred in administering and enforcing this **Permit**.

9. That the City Administrator, or his/her designee, shall have the right to inspect the premises for compliance and safety purposes annually or at any time, upon reasonable request.

10. That this **Permit** shall automatically expire if the use is not initiated by October 23, 2013, and issuance of the building permit shall constitute initiation.

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

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 23rd day of October, 2012.

West Real Estate and Management Inc., hereby acknowledges receipt of this **Permit** and that they have reviewed the conditions of this **Permit** and have agreed that they will cause compliance with the terms of this **Permit**.

WEST REAL ESTATE AND MANAGEMENT INC.

By:_____

Its:_____

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

The foregoing was acknowledged before me this _____ day of _____, 2012 by _____ , the _____ of West Real Estate and Management Inc., a Domestic Business Corporation under the laws of the State of Minnesota, on behalf of the corporation.

_____
Notary Public

CITY OF RAMSEY: ATTEST:

By:_____ _____
Mayor City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, 2012, before me a Notary Public personally appeared Bob Ramsey and Jo Ann M. Thieling, to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the municipal corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said municipal corporation, and the said instrument was signed and sealed on behalf of said municipal corporation by authority of its City Council and said Bob Ramsey and Jo Ann M. Thieling acknowledge said instrument to be the free act and deed of said municipal corporation.

_____
Notary Public

This document drafted by:
The City of Ramsey
7550 Sunwood Dr NW
Ramsey, MN 55303

This document reviewed by:
Randall and Goodrich
2140 Fourth Avenue
Anoka, MN 55303

SUPER AMERICA
DEVELOPMENT PERMIT
CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA

THIS AGREEMENT, made and entered into by and between the **CITY OF RAMSEY,** a municipal corporation under the laws of the State of Minnesota (the **"CITY"**), and **WEST REAL ESTATE AND MANAGEMENT INC.,** a domestic business corporation under the laws of the State of Minnesota, whose address is 405 South 8th Street, Minneapolis, Minnesota 55404 (the **"PERMITTEE"**).

WITNESSETH:

WHEREAS, the **Permittee** is the fee owner of the following described property situated in the **CITY OF RAMSEY**, County of Anoka, State of Minnesota, and legally described as follows:

Lot 5, Block 1, COR TWO, Anoka County, Minnesota

(the "**Subject Property**"); and

WHEREAS, on October 23, 2012 the **CITY** approved the final site plan for Super America on the Subject Property; and

WHEREAS, on October 23, 2012 the **CITY** approved a conditional use permit for motor fuel sales and an accessory car wash on the Subject Property.

WHEREAS, the **PERMITTEE** intends to cause the Required Improvements to the Subject Property to be constructed without financial participation by the **CITY.**

NOW, THEREFORE, the **CITY** and **PERMITTEE** agree as follows:

SECTION I
REQUIRED IMPROVEMENTS AND FINANCIAL RESPONSIBILITIES

1. **City Code Compliance.** The **CITY** approves the Site Plan conditioned on the **PERMITTEE** developing the Subject Property in accordance with the applicable provisions of City Code**.**

2. **Conformance with Plan**. The Site Plan shall be developed pursuant to the plans prepared by Landform Professional Services, dated _____, 2012 and by Pulse, dated _____, 2012.

3. **Incorporation of All City Code Requirements**. That the recitals above and the applicable provisions of the City Charter, Subdivision Code, Zoning Code and Public Improvement Code of the **CITY**, as amended to date hereof, are incorporated herein by reference.

4. **State Building Code Compliance**. The Structures shall be constructed in accordance with the requirements of the Building Code.

5. **Fire Lanes.** Fire lanes shall be maintained on the Site. The exact locations of these items on the Site shall be as directed by the Fire Chief. The **PERMITTEE** herein agrees to post "No Parking" signs along private streets in accordance with City Code requirements and in conjunction with the instructions of the Fire Chief.

6. **Building Façade.** The **PERMITTEE** agrees to construct the building in accordance with the site plan and architectural elevations prepared by Landform Professional Services dated _____, 2012, and approved by the City Council on October 23, 2012.

7. **Required Improvements.** The **PERMITTEE** shall construct and install the following site improvements on the Subject Property in accordance with the specifications and location as shown on the Site Plan**.** The Required Improvements are as follows:

   a. Site grading in accordance with the Grading Plan prepared by Landform Professional Services dated _____, 2012.
   b. Private storm sewer and appurtenances.
   c. Private sanitary sewer system
   d. Private watermains and appurtenances
   e. Private trunk and lateral storm drainage facilities
   f. Bituminous driveways, parking lots, and maneuvering areas, including access to Sunwood Drive.
   g. Continuous, B6/12 concrete curbing and gutter around the perimeter of all bituminous surfaces.
   h. Installation of Landscaping in accordance with the Landscape Plan prepared by Landform Professional Services, dated _____, 2012.
   i. Irrigation metering and backflow devices shall be approved as part of the Utility Plan, and installed accordingly.
   j. Irrigation rain sensors shall be installed and appropriately placed throughout the development.
   k. Establishment of turf in areas disturbed during construction and in accordance with the Site Plan.
   l. Temporary and permanent erosion control.

   ("Required Improvements)".

   The **PERMITTEE** agrees to construct the Required Improvements according to the terms and conditions of this agreement and in accordance with **PERMITTEE's** plans submitted to the **CITY**.

8. **Required Improvements Completion Date**. The Required Improvements shall be completed on or before October 23, 2013.

9. **Required Improvements Financial Guarantee**. In order to ensure the installation of the Required Improvements in accordance with **CITY** specifications and in a timely manner, the **PERMITTEE** shall be required to deposit with the **CITY** a cash escrow or letter of credit, approved as to form by the **CITY**, in the amount of _____ Dollars and No Cents. (**$**_____.00), which is 150% of the **CITY's** estimated cost of the Required Improvements. Prior to the issuance of the building permit, all financial guarantees must be provided as required herein.

   Upon completion of the construction of the Required Improvements, the financial guarantee shall be returned to the **PERMITTEE** and the **PERMITTEE** shall be required to provide the landscaping maintenance guarantee described in Item #14 of this Development Agreement. The determination of completion of the construction of the Required Improvements shall be made by the City Council after consultation with the City Engineer. In the event the **PERMITTEE** fails to construct and install the Required Improvements as required herein, the City Council may order the completion of the Required Improvements with **CITY** day labor and/or by letting contracts for said completion and draw upon the escrow for payment. Only the City Council shall have the authority to direct

completion of the Required Improvements and withdraw from the escrow account. The **PERMITTEE** hereby grants permission and a license to the **CITY** and/or its contractors and assigns to enter upon the Subject Property for the purpose of completing the construction and installation of the Required Improvements in the event of the **PERMITTEE's** default.

10. **Inspection Fees.** The **PERMITTEE** shall be responsible for all inspection costs incurred by the **CITY** related to the installation of Required Improvements. The **PERMITTEE** shall make a cash deposit into the appropriate escrow account at the **CITY** and the **CITY** shall have the authority to draw upon these funds for the purpose of compensating for inspection services. The amount of the deposit shall be equal to five percent (5%) of the estimated cost of the Required Improvements, which equates to _____ Dollars and No Cents ($_____.00) (5% x $_____.00). Upon completion of the Improvements to the satisfaction of the City, any surplus balance remaining in the **CITY's** escrow account shall be refunded to the **PERMITTEE**.

SECTION II
PERMITS AND OCCUPANCY

11. **Requirements for Building Permits**. No building permit for any lot in the Plat shall be issued until: (a) a Class 5 driving surface is installed to within 300 feet of the structure; (b) site plan approval is granted by the **CITY** and any expense incurred in giving site plan approval has been reimbursed to the **CITY**; (c) the Building Official has been provided with a copy of the approved site plan, signed by a registered architect or surveyor, showing all dimensions to scale; (d) the Plat has been recorded at Anoka County Property Records, (e) a Lower Rum River Watershed Management Organization Permit has been obtained. The **CITY** reserves the right to suspend all building activities upon the **CITY** being notified by an outside agency that the appropriate permit(s) was not obtained from the applicable agency. Approval of the building foundation requires a certificate of elevation signed by a licensed (State of Minnesota), professional land surveyor, verifying that the elevation with the approved grading plan for the Plat. Foundation approvals will require a certificate of elevation verifying that the actual elevation is in compliance with the approved grading and drainage plan. The lowest floor elevation shall be at least 2 feet above the 100 year elevation.

    No occupancy permit for any lot in the Plat shall be issued until: (a) vehicular access to the lot is provided including the installation of at least one layer of bituminous surfacing; (b) all utilities are in place, operational and accepted by the **CITY**; (c) for lots that have a slope of less than 2%, a certificate of grading, prepared by a licensed (State of Minnesota), professional land surveyor, must be provided to the **CITY** documenting that the flattest grade on this lot is 1% or greater will require certificates of grading.

SECTION IV
LANDSCAPING

12. **Maintenance Guarantee for Landscaping**. It is herein agreed that the **PERMITTEE** shall provide a maintenance guarantee to ensure the survival of the plantings. Said maintenance guarantee shall consist of cash or a letter of credit, approved as to form by the **CITY**, in the amount of Two Thousand Nine Hundred and Three Dollars and No Cents (**$2,903.00)** [# plantings (16 trees, 65 shrubs) x cost/planting ($300/tree, $75/shrub) x 30% average non-survival rate], which shall be in effect for a two-year period commencing on the date of the **CITY's** acceptance of said plantings as part of the Required Improvements.

At the end of the two-year period, the maintenance guarantee shall be returned to the **PERMITTEE**. The determination that all plantings that have been planted in accordance with the Site Plan have either survived or have been replaced shall be made by the Community Development Department. In the event the **PERMITTEE** fails to maintain the required plantings for a two-year period, the City Council may order the replacement of plantings with **CITY** day labor and/or by letting contracts and draw upon the escrow for payment. Only the City Council shall have the authority to direct replacement of the plantings and withdraw from the escrow account. The **PERMITTEE** hereby grants permission and a license to the **CITY** and/or its contractors and assigns to enter upon the Subject Property for the purpose of replacing plantings in the event of the **PERMITTEE** default.

SECTION V
GENERAL

13. **Boulevard and Area Restoration**. The **PERMITTEE** shall be responsible for restoring all areas disturbed by the development grading operation in accordance with the approved erosion and sediment control plan. The **PERMITTEE** shall also be responsible for the cost of cleaning any soil, earth or debris from the wetlands within and adjacent to this Site Plan resulting from grading performed in the development of the land.

14. **Construction Site Maintenance**. The **PERMITTEE** shall adhere to all **CITY** ordinances relating to, but not limited to, dumping of garbage, site development, construction debris, open burning, etc.

15. **Estimated Cost**. It is understood and agreed that cost amounts set forth in this Agreement as Required Improvements, unless specified as fixed amounts, are estimated. The **PERMITTEE** agrees to pay the entire cost of said improvements including interest, engineering and legal charges.

16. **Site Plan Approval Expenses**. The **PERMITTEE** agrees that it will pay to the **CITY** all **CITY** expenses incurred in the approval of the Site Plan, including, but not limited to administration expenses, engineering and legal fees. Said expenses shall be paid within fifteen (15) days of billing by the **CITY** and outstanding billings shall be paid prior to issuance of the building permit. Any expenses incurred after the release of the building permit shall also be paid within said fifteen (15) day billing period. Failure to pay the **CITY's** expenses within the fifteen (15) day billing period will permit the **CITY** to draw upon any of the escrows required by this contract for payment.

17. **Reimbursement to the City**. The **PERMITTEE** agrees to reimburse the **CITY** for all costs incurred by the **CITY** in defense or enforcement of this Agreement, or any portion thereof, including court costs and reasonable engineering and attorney's fees.

18. **Invalidity of Any Section**. If any portion, section, subsection, sentence, clause, paragraph or phase of this Agreement is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not effect or void any of the other provisions of this Agreement.

19. **Proof of Authority**. When the **PERMITTEE** is a corporation, the **CITY** requires proof of authority by the corporation to execute this Agreement. This proof of authority may be satisfied by providing the **CITY** with a certified copy of minutes of the corporate Board of Directors granting such authority.

20. **Violation of This Permit**. If the **PERMITTEE** fails to perform any of the terms of this Permit in the manner required by the **CITY**, the **CITY** shall be entitled to recover, from the **PERMITTEE** or the issuer of **PERMITTEE** financial guarantee, the full amount of any and all financial guarantees. Breach of any of the terms of this Development Permit by the **PERMITTEE** shall also be grounds for denial of Building Permit or issuance of Certificate of Occupancy.

21. **Agreement Binding On Successors and Assigns**. The **PERMITTEE** agrees that this Development Permit shall be binding upon its successors and assigns.

IN WITNESS THEREOF, the parties have hereunto set their hands and seals, this _____ day of _____, 2012.

WEST REAL ESTATE AND MANAGEMENT INC.

By: _____

Its: _____

CITY OF RAMSEY

By:_____
Its: Mayor

ATTEST

By:_____
Its: City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, 2012, before me a Notary Public personally appeared Bob Ramsey and Jo Thieling, to me personally known, being each by me duly sworn did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the municipal corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said municipal corporation, and the said instrument was signed and sealed on behalf of said municipal corporation by authority of its City Council and said Bob Ramsey and Jo Thieling acknowledge said instrument to be the free act and deed of said municipal corporation.

_____
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF)

The foregoing was acknowledged before me this _____ day of _____, 2012, by _____, the _____ of the West Real Estate and Management Inc., a domestic business corporation under the laws of the State of Minnesota, on behalf of the corporation.

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
City of Ramsey
7550 Sunwood Dr NW
Ramsey, MN 55303

REVIEWED BY:
Randall & Goodrich
2140 Fourth Avenue
Anoka, MN 55303

September 28, 2012

West Real Estate and Management Inc.
Attn: Thomas Noble
1660 South Highway 100, Ste 105
St. Louis Park, MN 55416

Re: Site Plan and Conditional Use Permit Review
Super America

Dear Mr. Noble:

The City of Ramsey has received your application for Site Plan and Conditional Use Permit Review to construct an approximately 4,300 square foot retail/convenience building, gas station and car wash on approximately 1.25 acres. City Staff is recommending to the Planning Commission approval of the request contingent upon the following:

- Required amendments as outlined in the attached Staff Report dated September 28, 2012

Please note: this is only a recommendation that is subject to review by the Planning Commission and final decision by the City Council. Copies of the review file and staff report are attached for your review. The Planning Commission will review the request on **Thursday, October 4th, at 7:00 p.m.** at the Ramsey Municipal Center in the Council Chambers. You, or a representative of the development, are highly encouraged to attend this meeting. Please contact me at your earliest convenience prior to the meeting to verify if you will be attending. Following the Planning Commission, the request will need to be reviewed for a final decision by the City Council. This hearing would tentatively be scheduled for Tuesday, October 23rd, at 7:00 p.m. in the Council Chambers.

Please let me know if you have any questions or concerns. I can be reached at (763) 433-9905 or by email at canderson@ci.ramsey.mn.us.

Sincerely,

CITY OF RAMSEY

Chris Anderson
Associate Planner/Environmental Coordinator

Enclosures

Cc: Darren Lazan, Landform Professional Services, 105 S. Fifth Avenue, Minneapolis, MN 55401
Steve Sabraski, Landform Professional Services, 105 S. Fifth Avenue, Minneapolis, MN 55401
Kurt Ulrich, HRA Executive Director

CITY OF RAMSEY PLANNING DIVISION
REVIEW FILE

DATE	9/28/2012	**PROJECT ADDRESS**	TBD
PROJECT. TITLE	SUPER AMERICA		
REVIEW FILE #			
APPLICANT:	West Real Estate and Management Inc. (Thomas Noble)		
PRIMARY REVIEWER:	Chris Anderson – Associate Planner/Environmental Coordinator Phone: (763) 433-9905 Fax: 763-433-9848 e-mail: canderson@ci.ramsey.mn.us		

We are in receipt of the proposed Site Plan for Super America. The submittal consists of the following sheets:

- Sheets C0.1, C1.1, C1.2, C1.3, C1.4, C2.1, C3.1, C4.1, L2.1 and a Truck Maneuvering Exhibit prepared by Landform and dated 9/5/2012
- Sheets A1, A3, CA1 and a color rendering prepared by Amcon and dated 9/5/2012
- Photometrics prepared by Pulse and dated 9/3/2012

(the "Plans")

We offer the following comments regarding your conditional use permit and site plan:

CONDITIONAL USE PERMIT

Planning and Zoning
Reviewer: Chris Anderson, Associate Planner/Environmental Coordinator
canderson@ci.ramsey.mn.us
(763) 433-9905

In the COR-2b Sub-District, convenience stores with motor fuel sales and/or a car wash are identified as conditional uses under certain conditions. The submittal indicates four (4) fueling islands with a total of eight (8) individual dispensers that will be located south of the principal building on under an overhead canopy. Overhead canopies shall not exceed twenty (20) feet in height. Hours of operation for motor fuel sales and accessory car washes are limited to 6:00 AM to 11:00 PM, unless extended by the City Council as part of the conditional use permit. *Please revise the plans to ensure that the maximum height of the overhead canopy does not exceed twenty (20) feet. If hours of operation are proposed beyond what is permitted, that request must be made to the City Council for consideration.*

SITE PLAN

Planning and Zoning
Reviewer: Chris Anderson, Associate Planner/Environmental Coordinator
canderson@ci.ramsey.mn.us
(763) 433-9905

General: The development proposal consists of a one story, 4,300 square foot retail building and car wash, as well as four (4) fueling islands with a total of eight (8) individual dispensers. The facility will be located on a 1.25 acre parcel, which is located at the southwest corner of Sunwood Dr at the roundabout (Lot 5 Block 1 COR 2). The east/west stretch of Sunwood Dr is identified as a Parkway Street and the north/south stretch of Sunwood Dr is identified as a Destination Street in the Design Framework for The COR. *Please submit updated Preliminary Plat information (sheet C1.2) to reflect this current project as well as an updated Plat configuration (Sheet C1.4). The current submittal does not accurately reflect the configuration of the approved plat and it appears to contain easements other than drainage and utility easements.*

Zoning: The site is zoned COR-2 Commercial Sub-district. This area is intended to encourage a mix of large and small places accommodating auto-oriented uses. This suggests even greater attention be paid to public realm and streetscape improvements that not only accommodate vehicles, but also invite bicycle and pedestrian traffic. Retail buildings are a permitted use in this district while gas stations and accessory car washes are conditional uses. A conditional use permit is being processed simultaneously with the site plan.

Building Height: The COR-2 Sub-District allows for building heights between one (1) and four (4) stories on a Destination Street. The proposed building appears to have one story but has limited roofline articulation. Overhead canopies associated with motor fuel sales shall not be taller than twenty (20) feet. *The height of the overhead canopy must be reduced to no greater than twenty (20) feet in height and an effort should be made to incorporate more roof articulation on the principal building to break up the massing of shingles on the front and rear elevations*.

Maximum Structure Area. The COR-2 Sub-District does not have maximum building coverage or minimum floor area ratio requirements.

Building Orientation: Building orientation is subject to the Design Framework of The COR, which is incorporated by reference as part of the Zoning Code. The principal building, as well as the main entrance, should front Sunwood Dr. As proposed, it appears that the rear elevation of the building fronts Sunwood Dr with the main entrance facing the interior of the lot. *Staff recommends enhancement of the street presence of the rear and right elevations of the building with the use of greater roof articulation and pitches, additional windows, awnings etc., to meet the intent of the Design Framework. Color renderings of each of the four (4) elevations should be submitted to provide a better conceptual image of the building from the street. Due to the configuration of lot lines due to the realignment of Sunwood Drive in conjunction with the internal circulation pattern of the private street, it may seem appropriate to allow the proposed orientation of the building. Please submit a narrative outlining the design constraints of the site that are driving the proposed orientation, prior to review by the City Council.*

Setbacks: The COR-2 Sub-District requires build-to lines as provided below.

The COR-2 Sub-District specifies build-to distances of fifteen (15) feet from Destination Streets and thirty (30) feet from Parkway Streets, both of which are measured from the building front to the right-of-way. A minimum of forty percent (40%) of the building front should be within the build-to area. While the site plan indicates that the attached car wash will be twenty-seven and a half (27.5) feet from the northern property boundary, that measurement is from the rear wall of the building. The proposed building location is generally consistent with Development Plan 6.1, which the City's Housing and Redevelopment Authority has approved; however, that version has not yet been adopted by the City and the building orientation and layout do not appear consistent with the current development plan (6.0).

The Design Framework does allow for the use of fencing, decorative walls, and/or landscaping with a minimum height of three (3) feet and a maximum height of four and a half (4.5) feet to satisfy the forty percent (40%) street frontage requirement. A combination of decorative fencing (Ameristar Echelon Series four [4] feet tall) and shrubs are proposed in linear groupings along Sunwood Dr presumably to satisfy the street frontage requirement. *Please provide the following information:*

- *Calculations of lineal feet of landscaping along Sunwood Dr and overall lineal feet of frontage along Sunwood Dr to determine if this meets the forty percent (40%) threshold, and consider extending the landscaping edge along the east/west stretch of Sunwood Dr.*
- *Details/specifications for the decorative fencing.*

Exterior Materials. The application includes one (1) sheet of architectural elevations. The exterior finish of the building appears to consist of face brick, brick accent bands, clear tempered glass and dark bronze metal panels. The exterior finish of the columns supporting the overhead canopy for the fueling islands appear to match that of the principal building, including face brick and brink accent bands.

Waste Storage: The waste storage area is proposed to be contained in an enclosure near the northwest corner of the building. Exterior materials should be complimentary and consistent with the proposed building. The exterior materials appear to be consistent with the exterior of the building and include a wood composite gate for access. It does appear though that the western two (2) parking stalls will block access to the waste enclosure. *While this may be generally acceptable, please outline a plan to ensure capabilities for waste removal.*

Off-Street Parking - Spaces Required: The COR-2 Sub-District sets a minimum parking space standard of two (2) spaces per 1,000 square feet and a maximum of four (4) spaces per 1,000 square feet for retail uses. The site plan proposes twelve (12) off-street parking spaces. It is City Staff's understanding that there may be shared parking for Lots 3-5 of Block 1. *If it is the intent to utilize shared parking, please submit a shared parking easement for review prior to the City releasing the Building Permit. Also, the parking summary on Sheet C2.1 must be updated to reflect the current project.*

Signs: Please note that all signs for the proposed building must be approved through a separate sign permit process. Sign regulations can be found within the Design Framework as well as in City Code Chapter 117, Article II, Division 8. The developer is encouraged to review these sign regulations early in the process to avoid any unnecessary delays due to potential needs for special permits. *No dimensions are provided for any of the proposed signs and thus, only general feedback is possible at this time, which includes the following:*

- *Dynamic display signs are limited to no more than thirty-five percent (35%) of the proposed signage. However, the City is considering an amendment to this specific provision. Your feedback is appreciated on a size of dynamic display that is desirable for your needs.*
- *Changeable reader boards (shown on the color rendering) are not permitted.*

- *On Sheet C2.1, the proposed monument sign appears to be located within a drainage and utility easement. The monument sign location must be modified to avoid encroachment in the drainage and utility easement.*

Landscape Review
Reviewer: Chris Anderson
canderson@ci.ramsey.mn.us
763-433-9905

Landscaping Plan: The submittal included a landscaping plan, prepared by Landform and dated September 5, 2012, that includes landscaping interior to the site. The streetscape landscaping is being completed as part of the Sunwood Dr realignment project. *Please revise the landscaping plan to include the following:*

- *Landscaping notes should be amended to state that four (4) inches of MnDOT Premium Topsoil Borrow shall be applied to all areas not otherwise improved with buildings and impervious surfaces.*
- *All landscaped areas shall be irrigated and the irrigation system shall include rain sensors and a backflow preventer device.*
- *Tree planting detail must be submitted that clearly states that planting depth shall be such that the first set of primary roots (root flare) are at final grade when installed; that only broken, deformed or dead branches shall be pruned at time of planting; and that the top portion of the wire basket and burlap shall be removed after the tree is set in planting hole.*

Tree Preservation: This site is devoid of any significant tree cover and therefore, no tree preservation plan is necessary.

Civil Engineering Review
Reviewer: Leonard Linton, Civil Engineer II
llinton@ci.ramsey.mn.us
763-433-9834

Grading and Drainage: The following comments are offered regarding the September 5, 2012 Grading and Utility Plans prepared by Landform:

- The B612 concrete curb detail should be amended to include base material extending to 1' beyond the back of curb.
- The drainage from the west half of the site flows into the common access drive along the west edge of the site. Additional catch basins must be added at the western entrances to capture runoff before it leaves the site. All catch basins must be depressed to capture runoff before it leaves the site.
- Details for the Ecostorm device must be submitted.
- A maintenance agreement for the Ecostorm Device must be submitted.
- A turning template was provided for the fuel trucks. The owner should weigh in on the site layout as it pertains to fuel tanker access to the site.

The project will require a permit from the Lower Rum River Water Management Organization (LRRWMO). The LRRWMO requirements include infiltration of 1 inch of runoff from the site.

The following notes should be added or amended on the plan set:

- The contractor should have a sweeper on site or available within 3 hours. All material tracked onto City streets must be removed immediately upon discovery, or as directed by the City Engineer.
- Installation of silt fence and other down gradient sediment protection measures shall be completed and inspected prior to commencement of any site activities.

Street and Building Access: Three accesses to the common access drive are proposed for Lot 5, Block 1 COR TWO.

Permits: The applicant is responsible to secure all required permits for this project; including but not limited to, a MPCA NPDES construction permit, a Lower Rum River Watershed Organization permit. Additionally, the contractor performing the work will be required to obtain a City license.

Lighting: The City has received a lighting plan for review. City standards require that the luminaire (light source) must not be visible from beyond the property line. Any lighting used to illuminate an off-street parking area, sign, or structure shall be arranged to deflect away from Sunwood Drive The Applicant is responsible for the installation, and three (3) years of operations and maintenance, of all boulevard lighting (this obligation may have been satisfied with approval of the plat entitled COR TWO, subject to final execution). *Please submit shop drawings of each type of exterior light fixture that will be used.*

REU Number: This property will be subject to a storm water utility charge based upon the amount of impervious surface on the site. The quarterly charge is dependent upon the number of Residential Equivalent Units (REU) calculated for this property. The site is proposed as 81.7% impervious. This leads to an REU of (1.23x3.95) 4.869 and a quarterly stormwater fee of $185.99.

GENERAL INFORMATION

Next Steps. *Following review by the Planning Commission, the request will be forwarded to the City Council for final action. The City Council is tentatively scheduled to review the request at their October 23, 2012 meeting. Staff will follow up in writing at that time.*

All comments contained within this letter shall be included in the final set of plans submitted with the appropriate permits. The Applicant shall be responsible for all required permits including, but not limited to, the MPCA NPDES Permit and Lower Rum River Water Management Organization (LRRWMO) Permits.

-end of report-

LANDFORM
From Site to Finish

105 South Fifth Avenue
Suite 513
Minneapolis, MN 55401

Tel: 612-252-9070
Fax: 612-252-9077
www.landform.net

September 28, 2012

Chris Anderson
Associate Planner/Environmental Coordinator
City of Ramsey
7550 Sunwood Dr NW
Ramsey, MN 55303

Re: Response to City Comments for Super America - Armstrong/Sunwood Site

Dear Mr. Anderson,

On behalf of Tom Noble from West Real Estate, we offer the following as a response to your comments dated September 28, 2012. We believe we have addressed all the comments provided by the city with this resubmittal. Our responses are indicated in red.

CONDITIONAL USE PERMIT

In the COR-2b Sub-District, convenience stores with motor fuel sales and/or a car wash are identified as conditional uses under certain conditions. The submittal indicates four (4) fueling islands with a total of eight (8) individual dispensers that will be located south of the principal building on under an overhead canopy. Overhead canopies shall not exceed twenty (20) feet in height. Hours of operation for motor fuel sales and accessory car washes are limited to 6:00 AM to 11:00 PM, unless extended by the City Council as part of the conditional use permit. *Please revise the plans to ensure that the maximum height of the overhead canopy does not exceed twenty (20) feet. If hours of operation are proposed beyond what is permitted, that request must be made to the City Council for consideration.*

The canopy height will be revised to address the maximum 20 ft height. The applicant is requesting that the convenience store, fueling operation and car wash be permitted as a 24hr /7 day a week operation.

SITE PLAN

General: The development proposal consists of a one story, 4,300 square foot retail building and car wash, as well as four (4) fueling islands with a total of eight (8) individual dispensers. The facility will be located on a 1.25 acre parcel, which is located at the southwest corner of Sunwood Dr at the roundabout (Lot 5 Block 1 COR 2). The east/west stretch of Sunwood Dr is identified as a Parkway Street and the north/south stretch of Sunwood Dr is identified as a Destination Street in the Design Framework for The COR. *Please submit updated Preliminary Plat information (sheet C1.2) to reflect this current project as well as an updated Plat configuration (Sheet C1.4). The current submittal does not accurately reflect the configuration of the approved plat and it appears to contain easements other than drainage and utility easements.*

Landform®, SensiblyGreen® and Site to Finish® are registered service marks of Landform Professional Services, LLC.

The preliminary plat and final plat have been updated to reflect the current project. They have been provided with the plan resubmittal.

Zoning: The site is zoned COR-2 Commercial Sub-district. This area is intended to encourage a mix of large and small places accommodating auto-oriented uses. This suggests even greater attention be paid to public realm and streetscape improvements that not only accommodate vehicles, but also invite bicycle and pedestrian traffic. Retail buildings are a permitted use in this district while gas stations and accessory car washes are conditional uses. A conditional use permit is being processed simultaneously with the site plan.

Building Height: The COR-2 Sub-District allows for building heights between one (1) and four (4) stories on a Destination Street. The proposed building appears to have one story but has limited roofline articulation. Overhead canopies associated with motor fuel sales shall not be taller than twenty (20) feet. *The height of the overhead canopy must be reduced to no greater than twenty (20) feet in height and an effort should be made to incorporate more roof articulation on the principal building to break up the massing of shingles on the front and rear elevations.*

a. The overhead canopy will be revised to reflect maximum height of 20 ft

b. Unfortunately by presenting the building elevations in one dimension we are not effectively demonstrating the variation in roof planes as a result of the irregular floor plan. We will provide additional 3D modeling to further demonstrate the roof line variation which already existing in the design. Considering the low slope profile of the roof (4.5/12) we feel incorporating additional roof articulation will be limited in effect. Drawings will be made available prior to the Planning meeting.

Maximum Structure Area: The COR-2 Sub-District does not have maximum building coverage or minimum floor area ratio requirements.

Building Orientation: Building orientation is subject to the Design Framework of The COR, which is incorporated by reference as part of the Zoning Code. The principal building, as well as the main entrance, should front Sunwood Dr. As proposed, it appears that the rear elevation of the building fronts Sunwood Dr with the main entrance facing the interior of the lot. *Please revise the orientation of the building and main entrance to comply with Design Framework of The COR. An alternative may be to enhance the street presence of the rear and right elevations of the building with the use of greater roof articulation and pitches, additional windows, awnings etc., to meet the intent of the Design Framework. Color renderings of each of the four (4) elevations should be submitted to provide a better conceptual image of the building from the street.*

Applicant will provide additional 3D modeling to further demonstrate the architecture alone the rear and right elevations and will study additional architectural features to further enhance the design along Sunwood Dr. New design drawings will be made available prior to the Planning meeting. A photo of an existing SA Store delineating the brick detailing will also be provided for further definition of color and texture of the wall

surface. In addition, consideration should be given to the context of the building in relationship to the enhanced boulevard plantings & landscape features proposed along Sunwood Dr.

Setbacks: The COR-2 Sub-District requires build-to lines as provided below.

The COR-2 Sub-District specifies build-to distances of fifteen (15) feet from Destination Streets and thirty (30) feet from Parkway Streets, both of which are measured from the building front to the right-of-way. A minimum of forty percent (40%) of the building front should be within the build-to area. While the site plan indicates that the attached car wash will be twenty-seven and a half (27.5) feet from the northern property boundary, that measurement is from the rear wall of the building. The proposed building location is generally consistent with Development Plan 6.1, which the City's Housing and Redevelopment Authority has approved; however, that version has not yet been adopted by the City and the building orientation and layout do not appear consistent with the current development plan (6.0).

A subsequent narrative will be provided additional explanation pertaining to this comment.

The Design Framework does allow for the use of fencing, decorative walls, and/or landscaping with a minimum height of three (3) feet and a maximum height of four and a half (4.5) feet to satisfy the forty percent (40%) street frontage requirement. A combination of decorative fencing (Ameristar Echelon Series four [4] feet tall) and shrubs are proposed in linear groupings along Sunwood Dr presumably to satisfy the street frontage requirement. Please provide the following information:

- *Calculations of lineal feet of landscaping along Sunwood Dr and overall lineal feet of frontage along Sunwood Dr to determine if this meets the forty percent (40%) threshold, and consider extending the landscaping edge along the east/west stretch of Sunwood Dr.*

  The total lineal feet of landscaping along Sunwood Dr is 46.4%. Elevation views from Sunwood Dr and associated calculations have been added to sheet L2.2.

- *Details/specifications for the decorative fencing.*

  Details of the decorative fencing have been added to sheet L7.1

Exterior Materials: The application includes one (1) sheet of architectural elevations. The exterior finish of the building appears to consist of face brick, brick accent bands, clear tempered glass and dark bronze metal panels. The exterior finish of the columns supporting the overhead canopy for the fueling islands appear to match that of the principal building, including face brick and brink accent bands.

Waste Storage: The waste storage area is proposed to be contained in an enclosure near the northwest corner of the building. Exterior materials should be complimentary and consistent with the proposed building. The exterior materials appear to be consistent with the exterior of the building and include a wood

composite gate for access. It does appear though that the western two (2) parking stalls will block access to the waste enclosure. *Should vehicles be parked here, how will the waste enclosure be accessed?*

The two western parking stalls will be coned off during scheduled waste removal pickups.

Off-Street Parking - Spaces Required: The COR-2 Sub-District sets a minimum parking space standard of two (2) spaces per 1,000 square feet and a maximum of four (4) spaces per 1,000 square feet for retail uses. The site plan proposes twelve (12) off-street parking spaces. It is City Staff's understanding that there may be shared parking for Lots 3-5 of Block 1. *If it is the intent to utilize shared parking, please submit a shared parking easement for review prior to the City releasing the Building Permit. Also, the parking summary on Sheet C2.1 must be updated to reflect the current project.*

The parking summary has been updated on sheet C2.1. This site will not utilize shared parking.

Signs: Please note that all signs for the proposed building must be approved through a separate sign permit process. Sign regulations can be found within the Design Framework as well as in City Code Chapter 117, Article II, Division 8. The developer is encouraged to review these sign regulations early in the process to avoid any unnecessary delays due to potential needs for special permits. *No dimensions are provided for any of the proposed signs and thus, only general feedback is possible at this time, which includes the following:*

- *Dynamic display signs are limited to no more than thirty-five percent (35%) of the proposed signage.*

  Applicant will comply with city of Ramsey signage criteria.

- *Changeable reader boards (shown on the color rendering) are not permitted.*

  This reader board will be removed.

- *On Sheet C2.1, the proposed monument sign appears to be located within a drainage and utility easement. The monument sign location must be modified to avoid encroachment in the drainage and utility easement.*

  The proposed monument sign has been relocated to outside of the drainage and utility easement.

Landscape Review

Landscaping Plan: The submittal included a landscaping plan, prepared by Landform and dated September 5, 2012, that includes landscaping interior to the site. The streetscape landscaping is being completed as part of the Sunwood Dr realignment project. *Please revise the landscaping plan to include the following:*

- *Landscaping notes should be amended to state that four (4) inches of MnDOT Premium Topsoil Borrow shall be applied to all areas not otherwise improved with buildings and impervious surfaces.*

  This note has been added to the Landscape Notes on sheet L2.1.

- *All landscaped areas shall be irrigated and the irrigation system shall include rain sensors and a backflow preventer device.*

  The City of Ramsey standard irrigation notes have been added to sheet L2.1 which includes rain sensors. Backflow preventer device not has also been added.

- *Tree planting detail must be submitted that clearly states that planting depth shall be such that the first set of primary roots (root flare) are at final grade when installed; that only broken, deformed or dead branches shall be pruned at time of planting; and that the top portion of the wire basket and burlap shall be removed after the tree is set in planting hole.*

  This note has been added to sheet L7.1.

Tree Preservation: This site is devoid of any significant tree cover and therefore, no tree preservation plan is necessary.

Civil Engineering Review

Grading and Drainage: The following comments are offered regarding the September 5, 2012 Grading and Utility Plans prepared by Landform:

- The B612 concrete curb detail should be amended to include base material extending to 1' beyond the back of curb.

  The B612 concrete curb detail has been modified on sheet C7.1 to include base material 1' beyond the back of curb.

- The drainage from the west half of the site flows into the common access drive along the west edge of the site. Additional catch basins must be added at the western entrances to capture runoff before it leaves the site. All catch basins must be depressed to capture runoff before it leaves the site.

  In an effort to meet the City and LRRWMO requirements in an efficient manner, Block 1, Lots, 1-5 COR TWO utilize common drainage facilities. Private drainage easements will be provided to serve these sites.

- Details for the Ecostorm device must be submitted.

  Ecostorm details have been added to sheet C7.2.

- A maintenance agreement for the Ecostorm Device must be submitted.

  A maintenance agreement will be provided.

- A turning template was provided for the fuel trucks. The owner should weigh in on the site layout as it pertains to fuel tanker access to the site.

  A truck maneuvering exhibit has been provided to the team for comment. The team needs further time to study the impact of the proposed fuel tanker access maneuver and will respond with any revisions to the plan prior to the planning commission meeting.

The project will require a permit from the Lower Rum River Water Management Organization (LRRWMO). Please copy the City on the submittal. The application deadline is the first Thursday of the month for the meeting on the third Thursday of the month. The LRRWMO requirements include infiltration of 1 inch of runoff from the site.

We received approval from the LRRWMO on 9/20/2012.

The following notes should be added or amended on the plan set:

- The contractor should have a sweeper on site or available within 3 hours. All material tracked onto City streets must be removed immediately upon discovery, or as directed by the City Engineer.

  This note has been added to sheet C3.1.

- Installation of silt fence and other down gradient sediment protection measures shall be completed and inspected prior to commencement of any site activities.

  This note has been added to sheet C3.1

Street and Building Access: Three accesses to the common access drive are proposed for Lot 5, Block 1 COR TWO.

Permits: The applicant is responsible to secure all required permits for this project; including but not limited to, a MPCA NPDES construction permit, a Lower Rum River Watershed Organization permit. Additionally, the contractor performing the work will be required to obtain a City license.

Noted.

Lighting: The City has received a lighting plan for review. City standards require that the luminaire (light source) must not be visible from beyond the property line. Any lighting used to illuminate an off-street parking area, sign, or structure shall be arranged to deflect away from Sunwood Drive The Applicant is responsible for the installation, and three (3) years of operations and maintenance, of all boulevard lighting. *Please submit shop drawings of each type of exterior light fixture that will be used.*

Boulevard lighting will be constructed as part of the Sunwood Dr project. The applicant is not responsible for the installation of these lights. Cut sheets for the each onsite light fixture have been provided as part of this resubmittal.

REU Number: This property will be subject to a storm water utility charge based upon the amount of impervious surface on the site. The quarterly charge is dependent upon the number of Residential Equivalent Units (REU) calculated for this property. The site is proposed as 81.7% impervious. This leads to an REU of (1.23x3.95) 4.869 and a quarterly stormwater fee of $185.99.

GENERAL INFORMATION

Next Steps*: Following review by the Planning Commission, the request will be forwarded to the City Council for final action. The City Council is tentatively scheduled to review the request at their October 23, 2012 meeting. Staff will follow up in writing at that time.*

A special meeting has been requested on October 16, 2012. We request to be on that meeting agenda.

All comments contained within this letter shall be included in the final set of plans submitted with the appropriate permits. The Applicant shall be responsible for all required permits including, but not limited to, the MPCA NPDES Permit and Lower Rum River Water Management Organization (LRRWMO) Permits.

Noted.

Sincerely,
Landform

Steven Sabraski, P.E.
Project Designer

Regular Planning Commission **6. 3.**

Meeting Date: 10/04/2012

Submitted For: Tim Gladhill By: Tina Goodroad, Community Development

Information

Title:

PUBLIC HEARING: Request for Sketch Plan Review of NORTHGATE ADDITION (Minor Plat) and Request for Site Plan Review and Conditional Use Permit for Northgate Performing Arts Center at the North East Intersection of Sunwood Drive and Peridot St; Case of PSD, LLC and Northgate Church

Background:

Northgate Church is proposing construction of a performing arts center that will include 504 auditorium seats, two classrooms, nursery and lobby area on the property legally described as Ramsey Town Center 14th addition located at the northeast corner of Sunwood Drive and Peridot Street NW. In order to accomodate the request, the parcel must be platted as part of the request for NORTHGATE ADDITION.

Notification:

A public hearing is not required for the site plan review. However, Staff attempted to notify all property owners within 350 feet of the Subject Property of the request for a Conditional Use Permit and property owners within 700 feet of the Subject Property of the request for Sketch Plan Review of NORTHGATE ADDITION via Standard US Mail. The Public Hearing was published in the Anoka County Union.

Observations:

The Subject Property is zoned Mixed Use and is located within the COR3 Subdistrict. Institutional uses are a conditional use in this subdistrict. The Subject Property is located immediately west of the Allina Medical clinic and directly south of the PACT Charter school. The proposed structure is 15,242 square feet in size with a future expansion area identified on the site plan immediately north of the proposed structure of approximately 13,000 sq. ft. The minimum F.A.R in this subdistrict is 0.25; the proposed F.A.R. is 0.257 with this initial construction.

The site will derive public access from a shared driveway with the Allina site to the east from Sunwood Drive. An existing access easement is recorded on the site. COR 3 requires that blocks be more internally oriented with driveways, parking lots and walkway connections in the center, ringed by buildings. The position of the proposed structure at the southwest corner of the site, shared drive access and proposed parking lot located to the side and rear of the structure meets the intent of this requirement.

The COR3 setback from the street is 0-15 feet with at least 60% of any street frontage meeting this build to line. The proposed structure is located along this build to line on both the Sunwood Drive and Peridot Street NW elevations. The proposed building frontage on Sunwood Drive is 54% where 60% is required. The COR Design Framework allows for flexibility in meeting this frontage by allowing an architectural wall with a minimum height of 3 feet and a maximum of 4 ½ feet to be used to meet this 60% building frontage requirement. This method has been successfully used to frame the Allina site. Staff recommends an extension of a similar wall, as along the Allina site, to fulfill the building frontage requirement and satisfy required parking lot screening for the proposed spaces facing Sunwood Drive. This addition will provide necessary consistency to the frontage of Sunwood Drive.

The proposed building frontage along Peridot Street is 46%. When combined with the percentage along Sunwood Drive the total building to street frontage is 49%. The applicant has indicated a building addition in the northern portion of the site. Once this addition is complete the site will meet the required 60% frontage requirement along the Peridot Street. In the interim, proof of parking is planned where the addition will be situated which may result in parking facing Peridot Street NW. Since a building addition is planned it seems onerous to require an architectural wall if it will eventually be removed for the building addition. Staff recommends installation of landscape screening that meets the 3 feet height minimum along the entire west property line extending from the

northerly building line to the northerly property line to provide parking lot screening and a consistent "street presence" of the site along this western edge. This suggested alternative is consistent with past practices and approvals of other phased developments in the COR.

Required sidewalk and streetscaping is installed along the entire portion of Sunwood Drive. The applicant will be responsible for a similar pattern of sidewalk and streetscaping consisting of landscaping, street furniture and lighting along Peridot Street NW.

The COR Design Framework establishes perimeters for parking in all subdistricts and sets a minimum parking space standard of one space per five seats for places of assembly (with a maximum of one per three seats). The guidelines also support the use a wide range of parking options to fulfill required parking including use of on-street parking and encouraging shared parking solutions. Based on the total of 504 seats at 1 space per 5 seats a total of 101 parking stalls are required. The applicant is proposing 43 on-site parking stalls, 40 proof of parking stalls (on-site) and 25 on street parking stalls (along Peridot Street NW and 145th Avenue NW) to fulfill its required parking.

While this shared method of parking is different than other "typical" sites in Ramsey, it is the intent in the COR that sites minimize surface parking and create strategies for shared parking between adjacent users particularly when taking advantage of peak and off peak parking cycles. This proposal is an excellent candidate for alternative parking arrangements due to their primary use on Sunday mornings and evenings, opposite of other users immediately adjacent to the site. The applicant has provided a summary of information regarding their proposed use and its intent to install only the parking it needs while relying on shared and joint parking and facility use with PACT, NAU, Allina, the City, and other community groups. The Design Framework states that the City may approve joint parking for one or more businesses where the total number of parking stalls provided for joint use is less than the sum of the total required for each business should they be provide them separately. A written report, as detailed on Page 21 of the Design Framework, is required. Staff is generally supportive of the use of on-street parking for the proposed use, as no parking structures (vertical) are planned in this area.

The first phase construction could meet required parking provided the City supports the proposed proof of parking. The applicant is proposing proof of parking as a method to save initial site development and construction costs. The applicant intends to utilize shared parking through cross-parking agreements with PACT, Allina and NAU. Again, the COR Design Framework encourages shared parking as a method to provide required off-street parking. However, any shared parking shall be approved only when it's in close proximity, no conflict in hours and a legally binding instrument for joint use of off-street parking is approved by the City and recorded at the County. While the Northgate intends to share parking through "cross-parking agreements", and has an effective history of doing so, no recordable document has been provided to the City therefore the site is not meeting minimum requirements for off-street parking. This leaves the City in the position of needing to make a decision on whether to support the proposed proof of parking or require installation of the 40 stalls during Phase 1. Options to consider include:

• Require proof of parking to be installed with Phase 1 due to lack of legally recordable shared parking agreements to meet requirements of the COR Design Framework.
• Provide City with legally recordable shared cross-parking agreement.
• Accept proof of parking plan with a condition that at such time that parking demand is beyond what is provided on-site and the 25 accepted on-street parking stalls, and extending into additional on-street parking areas beyond 300' radius of the site, such proof of parking shall be installed at the applicants expense.

While this site plan review and Conditional Use Permit request does not include approvals for Phase 2 construction, it is apparent that the site will be under parked. While this review is based on the merits of the current application Staff recommends a condition that Phase 2 cannot move forward without recordable cross-parking agreements.

Funding Source:

All cost associated with processing the application are the responsibility of the Applicant.

Staff Recommendation:

Staff recommends approval of the Site Plan and Conditional Use Permit contingent upon compliance with the City Staff Review Letter dated September 20, 2012, with direction by the Planning Commission on the proposed proof of parking plan.

Committee Action:

Motion to recommend that the City Council approve the Site Plan and Conditional Use Permit contingent upon compliance with the City Staff Review Letter dated September 20, 2012, with direction by the Planning Commission on the proposed proof of parking plan.

Attachments

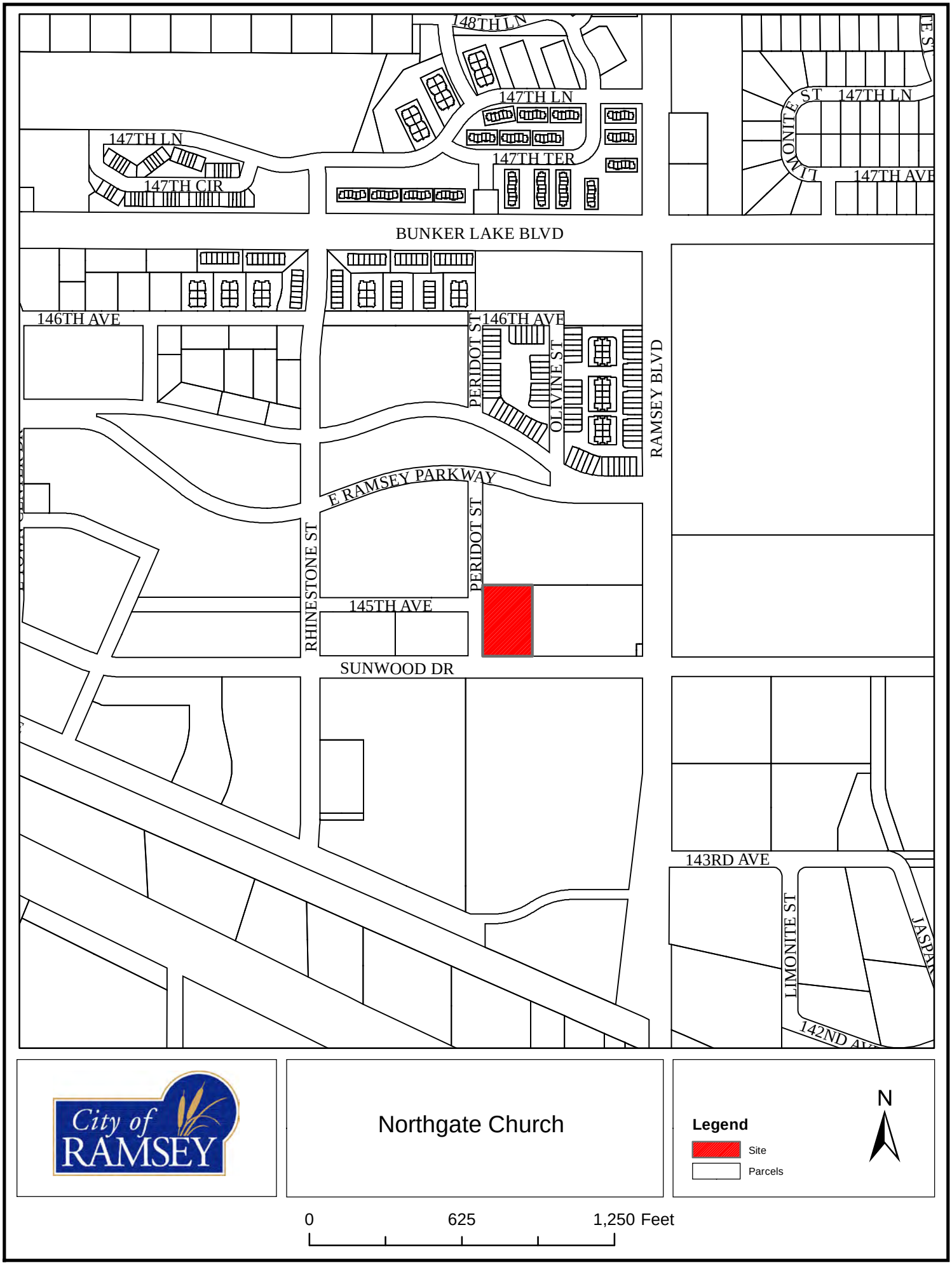
Site Location Map
Site Plan Sheet A1
Site Plan Sheet A2
Site Plan Sheet A3
Site Plan Civil Engineering Drawings
Site Plan Architectural Elevations
PROPOSED Findings of Fact
PROPOSED Conditional Use Permit
Sketch Plan Review Letter
Site Pland and CUP Review Letter
Community Development Fee Calculator

Form Review

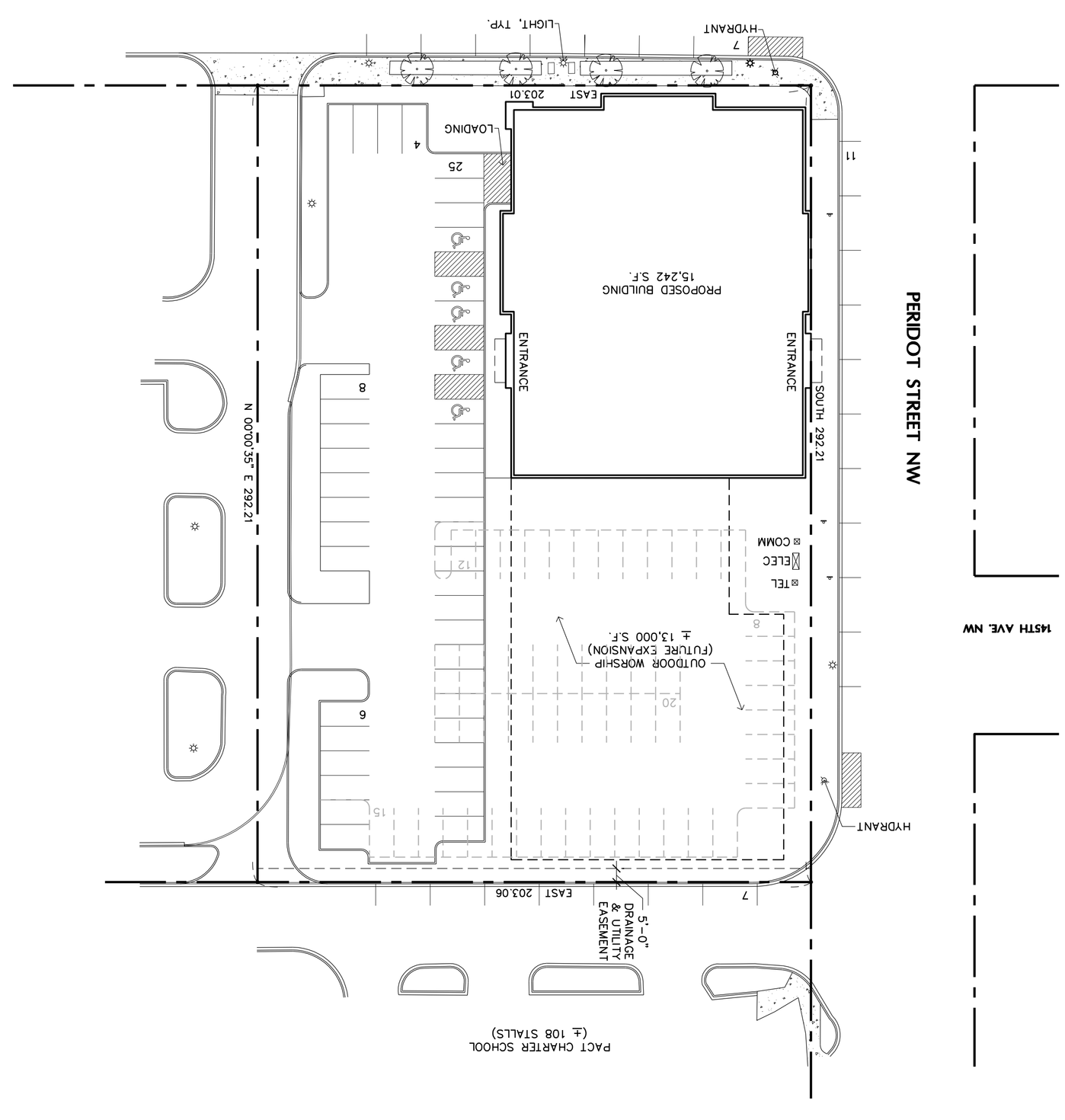
Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	09/27/2012 02:06 PM

Form Started By: Tina Goodroad Started On: 09/21/2012 10:42 AM

Final Approval Date: 09/27/2012


148TH LN
147TH LN
147TH LN
147TH CIR
147TH TER
LIMONITE ST
147TH LN
147TH AVE
BUNKER LAKE BLVD
146TH AVE
146TH AVE
PERIDOT ST
OLIVINE ST
RAMSEY BLVD
E RAMSEY PARKWAY
PERIDOT ST
RHINESTONE ST
145TH AVE
SUNWOOD DR
143RD AVE
LIMONITE ST
142ND AVE
City of RAMSEY
Northgate Church
Legend
Site
Parcels
N
0
625
1,250 Feet

Filename:



1 SITE PLAN
A1 SCALE: 1" = 30'-0"

NORTH

PARKING AND MANEUVERING (Ramsey Zoning Ordinance)

1. Parking Stall Calculation

CHURCH/THEATER	
504 Seats @ 1/5 Seats	101 Stalls
Total Stalls Required	101 Stalls
Stalls Provided	43 Stalls
Proof of Parking Stalls	40 Stalls
On-Street Parking	25 Stalls
Total Stalls Provided	108 Stalls
Shared Stalls Provided	108 Stalls
Accessible Requirement Per 101 Stalls (IBC Table 1106.1)	5 Stalls

2. Stall Size – 9'-0" x 18'-0"
3. Aisle Size – 24'-0"
4. Striping – 4" White Stripes

NORTHGATE
Performing Arts Center
Ramsey, Minnesota

LAMPERT ARCHITECTS
420 Summit Avenue
St. Paul, MN 55102
Phone:763.755.1211 Fax:763.757.2849
lompert@lompert-arch.com

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

LEONARD LAMPERT
Signature
Printed Name
13669
License Number
06/04/12
Date

PRELIMINARY NOT FOR CONSTRUCTION

Kingdom CONSTRUCTION COMPANY
GENERAL CONTRACTORS
14198 Northdale Blvd.
Rogers, MN 55374
Tel: 763-428-8088
Fax: 763-428-8090

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Leonard Lampert Architects, P.A.

Project Designer: L. TRACY
Drawn By: LLT
Checked By: LL

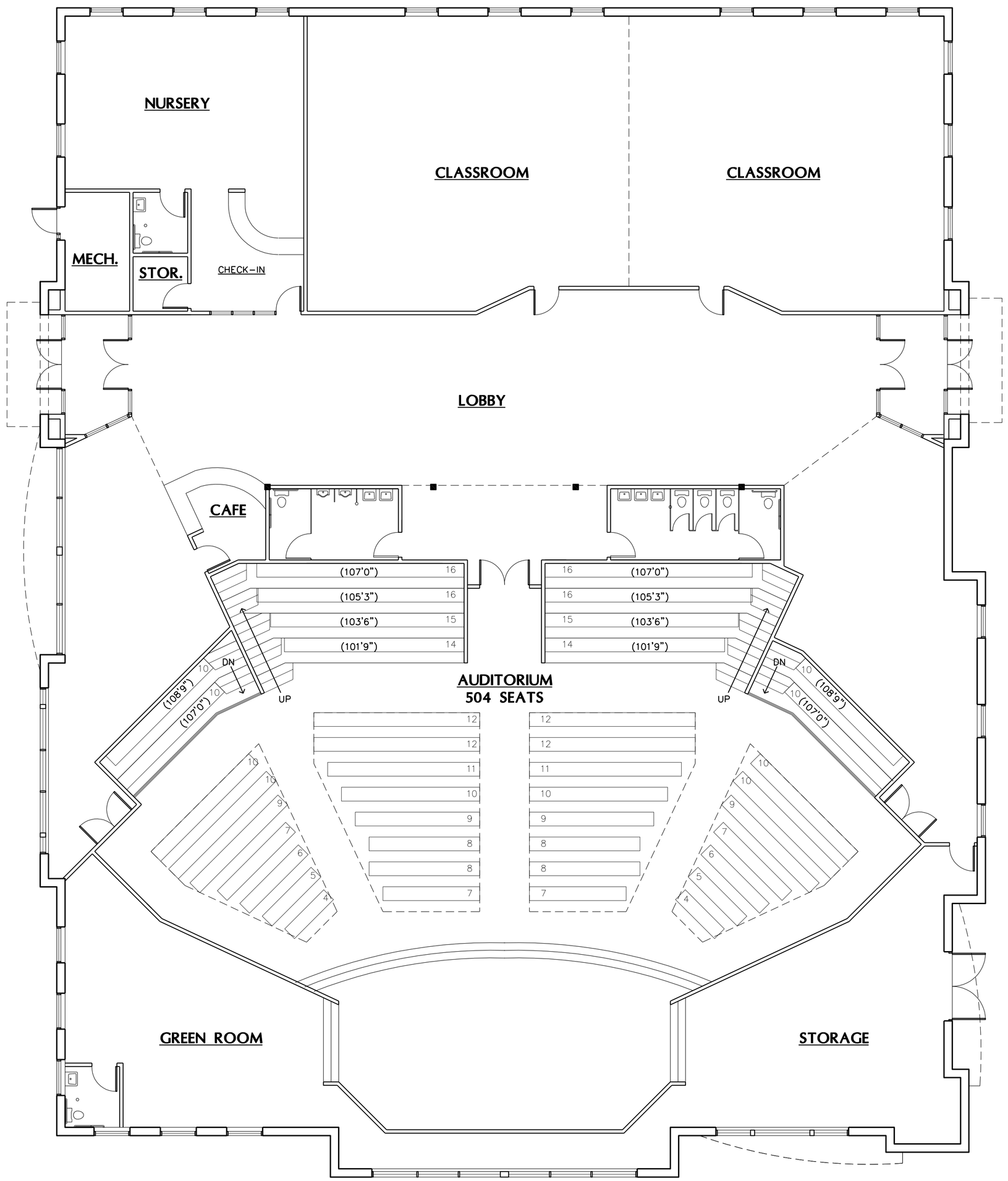
Revisions

08.29.12	PRELIMINARY
09.04.12	REVISED PRELIM.

SITE PLAN

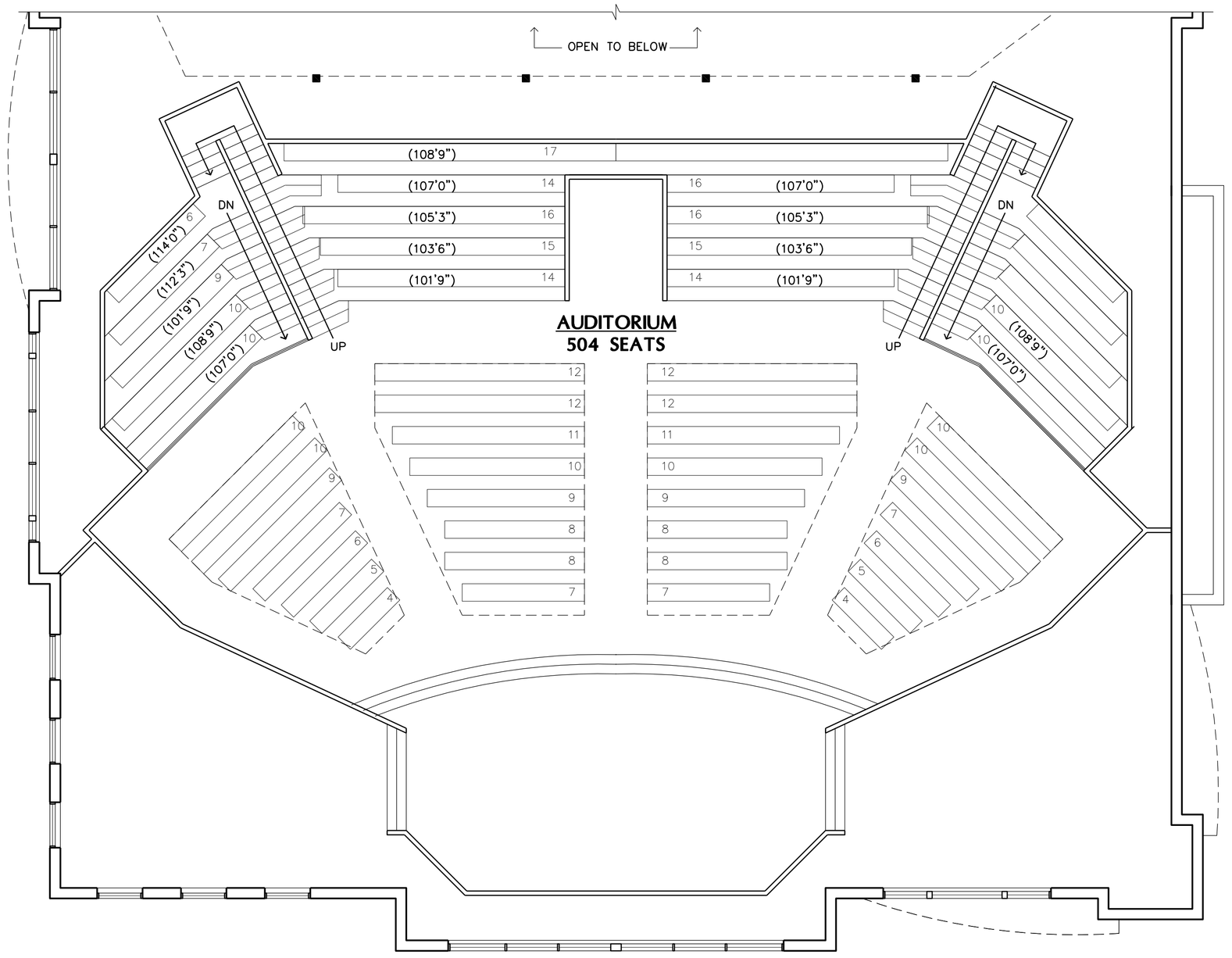
Sheet Number
A1

Project No. 120813-3



1 A2 MAIN FLOOR PLAN
SCALE: 1/8" = 1'-0"

NORTH



2 A2 STADIUM SEATING PLAN
SCALE: 1/8" = 1'-0"

NORTH

Filename:

LAMPERT ARCHITECTS
420 Summit Avenue
St. Paul, MN 55102
Phone:763.755.1211 Fax:763.757.2849
lampert@lampert-arch.com

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SIGNATURE
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PRINTED NAME
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LICENSE NO.
00/00/00
DATE

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NORTHGATE
Performing Arts Center
Ramsey, Minnesota

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Project Designer: L. TRACY
Drawn By: LLT
Checked By: LL
Revisions

09.04.12	PRELIMINARY

FLOOR PLANS

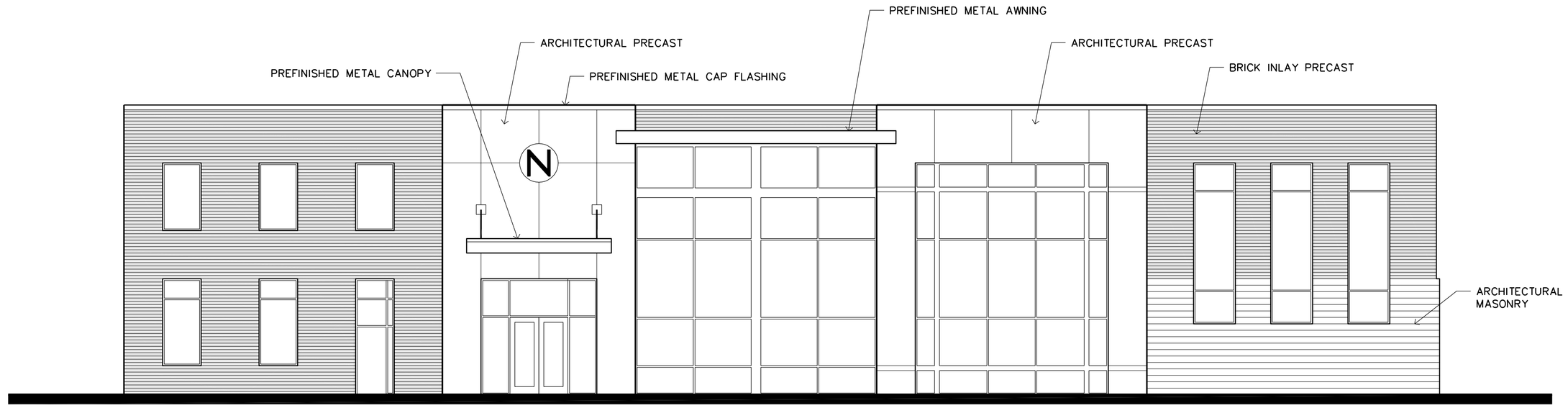
Sheet Number

A2

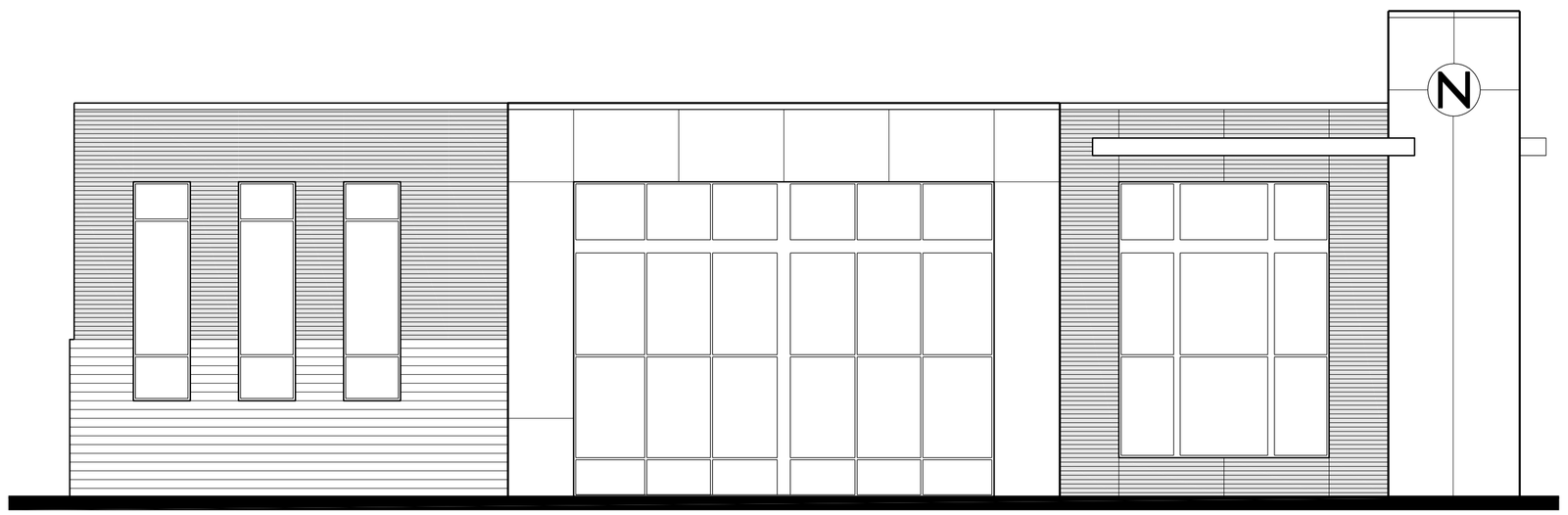
Project No. 120813-3

PERFORMANCE STANDARDS

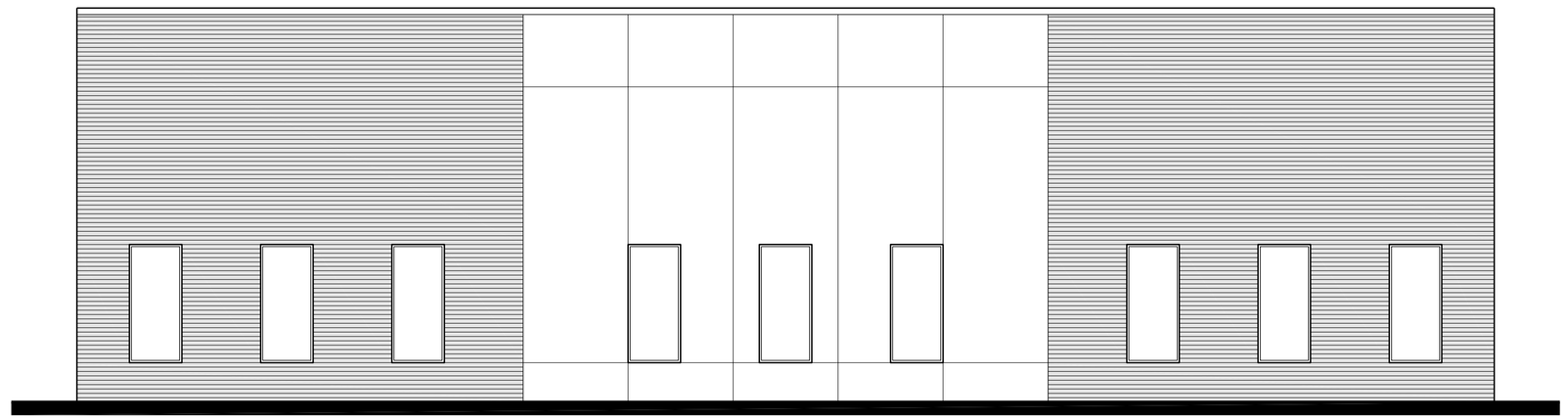
1. MATERIALS SHALL BE HIGH QUALITY DURABLE MATERIALS SUCH AS STONE, BRICK, GLASS, ETC.
   A. BRICK INLAY PRECAST
   B. ARCHITECTURAL PRECAST
   C. ARCHITECTURAL MASONRY
   C. GLASS
2. MINIMUM 40% GLASS REQUIRED AT STREET FACING FACADES
   A. SUNWOOD DRIVE (SOUTH ELEVATION)
      3,300 S.F. x 40% = 1,320 S.F.
      1,320 S.F. PROVIDED ≥ 1,320 S.F.
   A. PERIDOT STREET (WEST ELEVATION)
      4080 S.F. x 40% = 1,632 S.F.
      1,633 S.F. PROVIDED ≥ 1,666 S.F.



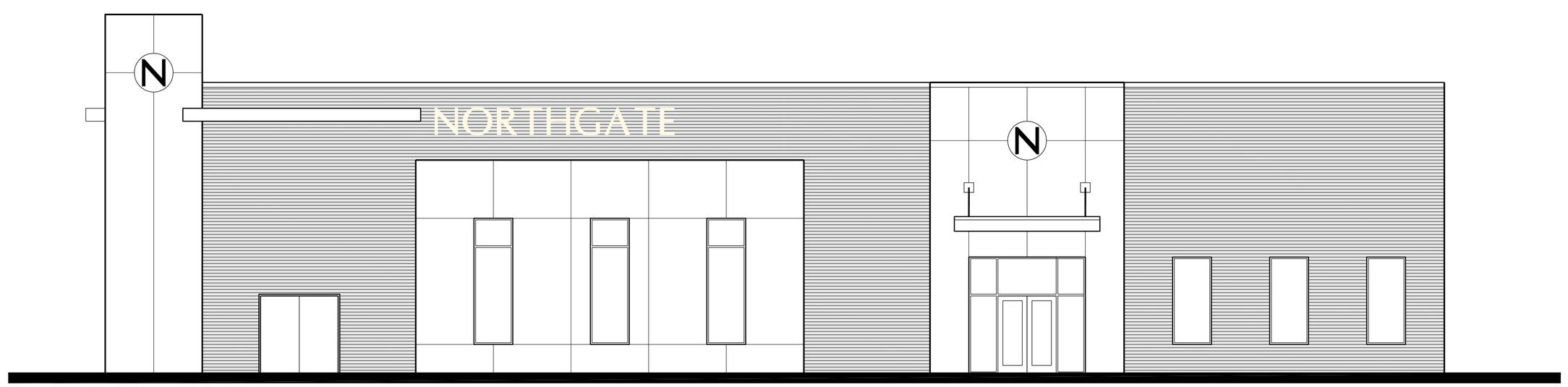
1 / A3 WEST ELEVATION
SCALE: 1/8" = 1'-0"



2 / A3 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



3 / A3 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



4 / A3 EAST ELEVATION
SCALE: 1/8" = 1'-0"

Filename:

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lampert@lampert-arch.com

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Drawn By: LLT
Checked By: LL
Revisions

09.04.12	PRELIMINARY

ELEVATIONS

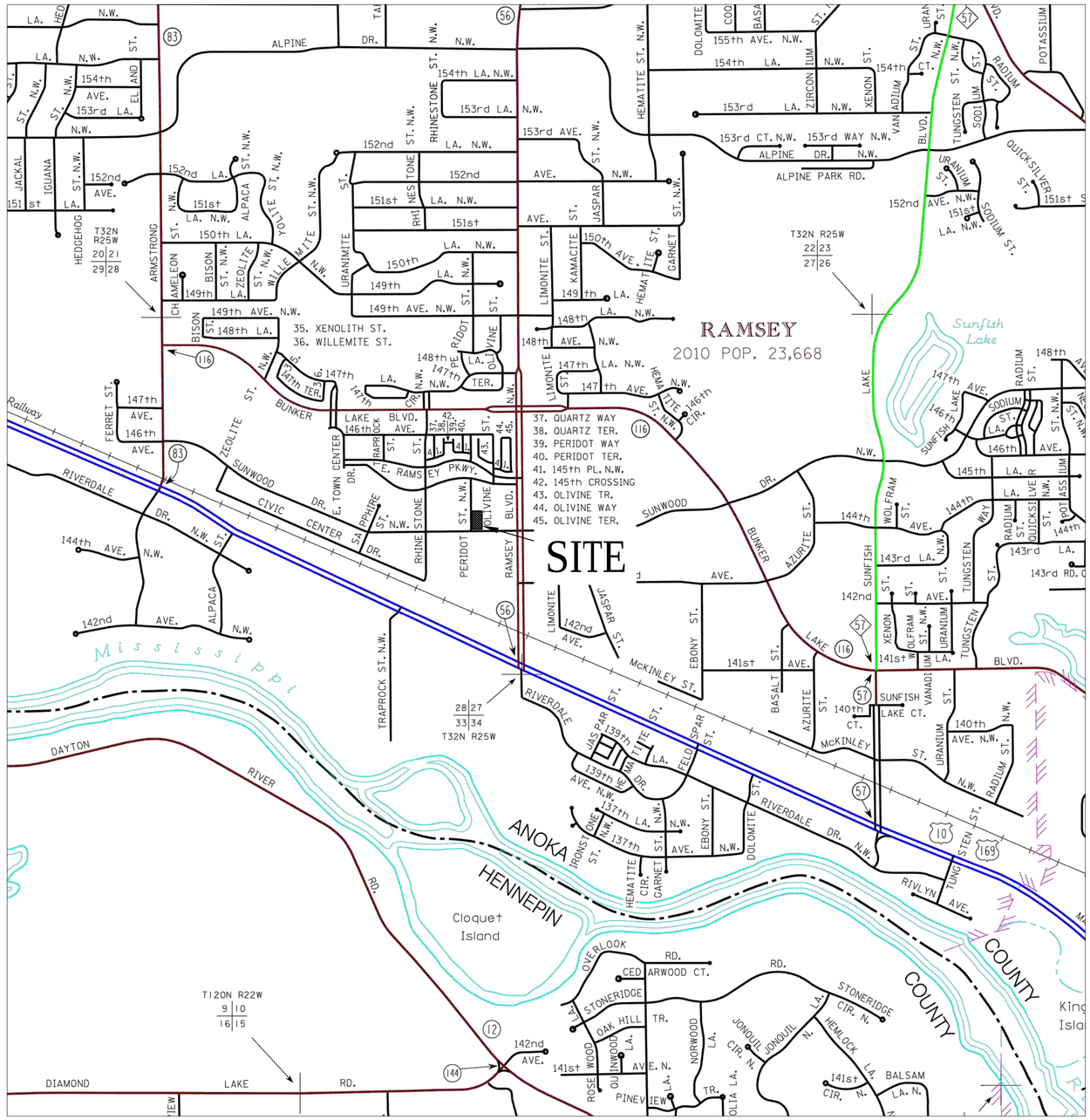
Sheet Number

A3

Project No. 120813-3

VICINITY MAP

NO SCALE



INDEX OF CIVIL SITE DRAWINGS:

C0	COVER
C1	SITE PLAN
C2	GRADING AND DRAINAGE PLAN
C3	STORM WATER POLLUTION PREVENTION PLAN
C4	UTILITIES PLAN
C5	LANDSCAPE PLAN
C6	LIGHTING PLAN
C7	DETAILS

CONTRACTOR:

Kinghorn COMPANY

GENERAL CONTRACTORS

14198 Northdale Blvd
Rogers, MN 55374

Grady Kinghorn
(763) 428-8088
glkinghorn@kinghornco.com

NORTHGATE PERFORMING ARTS CENTER

NE Quad. Sunwood Drive and Peridot Street
Ramsey, MN

COVER

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

Date: 09/04/12 Reg. No. 24348

PREPARED BY:

CIVIL ENGINEERING
SITE DESIGN
118 East Broadway St.
PO Box 355
Monticello, MN 55362
Phone: 763-314-0929
www.civilsd.com

REVISIONS

VERTICAL SCALE
1 inch = ____ feet

HORIZONTAL SCALE
1 inch = feet
(FOR 24x36 SHEET 24 x 36)

DATE	DRAWN BY	DESIGNED BY	CHECKED BY
09/04/12	SD	SD	SD

FILE NO. 00419

C0

Cover

LEGAL DESCRIPTION

OUTLOT A, RAMSEY TOWN CENTER 14TH ADDITION, ANOKA COUNTY, MINNESOTA.

PROJECT LOCATION

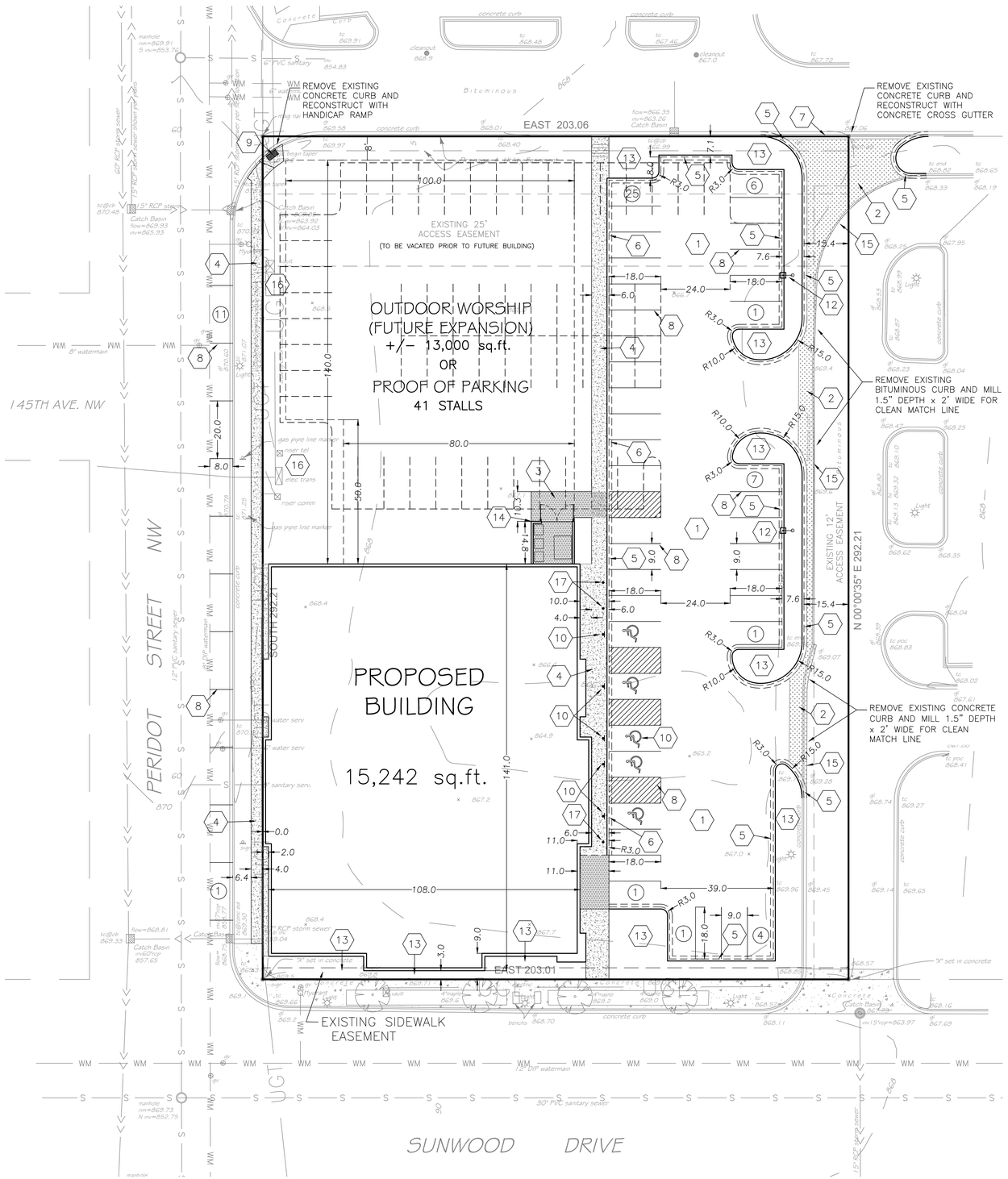
PART OF SECTION 28, TOWNSHIP 32, RANGE 25, ANOKA COUNTY, MINNESOTA.

PROPERTY OWNER:
NORTHGATE CHURCH

GENERAL CONTRACTOR:
KINGHORN CONSTRUCTION, INC.
CONTACT: GRADY KINGHORN
14198 NORTHDLE BLVD
ROGERS, MN 55374
PH (763) 428-8088
www.kinghornco.com

ARCHITECT:
LAMPERT ARCHITECTS
CONTACT: LEN LAMPERT
420 SUMMIT AVENUE
ST. PAUL, MN 55102
PH (763) 755-1211
www.lampert-arch.com

CIVIL ENGINEER:
CIVIL ENGINEERING SITE DESIGN, LLC
CONTACT: SCOTT DAHLKE
118 EAST BROADWAY ST., PO BOX 566
MONTICELLO, MN 55362
PH (763) 314-0929
www.civilesd.com



LEGEND:

- EXISTING CURB AND GUTTER
- EXISTING STORM SEWER
- EXISTING SANITARY SEWER SERVICE
- EXISTING WATER MAIN SERVICE
- PROPOSED CURB AND GUTTER
- PROPOSED STORM SEWER
- PROPOSED PARKING STALLS
- PROPOSED HEAVY DUTY PAVEMENT
- PROPOSED LIGHT DUTY PAVEMENT
- PROPOSED HEAVY DUTY CONCRETE PAVEMENT
- PROPOSED CONCRETE SIDEWALK

SURVEY DATA

SURVEY INFORMATION PROVIDED BY:
LOT SURVEYS COMPANY, INC
7601 73rd AVENUE NORTH
BROOKLYN PARK, MN 55428

DATED: AUGUST 14, 2012

BENCHMARKS:

1) Top nut of hydrant located at NE corner of Sunwood Drive and Peridot Street NW.

Elev. = 872.96

0 20 40 60
GRAPHIC SCALE IN FEET

SITE DATA:

ZONING:	MU-PUD	MIXED USE PLANNED UNIT DEVELOPMENT
PROPOSED USE:	CHURCH / THEATER	
GROSS LOT AREA:		59,329 SQ. FT. OR 1.36 ACRES
TOTAL BUILDING FOOTPRINT AREA: (GFA) (Excludes trash enclosure)		15,242 SQ. FT. – PHASE I
PERCENT BUILDING COVERAGE: (% of gross lot area)		25.7%
FLOOR AREA RATIO (15,242 / 59,329)		0.257
PROPOSED IMPERVIOUS AREA: (building, sidewalk, & pavement)		38,865 SQ. FT. – PHASE I
PERCENT IMPERVIOUS AREA: (% of gross lot area)		65.5%
PROPOSED LANDSCAPE AREA:		20,464 SQ. FT.
PERCENT LANDSCAPE AREA: (% of gross lot area)		34.5%

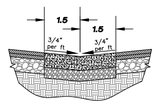
PARKING DATA:

REQUIRED PARKING STALLS: CHURCH/THEATRE FACILITY 1 stall per 5 seats (516 seats / 5)	103 STALLS (REQ 5 HC STALLS)
PROVIDED PARKING STALLS:	
ON SITE	42 STALLS (INCL 5 HC STALLS)
ON SITE PROOF OF PARKING	41 STALLS FUTURE EXPANSION AREA
ON PERIDOT STREET NW	11 STALLS
ON 145TH AVENUE NW	14 STALLS
OFF SITE SHARED	108 STALLS
PROVIDED TOTAL:	216 STALLS

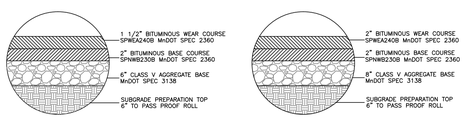
SETBACK: MINIMUM REQUIREMENTS

LOCATION:	BUILDING	PARKING
FRONT YARD	*	*
SIDE YARD	*	*
REAR YARD	*	*

* AS APPROVED BY PUD

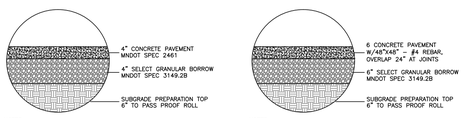


CROSS-GUTTER SLOPE DETAIL
WITH HEAVY DUTY CONCRETE PAVEMENT SECTION



LIGHT DUTY — HEAVY DUTY

BITUMINOUS PAVEMENT
NOTE: SOILS SPECIFICATIONS SUPERSEDE ABOVE LISTED SPECIFICATIONS



NOTES:
1. CONCRETE MIX SHALL CONFORM TO MNDOT SPEC. 2461 MIX No. 3Y22A FOR SLIPFORM PLACEMENT MIX No. 3Y32A FOR MANUAL PLACEMENT
2. CONCRETE PLACEMENT SHALL CONFORM TO MNDOT SPEC. 2301
3. CONTRACTOR SHALL SPACE THE CONTRACTION JOINTS AT 6'-0" O.C.
4. SOILS SPECIFICATIONS SUPERSEDE ABOVE LISTED SPECIFICATIONS

CONCRETE PAVEMENT - SIDEWALK

NOTES:
1. CONCRETE MIX SHALL CONFORM TO MNDOT SPEC. 2461 MIX No. 3Y22A FOR SLIPFORM PLACEMENT MIX No. 3Y32A FOR MANUAL PLACEMENT
2. CONCRETE PLACEMENT SHALL CONFORM TO MNDOT SPEC. 2301
3. CONTRACTOR SHALL SPACE THE CONTRACTION JOINTS AT 12'-0" O.C.
4. SOILS SPECIFICATIONS SUPERSEDE ABOVE LISTED SPECIFICATIONS

CONCRETE PAVEMENT - HEAVY DUTY

KEY NOTES

1. BITUMINOUS PAVEMENT – LIGHT DUTY.
2. BITUMINOUS PAVEMENT – HEAVY DUTY.
3. CONCRETE PAVEMENT – HEAVY DUTY.
4. CONCRETE PAVEMENT – SIDEWALK.
5. B612 (6") CONCRETE CURB & GUTTER. MnDOT 2461 MIX 3Y22A SLIPFORM PLACEMENT OR MnDOT 2461 MIX 3Y32A MANUAL PLACEMENT.
6. B612 (6") CONCRETE OUTFLOW CURB & GUTTER. (TIP-OUT FLOWLINE). MnDOT 2461 MIX 3Y22A SLIPFORM PLACEMENT OR MnDOT 2461 MIX 3Y32A MANUAL PLACEMENT.
7. CONCRETE CROSS GUTTER.
8. PAINT 4" WIDE SOLID STRIPE – WHITE LATEX PAINT. (TYPICAL)
9. PED RAMP PER STANDARD SIDEWALK RAMP DETAIL. SEE DETAIL SHEET FOR MNDOT STANDARD PLATE 7036F.
10. PAINT INTERNATIONAL SYMBOL OF ACCESSABILITY – WHITE LATEX PAINT. (TYPICAL)
11. ACCESSIBLE PARKING SIGN (MNDOT #'S R7-8A AND R7-8B) ON BOLLARD POST. CENTER SIGN ON PARKING STALL. LOCATION PER GENERAL CONTRACTOR.
12. LIGHT POLE. REFER TO LIGHTING AND PHOTOMETRIC PLAN FOR LIGHT LOCATIONS AND SPECIFICATIONS. FOUNDATIONS BY GENERAL CONTRACTOR. VERIFY FOUNDATION SIZE WITH SUPPLIER.
13. GREEN AREA – SEE LANDSCAPE PLAN.
14. TRASH ENCLOSURE.
15. MATCH EXISTING BITUMINOUS PAVEMENT.
16. EXISTING UTILITY TO REMAIN.
17. GUARD POST BOLLARD.

PLAN NOTES:

1. ALL DIMENSIONS SHOWN ARE TO FACE OF CURB, EDGE OF SIDEWALK OR EXTERIOR OF BUILDING UNLESS OTHERWISE NOTED. REFER TO ARCHITECTURAL DRAWINGS FOR BUILDING DIMENSIONS AND SPECIFICATIONS FOR LOCATION OF EXITS, RAMPS, CONCRETE APRONS AND STOOPS.
2. TACK SHALL BE USED ON BITUMINOUS EDGE PRIOR TO PATCHING. MATCH EXISTING GRADES.
3. ALL CONCRETE SIDEWALKS ADJACENT TO BUILDING SHALL BE SEPARATED WITH A ½" EXPANSION JOINT.
4. CONTRACTOR SHALL VERIFY ALL CONDUIT REQUIREMENTS FOR LIGHTING, IRRIGATION, COMMUNICATION PEDESTAL, ETC WITH OWNER PRIOR TO PAVING.
5. ACCESSIBLE ROUTE SHALL BE PROVIDED FROM ACCESSIBLE STALLS TO BUILDING ENTRANCE (SEE ADAAG REQUIREMENTS). POLE MOUNT APPROVED SIGNS CENTERED ON STALLS. PAINT INTERNATIONAL SYMBOL OF ACCESSIBILITY ON STALL.
6. CONSTRUCT ACCESSIBLE PEDESTRIAN RAMP PER ADAAG AND MNDOT STANDARDS. PROVIDE CONTRASTING DETECTABLE WARNING STRIP.
7. CONTRACTOR IS RESPONSIBLE FOR COORDINATING WITH FIRE MARSHAL FOR POSTING OF FIRE LANES, CURB MARKING AND SIGNAGE IF NEEDED.
8. CONTRACTOR IS RESPONSIBLE FOR DEMOLITION AND REMOVAL OF ALL EXISTING SITE FEATURES THAT INTERFERE WITH NEW WORK AS SHOWN.

INDEX OF CIVIL SITE DRAWINGS:

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(763) 428-8088
glkinghorn@kinghornco.com

NORTHGATE PERFORMING ARTS CENTER
NE Quad. Sunwood Drive and Peridot Street
Ramsey, MN

SITE PLAN

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Scott Dahlke
Date: 09/04/12 Reg. No. 24348
PREPARED BY: CIVIL ENGINEERING SITE DESIGN
118 East Broadway St.
PO Box 566
Monticello, MN 55362
Phone: 763-314-0929
www.civilesd.com

REVISIONS

VERTICAL SCALE 1 inch = ____ feet

HORIZONTAL SCALE 1 inch = 20 feet (PLOT SIZE SHEET 24 x 36)

DATE	DRAWN BY	DESIGNED BY	CHECKED BY
09/04/12	SD	SD	SD

FILE NO. 00419

C1
Site Plan

LEGAL DESCRIPTION

OUTLOT A, RAMSEY TOWN CENTER 14TH ADDITION, ANOKA COUNTY, MINNESOTA.

PROJECT LOCATION

PART OF SECTION 28, TOWNSHIP 32, RANGE 25, ANOKA COUNTY, MINNESOTA.

LEGEND:

- EXISTING CURB AND GUTTER
- EXISTING STORM SEWER
- EXISTING SANITARY SEWER SERVICE
- EXISTING WATER MAIN SERVICE
- PROPOSED CURB AND GUTTER
- PROPOSED STORM SEWER
- PROPOSED SILT FENCE
- PROPOSED INLET PROTECTION

SURVEY DATA

SURVEY INFORMATION PROVIDED BY:
LOT SURVEYS COMPANY, INC
7601 73rd AVENUE NORTH
BROOKLYN PARK, MN 55428

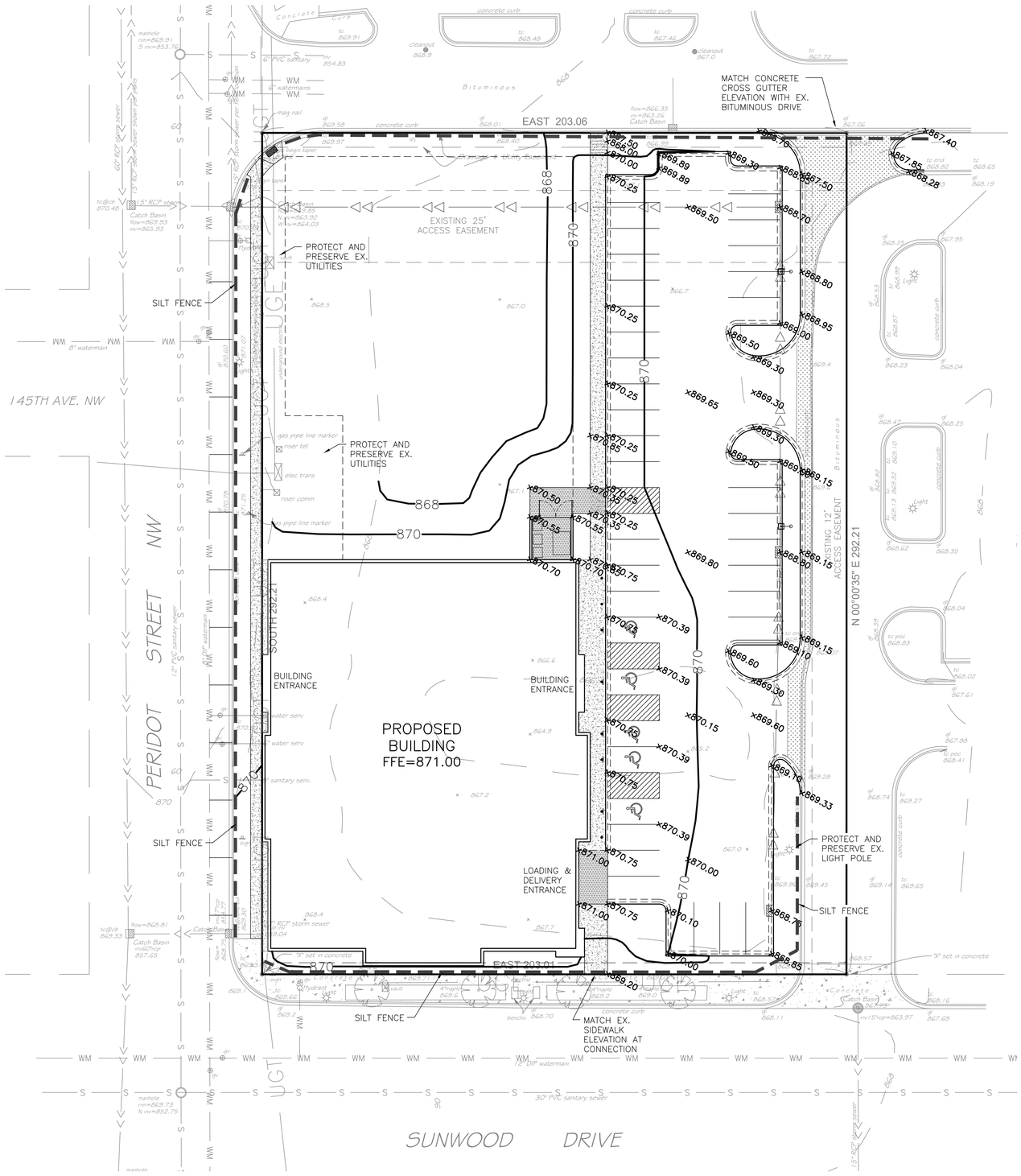
DATED: AUGUST 14, 2012

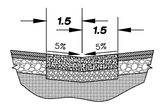
BENCHMARKS:

1) Top nut of hydrant located at NE corner of Sunwood Drive and Peridot Street NW.

Elev. = 872.96

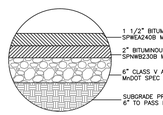
0 20 40 60
GRAPHIC SCALE IN FEET



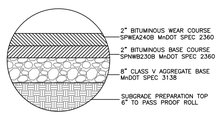


CROSS-GUTTER SLOPE DETAIL

WITH HEAVY DUTY CONCRETE PAVEMENT SECTION



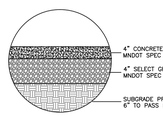
LIGHT DUTY



HEAVY DUTY

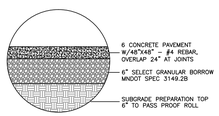
BITUMINOUS PAVEMENT

NOTE: SOILS SPECIFICATIONS SUPERSEDE ABOVE LISTED SPECIFICATIONS



NOTES:
1. CONCRETE MIX SHALL CONFORM TO MNDOT SPEC. 2461 MIX No. 3Y22A FOR SLIPFORM PLACEMENT MIX No. 3Y32A FOR MANUAL PLACEMENT
2. CONCRETE PLACEMENT SHALL CONFORM TO MNDOT SPEC. 2301
3. CONTRACTOR SHALL SPACE THE CONTRACTION JOINTS AT 6'-0" O.C.
4. SOILS SPECIFICATIONS SUPERSEDE ABOVE LISTED SPECIFICATIONS

CONCRETE PAVEMENT - SIDEWALK



NOTES:
1. CONCRETE MIX SHALL CONFORM TO MNDOT SPEC. 2461 MIX No. 3Y22A FOR SLIPFORM PLACEMENT MIX No. 3Y32A FOR MANUAL PLACEMENT
2. CONCRETE PLACEMENT SHALL CONFORM TO MNDOT SPEC. 2301
3. CONTRACTOR SHALL SPACE THE CONTRACTION JOINTS AT 12'-0" O.C.
4. SOILS SPECIFICATIONS SUPERSEDE ABOVE LISTED SPECIFICATIONS

CONCRETE PAVEMENT - HEAVY DUTY

GENERAL GRADING NOTES:

1. Specifications applicable for this project: Current standard specifications for City of Ramsey, MN, and the latest Minnesota Department of Transportation Specifications for Highway Construction and all NPDES requirements except where modified by these contract documents.
2. OSHA requirements shall be followed for all work on this project.
3. The Contractor shall notify "Gopher State One Call" 48 hours prior to any excavation (1-800-252-1166.)
4. The Grading Contractor shall verify all locations and elevations of underground utilities with utility companies prior to any construction, and immediately notify the Engineer of any conflicts.
5. Erosion Control shall be constructed, as applicable, as sequenced below:
   A. Silt Fence.
   B. Rock Construction Entrance
   C. Common excavation (grading).
   D. Seed and mulch (See notes on SWPP plan).
6. Final Plat shall govern for easements and lot dimensions.
7. Any erosion control items necessary to protect adjacent properties shall be constructed by the Grading Contractor.
8. Erosion control maintenance shall be performed by the Grading Contractor, and removed as per the Contract Documents or as directed by the Engineer, followed by all necessary restoration of disturbed area. This work shall be incidental to the grading contract.
9. The Grading Contractor shall schedule the soils engineer to facilitate certification of all controlled fills in a timely fashion. Density tests shall meet the following:
   A. Within the upper 3' of streets or pavement areas, the Grading Contractor shall utilize approved soils that are within 1% of the optimum moisture content as defined by the Standard Proctor Test-ASTM: D-698 with compaction meeting 100% Standard Proctor Density and not exceeding this compaction by more than 1%. Below the upper 3', compaction shall meet 95% Standard Proctor Density, and be within 3% of the optimum moisture content. Grading tolerances shall be 0.1'.
   B. Grading tolerances for the remainder of the site shall be 0.25'.
10. All areas of unsuitable soils found in the pad described above that cannot be corrected shall be located in the field by the Grading Contractor. The Grading Contractor shall immediately notify the Engineer of these areas and provide information as to their size and location.
11. The Grading contractor shall provide positive drainage on the site at all times.
12. The Grading Contractor shall keep public streets and travel ways clear of soil and debris. Daily cleaning at the construction entrance shall be performed, especially at the end of each day's work.
13. All silt fence shall be removed at project completion.
14. All proposed elevations are at flow line unless otherwise noted.
15. All erosion control best manage practices shall be per City standards.

INDEX OF CIVIL SITE DRAWINGS:

C0	COVER
C1	SITE PLAN
C2	GRADING AND DRAINAGE PLAN
C3	STORM WATER POLLUTION PREVENTION PLAN
C4	UTILITIES PLAN
C5	LANDSCAPE PLAN
C6	LIGHTING PLAN
C7	DETAILS

CONTRACTOR:

Kinghorn COMPANY
GENERAL CONTRACTORS

14198 Northdale Blvd
Rogers, MN 55374

Grady Kinghorn
(763) 428-8088
glkinghorn@kinghorncо.com

NORTHGATE PERFORMING ARTS CENTER
NE Quad. Sunwood Drive and Peridot Street
Ramsey, MN

GRADING AND DRAINAGE PLAN

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

Scott D. Sundberg

Date: 09/04/12 Reg. No. 24348

PREPARED BY: CIVIL ENGINEERING SITE DESIGN
118 East Broadway St.
PO Box 55362
Monticello, MN 55362
Phone: 763-314-0929
www.civilesd.com

REVISIONS

VERTICAL SCALE 1 inch = ____ feet

HORIZONTAL SCALE 1 inch = 20 feet (FULL SIZE SHEET 24 X 36)

DATE	DRAWN BY	DESIGNED BY	CHECKED BY
09/04/12	SD	SD	SD

FILE NO. 00419

C2

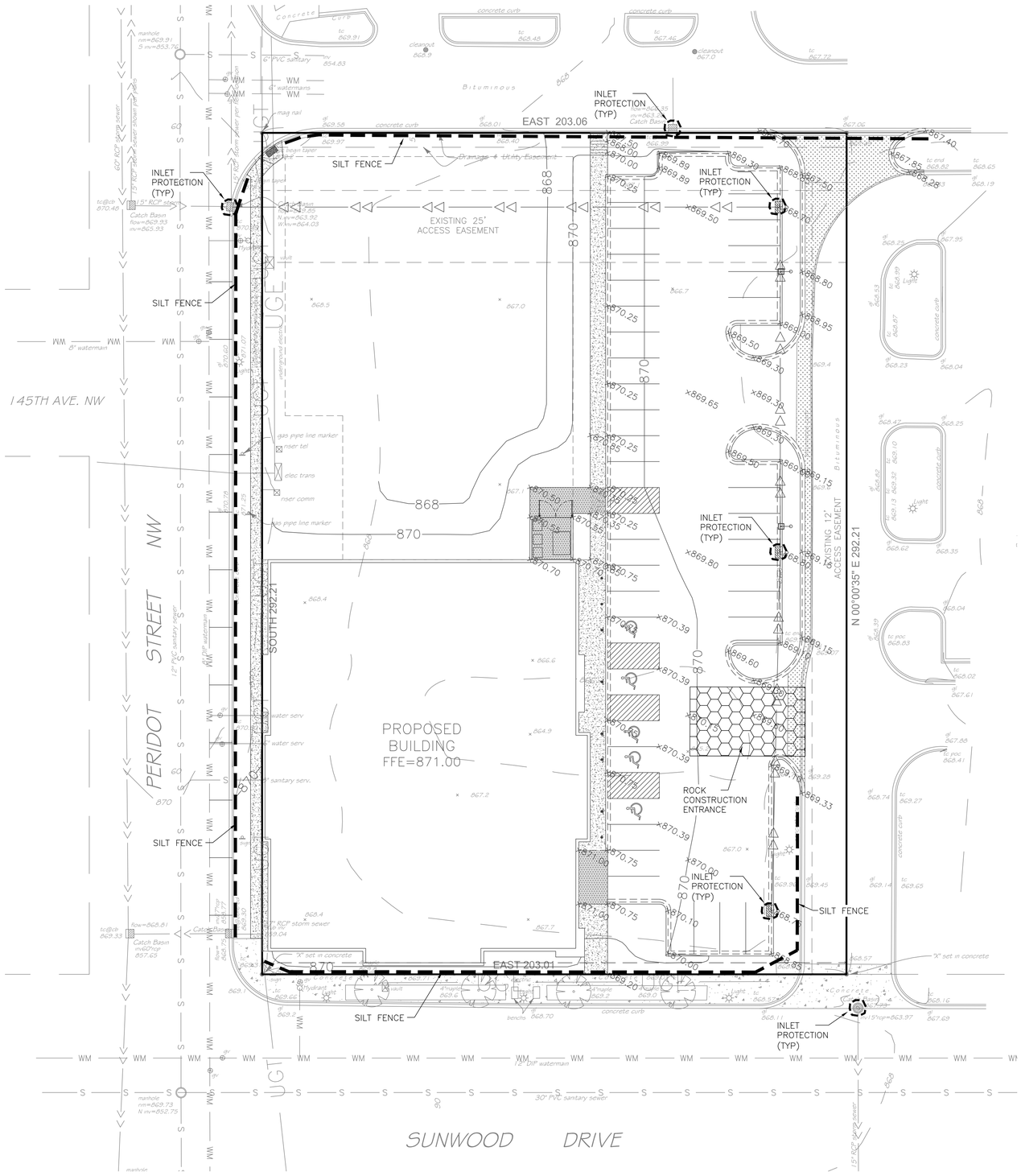
Grading and Drainage Plan

LEGAL DESCRIPTION

OUTLOT A, RAMSEY TOWN CENTER 14TH ADDITION, ANOKA COUNTY, MINNESOTA.

PROJECT LOCATION

PART OF SECTION 28, TOWNSHIP 32, RANGE 25, ANOKA COUNTY, MINNESOTA.



LEGEND:

- EXISTING CURB AND GUTTER
- EXISTING STORM SEWER
- EXISTING SANITARY SEWER SERVICE
- EXISTING WATER MAIN SERVICE
- PROPOSED CURB AND GUTTER
- PROPOSED STORM SEWER
- PROPOSED SILT FENCE
- PROPOSED INLET PROTECTION

SURVEY DATA

SURVEY INFORMATION PROVIDED BY:
LOT SURVEYS COMPANY, INC
7601 73rd AVENUE NORTH
BROOKLYN PARK, MN 55428

DATED: AUGUST 14, 2012

BENCHMARKS:

1) Top nut of hydrant located at NE corner of Sunwood Drive and Peridot Street NW.

Elev. = 872.96

0 20 40 60

GRAPHIC SCALE IN FEET

SWPP NARRATIVE

This project will consist of demolition, grading, utilities, building construction, parking lot construction, and drive aisles.

First, perimeter silt fence and rock construction entrance shall be installed. Then demolition of existing building and parking lot shall commence. The contractor shall dispose demolition debris off–site within 24 hours. Then the site can be graded and utilities installed. Once final grade is established and certified, the site shall be stabilized with seed and mulch or sod. Once vegetation is established, temporary erosion control measures shall be removed.

POLLUTION PREVENTION NOTES

Solid waste: collected sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, construction debris and other wastes must be disposed of properly off–site and must comply with MPCA requirements.

Hazardous materials: oils, gasoline, paint, and any hazardous substance must be properly stored, including secondary containment, to prevent spills, leaks or other discharge. Restricted access to storage areas must be provided to prevent vandalism. Storage and disposal must be in compliance with MPCA regulations.

External washing of trucks or other construction vehicles is not allowed on site. No engine degreasing is allowed on site. No concrete washouts are allowed on site.

EROSION CONTROL NOTES

1. All devices necessary to control erosion and sediment (I.E. perimeter silt fence, rock construction entrances, swales, ponds, berms, ETC.) shall be installed prior to any other construction operations.
2. After completion of final grading, exposed soils must be permanently stabilized within 72 hours. Stabilization shall consist of disc–anchored seed & mulch or sod.
3. The site must be kept in a well drained condition at all times. The contractor shall be responsible for temporary ditches, or other means necessary to ensure proper drainage. The building pad must be provided with a positive outflow. This work shall be incidental to the grading contract.
4. Entering/exiting of the site shall occur only at rock construction entrance to reduce tracking of dirt onto paved streets. Sediment tracked onto streets during working hours must be reclaimed via street scraping and sweeping at the end of each working day.

EROSION CONTROL INSTALLATION SCHEDULE

1. Silt fence shall be installed or restored prior to any construction. Silt fence shall be located as shown to intercept runoff. The area located beyond the perimeter silt fence shall not be disturbed during construction.
2. Rock Construction Entrance shall be installed prior to grading operations.
3. All storm sewer inlets shall have inlet protection inserts installed. Inserts shall be "Road rain–Top Slab" or "Road Drain–Curb & Gutter" inlet protection devices as manufactured by WIMCO (or approved equal) and installed per manufacture's recommendations.
4. All erosion control installations shall remain in place and be maintained in good condition by the contractor until the site has been re–vegetated, at which time it shall be removed by the contractor. For proposed paved surface areas, the contractor may remove necessary silt fencing to construct roadway, while maintaining adequate erosion control in adjacent areas.
5. Sufficient topsoil shall be stockpiled to allow for the replacement of 4" topsoil for disturbed areas to be re–vegetated.
6. The contractor shall schedule site grading, utility installation and roadway construction so that the general site can be mulched and re–seeded soon after disturbance. Areas that will not be subject to construction traffic shall be seed and mulched or sodded within 72 hours of final grading.

EROSION CONTROL MAINTENANCE SCHEDULE

1. Erosion control measures shall be inspected by the contractor's representative and maintained by the contractor every Friday and within 24 hours after any rainfall event larger than 1/2" until the project is completed. Maintenance requirements are as follows: silt fence – 1/3 height of fence or damaged, remove sediment and/or repair fence within 24 hours; rock entrance – refresh as necessary to conform to detail; inlet protection inserts – remove sediment after each rain event, clean or replace filter when clogged; surface water – drain and stabilize, within 7 days of discovery; and street sweeping – remove all sediment tracked onto paved surfaces within 24 hours or as directed by City Engineer.
2. Replacement – Fabric shall be replaced promptly when it decomposes or becomes ineffective before the barrier is no longer necessary.
3. Any sediment remaining in place after silt fence is no longer required shall be dressed to conform with the existing grade, prepared, and seeded with appropriate seed mix, as directed by the engineer.
4. Removal of the silt fence– Silt fences shall be removed when they have served their useful purpose, but not before the upward sloping area has been permanently stabilized. If the upward sloping area is to be exposed longer than six (6) months, that area shall be covered with temporary vegetation when first exposed.

SEED AND MULCH SCHEDULE

1. All disturbed areas shall be covered with a minimum 4" topsoil. Unless areas are to be sodded, MnDOT seed mix 250 shall be applied at 75 lbs/ac. MnDOT Type 1 mulch shall be applied at 2 tons/ac and disc anchored in areas not covered by sod or erosion blanket. Seeding and mulching shall conform to the latest NPDES requirements for installation schedule with regards to grading.
2. Fertilizer shall be 8–12–6 and applied at 300 lbs/ac. Disc fertilizer into top 3" of soil.
3. Dormant seed mix shall be used after November 1 or when temperatures do not exceed 40° F, using same rates specified above. No seed shall be placed on snow or ice greater than 2" in depth.
4. Any seeded areas that do not become established with vegetation shall be reseeded at Contractor's expense.
5. Refer to erosion control schedule for seed and mulch schedule with regards to grading.
6. Refer to Landscape Plan for seeding and sodding locations and details. Adjust/reduce erosion blanket in areas to be sodded.

INDEX OF CIVIL SITE DRAWINGS:

C0	COVER
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C3	STORM WATER POLLUTION PREVENTION PLAN
C4	UTILITIES PLAN
C5	LANDSCAPE PLAN
C6	LIGHTING PLAN
C7	DETAILS

CONTRACTOR:

Kinghorn COMPANY
GENERAL CONTRACTORS

14198 Northdale Blvd
Rogers, MN 55374

Grady Kinghorn
(763) 428-8088
glkinghorn@kinghornco.com

NORTHGATE PERFORMING ARTS CENTER

NE Quad. Sunwood Drive and Peridot Street Ramsey, MN

STORM WATER POLLUTION PREVENTION PLAN

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

Scott D. Dahl

Date: 09/04/12 Reg. No. 24348

PREPARED BY: CIVIL ENGINEERING SITE DESIGN

118 East Broadway St.
Box 160
Monticello, MN 55362
Phone: 763–314–0929
www.civilesd.com

REVISIONS

VERTICAL SCALE 1 inch = ____ feet

HORIZONTAL SCALE 1 inch = 20 feet (FULL SIZE SHEET 24 x 36)

DATE 09/04/12 | DRAWN BY SD | DESIGNED BY SD | CHECKED BY SD

FILE NO. 00419

C3

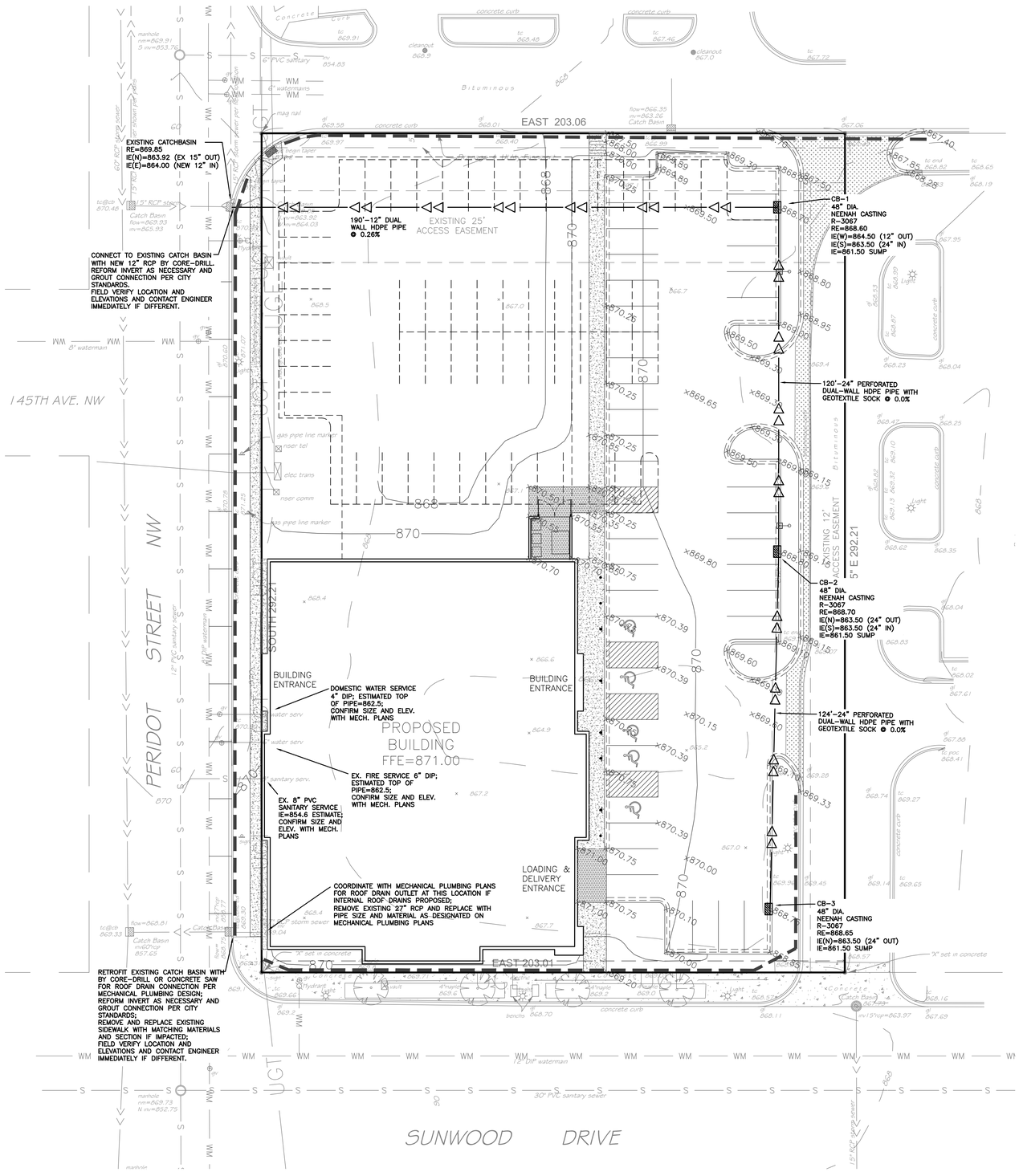
Storm Water Pollution Prevention Plan

LEGAL DESCRIPTION

OUTLOT A, RAMSEY TOWN CENTER 14TH ADDITION, ANOKA COUNTY, MINNESOTA.

PROJECT LOCATION

PART OF SECTION 28, TOWNSHIP 32, RANGE 25, ANOKA COUNTY, MINNESOTA.



LEGEND:

- EXISTING CURB AND GUTTER
- EXISTING STORM SEWER
- EXISTING SANITARY SEWER SERVICE
- EXISTING WATER MAIN SERVICE
- PROPOSED CURB AND GUTTER
- PROPOSED STORM SEWER
- PROPOSED SILT FENCE
- PROPOSED INLET PROTECTION

SURVEY DATA

SURVEY INFORMATION PROVIDED BY:
LOT SURVEYS COMPANY, INC
7601 73rd AVENUE NORTH
BROOKLYN PARK, MN 55428

DATED: AUGUST 14, 2012

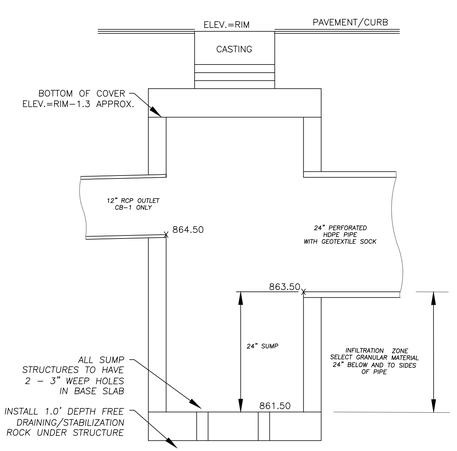
BENCHMARKS:

1) Top nut of hydrant located at NE corner of Sunwood Drive and Peridot Street NW.

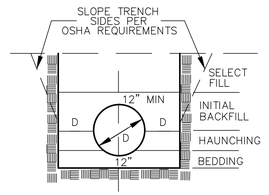
Elev. = 872.96

0 20 40 60

GRAPHIC SCALE IN FEET



STRUCTURE AND INFILTRATION ZONE
SECTION VIEW
TYPICAL



1. BEDDING SHALL BE SELECT GRANULAR BORROW MNDOT SPEC. 3149.2B.
2. COMPACT TO 95% STANDARD PROCTOR.
3. SELECT FILL PLACEMENT SHALL BE FREE OF LARGE ROCKS (3"+) AND SHALL BE PLACED IN 8" MAX. LOOSE LIFTS AND COMPACTED TO 95% STANDARD PROCTOR.

BEDDING DETAIL

GENERAL UTILITY NOTES:

1. Specifications applicable for this project: Current standard specifications for the City of Ramsey, MN and all Minnesota Department of Health and MPCA requirements except where modified by these contract documents.
2. OSHA requirements shall be followed for all work on this project.
3. The Contractor shall notify "Gopher State One Call" 48 hours prior to any excavation (651-454-0002 or 1-800-252-1166 out state.)
4. The Contractor shall verify all locations and elevations of underground utilities with utility companies prior to any construction (storm sewer, sanitary sewer, water, natural gas, telephone, electric, etc.), and immediately notify the Engineer of any conflicts.
5. The Contractor shall protect all existing utilities and facilities to allow proper functioning during and after construction. Any required supporting structures shall be supplied by the Contractor as work incidental to the contract.
6. The contractor shall immediately notify the Engineer of any conflicts between existing utilities, and the proposed construction. The Engineer will coordinate with the Utility Company in question to determine the need for relocation of the existing utility.
7. Existing conditions such as sand in manholes or valve boxes shall be identified by the Contractor and these shall be reported to the Engineer prior to excavation by the Contractor. Once construction has begun, all damage to underground utilities will be assumed to have been caused by the Contractor, any repairs necessary shall be performed by the Contractor at the Contractor's expense.
8. Final Plat shall govern for easements.
9. The Contractor shall coordinate with the local jurisdiction to obtain permits and meter for water source. All associated costs shall be incidental to the Contract, including disposal of test water into City's sanitary sewer system. The Contractor shall not operate gate valves or hydrants on the City's water supply system.
10. The Contractor shall notify the City Engineer and the Project Engineer 48 hours prior to starting work or as required by the local jurisdiction or be subject to being shut down.
11. The Contractor shall keep access roads clear of soil or other debris, and perform daily street cleaning as required by the NPDES permit. Positive drainage, controlled with erosion control and erosion prevention measures as required by the NPDES permit shall be performed. Inlet protection shall be installed within 48 hours after inlet construction. Unless specified on the plans or as a bid item on the Bid Form, any temporary culverts, ditches, filter fabric, etc. necessary to accomplish this shall be performed as incidental to the Contract.
12. The Contractor shall preserve and protect the markers and monuments set for the subdivision of the land.
13. The Contractor shall schedule the soils engineer to facilitate certification of all controlled fills in a timely fashion. Density tests shall meet the following:
    A. Density tests shall be taken on all trenches at locations as determined by the Engineer or his representative.
    B. Within the upper 3' of streets, private drives and parking lots, Contractor shall utilize approved soils that are within 1% optimum moisture content as defined by the Standard Proctor Test-ASTM: D-698 with 100% Standard Proctor Density and not exceeding compaction by more than 1%. Below the upper 3', compaction shall meet 95%. Grading tolerances shall be 0.1'.
14. The Owner shall pay for all testing of soils compaction. Any areas which fail to meet the above standards shall be corrected and re-tested by the Owner's testing agent at the Contractor's expense.
15. All water main shall be installed with a minimum of 7.5 feet of cover.
16. Contractor shall provide temporary traffic control in compliance with MN/DOT "Temporary Traffic Control Zone Layouts Field Manual" dated 2011 for construction adjacent to travel ways.
17. Contractor shall be responsible for verification of the depth of existing stubs listed on this plan prior to the ordering of any fittings, structures, castings, etc. Engineer and the Owner shall not be responsible for any discrepancies found as depths are estimated.
18. Contractor shall confirm that water service must have 18" of clearance between pipes when it crosses the sanitary sewer service. Install vertical bends in water service line as necessary.
19. City inspection is required for the sanitary sewer and water service connections.
20. Contractor to comply with all regulatory agency permit conditions for permits obtained by owner and for permits obtained by general contractor.
21. All work performed and materials used for construction of utilities must conform to the City of Brooklyn Center Standard Specifications and Details.

INDEX OF CIVIL SITE DRAWINGS:

C0	COVER
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C3	STORM WATER POLLUTION PREVENTION PLAN
C4	UTILITIES PLAN
C5	LANDSCAPE PLAN
C6	LIGHTING PLAN
C7	DETAILS

CONTRACTOR:

Kinghorn COMPANY
GENERAL CONTRACTORS

14198 Northdale Blvd
Rogers, MN 55374

Grady Kinghorn
(763) 428-8088
glkinghorn@kinghornco.com

NORTHGATE PERFORMING ARTS CENTER

NE Quad. Sunwood Drive and Peridot Street
Ramsey, MN

UTILITY PLAN

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

Signature: Scott D. Sundberg
Date: 09/04/12 Reg. No. 24348

PREPARED BY: CIVIL ENGINEERING SITE DESIGN
118 East Broadway St.
P.O. Box 164
Monticello, MN 55362
Phone: 763-314-0929
www.civilesd.com

REVISIONS

VERTICAL SCALE 1 inch = ____ feet

HORIZONTAL SCALE 1 inch = 20 feet (TOTAL SIZE SHEET 24 x 36)

DATE	DRAWN BY	DESIGNED BY	CHECKED BY
09/04/12	SD	SD	SD

FILE NO. 00419

C4

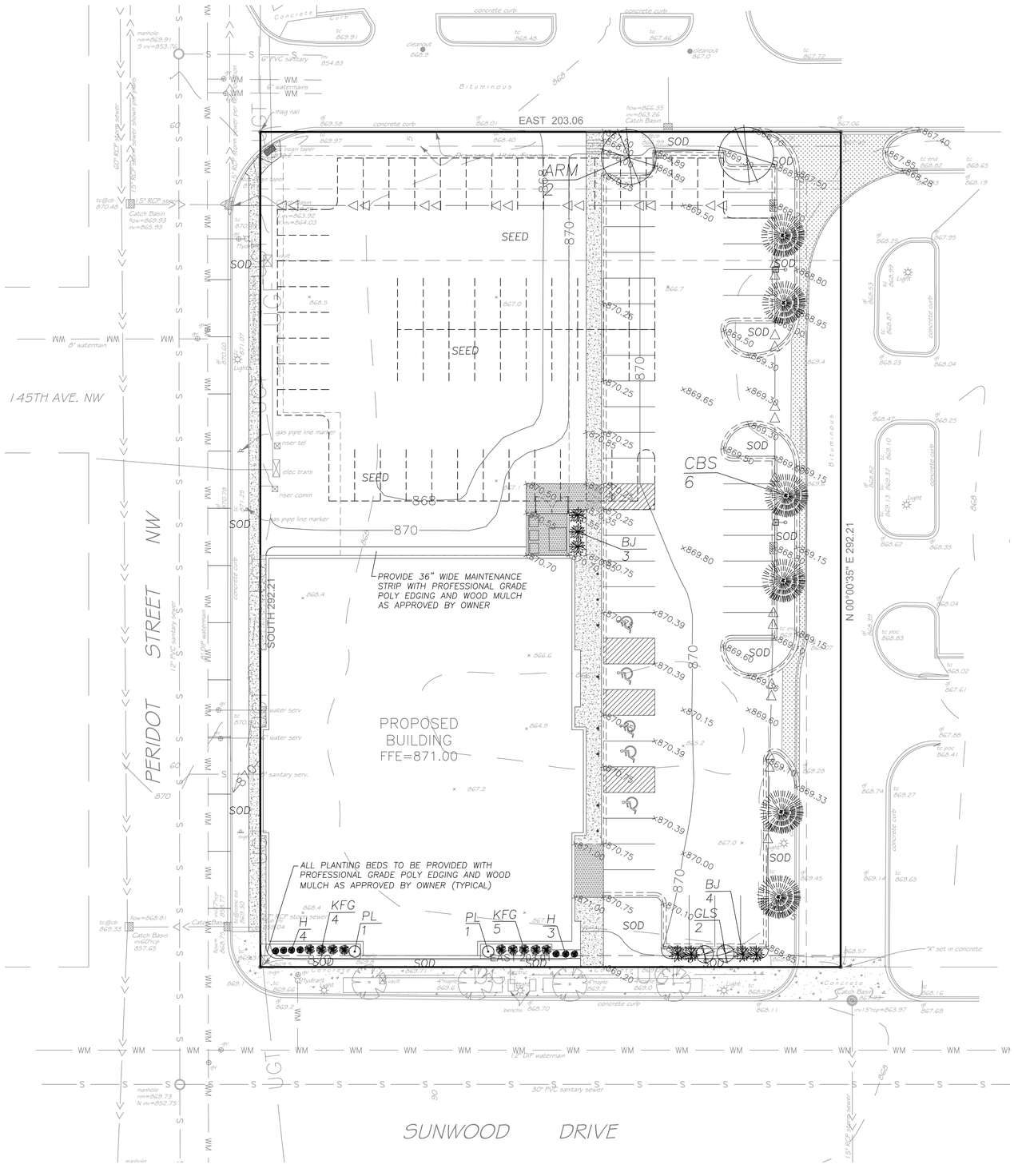
Utility Plan

LEGAL DESCRIPTION

OUTLOT A, RAMSEY TOWN CENTER 14TH ADDITION, ANOKA COUNTY, MINNESOTA.

PROJECT LOCATION

PART OF SECTION 28, TOWNSHIP 32, RANGE 25, ANOKA COUNTY, MINNESOTA.



LEGEND:

- EXISTING CURB AND GUTTER
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- EXISTING WATER MAIN SERVICE
- PROPOSED CURB AND GUTTER
- PROPOSED STORM SEWER
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SURVEY DATA

SURVEY INFORMATION PROVIDED BY:
LOT SURVEYS COMPANY, INC
7601 73rd AVENUE NORTH
BROOKLYN PARK, MN 55428

DATED: AUGUST 14, 2012

BENCHMARKS:

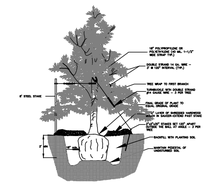
1) Top nut of hydrant located at NE corner of Sunwood Drive and Peridot Street NW.

Elev. = 872.96

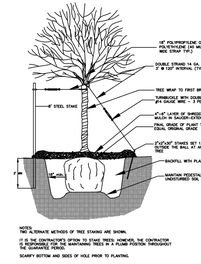
0 20 40 60
GRAPHIC SCALE IN FEET

PLANT LIST: Site Plantings

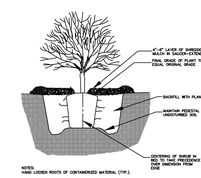
QTY.	KEY	BOTANICAL NAME	COMMON NAME	SIZE/ROOT
TREES				
2	ARM	Acer rubrum 'Autumn Radiance'	Autumn Radiance Red Maple	2.5" B&B
6	CBS	Picea pungens glauca	Colorado Blue Spruce	6'-0" B&B
SHRUBS				
7	BJ	Juniperus sabina 'Buffalo'	Buffalo Juniper	5 Gal. Pot
2	GLS	Rhus aromatica 'Gro-low'	Grow-Low Fragrant Sumac	5 Gal. Pot
2	PL	Syringa vulgaris 'Prairie Petite'	Prairie Petite Lilac	5 Gal. Pot
GRASSES & PERENNIALS				
9	KFG	Calamagrostis acutiflora 'Karl Forester'	Karl Forester Feather Reed Grass	1 Gal. Pot
7	H	Hosta, var.	Mixed species, for sun & shade	1 Gal. Pot



CONIFEROUS TREE PLANTING DETAIL



DECIDUOUS TREE PLANTING DETAIL



SHRUB PLANTING DETAIL

GENERAL NOTES:

1. Contractor shall provide one year guarantee of all plant materials. The guarantee begins on the date of the General Contractor written acceptance of the date determined as substantially complete. Replacement materials shall also have a one year guarantee upon planting.
2. Landscape contractor shall inspect the site and become familiar with existing conditions relating to the nature and scope of work. If any discrepancies are found, the General Contractor shall be notified prior to construction. The base information including contours, trails, utilities, curbs, and building locations were provided by others. All discrepancies must be resolved prior to construction.
3. Landscape contractor shall verify plan layout and bring to the attention of the General Contractor discrepancies which may compromise the design or intent of the layout.
4. Landscape contractor shall assure compliance with codes and regulations governing the work and materials supplied.
5. Landscape contractor shall protect all existing roads, curbs/gutters, trails, trees, lawns, and site elements during construction. Damage to the same shall be repaired at no cost to the Owner.
6. Landscape contractor shall verify the location of all utilities above and below grade prior to any soil disruption or installation. Provide necessary protection for same before construction begins.
7. Landscape contractor shall coordinate each phase of installation with General Contractor.
8. Landscape contractor shall be responsible for ongoing maintenance of all installed materials until time of substantial completion. Repair and/or replace all damaged materials due to construction or acts of vandalism at no cost to the Owner.
9. Landscape contractor shall verify that all plant placement will not negatively affect the plant's survival or warranty. Undesirable site conditions shall be brought to the attention of the General Contractor prior to construction.
10. Landscape contractor shall submit a written request for the substantial completion of all landscape and site improvements prior to submitting for final payment. The submittal shall include an as-built drawing of all landscape and irrigation installations and improvements.

PLANTING NOTES:

1. All plants to be Minnesota grown and hardy. Plants to be installed as per standard AAN planting practices. Nursery stock shall comply with the current edition of the American Standard for Nursery Stock, ANSI Z60.1.
2. No planting will occur until final grading has been completed.
3. All tree and shrub beds shall be staked and approved prior to installation.
4. No substitutions will be accepted unless approval is granted by the General Contractor prior to submission of the bid.
5. Location adjustments may be needed in the field. Landscape Architect must be notified.
6. Plants to be installed as per planting details.
7. Plants shall be fertilized upon installation with dried bone meal. Other approved fertilizers mixed in with the planting soil as per the manufacturer's instructions may be applied. Summer and fall installations shall have an application of granular 10-0-5, 12oz. per 2.5"cal. tree and 6oz. per shrub. An additional application of 10-10-10 the following spring in the tree saucer.
8. Areas receiving ground covers, perennials, or garden space shall receive a minimum of 18 inches of planting soil consisting of 4 parts topsoil, 4 parts screened compost, and 1 part sand.
9. All deciduous trees shall be wrapped in the fall prior to Dec.1 and removed after April 15. Tree wrap shall be asphalt impregnated crepe, wrapped from base of trunk flare to first branches.
10. Edging shall be professional grade poly material. Edging horizontal layout to be uniform with smooth transitions. Edging vertical placement to be below typical mower deck cutting height.
11. A 36" wide wood mulch maintenance strip shall be installed along the north wall of the building. Maintenance strip shall have weed barrier fabric under wood mulch and edged with ploly edging.
12. Weed barrier shall be 4oz. woven needle punch, black. Overlapping seams.
13. Wood mulch shall be double shredded dark brown hardwood mulch and placed a minimum of 4 inches deep around all installed trees (tree rings) and 3 inches deep in all garden areas.
14. Tree rings shall be 6 feet in diameter and be a minimum of 4 inch deep double shredded hardwood. Mulch shall not come in contact with tree trunks.
15. All deciduous plantings shall occur between spring thaw and June 15, or between fall's first frost and the first snow or Nov. 15, which every comes first. Coniferous plantings must be prior to Oct. 1.
16. Landscape contractor shall be responsible for determining appropriate planting conditions. Warranties shall be enforced regardless of weather and planting conditioned.
17. No excess materials or debris will be on site. All hard surfaces will be swept and washed clean.

IRRIGATION NOTES:

1. Landscape contractor shall be responsible for providing an irrigation plan and specification as part of the scope of work. Submit a layout plan and specifications for approval by the General Contractor prior to construction. It is the Landscape contractors responsibility to ensure proper irrigation coverage and in the appropriate amounts.
2. Landscape contractor shall provide the Owner with an as-built plan showing all heads, zones, lines, and valve box.
3. Landscape contractor shall provide the Owner with an irrigation system schedule appropriate to the project conditions and to assure proper plant growth. A seasonal maintenance schedule will also be provided.
4. Landscape contractor shall insure that the irrigation is set appropriately to provide proper plant growth without damaging surrounding conditions. It is the Landscape contractors responsibility to insure proper surface and subsurface drainage in planted areas.

TURF NOTES:

1. Sod all areas disturbed unless noted as seed. Landscape contractor to obtain approval of seed mix.
2. Seed shall be installed as per the distributor's requirements for proper coverage and germination.
3. Sod shall be TPI certified turf grass sod, highland sod only. Sod shall be free from weeds, stones, and have a strong fiberous root structure and be free from burned or bare spots.
4. Sod shall be uniform in depth and cut into even rolls. All sod delivered to the site shall be installed that day. All seams shall be laid tight in staggered rows not less than 18 inches apart. Sod that abuts curbs or concrete areas shall have a finish grade 1 inch below the hard surface elevation. Once sod is installed the elevations shall be level. Sod areas shall be fertilized with a 9-14-7 new lawn starter and applied as per distributor's requirements.

INDEX OF CIVIL SITE DRAWINGS:

C0	COVER
C1	SITE PLAN
C2	GRADING AND DRAINAGE PLAN
C3	STORM WATER POLLUTION PREVENTION PLAN
C4	UTILITIES PLAN
C5	LANDSCAPE PLAN
C6	LIGHTING PLAN
C7	DETAILS

CONTRACTOR:
Kinghorn COMPANY
GENERAL CONTRACTORS
14198 Northdale Blvd
Rogers, MN 55374
Grady Kinghorn
(763) 428-8088
glkinghorn@kinghornco.com

NORTHGATE PERFORMING ARTS CENTER
NE Quad. Sunwood Drive and Peridot Street
Ramsey, MN

LANDSCAPE PLAN

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Signature: Sam Dukkon
Date: 09/04/12 Reg. No. 24348

PREPARED BY: CIVIL ENGINEERING SITE DESIGN
118 East Broadway St.
PO Box 251
Monticello, MN 55362
Phone: 763-314-0929
www.civilesd.com

REVISIONS:

VERTICAL SCALE 1 inch = ____ feet

HORIZONTAL SCALE 1 inch = 20 feet (FULL SIZE SHEET 24 x 36)

DATE	DRAWN BY	DESIGNED BY	CHECKED BY
09/04/12	SD	SD	SD

FILE NO. 00419

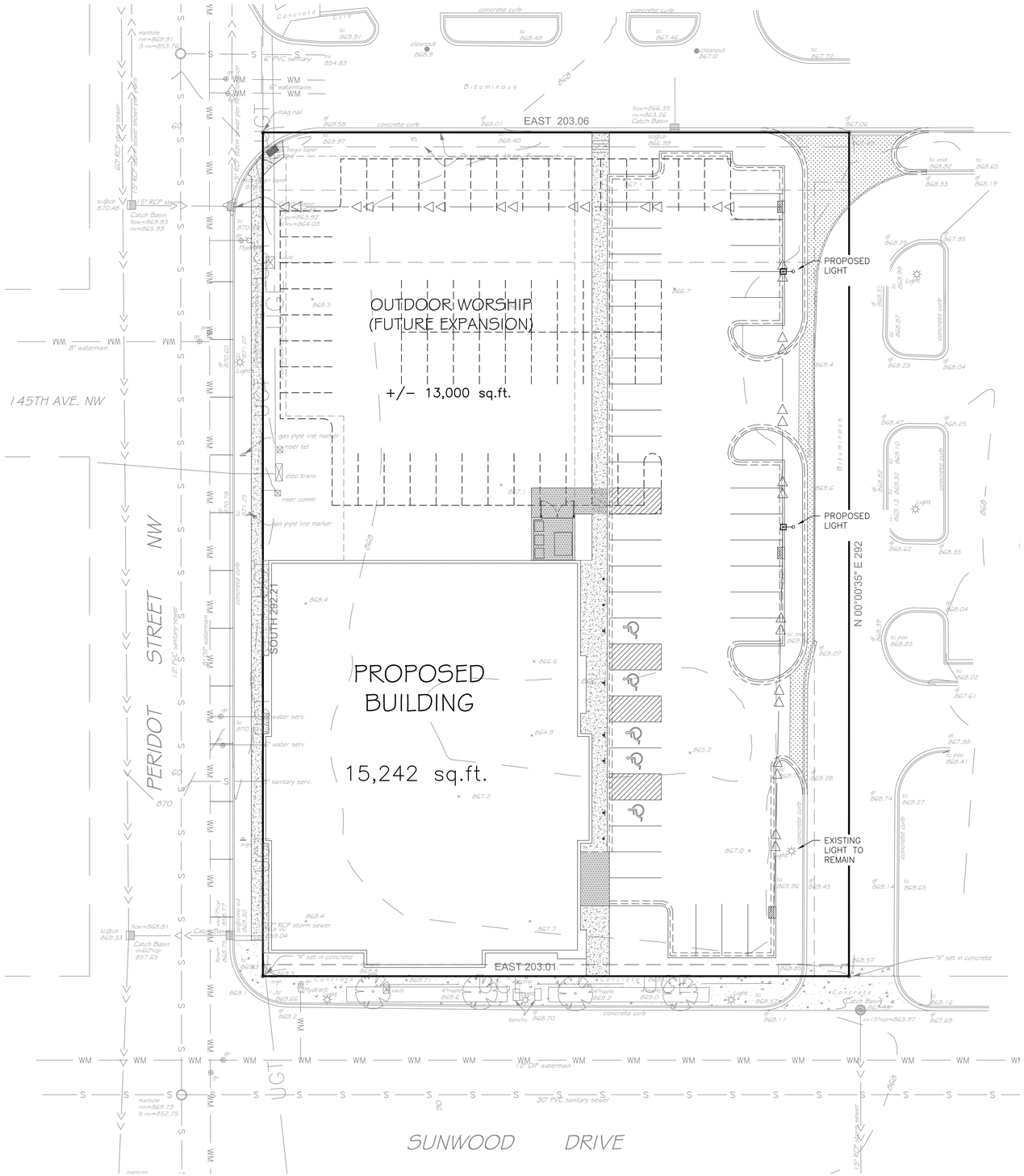
C5
Landscape Plan

LEGAL DESCRIPTION

OUTLOT A, RAMSEY TOWN CENTER 14TH ADDITION, ANOKA COUNTY, MINNESOTA.

PROJECT LOCATION

PART OF SECTION 28, TOWNSHIP 32, RANGE 25, ANOKA COUNTY, MINNESOTA.



LEGEND:

- EXISTING CURB AND GUTTER
- EXISTING STORM SEWER
- EXISTING SANITARY SEWER SERVICE
- EXISTING WATER MAIN SERVICE
- PROPOSED CURB AND GUTTER
- PROPOSED STORM SEWER
- PROPOSED SILT FENCE
- PROPOSED INLET PROTECTION

SURVEY DATA

SURVEY INFORMATION PROVIDED BY:
LOT SURVEYS COMPANY, INC
7601 73rd AVENUE NORTH
BROOKLYN PARK, MN 55428

DATED: AUGUST 14, 2012

BENCHMARKS:

1) Top nut of hydrant located at NE corner of Sunwood Drive and Peridot Street NW.

Elev. = 872.96

0 20 40 60

GRAPHIC SCALE IN FEET

LIGHTING PHOTOMETRIC ANALYSIS TO BE ADDED WHEN AVAILABLE

INDEX OF CIVIL SITE DRAWINGS:

C0	COVER
C1	SITE PLAN
C2	GRADING AND DRAINAGE PLAN
C3	STORM WATER POLLUTION PREVENTION PLAN
C4	UTILITIES PLAN
C5	LANDSCAPE PLAN
C6	LIGHTING PLAN
C7	DETAILS

CONTRACTOR:

Kinghorn COMPANY
GENERAL CONTRACTORS

14198 Northdale Blvd
Rogers, MN 55374

Grady Kinghorn
(763) 428-8088
glkinghorn@kinghorncо.com

NORTHGATE PERFORMING ARTS CENTER

NE Quad. Sunwood Drive and Peridot Street Ramsey, MN

LIGHTING PLAN

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

Signature: Scott Dahl
Date: 09/04/12 Reg. No. 24348

PREPARED BY: CIVIL ENGINEERING SITE DESIGN
118 East Broadway St.
PO Box 356
Monticello, MN 55362
Phone: 763-314-0929
www.civilesd.com

REVISIONS

VERTICAL SCALE 1 inch = ____ feet

HORIZONTAL SCALE 1 inch = 20 feet (ORIG. SIZE SHEET 24 x 36)

DATE	DRAWN BY	DESIGNED BY	CHECKED BY
09/04/12	SD	SD	SD

FILE NO. 00419

C6

Lighting Plan

RESERVED
FOR
CITY OF RAMSEY
DETAILS

INDEX OF CIVIL SITE DRAWINGS:

C0	COVER
C1	SITE PLAN
C2	GRADING AND DRAINAGE PLAN
C3	STORM WATER POLLUTION PREVENTION PLAN
C4	UTILITIES PLAN
C5	LANDSCAPE PLAN
C6	LIGHTING PLAN
C7	DETAILS

CONTRACTOR:

Kinghorn COMPANY
GENERAL CONTRACTORS

14198 Northdale Blvd
Rogers, MN 55374

Grady Kinghorn
(763) 428-8088
glkinghorn@kinghornco.com

NORTHGATE PERFORMING ARTS CENTER

NE Quad. Sunwood Drive and Peridot Street
Ramsey, MN

DETAILS

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

Scott D. Lukin

Date: 09/04/12 Reg. No. 24348

PREPARED BY:

CIVIL ENGINEERING
SITE DESIGN
118 East Broadway St.
PO Box 189
Monticello, MN 55362
Phone: 763-314-0929
www.civilesd.com

REVISIONS:

VERTICAL SCALE
1 inch = ____ feet

HORIZONTAL SCALE
1 inch = 20 feet
(FULL SIZE SHEET 24 x 36)

DATE	DRAWN BY	DESIGNED BY	CHECKED BY
09/04/12	SD	SD	SD

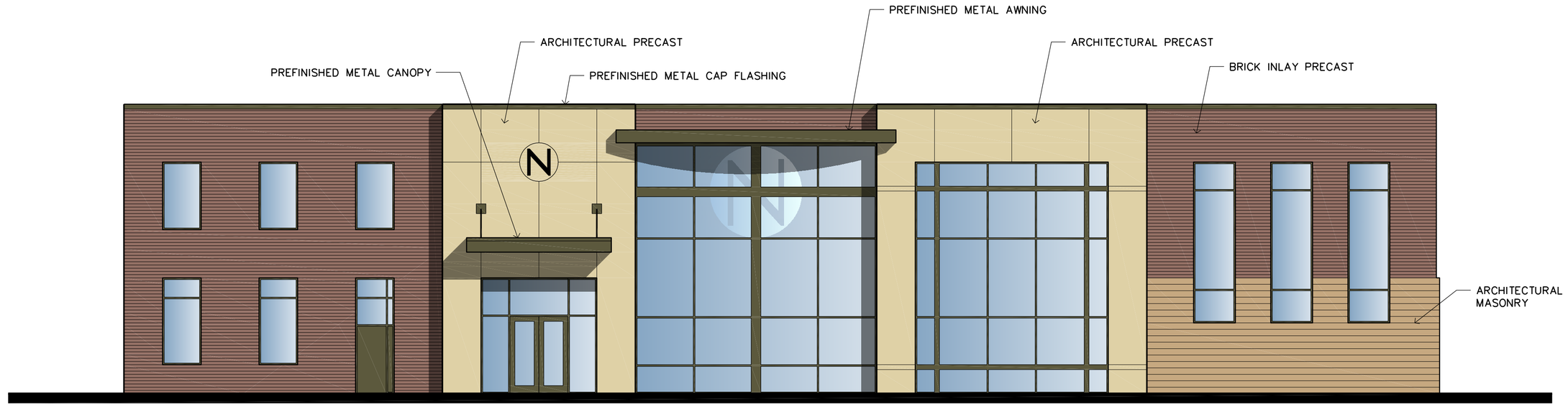
FILE NO. 00419

C7

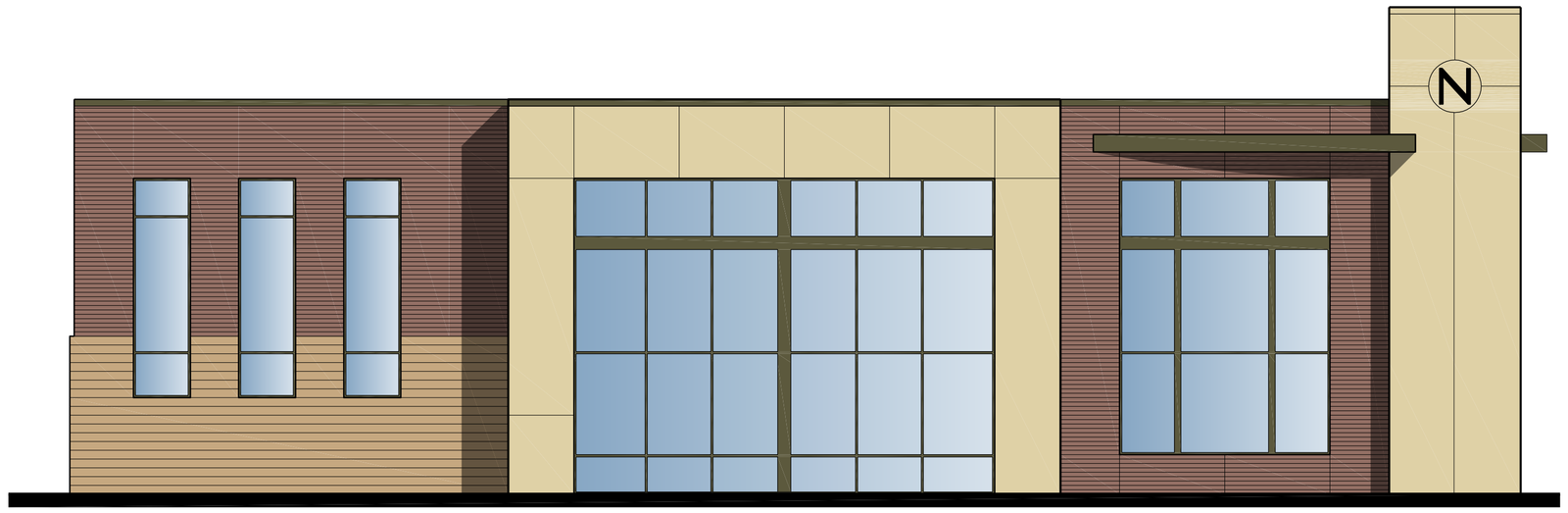
Detials

PERFORMANCE STANDARDS

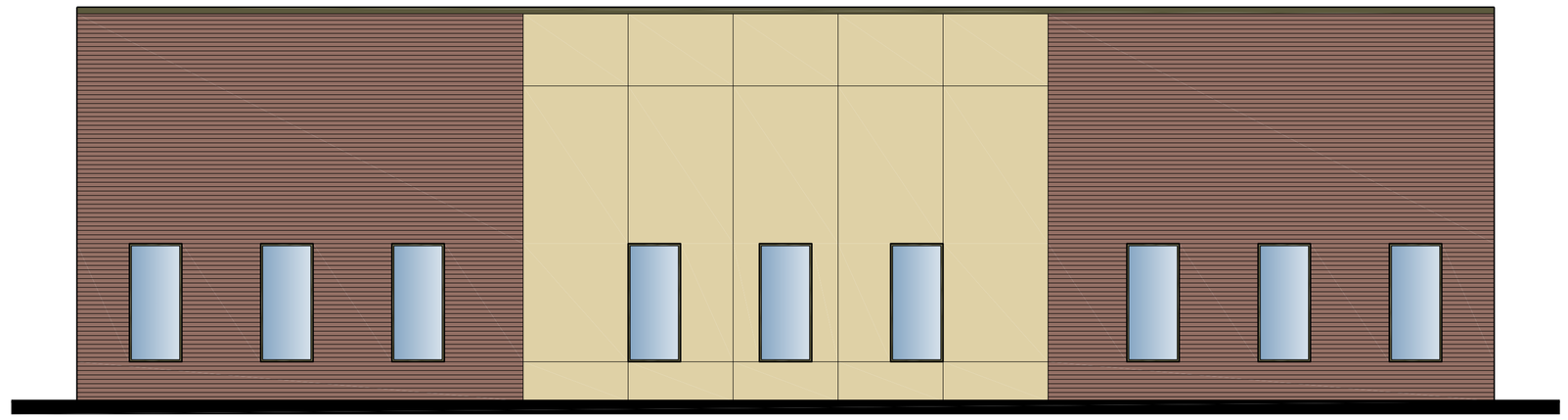
1. MATERIALS SHALL BE HIGH QUALITY DURABLE MATERIALS SUCH AS STONE, BRICK, GLASS, ETC.
   A. BRICK INLAY PRECAST
   B. ARCHITECTURAL PRECAST
   C. ARCHITECTURAL MASONRY
   C. GLASS
2. MINIMUM 40% GLASS REQUIRED AT STREET FACING FACADES
   A. SUNWOOD DRIVE (SOUTH ELEVATION)
      3,300 S.F. x 40% = 1,320 S.F.
      1,320 S.F. PROVIDED ≥ 1,320 S.F.
   A. PERIDOT STREET (WEST ELEVATION)
      4080 S.F. x 40% = 1,632 S.F.
      1,633 S.F. PROVIDED ≥ 1,666 S.F.



WEST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION

EAST ELEVATION

NORTHGATE

Performing Arts Center

NOTE: THIS DRAWING IS FOR ILLUSTRATIVE PURPOSES ONLY. ACTUAL COLORS NEED TO BE FIELD VERIFIED.

ARCHITECTS

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #12-10-___

A RESOLUTION ADOPTING FINDINGS OF FACT #____ RELATING TO A REQUEST FROM NORTHGATE CHURCH FOR A SITE PLAN APPOVAL AND CONDITIONAL USE PERMIT TO CONSTRUCT A PERFORMING ARTS CENTER

Northgate Church, hereinafter referred to as "Applicant", properly applied to the City of Ramsey (the "City") for a Site Plan Approval and Conditional Use Permit for the construction of a performing arts center on the property legally described as follows:

Outlot A, Ramsey Town Center, 14th Addition, Anoka County, Minnesota.

(the "Subject Property")

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1) That the Applicant appeared before the Planning Commission for a public hearing pursuant to Section 117-51 (Conditional Use Permits) of the Ramsey City Code on October 4th, 2012 and that the public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.

2) That the Subject Property is approximately 1.32 acres in size and is zoned Mixed Use and is located within the COR3 subdistrict,

3) That Section 117-118 (Town Center District) of the Ramsey City Code allows institutional uses as a conditional use.

4) That the Applicant submitted an application requesting Site Plan Approval and a Conditional Use Permit to construct a performing arts center that will include 504 auditorium seats, two classrooms, nursery and lobby area. This structure is the first of two phases.

5) That the Applicant intends to utilize the auditorium for worship services on Sunday mornings and for youth classes on Wednesday nights. The facility will be available for use by others including area businesses, schools and community groups.

6) That the proposed structure meets Floor Area Ratio (FAR) requirements of the COR3 subdistirct.

7) That the proposed site plan and structure meets COR3 subdistrict setbacks and will meet the required 60% building coverage requirement through the use of an architectural screen wall along the parking lot area on the Sunwood Drive elevation and through landscape screening along the Peridot Street NW elevation.

8) That the proposed auditorium is required to provide a minimum of 101 stalls on site.

9) That that Applicant proposes to provide 43 on-site parking stalls, 40 proof of parking stalls (on-site) and 25 on street parking stalls (along Peridot Street NW and 145th Avenue NW) to fulfill its required parking.

10) That the COR Design Framework states that the City may approve joint parking for one or more businesses where the total number of parking stalls provided for joint use is less than the sum of the total required for each business should provide them separately. *S*hared parking shall be approved only when it's in close proximity (300 foot radius), no conflict in hours and a legally binding instrument for joint use of off-street parking is approved by the City and recorded at the County.

11) That the Applicant proposes proof of parking as a method to save initial site development and construction costs. Northgate intends to share parking through cross-parking agreements with PACT, Allina and NAU and has an effective history shared parking with these users.

12) That the Applicant has not provided the City a legally binding instrument for joint use of off-street parking with any adjacent property owners.

13) That a condition of approval of the Conditional Use Permit, as pertaining to the proof of parking, requires that at such time that parking demand is beyond what is provided on-site and the 25 accepted on-street parking stalls, and extending into additional on-street parking areas beyond 300' radius of the site, such proof of parking shall be installed at the applicants expense.

14) That the proposed building material and overall building design meet the requirements of the COR Design Framework.

15) That the Applicant will be responsible for installation of a sidewalk and streetscaping along Peridot Street NW in accordance with the COR Design Framework.

16) That the proposed use will/will not impose additional costs on the public if it is necessary for the public to take the property by eminent domain in the foreseeable future.

17) That the proposed conditional use will/will not result in adverse effects on the public health, safety and welfare of the residents of the City.

18) That the proposed use will/will not adversely impact traffic in the area.

19) That the proposed use will/will not be dangerous or detrimental to persons residing or working in the vicinity of the use or to the public welfare.

20) That the proposed use will/will not substantially or adversely impair the use, enjoyment or market value of surrounding properties.

21) That the proposed use will/will not be operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and such use will not change the essential character of the area.

22) That the proposed use will/will not create additional requirements at public cost for public facilities and services.

23) That the proposed use will/will not be detrimental to the economic welfare of the community.

24) That the proposed use will/will not be disturbing or hazardous to existing or future neighboring uses.

25) That the proposed use will/will not involve uses, activities, processes, materials and equipment and conditions of operation that may be detrimental to any persons, property or the general welfare, by reason of excessive production of traffic, noise, smoke or glare.

26) That the proposed use will/will not be in accordance with the objectives of the Comprehensive Plan and the intent of Section 117-51 (Conditional Use Permits) of the City Code.

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

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the 23rd day of October, 2012.

Mayor

ATTEST:

_____

City Clerk

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #12-10-___

RESOLUTION APPROVING THE ISSUANCE OF AN CONDITIONAL USE PERMIT FOR CONSTRUCTION OF A PERFORMING ARTS CENTER BASED ON FINDINGS OF FACT #____ AND DECLARING TERMS OF SAME.

WHEREAS, the Ramsey City Council adopted Resolution No. 11-10-____ adopting Findings of Fact #____ for this use and herein approves the Conditional Use Permit subject to the following conditions.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

On October 4, 2012 a Conditional Use Permit ("Permit") was issued by the City of Ramsey ("City") to Northgate Church. ("Permittee") for construction of a performing arts center to be located on property legally described as follows:

Outlot A, Ramsey Town Center, 14th Addition, Anoka County, Minnesota.

(the "Subject Property")

This Permit is issued pursuant to Section 117-51 (Conditional Use Permits). The conditions of this Permit are as follows:

1. This Permit shall allow the construction of a 15,242 square foot performing arts center.

2. This Permit shall commence on the date of City Council approval.

3. An architectural wall not less than three (3) feet nor greater than four and one-half (4 ½) feet in height shall be installed along the Sunwood Drive elevation to screen the parking and meet the 60% building frontage requirement. Revised site plan and details for this architectural wall shall be submitted and approved prior to the issuance of a development permit.

4. Landscape screening not less than three (3) feet in height shall be installed along the entire west property line extending from the northerly building edge to the northerly property line to provide parking lot screening and a consistent “street presence” of the site along this western edge. Revised site and landscaping plans for this additional landscape screening shall be submitted and approved prior to the issuance of a development permit.

5. Additional two (2) to four (4) foot section of sidewalk must be added (at the Applicant's cost) along Peridot Street NW, in accordance with the COR Design Framework streetscape plans.

6. Colored elevation plans of the proposed trash enclosure shall be submitted and approved prior to the issuance of a development permit.

7. A photometric lighting plan shall be submitted prior to execution of the Development Permit.

8. At such time that parking demand is beyond what is provided on-site and the 25 accepted on-street parking stalls, and extending into additional on-street parking areas beyond 300' radius of the site, designated proof of parking shall be installed at the PERMITTEE'S expense.

9. Future requests for Site Plan approval and/or an amendment to the Conditional Use Permit as related to any proposed site or building expansion shall not be accepted by the City without recordable cross-parking agreements to fulfill required off-street parking requirements.

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

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this the ---.

Northgate Church hereby acknowledges receipt of this Permit and that they have reviewed the conditions of this Permit and have agreed that they will comply with the terms of this permit.

By: _____ Its: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

On this _____ day of _____, ____, before me, a Notary Public, personally appeared _____, the _____ of Northgate Church,

to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

_____
Notary Public

CITY OF RAMSEY:

By:_____ By:_____
Mayor City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, ____, before me a Notary Public personally appeared Bob Ramsey and Jo Ann M. Thieling, to me personally known, who, being each by me duly sworn, did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said Municipal corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council, and said Bob Ramsey and Jo Ann M. Thieling acknowledge said instrument to be the free act and deed of said Municipal Corporation.

_____
Notary Public

This document drafted by:
The City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

This document reviewed by:
Randall & Goodrich
2140 Fourth Avenue
Anoka, MN 55303

February 24, 2010

PSD, LLC
Attn: Matt Kuker
7533 Sunwood Dr NW
Ramsey, MN 55303

Re: Sketch Plan—NORTHGATE ADDITION

Matt:

We are in receipt of your sketch plan for a subdivision in The COR to convert Outlot A, RAMSEY TOWN CENTER 14TH ADDITION to a buildable lot, located on the north east corner of Sunwood Drive NW and Peridot Street NW. The sketch plan includes one sheet prepared by Bolton and Menk dated September 13, 2012. In addition, the City is reviewing a site plan for Northgate Performing Arts Center. Comments from that review letter are hereby incorporated by reference and available upon request. We offer the following comments regarding your application:

General: The proposed plat would subdivide existing Outlot A, RAMSEY TOWN CENTER 14TH ADDITION, into Lot 1, Block 1, NORTHGATE ADDITION. The Subject Property appears to be approximately 1.36 acres.

Zoning: The property is located in the COR-3 (The COR) zoning district.

Lot Size and Width Requirements: The COR-3 District does not require a minimum lot size. The district does require a minimum lot width of 40 feet and a minimum lot depth of 80 feet. Lot 1 appears to be approximately 203 feet wide and 275 feet deep.

Easements: Drainage and Utility Easements are indicated on the Plat. In addition, a Sidewalk Easement shall be required along Peridot Street for any portion of the required public sidewalk on private property. This will need to be a separate, recordable document executed at the time of recording of the Plat.

Right-of-Way Dedication: Sufficient right of way was dedicated as part of the plat for the Ramsey Town Center Addition. No additional right of way is proposed to be dedicated as part of the plat.

Utilities: The Utility Plan is being reviewed as part of the Site Plan Review for Northgate Performing Arts Center.

Development Fees. Development Fees shall be required to be paid at time of recording of the Plat. A list of applicable fees is attached as Exhibit A, hereto.

The Planning Commission will be meeting at 7:00 p.m. on Thursday, October 4, 2012 to review your sketch plan. You, or your representative, are strongly encouraged to attend the meeting in order to answer

any questions that may arise. If you have any questions or need additional information, please don't hesitate to call us.

Respectfully,

CITY OF RAMSEY

Tim Gladhill
Development Services Manager

CC: Bolton and Menk, Inc.
Attn: Craig Johnson
7533 Sunwood Dr NW
Ramsey, MN 55303

Northgate Church
Attn: Wayne Skaff, Executive Pastor
15407 Krypton St NW
Ramsey, MN 55303

September 28, 2012

Northgate Church
Attn: Wayne Skaff, Executive Pastor
15407 Krypton St NW
Ramsey, MN 55303

Re: Site Plan and Conditional Use Permit Review

Dear Mr. Skaff:

We are in receipt of a Site Plan, Conditional Use Permit and Minor Plat dated September 4, 2012. The submittal consists of Sheets C0, C1, C2, C3, C4, C5, C6 and C7 dated September 4, 2012, prepared by Civil Engineering and Design and Sheets A1, A2 and A3 dated September 4, 2012 prepared by Lampert Architects. In addition, the City is reviewing a request for a Minor Plat related to the project submitted by PSD, LLC. The Review Letter for that request is hereby incorporated as reference, and available upon request. We offer the following comments as it relates to the Site Plan and Conditional Use Permit Review:

General: The Applicant, Northgate Church, is proposing construction of a performing arts center that will include 504 auditorium seats, two classrooms, nursery and lobby area on the property legally described as Outlot A, Ramsey Town Center 14th addition located at the northeast corner of Sunwood Drive and Peridot Street NW. The City has also received an application for a Subdivision of Ramsey Town Center 14th Addition, to create the lot on which the building will be located.

Zoning: The Subject Property is zoned Mixed Use and is located within the COR3 Subdistrict. Institutional uses are a Conditional Use in this subdistrict.

Lot Coverage/Floor Area Ratio (FAR): The proposed structure is 15,242 square feet in size with a future expansion area identified on the site plan immediately north of the proposed structure of approximately 13,000 sq. ft. The minimum F.A.R in this subdistrict is 0.25; the proposed F.A.R. is 0.257 with this initial construction.

Setbacks: The COR3 setback from the street is 0-15 feet with at least 60% of any street frontage meeting this build to line. The proposed structure is located along this build to line on both the Sunwood Drive and Peridot Street NW elevations. The proposed building frontage on Sunwood Drive is 54% where 60% is required.

The COR Design Framework allows for flexibility in meeting this frontage by allowing an architectural wall with a minimum height of 3 feet and a maximum of 4 ½ feet to be used to meet

this 60% building frontage requirement. This method has been successfully used to frame the Allina Medical Clinic site. The proposed site and building plans do not include plans for a decorative wall to meet this frontage requirement along Sunwood Drive. Staff recommends an extension of a similar wall, as along the Allina Medical Clinic site, to fulfill the building frontage requirement and satisfy required parking lot screening for the proposed spaces facing Sunwood Drive. This addition will provide necessary consistency to the frontage of Sunwood Drive.

The proposed building frontage along Peridot Street is 46%. When combined with the percentage along Sunwood Drive the total building to street frontage is 49%. Plans submitted indicate a building addition in the northern portion of the site. Once this addition is complete the site will meet the required 60% frontage requirement along the Peridot Street. In the interim, proof of parking is planned where the addition will be situated which may result in parking facing Peridot Street NW. Since a building addition is planned it seems onerous to require an architectural wall if it will eventually be removed for the building addition. Staff recommends installation of landscape screening that meets the 3 feet height minimum along the entire west property line extending north of the building edge to the northerly property line to provide parking lot screening and consistent "street presence" of the site along this western edge. As a matter of past policy, a similar provision was allowed as part of site plan approval for the Midwest Medical Examiner's Office.

Architectural Standards: The design standards for this site are subject to the provisions laid out in the COR Design Framework referenced in City Code for The COR. The Design Framework places a high emphasis on high-quality architecture, materials, and site design, particularly with regard to building placement, parking areas, and the pedestrian environment.

Overall, the submittal meets or exceeds these requirements except as related to off-street parking. Staff would like to call out the following specific items from the Guidelines:

Provide parking spaces to support the use through a mix of on-street and surface lots internal to the block. Encourage shared parking solutions. The proposed parking plan utilizes on-street parking, surface lot parking, proof of parking and shared parking with adjacent users including Allina, NAU and PACT Charter school. Parking issues will be further address under the Off-Street Parking discussion.

Generally, buildings should be located at the street right-of-way; with no more than 60% of the building beyond the maximum setback. Encourage recessed entries and windows to create street level interest. The proposed building appears to conform to setbacks along Sunwood Drive and Peirdot Street NW. In addition, a condition will be made that will require an architectural wall to be extended along Sunwood Drive and landscaping along Peridot Street NW to meet the 60% building frontage.

A diverse mix of materials is encouraged, applied in a variety of proportions, exposures, and detailing, especially along all street frontages. The proposed building proposes a variety of materials and design elements on each elevation acceptable to the COR Design Framework. Proposed materials include brick inlay precast, architectural precast, and architectural masonry,

glass and accent metal. The minimum amount of windows on a street facing elevation is provided along with the required entryways. Staff is supportive of the proposed elevation plans.

Building Height: The COR3 subdistrict requires a minimum of 2 stories and a maximum of 4 stories for all buildings within this district. The proposed performing arts facility meets this requirement.

Waste Storage: A trash enclosure is proposed at the northeast corner of the building with a north facing access. This enclosure shall be constructed of the same building materials and design as the principle structure, shall include a roof and shall be connected to the building. Colored elevation plans of the proposed trash enclosure shall be submitted and approved prior to the issuance of a development permit.

Loading Docks: There are no loading docks required for the facility. There is, however, loading access provided for internal to the site and along Peridot St NW.

Off-Street Parking - Spaces Required: The COR Design Framework establishes perimeters for parking in all subdistricts and sets a minimum parking space standard of one space per five seats for places of assembly. Based on the total of 504 seats at 1 space per 5 seats, a minimum of 101 parking stalls are required with a maximum of 1 space per three seats or 168 stalls. The guidelines also support the use a wide range of parking options to fulfill required parking including use of on-street parking and encouraging shared parking solutions. The site plan proposes 43 on-site parking stalls, 40 proof of parking stalls (on-site) and 25 on street parking stalls (along Peridot Street NW and 145th Avenue NW) to fulfill its required parking.

The Design Framework states that the City may approve joint parking for one or more businesses where the total number of parking stalls provided for joint use is less than the sum of the total required for each business should they be provide them separately. A written report, as detailed on Page 21 of the Design Framework, is required. Staff is generally supportive of the use of on-street parking for the proposed use, as no parking structures (vertical) are planned in this area. Staff is supportive of the use of on-street parking for the proposed use, as no parking structures (vertical) are planned in this area.

For Phase 1 construction the site meets required parking provided the City supports the proposed proof of parking. It is understood that proof of parking is proposed as a method to save initial site development and construction costs. Northgate intends to share parking through cross-parking agreements with PACT, Allina and NAU. Again, the COR Design Framework encourages shared parking as a method to provide required off-street parking. However, any shared parking shall be approved only when it's in close proximity (300 foot radius), no conflict in hours and a legally binding instrument for joint use of off-street parking is approved by the City and recorded at the County. While the Northgate intends to share parking through "cross-parking agreements", and has an effective history of doing so, no recordable document has been provided to the City therefore the site is not meeting minimum requirements for off-street parking. This leaves the City in the position of needing to make a decision on whether to support the proposed proof of parking or require installation of the 40 stalls during Phase 1. Options to consider include:

- Require proof of parking to be installed with Phase 1 due to lack of legally recordable shared parking agreements to meet requirements of the COR Design Framework.
- Provide City with legally recordable shared cross-parking agreement.
- Accept proof of parking plan with a condition that at such time that parking demand is beyond what is provided on-site and the 25 accepted on-street parking stalls, and extending into additional on-street parking areas beyond 300' radius of the site, such proof of parking shall be installed at the applicants expense.

In addition, while this site plan review and Conditional Use Permit request does not include approvals for Phase 2 construction, it is apparent that the site will be under parked as the Phase 2 addition will be located upon the proof of parking area. While this review is based on the merits of the current application Staff will recommend a condition that Phase 2 cannot move forward without recordable cross-parking agreements.

Signs: Please note that all signs for the proposed building must be approved through a separate sign permit process.

Lighting: City standards require that the luminaire (light source) must not be visible from beyond the property line. The submittal includes a lighting plan however, a photometric plan shall be submitted prior to execution of the Development Permit. Any lighting used to illuminate an off-street parking area, sign, or structure shall be arranged to deflect away from Sunwood Drive and Peridot Street NW.

Landscaping Plan: The following comments are offered regarding the September 4, 2012 Landscaping Plan:

Minimum landscaping is provided to meet requirements.

- The Planting Notes should include the following:
  - Planting depth shall be such that the first set of primary roots is at finished grade.
  - Remove twine, wiring, ropes and burlap from top and sides of root ball.
  - At time of planting, only prune out dead or damaged branches. All necessary pruning cuts shall be made just outside of branch collar area.
  - Remove all tags and labels.
  - Wood chip mulch shall not be piled against the trunk of trees.
- A two (2) year maintenance guarantee is required on all landscaping after initial acceptance by the City.
- Topsoil, whether it is trucked in or the existing topsoil is amended, must meet or exceed MN DOT's Premium Topsoil specification.
- At the time of installation, all shrubs must be at least twenty-four (24) inches in size.

Please submit a revised landscaping plan prior to execution of the Development Permit.

Irrigation: All new landscaping shall be irrigated by an in-ground system. Irrigation metering and backflow devices shall be approved as part of the Utility Plan, and installed accordingly. Irrigation rain sensors shall be installed and appropriately placed throughout the site.

Tree Preservation: This site is devoid of any significant tree cover and therefore, no tree preservation plan is necessary.

Grading and Drainage: The following comments are offered regarding the September 4, 2012 Grading and Utility Plans prepared by Civil Engineering Site Design:

- The B612 concrete curb detail should be amended to include base material extending to 1' beyond the back of curb. The pedestrian ramp details have recently been modified at the state level. The plans must be revised to include the most recent MN/DOT approved details and design.
- Spot elevations must be called out as gutter or top of curb.
- The developer will be responsible for replacing any sidewalk or streetscape along Sunwood Drive that is damaged by construction of the building.
- A pedestrian detour plan must be submitted showing the pedestrian route along Sunwood Drive during construction of the building.

The project will require a permit from the Lower Rum River Water Management Organization (LRRWMO). Please copy the City on the submittal. The application deadline is the first Thursday of the month for the meeting on the third Thursday of the month. The LRRWMO requirements include infiltration of 1 inch of runoff from the site. Infiltration practices must be incorporated into the plans to meet this requirement. Please submit calculations routing the site runoff to the infiltration basin for the 1" 10 year and 100 year storms.

The following notes should be added or amended on the plan set:

- The contractor should have a sweeper on site or available within 3 hours. All material tracked onto City streets must be removed immediately upon discovery, or as directed by the City Engineer.
- Installation of silt fence and other down gradient sediment protection measures shall be completed and inspected prior to commencement of any site activities.

Access and Streets: The site will derive public access from a shared driveway with the Allina site to the east from Sunwood Drive. An existing access easement is recorded on the site.

Sidewalks: An additional two (2) to four (4) foot section of sidewalk must be added (at the Applicant's cost) along Peridot Street NW, in accordance with the COR Design Framework streetscape plans. Construction of this sidewalk section may require additional sidewalk easement if constructed on private property.

Traffic Generation: As part of the original Town Center AUAR, a detailed traffic analysis was completed that anticipated the type and size of development shown on the plat. The proposed development is consistent with the traffic modeling system used as part of the AUAR analysis.

Regional road improvements to facilitate the whole COR development have been agreed upon and have already begun construction. This proposed development does not generate more traffic than was anticipated.

REU Number: This property will be subject to a storm water utility charge based upon the amount of impervious surface on the site. The quarterly charge is dependent upon the number of Residential Equivalent Units (REU) calculated for this property. The site is proposed as 65.5% impervious. This leads to an REU of (1.36 x 3.31) 4.508 and a quarterly stormwater fee of $172.21.

Summary of Conditions:

This letter identified several conditions of approval that will be presented to the Planning Commission and City Council including:

1) An architectural wall not less than three (3) feet nor greater than four and one-half (4 ½) feet in height shall be installed along the Sunwood Drive elevation to screen the parking and meet the 60% building frontage requirement. Revised site plan and details for this architectural wall shall be submitted and approved prior to the issuance of a development permit.
2) Landscape screening not less than three (3) feet in height shall be installed along the entire west property line extending from the northerly building edge to the northerly property line to provide parking lot screening and a consistent "street presence" of the site along this western edge. Revised site and landscaping plans for this additional landscape screening shall be submitted and approved prior to the issuance of a development permit.
3) Additional two (2) to four (4) foot section of sidewalk must be added (at the Applicant's cost) along Peridot Street NW, in accordance with the COR Design Framework streetscape plans.
4) Colored elevation plans of the proposed trash enclosure shall be submitted and approved prior to the issuance of a development permit.
5) A photometric lighting plan shall be submitted prior to execution of the Development Permit.
6) Staff will seek direction from the Planning Commission and City Council regarding the request for the proposed proof of parking plan.
7) Future requests for Site Plan approval and/or an amendment to the Conditional Use Permit as related to any proposed site or building expansion shall not be accepted by the City without recordable cross-parking agreements to fulfill required off-street parking requirements.

Continued on next page.

The Planning Commission will be meeting at 7:00 pm on October 4. 2012 at the Ramsey Municipal Center at 7550 Sunwood Drive to review your final site plan and conditional use permit request. You, or your representative, should be present at the meeting to answer any questions that may arise.

If you have any questions, please call our office at (763) 427-1410

Sincerely,

CITY OF RAMSEY

Tina Goodroad, AICP
Planner

CC: Kinghorn Construction
Attn: Grady Kinghorn
14198 Northdale Blvd.
Rogers, MN 55374

PSD, LLC
Attn: Matt Kuker, Assistant Manager
7533 Sunwood Dr. NW
Ramsey, MN 55303

Northgate Performing Arts Center

Commercial/Industrial Fee Calculator

	Acres	Unit Price		Total
Park Dedication (choose one density range)				
Commercial	1.36	$4,738		$6,444
Industrial		$3,966		$0
Trail Development	1.36	$1,090		$1,482
Sanitary Sewer and Water				
Sanitary Trunk	1.36	$3,824		$5,201
Water Trunk	1.36	$8,337		$11,338
Sanitary Lateral*	1	$3,824	per connection	$3,824
Water Lateral*	1	$8,777	per connection	$8,777
Stormwater Management	1.36	$4,465		$6,072
Miscellaneous				
Future Sealcoating		$1.45	per square yard	$0
Street Lights				
Cobra		$1,300	per light	$0
The COR	5	$2,600	per light	$13,000
3 Year O & M	5	$294	per light	$1,470
Development Fees Collected in Building Permit **				
Sewer Availability Charge (SAC)		$2,365		$0
Water Availability Charge (WAC)		$1,640		$0
SAC Handling Fee		$25		$0
Grand Total				$57,608

Regular Planning Commission **6. 4.**

Meeting Date: 10/04/2012

By: Tim Gladhill, Community Development

Information

Title:

PUBLIC HEARING: Consider Ordinance to Amend City Code Section 117-118 (The COR) Approving Amendment to The COR Design Framework Related to Off-Street Parking, Signs, Parks and Trails, and Sub-District Boundaries

Background:

This case relates to requested amendments to The COR Design Framework for the following topics:

- Master Sign Plan and Private Signs
- Parking Standards for Restaurants
- Updated Development Plan and Sub-District Boundaries

Notification:

The Public Hearing was properly published in the Anoka County Union, the City's official newsletter for Public Hearings.

Observations:

Master Sign Plan

The original version of the Design Framework included provisions for a Master Sign Plan. At that time, only locations of these larger community and development signs had been determined. The design and bulk of those signs had not yet been determined. This amendment now creates Appendix B of the Design Framework that includes these design factors. Community Signs are those signs that are generally located along Highway 10 and are intended to capture motorists attention into the development. Community Signs may include tenant panels for users within the development signs. Specific standards are included in Appendix B, attached hereto, and include the following:

Sign Type	Allowable Size	Architecture	Allowable Height
Community Sign	300 Square Feet	Per Appendix B	30 Feet *
Gateway Sign	50 Square Feet	Per Appendix B	10 Feet
Retail Gateway Sign	150 Square Feet	Per Appendix B	12 Feet
Community Kiosk	32 Square Feet	Per Appendix B	10 Feet*
Parking Ramp Signage	100 Square Feet	Per Appendix B	(Wall Signage)

Gateway Signs are generally located at key nodes and intersections of the development at Armstrong Boulevard, Bunker Lake Boulevard, and Ramsey Boulevard. General Gateway Signs may not include tenant panels. Retail Gateway Signs may include tentant panels.

Community Kiosks are generally located in the center of the development with the highest emphasis on the pedestrian. As such, these are intended to be pedestrian scale and provide general information about the development and wayfinding information.

The revised text also allows additional flexibility for Project (private signs) at shared entrances in the retail sub-district. City Staff recommends additional flexibility in size in order to allow users to consolidate signs at shared entrances, thereby potentially reducing the clutter of signs along Sunwood Drive in this retail area.

The Master Sign Plan has the effect of being the Sign Code for The COR. As such amendments must be processed by Ordinance as any other type of Zoning Amendment would.

Parks

The City is actively working towards a future pedestrian overpass over Highway 10 known as Mississippi Skway. A component of that request is to relocate the designation of the Central Anoka County Regional Trail through The COR along Center Street. The preferred alignment is indicated in the revised draft.

Sub-District Boundaries

As the City of Ramsey Housing and Redevelopment Authority has approved a revised Development Plan, the Planning Commission must consider updates to the City's Official Controls (Zoning Ordinance). The Sub-District Map has been revised to reflect the preferred Development Plan (Version 6.1). The only change is to amend the COR TWO Plat from COR-2 Retail Sub-District to COR-2b Sub-District based on preferred land uses and parking needs.

Parking

Based on experience with existing users in the retail area of the development, Staff recommends amending parking regulations for restaurant users in areas without planned parking ramps to allow additional parking spaces beyond the maximum allowed. Rather than basing parking requirements on square footage, the revised draft proposes to base requirements on number of seats.

Funding Source:

Preparation of the amendments are being handled by a combination of regular Staff duties and professional services. The City of Ramsey Housing and Redevelopment Authority (HRA) approved a scope of services to complete the project.

Staff Recommendation:

Staff recommends approval of the proposed ordinance, which includes the revised Design Framework and Master Sign Plan.

Committee Action:

Motion to recommend that the City Council adopt the proposed ordinance, which includes the revised Design Framework and Master Sign Plan.

Attachments

Proposed Amendment to Design Framework
Proposed Development Plan Version 6.1
Proposed Master Sign Plan
Proposed Appendix B to Design Framework
Proposed Ordinance

Form Review

Inbox	Reviewed By	Date
Tim Gladhill (Originator)	Tim Gladhill	09/28/2012 01:26 PM
Form Started By: Tim Gladhill		Started On: 09/19/2012 03:37 PM

Final Approval Date: 09/28/2012

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Appendix A: Specifications and Details

Design Framework – The COR

Purpose

The primary purpose of Design Framework is to set basic parameters, describe preferences and illustrate design intent. These framework standards serve as a framework within which creative design can and should occur – there is no one solution, but many options that meet the basic requirements of this document.

Application

The format and content of this framework are specifically tailored for use as a supplement to the Zoning Ordinance. This document is organized into two sections. The first section outlines issues and recommendations that apply to the entire COR. The second section highlights specific framework that apply to each sub-district within The COR. The City of Ramsey has adopted Development Plan 5.03 as the Master Plan for The COR. This master plan provides illustrative guidance for building locations and orientation. Any changes to this approved master plan must be reviewed and approved by the City Council as part of the development application. This Development Plan will be updated by the City as changes are approved.

Implied Responsibility

All participants in the development of The COR recognize the local and regional impacts of this project and the various systems that play an important role. Each parcel and each building must fit within the context of the entire plan. Individual projects must complement, not compete with, adjacent development in terms of public green space, walk and trail connections, stormwater management solutions, street layout, parking strategies, land use mix and building design.

Part One: Overall Framework

There are a number of framework standards that apply to the entire COR, including recommendations for stormwater management, parks, streets, land use, parking, transit and other development components. Many of these overall COR framework standards overlap, or are integrated with one another. For ease of discussion they are categorized according to the same list of 'layers' that formed the basic structure for the Master Framework:

- Context – local, city, regional
- Street Hierarchy--access, circulation, arrangement
- Streetscape—preferred design, location
- Parking -- quantity, location, type
- Building Design-- preferred uses, horizontal/vertical mixed use, built form, character of development
- Signage—design, location, quantity, type
- Stormwater Management-- surface water features, stormwater management
- Parks/Public Spaces – parks, trails and open space

It is essential that proposed design solutions for development projects and other improvements within The COR demonstrate an understanding of the interplay between these layers.

Overall Framework - Context

Overview

The COR is a unique area within the City; but it is a part of, and connected with, a variety of local, city-wide and regional systems (See **Error! Reference source not found.**~~Figure 1: Development Master Plan 5.03~~). Each development project, whether a single building, one lot, or a series of blocks, must provide reasonable links to these systems as a primary design objective.

Guideline Recommendations

To ensure that The COR takes full advantage of local and regional systems, development should:

- Provide safe, easily recognized connections to city, county and state trail corridors
- Make provisions for city and regional transit service and amenities (including the Northstar Line) and encourage their use
- Tie into, and improve, the Ramsey utility network
- Integrate with and complement the existing (and future) street framework
- Become an integral part of the city and county drainage/stormwater management plan

Objectives

- Overall COR design (and all new private development within The COR) will accommodate stormwater from new projects and from off-site, and highlight stormwater features as an amenity
- Bikeways and pedestrian routes into The COR from adjacent neighborhoods must be designed for safety and ease of access, suggesting that a person on a bicycle has an equally accessible route to downtown.
- Parks and open space will be easily accessible to all COR residents, visitors, people who work here and also for the citizens of Ramsey and the surrounding area. This connected green system is reminiscent of the world renowned 'Grand Rounds' of Minneapolis.

THE COR
RAMSEY, MINNESOTA
DEVELOPMENT STATUS:
EXISTING DEVELOPMENT
PROPOSED DEVELOPMENT
ACTIVE DEAS
UNDER CONTRACT
COMPLETED
ACCESS:
EXISTING SIGNALIZED INTERSECTION
FUTURE SIGNALIZED INTERSECTION
FULL INTERSECTION
NO LEFT OUTBOUND MOVEMENTS
RAISING RAMP
TRAFFIC INFORMATION:
ADT INFORMATION TAKEN FROM 2009 ACTUAL COUNTS AND 2030 PROJECTED VOLUMES.
N O R T H
DEVELOPMENT PLAN 6.1
RAMSEY BOULEVARD
US HIGHWAY 10
BUTLER AVENUE

Overall Framework – Street Hierarchy

Overview

The Development Master Plan defines a specific strategy for the layout of streets and blocks within, and around The COR. The size, type and configuration of this street hierarchy (See Figure 2: Street Hierarchy) is based on a combination of projected traffic volume, level of service at intersections, proposed adjacent land use (destination commercial, residential, civic, recreation, etc.) and desired aesthetic character.

Great streets are essential components of an attractive and inviting public realm. These guidelines promote a street system that balances pedestrian and vehicular use. Providing streets that support traffic flow is important, but also creating ample space for street-side activities, strolling promenades, pockets of green and other amenities is critical to the success of The COR. Streets will promote convenient access by car – to storefronts, to parking lots and ramps, to entertainment attractions – but will also encourage foot traffic as a primary way to move about and conduct business in the core area.

Guideline Recommendations

The proposed street and block pattern reflects a compact urban character, not allowing dead end streets or cul-de-sacs, in favor of a traditional grid pattern and connected streets including the following:

- Provide a street network that distributes pedestrian and vehicular traffic throughout the various districts in The COR and encourages a more dispersed and less congested traffic flow (many choices or travel paths).
- Provide a clear hierarchy of streets resulting in a simple and understandable system for movement – easy access and convenient circulation throughout The COR.
- Work with Anoka County to convert primary perimeter streets (arterials such as Ramsey, Armstrong and Bunker Lake Boulevards) to urban street sections, providing sidewalks and street trees to replace roadside ditches.
- Promote improvements that invite pedestrian and bicycle use including wide sidewalks, streetscape amenities and designated bicycle trails (both on and off-street).

Objectives

Creative design solutions for public realm improvements should reflect these basic street classifications (street hierarchy) including:

- Arterial street – these streets provide the boundary of The COR and all access into The COR will be from one of these three streets:
  - Bunker Lake Boulevard
  - Armstrong Boulevard
  - Ramsey Boulevard
- Destination street – signature addresses for shopping, entertainment, services, work place and other primary amenities
  - Sunwood Drive

- Parkway – premier 'green streets' adjacent to primary public park / green space, with more landscaping than other streets in The COR
  - Ramsey Parkway
  - Center Street (north of the roundabout)
- Connector street – primary routes that link various districts within The COR, usually providing the most direct means of getting from point A to point B
  - Rhinestone Street
  - Zeolite Street
  - Veterans Drive
- Downtown street – the most urban of street sections where high pedestrian traffic is intended and traffic calming measures such as on street parking, bump outs and other methods will be employed
  - Center Street (south of the roundabout)
  - Sapphire Street (north of Sunwood)
  - Other streets as shown on the Street Hierarchy Map
- Local street – neither destination nor primary connector routes, these streets provide much of the rest of the street grid throughout The COR.

These street hierarchy classifications are intended to provide guidance regarding the streetscape, but it should be noted that within a street classification, there may be construction or design distinctions, based on the sub-district classification. For example, Sunwood Drive is defined as a destination street throughout The COR, but the design may be different between the COR1 and COR2 sub-districts. The Master Streetscape Map will provide design direction.

Figure 12: Street Hierarchy Map

Transit Overview

The COR is designed to be a Transit Oriented Development (TOD) in a variety of ways that go beyond providing a walkable public realm and connected street grid. The Master Plan also includes a multimodal transit station, with dedicated commuter parking, integrated with other uses at the heart of the retail, restaurant and entertainment district. This station functions as a hub where local circulator transit comes together with regional transit service and the Northstar Corridor. The COR is the Twin Cities' first and only transit-oriented development along the new Northstar Commuter Rail Line. Ramsey Station at The COR will open for riders boarding the train in November 2012. As Northstar's most visible station, The COR will immediately bolster the ridership on the line and continue to build recognition for this regional service.

Transit components include the following:

- Ramsey Star Express service provides peak period, peak direction bus service between downtown Minneapolis and Ramsey until the Northstar Commuter Rail station stop is complete
- Northstar Commuter Rail provides train service between Big Lake and downtown Minneapolis
- 350 park and ride parking spaces are provided for commuters adjacent to the transit station
- Pedestrian and bicycle connections are emphasized in the Master Plan as major links between the transit station, various districts within The COR and into the surrounding neighborhoods
- The COR can accommodate Metro Mobility, citywide circulator bus or town trolley connections as part of local and regional service to the transit station

The COR also encourages developers to participate in a Travel Demand Management (TDM) program to both assist and encourage residents and visitors to take advantage of the various modes available for their commuting and travel needs. The TDM program draws from incentives and services available through Anoka County and Metro Commuter Services that match riders with carpools and vanpools, provide discounted transit passes and manage work hours among other functions.

- Developers shall submit a TDM plan with their site plan application for new development and work with the City to implement their plans.

Transit Guideline Recommendations

Transit is an important component of the overall plan, with expectations for more ridership, using a greater range of transit options as they become available. More people, together with the mix of activities and amenities in The COR, encourages better designed, better connected transit service. It is a shared responsibility between city, county and developer to promote transit use, with both policy and bricks-and-mortar attention to the following framework:

- Understand and take advantage of opportunities to use existing and proposed transit components

- Provide transit related facilities specifically linked to uses and character within each COR district, including signage and lighting for way-finding and bicycle amenities
- Building future Northstar Commuter Rail riders through the Ramsey Star Express bus service

Transit Objectives

The primary objective is to provide a balance of transit service, bicycle and pedestrian connections and lanes to move traffic. The framework for The COR promotes public transportation as part of the solution and suggests a variety of street improvements and other amenities to invite increased use. Photographs throughout the framework suggest some of the many possibilities.

Overall Framework - Streetscape

Overview

The Master Plan defines a specific strategy for the layout of streets and blocks within and around The COR. The amenities within the public right-of-way -and immediately adjacent -play an important role in the aesthetics of The COR. Great streets are essential components of an attractive and inviting public realm. Developing a streetscape that is comfortable and inviting to pedestrians is important to realizing the vision for The COR. The framework will encourage interesting and inviting places for the public.

The Streetscape framework defines the visual character and physical improvements for all public spaces within The COR. The document also provides the general framework and examples for design of proposed quasi-public and private space located within each development parcel.

Public realm/streetscape framework focus on the following elements:

- Parks, plazas and other public gathering spaces
- Street/sidewalk character and streetscape elements
- Bicycle/pedestrian connections (on-street and off-street)
- Residential courts, pocket parks and other private green space

The goal is to foster a safe and interesting public realm that will invite pedestrian activity, promote traffic calming, increase transit use and encourage community gathering. Street trees, lighting and decorative fencing provide the backbone for streetscape improvements. Added detail, such as special pavements, street furniture, public art and layered plantings will highlight specific nodes or uses. The City has developed a series of street cross -sections to illustrate these design expectations. Typical street sections are provided in Appendix A as a reference.

Destination and Connector streets must balance a high level of service for the automobile with attractive and inviting amenities for the pedestrian including:

- Provide gracious sidewalk width to support intensity of pedestrian traffic in the core
- Install street trees to frame the street and provide shade
- Provide street lighting that meets all safety standards and design criteria, while creating a signature character for this district
- Explore a range of options for streetscape improvements including special pavements, interesting concrete tinting or scoring patterns, additional plantings, ornamental fencing and other features (note, however, that simpler is better and too much clutter is a negative)

The COR includes a network of bicycle/pedestrian trails and walkways (both on and off-street) that connect adjacent sub-districts to the Mixed Use Core. As you approach the core, these connections tend to become part of the shared right of way along the major streets, or become part of the urban park spaces. Bicycle riders may choose to share the street with vehicular traffic, or dismount and walk their bicycles along with the other pedestrians using the sidewalks. Providing and maintaining these bicycle and pedestrian connections should be a key component for all development projects in the core.

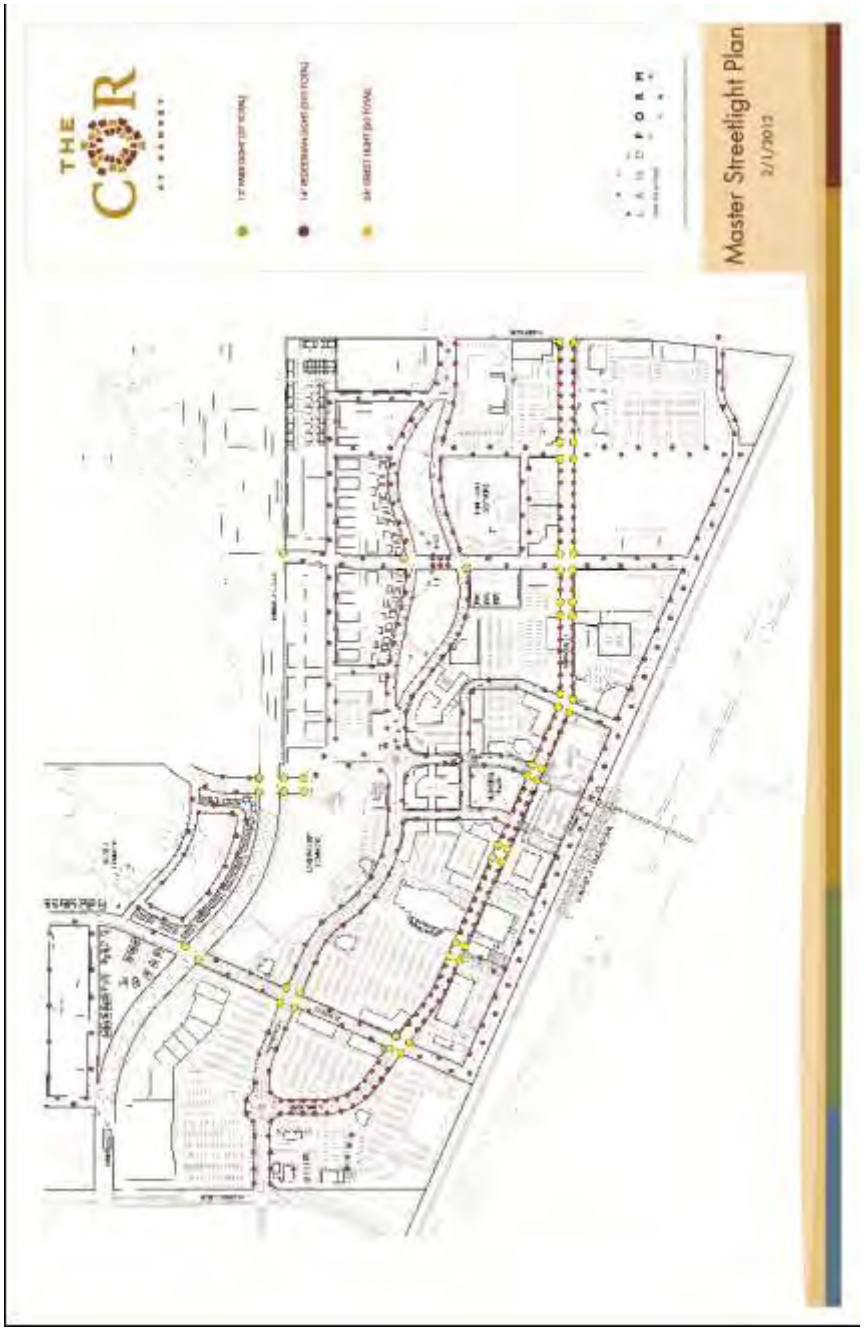


Figure 23: Master Lighting Plan

Guideline Recommendations

The proposed street and block pattern reflects a compact urban character, including the following:

- Bike racks interspersed throughout The COR to encourage cycling as an alternative mode of transportation.
- Benches on the public sidewalks to encourage people to linger in The COR
- Trees and planters along the streets to create an inviting space
- Wide sidewalks and both on- and off-street bicycle trails
- Kiosks and other way finding tools for visitors and residents in The COR
- Outdoor dining is encouraged on the street side of buildings within all districts.
- Public plaza space is strongly encouraged to be located adjacent to the streets

Objectives

Creative design solutions for streetscape improvements should include:

- Streetscape improvements that provide traffic calming, particularly along Destination and Downtown streets
- Inviting streets that draw you into and through The COR
- A marriage of building design and streetscape design that encourages active spaces near the streets

Street Trees and Plantings

Street trees and planter boxes are a critical element in the unique character of The COR and will be used to help distinguish between different street types and sub-districts within The COR. However, there may be variety within the same street when the street crosses into sub-districts.

- Street trees will be chosen to ensure that the species allow for clear pedestrian access along the streets and require minimal maintenance.
- Along Destination, Downtown, Parkway and Local streets, where regularly spaced blocks exists, one (1) tree species shall be provided per block. In order to provide variety and protect against disease, adjacent blocks shall not be allowed the same street tree. Initial development along a block shall establish the tree species for that block, subject to City review and approval.
- Along streets without regular block space or longer blocks, such as Connector and Arterial streets, the City may approve groupings of 3-6 trees of one (1) species in lieu of the regular block spacing.
- Alternatives to the above mentioned planting plan shall be subject to review and approval by the City Council.

Destination Street Trees:

- Autumn Blaze Maple (*Acer x freemanii* 'Jeffersed')
- Bicolor Oak (*Quercus bicolor*)
- Sienna Glenn Maple (*Acer x freemanii* 'Sienna')
- Skyline Honeylocust (*Gleditsia triacanthos var. inermis* 'Skyline')
- Ginko (*Gingko biloba)*
- Accolade Elm (*Ulmus x* 'Accolade')

Parkway Street Trees:

- Valley Forge Elm (*Ulmus americana* 'Valley Forge')
- Bitternut Hickory (*Carya cordiformis)*
- Siouxland Poplar (*Populus deltoides* 'Siouxland')
- Sienna Glen Maple (*Acer x freemanii* 'Sienna')
- Boulevard Linden (*Tilia americana* 'Boulevard')
- Northern Catalpa (*Catalpa speciosa)*
- Spring Snow Crabapple (*Malus* 'Spring Snow')
- Kelsey Crabapple (*Malus* 'Kelsey')
- Korean Mountain Ash (*Sorbus alnifolia)*
- Ohio Buckeye (*Aesculus glabra)*
- Ginkgo (*Gingko biloba)*

Connector Street Trees:

- Bicolor Oak (*Quercus bicolor*)
- Northern Red Oak (*Quercus rubra)*
- Princeton Elm (*Ulmus americana* 'Princeton')
- Accolade Elm (*Ulmus x* 'Accolade')
- Autumn Blaze Maple (*Acer x freemanii* 'Jeffersed')
- Skyline Honeylocust (*Gleditsia triacanthos var. inermis* 'Skyline')
- Kentucky Coffeytree (male) (*Gymnocladus dioicus)*
- River Birch (single stem) (*Betula nigra)*
- Black Alder (*Alnus glutinosa)*
- Black Cherry (*Prunus serotina)*
- Spring Snow Crabapple (*Malus* 'Spring Snow')
- Kelsey Crabapple (*Malus* 'Kelsey')
- Japanese Tree Lilac (*Syringa reticulate)*
- Thornless Cockspur Hawthorne (*Crataegus crus-galli* var. inermis)

Downtown Street Trees:

- Princeton Elm (*Ulmus americana* 'Princeton')
- Accolade Elm (*Ulmus x* 'Accolade')
- Autumn Blaze Maple (*Acer x freemanii* 'Jeffersed')
- Skyline Honeylocust (*Gleditsia triacanthos var. inermis* 'Skyline')
- Kentucky Coffeytree (male) (*Gymnocladus dioicus)*
- River Birch (single stem) (*Betula nigra)*
- Black Alder (*Alnus glutinosa)*
- Black Cherry (*Prunus serotina)*
- Spring Snow Crabapple (*Malus* 'Spring Snow')
- Kelsey Crabapple (*Malus* 'Kelsey')
- Japanese Tree Lilac(*Syringa reticulate)*
- Thornless Cockspur Hawthorne (*Crataegus crus-galli* var. inermis)

Local and Arterial Street Trees:

Local and Arterial Street trees may be chosen from any species on the above lists.

Planter Beds/Boxes/Tree Grates

- Planter beds, tree grates and planters shall be as shown on the Streetscape Master Plan. Details and specification shall be added to Appendix A as developed and approved by the City. Appendix A shall be amended as needed.
- Irrigation shall be provided to ensure survival of plant materials. The City shall provide irrigation systems along the Parkway and Destination streets. Unless otherwise approved, all other irrigation shall be the responsibility of the landowner.

Street Furniture

Bike racks, trash enclosures and benches are encouraged on all streets, but will be required on Destination, Connector and Parkways and other streets as shown conceptually on the Streetscape Master Plan.

Bike racks shall be the standard bike rack (see Appendix A for specifications).

Trash enclosures shall be the standard trash enclosures (see Appendix A for specifications).

Benches shall be the standard bench (See Appendix A for specifications). Benches shall be grouped in twos that face each other and provide an opportunity for an outdoor conversation space.

Alternative bike rack, trash enclosures and bench designs will be considered on a case-by-case basis. The City will review alternative designs as part of the site plan review and will evaluate these alternatives based on the following:

- Does the design maintain the character of the district?
- Does the alternative design maintain the quality of the standard feature?
- Does the design provide a relationship between the public elements of the streetscape and the building that would not otherwise be possible?

Sidewalks and Boulevard

In the design framework, the term “boulevard” is defined as “the space between the sidewalk and the curb.” The boulevard area provides the required space for public features such as street lights, benches, fire hydrants, street signs, etc. The boulevard will have different characteristics based on the street hierarchy.

The street width and layout within different zones may affect the ability of a particular development to provide the minimum boulevard width and the minimum sidewalk width within the existing public right-of-way. In those cases, the landowner shall provide a permanent public easement over the portion of the sidewalk that is located on private property.

Street Lights

Street lights are owned and installed by Connexus Energy. The streetlight design was developed in conjunction with the City of Ramsey and Connexus (See Figure 3: Master Lighting Plan). The standard street lights are designed to accommodate banner arms should banner signage be desired. The banner arms should be the manufacturer's standard break-away banner arms to ensure safety and minimize maintenance costs. Connexus provides street light maintenance for the City. Connexus bills the City of Ramsey for the cost of installation and maintenance.

The choice of street light was intended to emphasis the pedestrian scale of The COR. Light poles within the public right-of-way should be planned to accommodate banners, flowers, hanging artwork and electrical outlets.

There are three (3) different streetlight types within The COR:

- 24-foot high poles at intersections
- 14-foot high poles at mid-block
- 12-foot high poles at The Draw

The City will ensure that the appropriate streetlights are installed on all public streets as described by the Design Framework. Private developers shall provide parking lot or other project lighting that retains these design objectives. All lighting shall comply with City Code performance standards for lighting. All lighting shall be reviewed by City staff to ensure compliance with the Design Framework and City Code standards described above.

Standards for Outdoor Dining.

Outdoor dining is encouraged as an attractive addition to a pedestrian- and retail-friendly, vital COR. Such dining is encouraged subject to the standards in Section 117-118 of the Zoning Ordinance.

Overall Framework - Parking

Overview

Balancing the realities of car-related necessities (streets, parking and so on) with future transit service and the desired character of The COR is a significant challenge. The goal is to provide adequate parking; both quantity and location, while promoting new strategies that support the overall needs of The COR. Parking will be provided through a combination of on street spaces, off-street surface lots, underground lots and structured ramps to support the mix of uses at the core.

Parking structures should contribute to the overall character and image of The COR. Ramp design should include elements, colors and materials that reflect, or complement surrounding buildings. Liner stores or other street level uses should be integrated into ramp design along important street frontages. The City also encourages developers to wrap the ramp with multi-story uses that will provide commercial and residential opportunities and help to define the street edge.

Guideline Recommendations

Parking guidelines encourage the following:

- Locate surface parking lots away from the major streets, either behind or to the side of primary buildings; surface parking lots along major street frontage are not allowed in the core area
- Minimize surface parking lots in favor of other solutions including underground parking to serve residential buildings, on-street parking to serve retail shops and parking ramps
- Provide a combination of fencing, landscaping and landform to screen parking areas from major streets and important views, soften parking area edges, provide shade, integrate native plantings, offset islands and reduce to 'sea of parking' image
- Create strategies for shared parking between adjacent uses, taking advantage of peak and off-peak cycles, business hours, nighttime activities, special events and other needs
- Provide alternative surfaces for secondary (less frequently used) parking areas including porous pavements, green pavements and so on
- Provide facilities or services that respond to and connect with future transit to reduce required parking, including shuttle/circulator bus, bicycle lockers
- Provide flexibility including hours for on-street parking, security and enforcement practices, permit or metering
- Provide parallel parking on both public and private streets throughout The COR, to add parking and create a traffic calming, pedestrian buffer; Bumpouts are encouraged as a traffic calming measure on all streets within the COR.
- Explore options to integrate stormwater management requirements into parking area design
- Provide parking spaces for typical daily use, satisfying both quantity and location needs through a mix of on street, small surface lot, underground and ramped parking solutions
- Provide options for additional/overflow parking to support holiday traffic and special events including porous pavements, turf parking areas (Netlon and other soil amendments) or shuttle service from nearby parking areas
- Encourage shared parking solutions that target around the clock shifts in destination, audience or take advantage of peak/off-peak hours of operation for various uses within the core area

- Promote municipal parking ramps as the primary facility to meet public parking needs within the core area
- Discourage driveway access to parking facilities along Arterial, Destination and Parkway streets, in favor of side streets.

Objectives

The primary objective is to provide a balance of surface lots, on-street and structured parking, with ample quantities and close proximity to serve the mix of uses in The COR. The Design Framework anticipates the construction of a total of 3 parking structures in COR1 to serve the needs of the area by providing structured parking that can be shared among users, allow developers to maximize the development on each individual lot. As discussed later in this section, sizing and timing of the structured parking will be finalized as the area develops and parking demand grows. In addition to providing adequate space, excellent design is a major factor as well. The framework for The COR encourages creativity, innovation, quality and attention to detail in every aspect of project development, including parking solutions. Photographs throughout the Design Framework suggest some of the many possibilities.

Figure 34: Streetscape Master Plan

Figure 15: Parking District Map

Minimum Standards

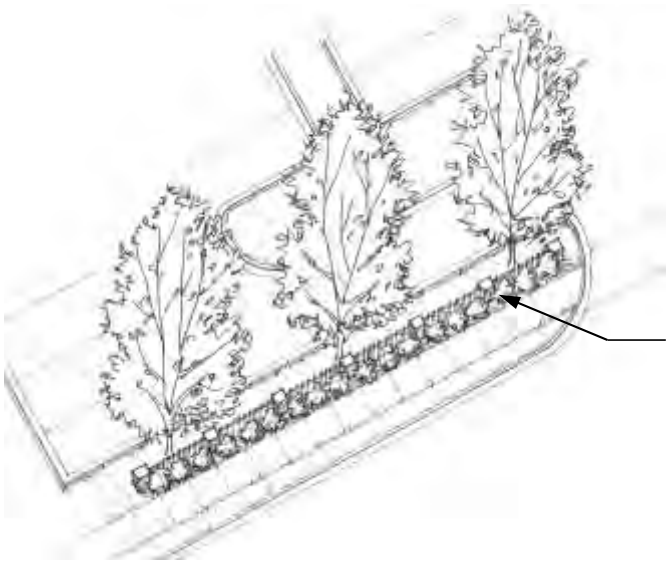
Parking in The COR is intended to be shared to the greatest extent practicable in all mixed-use areas. The parking standards are intended to provide a practical basis for providing adequate parking within the COR District through a careful analysis of uses, shared parking arrangements, use of public street parking and reduction allowances for the proximity to the transit station. A parking plan has been prepared to identify the planned number, location, sharing arrangements and public use (see Figure 4: Streetscape Master Plan and Figure 5: Parking District Map). The parking plan provides information that can be used to help address longer term parking arrangements where the possibility of use conversion or building expansion exists. Parking shall be provided under any of the following arrangements:

A. No parking shall be located between the front of the principal structure and the street on parcels abutting Destination and Downtown streets in COR1.

B. Not more than fifty (50%) percent of the parking shall be located in front of the principal structure and the street on parcels abutting Arterial, Parkway, Connector and Local streets.

    1. In the COR2 district, developments may be allowed more than fifty (50%) percent parking in the front yard, provided all other design standards have been met, including the use of a wall, railing, hedge or combination to create a street edge and screen parking.

C. Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements, to a minimum height of three feet (3') and a maximum height of four and one-half feet ($4^{1}/_{2}$') above the level of the parking lot, at the build-to line required for the property. The amount of required screening may vary by sub-district and street frontage and is described in Part Two of this document.



Landscaped edge that combines fence with trees, low shrubs and ground cover for parking lot screening and buffering along sidewalk to screen parking

D. No parking spaces shall be located on corner lots at the point of street intersections.

E. Shared parking in COR1 will be accomplished through a Parking Use and Maintenance Agreement (PUMA).

F. Off-street parking in the COR2 and COR3 sub-districts shall be secured for public use through parking easements and other appropriate conveyances. Shared parking arrangements between nearby uses are encouraged in both sub-districts.

1. The City may approve joint parking for one or more businesses where the total number of parking stalls provided for joint use is less than the sum of the total required for each business should they provide them separately. The applicant must demonstrate the feasibility of the arrangement in a written report. Such a permit shall not be granted except when the following conditions are found to exist:
    i. Proximity. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300') feet of such parking facilities, excluding public rights-of-way.
    ii. Conflict in Hours. The applicant shall demonstrate in documented fashion that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
    iii. Written Consent and Agreement. A legally binding instrument, executed by the parties concerned, for joint use of off-street parking facilities, duly approved as

to title of grantors or lessors, and in a form and manner of execution approved by the City Attorney, shall be filed with the City Clerk and recorded with the Anoka County Recorder or Registrar of Titles, and a certified copy of the recorded document shall be filed with the City within sixty (60) days after approval of the joint parking use by the City or the interim use permit shall be considered null and void.

G. On-street parking adjacent to buildings shall not be used for the purposes of calculating parking requirements.

H. Within the COR-4 sub-district, parking on individual parcels serving individual uses may be provided if designated and approved as part of the master plan.

I. Within all sub-districts, a minimum driveway length of twenty-five (25') feet is required to limit conflicts between vehicles parked in the driveway and street or sidewalk users.

J. In order to ensure the pedestrian orientation of the COR Districts, minimum/maximum on-site parking standards are set based on the following table:

Table 1

Use		Minimum number of parking stalls	Maximum number of parking stalls*
Retail		2 per 1,000 sq. ft.	4 per 1,000 sq. ft.
Restaurants		~~3 per 1,000 sq. ft.~~1 per each 2 seats	~~5 per 1,000 sq. ft~~1 per each 4 seats.
Offices		2 per 1,000 sq. ft.	3 per 1,000 sq. ft.
Medical offices, clinics		2 per 1,000 sq. ft.	4 per 1,000 sq. ft.
Health clubs		3 per 1,000 sq. ft.	5 per 1,000 sq. ft.
Theaters, places of assembly		1 per 5 seats	1 per 3 seats
Residential			
	Attached or detached	1 per unit	2 per unit
	Multifamily units	1 per unit	2 per unit

*If a parking structure is provided on site, maximum parking stalls do not apply.

K. Non-Specified Uses. For uses not specifically listed above, off-street parking requirements shall be computed by the Zoning Administrator on the same basis as required for the most similar listed uses. In such cases, the Zoning Administrator shall also consult off-street parking reference materials including, but not limited to, manuals prepared by the American Planning Association and Institute of Transportation Engineers.

L. Handicap Parking. The size, number, and location of stalls reserved for handicapped parking shall be provided and identified as required by applicable regulations. These spaces are included in the computation for the minimum parking space requirement.

M. Change in Land Use. When the site intensity or use of a building and/or property is increased with consequential effect upon the parking requirements as prescribed in this Section, the

parking requirements as prescribed herein shall be used to provide for such increase in the site intensity and/or use.

N. Use of required parking spaces. Required parking spaces must be available for the use of residents, customers or employees of the use. Fees may be charged for the use of required parking spaces. Required parking spaces may not be assigned in any way to a use on another site, except for joint parking situations. Also, required parking spaces may not be used for the parking of equipment or storage of goods or inoperable vehicles.

O. Transit Service Reduction. The minimum number of parking stalls required on site may be reduced by 10% for any parcel located within ¼ mile of a transit stop. To qualify for this reduction, the transit stop must provide regular service on all days of the week and direct pedestrian access must be provided between the building and the transit stop.

P. Bike Racks. In addition to the bike racks provided as part of the streetscape, individual businesses are encouraged to provide bike racks for customers. Bike rack locations will be reviewed and approved by the City as part of the site plan review.

Q. Increase to Maximum Required Parking. If additional parking is sought to exceed these maximum requirements, a conditional use permit can be sought to increase maximums up to twenty-five (25%) percent.

    1. In the COR-2 sub-district, an increase of twenty-five (25%) percent in the maximum number of parking stalls is permitted without the issuance of a conditional use permit if approved as part of the site plan.

R. In the COR1 sub-district, a PUMA (Parking Use and Maintenance Agreement) shall be applied to all development as follows:

    1. It is the City's intent to maximize development on individual lots. In order to help landowners accomplish this goal, the City will develop public parking ramps, which will be available for public parking within The COR. In order to minimize the amount of the site required for parking, the landowner may choose to enter into the PUMA for utilization of the public parking ramps to meet all or a portion of their minimum parking requirements.

    2. Each development shall be subject to a PUMA that specifies that each property in the COR1 shall be financially responsible for its proportionate share of a shared parking facility. The proportionate share shall be determined on the basis of the property's off-street parking needs, as determined by the parking requirements of Item J above.

3. The City shall establish fees by ordinance. The developer shall be responsible for payment in an amount equal to the value of the required parking on a per-stall price basis for ramp parking through the PUMA. The City will determine the appropriate contribution.

4. Funds collected by the City shall be deposited in a special fund used only to acquire and/or develop off-street parking facilities for the COR. Financial responsibility shall cover the construction and continuing maintenance of the parking facility.

5. The parking facility may be constructed and maintained by the City or by a private management entity acceptable to the City.

Private Streets

Private streets may be allowed within residential subdivisions, subject to the standards in Section 117-112 (e)3.b. of the Zoning Ordinance.

Loading Areas

A. Loading areas and docks shall be located in the rear of the building.

B. Loading areas shall not be located in the front yard and shall be fully screened from public streets, public parks and residential areas through landscaping and building design measures.

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Overall Framework – Building Design

Overview

The COR Development Plan 5.03 identifies the preferred mix and approximate location of a variety of land use types. Together with the Zoning Code, this Design Framework focuses on the following overall objectives:

- Promote vertical and horizontal mixed use (within a building, within a block, within a district)
- Provide a variety of housing types, styles, pricing
- Encourage increased density in and around the central core area
- Promote an interesting mix of building styles, scales and massing for each sub-district
- Support creative, innovative, high quality design solutions as the benchmark for success
- Integrate mix of uses with public green space within each district
- Provide a variety of commercial types
- Mix residential and commercial uses to promote street-level activity throughout the day

Guideline Recommendations

The mix of land uses in The COR will encourage activity during the day and into the evening and nighttime hours. As a focus of commerce, employment, recreation and housing, The COR resembles a small to medium size Midwestern downtown in scale and character. Land uses are intentionally mixed, to bring shoppers and workers into the area during the day and attract new residents and visitors to entertainment venues in the evening.

The civic component of The COR, anchored by City Hall, Police Station and variety of public spaces and squares, adds an important element to the land use mix and brings a level of authenticity to the district.

Objectives

- Encourage vertical mixed-use in the core with housing and office space over retail uses along the street, particularly in the center of the district.
- In residential districts, particularly closer to the core, a limited amount of retail uses will be encouraged to service residents and provide nearby places to gather.
- Promote innovative models for housing that include a mix of townhomes, flats and lofts within single buildings or on the same block.
- Accommodate larger, 'big box' retailing and auto-oriented uses within the COR2 sub-district only if innovative design approaches are used including two story buildings, use of liner stores facing the street, minimal blank walls, creative parking strategies, etc.
- Where similar uses create a 'family' or campus of buildings (e.g. medical campus), buildings should reinforce the street edge and parking should be set within the core of the block.
- Uses shall promote pedestrian friendly streets, contributing to street level activities and overall visual character of each district.
- All uses should reinforce the street edge.

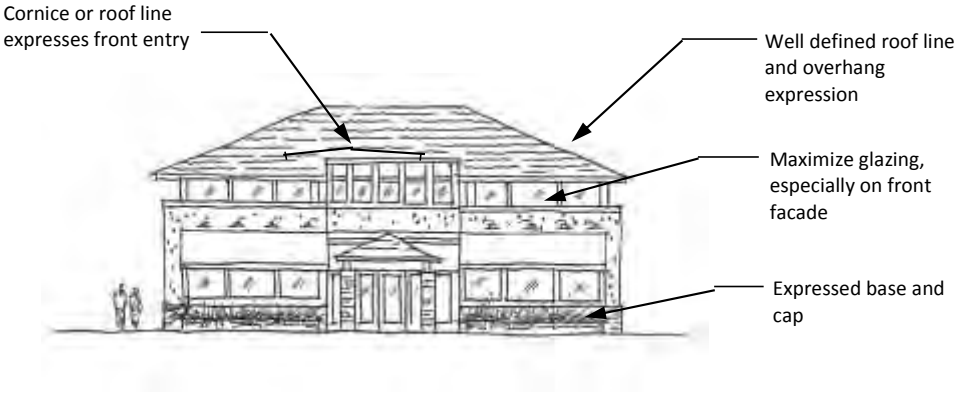
Architectural Overview

High quality architecture is an essential component in fulfilling the objectives of the Design Framework. Rather than prescribing a particular style, these architectural guidelines are intended to encourage an integration of both traditional and contemporary design. Architectural designs should provide a consistent quality, measured, to a great degree, by the pedestrian experience along the street and by an architectural expression that provides character without being thematic, obtrusive, or artificial. Architectural character should strive to be authentic and varied, but not 'thematic'.

Architecture Recommendations

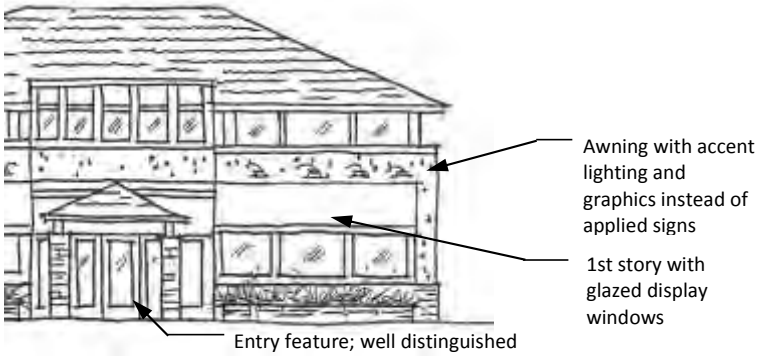
Of all the layers that combine to form The COR Development Plan, architecture will typically be the most prominent development component. Both visually and physically, architecture will play a major role in defining the overall design character and mix of uses for The COR. It is crucial that the design and location of buildings address these architectural guidelines, with specific emphasis on the following:

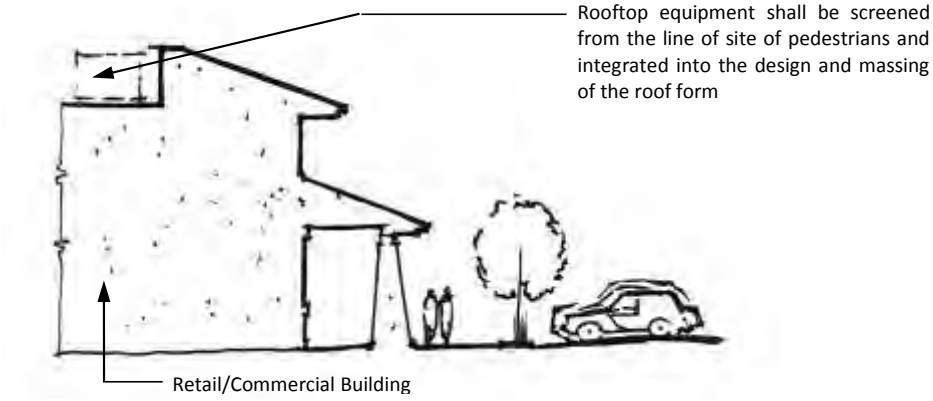
- An animated street presence with a mix of street-level uses, interesting building façades, many doors and windows on the street, careful design of lighting, awnings, signage and other elements that animate the pedestrian experience



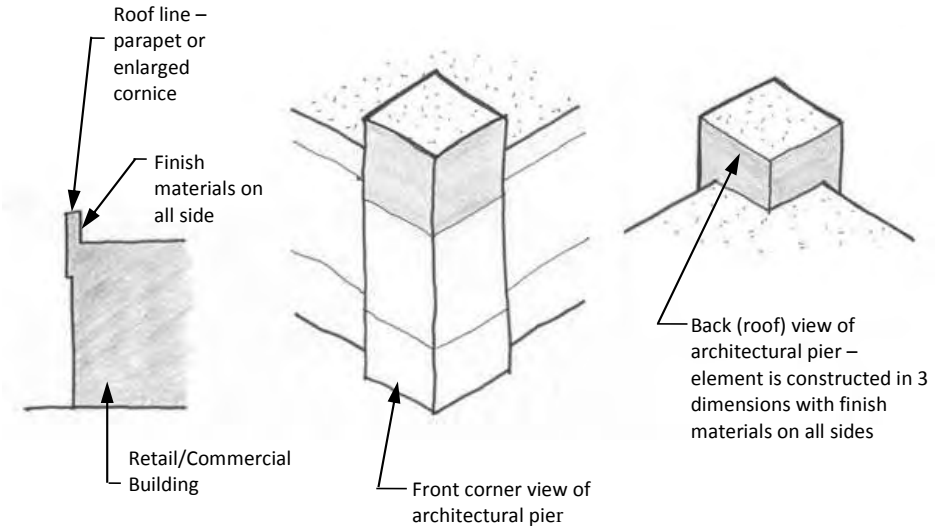
- Variety in building design, character and expression; not one theme or building style, but a thoughtful integration of many design solutions
- Variety of building types including a range of height, scale and proportion, that support an integrated mix of housing options, shopping destinations, entertainment venues, civic structures and other COR uses
- Use of high quality materials, suggesting a preference toward native materials and masonry elements, with respect for local building techniques
- Building location is as important as building style; special architectural elements, character, transparency and a higher level of materials and detailing should be used to highlight key streets and important crossroads throughout The COR
- Buildings should always be located at all four corners of intersections.
    - In the COR2 sub-district, if the City finds that there are unique circumstances where buildings cannot be located on the corner, the City may approve the use of fences, walls or other design elements to create that "street edge"

- Buildings will be located at the street right-of-way line (zero setback), but also allow recessed space for outdoor dining and other street level activities providing some minor deviation for variety
- Greater emphasis should be given to architectural elements, materials and other design features for buildings located at primary intersections, or where streets intersect with parks, such as the streets that front on or end near the Municipal Plaza. These locations can often be seen from several directions, perhaps terminate a view from a distance down the street or sit at a prominent node; They will likely become future landmarks or helpful orientation/wayfinding icons as The COR develops
- Encourage both vertical mixed use (within each building) and horizontal mixed use (within each block) throughout this district
- Include a mix of housing, civic, retail, restaurant, entertainment, performance and other uses that encourage a variety of activities throughout the day.
- Minimize openings between buildings, although limited driveway access and some provision for pedestrian connections through blocks are encouraged – gaps between buildings to accommodate surface parking lots, greater building setbacks or other purposes are discouraged
- Use recessed entries and windows to create street-level interest, variety and enhance pedestrian scale along street frontage





- Equipment, mechanical systems, transformers, etc. must be screened from view in a way that is integral to the architecture of the building. Screening should be accomplished with materials similar to or compatible with materials used on the main structure; metal fencing or mechanical vent screens alone are not sufficient.
- Roof lines and cornice details shall be completed in a 3-dimensional manner so that the back of roof features or similar unfinished areas are not visible.



Overall Framework - Signage

Overview

Signage within The COR should provide a system for clear wayfinding for all modes of transportation and should ensure successful business operation while maintaining the design aesthetic of this unique project. These sign standards are intended to allow flexibility and creativity while maintaining the design concepts of The COR. Due to the distinctive nature of The COR, the sign standards from the City Code are not applicable and signage shall be allowed as prescribed by the Design Framework. A Master Sign Plan identifies the location of key sign locations (see Figure 6: Signage Plan).

Guideline Recommendations

The COR development manager shall prepare a Master Sign Plan for the public elements of the project, which are in compliance with the design framework and will be adopted by reference. The Master Sign Plan will specifically address public signs including:

- The three (3) off-site community signs
- Banner signs on light poles
- Signage for public parks
- Signage for public parking ramps
- Signage for public buildings
- Community kiosks

Objectives

Signage should be used as a tool to help identify businesses and neighborhoods with The COR and should have elements that are focused on the pedestrian nature of The COR as well as the signage needs for businesses.

- Signage and lighting which is integrated into the design of the building is encouraged.

Definitions

Awning Sign means a sign incorporated into or attached to an awning.

Community sign means an off-site sign identifying the development name and key tenants. Community signs may also include public information. Reader boards are allowed to be incorporated into community signs within The COR. Gateway and kiosk signs are part of this category.

Temporary Sign means a sign which is erected or displayed for a limited period of time and not affixed to a Minnesota State Building Code approved structure.

Project sign means a freestanding area identification sign which identifies a single-family or multifamily residential subdivision, a commercial development or an industrial park or office park and which is located on the same ~~parcel~~ site as the development it identifies. A site shall be identified as the block in which the use is located.

Projecting sign means any sign, all or any part of which extends beyond the surface of the building or wall by more than 16 inches.

Public Realm/Streetscape sign means any sign erected and maintained by public officials or public agencies, or approved and authorized for use by state or local governmental authorities.

*Sandwich Board Sign*s means a self-supporting, freestanding temporary sign with only two (2) sides that are situated adjacent to a business with the intent to attract pedestrian traffic to businesses. Sandwich board signs are not meant to be read by vehicular traffic.

Wall sign means any sign which is affixed to a wall of any building. This definition includes individual letter signs and signs on mansards.

Window sign means a sign installed inside a window, or any sign placed within a building for the purpose of being visible from the public right-of-way. This does not include merchandise on display.

Pedestrian-Oriented Tenant Signs

Figure 56: Signage Plan

Standards

Public Realm/Streetscape Signs

The pedestrian oriented nature of The COR requires unique signage the will build on the design concepts for The COR. These types of signs in include banner signs on the streetlights, kiosks, street signs, wayfinding signs, signage for public parking ramps, etc. As the design concept for The COR has been refined, so has the signage plan. ~~The COR development manager shall develop standards for these public realm signs as part of the Master Sign Plan. The Master Sign Plan shall be incorporated by reference and may be updated from time to time. Such signage shall be allowed on public spaces as needed to provide information and wayfinding. No advertising shall be allowed on Public Realm/Streetscape Signs except for community events.~~The Master Sign Plan is included as Appendix B. Size, location, and construction specifications of these signs shall be determined by the Master Sign Plan, which must be approved by the City Council, after a recommendation by the Planning Commission. Careful foresight has been given to size of signs based on needs of the adjacent roadways in order to maintain adequate safety standards that may otherwise be compromised by poor design. Roadways with higher speeds warrant larger lettering to maintain safe travel.

Community and Gateway signs

Community signs include are planned to include three (3) signs on Highway 10, as shown on the Signage Plan (see Figure 6: Signage Plan). The signs include the existing Community Sign near the future transit plaza, the sign at the northwest corner of Highway 10 and Ramsey Boulevard and the planned sign at the northwest corner of Highway 10 and Armstrong Boulevard.

Gateway signs are planned at multiple locations at entrances to The COR from major roadways, as shown on the Signage Plan. General gateway signs may identify The COR only. Retail Gateway signs may include provisions for off-premise, tenant sign panels.

These off-site signs, part of a unified development, are allowed as shown on the signage plan and shall have consistent materials and colors. ~~The Master Sign Plan shall detail the materials, colors and standards for these three (3) community signs. The Master Sign Plan shall include standards for which tenants shall be allowed on the community signs.~~Community and Gateway Signs shall conform to the design of the Master Sign Plan. Tenants within the unified development shall be allowed to utilize tenant panels on the Community and Retail Gateway Signs.

Amendments to the Master Sign Plan and Approved Community Signs. As the Master Sign Plan is adopted as part of the zoning ordinance, and has the effect of being a zoning ordinances, amendments to the Master Sign Plan must be processed by Ordinance and approved by City Council after review and recommendation by the Planning Commission.

Sign Type	Allowable Size	Architecture	Allowable Height
Community Sign	300 Square Feet	Per Appendix B	30 Feet *
Gateway Sign	50 Square Feet	Per Appendix B	10 Feet
Retail Gateway Sign	150 Square Feet	Per Appendix B	12 Feet
Community Kiosk	32 Square Feet	Per Appendix B	10 Feet*
Parking Ramp Signage	100 Square Feet	Per Appendix B	(Wall Signage)

* From highest point of adjacent road centerline

Desirable signs are designed to be architecturally compatible with buildings within the development and other signage within the development

Project Signs

Project signs are permitted within all COR sub-districts.

One (1) freestanding sign is allowed per building, provided that the following standards are met:

A. The building in which the advertising business is located, shall be set back a minimum of six (6) feet from a public street right-of-way.

B. The area of each face of the signboard shall not exceed six (6) square feet and the signboard shall not have more than two (2) readable faces. The signboard may exceed six (6) square feet, but not more than 32 square feet, provided that the sign consists of individual letters, without internally illuminated box letters. Lighting may be achieved through 'halo' lighting effects.

C. The height of the top of the signboard, or of any posts, brackets, or other supporting elements shall not exceed six (6') feet from the ground.

D. The signboard shall be constructed of wood, acrylic, aluminum or metal and shall be architecturally compatible with the style, composition, materials, colors and details of the building.

E. No part of the sign shall encroach on the right-of-way and its location shall not interfere with pedestrian or vehicular circulation.

F. Limited to one (1) sign per building and shall not be in addition to wall-mounted, applied letter or projecting signs.

G. The readable faces of the sign shall be perpendicular to the adjacent street.

In the COR2 District, the following signage shall be allowed:

A. Ground sign. There shall not be more than one (1) ground sign for each parcel. The gross surface area of a ground sign shall not exceed one hundred (100) square feet for each exposed face nor exceed an aggregate gross surface area of two hundred (200) square feet. Ground signs may be shared and combined at areas of shared entrances for multiple users. Shared ground signs shall not exceed 150 square feet. A shared sign shall be allowed for each entrance to the site (defined as bordered by public streets).

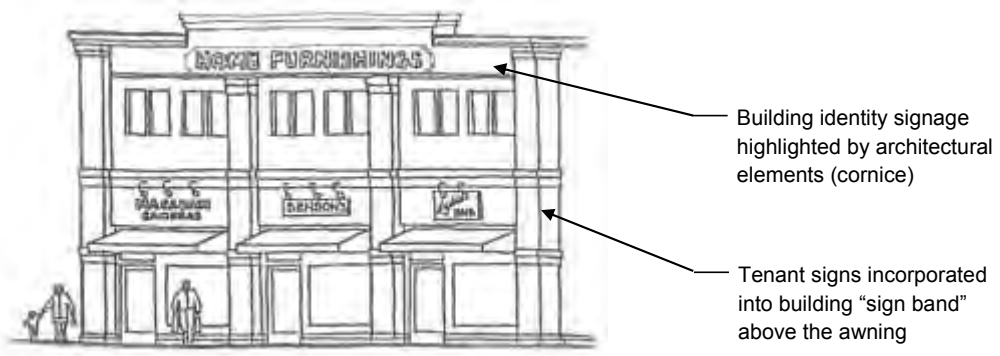
B. Menu board. One (1) on-site menu board per drive-up or walk-up lane of a drive-in restaurant up to a maximum of thirty-two (32) square feet each and a maximum height of three (3) feet. Menu boards are allowed a message on one (1) side only and cannot contain an advertising message.

C. Directional signs.

1. Directional or instructional signs are permitted in accordance with Section 117-463(l).

2. Parking lot directional signs designating parking area entrances and exits are limited to one (1) sign for each entrance and/or exit and shall not exceed four (4) square feet for each exposed face. Parking lot directional signs shall not project higher than five feet (5') in height, as measured from the established grade of the parking area to which such signs are accessory.

3. Parking lot instructional signs designating the conditions of use or identification parking areas shall not exceed eight (8) square feet and shall not project higher than ten (10) feet in height for wall signs and seven (7) feet in height for ground signs, as measured from the established grade of the parking area to which such signs are accessory.



Wall Signs

Wall signs are permitted within all COR sub-districts.

Wall signs shall be permitted on one (1) wall, except that lots with frontage on more than one (1) street may have signage on one (1) wall per street frontage.

Within the COR1, COR3, COR4 and COR5 districts, the following standards apply:

A. Wall-mounted or painted signs, provided the following standards are met:

1. The sign shall be affixed to the front facade of the building, and shall project outward from the wall to which it is attached no more than six inches (6").

2. Single Tenant Buildings. Each building shall be allowed one (1) wall sign per street frontage. Signage must be located on the street elevation. The area of the sign shall not exceed five (5%) percent of the ground floor building facade area. Individual signs may not exceed ~~or~~ fifty (50) square feet~~, whichever is less~~.

3. Multi-Tenant Buildings.

   a. Each building shall be allowed wall signage on the street frontage elevation. For buildings with multiple street frontages, the allowable signage is per street frontage. Signage must be located on the street elevation.
   b. Each building is allowed wall signage that shall not exceed 5% of the wall area of the building façade adjacent to the street. ~~or~~ Individual signs may not exceed 50 square feet~~, whichever is less~~.
   c. Tenant signage must be located on the tenant lease space.
   d. At least fifty (50%) percent of the allowed signage must be allocated to ground floor tenants and located on the ground floor.
   e. Signage is limited to a maximum of one (1) sign per business/tenant, except that tenants with frontage on multiple streets may be permitted to have signage on each street frontage.
   f. Multi-tenant buildings must have wall signs of similar design. Sign permits for

tenants in multi-tenant buildings shall only be permitted by the City after the building owner has submitted a comprehensive sign plan approved by the Zoning Administrator. The comprehensive sign plan for the building shall include similar design standards including sign material, color, style, spacing and size.

4. Signs for buildings facing Highway 10. Single or multi-tenant buildings that have frontage on Highway 10 or are separated from Highway 10 only by other public right-of-way, shall be allowed to have signage on that street elevation that is up to five (5%) percent of the wall area of that building façade with no maximum square footage.

B. Wall-mounted building directory signs identifying the occupants of a commercial building, including upper story business uses, provided the following standards are met:

1. The sign is located next to the entrance.

2. The sign shall project outward from the wall to which it is attached no more than six inches (6").

3. The sign shall not extend above the parapet, eave, or building facade.

~~4. The area of the signboard shall not exceed three (3) square feet, with each tenant limited to one (1) square foot.~~

~~5.~~4. The height of the lettering, numbers, or graphics shall not exceed ~~four~~ twelve inches (12~~4~~").

~~6.~~5. One (1) such sign is allowed per public building entrance and is allowed in addition to other permitted wall signage.

C. Applied letters may substitute for wall-mounted signs, if constructed of painted wood, painted cast metal, bronze, brass, acrylic or black anodized aluminum. The height of applied letters shall not exceed 12 inches.

D. Logos are considered signs and shall be included in the maximum allowable sign area.

E. Window or door signs, provided that the following standards are met:

1. The sign shall not exceed ten percent of the window or door area or four (4) square feet, whichever is less.

2. The sign shall be silk screened, hand painted, applied letters/graphics, neon tubing or other sign technologies that meet these standards.

3. Limited to one (1) sign per business, applied on either the window or the door, but not on both.

4. The sign shall not have an opaque backing of any type although smoked glass is allowed.

5. Window signage (includes graphics) shall be permitted on the same building walls that have, or are allowed to have, wall signage pursuant to Item A above. Window signage shall be deducted from the allowable wall signage area.

Within the COR2 district, where more conventional suburban development is expected, rather than the neo-traditional development planned for the other COR sub-districts, the following standards apply:

A. Wall, canopy or marquee sign. Total sign area may not exceed 15 percent of the front building facade. At least 50 percent of the signage area must be placed on the measured wall with remaining signage area, if desired, distributed on any other wall. Sign height shall not exceed the top of the parapet wall or, if no parapet wall, sign height shall not exceed the height of the eaves. The gross surface area of a wall, canopy or marquee sign may be increased by ten percent if such wall sign:

   1. Consists only of individual, outlined alphabetic, numeric and/or symbolic characters without background except that provided by the building surface to which the sign is to be affixed;

   2. Illumination, if any, is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting but not any lighting where the light source is visible or exposed on the face or sides of the characters; and

   3. A wall, canopy or marquee sign may be located on the outermost wall of any principle building but shall not project more than 16 inches from the wall to which the sign is to be affixed. A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.

B. Window signs are restricted to 30 percent of the area of the window in which the sign is to be displayed.

In all COR sub-districts, restaurants and cafes shall be permitted one (1) wall-mounted display featuring the actual menu as used at the dining table, to be contained within a shallow wood or metal case and clearly visible through a glass front. The display case shall be attached to the building wall, next to the main entrance, at a height of approximately five feet (5'), shall not exceed a total area of two square feet, and may be lighted. This signage is allowed in addition to other permitted wall signage.

Projecting Signs

Projecting signs are permitted within all COR sub-districts.

Projecting signs, including graphics or icon signs, mounted perpendicular to the building wall, are encouraged in all sub-districts, provided the following standards are met:

A. The sign area shall not exceed ~~six~~ thirty-two (~~6~~32) square feet.

B. The distance from the ground to the lower edge of the signboard shall be ten feet or greater.

C. The height of the top edge of the signboard shall not exceed the height of the wall from which the sign projects, if attached to a single story building, or the height of the sill or bottom of any second story window, if attached to a multistory building.

D. The distance from the building wall to the signboard shall not exceed six inches (6”).

E. The width of the signboard shall not exceed three (3) feet.

F. Limited to one (1) sign per business. Projecting sign area shall be deducted from the allowable wall signage area.

G. Granted to ground floor commercial uses only.

Awning Signs

Awning signs are allowed in all COR sub-districts. Awning signs are allowed for ground floor uses only, provided that the following standards are met:

A. If acting as the main business sign, it shall not exceed 24 square feet in area~~., and the height of the lettering, numbers, or graphics shall not exceed 12 inches.~~

B. If acting as an auxiliary business sign, it shall be located on the valance only, shall not exceed four (4) square feet in area, and the height of the lettering, numbers, or graphics shall not exceed four inches (4”).

C. Limited to two such signs per business, per frontage.

D. If acting as the main business sign, it shall not be in addition to a wall-mounted or applied letter sign.

Sandwich Board Signs

Sandwich board signs are permitted within all COR sub-districts.

A. One (1) sandwich board sign per business is permitted in any business, commercial and mixed use district and shall be located within five feet (5’) of the main building entrance to the business it advertises.

B. Sandwich board signs shall be displayed only during open business hours and must be removed daily.

C. Sandwich board signs shall be no more than a total of two feet (2’) in width and three feet (3’) in height

D. Sandwich board signs must leave a minimum of five feet (5') of clearance for pedestrian access if placed on a public or private sidewalk. Sandwich board signs may not hinder the ability of persons to access vehicles parked at the curb and/or access to a building.

E. Acceptable materials for sandwich board signs shall include the following: metal, wood synthetic materials such as a chalk board and whiteboard. Sandwich board signs shall not be illuminated, nor shall they contain moving parts, or have balloons, streamers, stringers, pennants or similar adornments attached to them. Sandwich board signs shall be maintained in a good appearance at all times.

F. No sandwich board sign shall be secured, tethered or installed on traffic devices, utility equipment, street furniture, street lights, or any other public fixture.

G. Sandwich board signs are temporary signs and shall not be counted towards the total sign area of the site for permanent signage.

Temporary Signs

Temporary signs are allowed per Section 117-465 (Temporary signs) of the Zoning Ordinance, except as noted below:

A. Freestanding temporary signs shall only be allowed in the COR~~1~~2 and COR3 Districts.

B. In all other COR districts, temporary signs shall be limited to temporary sandwich board signs or temporary wall signage, without interchangeable letters.

~~B.~~C. Real estate and leasing signs shall be exempt from temporary and permanent sign regulations, provided that these signs do not exceed thirty-two (32) square feet.

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Off-Site Signs

Off-site signs are prohibited except for wayfinding and community signage specifically allowed by the Design Framework.

Table 2

Sign Standards					
Development Standard	COR1	COR2	COR3	COR4	COR5
Project Signs					
Number of signs allowed	1*	1*	1*	1*	1*
Size of Sign (maximum)	6 sq. ft./6 feet high***	100 sq. ft./6 feet high	6 sq. ft./6 feet high***	6 sq. ft./6 feet high	6 sq. ft./6 feet high
Menu Board**	N/A	1 per drive-through lane/~~36~~ 40 sq. ft. max.	N/A	N/A	N/A
Directional Sign	N/A	Per 117-463(I)	N/A	N/A	N/A
Wall Sign					
Number of signs allowed	1*	1*	1*	1*	1*
Size of Sign					
Single Tenant Building	~~50 sq. ft. or~~ 5% of the ground floor façade area, ~~whichever is less~~	15% of façade area	~~50 sq. ft. or~~ 515% of the ground floor façade area, ~~whichever is less~~	~~50 sq. ft. or~~ 5% of the ground floor façade area, ~~whichever is less~~	~~50 sq. ft. or~~ 5% of the ground floor façade area, ~~whichever is less~~
Multi-Tenant Buildings	~~50 sq. ft. or~~ 5% of the façade area, ~~whichever is less~~	15% of façade area	~~50 sq. ft. or~~ 5% of the façade area, ~~whichever is less~~	~~50 sq. ft. or~~ 5% of the façade area, ~~whichever is less~~	~~50 sq. ft. or~~ 5% of the façade area, ~~whichever is less~~
Building Facing Highway 10	5% of the façade area	15% of façade area	5% of the façade area	5% of the façade area	5% of the façade area
Window Sign					
Number of signs allowed	1	1	1	1	1
Size of Sign	10% of area of window or 4 sq. ft., whichever is less. Deducted from allowable wall sign area.	30% of area of window. Deducted from allowable wall sign area.	10% of area of window or 4 sq. ft., whichever is less. Deducted from allowable wall sign area.	10% of area of window or 4 sq. ft., whichever is less. Deducted from allowable wall sign area.	10% of area of window or 4 sq. ft., whichever is less. Deducted from allowable wall sign area.
Directory Sign					
Number of signs allowed	1 per building entrance	1 per building entrance	1 per building entrance	1 per building entrance	1 per building entrance
Size of Sign	3 sq. ft. maximum	3 sq. ft. maximum	3 sq. ft. maximum	3 sq. ft. maximum	3 sq. ft. maximum
Projecting Sign					
Number of signs allowed	1*	1*	1*	1*	1*
Size of Sign	6 sq. ft./3 feet wide	6 sq. ft./3 feet wide	6 sq. ft./3 feet wide	6 sq. ft./3 feet wide	6 sq. ft./3 feet wide
Awning Sign					
Number of signs allowed	2 per business	2 per business	2 per business	2 per business	2 per business
Size of Sign	24 sq. ft./max. letter height 12-inches for main business sign or 4 sq. ft./max letter height 4-inces if auxiliary. Area is deducted from allowable wall sign area.	24 sq. ft./max. letter height 12-inches for main business sign or 4 sq. ft./max letter height 4-inces if auxiliary. Area is deducted from allowable wall sign area.	24 sq. ft./max. letter height 12-inches for main business sign or 4 sq. ft./max letter height 4-inces if auxiliary. Area is deducted from allowable wall sign area.	24 sq. ft./max. letter height 12-inches for main business sign or 4 sq. ft./max letter height 4-inces if auxiliary. Area is deducted from allowable wall sign area.	24 sq. ft./max. letter height 12-inches for main business sign or 4 sq. ft./max letter height 4-inces if auxiliary. Area is deducted from allowable wall sign area.

*One (1) sign is allowed per street frontage (either wall or project)

**Restaurants and cafes in all districts are allowed one (1) wall mounted menu board not to exceed 2 sq. ft. in addition to other permitted wall signage.

***See Page 32, 'Project Signs' for allowances up to 32 square feet.

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Additional standards

A. Businesses with service entrances may identify these with one (1) wall-mounted or applied

letter sign not exceeding two square feet.

B. One (1) directional sign, facing a rear parking lot. This sign may be any type of permitted sign other than a freestanding sign, but shall be limited to four (4) square feet in area.

Creative Sign Standards

A. *Purpose.* This section establishes standards and procedures for the design, review, and approval of creative signs. The purposes of this creative sign program are to:

1. Encourage signs of unique design, and that exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and

2. Provide a process for the application of sign regulations in ways that will allow creatively designed signs that make a positive visual contribution to the overall image of the city, while mitigating the impacts of large or unusually designed signs.

B. *Applicability.* An applicant may request approval of a sign permit for a creative sign to authorize onsite signs that employ standards that differ from the other provisions of this chapter but comply with the provisions of this section.

C. *Application Requirements.* A sign permit application for a creative sign shall include all information and materials required by the City.

D. *Procedure.* A sign permit application for a creative sign shall be subject to review and approval by the City as part of the Site Plan review process. When the creative sign is proposed after site plan review is complete, a creative sign may be approved by the Zoning Administrator when the proposed sign is fifty square feet or less, and shall be approved by the City Council when the sign is larger than fifty square feet.

E. *Design Criteria.* In approving an application for a creative sign, the review authority shall ensure that a proposed sign meets the following design criteria:
   1. Design Quality. The sign shall:
      a. Constitute a substantial aesthetic improvement to the site and shall have a positive visual impact on the surrounding area;
      b. Be of unique design, and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
      c. Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, and proportion.

   2. Contextual Criteria. The sign shall contain at least one (1) of the following elements:
      a. Classic historic design style;
      b. Creative image reflecting current or historic character of the City;

c. Inventive representation of the use, name, or logo of the structure or business.

3. Architectural Criteria. The sign shall:
   a. Utilize or enhance the architectural elements of the building; and
   b. Be placed in a logical location in relation to the overall composition of the building's façade and not cover any key architectural features and details of the façade.

4. Neighborhood Impacts. The sign shall be located and designed not to cause light and glare impacts on neighboring residential uses.

Prohibited signs

The following signs are prohibited:

A. Box signs or cabinet signs, whether on a wall, projecting or on canopies are prohibited except for logo signs permitted as part of an overall sign plan.

B. Signs employing mercury vapor, low pressure and high pressure sodium and metal halide lighting; plastic panel rear-lighted signs.

C. Signs on roofs, dormers, and balconies.

D. Billboards.

E. Signs painted or mounted upon the exterior side or rear walls on any principle or accessory building or structure, except as otherwise permitted hereunder.

F. Free standing pylon signs over six (6) feet in height, except community signs.

G. Back-lit awnings.

H. Interchangeable letter boards or panels.

I. Flashing signs.

J. Off-premises signs, except community signs.

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Overall Framework – Stormwater Management

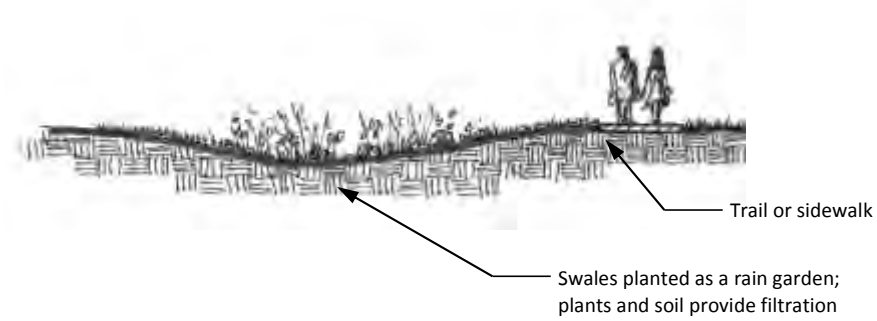
Overview

Water features and drainage systems are essential components of The COR Master Plan. The mix of ponds, streams, fountains and other water elements will provide focal amenities and year round activities within the framework of an environmentally responsible, visually pleasing strategy to manage stormwater. Because the Mississippi River is a restricted discharge water of the state, and because we are creating a new discharge from this development, each sub-district and each site has a responsibility to utilize 'best management practices' (BMP) to pretreat run-off, reduce erosion and encourage infiltration, with the understanding that regional treatment will be provided. Water elements are not intended to be separate stand-alone features, but instead should be integrated with the variety of parks, trails and public open space proposed for The COR. Water and landscape should be designed and utilized within multipurpose areas that accommodate both active and passive recreational use.

Objectives

Integration of water and landscape, design creativity, use of high quality materials and safety concerns are the critical objectives to be met – the following examples illustrate only a few of many possibilities:

- Innovative new products, such as special soil systems (Netlon, structural soils), pervious pavements for parking areas, storm ceptors, underground storage and other creative techniques should be used to BMP standards
- 'Green architecture', expressed through green roofs, gray water recycling and other techniques should be included to reduce the impact of new development on stormwater systems
- Water feature design should include both formal elements (such as reflecting pools or fountains) and natural/informal forms (such as ponds, streams, waterfalls) and should explore creative ways to integrate wetland/rain garden landscapes with active, urban spaces.



Guideline Recommendations

This framework not only defines the overall role and character of The COR, but also encourages each development parcel to address the following:

- **Create** signature water features (ponds, pools, fountains, waterfalls, etc.) as major visual amenities throughout The COR
- **Promote** high quality, creative and appealing aesthetics for all system elements
- **Integrate** stormwater management components (meeting both water quality and quantity requirements)

A great deal of time and effort has gone into the calculation and design of a 'watershed-based' stormwater management plan to support COR development. While this overall strategy addresses the water quantity issue for the entire COR by providing storage and conveyance facilities for storm events, individual development projects (block-by-block) have an equal responsibility to meet water quality standards as a primary goal. Each project should integrate a variety of techniques, materials and methods to promote multiple use, maximum flexibility, improved aesthetics for parking areas, park spaces, drainage swales and other site features.

Overall Framework – Parks/Public Spaces

Overview

The overall design framework of The COR is based on a system of linked parks, trails and open space. The City of Ramsey, Anoka County, and to some extent, the State of Minnesota all play a role in local and regional parks programming, design review, construction sequencing, implementation and ultimately maintenance and operation of key public spaces within this framework. The goal is to link existing and proposed parks and trails defined in regional park plans with proposed new parks and trails within The COR. Of equal importance is the contribution from each block and each development project to this network of green, adding a variety of private, semi-private, and perhaps some additional public space throughout The COR. Private development will share the responsibility to provide inviting, innovative and useable green space as integral parts of individual parcel site design.

Guideline Recommendations

The Design Framework encourages the following:

- Work with the City to create an integrated, comprehensive open space system that links with existing city and county trails and open space networks
- Encourage private development (block-by-block) to share in the responsibility to provide inviting, innovative and useable green space as integral parts of each development project
- Integrate stormwater management components (meeting water quality and quantity requirements) within both public / private park and open space improvements

Together, the system of public and semi-public green space will result in a welcoming public realm throughout the new community.

Objectives

Based on the Development Master Plan for The COR, a variety of public and private green space is proposed including:

- Each block and each project will provide intentional, creative, innovative, useable green areas as integral components of site development and building design.
- At the individual block scale, small squares and greens will provide places for gathering and relaxation, especially targeted to meet the demands of adjacent, or nearby buildings. Elements such as gardens, gazebos and fountains should characterize these more intimate public spaces.
- At the neighborhood scale, parks will provide space for more active recreation, and should be flexible enough to accommodate a variety of recreational activities.
- Playgrounds, game fields and park buildings are park amenities that will target a wider user demand from the surrounding community.

- The Municipal Plaza will connect with all other parks and open space elements, providing a focal point for activity and a sense of place. Gardens, public pavilions and shelters, play lots and open play fields are amenities that will provide built-in flexibility to meet the demands of both the local population and regional visitors to The COR.

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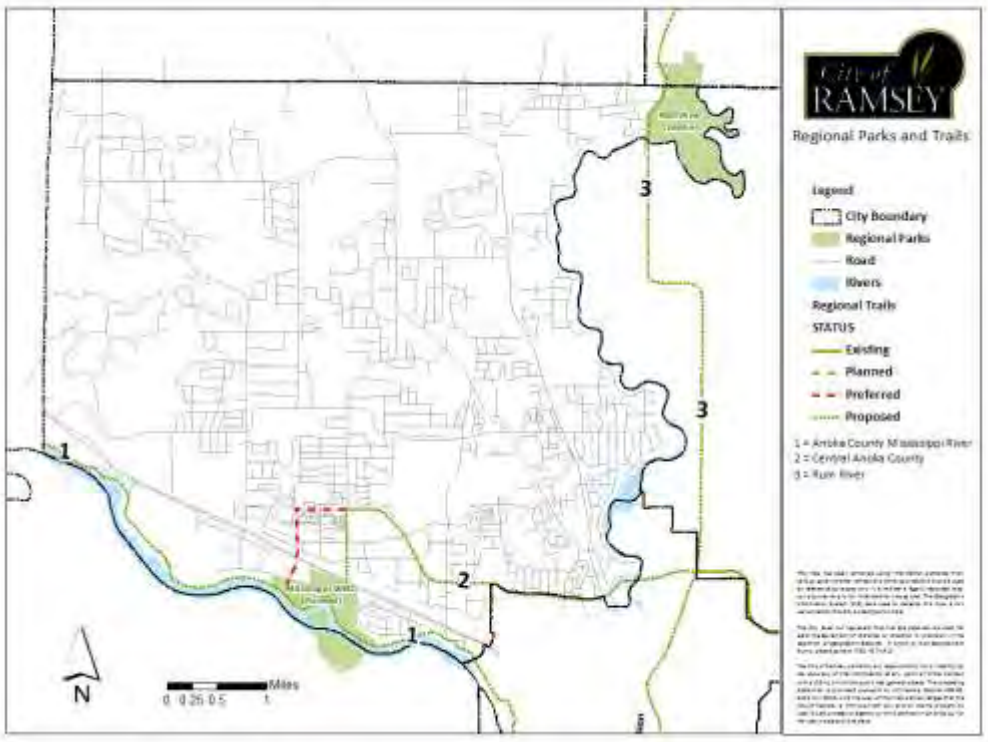
Regional Systems

The COR is the heart of several regional systems that are either located within or adjacent to The COR. These regional systems include the Northstar Commuter Rail, the Central Anoka County Regional Trail, the Mississippi West Regional Park, and the Mississippi River Trail.

A number of these systems have a pedestrian component. As such, Ramsey desires to locate the future Central Anoka County Regional Trail through the heart of The COR, along Center Street. The map below indicates Ramsey's preferred route for this trail. As this trail requires crossing Highway 10, it is imperative that a safe, grade-separated crossing is realized. This pedestrian overpass is envisioned to be connected to the Northstar Commuter Rail – Ramsey Station, and has been named the 'Mississippi Skyway'.



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Part Two: Sub-district Framework

Overview

The Master Plan and Zoning Ordinance identify five (5) distinct sub-districts within The COR. Each of these sub-districts is defined by a unique mix of uses, specific site development patterns and perhaps a distinctive character or image. The sub-districts complement one another as part of the overall plan. The sub-districts are shown the attached Sub-district Map (**Error! Reference source not found.**~~Figure 7: Sub-district Map~~). They include:

- **COR1 Mixed Use Core** – provides the broadest variety, highest density and greatest intensity of development, encouraging both vertical and horizontal mixed use
- **COR2 Commercial** – provides a location for larger scale retail and other auto-orientated commercial uses
- **COR3 Workplace** – provides a location for uses with high concentrations of employees, such as medical/technology related office, and other corporate or institutional uses
- **COR4 Neighborhood** – provides opportunities for a range of housing types from small lot single family to townhouse, to high density senior or rental apartment
- **COR5 Park and Open Space** – preserves environmental features and provides neighborhood/community amenities throughout The COR

Development plans must respond to the overall COR Design Framework described in Part One of this document, but also must address the following detailed framework standards for each sub-district. To further clarify and illustrate proposed features in the Master Plan, these sub-district guidelines are organized under the following categories:

- Public Realm / Streetscape Framework
- Site Design Framework
- Architectural Framework

In all cases, the sub-district framework must be applied in harmony with the overall COR framework and with other existing city, county, state codes, design criteria, plans and studies that support broader goals for regional growth and development. However, within each district, development standards shall be based, in part, on the street hierarchy established in The COR.

Public Realm/Streetscape

A. The developer shall be responsible for construction of all streetscape improvements along adjacent streets. These improvements include all hardscape improvements, such as trails, sidewalks, benches, bike racks, etc., as well as street trees and other greenscape.

B. The landowner shall be responsible for maintenance of the streetscape improvements along adjacent streets. Such maintenance may be managed as part of a Special Service District (SSD) or similar.

Plazas

A. All properties with principal buildings in excess of 30,000 square feet shall be required to have a public plaza space.

B. The public plaza space shall include benches, bike racks trash receptacles, lighting fixtures and other amenities to create a welcoming space for tenants of the building and members of the public.

C. These plaza spaces should be visible from the public street.

Architecture

These architectural framework standards provide an important balance between design continuity, desirable variety and the notion that buildings should complement, and perhaps contrast, but not compete with one another. The lasting appeal of the final outcome must be grounded in the authenticity of the design and the acceptable level of 'messiness' that comes with creating a real downtown over time; 'faux' second floors, stage set or themed solutions, and large faceless buildings are not acceptable.

Auto Versus Human Design: Providing rear alleys or side loaded garages enables the home to present itself to the street, which promotes sociability and walkability.

Minimum Standards

Definitions

Build to line: The line at which construction of a building facade is to occur on a lot. The build to line provides a maximum setback for all building facades from the right-of-way or inside edge of the sidewalk, whichever is greater. The build to line applies to all facades abutting a street right of way. Build to line standards are based on the sub-district the parcel is located and the street in which the building is located upon.

Setback: The minimum required distance between a parking lot or the vertical wall of a building and a lot line. Setbacks are typically more flexible than build to lines and allow a building to be set further back from the lot line and street right-of-way.

Requirements:

A. Additional development standards shall be defined within each sub-district.

B. Provide a diverse mix of materials, applied in a variety of proportions, exposures and detailing within a block, or along a street.

C. Buildings should be articulated to break up the mass of the building façade on all elevations. Large blank exterior walls shall be prohibited. Windows are encouraged to be used to break up the mass of the building. Rooflines and building elevations should be articulated to break up the mass of buildings. Buildings must be broken at a minimum of every fifty (50) feet. This variation can be accomplished through one (1) or more of the following:

1. Wall face variations (minimum depth of two (2) feet)
2. Pilasters or columns (minimum depth of two (2) feet)
3. Upper wall break in color and/or materials (minimum of 2/3 up the height of the wall)
4. Wainscot (minimum of four (4) feet high)
5. Canopies (minimum four (4) foot width)
6. Corner and demising wall or building separations

More Desirable

D. Each development application must list building materials, roofing materials and building colors on the plans. Building articulation, mechanical screening by architectural elements and design elements on all building elevations must be identified on the plans. The plans shall be subject to City review and approval to ensure that the design intent of the Framework has been met.

Less Desirable

E. Building materials shall be high-quality durable materials, such as glass, stone, brick, windows, canvas awnings, etc.

1. Use local sources if available
2. Siding is not allowed (vinyl, metal, wood) except as a complimentary use
3. Use clear or lightly tinted glass for all windows and doors – mirrored, reflective or highly tinted glazing is not acceptable
4. Metal and wood components are acceptable as a complimentary, not primary, building material
5. COR1 sub-district buildings shall be primarily brick or a comparable alternative and shall comprise a minimum of fifty (50%) percent of the non-glazed wall area

F. Residential development should provide variety within the subdivision to avoid monotony. Developers will include front porches and windows that face all streets. Corner units shall have more than one (1) window per side of building to help create a sense of place in the community and promote safety on the street.

G. Garage forward or “snout houses” are highly discouraged on all residential development as they dominate the view from the street and sidewalk.

H. All sides of buildings shall have an equal finish in terms of materials and general design.

I. The main entrance of each principal building must face the street. On corner lots, the main entrance may face either of the streets or be oriented to the corner. With buildings that have more than one (1) main entrance, only one (1) entrance must meet this requirement.

J. Building massing shall be oriented parallel to the street frontage of the lot.

K. Trash and recycling areas shall be designed internal to the building.

L. Provide recessed entries wherever possible.

M. Buildings shall have a base and top to the architecture.

N. Multi-story buildings are preferred in the COR1 sub-district, but occasional single story buildings are acceptable; single story buildings should not dominate any street frontage and should be a minimum of twenty (20) feet to the roofline.

O. Maximize glass openings for all ground level, street front façades – especially for retail, restaurant and other commercial uses – fifty (50%) minimum of total ground level façade, or demonstrate great design through other means.

P. Provide real window openings for all street facing façades above ground level in all districts–a minimum of forty (40%) percent of total façade.

Residential uses in COR4 and COR5 must also comply with the following:

A. Location of main entrance

1. A building must include a front porch or covered balcony/patio at all main entrances that face a street. The porch or stoop shall adjoin the main entrance and the main entrance shall be accessible from the porch.
2. The main entrance of each principal building must face the street. On corner lots, the main entrance may face either of the streets or be oriented to the corner. With buildings that have more than one (1) main entrance, only one (1) entrance must meet this requirement.

B. *Porches*: Porches used to satisfy the design criteria shall comply with the following:

1. Porches shall be covered by a solid roof. The roof shall not

be located more than 12 feet above the floor of the porch. If the roof of a required porch is developed as a deck or balcony, it may be flat.

2. The porch shall have minimum dimensions of 6 feet by 6 feet. (6' x 6'). For single-family detached dwelling units, the covered area provided by the porch must be at least forty-eight (48) square feet and a minimum of eight (8) feet wide. If the main entrance is for more than one (1) dwelling unit, the covered area provided by the porch must be at least sixty-three (63) square feet and a minimum of nine (9) feet wide.

C. *Covered balconies/patio:* The covered area must be at least forty-eight (48) square feet, a minimum of eight (8) feet wide, and no more than fifteen (15) feet above grade. The covered area must be accessible from the interior living space of the house.

D. *Openings between porch floor and ground:* Openings of more than one (1) foot between the porch floor and the ground must be covered with a solid material or lattice.

E. Roofs

1. *Slope:* Principal structures must have a roof that is sloped, with a pitch that is no flatter than six (6) units of horizontal run to twelve (12) units of horizontal rise.
2. *Architectural features:* The roof of a principal structure shall include the following architectural details:
   a. At least one (1) dormer facing the street. If only one (1) dormer is included, it shall be at least five (5) feet wide and shall be centered horizontally between each end of the front elevation. If more than one (1) dormer is provided, a dormer at least four (4) feet wide must be provided on each side of the front elevation; or
   b. A gabled end, or a gabled end of a roof projection, facing the street.
3. *Roof eaves:* Roof eaves must project from the building wall at least twelve (12) inches, measured horizontally, on at least the front and side elevations.

THE COR
Sub-District Map
Version 6.1
9/21/2012

Sub-District Framework - COR1 Mixed Use Core

Public Realm / Streetscape

Public realm and streetscape improvements define the character of The COR and create a memorable signature for the Mixed Use Core sub-district. This is the most urban of all sub-districts in The COR and will be developed with a very urban pattern. Great parks and great streets, encourage intensified levels of activity, support the proposed mix of uses, invite community gathering and accommodate special events throughout the year.

Site Development

Framework standards that address building location, organization of space and parking options tend to focus on what can be measured – dimensions, setbacks, number of spaces and so on. But in addition to these issues, the Design Framework also describes the aesthetic qualities and design character of a preferred 'urban form' for the Mixed Use Core. The compact and higher density blocks that define this sub-district encourage a mix of uses, with a continuous built edge along street frontage. Innovative parking strategies support this mix, providing easy access to destination shopping, restaurant and entertainment venues. Together these elements will promote the core area as the center of activity – the place to see and be seen within The COR.

Architecture

Buildings in the Mixed Use Core will play a major role in defining the overall character of The COR. The proposed mix of uses for this signature destination suggests the potential for a variety of building types, demanding creativity and innovation to highlight unique architecture, while knitting the entire sub-district together as a coherent whole. Overall building design is an important consideration, but emphasis on first floor façade treatments is essential to encourage street-level activity and enhance the pedestrian experience. Architecture to be '4-sided' at all locations visible to public areas. Emphasis will be on great design along public street frontage.

Table 3

COR1 Development Standards	Arterial Street	Destination Street	Parkway	Connector Street	Downtown Street	Local Street
Minimum lot size	None	None	None	None	None	None
Minimum lot width	20 feet	20 feet	20 feet	20 feet	20 feet	20 feet
Minimum lot depth	80 feet	80 feet	80 feet	80 feet	80 feet	80 feet
Allowable residential density in dwelling units per acre [1]	>15 DU/AC	>15 DU/AC	>15 DU/AC	>15 DU/AC	>15 DU/AC	>15 DU/AC
Minimum floor area ratio (FAR) for nonresidential uses/vertically mixed buildings/sites	.75	.75	.75	.75	.75	.75
Build to Line						
Front yard[4]	30 feet as measured from building front to right-of-way[2][3] (60% of front facade w/in max.)	5 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	5 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	5 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	5 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	5 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)
Side yard	no req.	no req.	no req.	no req.	no req.	no req.
Rear yard	no req.	no req.	no req.	no req.	no req.	no req.
Driveway length (minimum)	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units
Building height (min. - max.)	2 - 5 stories.	2 - 5 stories.	2 - 5 stories.	2 - 5 stories.	2 - 5 stories.	2 - 5 stories.
Planter Style	N/A	Planter Bed	Boulevard Sod	Boulevard Sod	N/A	Boulevard Sod
Tree Spacing (on center)	N/A	35 feet	35 feet	35 feet	35 feet	35 feet
Boulevard Width	N/A	6 feet	6 feet	6 feet	N/A	6 feet
Sidewalk Width	10 feet	10 feet	6 feet	10 feet	10 feet	10 feet

1. Residential density is based on the net area of the parcel in question for parcels. In the event that public open space that is not dedicated to the City is developed independently of any particular residential project, the land area of the open space shall be divided equally among those abutting projects for purposes of density calculations.
2. Build to line shall be measured from building front to edge of right-of-way, or edge of sidewalk easement as defined by the City and said sidewalk must be encumbered by a sidewalk easement recorded with the office of the Anoka County Recorder.
3. The City may approve up to a 60-foot setback if it finds that topography or other factors require that a building be set back further to achieve acceptable grades or buffer between the street, the site entrance and the building.
4. In order to address vision clearance standards on higher speed roadways, parcels that are located at an intersection with an arterial roadway are allowed a build-to line of 35 feet from both streets.

A. At least sixty (60%) percent of street frontage of any lot shall be occupied by building facades meeting this build-to-line. On lots with more than one (1) street frontage, the build to line shall apply on each side fronting a street. An enclosed open area plaza space or outdoor seating with a decorative wall with a minimum height of three feet (3') and a maximum of four and one-half feet (4 ½') can be used to meet the sixty (60%) percent street frontage requirement.

B. Screening Of Parking Areas: Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements, to a minimum height of three feet (3') and a maximum height of four and one-half feet ($4^1/_2$') above the level of the parking lot, at the build-to line. This screening may be broken into sections along the street edge provided it meets the sixty (60%) percent required.

Sub-District Framework - COR2 Commercial

Public Realm / Streetscape

While the Commercial Sub-district encourages a mix of large and small floor plates accommodating auto-oriented uses, this suggests even greater attention be paid to public realm and streetscape improvements that not only accommodate vehicles, but also invite bicycle and pedestrian traffic. Surface parking lots provide convenient access to storefronts, but present an additional challenge to the overall visual character and aesthetic appeal of this area. While no large public parks are identified for this sub-district, small pocket parks, squares or other gathering spaces are encouraged. A consistent, attractive streetscape is also essential.

Site Development

Site Design Framework for this sub-district focus on a unique opportunity to recast typical commercial development patterns into a contemporary and innovative strategy that responds to overall objectives for The COR. Specifically, this suggests that the majority of buildings front on the primary through streets, with parking and service areas on the side or in the back, away from view. However, the market realities suggest that the types of auto-oriented users in this district will have the potential for larger parking fields and drive-throughs that will make a true urban model challenging. The City will hold all users to this design vision while modifying the COR2 standards slightly to accommodate these types of more typical suburban land uses. A mix of uses within individual blocks, including retail, restaurant and residential, further enhances this model, addresses design character/aesthetics and promotes activity throughout much of the day and evening hours.

Architecture

Buildings in the Commercial Sub-district make a significant contribution to first impressions of The COR. Buildings form gateways at the major entries into the site, architectural elements and choice of materials convey a certain character and the scale or massing of structures begins to define the feel or experience of this place. These are not just 'commodity' buildings, but instead should raise the bar in terms of overall design and specific details that make The COR unique, inviting and memorable. Architecture to be '4-sided' at all locations visible to public areas. Emphasis will be on great design along public street frontage.

Table 4

COR2 Development Standards	Arterial Street	Destination Street	Parkway	Connector Street	Downtown Street	Local Street
Minimum lot size	None	None	None	None	None	None
Minimum lot width	80 feet	80 feet	80 feet	80 feet	80 feet	80 feet
Minimum lot depth	100 feet	100 feet	100 feet	100 feet	100 feet	100 feet
Allowable residential density in dwelling units per acre [1]	>15 DU/AC	>15 DU/AC	>15 DU/AC	>15 DU/AC	>15 DU/AC	>15 DU/AC
Build to Line						
Front yard[4]	30 feet as measured from building front to right-of-way[2][3] (40% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (40% of front facade w/in max.)	30 feet as measured from building front to right-of-way[2][3] (40% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (40% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (40% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (40% of front facade w/in max.)
Side yard	no req.	no req.	no req.	no req.	no req.	no req.
Rear yard	no req.	no req.	no req.	no req.	no req.	no req.
Driveway length (minimum)	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units
Building height (min. - max.)	1-4 stories.	1-4 stories.	1-4 stories.	1-4 stories.	1-4 stories.	1-4 stories.
Planter Style	N/A	Boulevard Sod	Boulevard Sod	Boulevard Sod	N/A	Boulevard Sod
Tree Spacing (on center)	N/A	35 feet	35 feet	35 feet	35 feet	35 feet
Boulevard Width	N/A	6 feet	6 feet	6 feet	N/A	6 feet
Sidewalk Width	10 feet	6 feet	6 feet	10 feet	10 feet	10 feet

1. Residential density is based on the net area of the parcel in question for parcels. In the event that public open space that is not dedicated to the City is developed independently of any particular residential project, the land area of the open space shall be divided equally among those abutting projects for purposes of density calculations.
2. Build to line shall be measured from building front to edge of right-of-way, or edge of sidewalk easement as defined by the City and said sidewalk must be encumbered by a sidewalk easement recorded with the office of the Anoka County Recorder.
3. The City may approve up to a 60-foot setback if it finds that topography or other factors require that a building be set back further to achieve acceptable grades or buffer between the street, the site entrance and the building.
4. In order to address vision clearance standards on higher speed roadways, parcels that are located at an intersection with an arterial roadway are allowed a build-to line of 35 feet from both streets.

A. At least forty (40%) percent of street frontage of any lot shall be occupied by building facades meeting this build-to-line. On lots with more than one (1) street frontage, the build to line shall apply only to one (1) street frontage.
   1. An enclosed open area plaza space or outdoor seating with a decorative wall with a minimum height of three feet (3') and a maximum of four and one-half feet (4 ½') can be used to meet the forty (40%) percent street frontage requirement.
   2. The City may approve a variation from the required build to line if the applicant provides a street edge consisting of fencing, decorative wall and/or landscaping with a minimum height of three feet (3') and a maximum of four and one-half feet (4 ½') can be used to meet the forty (40%) percent street frontage requirement.

B. Screening Of Parking Areas: Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements, to a minimum height of three feet (3') and a maximum height of four and one-half feet ($4^1/_2$') above the

level of the parking lot, at the build-to line. This screening may be broken into sections along the street edge provided it meets the forty (40%) percent required on all street frontages.

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Sub-District Framework - COR3 Workplace

Public Realm/Streetscape

The Workplace Sub-district also encourages a mix of large and small floor plate buildings, but instead of commercial or entertainment, this area of The COR is dominated by office and institutional uses. With opportunities for corporate or medical campus development comes the attendant auto-related infrastructure – easy access, bigger streets and large surface parking lots. Once again, this suggests that equal attention be paid to public realm and streetscape improvements that not only accommodate vehicles, but also invite bicycle and pedestrian traffic. The Draw, an active, neighborhood scale, recreational play space has been included in this sub-district, but small pocket parks, squares or other gathering places are also encouraged. In addition, streetscape improvements provide an important public amenity and inviting pedestrian connection to adjacent sub-districts.

Site Development

The mix of medical, office, institutional and other uses in this sub-district suggest the potential for a campus-like arrangement of buildings on some blocks. These blocks would tend to be more internally oriented than in other districts, with driveways, parking lots, courtyards and walkway connections in the center, ringed by buildings around the outside. Buildings would still face adjacent streets, with both primary and secondary entries provided to animate these important façades, particularly along Ramsey Boulevard, Sunwood Drive and Rhinestone Street. While the Workplace sub-district also encourages mixed use, this desired development objective will likely occur mostly within blocks, not within individual buildings as seen in other districts.

Architecture

Buildings in the Workplace Sub-district also make a significant contribution to first impressions as people enter The COR via Highway 10, Ramsey Boulevard and Sunwood Drive. Buildings form gateways at the major entries into the site, architectural elements and choice of materials convey quality and permanence, and the scale or massing of structures begins to define the feel and character of this place. The proposed mix of uses within this sub-district suggest a variety of potential building types – blending medical campus with small office, storefront and some housing -- demands design creativity and innovation to highlight unique architecture, and knit the entire sub-district together as a coherent whole. Architecture to be '4-sided' at all locations visible to public areas. Emphasis will be on great design along public street frontage.

Table 5

COR3 Development Standards	Arterial Street	Destination Street	Parkway	Connector Street	Downtown Street	Local Street
Minimum lot size	None	None	None	None	None	None
Minimum lot width	40 feet	40 feet	40 feet	40 feet	40 feet	40 feet
Minimum lot depth	80 feet	80 feet	80 feet	80 feet	80 feet	80 feet
Allowable residential density in dwelling units per acre [1]	none	none	none	none	none	none
Minimum floor area ratio (FAR) for nonresidential uses/vertically mixed buildings/sites	.25	.25	.25	.25	.25	.25
Build to Line						
Front yard[4]	30 feet as measured from building front to right-of-way[2][3] (60% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	15 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)
Side yard	no req.	no req.	no req.	no req.	no req.	no req.
Rear yard	no req.	no req.	no req.	no req.	no req.	no req.
Driveway length (minimum)	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units
Building height (min. - max.)	2 - 4 stories.	2 - 4 stories.	2 - 4 stories.	2 - 4 stories.	2 - 4 stories.	2 - 4 stories.
Planter Style	N/A	Planter Bed	Boulevard Sod	Boulevard Sod	N/A	Boulevard Sod
Tree Spacing (on center)	N/A	35 feet	35 feet	35 feet	35 feet	35 feet
Boulevard Width	N/A	6 feet	6 feet	6 feet	N/A	6 feet
Sidewalk Width	10 feet	10 feet	6 feet	10 feet	10 feet	10 feet

1. Residential density is based on the net area of the parcel in question for parcels. In the event that public open space that is not dedicated to the City is developed independently of any particular residential project, the land area of the open space shall be divided equally among those abutting projects for purposes of density calculations.
2. Build to line shall be measured from building front to edge of right-of-way, or edge of sidewalk easement as defined by the City and said sidewalk must be encumbered by a sidewalk easement recorded with the office of the Anoka County Recorder.
3. The City may approve up to a 60-foot setback if it finds that topography or other factors require that a building be set back further to achieve acceptable grades or buffer between the street, the site entrance and the building.
4. In order to address vision clearance standards on higher speed roadways, parcels that are located at an intersection with an arterial roadway are allowed a build-to line of 35 feet from both streets.

A. At least sixty (60%) percent of street frontage of any lot shall be occupied by building facades meeting this build-to-line. On lots with more than one (1) street frontage, the build to line shall apply on each side fronting a street. An enclosed open area plaza space or outdoor seating with a decorative wall with a minimum height of three feet (3') and a maximum of four and one-half feet (4 ½') can be used to meet the sixty (60%) percent street frontage requirement.

B. Screening Of Parking Areas: Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements, to a minimum height of three feet (3') and a maximum height of four and one-half feet ($4^1/_2$') above the level of the parking lot, at the build-to line. This screening may be broken into sections along the street edge provided it meets the sixty (60%) percent required.

Sub-District Framework - COR4 Neighborhood

Public Realm/Streetscape

Two prominent public parks supply much of the informal green space for The COR, and more specifically, provide the valuable park frontage and mix of amenities needed to support housing development within the Neighborhood Sub-district. North Commons surrounds an existing wetland and provides open space for year-round activities including a proposed sledding hill. The sub-district is adjacent to The Draw, which is characterized by wetlands, ponds and a meandering stream channel surrounded by gently sloping hills. Other park features include active and passive recreation areas, natural and manicured landscapes, education and interpretation opportunities, pedestrian and bicycle trails and many other amenities. Tree-lined streets connect these parks to surrounding residential neighborhoods and to nearby parks and amenities throughout The COR.

Site Development

The Neighborhood Sub-district emphasizes residential development. To support the proposed mix of housing, a framework of streets and blocks, based on the traditional grid system, encourages compact development patterns with increasing densities closer to the heart of The COR. Typical blocks either front onto signature parks or include some private green space within the site; many blocks have both. The arterial streets that frame this property, including Ramsey, Armstrong and Bunker Lake Boulevards, provide an important 'face' for this sub-district. Residential front doors will connect with public walks along each of these streets promoting the urban character of The COR.

Architecture

The largest in terms of overall acreage, the Neighborhood Sub-district will define the character and quality of the entire northern half of The COR property. With prominent street frontage along most of the major thoroughfares that serve this site, the variety of choices for building type, architectural style and design detailing are crucial decisions that together will promote a safe and attractive residential neighborhood. Integrating contemporary and traditional styles is also an important consideration, central to the notion that a unique and creative model for housing development will be a signature for The COR. Architecture to be '4-sided' at all locations visible to public areas. Emphasis will be on great design along public street frontage.

Table 6

COR4 Development Standards	Arterial Street	Destination Street	Parkway	Connector Street	Downtown Street	Local Street
Minimum lot size	None	None	None	None	None	None
Minimum lot width	20 feet	20 feet	20 feet	20 feet	20 feet	20 feet
Minimum lot depth	80 feet	80 feet	80 feet	80 feet	80 feet	80 feet
Allowable residential density in dwelling units per acre [1]	4-15 DU/AC	4-15 DU/AC	4-15 DU/AC	4-15 DU/AC	4-15 DU/AC	4-15 DU/AC
Minimum floor area ratio (FAR) for nonresidential uses/vertically mixed buildings/sites	.25	.25	.25	.25	.25	.25
Build to Line						
Front yard[4]	30 feet as measured from building front to right-of-way[2][3] (60% of front facade w/in max.)	20 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	20 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	20 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	20 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	20 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)
Side yard	no req.	no req.	no req.	no req.	no req.	no req.
Rear yard	no req.	no req.	no req.	no req.	no req.	no req.
Driveway length (minimum)	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units	25 feet for residential units
Building height (min. - max.)	1-4 stories.	1-4 stories.	1-4 stories.	1-4 stories.	1-4 stories.	1-4 stories.
Planter Style	N/A	Planter Bed	Boulevard Sod	Boulevard Sod	N/A	Boulevard Sod
Tree Spacing (on center)	N/A	35 feet	35 feet	35 feet	35 feet	35 feet
Boulevard Width	N/A	6 feet	6 feet	6 feet	N/A	6 feet
Sidewalk Width	10 feet	10 feet	6 feet	10 feet	10 feet	10 feet

1. Residential density is based on the net area of the parcel in question for parcels. In the event that public open space that is not dedicated to the City is developed independently of any particular residential project, the land area of the open space shall be divided equally among those abutting projects for purposes of density calculations.
2. Build to line shall be measured from building front to edge of right-of-way, or edge of sidewalk easement as defined by the City and said sidewalk must be encumbered by a sidewalk easement recorded with the office of the Anoka County Recorder.
3. The City may approve up to a 60-foot setback if it finds that topography or other factors require that a building be set back further to achieve acceptable grades or buffer between the street, the site entrance and the building.
4. In order to address vision clearance standards on higher speed roadways, parcels that are located at an intersection with an arterial roadway are allowed a build-to line of 35 feet from both streets.

A. Screening Of Parking Areas: Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements, to a minimum height of three feet (3') and a maximum height of four and one-half feet ($4^1/_2$') above the level of the parking lot, at the build-to line. This screening may be broken into sections along the street edge provided it meets the sixty (60%) percent required.

Sub-District Framework - COR5 Parks & Open Space

Public Realm/Streetscape

The overall structure of The COR is based on a system of linked parks, trails and open space. This includes existing and proposed parks and trails defined in city and regional parks plans, joined with new parks and trails within The COR. Of equal importance is the contribution from each block and each development project to this green structure, adding a variety of private, semi-private and perhaps some additional public space throughout each sub-district. Great strolling streets provide connections between commercial, workplace, entertainment and residential neighborhoods and encourage shared use for cars, pedestrians and bicycles.

Site Development

The COR Master Plan illustrates a strong framework of green space, including a mix of public parks, destination amenities, courtyards, commons and other features. As a key component of the overall plan, this integrated system of parks, trails and open space provides the framework around which all other land uses are organized. Placemaking and connectivity are important site development considerations, linking each block and each sub-district with major public spaces nearby and with many other amenities and attractions in The COR.

Architecture

There are numerous opportunities to include buildings and other structures as significant design features within the proposed parks, trails and open space system for The COR. These could range from simple picnic shelters and landscaped arbors to more complex park buildings that might contain meeting rooms, rest rooms, storage areas and other facilities. Design of these important buildings should respond to the specific setting and landscape features in each park, and complement the overall character and quality of buildings located within surrounding blocks. Additionally, limited retail is planned along the perimeter of the park.

Table 7

COR5 Development Standards	Arterial Street	Destination Street	Parkway	Connector Street	Downtown Street	Local Street
Minimum lot size	0.5	N/A	0.5	0.5	0.5	0.5
Minimum lot width	N/A	N/A	N/A	N/A	N/A	N/A
Minimum lot depth	N/A	N/A	N/A	N/A	N/A	N/A
Allowable residential density in dwelling units per acre [1]	N/A	N/A	N/A	N/A	N/A	N/A
Minimum floor area ratio (FAR) for nonresidential uses/vertically mixed buildings/sites	N/A	N/A	N/A	N/A	N/A	N/A
Build to Line						
Front yard[4]	30 feet as measured from building front to right-of-way[2][3] (60% of front facade w/in max.)	N/A	10 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	10 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	10 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)	10 feet as measured from building front to right-of-way[2] (60% of front facade w/in max.)
Side yard	no req.	N/A	no req.	no req.	no req.	no req.
Rear yard	no req.	N/A	no req.	no req.	no req.	no req.
Driveway length (minimum)	25 feet	N/A	25 feet	25 feet	25 feet	25 feet
Building height (min. - max.)	1-2 stories.	N/A	1-2 stories.	1-2 stories.	1-2 stories.	1-2 stories.
Planter Style	N/A	N/A	Boulevard Sod	Boulevard Sod	N/A	Boulevard Sod
Tree Spacing (on center)	N/A	N/A	35 feet	35 feet	35 feet	35 feet
Boulevard Width	N/A	N/A	6 feet	6 feet	N/A	6 feet
Sidewalk Width	10 feet	N/A	6 feet	10 feet	10 feet	10 feet

1. Residential density is based on the net area of the parcel in question for parcels. In the event that public open space that is not dedicated to the City is developed independently of any particular residential project, the land area of the open space shall be divided equally among those abutting projects for purposes of density calculations.
2. Build to line shall be measured from building front to edge of right-of-way, or edge of sidewalk easement as defined by the City and said sidewalk must be encumbered by a sidewalk easement recorded with the office of the Anoka County Recorder.
3. The City may approve up to a 60-foot setback if it finds that topography or other factors require that a building be set back further to achieve acceptable grades or buffer between the street, the site entrance and the building.
4. In order to address vision clearance standards on higher speed roadways, parcels that are located at an intersection with an arterial roadway are allowed a build-to line of 35 feet from both streets.

A. Where commercial buildings are planned, at least sixty (60%) percent of street frontage of any lot shall be occupied by building facades meeting this build-to-line. On lots with more than one (1) street frontage, the build to line shall apply on each side fronting a street. An enclosed open area plaza space or outdoor seating with a decorative wall with a minimum height of three feet (3') and a maximum of four and one-half feet (4 ½') can be used to meet the sixty (60%) percent street frontage requirement.

B. Screening Of Parking Areas: Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements, to a minimum height of three feet (3') and a maximum height of four and one-half feet ($4^1/_2$') above the level of the parking lot, at the build-to line. This screening may be broken into sections along the street edge provided it meets the sixty (60%) percent required.

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Implementation

Introduction

This framework provides distinct strategies for guiding The COR's form and appearance. This framework's vision for the COR will take several years to implement. Successful implementation will require consistent application of the Design Framework by City staff. Zoning enforcement and design framework standards will not succeed without the cooperation and commitment of landowners, development interests, and the rest of the community.

Design Review

The Design Framework will be administered by staff as part of the development review process. Staff will incorporate design review to ensure compliance with the Design Framework as a standard step in the development review process.

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APPENDIX A:
SPECIFICATIONS AND DETAILS

THE COR

RAMSEY, MINNESOTA

DEVELOPMENT STATUS

- EXISTING DEVELOPMENT
- PROPOSED DEVELOPMENT
- ACTIVE DEALS
- UNDER CONTRACT
- COMPLETED

ACCESS

- EXISTING SIGNALIZED INTERSECTION
- FUTURE SIGNALIZED INTERSECTION
- F — FULL INTERSECTION
- 3/4 — NO LEFT OUTBOUND MOVEMENTS
- P — PARKING RAMP

TRAFFIC INFORMATION

ADT INFORMATION TAKEN FROM 2009 ACTUAL COUNTS AND 2030 PROJECTED VOLUMES

NORTH 0 300 600

LANDFORM
From Site to Finish

DEVELOPMENT PLAN 6.1

09.06.2012

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THE COR
AT RAMSEY

- PYLON/COMMUNITY SIGNS
- COMMUNITY KIOSK
- PROJECT GATEWAY
- PARKING

*See 'Appendix B' for sign details

LANDFORM
From Site to Finish

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Signage Plan

09/06/2012

DRAFT

EXHIBIT B.1

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

PYLON/COMMUNITY SIGN 'A'
Armstrong Blvd. & Highway 10

THE COR
RAMSEY, MINNESOTA

Eastbound

Westbound

DRAFT

EXHIBIT B.2

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

PYLON/COMMUNITY SIGN 'B'
Commuter Rail & Highway 10

THE COR
RAMSEY, MINNESOTA

DRAFT

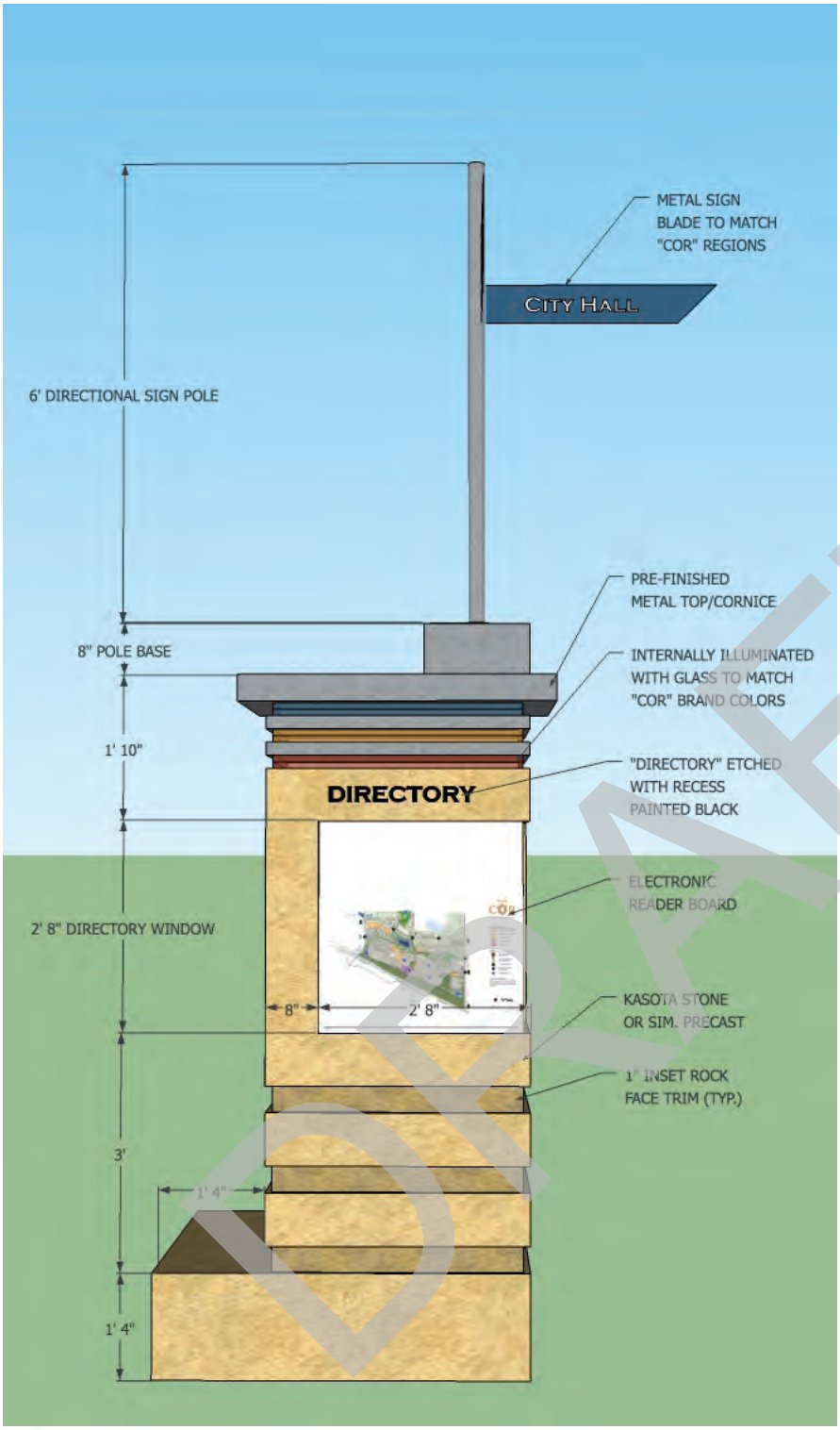
EXHIBIT B.3

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

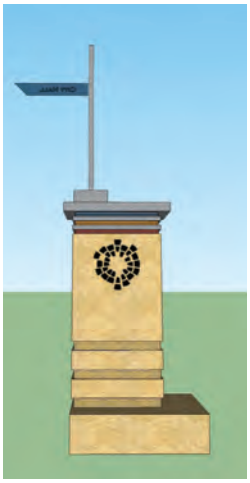
PYLON/COMMUNITY SIGN 'C'
Ramsey Blvd. & Highway 10

THE COR
RAMSEY, MINNESOTA

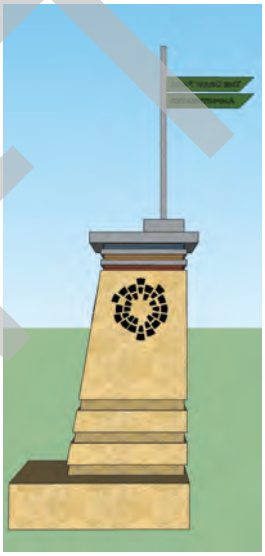


DIRECTORY PANEL VIEW

EVENTS PANEL VIEW

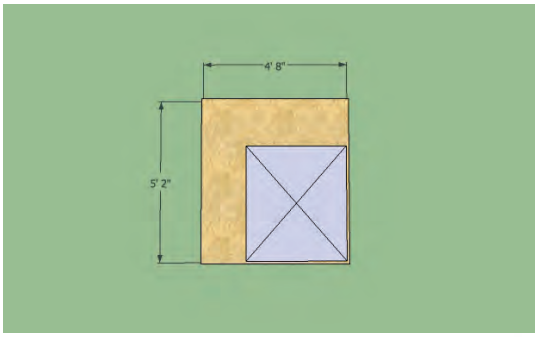


REAR VIEW



SIDE VIEW

PERSPECTIVE



PLAN VIEW

DRAFT

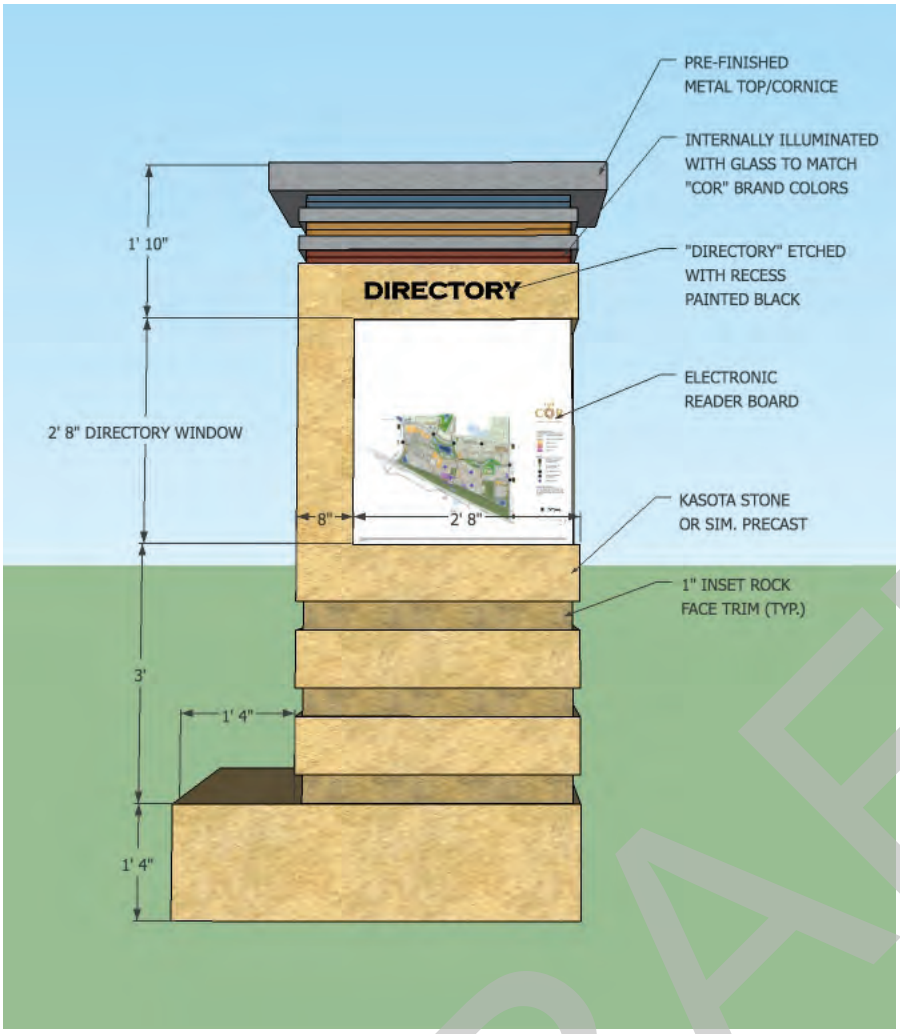
EXHIBIT B.4

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

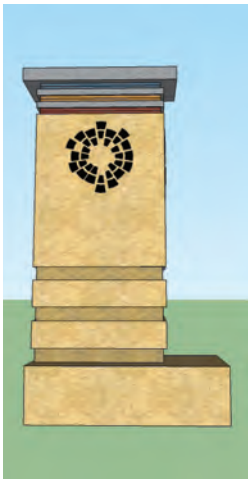
COMMUNITY KIOSK 'A'
Commuter Rail & Veterans Dr.

THE COR
RAMSEY, MINNESOTA



DIRECTORY PANEL VIEW

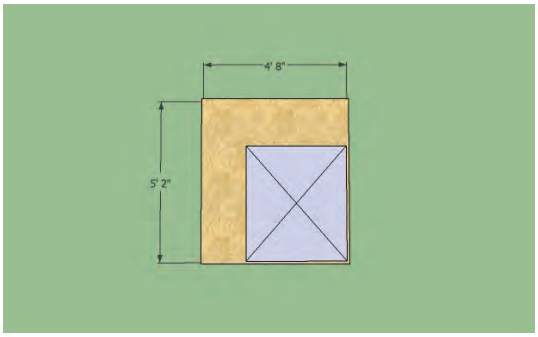
EVENTS PANEL VIEW



REAR VIEW

SIDE VIEW

PERSPECTIVE



PLAN VIEW

DRAFT

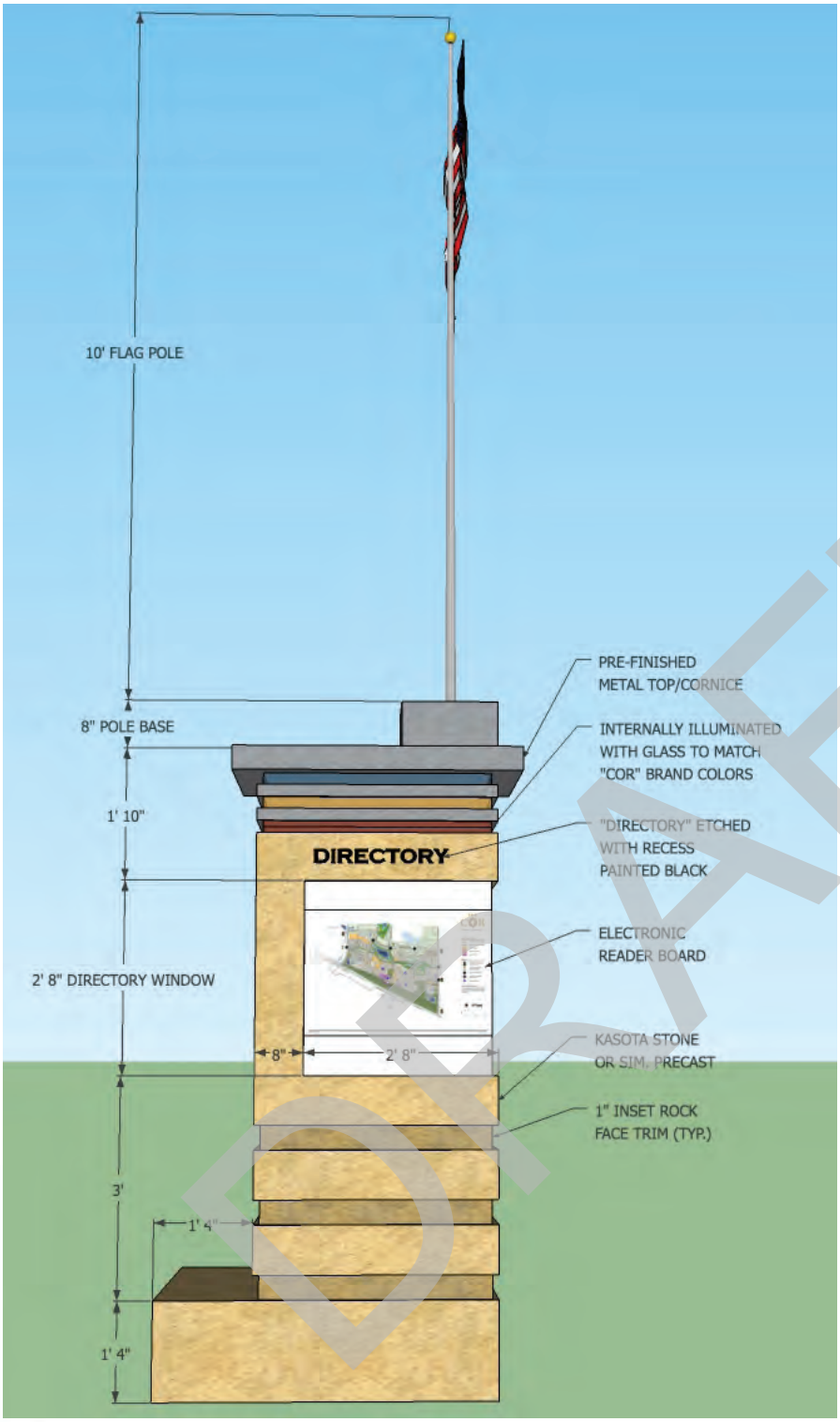
EXHIBIT B.5

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

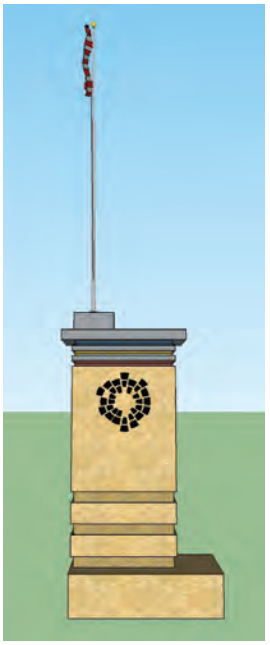
COMMUNITY KIOSK 'B'
Sunwood Dr. & Center St.

THE COR
RAMSEY, MINNESOTA



DIRECTORY PANEL VIEW

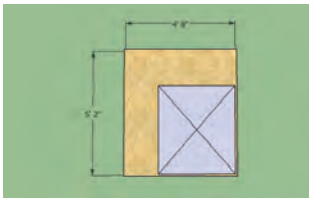
EVENTS PANEL VIEW



REAR VIEW

SIDE VIEW

PERSPECTIVE



PLAN VIEW

DRAFT

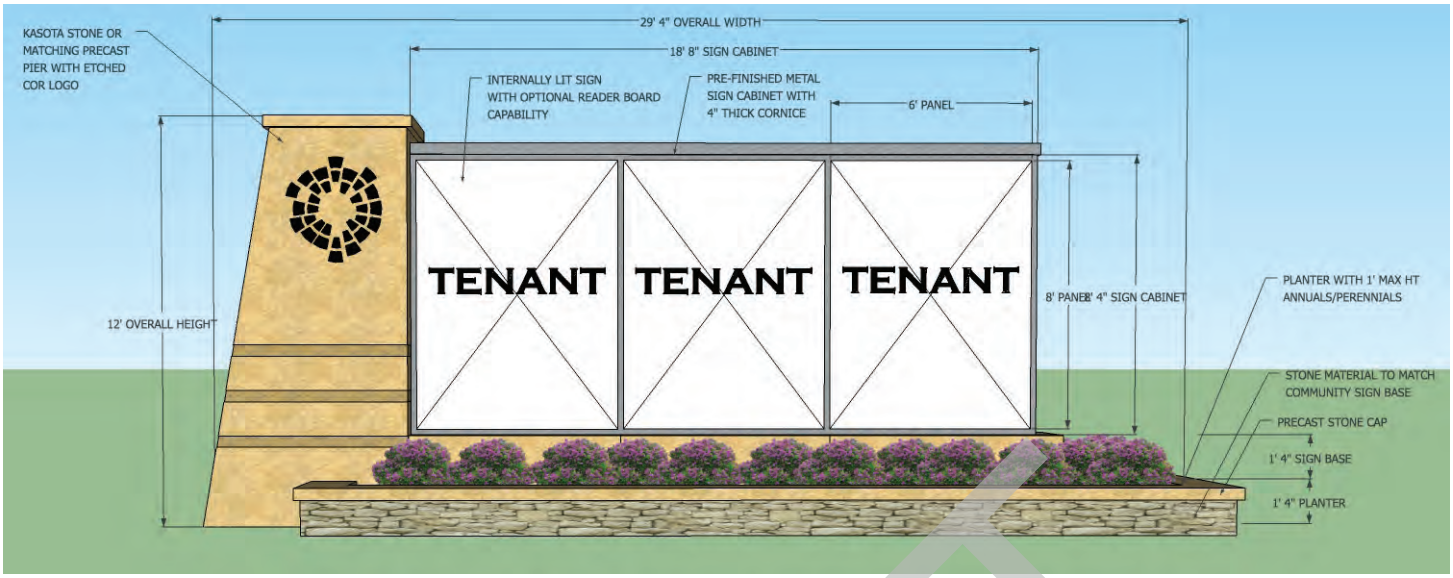
EXHIBIT B.6

LANDFORM
From Site to Finish

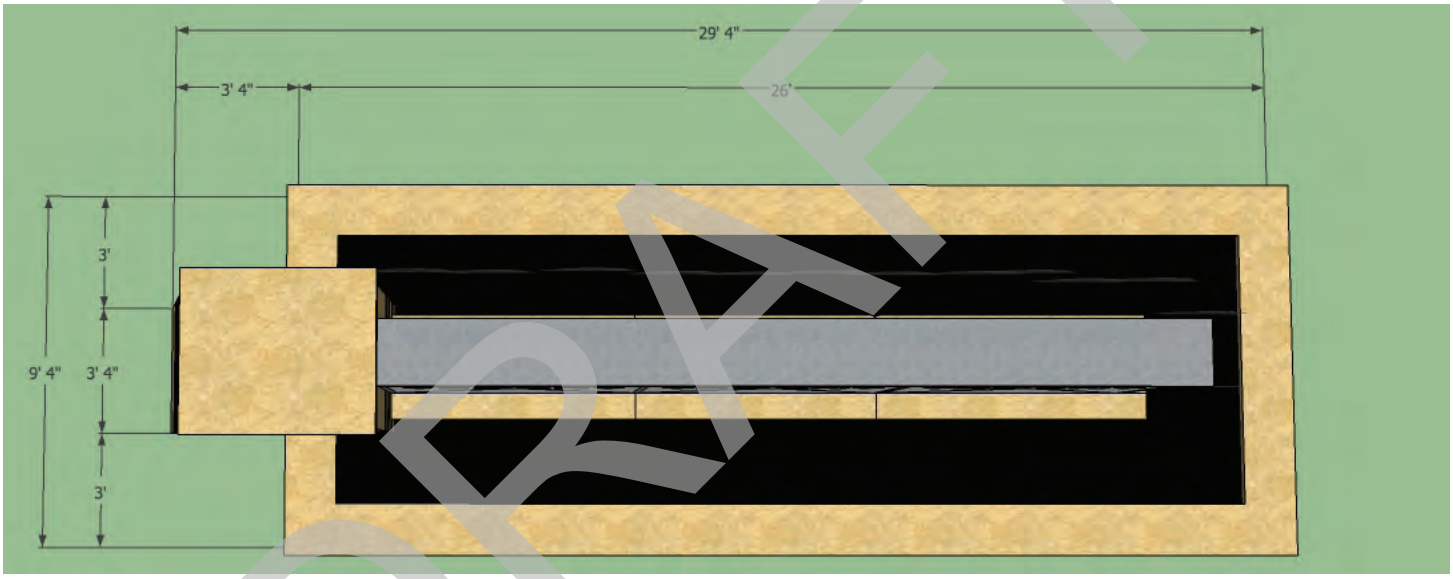
DESIGN FRAMEWORK
The COR at Ramsey

COMMUNITY KIOSK 'C'
Sunwood Dr. at Municipal Plaza

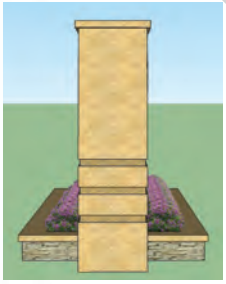
THE COR
RAMSEY, MINNESOTA



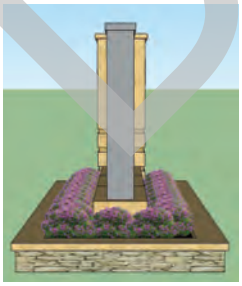
ELEVATION AT SUNWOOD



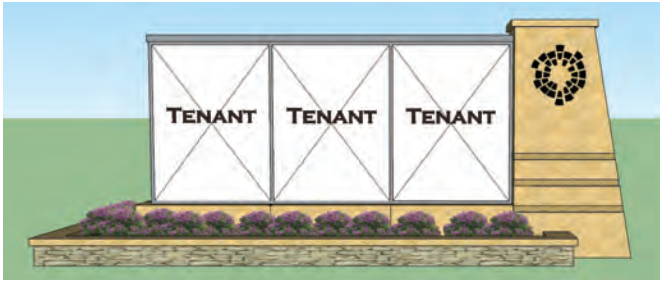
PLAN VIEW



PROFILE VIEW



PROFILE VIEW



ELEVATION

EXHIBIT B.7

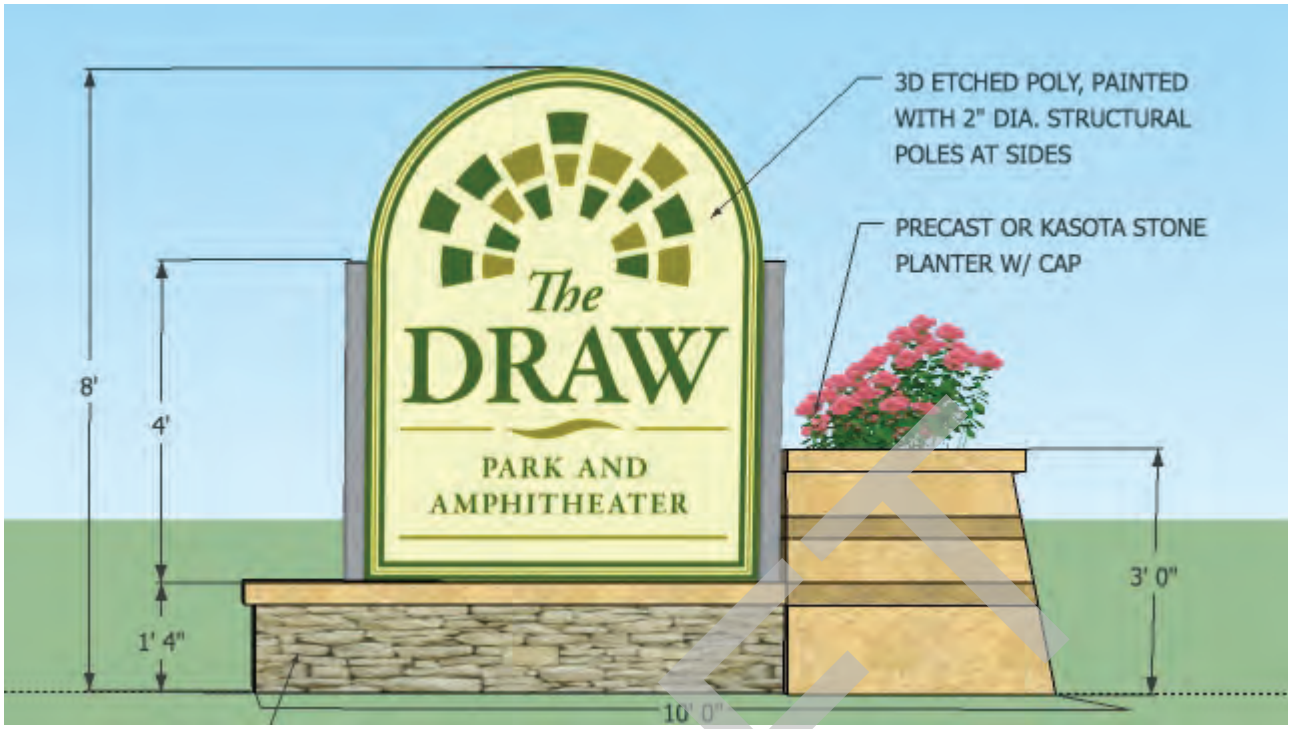
DRAFT

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

PROJECT GATEWAY SIGN 'A'
Sunwood Dr. & Armstrong Blvd.

THE COR
RAMSEY, MINNESOTA



DRAFT

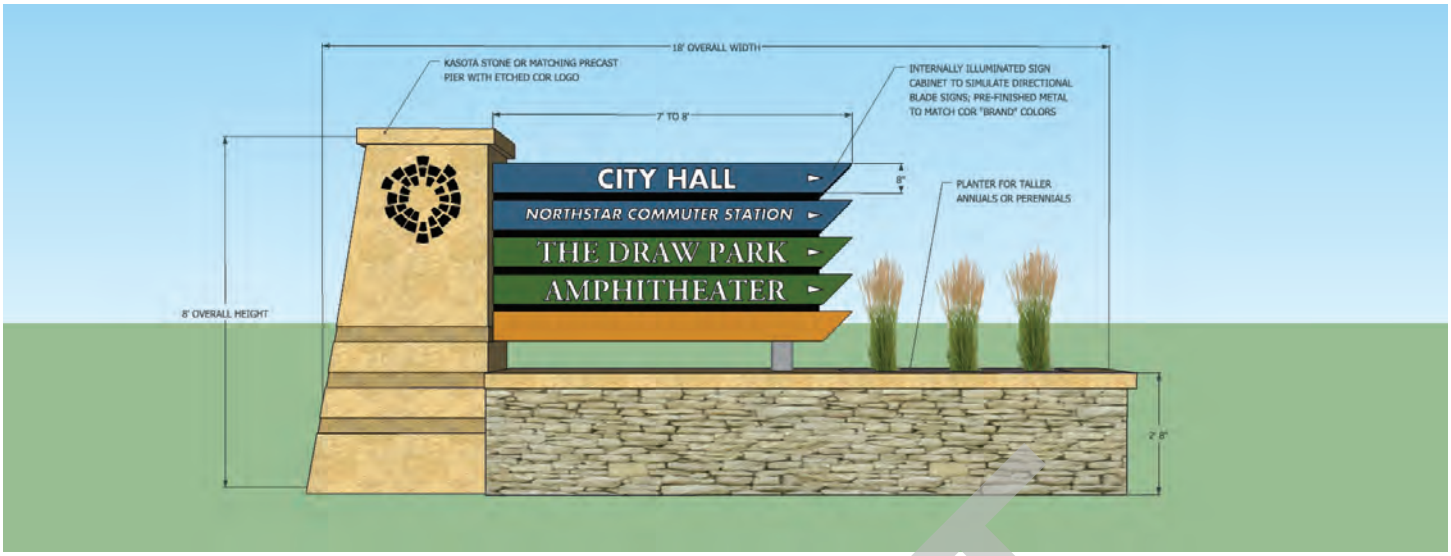
EXHIBIT B.8

LANDFORM
From Site to Finish

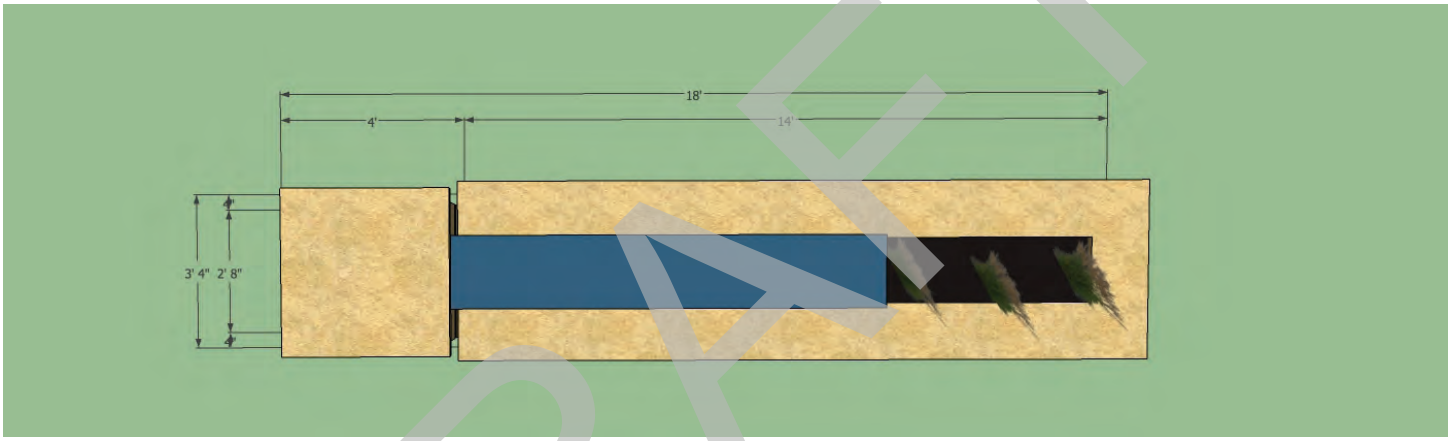
DESIGN FRAMEWORK
The COR at Ramsey

PUBLIC PARK SIGNS

THE COR
RAMSEY, MINNESOTA

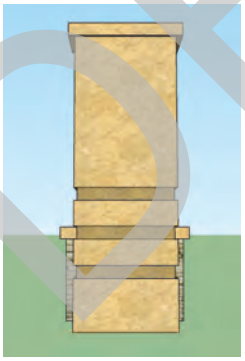


ELEVATION AT EASTBOUND BUNKER LAKE



PLAN VIEW

PROFILE VIEW



PROFILE VIEW

ELEVATION AT WESTBOUND BUNKER LAKE

DRAFT

EXHIBIT B.9

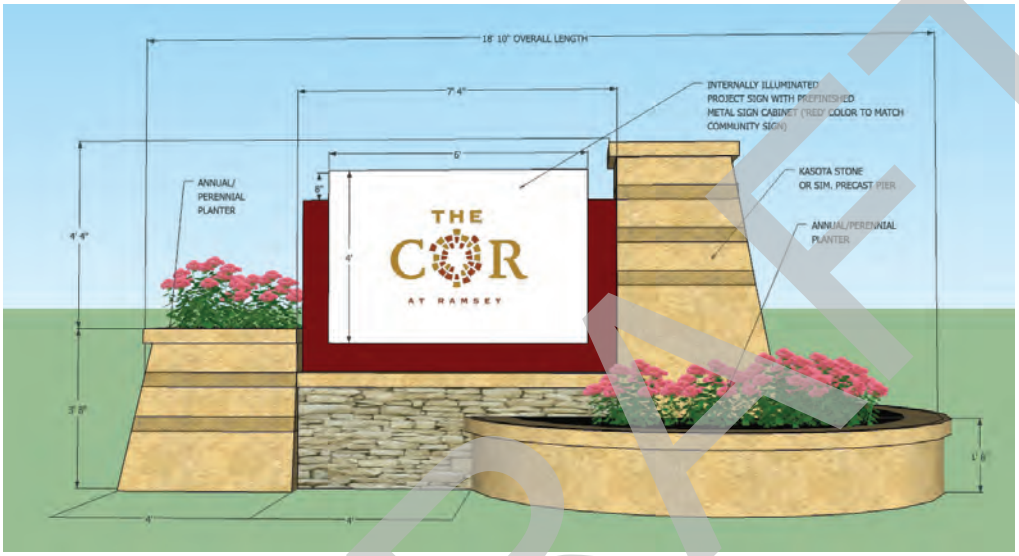
LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

PROJECT GATEWAY SIGN 'C'
Bunker Lake Blvd. & Center St.

THE COR
RAMSEY, MINNESOTA

ELEVATION AT SOUTH BOUND RAMSEY



ELEVATION AT WESTBOUND BUNKER LAKE

PERSPECTIVE

DRAFT

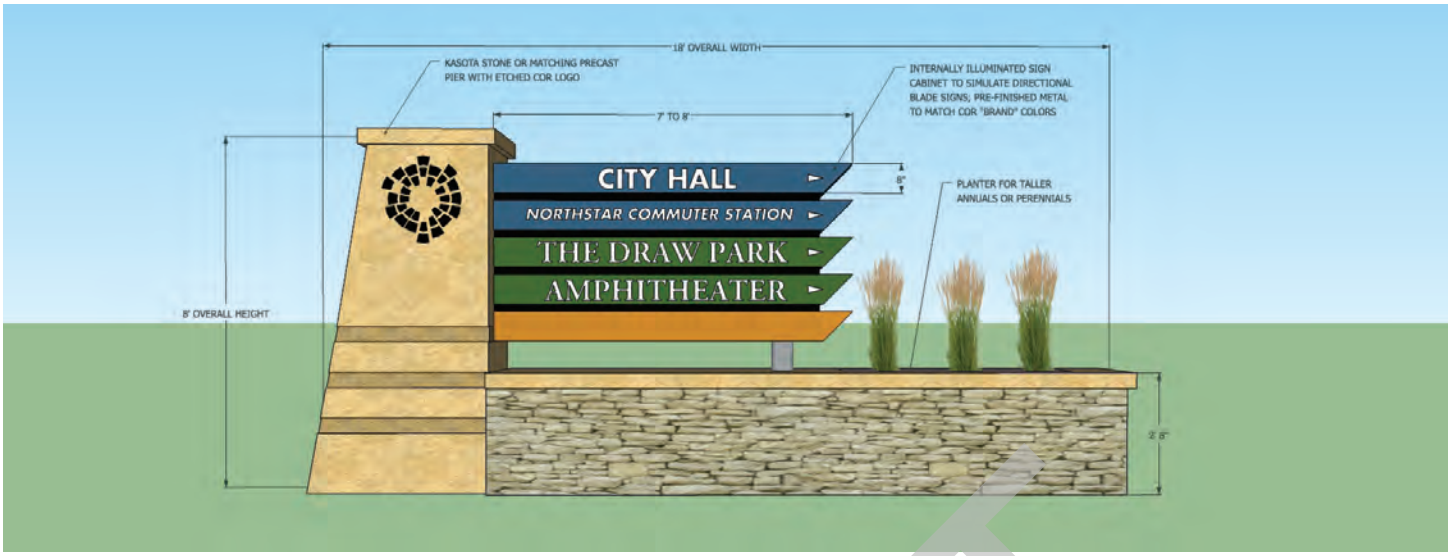
EXHIBIT B.10

LANDFORM
From Site to Finish

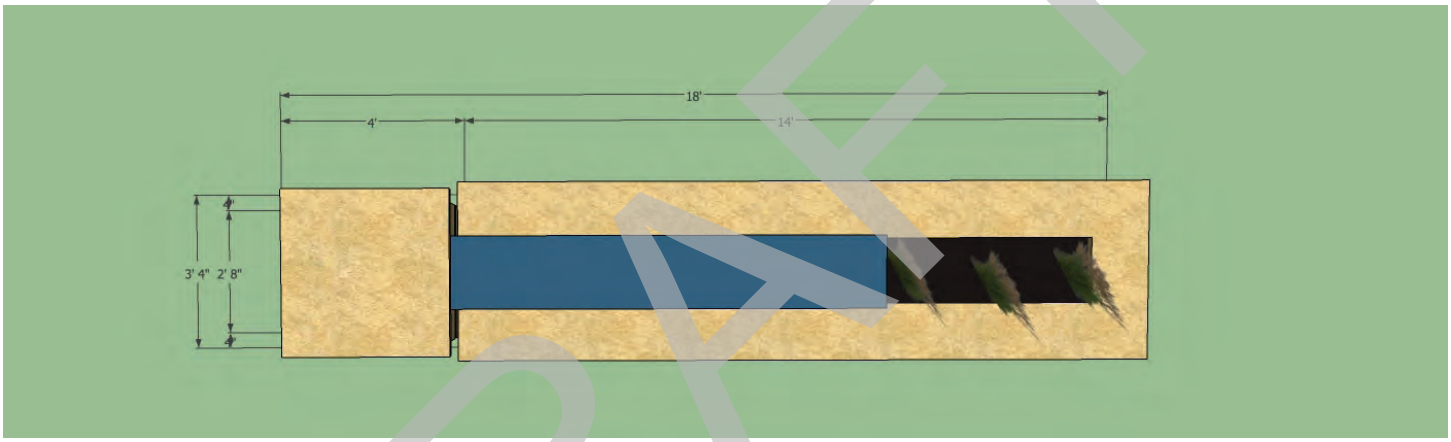
DESIGN FRAMEWORK
The COR at Ramsey

PROJECT GATEWAY SIGN 'D'
Bunker Lake Blvd. & Ramsey Blvd.

THE COR
RAMSEY, MINNESOTA

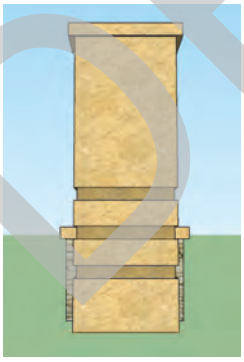


ELEVATION AT SOUTHBOUND RAMSEY



PLAN VIEW

PROFILE VIEW



PROFILE VIEW

ELEVATION AT NORTHBOUND RAMSEY

DRAFT

EXHIBIT B.11

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

PROJECT GATEWAY SIGN 'E'
Sunwood Dr. & Ramsey Blvd.

THE COR
RAMSEY, MINNESOTA

DRAFT

EXHIBIT B.12

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

PUBLIC PARKING SIGNAGE
Standard Signage

THE COR
RAMSEY, MINNESOTA

DRAFT

EXHIBIT B.13

LANDFORM
From Site to Finish

DESIGN FRAMEWORK
The COR at Ramsey

LIGHT POLE BANNER SIGNS
Standard Signage

THE COR
RAMSEY, MINNESOTA

ORDINANCE #12-__

CITY OF RAMSEY
ANOKA COUNTY STATE OF MINNESOTA

AN AMENDMENT TO CHAPTER 117 WHICH IS KNOWN AS THE ZONING AND SUBDIVISION OF LAND CHAPTER OF THE CITY CODE OF RAMSEY, MINNESOTA.

AN ORDINANCE AMENDING SECTION 117-118 "THE COR DISTRICTS" OF CHAPTER 117 OF THE CITY CODE OF RAMSEY, MINNESOTA TO AMEND SUB-DISTRICT BOUNDARIES, PARKING REGULATIONS, PARKS SECTION, AND MASTER SIGN PLAN.

The City of Ramsey ordains:

SECTION 1. AMENDMENT

Section 117-118 of Ramsey City Code shall be amended as follows:

(2) Development standards.

(d) *General development standards.* All development within the COR District shall meet the COR Development Framework that is incorporated into this chapter by reference, as amended by the City Council on October 23rd, 2012. These standards will be used by the city as the minimum requirements for evaluating development proposals and site plans. However, the standards are not intended to restrict creativity in design. An applicant may request modification or waiver of any standard in favor of an alternate approach that will achieve the same design objective.

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SECTION 2. SUMMARY

The following official summary of Ordinance #12-__ has been approved by the City Council of the City of Ramsey as clearly informing the public of the intent and effect of the Ordinance.

It is the intent of this Ordinance to amend the standards in Section 111-118 of Chapter 117 of the Ramsey City Code to amend minimum and maximum parking regulations for restaurant users, amend the Master Sign Plan to include standards for Community Signs, amend sign regulations for users with shared access, and amend the Parks section to note the City's preferred location of the Central Anoka County Regional Trail. The Design Framework is incorporated by reference in Chapter 117, and has the effect of being the Zoning Code for The COR District.

SECTION 3. EFFECTIVE DATE

The effective date of this ordinance is thirty (30) days after its passage and publication, subject to City Charter Section 3.9.

Adopted by the Ramsey City Council the ___ day of _____, 2012.

_____
Mayor

ATTEST:

_____
City Administrator

DRAFT

Introduction Date: _____
Posting Dates: _____
Adoption Date: _____
Publication Date: _____
Effective Date: _____

DRAFT

Regular Planning Commission **6. 5.**

Meeting Date: 10/04/2012

By: Tim Gladhill, Community Development

Information

Title:

PUBLIC HEARING: Consider Ordinance to Amend City Code Chapter 117, Article II, Division 8 (Signs) Related to Temporary, Construction, Real Estate, and Off-Premise Signs

Background:

In reviewing sign permits approved over the past several years, Staff has identified several topics for discussion:

- Temporary Signs
- Real Estate Signs
- Construction Signs

The last major revision to the City's Sign Code was completed in 2008. This revision was completed in response to a Minnesota Supreme Court ruling regarding a local Minnesota city's ordinance and content-based regulation. This revision attempted to best match the feedback from said court ruling, removing all references to content-based regulation. In addition, dynamic display technology began to emerge, especially for billboard technology. Since then, the City has processed two (2) minor adjustments to the Sign Code. Staff has also been monitoring new, emerging technology and surrounding communities' sign regulations. Based on that analysis, and feedback from previous applicants, Staff is suggesting the following changes.

The following recommendations are based on previous reviews and feedback received from sign applicants, and is intended to provide a more flexible set of standards that better matches the community's goals and desires.

Notification:

The Public Hearing was properly published in the Anoka County Union, the City's official newspaper.

Observations:

The following is a summary of exising standards and proposed amendments to the City's general sign regulations. In reviewing potential amendments, the Planning Commission should focus on standards to address size, location, duration, and construction specifications. Sign regulations should not be based on the content of the sign. Please note that these sign regulations do not apply to The COR development, as that area carries its own standards due to the architectural requirements of the development.

Temporary Signs

The most frequent request Staff responds to is in regards to temporary signs. The temporary sign regulations are currently drafted in an effort to mainly address the portable, interchangable letter signs. Largely due to aesthetics, these types of signs are limited to six (6) weeks per calendar year per parcel (or per business on a multi-tenant parcel), with a bonus four (4) weeks afforded to those parcels with no documented sign violations within the past twelve (12) months. In a cursory review of surrounding communities, the timeline established in Ramsey is average to above average. Temporary Signs are limited to fifty (50) square feet.

Staff has not proposed any changes in the draft ordinance at this time, but is seeking feedback from the Planning Commission on any desired amendments. The City could consider separate timeframes based on construction specifications. For example, the City could consider interchangable letter signs differently than vinyl affixed lettering or banners.

Real Estate Signs

The second most frequent request for information Staff receives is in regard to real estate signs. With the 2008 sign code update, Staff was working off recommendations that real estate signs should not be treated any differently than temporary signs. Staff suggests considering these closer to non-commercial speech signs. These signs are not advertising for a product or service itself occuring on the site, rather indicating that the space itself is available. Staff believes there is a greater public benefit in providing exemptions to real estate signs in order to protect the health, safety, and welfare associated with vacant areas. The current draft does not specify a limit on the size. The Planning Commission could consider a size limitation.

Construction Signs

City Code does currently have provisions that actual require certain construction related signs. However, the Sign Code is silent on Construction Signs. The attached draft provides an exemption to the temporary sign regulations for these required types of signage. The current draft does not specify a size limit. The Planning Commission could consider a size limitation. If that is the case, Staff would recommend either 32 or 64 square feet per face, based on the standard size of a sheet of plywood typically used for these types of signs. Alternatively, these signs could be limited to the size allowed for permanent signs in the underlying zoning district.

Dynamic Display Signs

Over the past several years, technology related to dynamic display continues to evolve and improve. The City's current standards aim to reduce driver distraction by addressing length of display, animation, brightness, and size/percentage of overall sign. Currently, dynamic display is limited to 35% of the total sign face.

As Staff has reviewed multiple requests for dynamic display, it has become evident that the percentage limitation has become somewhat of a barrier, especially on higher speed roads where a larger display may actually be more beneficial by making the sign more readable. Staff suggests considering removing the percentage limitation and focus on an overall size limitation. By focusing on limiting the size, brightness, and other distracting factors, a percentage of the overall sign face may not be necessary. There are a few examples in the near vicinity of larger dynamic displays to consider.

Also, the City has received a request for the use of dynamic display for a portable, temporary sign. The entire sign face would be dynamic. Sizes for temporary, portable dymaic displays could be limited to traditional temporary sign limitations of 32 square feet or 50 square feet.

Off-Premise Signs

Currently, all off-premise signs are considered billboards, which are currently prohibited. Staff suggests a more flexible definition of off-premise, perhaps focusing on proximity rather than limiting to just the parcel on which the activity is occuring. The attached draft creates allowances for shared signage at shared access and shared signage for unified developments.

Funding Source:

Preparation of the ordinance is being handled as part of regular Staff duties.

Staff Recommendation:

Staff recommends approval of the ordinance amending City Code Chapter 117, Article II, Division 8 (Signs).

Committee Action:

Motion to recommend that the City Council adopt the ordinance amending City Code Chapter 117, Article II, Division 8 (Signs).

Attachments

First Amendment
Dynamic Display
RSF Study
Sample Ordinance
Redlined Text Sign Code
Proposed Ordinance

Form Review

Inbox	Reviewed By	Date
Chris Anderson	Chris Anderson	09/28/2012 01:06 PM
Tim Gladhill (Originator)	Tim Gladhill	09/28/2012 01:26 PM
Form Started By: Tim Gladhill		Started On: 09/19/2012 03:38 PM

Final Approval Date: 09/28/2012

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RISK MANAGEMENT INFORMATION

SIGN ORDINANCES AND THE FIRST AMENDMENT

This memorandum discusses some of the basics of designing a sign ordinance that meets the requirements of the First Amendment.

General First Amendment Principles

The First Amendment protects signs as speech, and courts will look very closely at any attempts to regulate signs.

There are a few rules for regulating signs:

1. Do not regulate based on content.
2. Do not favor commercial speech (advertising) over noncommercial speech.
3. Restrictions on signs must accomplish a substantial government interest and be no broader than necessary. The main substantial governmental interests recognized by courts are traffic safety and aesthetics.

With this background in mind, there are several steps cities can take when drafting ordinances.

Provisions All Sign Ordinances Should Have

Every sign ordinance should probably contain the following provisions:

Statement of Purpose

Tells why the ordinance was drafted and how it should be applied. Should state clearly that it is not intended to have content-based restrictions and should not be applied that way. Provides a quick clear statement of government purposes and how the ordinance fulfills those purposes rather than needing to review your legislative record if challenged.

Sample Ordinance

View a sample sign ordinance from the city of Hopkins in the Land Use area of the League website at www.lmc.org.

Substitution Clause

Provides that for every sign that is allowed, any non-commercial message could be legally substituted. Ensures that non-commercial speech is never discriminated against based on content because it will always allow a noncommercial message on any sign. Many ordinances inadvertently define signs in terms of advertising and may incidentally seem to allow only commercial messages. A substitution clause may correct these mistakes by providing a catch-all allowance of noncommercial messages notwithstanding other provisions.

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Consult your attorney for advice concerning specific situations.

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Severability Clause

Provides that if any provision of the ordinance is found to be invalid, the remainder of the ordinance stands on its own and is still valid. May prevent a flaw in part of the ordinance from invalidating all of it.

Acknowledgement of election season pre-emption

Minnesota Statute 211B.045 requires municipalities to allow noncommercial signs of any size during election season, from August 1 until ten days after the election.

Do not misinterpret this language. It gives extra protection to noncommercial speech during election season. It does not limit political signs to only that time.

Content Neutral regulations based on time, place, and manner

Regulations should be objectively based on time, place, and manner, not content. Examples include regulations based on size, brightness, zoning district, spacing, and movement.

Provisions All Sign Ordinances Should Avoid

Unfettered discretion

Avoid discretionary approval by the city. Having discretion creates the potential for favoring some messages or messengers over others, whether or not that discretion is actually abused. Permit requirements should be transparent and objective.

Exemptions or favoritism

Avoid exempting certain groups or messages, such as church signs or official flags, from permit requirements. This could be content-based discrimination.

Exemptions also may "water down" the substantial government interest. For example, if an ordinance prohibits temporary signs but allows a long list of exemptions, it suggests the city is not really concerned about temporary signs.

This is different from providing exemptions based on valid time, place, or manner restrictions, such as exempting all signs under a certain size from permitting requirements.

Inadvertently treating non-commercial speech differently by defining "sign" as "advertising"

Beware of over-defining terms. This occasional problem is the combination of a few steps:

1. Signs are defined as advertising devices.
2. The ordinance allows signs as defined.
3. All other signs are prohibited.

This arguably prohibits noncommercial speech, which is unconstitutional.

Common Questions and Issues

Off-premise advertising (Billboards)

Off-premise advertising consists of commercial signs that do not advertise for a business on the same premises as the sign. It is legal to forbid off-premise advertising, so long as the prohibition does not extend to noncommercial messages.

Flags

Be cautious of regulations that might favor some types of flags, particularly the United States Flag, over other flags. This is a good place for the substitution clause; if one type of noncommercial flag would be acceptable, any noncommercial flag should be allowed.

Yard Signs

Some courts have held that yard signs are constitutionally protected and cannot be prohibited. Be especially cautious about provisions that favor some messages over others, such as exemptions for real estate or construction project signs.

Electronic Signs

Electronic signs present new challenges, as the technology is capable of new levels of brightness, movement, flashing, and potential distraction. Most sign ordinances do not adequately address these issues. The League has commissioned a study on the traffic safety implications of the technology. Cities may wish to consider moratoriums while the study is conducted and then drafting ordinances that apply the information to each community. A moratorium may prevent electronic signs from becoming grandfathered.

More Information

Learn more about dynamic signage in:

- *Regulating Dynamic Signage*

It's available at www.lmc.org.

Summary

Keep in mind these basic rules of thumb:

1. Do not regulate content.
2. Do not favor commercial speech over noncommercial speech.
3. Provide and follow clear procedures.
4. Explain your rationale and purpose.
5. Avoid exceptions.

There are exceptions to these rules, but they should be approached cautiously and with legal advice.

For assistance or sample ordinances, contact one of the LMCIT land use attorneys: Paul Merwin at 651-281-1278; or Jed Burkett at 651-281-1247.

Paul Merwin 3/07

RISK MANAGEMENT INFORMATION

REGULATING DYNAMIC SIGNAGE

Executive summary

Cities have authority and responsibility to regulate dynamic signs as appropriate for each community. There is no single correct approach to regulation. Because the regulation of signs involves the First Amendment, courts hold sign regulations to a higher standard than most land use regulations. Cities still have considerable discretion to regulate, as long as they do so reasonably and without regard to sign content.

Introduction

In the fall of 2006, a number of Minnesota cities were surprised by the appearance of large electronic billboards akin to giant television screens. These signs are the next generation of sign displays with the ability to feature changing images and movement—known collectively as dynamic signs. Attempts to regulate them resulted in litigation in at least one community- Minnetonka. In developing a regulatory response, Minnetonka partnered with the League of Minnesota Cities to commission a study, conducted by SRF Engineering, on the impact of such dynamic signs on traffic safety. This memorandum discusses the legal framework of regulating dynamic signage in light of the recent litigation and study.

More Information

Find the results of the SRF Consulting Group's research on dynamic signage in:

- *"Dynamic" Signage: Research Related to Driver Distraction and Ordinance Recommendations*

It's available in the Land Use area of the League website at www.lmc.org.

Regulatory framework

While the federal and state government can enact and have enacted laws regulating signs, those regulations only provide minimum standards. Courts have explicitly recognized that cities have the ability to regulate signs, including dynamic signs, more restrictively.

There is no uniform system of regulation that cities must follow. Each community is different and has different needs that local ordinances may reflect. Such regulations must meet the same basic legal tests for all sign regulation.

Most city land use decisions get a very deferential standard of review known as *rational basis* review. Under this level of review, city decision will be upheld if they have any rational basis.

Because sign regulations implicate free speech rights which are protected by the First Amendment, they are subjected to higher levels of scrutiny. The highest level of scrutiny, called *strict scrutiny*,

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Consult your attorney for advice concerning specific situations.

applies when government tries to regulate based on the content of speech. The only content-based sign regulation that courts have upheld is treating off-premise signs (billboards) differently than on-premise signs that advertise the business on the same property.

One distinction that may seem like it is content based, but our federal court of appeals has said is not, is a ban on dynamic signs with an exception for time and temperature displays. The court held that because of their unique nature, allowing only time and temp displays is not a prohibited content-based regulation. It is important not to overstate this, however. Regulations that go further and carve out a broader exception for "public information" are likely to be struck down as impermissibly content-based.

More Information

Learn more about sign regulations and free speech in:

- *Sign Ordinances and the First Amendment*

It's available at www.lmc.org.

Sign regulations that are not content based are subject to *intermediate scrutiny*, which tests whether the regulation is substantially related to a significant government interest. This roughly translates to "regulate for a good reason." Cities should take care that the *scope* of the regulation is not excessive when viewed in light of all of the regulatory objectives, and that they do not create exceptions to the regulations that cannot be justified by reference to one or more of the city's articulated objectives

Big-picture regulatory tools

The available research on traffic impacts supports significant content-neutral limits or even bans on dynamic signs for safety reasons. The studies confirm that billboards can tend to distract drivers, dynamic features contribute to the distraction, and even short distractions can increase the risk of accidents. This is not surprising as promotional materials put out by sign companies themselves boast the signs' ability to hold viewer attention as a benefit of dynamic signs.

Safety is only one concern. Cities may also regulate signs based on values, preferences, and aesthetics. Not every sign is appropriate in every community or every neighborhood. Not every community wishes to become Las Vegas or even downtown Minneapolis.

Cities can take a number of different macro-level approaches to regulation. Some examples include:

1. Complete or near-complete bans that do not allow dynamic signs at all.
2. Allow dynamic signs with restrictions such as minimum display time, allowing only a percentage of a sign to change, or text size limitations.
3. Allow different things in different zoning districts, such as allowing brighter dynamic signs in a downtown business district than in residential neighborhoods.
4. Offering incentive programs to billboard companies to allow dynamic signs in exchange for removal of non-conforming static signs.
5. Encourage dynamic displays. Some communities like the clean, new look of dynamic signs and encourage them to remove old blighted and poorly maintained signs.

Regulating sign aspects

A content-neutral regulation that regulates dynamic signage will be subject to intermediate scrutiny, so a community must show a regulation is substantially related to a significant government interest. In plain language, you must articulate what problem a regulation is intended to address and how the regulation addresses it.

There are at least six aspects of dynamic signs that regulations may address:

1. **Duration of messages/ speed of changeover.** Studies have described the Zeigarnik effect, a psychological need to see a task through to its end. In the case of dynamic signs, a driver's desire to read an entire message before it changes or to complete a scrolling message has been shown to negatively impact drivers' tendencies to maintain a constant speed or remain in a lane. To address these issues, many cities have imposed minimum message durations that might vary depending on community preference and traffic conditions.

2. **Motion, animation, and video.** Motion can range from simple visual effects to full realistic video. Motion can extend the period of time a driver will keep watching a sign, increasing distractedness. Cities may prohibit motion or limit it either to specific areas or to specific characteristics such as a motion time frame calibrated to traffic speed.

3. **Brightness.** Brightness can be a safety factor, particularly at night, as sudden brightness can be distracting or diminish night vision. A number of communities limit brightness based on time of day and by color displayed. This can be difficult to quantify and measure.

4. **Sign placement and spacing.** The number of signs and their location can be a big factor in driver awareness. A large number of signs can increase distractedness. Poorly placed signs may block views or cause distraction in unsafe areas. Cities may impose site standards and spacing requirements. These may present regulatory challenges as spacing may be dependent on the actions of neighboring property owners.

6. **Size of signs.** Size can have impacts in several ways. Too big, and it obstructs views and distracts. Too small, and it takes longer to read and encourages sign users to sequence messages. Cities may limit dynamic signs or the percentage of a sign that can be dynamic.

7. **Text size and legibility.** Signs that are difficult to read invite increased driver focus. Regulations can, for example, require minimum sizes based on road speed.

The specifics of how to regulate each of these aspects is up to each community. Because review of regulations must face intermediate scrutiny, cities have to take some extra steps when drafting and adopting ordinances.

For each aspect regulated, cities should consider adopting findings or local studies that articulate the reason and any support for the regulation. The SRF study and other materials can provide a scientific basis for a number of regulatory steps. In addition, cities may choose more stringent regulation in order to take a conservative approach to protecting safety.

Moving forward

It is recommended that cities think about dynamic signs as early as possible. Regardless of your city's approach, it is better to make a rational choice rather than by having dynamic signs arrive before you have thought about the issue. Once the signs are up, Minnesota's nonconforming use law arguably grants them "grandfathered" status, with a narrow exception for safety.

Sample Ordinance

View a sample sign ordinance from the city of Hopkins in the Land Use area of the League website at www.lmc.org.

If your city would like more information about regulating dynamic signs, Paul Merwin, LMCIT Senior Land Use Attorney, can provide assistance and refer you to more information and resources. Contact Paul at (651) 281-1278 or pmerwin@lmc.org.

Disclaimer: This memorandum is intended as general information only and should not be read as legal advice or as creating an attorney-client relationship. This memo addresses general concerns and has not been reviewed in the context of a specific client or situation. This memo was drafted as a loss control document and is intended to avoid conflicts rather than form an opinion as to the legality or defensibility of any action.

Paul Merwin 07/07

“DYNAMIC” SIGNAGE:

RESEARCH RELATED TO DRIVER DISTRACTION AND ORDINANCE RECOMMENDATIONS

Submitted by

SRF Consulting Group, Inc.

Prepared for

City of Minnetonka

June 7, 2007

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1.0 INTRODUCTION

This study was precipitated by concerns raised by the City of Minnetonka, Minnesota in regard to the installation of two LED ("light emitting diode") billboards along Interstate 394 and Interstate 494. The LED function was applied to two existing "static" image billboards located adjacent to the interstate. Following installation of the LED function, the City turned off the power to the signs though a stop work order based on current city ordinance prohibiting flashing signs, which is broadly defined, as well as permitting requirements for the retrofitting of the signs to the upgraded technology. The billboard owner sued the City, and the court response to this legal action as of the writing of this study has been to allow limited use of the LED billboards. A moratorium on further signage of this type was established by the City to facilitate the study of issues related to driver distraction and safety and appropriate regulatory measures for LED and other types of changeable signage.

This study was undertaken on behalf of the City of Minnetonka to examine these issues. While the concerns were precipitated by LED billboards in particular, this report examines more broadly "dynamic" display signage which is defined as any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays. These capabilities may be provided by a variety of technologies which are discussed later in this report.

As the study progressed, additional communities within the Twin Cities Metropolitan Area, as well as the League of Minnesota Cities, expressed interest in these issues. However, it is not the intention of this report to provide a comprehensive study of all issues raised by dynamic signage, or other types of billboards, but rather to focus narrowly on the issues of concern to the City of Minnetonka.

2.0 PURPOSE OF STUDY AND METHODOLOGY

Driving a motor vehicle is a complex task that requires the ability to divide one's attention. Simultaneously maintaining a steady and legal speed, changing lanes, navigating traffic and intersections, reading and interpreting street signs, drivers are often challenged by conditions that can change in the blink of an eye. Internal and external physical conditions can affect how safely the driving task is accomplished. Drug or alcohol intoxication, fatigue and/or distractions in the driving environment all can play a role in motor vehicle crashes. However, these conditions are rarely the sole reason for a crash. Rather, these conditions serve to exacerbate an already-complex driving environment and subsequent mistakes in judgment can lead to crashes.

Increasingly complex traffic and roadway environments require greater attention to and focus on the driving task.

The purpose of this study is to understand what existing transportation research tells us about the effects of dynamic signs on motorists. This study also explores regulatory measures enacted in other jurisdictions to address concerns related to driver distraction. Due to time and scope constraints, this report is not comprehensive, but rather addresses the most frequently cited and easily accessible information available. The report concludes with a discussion of regulatory options for the City of Minnetonka to consider in their formulation of policies to address dynamic signage.

Information collected for this report draws from a variety of sources including interviews with subject matter experts, government and academic research, and policies developed to regulate various types of signage.

Several city and county sign ordinances were used as references for policy and regulatory research. In some cases, ordinances were brought to our attention by planners and others following the sign ordinance issue. In others, Internet searches were conducted using words and references that apply specifically to dynamic signs.

Several sign manufacturers and sign companies provided an industry perspective through a workshop with the SRF Consulting Group and the City of Minnetonka staff on February 27, 2007. This meeting yielded information about sign characteristics that can be addressed through policy and regulatory measures. Daktronics, a company that manufactures and markets LED signs, was also helpful in this regard, providing informational materials about characteristics of signs that can be regulated and examples of city sign ordinances with which they are familiar.

3.0 SELECTED RESEARCH FINDINGS

This following section presents a summary of expert opinions and selected driver distraction research conducted by government and academic researchers examining roadside signage and its effects on the driving task. Studies are organized around critical questions with serious research ramifications.

- *Is there reason to believe that billboards are a source of distraction?*
- *Is there reason to believe that "dynamic" billboards are an additional source of distraction?*
- *How much distraction is a problem?*
- *How does "brightness" affect driver safety concerns?*
- *How should billboards and other signage be regulated from a driver safety perspective?*

3.1 Expert Opinions

A combination of researchers and public policy experts were interviewed for this study. Individuals were identified while conducting background research into driver distraction and were interviewed because of their credibility in the field.

Kathleen Harder, a researcher at the University of Minnesota, has conducted driver distraction research for a variety of applications, including research for Mn/DOT. She is an expert in the field of human factors and psychology. She indicated that electronic billboards pose a driver distraction threat because of their ability to display high resolution color images, their ability to change images, and their placement in relationship to the roadway, particularly in areas where the road curves, exits and entrances are present, merges, lane drops, weaving areas, key locations of official signs, and/or areas where roadways divide.

Greg Davis, a researcher with the FHWA Office of Safety Research and Development, in Washington, DC was involved in the 2001 FHWA study on electronic billboards. He was interviewed to gain a deeper understanding of this critical study and to learn of recent research in this area. Davis stated that while no research has established a direct cause and effect relationship between electronic outdoor advertising signs and crash rates, the lack of such a research finding does not preclude a causal relationship between electronic billboards and crashes. He advocated for a new study that can control all variables and determine if a cause and effect relationship exists.

Scott Robinson, an outdoor advertising regulator for Mn/DOT, wrote the 2003 technical memorandum that addresses allowable changes for outdoor advertising devices. Mr. Robinson indicated that the memo was originally written in 1998 to establish a permitted rate of change for tri-vision signs and that the application to electronic billboards was not considered. The minimum change rate of 4.9 seconds for 70 mph roadways and 6.2 seconds for 55 mph roadways was based on the travel time between static signs spaced at the minimum allowed distance apart. Mr. Robinson also indicated that the memo is not a Mn/DOT policy, statute or rule, but rather it was written to provide internal guidance.

Jerry Wachtel, an Engineering Psychologist and highway safety expert in private practice, was the lead author for the FHWA's original (1980) study on electronic billboards. He has continued his active involvement in this field, and advises Government agencies as well as the outdoor advertising industry on sign ordinances, sign operations, and the implications of the latest research on road safety. Mr. Wachtel believes that it is neither feasible from the perspective of research design and methodology, nor necessary from a regulatory perspective, to demonstrate a causal relationship between digital billboards and road safety. Rather, he believes that we have a strong understanding, based on many years of research, of driver information processing capabilities and limitations, and of the contributions to, and consequences of, driver distraction, on crash risk; and that this understanding is sufficient to support development of guidelines and ordinances for the design, placement, and operation of digital billboards so as to lessen their potentially adverse impact on road safety and traffic operations.

Wachtel also offered comments on drafts of this report. In later conversations related to his review, Wachtel stated his belief that even though visual fixations on roadway signs decrease as route familiarity increases, a strength of the new digital billboards is that they can present messages *that are always new.* Thus, the conclusion from the 1980 FHWA study is another argument against these billboards; namely, drivers spend more time looking at the unfamiliar signs than at familiar ones, suggesting digital billboards are more dangerous than traditional fixed billboards. Wachtel also suggested his preference for a goal to have any given driver experience only one, or a maximum of two, messages from an individual roadside sign.

3.2 Billboards: a Source of Driver Distraction? [1]

The purpose of a sign is to attract the attention of passersby so that a message is conveyed. To the degree signs attract the attention of vehicle drivers, they may distract them from the activity of driving. While this report primarily examines the impact of *dynamic* roadside advertising, the role traditional *static* advertising plays in driver distraction is discussed below.

The relationship between roadside advertising and crash rates has been the subject of several studies. The majority of this research was conducted in the 1950s, 60s and 70s. While some of the earliest studies have been subsequently criticized for flawed methodologies and improper statistical techniques, some findings emerge when the totality of the studies are examined. One of these findings is that the correlation between crash rates and roadside advertising is strongest in complex driving environments. For example, higher crash rates were found at intersections (generally considered a complex environment) that have advertising than those intersections that do not have advertising. A few of the studies that are important in this field are summarized below.

Minnesota Department of Transportation Field Study (1951) and Michigan State Highway Department Field Study (1952) [2]

These two studies from the early 1950s used similar methods but came to significantly different conclusions. Recognized as the more scientifically rigorous study, the Minnesota study found that increases in the number of advertising signs per mile are correlated with increases in motor vehicle crash rates. It also found that intersections with at least four advertising signs experienced three times more crashes than intersections with no advertising signs. Conversely, the less rigorous Michigan study found the presence of advertising signs had no effect on the number of crashes.

Iowa State College, Do Road Signs Affect Accidents? (Lauer & McMonagle, 1955)[3]

A laboratory test was created to determine the effect of advertising signs on driver behavior. The results of this study found removing all advertising signs from the driver's field of vision did not improve driver performance. When signs were included, driver performance was slightly better. Note that laboratory methods used in this study are considered to be dated by today's standards.

Faustman (California Route 40) Field Study (1961)[4] and Federal Highway Administration, Reanalysis of Faustman Field Study (1973)[5]

Two studies that appear to have stood the test of time are Faustman's original analysis of California Route 40 and its re-examination by FHWA more than a decade later. The original analysis tried to improve upon previous research by limiting variables, such as roadway geometric design and roadway access controls. The FHWA reanalysis focused on disaggregating the data and converting actual crashes to expected crash rates on specific roadway sections. Each of the sections was given a value based on the number of billboards on the section. A linear regression was performed to determine the expected crash rates. An analysis of variance of the regression coefficients found that the number of billboards on a section was statistically significant. The reanalysis found a strong correlation between the number of billboards and crash rates as shown in Table 1.

Table 1. FHWA Reanalysis of Faustman's Findings.

No. of Billboards	Expected No. of Accidents in a 5-year Period	Cumulative Increase in Accident Rate
0	5.92	
1	6.65	12.3
2	7.38	24.2
3	8.11	37.0
4	8.84	49.3
5	9.57	61.7

Federal Highway Administration
Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage (Wachtel & Netherton, 1980) [6]

This extensive review provides a comprehensive discussion of roadside advertising research as of 1980. The study authors noted "attempts to quantify the impact of roadside advertising on traffic safety have not yielded conclusive results." The authors found that courts typically rule on the side of disallowing billboards because of the "readily understood logic that a driver cannot be expected to give full attention to his driving tasks when he is reading a billboard." Because the distraction evidence is not conclusive, these decisions were generally not based on empirical evidence.

The research review noted that accident reports often cite "driver distraction" as a default category used by uncertain law enforcement officers who must identify the cause of a crash. As a result, the authors believe crashes due to driver distraction are not always properly identified. In addition, law enforcement officers often fail to indicate the precise crash locations on crash reports, making it difficult to establish relationships between crashes and roadside features.

Accident Research Unit, School of Psychology, University of Nottingham
Attraction and distraction of attention with roadside advertisements **(Crundall et al., 2005)** [7]

This research used eye movement tracking to measure the difference between street-level advertisements and raised advertisements in terms of how they held drivers' attention at times when attention should have been devoted to driving tasks. The study found that street-level advertising signs are more distracting than raised signs.

3.3 "Dynamic" Billboards: an Additional Source of Distraction?

Signage owners or leasers want to incorporate dynamic features into their signage for a number of reasons: to enhance the sign's ability to attract attention, to facilitate display of larger amounts of information within the same sign area, to conveniently change message content, and to enhance profitability. As mentioned earlier, this report uses the term "dynamic" signs to refer to non-static signs capable of displaying multiple messages. Several studies documented the ability of a sign to accomplish the first of these goals.

University of Toronto
Observed Driver Glance Behavior at Roadside Advertising Signs **(Beijer & Smiley, 2004)** [8]

Research done at the University of Toronto compared driver behavior subject to passive (static) and active (dynamic) signs. The study found that about twice as many glances were made toward the active signs than passive signs. A disproportionately larger number of long glances (greater than 0.75 seconds) taken were toward the active signs. The duration of 0.75 seconds is important because it is close to the minimum perception-reaction time required for a driver to react to a slowing vehicle. For vehicles with close following distances, or under unusually complex driving conditions, a perception delay of this length could increase the chance of a crash. The following findings were reported in this study:

- 88% of the subjects made long glances (greater than 0.75 seconds).
- 22% of all glances made at all signs were long glances (greater than 0.75 seconds).
- 20% of all the subjects made long glances of over two seconds.
- As compared to static and scrolling text signs, video and tri-vision signs attracted more long glances.
- Video and scrolling text signs received the longest average maximum glance duration.
- All three of the moving sign types (video, scrolling text and tri-vision) attracted more than twice as many glances as static signs.

University of Toronto
Impact of Video Advertising on Driver Fixation Patterns (Smiley et al., 2001) [9]

Another study completed at the University of Toronto used similar eye fixation information in urban locations to show that drivers made roughly the same number of glances at traffic signals and street signs with and without full-motion video billboards present. This may be interpreted to mean that while electronic billboards may be distracting, they do not appear to distract drivers from noticing traffic signs. This study also found that video signs entering the driver's line of sight directly in front of the vehicle (e.g., when the sign is situated at a curve) are very distracting.

City of Seattle Report (Wachtel, 2001) [10]

The City of Seattle commissioned a report in 2001 to examine the relationship between electronic signs with moving/flashing images and driver distraction. The report found that electronic signs with moving images contribute to driver distraction for longer intervals than electronic signs with no movement. Following are major points made in the report:

- New video display technologies produce images of higher quality than previously available technologies. These signs have improved color, image quality and brightness.
- New video display technologies use LEDs with higher viewing angles. Drivers can read the sign from very close distances when they are at a large angle from the face of the sign.
- Signs with a visual story or message that carries for two or more frames are particularly distracting because drivers tend to focus on the message until it is completed rather than the driving task at hand.
- Research has shown that drivers expend about 80 percent of their attention on driving related tasks, leaving 20% of their attention for non-essential tasks.
- The Seattle consultant suggests a "10 second rule" as the maximum display time for a video message.

The expanded content of a dynamic sign also contributes to extended distraction from the driving task. The Seattle Report examined how this may be due in part to the *Zeigarnik effect* which describes the psychological need to follow a task to its conclusion. People's attention is limited by the ability to only focus on a small number of tasks at a time, and by the tendency to choose to complete one task before beginning another. In a driving environment, drivers' attention might be drawn to the sign rather than the task of driving because they are waiting to see a change in the message. This loss of attention could lead to unsafe driving behaviors, such as prolonged glances away from the roadway, slowing, or even lane departure.

While the Zeigarnik effect may be present in a wide variety of driving situations, possible scenarios that could affect drivers include:

- A scrolling message requires the viewer to concentrate as the message is revealed. Based on the size and resolution of the sign, and the length of the message, this could range from less than one second to many seconds.
- A sequence of images or messages that tell a story, during which the driver's attention may be captured for the entire duration that the sign is visible. Instead of merely glancing at the sign and then returning concentration to the driving task, more attention may be given to the message.
- Anticipation of a new image appearing, even if the expected new image is not related to the first image. In this case, the driver may be distracted while waiting for the change.

Federal Highway Administration
Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage (Wachtel & Netherton, 1980) [11]

This research provides information on the use of on-premise Commercial Electronic Variable-Message Signs (CEVMS) that display public service information (i.e,. time and temperature) and advertising messages along the Interstate highway system. The research found the following major considerations:

- Highway Safety Considerations

  The link between changing messages that attract drivers' attention and crashes has been an issue of concern since the earliest forms of electronic signage became available. This study thoroughly reviewed the literature seeking information regarding a potential link between CEVMS and crashes:

  > *"Although a trend in recent findings has begun to point to a demonstrable relationship between CEVMS and accidents, the available evidence remains statistically insufficient to scientifically support this relationship."*

  The study also noted that studies have not documented information about "such occurrences as 'near misses' or traffic impedances that are widely recognized as relevant to safety, and which may or may not be attributable to the presence of roadside advertising."

- Human Factors Considerations

  Human factors relate to all the elements that explain driver behavior, such as eye glances and driver responses to a variety of driving-related stimuli. The study makes the point that simple driving-related tasks consume relatively little information processing capacity. However, when other conditions, such as congestion, complicated roadway geometries, or weather are also considered, the marginal extra

amount of attention required to read roadside advertisements could lead to driving errors that could cause crashes.

> *"The enormous flexibility of display possessed by CEVMS makes it possible to use them in ways that can attract drivers' attention at greater distances, hold their attention longer, and deliver a wider variety of information and image stimuli than is possible by the use of conventional advertising signs."*

Texas Transportation Institute for FHWA, Impacts of Using Dynamic Features to Display Messages on Changeable Message Signs (Dudek et al., 2005) [12]

This study examined the comprehension times for three different scenarios for DOT-operated changeable message signs. The scenarios evaluated were:

- Flashing an entire one-phase message
- Flashing one line of a one-phase message while two other lines of the message remain constant
- Alternating text on one line of a three-line CMS while keeping the other two lines of text constant on the second phase of the message

The findings of this study were:

- Flashing messages did not produce faster reading times.
- Flashing messages may have an adverse effect on message comprehension for unfamiliar drivers.
- Average reading times for flashing line messages and two-phase messages were significantly longer than for alternating messages.
- Message comprehension was negatively affected by flashing line messages.

While this research did not evaluate advertising-related signs, it does demonstrate that flashing signs require more of the driver's time and attention to comprehend the message. In the case of electronic billboards, this suggests that billboards that flash may require more time and attention to read than static ones.

3.3.1 OTHER INFORMATION

NHTSA Driver Distraction Internet Forum (2000) [13]

The National Highway Traffic Safety Administration held an internet forum to gather research and public comment related to driver distraction with an emphasis on the use of cell phones, navigation systems, wireless Internet and other in-vehicle devices. During this forum, participants were invited to take a poll to determine the most prominent driver

distraction issues. Electronic billboards were identified as one of six noted sources of distraction.

Parliament of Victoria, Australia, Report of the Road Safety Committee on the Inquiry into Driver Distraction (2006) [14]

This report identified road signs and advertising as one of the largest sources of driver distraction. At least three billboards near Melbourne, Australia display moving images.

> *"The Committee considers these screens to be at the high end of potential visual distraction and accordingly, present a risk to drivers."*

The study also included a quote from the Manager of the Road User Behaviour group at VicRoads (the State's road and traffic authority) from a December 2005 hearing:

> *What we do know is when there is movement involved, such as flicker or movement in the visual periphery, that this is more likely to capture a driver's attention. We actually are hard-wired as human beings to movement, so particularly moving screens and information that scrolls at intersections and in highly complex driving situations – these are risky, and in particular researchers have been most concerned about those sort of advertising materials.*

This opinion would suggest that electronic signs can present a distraction to drivers.

3.4 How Much Distraction Is a Problem?

A number of studies were identified that discussed concerns with driver distraction generally. It should be noted that some of the studies cited use specific crash data that is ten or more years old. Direct comparison of distraction sources to influences of today may not be completely valid due to increased technological sophistication of distracting influences. These could include in-vehicle technology (e.g., navigation systems, MP3 players, DVD players, CD players, computer systems, etc.) as well as other potentially distracting influences (e.g., cell phones, text messaging, dynamic signage, other roadway elements, etc.) that were not commonplace when the data for these studies was collected:

Australian Road Research Board
***Investigations of Distraction by Irrelevant Information* (Johnston & Cole, 1976)** [15]

This research used five experiments to test whether drivers could maintain efficient performance in their driving tasks while being subjected to content that was information rich, but irrelevant to driving. The findings were that a small, but statistically significant amount of performance degradation was observed when the participant was under a critical load of stimuli.

National Highway Traffic Safety Administration/ Virginia Tech Transportation Institute

***Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data* (Klauer et al., 2006)** [16]

This study analyzed the data from a driving database developed by the National Highway Traffic Safety Administration. This database contained exhaustive data recorded by instrumented vehicles that measured glance position, impairment, drowsiness, risk taking and many other parameters potentially involved in crash causation. Vehicles were instrumented so that an observer did not need to be in the vehicle to collect data. Automated data collection reduced the problem of an observer influencing driver behavior. The study found that glances of two seconds or greater doubled the risk of crashes or near-crashes. The study also found that 22 percent of crashes are accompanied by "secondary-task" distraction whether inside or outside the vehicle.

National Highway Traffic Safety Administration/ Virginia Tech Transportation Institute

***Driver Inattention is a Major Factor in Serious Traffic Crashes* (2001)** [17]

The National Highway Traffic Safety Administration commissioned a study to examine the causes of crashes. The study gathered information from four areas throughout the country and used data from the National Automotive Sampling System (NASS) from April 1996-April 1997 for analysis. The geographic areas were selected because they had good crash investigation practices and high interview completion rates. The results of this study are summarized in Table 2.

Table 2. Crash Causation Summary

Causal Category	Percentage of Drivers Contributing to Causation
Driver Inattention	22.7
Vehicle Speed	18.7
Alcohol Impairment	18.2
Perceptual Errors	15.1
Decision Errors	10.1
Incapacitation	6.4
Other	8.8

Association for the Advancement of Automotive Medicine

***The Role of Driver Inattention in Crashes; New Statistics from the 1995 Crashworthiness Data System* (Wang, 1996)** [18]

This report analyzed the NHTSA 1995 Crash Worthiness Data System (CDS). It found that the greatest source of driver distraction (3.2 percent) was due to a specified person, object or event outside the vehicle. The full results of the study are presented in Table 3.

Table 3. Percentage of CDS Crashes Involving Inattention-Distraction Related Crash Causes

Data Element	% of Drivers	% of Crashes
Attentive or not distracted	46.6%	28.4%
Looked but did not see	5.6%	9.7%
Distracted by other occupant [specified]	0.9%	1.6%
Distracted by moving object in vehicle [specified]	0.3%	0.5%
Distracted while dialing, talking, or listening to cellular phone [location and type of phone specified]	0.1%@	0.1%@
Distracted while adjusting climate controls	0.2%@	0.3%@
Distracted while adjusting radio, cassette, CD [specified]	1.2%	2.1%
Distracted while using other device/object in vehicle [specified]	0.1%	0.2%
Sleepy or fell asleep	1.5%	2.6%
Distracted by outside person, object, or event [specified]	2.0%	3.2%
Eating or drinking	0.1%	0.2%
Smoking-related	0.1%	0.2%
Distracted/inattentive, details unknown	1.5%	2.6%
Other distraction [specified]	1.3%	2.2%
Unknown/No Driver	38.5%	46.0%

Weighted driver N = 4,627,000 (7,943, unweighted); weighted crash N = 2,619,000 (4,536);
In order for a *crash* to classified "attentive," all involved drivers had to be classified "attentive."
@ - estimate based on 5-9 cases.

University of North Carolina Highway Safety Research Center
The Role of Driver Distraction in Traffic Crashes (Stutts et al., 2001) [19]

A study prepared by the University of North Carolina Highway Safety Research Center for the AAA Foundation for Traffic Safety examined the sources of driver distraction in traffic crashes. The data came from the CDS from 1995-1999. Of the thirteen specific sources of distraction tracked by the study, the greatest source of distraction was an outside person, object or event. While the study does not break down the sources of outside distraction, it does show that distractions outside the vehicle are the largest factor in distraction-related crashes. The results of this study are presented in Table 4.

Table 4. Specific Sources of Distraction Among Drivers in Distraction–Related Crashes

Specific Distraction	Percentage of Drivers
Outside person, object or event	29.4
Adjusting radio, cassette, CD	11.4
Other occupant in vehicle	10.9
Moving object in vehicle	4.3
Other device/object brought into vehicle	2.9
Adjusting vehicle/climate controls	2.8
Eating or drinking	1.7
Using/dialing cell phone	1.5
Smoking related	0.9
Other distraction	25.6
Unknown distraction	8.6
Total	100.0

Three studies were found which attempted to measure driver behavior specifically in response to dynamic signage. Two of these studies demonstrated a potential relationship between dynamic signage and crash rates:

Minnesota Department of Transportation, The Effectiveness and Safety of Traffic and Non-Traffic Related Messages Presented on Changeable Message Signs (CMS) (Harder, 2004) [20]

This study used a driving simulator to measure the effect of Department of Transportation changeable message signs on traffic flow. The two messages evaluated were a "crash ahead" warning and an AMBER Alert (child abduction information). The research found that just over half of the participants used the "crash ahead" message and 60 percent could recall the AMBER Alert with scores of Good or Better. Over one fifth of the participants slowed down by at least 2 mph upon seeing the AMBER Alert, demonstrating that messages relevant to drivers are associated with changes in at least some drivers' travel speed .

Decision of the Outdoor Advertising Board in the Matter of John Donnelly & Sons, Permitee, Telespot of New England, Inc., Intervenor, and Department of Public Works, Intervenor, with Respect to Permit Numbered 19260 as Amended (1976) [21]

This proceeding documents the Commonwealth of Massachusetts Outdoor Advertising Board's ruling regarding one of the first changeable signs. This sign was located near an arterial road in Boston and used magnetic discs to portray a message that changed every 30 seconds. The original sign permit was rejected based on four criteria, one of which was safety. Upon appeal, the Massachusetts Department of Public Works allowed the permit based on the fact that the sign would give the public a benefit. However, they ultimately determined that the sign was a safety hazard based on crash rates before and after the sign was installed. Tables 5 and 6 show the change in crash rates.

Table 5. Telespot Sign Crash Rates - Expressway Southbound

	Average per year (1/1/1970-12/31/1972)	**Average per year (1/1/1973-3/31/1975)**	**Average Percent Change**
Crashes where the sign was viewable (north of sign)	29.0	20.0	-31.0
Crashes where the sign was not viewable (south of sign)	39.0	15.6	-60.0

Table 6. Telespot Sign Crash Rates - Expressway Northbound

	Average per year (1/1/1970-12/31/1972)	**Average per year (1/1/1973-3/31/1975)**	**Average Percent Change**
Crashes where the sign was viewable (south of sign)	46.3	42.7	-7.8
Crashes where the sign was not viewable (north of sign)	8.0	1.8	-77.5

This analysis shows that while crash rates decreased on comparable sections in the years after the sign was installed, the sections where the sign was visible experienced smaller crash rate decreases. Due to these arguments, the Board ruled that the operation of the sign must be terminated.

Wisconsin Department of Transportation
Milwaukee County Stadium Variable Message Sign Study – Impacts of an Advertising Variable Message Sign on Freeway Traffic (1994) [22]

A study prepared by the Wisconsin Department of Transportation (WisDOT) examined crash rates before and after an advertising variable message sign was installed in 1984 on the Milwaukee County Stadium, home of the Milwaukee Brewers professional baseball team. Crash statistics were analyzed for the three years before and the one and three years after the sign was installed. As they are often associated with driver distraction, side-swipe and rear-end crashes, as well as total crashes, were examined for both the eastbound and westbound directions. The sign was much more visible to eastbound traffic due to the stadium's proximity to the roadway and the amount of visual obstructions for westbound traffic.

The analysis found an increase in crash rates for all crash types in the eastbound direction after the sign was installed. Most pronounced was an 80 percent increase in side-swipe crashes after the first year of installation. Results in the westbound direction were mixed, with a 29 percent decrease in crashes the first year the sign was in place and a 35 percent increase in the three years the sign was in place. Although no control roadway sections were studied, an interview with the study author revealed that the introduction of a sign on a high volume curving roadway may have introduced enough distraction to an already demanding driving environment to explain the higher crash rate in the eastbound direction. The study author also stated that the study was not able to establish a causal relationship between the sign and the crash rates.[23]

Federal Highway Administration
Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction (2001) [24]

The Federal Highway Administration published a comprehensive report in 2001 that consisted of a literature search, literature review and a description of research needs for

the topic of electronic billboards (EBBs). While the study did not conduct any new research, it does provide an excellent summary of the role electronic billboards play in traffic safety and includes good descriptions of the terminology related to electronic billboards. Selected findings from that synthesis are provided below:

> *"In most instances, researchers were not able to verify that an EBB was a major factor in causing a crash. Only one study since the 1980 review and one lawsuit were identified."*
>
> *"Studies were identified that verified that: an increase in distraction, a decrease in conspicuity, or a decrease in legibility may cause an increase in the crash rate."*
>
> *"Commercial EBBs are designed to 'catch the eye' of drivers. Their presence may distract drivers from concentrating on the driving task and visual surrounds."*
>
> *"There is indication that individual differences in age and driving experience may be important considerations in driver distraction, and are relevant to understanding driver responses to the external environment. Furthermore, research regarding driver familiarity of their route demonstrated that visual fixations on roadway signs decreases as route familiarity increases. This research may show that there is a difference between commuter and visiting drivers."*

Based on these findings, the FHWA recommended additional research to further demonstrate how roadway characteristics, sign characteristics and legibility, driver characteristics and other potential driver distractions affect traffic safety. FHWA was contacted to see if any new information was available. Greg Davis, a Research Psychologist with the FHWA Office of Safety R&D, indicated that the FHWA has not performed additional studies on the topic since the report was published. He stated that there is "no direct correlation between electronic outdoor advertising signs and crash rates". He referred to a before/after study of electronic signs installed along a freeway in Las Vegas that found no change in crash rates. He went on to say that the lack of a research finding that links signs with crash rates does not mean that a causal relationship does not exist. He indicated that he has been contacted by several law enforcement agencies regarding the link between driver distraction and dynamic message signs/electronic billboards. He indicated that this is a timely and pertinent topic for many states due to the increasing popularity and capabilities of electronic outdoor advertising devices, and he expects further research to be forthcoming. He advocates for a new study that can control for all variables and determine if a cause and effect relationship exists.[25]

3.5 How Does "Brightness" Affect Driver Safety Concerns?

The brightness of any sign, static or dynamic, raises concerns with discomfort or disability glare to the driver that may arise when viewing any lighted object. *Disability Glare* occurs when a

driver is exposed to a light source so bright that it temporarily blinds the driver, impairing their ability to perform driving tasks. This temporary blindness is brief, but can be dangerous. *Discomfort Glare* occurs when a light source is bright enough to distract or encourage the driver to look away from the light, but is not blinding. Discomfort glare is of particular concern in cases where a bright sign is located in the same line of sight as a traffic sign, signal or another vehicle.

While concerns about glare are not unique to dynamic signs, newer sign technologies, which often include dynamic components, have the technical capability to emit more light and/or respond to ambient light conditions, raising additional concerns about sign brightness in areas where signs compete with regulatory traffic signs or signals.

3.6 Billboards and Other Signage Regulation: a Minnesota Perspective

Roadside signage is governed by policies and laws at the federal, state and local levels. Minnesota Statute, Chapter 173 seeks to "reasonably and effectively regulate and control the erection or maintenance of advertising devices on land adjacent to such highways." The statute requires adherence to federal statutes with respect to interstate and primary systems of highways.

Minnesota Statute Ch. 173.16 Subd. 3. regulates lighting of signs. Signs which are "illuminated by any flashing light or lights, except those giving public service information" (time, date, temperature, weather or news) are prohibited. This section also states:

> (b) Advertising devices shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an interstate or primary highway, of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle; or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
>
> and
>
> (c) Outdoor advertising devices shall not be erected or maintained which shall be so illuminated that they interfere with the effectiveness of or obscure any official traffic sign, device or signal.

3.7 Billboard and Other Signage Regulation: Other Perspectives

During the course of this study, several articles were found which summarize regulation of dynamic signage in other states:

> **Wisconsin Department of Transportation**
> ***Electronic Billboards and Highway Safety* (2003)** [26]
>
> The Wisconsin Department of Transportation also published a literature review report to further explain the current state of EBB research. Although much of the information is

mentioned in other sections of this report, the Wisconsin review did summarize Wisconsin's regulations for electronic billboards.

- No message may be displayed for less than one-half second;
- No message may be repeated at intervals of less than two seconds;
- No segmented message may last longer than 10 seconds;
- No traveling message may travel at a rate slower than 16 light columns per second or faster than 32 columns per second (light column defined as pixel column);
- No variable message sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility.

National Alliance of Highway Beautification Agencies (1999) [27]

Although this survey is eight years old, it generated the following information related to electronic billboards:

- Nine states had specific regulations governing signs,
- Nine states had regulations on tri-vision signs that were either being drafted or in pending legislation,
- Fifteen states had regulations regarding moving parts and/or lights,
- Nine state had no regulations on tri-vision signs, and
- Six states and Washington, DC, prohibited tri-vision signs.

An investigation into state outdoor advertising regulations was also conducted.

- Thirty-six states had prohibitions on signs with red, flashing, intermittent, or moving lights,
- Twenty-nine states prohibited signs that were so illuminated as to obscure or interfere with traffic control devices, and
- Twenty-nine states prohibited signs located on interstate or primary highway outside of the zoning authority of incorporated cities within 500 ft of an interchange or intersection at grade or safety roadside area.

Parliament of Victoria, Australia, Report of the Road Safety Committee on the Inquiry into Driver Distraction (2006) [28]

This report, cited earlier for its driver distraction opinions, identifies road signs and advertising as one of the largest sources of driver distraction. VicRoads, the state's road and traffic authority, has implemented the following regulations.

Figure 1. VicRoads' Ten Point Road Safety Checklist

An advertisement, or any structure, device or hoarding for the exhibition of an advertisement, is considered to be a road safety hazard if it:

1. obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property; or
2. obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device; or
3. could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing; or
4. is at a location where particular concentration is required (eg. high pedestrian volume intersection); or
5. is likely to be mistaken for a traffic control device, for example, because it contains red, green or yellow lighting, or has red circles, octagons, crosses or triangles, or arrows; or
6. requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic; or
7. invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely; or
8. is within 100 metres of a rural railway crossing; or
9. has insufficient clearance from vehicles on the carriageway; or
10. could mislead drivers or be mistaken as an instruction to drivers.

VicRoads also gives operational requirements for electronic advertising message signs. Signage must:

- not display animated or moving images, or flashing or intermittent lights;
- remain unchanged for a minimum of 30 seconds;
- not be visible from a freeway; and
- satisfy the ten-point checklist.

4.0 SUGGESTED REGULATORY APPROACH

Local governments regulate electronic outdoor advertising devices in widely varying degrees. Some cities completely prohibit the use of all electronic signs (sometimes specifying LED signs), while others have no regulations specific to electronic signs. Between those two extremes, there are many levels and types of control that can be applied.

The primary concerns to keep in mind when considering sign regulations are 1) First Amendment rights, which can be affected by regulations that affect the content of a sign's message, and therefore should be avoided, and 2) changing technology, which can quickly make a sign ordinance no longer applicable if the ordinance has been specifically written to address a certain type of sign technology. Performance based measures may therefore be preferable as they remain viable even as sign technology advances.

4.1 Definitions

Signage discussions often include a number of different words or phrases used to describe the technical characteristics of signage devices or their components (such as LEDs). For the purpose of zoning, some additional terms are also used to describe sign characteristics. Any regulatory efforts should take care to precisely define terminology. One possible resource in this effort is "Street Graphics and the Law," published by the American Planning Association (APA) Planning Advisory Service[29].

4.2 Types of Regulatory Measures

4.2.1 Complete or Partial Prohibition of Electronic Signs

Some cities have completely prohibited the use of electronic outdoor advertising devices. For example, the City of Maple Valley, WA prohibits all types of electronic outdoor advertising devices including animated signs, electronic changeable message signs, flashing signs or displays, moving signs, scrolling displays, and traveling displays. This applies to both on-premise and off-premise signs.

Other cities are very selective about where electronic signs are allowed, allowing them only in certain zoning districts. There are very few "standard" approaches. For the most part, each local

government tailors their regulations to their own situation. One approach adopted by cities is to prohibit electronic outdoor advertising devices in residential zoning districts, and for a certain distance away from residential zoning districts, similar to the zoning limitations placed on illuminated signs. Some ordinances require that electronic signs be situated such that the sign face is not visible from nearby residences.

4.2.2 Size Limitations on Electronic Signs

Another way of regulating electronic signs is to limit their size. Again, there is no set standard for this. One ordinance reviewed for the purpose of this study limits the electronic portion of a sign to no more than 50 percent of the sign face with the overall size determined by whatever the sign ordinance allows for a particular zoning district. Other examples of electronic sign size limitations include five square feet, 1,000 square inches, 20 square feet, and so forth. In other ordinances, there is no differentiation made between the size of electronic signs and other signs.

According to input from representatives of the sign industry, the smaller the size of the electronic sign, the more desirable it is for businesses to use frequent message changes, or sequenced messages, where more than one screen of text is used to convey an entire message.

4.2.3 Rate-of-Change Limitations on Electronic Signs

Many communities that allow electronic signs also regulate the rate at which the messages on the signs can be changed. Research on sign codes has shown this to range from as little as four seconds to as long as 24 hours.

The Interstate 394 sign between Ridgedale Drive and Plymouth Road is visible for approximately 45 seconds at free flow traffic speeds. Depending on text size, the message may not be readable by drivers during this entire duration, but the message changes can attract attention from long distances. Depending on how often the message changes occur and the speed of traffic, drivers on this segment could see a varying number of discrete messages. Table 7 provides the number of message changes a driver would see at different change durations and traffic speeds.

Table 7. Number of New Messages Seen at Various Driver Speeds and Time Intervals Between Messages

		Number of Messages Seen					
		Message Display Time (seconds)					
Speed (mph)	**Time sign is clearly visible* (seconds)**	**6**	**8**	**10**	**60**	**1800 (30 minutes)**	**3600 (1 hour)**
30	60	11	9	7	2	1	1
45	40	8	6	5	2	1	1
55	33	7	5	4	2	1	1

*Assuming the sign is clearly visible from one-half mile away.

Prohibiting displays from changing quickly can minimize potential driver distraction, but it would significantly limit the message owner's ability to convey information that does not fit on one screen of the sign. Using two or more successive screens to convey a message is referred to as sequencing. Based on the studies summarized in part 3 of this Report, including the glance duration studies performed by Klaur for the FHWA in 2006 and by Beijer & Smiley in 2004, and Wachtel's analysis for Seattle of the Zeigarnik effect, a message delivery system such as sequencing that requires or induces a driver to watch the sign for several seconds increases the likelihood of driver distraction. Based on information from the sign industry, for sequencing to be effective in a marketing sense, a brief rate-of-change (1-2 seconds) is generally used before transitioning into the next screen.

Some codes specify how an image changes, while other codes prohibit the use of transitions. The change from one image to another can be accomplished by various techniques: no transition – simply a change from one screen to another, or fading or dissolving one image into the next. Flashing, spinning, revolving, or other more distracting transition methods can be prohibited, allowing businesses to use sequencing in an effective manner without making the signs overly distracting. Another way of regulating distracting transitions is to require a very short time of a dark or empty screen between images.

4.2.4 Motion, Animation, or Video Limitations on Electronic Signs

Motion on a sign can consist of everything from special text effects (spinning, revolving, shaking, flashing, etc.) to simple graphics, such as balloons or bubbles rising across the screen, to more realistic moving images that have the appearance of a television screen. According to sign industry representatives, video imagery on a sign is referred to as "animation" if the sign is limited to the capability of 10 frames per second. Fewer frames per second make the moving image look more like animation. Imagery produced by signs that have the capability of processing up to 30 frames per second is accurately referred to as "video" imaging.

Many communities that allow dynamic signs do not allow the application of any type of motion, animation, or video on the signs. However, Seattle was obliged to allow video imagery on their signs after earlier signage code regulating certain types of signs was not strictly enforced. In addition to requiring a dark period between successive messages to overcome the Zeigarnik effect, Seattle also limits the duration of the video message to a minimum of two seconds and a

maximum of 10 seconds. This time frame was established based upon careful calculations of the streets from which these signs could be seen, speed limits and traffic volumes in addition to the community's concern over the extent to which moving images could distract drivers. However, Seattle also limits the size of their electronic signs to a maximum of 1,000 square inches, with no single dimension greater than three feet, thus minimizing the effect of video images.

4.2.5 Sign Placement and Spacing

Regulating the number of dynamic sign potentially visible to a driver at any one time as well as the position of the sign in relationship to the roadway may reduce distraction to drivers. Spacing requirements should consider the speed, width and horizontal and vertical alignment of the roadway.

Some communities have established minimum distances between electronic signs. Establishing an adequate distance between these types of devices seems particularly important if a fairly fast rate of change is allowed for the purpose of facilitating sequenced messages or if animation and video imaging is allowed. Closely spaced signs attempting to convey sequenced messages may simply create visual overload and an over-stimulated driving environment. Research conducted to date has not yielded information about optimal electronic sign spacing. Seattle adopted a 35-foot spacing requirement for their electronic signs based upon multiple levels of analysis of the downtown city environment in which these signs are present.

Due to the varying characteristics of individual roadways in this regard, overlay districts allowing dynamic signage with conditions specific to that area could be considered. Overlay districts could also take into account other locational factors such as offset from the roadway and conspicuity. Determining appropriate offsets from the roadway must consider roadway clear zone requirements as well as spacing of frontage roads and access points, while also considering the signage too far outside the driver's line of sight may be a further distraction. Conspicuity, a sign's ability to stand out from its surroundings, should also be considered.

4.2.6 Text Size

Legibility is another important property of signage. The preferred approach used within highway signing is that drivers can read text that is 1 inch high from 30 feet away. Larger text is needed for signs to be legible at greater distances. Large, legible text allows the driver to read the billboard from varying distances and focus on the driving task. Conversely, with small text, the driver is more likely to focus on the sign for a longer period of time and possibly be more adversely distracted. However, the size or type of text or the amount of text due is rarely regulated.

4.2.7 Brightness Limitations on Electronic Signs

One of the main concerns about the use of electronic signs, regardless of whether they consist of changeable text, animation, or video, is the brightness of the image. The brightness of an object can be characterized in two ways. *Iluminance* is the total brightness of all the light at a point of measurement. Illuminance often describes ambient light and can be measured with a standard light meter such as is used in photography. *Luminance* is the measure of the light emanating from an object with respect to its size and is the term is used to quantify electronic sign brightness. The unit of measurement for luminance is nits, which is the total amount of light emitted from a sign divided by the surface area of the sign (candelas per square meter).

Many, but not all, LED-type signage can be time-programmed to respond to day and nighttime light levels. Higher-end signage types are equipped with photo cells to respond to ambient light conditions. Despite these controls, LED signs have been observed that are considered to be excessively bright. Sign industry representatives indicate that excessive brightness can be the result of 1) sign malfunction or improper wiring, 2) lack of photo cell and/or dimming mechanism, or 3) operator error or lack of understanding that brightness is not necessarily an advantage, especially if it makes a sign unreadable or unpleasant to look at. They also maintain that the intent of the electronic sign industry is to establish a brightness level that is similar to a traditional internally or externally lit sign. Recent observations of sign technicians calibrating the Interstate 394 LED billboard noted that the brightness controls are not calibrated to specific nit levels, but rather vary in proportion to a set maximum level, like a volume control dial on a typical car radio.

To control the extent to which electronic signs are a distraction or the extent to which they are readable, many local governments have adopted regulations that limit nit levels. At this time, ordinances that use nit level limitations typically differentiate between day time and night time nit levels. A common daytime nit limitation ranges from 5,000 to 7,000 nits. A common nighttime limitation is 500 nits, although in areas that are extremely dark at night, with very little in the way of ambient light levels, less than 500 nits may be appropriate. Other communities have taken this farther, such as Lincoln, Nebraska, whose sign code incorporates a graph of varying ambient light levels ranging from night time to a bright sunny day and all conditions between those two extremes, and has correlating nit limitations for the various ambient light levels.

Enforcement of these types of regulations is challenging as luminance of electronic signs is very difficult to measure in the field. Typically, sign luminance is measured and calibrated in a controlled factory setting using a spectral photometer to measure the light output. This calibration setting is then used in conjunction with a photo cell to control the brightness of the sign. The higher the ambient light levels, the brighter the sign. There are different nit thresholds for various colors. White is most often used to set dimming levels because at a constant nit level, white has the most intensity as perceived by the human eye.

Lincoln uses a light meter to conduct testing on electronic signs and found a wide range of luminance levels. One small electronic sign had luminance levels of 13,000 nits. The process that Lincoln uses to check luminance levels is to hold a luminance meter close to the face of the sign so that it captures only the light emitted from the sign. They have not had any requests to

measure the brightness of LED billboards, so the viability of using this approach on billboards has not been explored.

In Seattle, sign luminance was found too difficult to measure, so signs are visually inspected when complaints from the public are received. Sign owners are then contacted and asked to adjust sign luminance accordingly.

Both Mesa, Arizona and Lincoln, Nebraska have included a requirement for written certification from the sign manufacturer that the light intensity has been preset not to exceed the illumination levels established by their code, and the preset intensity level is protected from end user manipulation by password protected software or other method approved by the appropriate city official. This language appears to offer the advantage of ensuring that electronic signs, at a minimum, cannot exceed a certain established level of brightness.

At a minimum, it is important for communities to require all electronic signs to be equipped with a dimmer control. A requirement for both a dimmer control and a photo cell, which constantly keeps track of ambient light conditions and adjusts sign brightness accordingly, is optimal.

Over time, the LEDs used in electronic signs have a tendency to lose some of their intensity, and an owner may choose to have the sign adjusted and calibrated, which involves adjusting the level of electrical current in a manner that affects the brightness of the sign. This occurs over the course of two or three years. Having maximum nit levels established would ensure that the sign company has upper limits to work with as far as adjusting the sign is concerned.

4.3 Public Review

Most communities establish rules within their sign code and do not create opportunities for electronic signs to be approved through conditional use permits or special use permits. Some communities with special overlay districts, or areas that are oriented toward entertainment and night life, have established a review process for electronic signs, or for various functions of electronic signs such as animation and video.

Other communities take the opposite approach, where they allow electronic signs with no controls whatsoever, except in certain special areas, such as a historic overlay district, or a historic downtown district, where the signs are prohibited. Each community needs to tailor their application of electronic signs to meet their needs.

As of the writing of this report, no ordinances have been discovered that have a special review committee just for the purpose of electronic signs. Typically, sign regulations established in the zoning ordinance would be reviewed in accordance with existing review and approval processes. As with other development features, dynamic signage should be either prohibited, permitted, or conditional depending upon the zoning district and/or the specific features of the sign as established within the city's regulations (i.e. size, specific location with respect to the adjacent roadway, zoning district, proximity of sensitive uses). The recommended review process for permitted dynamic signs should be the same as procedures already in place for administrative

review. For dynamic signs requiring a Conditional Use Permit (CUP), the standard process for public notification and a public hearing before the planning commission should apply.

5.0 CONCLUSIONS AND RECOMMENDATIONS

Driver distraction plays a significant role in traffic safety. Driver distraction is a factor in one in four crashes, and of those crashes involving driver distraction, one in four involves distractions outside the vehicle. The extent to which dynamic signage contributes to traffic safety has been examined in this study. Following are some of the major findings from a review of available research.

- Drivers that are subjected to information-rich content that is irrelevant to the driving task (such as digital advertising) may be temporarily distracted enough to cause a degradation in their driving performance. This degradation could lead to a crash.
- The unlimited variety of changing content allows dynamic signage to attract drivers' attention at greater distances and hold their attention longer than traditional static billboards.
- Several studies have found a correlation between crashes and the complexity of the driving environment. For example, crash rates are higher at intersections because the difficulty of the driving task is increased by the roadway's complexity. Complex driving environments place a high demand on drivers' attention. Introducing a source of distraction in an already demanding driving environment is more likely to result in crashes. This is illustrated by the 1994 Wisconsin DOT study that examined crash rates before and after installation of an electronic sign on a high-volume curving roadway. Introduction of this sign was identified as a likely factor of the 80 percent increase in side-swipe crashes that was experienced.
- Many studies have noted a correlation between outdoor advertising signs and crash rates, but have not established a *causal* relationship between the signs and crash rates. Driving is a complex task influenced by multiple factors. It is not necessary to establish a direct causal relationship between outdoor advertising signs and crash rates to show that they can make the driving task less safe. While the research shows that driver distraction is a key factor in many motor vehicle crashes, this often includes many interacting factors that distract drivers. The specific driver distraction danger that advertising signs contribute is difficult to quantify. A study that could control for multiple variables (human factors, vehicle, enforcement and the roadway environment) would be needed to provide a definitive statement on the level of driver distraction that signs produce. Such a study would likely find that not all advertising signs cause distraction that would lead to crashes, but some signs in some situations are more likely to contribute to crashes than others.

Overall, the literature review conducted for the purpose of this study identifies a relationship between driver distraction and electronic outdoor advertising devices. As indicated, driver distraction is a significant factor in crashes. The purpose of dynamic signage is to attract the attention of people in vehicles, so a natural conclusion from that knowledge is that drivers may be distracted by them. Professional traffic engineering judgment concludes that driver distraction generally contributes to a reduction in safe driving characteristics.

For this reason, state departments of transportation have carefully studied the design and location of dynamic signs within the highway right-of-way. Their goal is to convey a message to the traveling public in a manner that is as straight-forward and readable as possible without being a visual "attraction". The goal of the outdoor advertising sign is to be a visual attraction outside the right-of-way, possibly making it a source of driver distraction. Nevertheless, the actual change in crash rates influenced by the presence of any specific device has not been quantified in a manner that fully isolates the impacts of an electronic sign. Recent studies conducted by FHWA and others have cited the need for further research.

In the interest of promoting public safety, this report recommends that electronic signs be viewed as a form of driver distraction and a public safety issue. Therefore, the ordinance recommendations identified here should be considered. These recommendations should be reviewed in the future as additional research becomes available.
With respect to regulatory measures for electronic outdoor advertising signs, it is important that local governments take a thorough approach to updating their ordinances to address this issue. For example, an ordinance that addresses sign motion, but does not address brightness and intensity levels may leave the door open for further controversy. This report seeks to identify all of the aspects of electronic outdoor advertising devices that are subject to regulation. It does not specifically state what those regulations should be (e.g. the size of electronic signs), since these are all things that policy makers and staff must take into careful consideration. Further, as driver distraction and resulting influences on safety do not, in a practical sense, distinguish between on-premise and off-premise signage, this distinction is not highlighted in the recommendations below.

Regulatory Measures recommended for consideration

To properly address the issue of dynamic signage, it is recommended that the sign code address the following:

1. Identify specific areas where dynamic signs are prohibited. This would typically be done by specifying certain zoning districts where they are not allowed under any circumstances. If dynamic signs are to be allowed in specific areas, this could be done by zoning district (only higher level commercial districts are recommended for consideration) or by zoning overlay related to specific purposes (e.g. entertainment or sports facility district) or to specific roadway types.

2. Determine the acceptable level of operational modes in conjunction with such zoning districts or overlays. The various levels include:

    a. Static display only, with no transitions between messages,

    b. Static display with fade or dissolve transitions, or transitions that do not have the effect of moving text or images,

    c. Static display with scrolling, traveling, spinning, zooming in, or similar special effects that have the appearance of movement, animation, or changing in size, or get revealed sequentially rather than all at once (e.g. letters dropping into place, etc.), and

d. Full animation and video.

3. If one of the forms of static display is identified as the preferred operational mode, a minimum display time should be established. This display time should correspond to the operation roadway speed (rather than posted speed limit), allowing at most one image transition during the time that the sign if visible to a driver traveling at the operational speed.

   If a shorter minimum display time is considered, the effects of message sequencing should be considered. Wait intervals of more than 1-2 seconds between sequenced messages have the potential to become more of a distraction as viewers wait impatiently for the next screen, in an effort to view the complete message.

4. If the community wishes to accommodate animation or video in some or all locations where dynamic are permitted, a minimum and maximum duration of a video image should be established. The purpose for establishing a time limit is to ensure that the message is conveyed in a short, concise time frame that does not cause slowing of traffic to allow drivers to see the entire message. Given the creativity of advertising, these video images may be seen as a form of entertainment, and people typically like to see an entertaining message through to the end.

   Differentiate between zoning districts where dynamic signs are permitted by right, and zoning districts, overlay districts, or special districts where they should only be allowed through the approval of a Conditional Use Permit. A CUP would involve public notification and review and approval by the Planning Commission. Other options would include a design review board or other dispute resolution process.

5. Consider the establishment of minimum distance requirements between electronic outdoor advertising devices in relation to the zoning district or roadway context in which the signs are allowed.

6. Consider size limitations on dynamic signs for zoning districts where they are allowed. This may vary from one district to another.

7. Consider if dynamic signs are allowed independently, or if they must be incorporated into the body of another sign, and therefore become a limited percentage of the overall sign face.

8. Establish a requirement for that all dynamic signs that emit light be equipped with mechanisms that allow brightness to be set at specific nit levels and respond accurately to changing light conditions. The City must establish the authority to disable or turn the device off if it malfunctions in a manner that creates excessive glare or intensity that causes visual interference or blind spots, and require that the device remain inoperable until such time that the owner demonstrates to the appropriate city official that the device is in satisfactory working condition. If such technology is not available, consideration should be give to banning dynamic signs that emit light until such time as the technology allows brightness levels to be precisely controlled.

9. Consider maximum brightness levels that correlate to ambient (day or night condition, lighting of surrounding context) light levels. A maximum daytime and separate nighttime nit/footcandle level should be established. Consider wording that requires the sign to automatically adjust its nit level based on ambient light conditions.

10. Consider a requirement for a written certification from the sign manufacturer that the individual sign's maximum light intensity has been preset not to exceed the maximum daytime illumination levels established by the code, and that the maximum intensity level is protected from end user manipulation by password protected software or other method approved by the appropriate city official.

11. Require sign owners to provide an accurate field method of ensuring that maximum light levels are not exceeded. If such a method cannot technically be provided, consider banning dynamic signs that emit light until such time as the technology is available.

APPENDICES

Appendix A

Current Sign Technologies

Appendix A – Current Sign Technologies

Roadside signage has long been used to alert and direct travelers to retail businesses, lodging, attractions and other destinations. Until the 20th century much of this image was "static" in nature, presenting a single image that could only be altered by repainting or otherwise removing an image and replacing it with another. With the advent of motorized travel, signage became more "dynamic" or active in its efforts to attract the traveler's attention as they moved at ever increasing speeds. Initially, motion was created by flashing bulbs or alternating sets of neon tubes.

Today's technologies allow for an increasingly sophisticated display of images that can be manipulated by a few strokes of a keyboard. Simpler forms of signs capable of displaying multiple images include "tri-vision" signs which present a series of images through mechanical rotation of multi-sided vertical strips. The rotation occurs at regular intervals presenting a series of static images. Other forms are electronically produced, allowing for a wide range of colors, messages and images depending on the level of technology, and typically produced by light emitted by the sign face. Basic levels of technology present letters or numbers in a single color of light, such as "time and temperature" signs or gas pricing signs. Many of these signs can present longer images in a scrolling fashion, or can provide simple animations.

Recent advances have introduced a variety of technologies to the outdoor advertising arena. The largest impact has been made with LED signs which offer an inexpensive yet powerful approach that combines full motion, brilliant colors and a readable display. Other technologies are in development, including "digital ink" signs that offer a changeable medium on a surface that looks like a normal vinyl billboard. These signs manipulate ink on the surface, allowing for a dynamic presentation of images without being internally illuminated.

The various sign technologies are referenced by a wide array of terms: "changeable message signs," "electronic billboards," "animated signs." In general, this report focuses on the broad range of signage types which are capable of displaying multiple images through electronic manipulation, which we will refer to as "dynamic" signing. Reference to specific signage types is made when necessary to discussion of specific issues (e.g. the brightness of LED signage).

Appendix B

Outdoor Advertising Sign Brightness Definitions

Appendix B – Outdoor Advertising Sign Brightness Definitions

This appendix defines various technical terms that are used to describe the operational aspects of electronic billboards.

Billboard Illuminance

Billboard illumination is typically discussed using two terms: illuminance and luminance. Because this section includes some technical jargon, a glossary that further defines terms used in outdoor advertising is provided in Appendix C.

Illuminance: The amount of light that is incident to the surface of an object. This is the method for describing ambient light levels or the amount of light that is projected onto a front-lit sign. This parameter is typically measured in lux (footcandles x meters). For the purposes of dimming, illuminance is discussed to describe the ambient light that hits the photocell.

Luminance: The amount of light that emanates from an internally illuminated sign. This parameter is measured in nits. The nit levels necessary for the sign to be legible vary with the ambient light conditions. On a sunny day, the nit levels must be very high, while at night, the levels must be very low to prevent the image from distorting and to prevent glare.

Billboard Luminance (Brightness)

Luminance is measured in nits (candelas/square meter) and describes how bright the image is. In essence, it is the amount of light that is radiated from the sign divided by the amount of surface area of the sign. No matter how big the sign is, the luminance of the sign is consistent. For example, the brightness of computer monitors is also measured in nits.

The European standard "EN 12966" specifies that at certain ambient light levels, the sign should output a given number of nits. There are different tables for each color due to the properties of how the human eye interprets each color. The color that is most often used to set dimming levels is white.

The FHWA has developed recommended practices for dynamic message signs installed within the roadway right-of-way. The standard is NEMA's TS-4 "Hardware Standards for Dynamic Message Signs (DMS) With NTCIP Requirements." Note that these standards were prepared for message signs deployed within the roadway right-of-way and should not be taken as recommended luminance levels for advertising signs. Table A-1 provides a simplified version of the NEMA TS-4 standard for the color white.

Table A-1 - Luminance Standards

Ambient Light (lux)	Approximate Light	Minimum Luminance (nits)	Maximum Luminance (nits)
40,000	Sunlight	12,400	62,000

10,000	Cloudy	12,400	-
4,000	Overcast	2,200	11,000
400	Sunrise/Sunset	600	3,000
40	Candlelight	250	1,250
less than 4	Moonlight	75	375

Source: NEMA TS-4 (2005)

Billboard Resolution

Billboards require far less resolution than print advertisements. For example, Clear Channel's LED "Digital Outdoor Network" LED bulletin-size (14' x 48') billboards require dimensions of only 208 pixels high by 720 pixels wide. If this image were to be printed at 300 dots per inch (dpi), a typical print resolution, the entire image would be less than 1.7 square inches. Therefore, it is ideal to keep the message on these signs simple and clear because they do not currently allow resolutions similar to printed images.

Dimming

To maintain readability, the brightness of a sign must be adjusted to match ambient light conditions. If this is not done, the image will appear too bright and can even degrade the image quality through a phenomenon called "blooming." If the image blooms, the brightest areas of the image bleed over into darker parts and the image clarity is degraded.

Dimming is typically controlled by a photocell, which measures the ambient light conditions and varies the light output of the sign based on preconfigured settings. As ambient light conditions darken, the photocell senses the decrease and lowers the light output of the sign. Some sign manufacturers do not incorporate photocells in their electronic signs.

Electronic billboard dimming can also be controlled by scheduled dimming according to time of day or manual dimming. On-premise signs may use any of these methods, but most, if not all, off-premise standard size electronic billboards are auto dimmed by photocell. Some signs include user-defined dimming curve capability allowing total control over sign brightness and adjustability to accommodate local brightness ordinances.

Appendix C

Electronic Outdoor Advertising Device
Visual Performance Definitions

Appendix C – Electronic Outdoor Advertising Device Visual Performance Definitions

Conspicuity

Conspicuity is the property that related to the contrast between a sign and its background and its ability to stand out from its surroundings. This is a subjective property that depends on many factors of both the environment and the viewer.

Contrast

Contrast is the property that defines the relationship between the brightness of the brightest color possible to the darkest color possible on a sign. In times when ambient conditions are very bright, such as a sunny day, the darkest color may still be very bright due to the sun's reflection off the sign. In these cases, the lighter colored areas of the billboard's image must be much brighter than the contrasting dark areas.

Legibility

The ability of the driver to read a sign is related to its legibility. Large, legible text allows the driver to read the billboard from varying distances and focus on the driving task. Conversely, with small text the driver is more likely to focus on the sign for a longer period of time and possibly wait until the sign is very close.

State departments of transportation use NEMA's TS-4 document for this criterion. This document specifies many characteristics related to legibility including character height, resolution and color.

Glare

Disability Glare

The first form of glare is disability glare. This occurs when a driver is exposed to a light source so bright that it temporarily blinds the driver, impairing their ability to perform driving tasks. This temporary blindness is brief, but can be dangerous.

Discomfort Glare

Discomfort glare is when a light source is bright enough to distract or encourage the driver to look away from the light, but is not blinding. Discomfort glare is of particular concern in cases where a bright sign is located in the same line of sight as a traffic sign, signal or another vehicle.

Frequency of Change

The frequency of change is determined by the interval of time between sign image changes. The rate of change can usually be adjusted by the owner and operator of the sign. Frequency

of change is highly variable, with some on-premise signs changing faster than once per second. While no standard is generally accepted, local government agencies have used ordinances to limit the frequency to anywhere from 5 seconds to 24 hours.

Interactive signs

Interactive signs change their message based on the person viewing it. For example, the carmaker MINI has installed variable message signs that display a customized message to car owners who have special key dongles containing a radio frequency identification (RFID) chips when the dongle is in close proximity to the sign.

Another example is a microphone system that identifies the radio stations passing drivers are listening to and displays a specific message for that station.

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SRF CONSULTING GROUP, INC.

Transportation • Civil • Structural • Environmental • Planning • Traffic • Landscape Architecture • Parking • Right of Way

MEMORANDUM

TO: Tom Grundhoefer
League of Minnesota Cities

FROM: Karen Sprattler, Senior Associate
SRF Consulting Group, Inc.

DATE: June 21,2007

SUBJECT: DYNAMIC" SIGNAGE: RESEARCH RELATED TO DRIVER DISTRACTION AND ORDINANCE RECOMMENDATIONSREPORT

This study was originally commissioned in response to litigation brought by Clear Channel Communications, Inc. in response to actions taken by the City of Minnetonka, Minnesota in regard to the installation of two LED ("light emitting diode") billboards along Interstate 394 and Interstate 494. This study was undertaken to examine issues surrounding the Minnetonka billboards. While the concerns were precipitated by LED billboards in particular, this report examines more broadly "dynamic" display signage. However, this report is not the intended to be a comprehensive study of all issues raised by dynamic signage or other types of billboards,

As the study progressed, additional communities and the League of Minnesota Cities expressed interest in these issues. While it is true that the study was prepared for the City of Minnetonka, it is acknowledged that the many of the findings and conclusions, and the broader discussion of many of the issues of concern may be useful to other communities involved in similar situations.

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Annotated Sample Sign Ordinance- City of Hopkins

Comment: The following regulations reflect the policy choices of the City of Hopkins. Different communities may make different policy decisions.

SECTION I – PURPOSE AND DEFINITIONS

570.01. **Findings, purpose and effect.**

a. Findings. The city council hereby finds as follows:

1. Exterior signs have a substantial impact on the character and quality of the environment.

2. Signs provide an important medium through which individuals may convey a variety of messages.

3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.

4. The city's zoning regulations have, since as early as 1966, included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.

b. Purpose and intent. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this article to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this article is to:

1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.

2. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.

3. Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city’s goals of public safety and aesthetics.

4. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the city.

c. Effect. A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of these regulations. The effect of this sign ordinance, as more specifically set forth herein, is to:

1. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this sign ordinance.

2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this sign ordinance.

3. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.

4. Provide for the enforcement of the provisions of this sign ordinance.

570.03 **Severability**

If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

570.05 **Definitions.**

The following words and terms, when used in this Sign Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

Abandoned sign - any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

Awning - a roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or

roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

Awning sign - a building sign or graphic printed on or in some fashion attached directly to the awning material.

Balloon sign - a sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.

Building - any structure used or intended for supporting or sheltering any use or occupancy.

Building sign - any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

Cabinet sign - any wall sign that is not of channel or individually mounted letter construction.

Canopy - a roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

Canopy sign - any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

Changeable copy sign - a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

Commercial Speech – speech advertising a business, profession, commodity, service or entertainment.

Elevation - the view of the side, front, or rear of a given structure(s).

Elevation area - the area of all walls that face any lot line.

Erect - activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

Flag - any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

Flashing sign - a directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.

Freestanding sign - any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

Frontage - the line of contact of a property with the public right-of-way.

Grade - grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

Ground sign - any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight (8) feet.

Height of sign - the height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

Hotel, motel, motor hotel - any building or combination of buildings contained six or more rooms used for sleeping purposes by guest on a transient basis.

Illuminated sign - any sign which contains an element designed to emanate artificial light internally or externally.

Interior sign - a sign which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of any theater.

Issuing Authority - the City of Hopkins Department of Economic Development and Planning

Legally established nonconforming sign - any sign and its support structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this ordinance and which does not comply with this ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

Marquee - any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

Marquee sign - any building sign painted, mounted, constructed or attached in any manner, on a marquee.

Monument sign - any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding eight (8) feet.

Multiple tenant site - any site which has more than one (1) tenant, and each tenant has a separate ground level exterior public entrance.

Non-commercial speech – dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

Off-premise sign – a commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

On-premise messages – identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

Parapet (wall) - that portion of building wall that rises above the roof level.

Pole sign - see Pylon Sign.

Portable sign - any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

Porte cochere - a roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway.

Principal building - the building in which the principal primary use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

Projecting sign - any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface or such building or wall face.

Property owner - legal owner of property as officially recorded by Hennepin County.

Public notices - official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

Public street right-of-way - the planned right-of-way for a public street.

Pylon sign - any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

Residential district - any district zoned for residential uses.

Roof - the exterior surface and it supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the Uniform Building Code.

Roof line - the upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.

Roof sign - any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Roof sign, integral - any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Rotating sign - a sign or portion of a sign which turns about on an axis.

Setback, front - the minimum horizontal distance permitted between the public right-of-way and a structure on the premises. In instances in which a property fronts on more than one (1) street, front setbacks are required on all street frontages.

Setback, rear - the minimum horizontal distance permitted between the property line opposite the principal street frontage and a structure on the premises.

Setback, side - the minimum horizontal distance permitted between the side lot line and a structure on the premises.

Shimmering signs - a sign which reflects an oscillating sometimes distorted visual image.

Sign – any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Sign face - the surface of the sign upon, against, or through which the message of the sign is exhibited.

Sign structure - any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Site - a plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.

Stringer - a line of string, rope, cording, or an equivalent to which is attached a number of pennants.

Suspended sign - any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

Total site signage - the maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

Visible - capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

Wall - any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.

Wall sign - any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

Window sign - any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SECTION II – ADMINISTRATION AND ENFORCEMENT

570.07. **Permit required.**

No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing addressed to the issuing authority and shall contain the following information:

a. names and addresses of the owners of the display structure and property;
b. the address at which any signs are to be erected;
c. the lot, block and addition at which the signs are to be erected and the street on which they are to front;
d. a complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and place of the signs;
e. the cost of the sign;
f. type of sign (i.e. wall sign, monument sign, etc.);
g. certification by applicant indicating the application complies with all requirements of the sign ordinance; and
h. if the proposed sign is along state trunk highway or interstate highway, the application shall be accompanied by proof that the applicant has obtained a permit from the state for the sign.

The issuing authority shall approve or deny the sign permit in an expedited manner no more than 30 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 30 days shall be deemed approved. If the permit is denied, the issuing authority shall prepare a written notice of within 10 days its decision, describing the applicant's appeal rights under Section 525.15, and send it by certified mail, return receipt requested, to the applicant.

Comment:

The timeline for a permit decision is not required to be 30 days. However, the provisions of Minn. Stat. 15.99 would likely apply and require a decision to be made within 60 days, or 120 days with an extension.

570.09 **Exemptions.**

The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same.

a. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.
b. Signs six (6) square feet or less in size.

570.11. **Fees.**

Sign permit fees are set by Chapter X.

570.13. **Repairs.**

Any sign located in the city which may now be or hereafter become out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed or moved contrary to the provisions of this section, shall be removed or otherwise properly secured in accordance with the terms of this section by the owners thereof or by the owners of the grounds on which said sign shall stand, upon receipt of proper notice so to do, given by the issuing authority. No rotten or other unsafe sign shall be repaired or rebuilt except in accordance with the provisions of this section and upon a permit issued by the issuing authority.

570.15. **Removal.**

In the event of the failure of the owner or person, company or corporation having control of any sign, or the owner of the ground on which the sign is located, to remove or repair said sign within 60 days after the use is terminated, a notice shall be given pursuant to subsection 430.09 and the sign may be removed by the city at the expense of the owner or manager of the sign, or the owner of the ground upon which the sign stands.

570.17. **Violations.**

Violation of this section is a misdemeanor. Each day that the violation continues is a separate offense.

SECTION III – GENERAL PROVISIONS

570.18 **Size**

No sign shall exceed 250 square feet in area.

Comment: This size limitation reflects the policy choice of the City of Hopkins. Different communities may impose different size restrictions.

570.19. **Regulations.**

Subd. 1. General. Except as hereinafter provided, no signs shall be erected or maintained at any angle to a building or structure which sign extends or projects over the sidewalk, street or highway. No sign which is erected or maintained flat against any building or structure shall extend or project more than fifteen inches over the sidewalk, street or highway.

Subd. 2. Exceptions. The provisions of this subsection do not prohibit:

a. the erection and maintenance of signs, either illuminated or unilluminated, which are on the sides of a marquee which is firmly attached to and a part of a theatre or other building, providing such signs are an integral part of the marquee and do not project above or below the marquee; or
b. the erection and maintenance of signs, not illuminated, which are attached to the marquee and which do not project more than 16 inches above the marquee.

570.21. **Below marquee.**

No sign, either illuminated or non-illuminated, may project below a marquee.

570.23. **Electrical signs.**

Electrical signs must be installed in accordance with the current electrical code and a separate permit from the building official must be obtained prior to placement.

570.25. **Unauthorized signs.**

The following signs are unauthorized signs:

a. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from

view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

b. All off-premise signs.

c. Signs painted, attached or in any other manner affixed to trees, rocks, or similar natural surfaces, or attached to public utility poles, bridges, towers, or similar public structures.

d. Portable signs.

e. Changeable copy signs.

570.27. **Setbacks.**

Subd. 1. Yards. Signs shall conform to building yard regulations for the zoning district in which the signs are located except as otherwise specified in this section.

	B-1	B-2	B-3	B-3 Abutting County Road	Residential
Front Yard	10'	1 '	1 '	10'	5'
Side Yard	5'	0'	0'	5'	5'
Rear Yard	5'	5'	10'	10'	5'

	I-1	I-2
Front Yard	10'	10'
Side Yard	10'	10'
Rear Yard	10'	10'
Rear Yard - abutting R District	20'	20'

570.29. **Area.**

The area within the frame shall be used to calculate the square footage except that the width of a frame exceeding 12 inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.

570.31. **Canopies, marquees and fixed awnings.**

Canopies, marquees and fixed awnings are an integral part of the structure to which they are attached. They are allowed in the Business and Industrial Districts if they meet following requirements and the applicable square footage requirements.

a. an awning, canopy or marquee may not project into the public right-of-way nearer than 30 inches to the street curb or curb line;
b. awnings, canopies or marquees may have no part of the structure other than supports nearer the ground surface than seven feet;
c. the architectural style of the awning, canopy or marquee may be consistent with the building being served;
d. awnings, canopy or marquees projecting into the required yards may not be enclosed except with a transparent material permitting through vision; and
e. awnings, canopies or marquees built over the public right-of-way must be included in a liability insurance policy holding the city free of all responsibility.

570.33. **Illumination**

External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property.

570.35. **Height.**

The top of a sign, including its superstructure, if any, shall be no higher than the roof of the building to which such sign may be attached or 35 feet above ground level, whichever height is less; except that the height of any changeable sign which is attached to or an integral part of a functional structure, such as a water tower, smoke stack, radio or TV transmitting tower, beacon or similar structure shall be no higher than such structure. Signs, including any superstructure standing or erected free of any building or other structure, shall not exceed an overall height of 35 feet from ground level and shall be located on land in an area which is landscaped or if such land is part of an approved parking area, it shall be surfaced or paved as required in the zoning code.

570.36 **Retroactive affect.**

This sign ordinance shall apply to all sign applications applied for and/or pending prior to its enactment.

570.365 **Non-commercial speech.**

Notwithstanding any other provisions of this sign ordinance, all signs of any size containing Non-Commercial Speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.

Comment: Note that this provision does not mean that the stated times are the only times that noncommercial signs or political signs may be posted.

SECTION IV – SPECIFIC REGULATIONS BY ZONING DISTRICT

570.37. **Permitted signs by district.**

Subd. 1 **Residential Districts**

a. Within residential zoning districts, signs are permitted as follows:

District	Maximum sign area of single sign	Total area of all signs
R-1, R-2	8 square feet per surface	16 square feet
R-3, R-4, R-5, R-6	12 square feet per surface	24 square feet

b. The following types of signs are not permitted in residential zoning districts:

1. Awning signs;
2. Balloon signs;
3. Canopy signs;
4. Flashing signs;
5. Marquee signs;
6. Pole signs;
7. Pylon signs; and
8. Shimmering signs.

Subd. 2 **Business Districts**

a. Within business zoning districts, signs are permitted as follows:

District	Maximum sign area of single sign	Total area of all signs
B-1, B-2	60 square feet	2 square feet per front foot of building abutting a public right-of-way 50 feet or more in width.
B-3, B-4	80 square feet	3 square feet per front foot of lot (narrowest footage on a corner lot) abutting public right-of-way 50 feet or more in width.

Subd. 3 **Industrial Districts**

a. Within industrial zoning districts, signs are permitted as follows:

District	Maximum sign area of single sign	Total area of all signs
I-1, I-2	250 square feet	4 square feet per front foot of Lot plus 1 square foot per foot of side yard abutting a public right-of-way of 50 feet or more. Least width of frontage shall be considered front yard.

570.39. **Permitted signs: business park district.**

Subd. 1. Wall Signs. Each tenant other than those in multi-tenant buildings may have one flat wall sign, not extending more than 18 inches from the face of the building, except that such sign age may extend from the face of the roof over a covered walk. Such wall signs shall not exceed 15% of the area of the wall to which the sign is attached, to a maximum of 96 square feet.

Subd. 2. Monument signs. Uses other than those in multi-tenant buildings may have a monument sign that shall not exceed 80 square feet per surface area, and 15 feet in height, and is setback a minimum 20 feet from the property lines.

Subd. 3. Multi-tenant signs. Each tenant in a multi-tenant building may have a flat wall sign, not extending more than 18 inches from the face of the building. The aggregate area of such signs shall not exceed 5% of the area of the wall to which they are attached.

Subd. 4. Multi-tenant monument signs. One monument sign shall be permitted for each multi-tenant building provided the surface area of the sign does not exceed 100 square feet per side, 15 feet in height, and is setback in no case less than 20 feet from the property lines. The area may be increased to a maximum of 150 square feet per side for developments of over 20 acres.

Subd. 5. Canopies and Awnings. The design of canopies shall be in keeping with the overall building design in terms of location, size, and color. No canopies with visible wall hangers shall be permitted. Signage on canopies may be substituted for allowed building signage and shall be limited to 25% of the canopy area. Internally illuminated canopies must be compatible with the overall color scheme of the building.

SECTION V – NON-CONFORMING USES

570.41. **Non-conforming signs: compliance.**

It is recognized that signs exist within the zoning districts which were lawful before this sign ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effective date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are

maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

a. No sign shall be enlarged or altered in a way which increases its nonconformity.

b. Should such sign or sign structure be destroyed by any means to an extent greater than fifty (50) percent of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this ordinance.

c. Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

d. No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which is it located.

e. When a structure loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

SECTION VI – Noncommercial Speech

570.43 **Substitution Clause**

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

Subdivision I. - In General

Sec. 117-457. - Purpose.
Sec. 117-458. - Substitution clause.
Sec. 117-459. - Variations.
Sec. 117-460. - Conflict.
Sec. 117-461. - Violations.
Sec. 117-462. - Removal of signs by the zoning administrator.
Sec. 117-463. - General restrictions.
Sec. 117-464. - Prohibited signs.
Sec. 117-465. - Temporary signs.
Secs. 117-466—117-483. - Reserved.

Sec. 117-457. - Purpose.

The purpose of this division is to protect and promote the general welfare, health, safety and order within the city through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as a visual communicative media to persons situated within or upon public rights-of-way or properties. The provisions of this division are intended to encourage creativity, a reasonable degree of freedom of choice, an opportunity for effective communication and a sense of concern for the visual amenities on the part of those designing and displaying communicative media for the types regulated by this division, while at the same time assuring that the public health and welfare is not endangered.

(Code 1978, § 9.12.01; Ord. No. 94-02, 2-28-1994; Ord. No. 08-07, § 2, 2-12-2008; Ord. No. 08-25, § 2, 8-12-2008)

Sec. 117-458. - Substitution clause.

The owner of any sign that is otherwise allowed by this division may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. The owner of any sign that is otherwise allowed by this division may substitute commercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this division is to prevent any inadvertent favoring of commercial speech over noncommercial speech, favoring of noncommercial speech over commercial speech, favoring any particular commercial speech over any other commercial speech, or favoring of any particular noncommercial speech over any other noncommercial speech. This division prevails over any more specific provision to the contrary.

Sec. 117-459. - Variations.

Request for variations from the provisions of this division shall be processed by the applicant applying to the zoning administrator for a conditional use permit, which conditional use permit procedure shall be as prescribed in section 117-50.

(Code 1978, § 9.12.24; Ord. No. 94-02, 2-28-1994; Ord. No. 03-31, 9-15-2003; Ord. No. 08-07, § 2, 2-12-2008; Ord. No. 08-25, § 2, 8-12-2008)

Sec. 117-460. - Conflict.

If any portion of this division is found to be in conflict with any other provision of any zoning, building, fire, safety or health ordinance of the city, the provision that establishes the higher standard shall prevail.

(Code 1978, § 9.12.25; Ord. No. 94-02, 2-28-1994; Ord. No. 08-07, § 2, 2-12-2008; Ord. No. 08-25, § 2, 8-12-2008)

Sec. 117-461. - Violations.

(a) When, in the opinion of the zoning administrator, a violation of this Code exists, the zoning administrator shall issue a written order to either the owner of the sign, or the owner of the property, or tenant leasing the property, on which the sign is placed. The order shall specify those sections of this Code involved, describe the violation and shall direct that the violation be corrected within five days from the date of the order, unless otherwise specified by the zoning administrator. If the violation is not corrected, the violation will be penalized through the administrative citation or removal, whichever is appropriate.

(b) If the zoning administrator or building official finds that a sign is abandoned or is structurally, or electrically defective, or in any way endangers the public, the zoning administrator or building official shall issue a written order to the owner of the sign and occupant of the premises stating the nature of the violation and requiring repair or removal of the sign within 60 days of the date of the order.

(Code 1978, § 9.12.21; Ord. No. 94-02, 2-28-1994; Ord. No. 03-31, 9-15-2003; Ord. No. 08-07, § 2, 2-12-2008; Ord. No. 08-25, § 2, 8-12-2008)

Sec. 117-462. - Removal of signs by the zoning administrator.

(a) The zoning administrator may cause the removal of any illegal sign, any sign remaining after a business permanently closes, or any sign not properly maintained in cases of emergency, or after failure to timely comply with written orders for removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner and owner of the property where the sign was located stating the nature of the work and the date on which it was performed and demanding payment of the costs as certified by the zoning administrator together with an additional 50 percent for inspection and incidental costs.

(b) If the amount specified in the notice is not paid within 30 days after mailing of the notice, it shall become a lien against the parcel where the sign was located and shall be certified as an assessment against the property together with ten percent interest for collection in the same manner as the real estate taxes.

(c) The owner of the parcel upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the zoning administrator.

(d) In case of emergency, the zoning administrator or building official may cause the immediate removal of a dangerous or defective sign without notice. Signs removed in this manner must present a hazard to the public safety as defined in the state building code.

(Code 1978, § 9.12.22; Ord. No. 94-02, 2-28-1994; Ord. No. 08-07, § 2, 2-12-2008; Ord. No. 08-25, § 2, 8-12-2008)

Sec. 117-463. - General restrictions.

(a) *Address sign.* One address sign shall be required per main building in all districts.

(b) *Bench sign.* Bench signs shall be permitted only at bus stops.

(c) *Ground sign.* A ground sign shall not project higher than 25 feet as measured from base of sign or grade of the nearest adjacent roadway, whichever is lower. Any ground sign within 50 feet of any intersection of street right-of-way lines and/or driveway entrances shall have a minimum vertical clearance of 12 feet above the centerline of the pavement unless it can be shown that it can comply with subsections (e)(2)a and b of this section.

(d) *Canopies or marquees.* Canopies and marquees shall be considered to be an integral part of the structure to which they are an accessory. Signs may be attached to a canopy or marquee, but such structures shall not be considered as part of the wall area and thus shall not warrant additional sign area.

(e) *Location.*

(1) No sign other than governmental signs shall be erected or temporarily placed within any street or public right-of-way or upon any public easement.

(2) A permit for a sign to be located within 50 feet of any street or highway regulatory or warning sign, or any traffic sign or signal, or of any crossroad or crosswalk, will not be issued unless:

a. The sign will not interfere with the ability of drivers and pedestrians to see any street or highway sign, or any traffic sign or signal, or any crossroad or crosswalk; and

b. The sign will not distract drivers nor offer any confusion to any street or highway, sign, or any traffic sign or signal.

(3) A sign shall not be located so as to extend over any lot line or within 15 feet of any point of vehicular access from a parcel to a public roadway.

(f) *Dynamic display and illumination.*

(1) Based on findings conducted by scientific studies, the city finds that dynamic displays should be allowed on signs with appropriate regulation in order to minimize their proliferation and their potential threats to public safety.

(2) Regulations. Dynamic displays on signs are subject to the following conditions:

a. Size. ~~No dynamic display shall exceed 35 percent of the actual copy and graphic area of a sign. The remainder of the sign must not have the capability to have dynamic displays, even if not used. Only one dynamic display area is permitted on a sign face.~~ On-premise signs may include dynamic displays. Dynamic display signs shall not exceed the size allowed by this Chapter. Dynamic displays are not in addition to the size allowed for static signs.

b. Frequency of display change. A dynamic display may not change more often than once every three seconds, and no part of the display may include flashing or scrolling text. ~~and no part of the display may flash or scroll at any time~~. The images display must be static, and the transition from one display to another must be instantaneous without special effects. The dynamic display shall not be allowed to project full-motion video. Subtle transition animations

shall be allowed.

c. Brightness. No sign may be brighter than is necessary for clear and adequate visibility, or that it interferes with the effectiveness of a traffic sign or signal, or that it distracts a driver from motor vehicle operation.

d. Troubleshooting. Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The display must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this section.

(g) *Institutional and recreational identification sign.* One wall and/or ground sign shall be permitted to identify the civic, philanthropic, educational, public or religious organization or recreational use occupying the parcel. There shall not be more than one ground sign for each parcel. The gross surface area of a ground sign shall not exceed 100 square feet for each exposed face nor exceed an aggregate gross surface area of 200 square feet. Such facilities having more than one point of entrance or street frontage may erect secondary identification signs not to exceed 50 square feet for each exposed face at the additional entrance points or street frontages.

(h) *Institutional attraction boards.* There shall not be more than one institutional attraction board for each principal building and it may be either wall or ground type or constructed as a part of the institutional identification sign. The gross surface area of an attraction board shall not exceed 50 square feet for each exposed face nor exceed an aggregate gross surface area of 100 square feet. An attraction board shall not be located so as to extend over any lot line or within 15 feet of any point of vehicular access from any parcel to a public roadway. Attraction boards shall not exceed 15 feet in height as measured from the base of the sign or building to which the sign is to be affixed or the grade of the nearest adjacent roadway, whichever is higher.

(i) *Pennants.* The use of pennants is permitted in any commercial district provided the pennants are securely anchored and maintained in good repair, including replacement or removal when weather damage is evident. The zoning administrator, or his designee, shall have the authority to identify and notify property owners and/or occupants of the parcel on which the pennants have been determined to be in violation of this Code. Failure to remove or replace the pennants within ten days of notification shall be sufficient cause for the zoning administrator or his designee to remove said pennants. The property owner shall be billed for all costs incurred by the city in administering this subdivision.

(j) *Banners.* The use of banners is permitted in any commercial district as permanent wall signage provided the banner is securely anchored and maintained in good repair, including replacement or removal when weather damage is evident. The square footage dedicated to banners is limited to 50 percent of the total square footage allowance for wall signs. Facilities choosing to utilize wall banners in addition to other permanent wall signage shall be required to obtain a separate sign permit for the maximum square footage allowed for banners and payment of the permanent sign fee.

(k) *Flags.* The display of flags shall be permitted in all districts. However, the total square footage area of any flags used as advertising copy or as attention getting devices for commercial purposes shall be considered as permanent signage and counted towards the total allowable sign area permitted by this section for the parcel on which the flag is displayed. Flag height is restricted to 25 feet.

(l) *Directional signs.* Directional or instructional signs are restricted to on-site direction and instruction,

with the exception of governmental signs, temporary real estate signs and public event signs, and shall not exceed four square feet in size. Such signs shall only provide direction or instruction to guide persons to facilities intended to serve the public.

(m) *Maintenance.*

(1) The surface and structure of all signs must be kept refinished as necessary to prevent the sign surface from becoming unkempt in appearance. The zoning administrator shall use the following guidelines to determine if the sign is unkempt: evidence of rust, peeling paint, structural damage, message damage, and/or weathering.

(2) When any sign for which a permit is required is removed, the zoning administrator shall be notified and the entire sign and its components shall be removed.

(3) The permit owner shall be responsible for all of the requirements of this section, including the liability for expense of removal and maintenance incurred by the city.

(n) *Sign content.* No sign shall contain obscene images or statements in violation of Minn. Stats. § 617.241.

(Code 1978, § 9.12.03; Ord. No. 94-02, 2-28-1994; Ord. No. 03-31, 9-15-2003; Ord. No. 08-07, § 2, 2-12-2008; Ord. No. 08-25, § 2, 8-12-2008)

Sec. 117-464. - Prohibited signs.

(a) *"A" frame or sandwich board signs.* "A" frame or sandwich board signs are prohibited.

(b) *Advertising device signs.* Advertising device signs are prohibited except as provided for in section 117-465

(c) *Whirling devices, searchlights, streamers, balloons and other gas-filled figures.* Whirling devices, searchlights, streamers, balloons, and other gas filled figures, are prohibited except as a temporary sign as provided for in section 117-465

(d) *Flashing or scrolling signs, devices or lights.* Flashing signs, devices, or lights are not permitted in any district except as provided for in section 117-463(f).

(e) *Portable signs.* Portable signs are prohibited except as temporary signs as provided for in section 117-465

(f) *Projecting signs.* No projecting sign shall be permitted in any district.

(g) *Roof signs.* Roof signs are prohibited in any zoning district.

(h) *Signs on parked vehicles.* Signs painted or mounted on or attached to vehicles, trailers or equipment where the apparent primary purpose of the vehicle or equipment is to display said sign are prohibited. However, this is not in any way intended to prohibit signs placed on or affixed to vehicles and trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle, trailer and/or any other type of mobile equipment.

(i) *Signs on trees and utility poles.* Signs which are attached or otherwise affixed to trees or other vegetation or utility poles are prohibited.

(j) *Signs painted on walls.* Signs painted on an exterior wall, fascia, parapet or a chimney of a building or on a fence are prohibited.

(k) *Signs which imitate traffic control devices.* Signs which imitate, interfere with, obstruct the view of, or can be confused with any authorized traffic control sign, signal, or other device are prohibited.

(l) *Billboards.* No billboards shall be permitted in any zoning district of the city, except as otherwise provided in this Division and except that off-premise signs may be located on adjacent parcels or at shared entrances. Shared entrances shall be encumbered by a recordable easement, filed with the Anoka County Recorder. If a sign is placed on an adjacent parcel, it requires approval from the parcel owner and counts against the allowable signage for the parcel it is located.

(Code 1978, § 9.12.04; Ord. No. 94-02, 2-28-1994; Ord. No. 03-31, 9-15-2003; Ord. No. 08-07, § 2, 2-12-2008; Ord. No. 08-25, § 2, 8-12-2008)

Sec. 117-465. - Temporary signs.

(a) Temporary signs are defined as signs which are erected or displayed for a limited period of time and not affixed to a state building code approved structure. A sign is considered temporary if it is not intended to remain on the property permanently and has not received a permanent sign permit and/or is not intended to be constructed per the state building code.

(1) *Duration.* Temporary signs shall be permitted for up to six weeks per year per parcel, or per business on multitenant business parcels. The six-week limit may be extended up to four weeks if there have been no sign violations in the past year by the entity who erects the sign.

(2) *Location.* Temporary signs must be located fully on private property, with the permission of the property owner. The city will remove any signs in the public right-of-way, or erected without permission from the property owner.

(3) *Number.* All properties are limited to two temporary signs per parcel. In locations where there are multiple businesses on one parcel (a multitenant facility), three signs are permitted.

(4) *Size.* Temporary signs shall be limited to 50 square feet in size.

(5) *Dynamic display*. Temporary signs may consist of dynamic display, provided all standards of Section 117-463 Subd. (f) are complied with.

(6~~5~~) *Permits and fees.* All temporary signs shall be required to obtain a temporary sign permit. The temporary sign permit application shall specify the exact times and dates the temporary sign is to be erected, the size of the sign, the location of the sign, contact information, and other information deemed necessary by the zoning administrator to determine that the temporary sign is erected within applicable code. The Temporary Sign Permit shall be clearly displayed on the temporary sign. The fee for the temporary sign permit shall be established by ordinance as part of the rates and charges. The fee shall only be collected for the first permit per parcel or per business in a multi-tenant facility. The provisions of this division apply to all temporary signs, and appropriate penalties for violations will be assessed, as outlined in section 117-461

A. *Exemptions from temporary sign Permit.* Signs less than 15 square feet in size and all temporary signs in residential districts (R-1 Residential, R-2 Residential, R-3 Residential) are exempt from temporary sign permitting requirements.

(b) Balloons, gas filled figures, streamers, whirling devices and revolving searchlights or any such attention-getting device that is not specifically a sign may be permitted up to four weeks per year, for one week at a time.

(Code 1978, § 9.12.05; Ord. No. 94-02, 2-28-1994; Ord. No. 08-07, § 2, 2-12-2008; Ord. No. 08-25, § 2, 8-12-2008; Ord. No. 10-11, § 2, 7-27-2010)

Secs. 117-466 – Other Temporary Signs

(a) *Real Estate Signs*. One temporary real estate sign constructed of durable materials located on the premises is permitted for sale or lease of building or vacant lot for each street frontage.

(b) *Construction Signs*. One temporary construction sign constructed of durable materials located on the premises is permitted on each street frontage of a development under construction.

Secs. 117-467 – Unified Development Signs

(a) *General provisions*. A unified development is a development that consists of multiple parcels of similar zoning district and bound by major roadways consisting of arterial or collector designation or higher. Signs for multi-tenant commercial and employment developments may be erected to include off-premise copy under the following conditions:

(1) The sign must identify the development at the top of the sign and may include provisions for individual users within the development.

(2) The sign must be located within 500 feet of the development and may not be separated from the development by an arterial road.

(43) The sign must not exceed 250 square feet per face (500 square feet aggregate) and 30 feet in height.

(54) The sign may include dynamic display not to exceed 100 square feet per face (200 square feet aggregate).

(65) The sign will not be included in the total signage permitted for the property in which it is located.

(76) The general location of area identification signs for commercial and employment districts must be approved by the Planning Commission as part of a Master Sign Plan approved as part of site plan approval.

117-468—117-483. - Reserved.

ORDINANCE #12-03

CITY OF RAMSEY
ANOKA COUNTY STATE OF MINNESOTA

AN AMENDMENT TO CHAPTER 117 WHICH IS KNOWN AS THE ZONING AND SUBDIVISION OF LAND CHAPTER OF THE CITY CODE OF RAMSEY, MINNESOTA.

AN ORDINANCE AMENDING ARTICLE II, DIVISION 8 ("SIGNS") OF CHAPTER 117 OF THE CITY CODE OF RAMSEY, MINNESOTA.

The City of Ramsey ordains:

SECTION 1. AMENDMENT

Article II, Division 8 of Ramsey City Code shall be amended as follows:

Sec. 117-463. - General restrictions.

(f) *Dynamic display and illumination.*

(1) Based on findings conducted by scientific studies, the city finds that dynamic displays should be allowed on signs with appropriate regulation in order to minimize their proliferation and their potential threats to public safety.

(2) Regulations. Dynamic displays on signs are subject to the following conditions:

a. Size. ~~No dynamic display shall exceed 35 percent of the actual copy and graphic area of a sign. The remainder of the sign must not have the capability to have dynamic displays, even if not used. Only one dynamic display area is permitted on a sign face.~~ On-premise signs may include dynamic displays. Dynamic display signs shall not exceed the size allowed by this Chapter. Dynamic displays are not in addition to the size allowed for static signs.

b. Frequency of display change. A dynamic display may not change more often than once every three seconds, and no part of the display may include flashing or scrolling text. ~~and no part of the display may flash or scroll at any time~~. The images display must be static, and the transition from one display to another must be instantaneous without special effects. The dynamic display shall not be allowed to project full-motion video. Subtle transition animations shall be allowed.

c. Brightness. No sign may be brighter than is necessary for clear and adequate visibility, or that it interferes with the effectiveness of a traffic sign or signal, or that it distracts a driver from motor vehicle operation.

d. Troubleshooting. Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The display must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this section.

Sec. 117-464. - Prohibited signs.

(l) *Billboards*. No billboards shall be permitted in any zoning district of the city, except as otherwise provided in this Division and except that off-premise signs may be located on adjacent parcels or at shared entrances. Shared entrances shall be encumbered by a recordable easement, filed with the Anoka County Recorder.

Sec. 117-465. - Temporary signs.

(5) *Dynamic display*. Temporary signs may consist of dynamic display, provided all standards of Section 117-463 Subd. (f) are complied with.

Secs. 117-466 – Other Temporary Signs

(a) *Real Estate Signs*. One temporary real estate sign constructed of durable materials located on the premises is permitted for sale or lease of building or vacant lot for each street frontage.

(b) *Construction Signs*. One temporary construction sign constructed of durable materials located on the premises is permitted on each street frontage of a development under construction.

Secs. 117-467 – Unified Development Signs

(a) *General provisions*. A unified development is a development that consists of multiple parcels of similar zoning district and bound by major roadways consisting of arterial or collector designation or higher. Signs for multi-tenant commercial and employment developments may be erected to include off-premise copy under the following conditions:

(1) The sign must identify the development at the top of the sign and may include provisions for individual users within the development.

(2) The sign must be located within 500 feet of the development and may not be separated from the development by an arterial road.

(3) The sign must not exceed 250 square feet per face (500 square feet aggregate) and 30 feet in height.

(4) The sign may include dynamic display not to exceed 100 square feet per face (200 square feet aggregate).

(5) The sign will not be included in the total signage permitted for the property in which it is located.

(6) The general location of area identification signs for commercial and employment districts must be approved by the Planning Commission as part of a Master Sign Plan approved as part of site plan approval.

117-468—117-483. - Reserved.

SECTION 2. SUMMARY

The following official summary of Ordinance #12-__ has been approved by the City Council of the City of Ramsey as clearly informing the public of the intent and effect of the Ordinance.

It is the intent of this Ordinance to amend the standards in Article II, Division 8 of Chapter 117 of the Ramsey City Code to amend sign standards in the City related to size and animation of dynamic display

signs, establishment of separate provisions for real estate signs and construction signs, and allow for provisions for minor off-premise signs, not to include billboards.

SECTION 3. EFFECTIVE DATE

The effective date of this ordinance is thirty (30) days after its passage and publication, subject to City Charter Section 3.9.

Adopted by the Ramsey City Council the 23rd day of October 2012.

_____
Mayor

ATTEST:

_____
City Clerk

Introduction Date:
Posting Dates:
Adoption Date:
Publication Date:
Effective Date:

Regular Planning Commission **6. 6.**

Meeting Date: 10/04/2012

By: Chris Anderson, Community Development

Information

Title:

PUBLIC HEARING (continued): Consider Zoning Ordinance to Amend Chapter 117, Article II, Division 4, Subdivisions II, IV and V by Consolidating into One Subdivision (Shorelands)

Background:

A consolidation is proposed for all rules pertaining to shorelands including lakes, streams and rivers into a single section, Shorelands. The proposed ordinance repeals Subdivisions II (Environmental Overlay Protection Districts), Subdivision IV (Shoreland Management Overlay District) and Subdivision V (Scenic River Protection Overlay District) and establishes a new Subdivision II (Shorelands), which incorporates the provisions of these three (3) Subdivisions. This, in part, was prompted due to the Mississippi River within Ramsey being statutorily designated as both a Wild and Scenic River and as part of the Critical River Area. This duel designation results in overlapping regulations.

Notification:

The Public Hearing was properly notified in the Anoka County Union. The proposed ordinance amendment was also sent to the MN DNR per Minnesota Rules.

Observations:

In 2012, special legislation was approved that exempts the Mississippi River from the Wild and Scenic regulations. The Critical Area Overlay requirements will now only apply to the Mississippi River and Scenic River Overlay will only apply to the Rum River. As part of this special legislation, the DNR expressed support for the merger of these sets of river regulations into the Shoreland Section as long as it didn't diminish the established regulations. This will provide a single source ordinance for all shoreland related regulations thereby making it easier for staff and property owners of affected properties to navigate these requirements.

Additionally, in 2010 the Minnesota Supreme Court determined that the MN DNR did not have statutory authority to certify certain local decisions, such as variances and inconsistent plats. Therefore, the proposed ordinance does include updated language to clarify what types of actions still require DNR certification (ordinance and zoning amendments) and which actions simply require official notification of public hearings and final actions.

Other than the aforementioned clarification, this consolidation is not including a rewrite or revisit of the regulations within these various sections. The proposed ordinance amendment is simply a reorganization to include the existing Critical Area Overlay Requirements, Scenic River Protection Overlay, and Shoreland Management Overlay Districts into one Subdivision, Shorelands.

City Staff has met with MN DNR to discuss this ordinance amendment and its intended purpose. A result of that meeting was suggestion that the ordinance could likely be simplified even further, with the potential to greatly reduce the amount of text within it by consolidating certain standards that are found in each of the three existing ordinances, such as vegetation management, erosion control, stormwater management etc. Staff will be attempting to 'fine-tune' the ordinance amendment such that not only combines all three existing ordinances into one subdivision but to also consolidate standards to hopefully further simplify both the administration of the regulations as well as the understanding of them by the public.

Funding Source:

All costs associated with the amendment are being handled as part of Planning Consultant budget.

Staff Recommendation:

Staff recommends continuing the public hearing to a future meeting to provide additional time to revise the ordinance amendment.

Committee Action:

Motion to continue the public hearing to a future meeting.

Attachments

Proposed Ordinance

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	09/26/2012 08:53 AM
Form Started By: Chris Anderson		Started On: 09/25/2012

Final Approval Date: 09/26/2012

ORDINANCE #12-____

CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

AN AMENDMENT TO CHAPTER 117 WHICH IS KNOWN AS THE ZONING AND SUBDIVISION OF LAND CHAPTER OF THE CITY CODE OF RAMSEY, MINNESOTA.

AN ORDINANCE AMENDING SUBDIVISIONS II (ENVIRONMENTAL PROTECTION OVERLAY DISTRICTS), IV (SHORELAND MANAGEMENT OVERLAY DISTRICT) AND V (SCENIC RIVER PROTECTION OVERLAY DISTRICT) ~~SECTION 117-349 (ACCESSORY USES AND BUILDINGS)~~OF CHAPTER 117 OF THE RAMSEY CITY CODE.

The City of Ramsey ordains:

SECTION 1 AUTHORITY

This ordinance is adopted pursuant to and under the authority of the City Charter of the City of Ramsey.

SECTON 2 AMENDMENTS

City Code Chapter 117 (Zoning and Subdivisions) Article II (Zoning) Division 4 (District Regulations) Subdivisions II, IV and V are hereby repealed and replaced with Subdivision II (Shorelands) as follows (additions indicated as underline, deletions indicated as ~~strike through~~):

Subdivision ~~IV~~I. Shorelands ~~Management Overlay District~~

Sec. 117-221. – Background, Statutory authorization, ~~and~~ policy, general definition, compliance and administration.

(a) *Authorization.* The ordinance from which this subdivision is derived is adopted pursuant to the authorization and policies contained in Minn. Stats. ch. 103F, Minn. Rules pts. 6120.2500—6120.3900, and the planning and zoning enabling legislation in Minn. Stats. ch. 462.

(b) *Policy.* The uncontrolled use of shorelands, including lakes and tributary streams and rivers, of the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The state legislature has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters

and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is recognized by the city.

(1) The city council finds that the Mississippi River Corridor within the city is a unique and valuable local, state, regional and national resource. The river is an essential element in the local, regional, state and national transportation, sewer and water and recreational systems and serves important biological and ecological functions. The prevention and mitigation of irreversible damage to this resource and the preservation and enhancement of its natural, aesthetic, cultural and historic values is in furtherance of the health, safety and general welfare of the city.

(2) The council further finds that the Critical Area District is characterized by certain soil types, slopes and water levels that are unsuitable for development. The preservation of trees and woodlands, marshes, swamps, wetlands, drainageways and watercourses within the Critical Area District serves important ecological, recreational and aesthetic functions to the benefit of existing and future residences of the city and, therefore, is in furtherance of the health, safety and general welfare of the city.

(3) In addition to the Shorelands and Critical Area District, the city council finds that the wetlands are a valuable local, state, regional and national resource. The wetlands provide recreation and serve as drainage areas, important biological and ecological functions.

(4) The city council finds that the Rum River Corridor within the city is a unique and valuable local, state and regional natural resource.

(5) It is the purpose and intent of this subdivision to prevent and mitigate irreversible damage to these natural resources and to preserve and enhance their values to the public. Development shall be so regulated so as to minimize the risk of environmental damage to these areas. By doing so, private homeowners and governmental units are protected from incurring high maintenance and capital costs resulting from the necessity to correct the deficiencies encountered as a result of inappropriate or improper development.

(Code 1978, § 9.25.01; Ord. No. 04-32, 5-30-2005)

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~~**Sec. 117-222. - General provisions and definitions.**~~

(c) *Jurisdiction-Lakes and tributary streams.* The provisions of this subdivision (Sections 117-221 through 117-224) shall apply to the shorelands of the public water bodies as classified in Section 117-2242, not including rivers. Pursuant to Minn. Rules pts. 6120.2500—6120.3900, no lake, pond, or flowage less than ten acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the city council, be exempt from this subdivision.

(d) *Jurisdiction*-Rivers. The provisions of this subdivision (Sec.117-223) shall apply to the Critical River Area ~~Overlay~~ (Mississippi River) as amended, due to 2012 Special Legislation that exempts the Mississippi River from the Wild and Scenic regulations, and (Sec. 117-223~~ 4)through 117-224),~~ the Scenic River Protection Overlay District (Rum River).

~~(e)~~ *Compliance.* The use of any shoreland of public waters (including lakes, tributary streams and rivers); the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this subdivision and other applicable regulations.

(Code 1978, § 9.25.02, subds. 1, 2; Ord. No. 04-32, 5-30-2005)

~~**Sec. 117-223. - Administration.**~~

(f) *Permits required and standards.*

(1) A building permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by section 117-~~225~~222 (c) below.~~(g)(2).~~ Application for a permit shall be made to the building official on the forms provided. The application shall include the necessary information so that the building official can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by ~~subsection 117-225(g)(7)~~subsection (7)b~~(d)(2)~~, shall be reconstructed or replaced in accordance with the provisions of this subdivision.

(3) DNR permits.

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a. Excavations on shorelands where the intended purpose is connection to a protected water shall require a permit from the zoning administrator before construction is begun. Such permit may be obtained only after the commissioner of natural resources has issued a permit to work in the beds of protected waters.

b. Any work which will change or diminish the course, current or cross section of a protected water or wetland shall be approved by the commissioner of natural resources, and such approval shall be construed to mean the issuance by the commissioner of natural resources of a permit under the procedures of Minn. Stats. § 103G.245 and other related statutes.

(Code 1978, § 9.21.06; Ord. No. 75-08, 6-27-1975; Ord. No. 85-02, 8-12-1985; Ord. No. 86-2, 8-25-1986)

(4) *Environmental permit.*

a. To ensure that the policies in this subdivision are properly implemented, any person undertaking development to or on any land within the Critical River Area and Shoreland Overlay Districts shall, prior to commencing the work, obtain an environmental permit from the city. Except as hereinafter provided in this subdivision, no person shall perform any development in the Critical River Area and Shoreland Overlay Districts without first having obtained an environmental permit (hereinafter called permit) from the city. Exempted from this environmental permit requirement shall be all lots within a plat of record in the county recorder's office. Outlots contained within a plat shall not be exempted from this permit requirement.

b. Notwithstanding this permit exemption, development occurring on any lot, whether in a plat or not, must comply with and conform to the environmental permit standards as outlined in subsection 4 of this section.

(5) *Environmental permit standards.* The following standards shall be met when any development is undertaken within the overlay districts:

a. No filling, grading, dredging, excavation or construction shall be allowed within any wetlands area; nor on lands abutting, adjoining or affecting said areas if such activity upon those adjacent areas is incompatible with city policies expressed here, in other documents and in the relevant stormwater drainage study. Development is improper and therefore prohibited which may result in loss and

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damage to public and private improvements through inundation by floodwaters and subsequent expensive construction of storm sewers and other public projects, in the permanent destruction of natural resources, loss of water retention facilities, open space and wildlife habitats and impairment of public and private water supplies. Minimum area requirements for building sites shall be determined in accordance with this Code, the standards of the Shoreland Overlay District and the Critical Rivers Area Overlay District.

b. Filling.

1. A minimum amount of filling may be allowed when necessary, but in no case shall the following restrictions on total amount of filling be exceeded. Since the total amount of filling that can be permitted is limited, the city, when considering permit applications, shall consider the equal apportionment of fill opportunity to riparian landowners.

2. Total filling shall not cause the total natural flood storage capacity of the wetland to fall below the projected volume of runoff from the entire area wetland water shed generated by a ten-year storm.

3. Total filling shall not cause the total natural nutrient stripping capacity of the wetland to fall below the nutrient production of the wetland watershed shed for its projected development.

4. Only fill, free of chemical pollutants and organic wastes, may be used. Wetlands shall not be used for solid waste disposal.

5. Grading and filling in overlay district areas or any alteration of the natural topography where the slope of the land is toward a protected water or a watercourse leading to a protected water must be authorized by a permit. The permit may be granted subject to the conditions that:

i. The smallest amount of bare ground is exposed for as short a time as feasible.

ii. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is established.

iii. Methods to prevent erosion and trap sediment are employed.

iv. Fill is stabilized to accepted engineering standards.

c. The removal of natural vegetation shall be restricted to prevent erosion into protected waters, to consume nutrients in the soil, and to preserve aesthetics. Removal of natural vegetation in the overlay districts shall be subject to the following provisions:

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1. Selective removal of natural vegetation is allowed, provided that sufficient vegetative cover remains to screen cars, dwellings and other structures when viewed from the water.
2. Clear cutting of natural vegetation is prohibited.
3. Natural vegetation shall be restored insofar as feasible after any construction project is completed to retard surface runoff and soil erosion.
4. Additional provisions.
    i. The provisions of this subsection shall not apply to permitted uses that normally require the removal of natural vegetation.
    ii. Development shall be conducted so that the maximum number of trees is preserved by the locating of structures in existing cleared areas and natural clearing and the utilization of other site design techniques.
    iii. Grading, contouring and paving shall be performed to minimize any detrimental affect on root zone aeration and stability of existing trees. Existing trees shall be provided with a watering area equal to at least one-half the crown cover.
    iv. When trees are removed, the permittee will restore the density of trees, utilizing nursery stocks of a minimum of 1¾ inch diameter measured one foot above the ground, using species generally accepted as suitable for the purpose to that which existed before the development provided that in no case need the density exceed ten trees per acre.
    v. Development shall not reduce the existing crown cover greater than 50 percent and shall be conducted in such a manner as to preserve the understory and prevent litter.
    vi. Trees used in reforestation or landscaping must be compatible with the local landscape and climatic conditions.
5. No on-site sewage disposal systems shall be allowed which do not meet the requirements of this Code.
6. No development shall be permitted on land having a slope in excess of 45 percent. All very steep slopes (18 percent and over) shall be protected. No development of slope from 12 to 18 percent shall be permitted unless the applicant can prove that the following conditions are met:

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i. The foundation and underlying material of any material of any structure, including roads, shall be adequate for slope condition and soil type.

ii. The applicant can demonstrate that development during and after construction can be accomplished without increasing erosion and runoff and that there is proper utilization of controls to reduce runoff to non-destructive levels.

iii. The proposed development presents no danger of falling rock, mud, uprooted trees or other material to structures, recreational facilities, public lands and public waters downhill.

iv. All structures other than buildings and roadway surfaces but including retaining walls shall meet the following design requirements:

(A) Retaining walls or terrace contours shall not exceed five feet in height;

(B) Construction shall be of natural stone, wood, or concrete;

(C) The use of gabions non-wood pilings, metal retaining walls and pre-cast or cast in place concrete retaining walls is specifically prohibited; and

(D) The minimum width of terraces shall be ten (10) feet.

d. Emergency work and exemptions.

1. When emergency work is performed under this subdivision, the person performing it shall report the pertinent facts relating to the work to the city engineer and zoning administrator prior to the commencement of work. The zoning administrator shall review the facts and determine whether an emergency exists and shall be written memorandum authorize the commencement of the emergency exception or deny the emergency exception, in which case no work may be commenced. A person commencing emergency work shall within ten days following the commencement of that activity, apply for the issuance of an environmental permit and on the issuance thereof may be required to perform such work as is determined to be reasonably necessary to correct any impairment to the wetland occasioned by such emergency work.

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2. The removal of trees, seriously damaged by storms or other acts of God, or diseased trees, shall not be prohibited.

(6) *Permit applications; required data.*

a. Environmental permits, except where hereinafter noted, shall be issued by the council after written findings from the planning commission and city staff. A written application for an environmental permit must be submitted to the zoning administrator. Such applications shall include a site plan with adequate evidence to show that the proposed use will conform to the standards set forth in this subdivision. Five sets of clearly legible blue or black-lined copies or drawings and required information shall be submitted to the zoning administrator and shall be accompanied by a receipt from the administrator evidencing the payment of all required site plan fees. No permit or variance shall be issued unless the applicant in support of their application shall submit engineering data, surveys, site plans and other information as the city may require in order to determine the effects of such development on the affected lands and water areas. Such data, etc. shall be prepared by hydrologists, biologists, botanists or other technical persons as required by the zoning administrator.

b. Approval may be expressly given in conjunction with other permits applied for, but no approval shall be implied from the grant of such permits.

1. The site plans shall be prepared to a scale appropriate to the size of the project and suitable for the review to be performed which shall not be less than one inch equals 200 feet or more than one inch equals ten feet.

2. The following information shall be provided in the site plan:

i. The name and address of the landowner and developer, the legal description and address of the property, north point, date and scale of drawing and number of sheets.

ii. Location of the property including such information as the names and numbers of adjoining railroads, roads, existing subdivisions, building and other landmarks.

iii. Existing topography as indicated on a contour map having contour intervals of one foot, on a zero percent to three percent slope; two feet, on a three percent to ten percent slope; and five feet, on a ten percent or greater slope. The topography map shall also clearly delineate any bluff line, all streams, including intermittent streams and

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swales, rivers, water bodies and wetlands located on the site, including depth of water, bottom slope, a description of body materials and all vegetation which may be found in the water body, a statement of water turbidity, a statement of water quality, and a classification given to the water body by the state department of natural resources and the Minnesota PCA, if any. The topography map shall indicate the floodway and/or flood fringe lines and shall indicate the ordinary high water mark of the river.

iv. A plan delineating existing drainage of the water setting forth in which direction the volume and at what rate stormwater is conveyed from the site and setting forth those areas of the site where stormwater collects and is gradually percolated into the ground or slowly released to a stream or lake. The quality of water runoff and water infiltrated to the water table or aquifer shall be as high after development as it was before development of the site. The quantity of runoff shall be limited to the discharge rates listed in the city's comprehensive storm drainage plan.

v. A description of the soils of the site, a map indicating soil types by areas to be disturbed, as well as a soil report prepared by a soil scientist containing information on the suitability of the soils for type of development proposed and for the type of sewage disposal and describing any remedial steps to be taken by the developer to render the soils suitable. All areas proposed for grading shall be identified by soil type, both as to soil type of existing top soil and soil type of the new contour. The location and extent of any erosion areas shall be indicated.

vi. A description of the flora and fauna which occupy the site and are occasionally found thereon, setting forth with detail those areas where unique plant or animal species may be found on the site.

vii. A description of any features, buildings or areas that are of historic significance.

viii. A map indicating proposed finished grade showing contours are the same intervals as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features.

xi. A landscape plan drawn to an appropriate scale including dimensions and distances and the location species, size and description of all existing vegetation, clearly locating and describing any vegetation proposed for removal and all proposed landscape materials which will be added to the site as part of the development.

x. A proposed drainage plan of the developed site delineating in which direction, the volume and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect and gradually percolate into the ground or be slowly released to stream or lake. The plan shall also set forth hydraulic capacity of all structures to be constructed or existing structures to be utilized including volume of holding ponds and the design year of the storm.

xi. An erosion and sedimentation control plan indicating the type, location and necessary technical information on control measures to be taken both during and after construction, including a statement expressing the calculated anticipated gross soil loss expression in ton/acre/year both during and after construction. The gross soil loss shall not exceed five tons per acre per year during construction or two tons per acre per year during construction when the site is adjacent to a water body or watercourse; and one-half ton per acre per year after the construction activities are completed as calculated in accordance with the Uniform Soil Loss Equation. Wetlands and other natural water bodies shall not be used as primary sediment traps during or after construction.

xii. A plan of erosion protection measures which shall make maximum use of natural in-place vegetation rather than the placing of new vegetation on site as erosion control facilities. The use of natural erosion control devices shall be preferred to the maximum extent over the construction of artificial drainage devices including culverts, holding ponds and ditches. The development shall be located in such a manner as to minimize the removal of vegetation and alteration of the natural topography.

xiii. The proposed size, alignment, height and intended use of any structures to be erected or located on the site including building elevations (front, side and rear).

xiv. A clear delineation of all areas that shall be paved or surfaced including a description of the surface material to be used.

xv. A description of the method to be provided for vehicular and pedestrian access to the proposed development and public access to the river and/or public river view opportunities both before and after development; a description of the development's impact on existing views along the river.

xvi. Trail right-of-way shall be provided to the city in accordance with the general alignment as shown on the Proposed Mississippi River Trail Corridor Map dated 12/1/89 and approved by the council on 12/12/89 to allow for development of the Mississippi River Corridor Trail. Trail right-of-way shall be inclusive of street rights-of-way in existing developed areas as of August 12, 1985. The following standards shall be used for trail right-of-way (R.O.W.) widths:

Trail Segment	R.O.W. Width
From the easterly limits of the city along Rivlyn Ave. to the west terminus of Rivlyn Ave.	17 feet
From the west terminus of Rivlyn Ave. to the east boundary of Lot 3, Auditor's Subdivision No. 96	17 feet
From the east boundary of Lot 3 Auditor's Subdivision No. 96 to the east boundary of Lot 1, Block 5 Riverside West	20 feet
Through Riverside West	17 feet
From the west boundary of Riverside West to Mississippi West County Park	35 feet
Through Mississippi West County Park	Alignment to be developed in cooperation with the county
From the west boundary of Mississippi West County Park to the east boundary of Alpaca Estates	75 feet
Each side of 142nd Ave. NW through Alpaca Estates	17 feet
From the west boundary of Alpaca Estates to the Highway 10 R.O.W. north of Bower's Mississippi Acres	75 feet - Alignment to be determined during platting but within limits shown on trail map.
Within the Highway 10, 169 R.O.W. to the Wayside Park	Alignment to be developed in cooperation w/ Mn/DOT
From the west boundary of the Wayside Park to the West boundary of the city	75 feet - Alignment to be determined during platting but within limits shown on trail map.

xvii. A description of all parking facilities to be provided as part of the development of the site including analysis of parking needs generated by the proposed development.

xviii. A delineation of the area to be dedicated for public use.

xix. A delineation of the location and amounts of excavated soils to be stored on the site during construction.

xx. Any other information pertinent to the particular project which in the opinion of the inspector or applicant is necessary or helpful for the review of the project.

3. It is recognized that not all types of development have the same potential for causing harm to the environment; therefore, three classifications of development are established:

i. Construction of one new single-family home on a lot in a plat.

ii. Construction of one new single-family home on a lot described by metes and bounds.

iii. Development on more than one parcel of residential property or any development of commercial or industrial property. It is intended that this classification shall include all proposed plats and subdivisions that create two or more parcels.

iv. Classification of subsection (6)b.3.ii and iii of this section must provide all of the information requested in section 117-146(6)b. Classification of subsection (6)b.3.i of this section shall provide a certificate of survey to the building inspector at the time the building permit is applied for. The building inspector shall review the lot for which the building permit is requested by reviewing that data submitted for the environmental permit for the plat in which the lot is located. This review shall be made in order to ensure that the permit standards adopted herein are complied with and that the construction of such a single-family home will be consistent with said permit standards.

(7) *Expiration, extension and revisions.*

a. A permittee shall begin the work authorized by the permit within 60 days from the date of issuance of the permit unless a different date for the commencement of work is set forth in the permit. The permittee shall complete the work authorized by the permit within the

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time limit specified in the permit which in no event shall exceed more than 12 months from the date of issuance. The permittee shall notify the zoning administrator at least 24 hours prior to the commencement of work.

b. Should the work not be commenced as specified herein, then the permit shall become void. However, if prior to the date established for commencement of work the permittee makes written request to the zoning administrator for an extension of time to commence the work, setting forth the reasons for the required extension of not greater than one single year, then the permit shall remain in force.

c. Any revision of the originally approved site plan must be approved by the council after findings by the planning commission and zoning administrator.

d. A permit may be approved subject to compliance with conditions that are specifically set forth in the permit and are necessary to ensure compliance with the requirements contained in this subdivision. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of other structures including special foundations and soil stabilization structures, establish required monitoring procedures, require such alterations of the site as may be necessary, require execution of an agreement between the city and the developer, require a surety in the form of a performance bond, cash escrow or letter of credit in an amount of 150 percent of the expected development costs as determined by the city engineer. Accompanying such agreement shall be a statement from the owner indicating the city's right of entry to the property if it becomes necessary to complete the agreed upon work.

(8) *Fees.* A schedule of fees for the examination and approval of site plans leading to an environmental permit and the inspection of all required improvements and conditions in such plans shall be determined by ordinance. Prior to approval of any site plan, such fees shall be paid to the zoning administrator and be deposited to the credit of the general fund.

(9) *Effect of permit.* The granting of an environmental permit under the provisions of this subdivision shall in no way affect the owner's or the permittee's responsibility to obtain the approval required by any other statute, ordinance or regulation of any federal or state agency or subdivision thereof.

(Code 1978, § 9.21.05; Ord. No. 75-08, 6-27-1975; Ord. No. 85-02, 8-12-1985; Ord. No. 88-11, 3-19-1989; Ord. No. 90-02, 2-26-1990)

State law reference— *Fees, Minn. Stats. § 462.353, subds. 4, 4a.*

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(g) *Certificate of zoning compliance.* The zoning administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in this subdivision. This certificate will specify that the use of land conforms to the requirements of this

subdivision. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this subdivision and shall be punishable as provided in this subdivision.

(h) *Variances.* Variances may only be granted in accordance with section 117-53 and Minn. Stats. ch. 462, as applicable. In addition to the criteria established in section 117-53, the board of adjustment must also determine whether the property is used seasonally or year-round. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. For existing developments, the application for variance must include documentation, either through existing records or an inspection report by a licensed Minnesota Pollution Control Agency septic inspector, documenting that a conforming individual sewage treatment system is present for the intended use of the property. If a variance is issued that will have the ~~affect~~effect of allowing additional bedroom on the property, the property owner shall be required, if necessary, to upgrade the nonconforming individual sewage treatment system in conjunction with the issuance of the variance. If the variance does not have the ~~affect~~effect of allowing additional bedrooms, the property owner shall have a maximum of two years to upgrade the nonconforming system. A failed system determined to be an imminent public health threat must be reconstructed within 45 days, regardless of the intended use permitted by the variance.

(i) *Notifications to the department of natural resources.*

(1) Copies of all notices of any public hearings to consider variances, zoning amendments, subdivisions, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(2) A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the board of adjustment's summary of the public record/testimony and the findings of fact which supported the issuance of the variance.

(Code 1978, § 9.25.03; Ord. No. 04-32, 5-30-2005)

(Code 1978, § 9.25.03; Ord. No. 04-32, 5-30-2005)

Sec. 117-~~224~~222 - Shoreland Management Overlay District. ~~classification system and land use districts; shoreland management, and development standards.~~

(a) *Shoreland classification system.*

(1) The public waters of the city have been classified in subsection (a)(2) of this section consistent with the criteria found Minn. Rules pt. 6120.3300, and the protected waters inventory map for the county. In order to guide the wise development and utilization of shorelands of protected waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, certain protected waters in the city have been given a shoreland management classification.

(2) These protected waters of the city have been classified by the commissioner of natural resources as follows:

	Natural Environment Lakes	DNR I.D. #
a.	Shack Eddy	2-109
b.	Itasca	2-110
	Recreational Development Lakes	DNR I.D. #
a.	Jeglens Marsh	2-111
b.	Peltzer Pond	2-112
c.	Rogers	2-104
d.	Grass (Sunfish)	2-113

	General Development Lakes	DNR I.D. #
a.	Ramsey Terrace Pond	2-114
b.	Magnesium Street Pond	2-116
c.	Industry Avenue Pond South	2-117
d.	Industry Avenue Pond North	2-118
	Tributary Streams	Locations
a.	Trott Brook	Sections 1, 2, 3, 6, 7, 8, 9, 10, T32N, R25W
b.	Ford Brook	Sections 1 and 2 T32N, R25W

(3) The shorelands of the city in subsection (a)(2) of this section are designated as a Shoreland Overlay District. The purpose of the Shoreland Overlay District is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of these protected waters of the city. Boundaries of the Shoreland Overlay District shall be as defined by shoreland in section 117-1

(b) *Land use district descriptions.* Within the shoreland area, land use descriptions and allowable uses therein shall be identified in the respective zoning districts established in this chapter.

(Code 1978, § 9.25.04; Ord. No. 04-32, 5-30-2005)

~~Sec. 117-225.~~

(c) Shoreland Overlay District development standards

(1) *Permitted uses.* All permitted uses allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the official environmental overlay map of the city.

(2) *Conditional uses.*

a. All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District as defined by shoreland in section 117-1

b. Boathouses.

(3) *Substandard uses.* Any uses of shorelands in existence prior to the date of enactment of this Code which are permitted within the applicable zoning district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this Code are substandard uses. Substandard uses, including substandard sanitary facilities, shall be allowed to continue. However, any structural alteration or addition to a substandard use that will increase the substandard dimensions shall not be allowed.

(4) *Prohibited uses.* Any uses which are not permitted or conditional uses as regulated by the applicable zoning district underlying this Shoreland Overlay District, as defined by shoreland in section 117-1

(5) *Zoning provisions; lot area and width standards.* The following standards shall apply to all shorelands of the protected waters listed in section 117-~~224~~ 222 within the city. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply. The lot area (in square feet) and lot width standards (in feet) for single, double, triple, and quad unit residential lots created after the date of enactment of the ordinance from which this subdivision is derived for the lake and river/stream classifications are the following:

1. Unsewered lakes.

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Natural Environment:				
Single	80,000	200	80,000	200
Double	120,000	300	160,000	400
Triple	160,000	400	240,000	600
Quad	200,000	500	320,000	800
Recreational Development:				
Single	40,000	150	40,000	150
Double	80,000	225	80,000	265
Triple	120,000	300	120,000	375
Quad	160,000	375	160,000	490
General Development:				
Single	20,000	100	40,000	150
Double	40,000	180	80,000	265
Triple	60,000	260	120,000	375
Quad	80,000	340	160,000	490

2. Sewered lakes.

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Natural Environment:				
Single	40,000	125	20,000	125
Double	70,000	225	35,000	220
Triple	100,000	325	52,000	315
Quad	130,000	425	65,000	410
Recreational Development:				
Single	20,000	75	15,000	75
Double	35,000	135	26,000	135
Triple	50,000	195	38,000	190
Quad	65,000	255	49,000	245
General Development:				
Single	15,000	75	10,800	75
Double	26,000	135	17,500	135
Triple	38,000	195	25,000	190
Quad	49,000	255	32,500	245

~~*(6)*~~*c.* *Stream lot width standards.* There ~~is no minimum lot size requirements~~are no minimum lot size requirements for streams. The lot

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width standards for single-, double-, triple- and four-unit residential developments for the stream classifications are:

	Tributary	
	No Sewer	Sewer
Single	100	75
Double	150	115
Triple	200	150
Quad	250	190

~~(7)~~ d. *Additional special provisions.*

1. Residential subdivisions with dwelling unit densities exceeding those in the tables in subsections (~~e~~5)~~(2)~~b. and ~~(3)~~c. of this section can only be allowed if designed and approved as residential planned unit developments under ~~section 117-227~~subsection~~ne~~ (~~fe~~). Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in subsection (~~e~~5)~~(2)~~b. of this section can only be used if publicly owned sewer system service is available to the property.
2. Subdivisions of double, triple, and quad unit buildings on natural environment lakes must also meet the following standards:

i. Each building must be set back at least 200 feet from the ordinary high water level;
ii. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
iii. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
iv. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.

3. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in subsections ~~(e)(1) through (3)~~ (8) (5) a-c of this section, provided the following standards are met:

i. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
ii.. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and

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iii.. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

~~d~~4. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

i. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;

ii. If docking, mooring, or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of lake size to shore length (acres/mile)	*Required increase in frontage (percent)*
Less than 100	25
100—200	20
201—300	15
301—400	10
Greater than 400	5

~~e~~iii. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

~~f~~iv. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas,

storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(~~8~~6) *Placement, design, and height of structures.*

a. *Placement of structures on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

~~b~~1. *Structure and on-site sewage system setbacks (in feet) from ordinary high water level*.*

Classes of Public Waters	Structures		Setbacks*
	Unsewered	Sewered	Sewage Treatment System
Lakes			
Natural environment	150	150	150
Recreational development	100	75	75
General development	75	50	50
Tributary streams	100	50	75

*One water-oriented accessory structure designed in accordance with subsection (~~f~~6)(~~2~~)b. of this section may be set back a minimum distance of ten feet from the ordinary high water level.

~~c~~2. *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body:

Setback From:	Setback (in feet)
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads or streets not classified	20

~~d.~~ 3. *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

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~~e.~~ 4. *Uses without water-oriented needs.* Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

~~(9)~~b. *Design criteria for structures.*

~~a~~1. *High water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or floodproofed must be determined as follows:

i. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

ii. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minn. Rules pts. 6120.5000—6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

iii. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

~~b~~2. *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure

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setback in this subdivision if this water-oriented accessory structure complies with the following provisions:

i. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;

ii. The setback of the structure or facility from the ordinary high water level must be at least ten feet;

iii. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

iv. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

v. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

vi. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

~~c~~3. *Stairways, lifts, and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

i. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;

ii. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;

iii. Canopies or roofs are not allowed on stairways, lifts, or landings;

iv. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

v. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

vi. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of the items in subsections (~~f~~6)(~~29~~)~~c.1~~b.3.~~i~~ to ~~5~~v of this section are complied with in addition to the requirements of Minn. Rules ch. 1340.

~~d~~4. *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

~~e~~5. *Steep slopes.* The city engineer must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

~~(10)~~c. *Height of structures.* All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 35 feet in height.

(~~d~~7) *Shoreland alterations.* Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

~~(1)~~a. *Vegetation alterations.*

~~a~~1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by this subdivision are exempt from the vegetation alteration standards that follow.

~~b~~2. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in this subdivision is allowed subject to the following standards:

i. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

ii. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

~~(a)~~(A) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

~~(b)~~(B) Along rivers, existing shading of water surfaces is preserved; and

~~(c)~~(C) The provisions of this subsection (~~g~~7)~~(1)~~a. of this section are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

~~(2)~~b. *Topographic alterations/grading and filling.*

~~a~~1. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this subdivision must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

~~b~~2. Public roads and parking areas are regulated by this subdivision.

~~c~~3. Notwithstanding subsections (~~g~~7)~~(2)~~b 1~~a~~ and ~~b~~2 of this section, a grading and filling permit will be required for:

i. The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones; and

ii. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

~~d~~4. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling

permits, conditional use permits, variances and subdivision approvals:

~~1~~i. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the state department of natural resources, or the United States Army Corps of Engineers. The applicant will be so advised.

~~(a)~~(A) Sediment and pollutant trapping and retention;

~~(b)~~(B) Storage of surface runoff to prevent or reduce flood damage;

~~(c)~~(C) Fish and wildlife habitat;

~~(d)~~(D) Recreational use;

~~(e)~~(E) Shoreline or bank stabilization; and

~~(f)~~(F) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

~~2~~ii. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

~~3~~iii. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

~~4~~iv. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

~~5~~v. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

~~6~~vi. Fill or excavated material must not be placed in a manner that creates an unstable slope;

~~7~~vii. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;

~~8~~viii. Fill or excavated material must not be placed in bluff impact zones;

~~9~~ix. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minn. Stats. § 103G.245;

~~10~~x. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

~~11~~xi. Placement of natural rock rip-rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip-rap is within ten feet of the ordinary high water level, and the height of the rip-rap above the ordinary high water level does not exceed three feet.

~~e~~5. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

~~(3)~~c. *Placement and design of roads, driveways, and parking areas.*

~~a~~1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

~~b~~2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

~~c~~3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this section are met. For private facilities, the grading and filling provisions of subsection (~~g~~7)~~(2)~~b of this section must be met.

~~(4)~~d. *Stormwater management.* The following general and specific standards shall apply:

~~a~~1. *General standards:*

~~1~~i. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

~~2~~ii. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

~~3~~iii. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

~~b~~2. *Specific standards:*

~~1~~i. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

~~2~~ii. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

~~3~~iii. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

~~(5)~~e. *Special provisions for commercial, industrial, public/semipublic, agricultural, forestry and extractive uses and mining of metallic minerals and peat.*

~~a~~1. *Standards for commercial, industrial, public, and semipublic uses.*

~~1~~i. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots

with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

~~(i)~~(A) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this subdivision, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

~~(ii)~~(B) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

~~(iii)~~(C) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

~~A~~1)~~.~~ No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;

~~B~~2)~~.~~ Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

~~C~~3)~~.~~ Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out

across public waters. This does not preclude use of navigational lights.

~~2~~ii. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

~~b~~2. *Agriculture use standards.*

~~1~~i. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

~~2~~ii. Animal feedlots must meet the following standards:

~~(i)~~(A) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and

~~(ii)~~(B) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

~~c~~3. *Forest management standards.* The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

~~d~~4. *Extractive use standards.*

~~1~~a. *Site development and restoration plan.* An extractive use site development and restoration plan must be developed,

approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

~~2~~b. *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

~~e~~5. *Mining of metallic minerals and peat.* Mining of metallic minerals and peat, as defined in Minn. Stats. §§ 93.44—93.51, shall be a permitted use provided the provisions of Minn. Stats. §§ 93.44—93.51, are satisfied.

~~(6)~~f. *Conditional uses.* Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established communitywide. The following additional evaluation criteria and conditions apply within shoreland areas:

~~a~~1. *Evaluation criteria.* A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

~~1~~i. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

~~2~~ii. The visibility of structures and other facilities as viewed from public waters is limited;

~~3~~iii. The site is adequate for water supply and on-site sewage treatment; and

~~4~~iv. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

~~b~~2. *Conditions attached to conditional use permits.* The city council, upon consideration of the criteria listed in subsection (~~g~~7)~~(6)f~~~~a~~1 of this section and the purposes of this subdivision, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this subdivision. Such conditions may include, but are not limited to, the following:

~~1~~i. Increased setbacks from the ordinary high water level;

~~2~~ii. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

~~3~~iii. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

~~(7)~~g *Water supply and sewage treatment.*

~~a~~1. *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and the state pollution control agency.

~~b~~2. *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

~~1~~i. Publicly owned sewer systems must be used where available.

~~2~~ii. All private sewage treatment systems must meet or exceed the Minn. Rules. ch. 7080, a copy of which is adopted by reference and declared to be a part of this subdivision.

~~3~~iii. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in this subdivision.

4iv. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections ~~(g)(7)b.4(i) through (iv)~~ ~~(d)~~(7)g2 of this section. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations. Evaluation criteria:

~~(i)~~(A) Depth to the highest known or calculated groundwater table or bedrock;

~~(ii)~~(B) Soil conditions, properties, and permeability;

~~(iii)~~(C) Slope;

~~(iv)~~(D) The existence of lowlands, local surface depressions, and rock outcrops.

~~5~~v. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with ~~section 117-226~~subsection (e)(3)a.

(Code 1978, § 9.25.05; Ord. No. 04-32, 5-30-2005)

~~Sec. 117-226. –~~ ~~(e) Nonconformities.~~

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~~(e)~~(d) *Nonconformites*. All legally established nonconformities as of the date of the ordinance from which this subdivision is derived may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

(1) *Construction on nonconforming lots of record.*

a. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of this subdivision may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this subdivision are met.

b. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this subdivision, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of this subdivision as much as possible.

(2) *Additions/expansions to nonconforming structures.*

a. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this subdivision. Any deviation from these requirements must be authorized by a variance.

b. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

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1. The structure existed on the date the structure setbacks were established;

2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

3. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

4. The deck is constructed primarily of wood, and is not roofed or screened.

(3) *Nonconforming sewage treatment systems.*

a. A sewage treatment system not meeting the requirements of chapter 113, article II must be upgraded, at a minimum, at any time a variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

b. The city has adopted the following by reference: Minn. Rules pts. 7080.0020, 7080.0060, 7080.0065, 7080.0110, 7080.0120, 7080.0125, 7080.0150, 7080.0160, 7080.0170, 7080.0175 7080.0176, being the sections containing the technical standards and criteria contained in the "Individual Sewage Treatment Systems Program." The city currently requires and monitors septic system pumping permits that indicate the status of each system. The city will require upgrading or replacement of any nonconforming system within a reasonable period of time, which will not exceed two years following issuance of written notification from the city to the property owner of said nonconforming system. Sewage systems installed according to all applicable local shoreland management standards adopted under Minn. Stats. §§ 103F.201—103F.221 in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater

than required by Minn. Rules ch. 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

(Code 1978, § 9.25.06; Ord. No. 04-32, 5-30-2005)

~~**Sec. 117-227. –Planned unit developments (PUDs).**~~

(~~f~~e) *Planned Unit Developments (PUDs)*

(1) *Types of PUDs permissible.* Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in this subdivision and the official zoning map.

(2) *Processing of PUDs.* Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six or less new dwelling units or sites since the adoption date of the ordinance from which this subdivision is derived is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

(3) *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

a. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.

b. A property ~~owners~~owner's association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of this subdivision.

c. Deed restrictions, covenants, permanent easements or other instruments that:

1. Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and

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2. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in this subdivision.

d. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.

e. Those additional documents as requested by the city that are necessary to explain how the PUD will be designed and will function.

(4) *Site "suitable area" evaluation.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation.

a. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

	Shoreland Tier Dimensions	
	Unsewered (feet)	Sewered (feet)
General development lakes—first tier	200	200
General development lakes—second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

b. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(5) *Residential and commercial PUD density evaluation.* The procedures for determining the base density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

a. *Residential PUD base density evaluation.* The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or

sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, suitability analysis, and the design criteria contained herein.

b. *Commercial PUD base density evaluation.*

1. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

2. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development

Floor Area Ratios*; Public waters classes

*Average unit floor area (sq. ft.)	Sewered general development lakes; first tier on unsewered general development lakes; tributary river segments	Second and additional tiers on unsewered general development lakes; recreational development lakes	Natural environment lakes
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

3. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

4. Divide the total floor area by tier computed in subsection (~~e~~e)(~~2~~5)~~c~~ b.3 of this section by the average inside living area size determined in subsection (~~e~~e)(~~2~~5)~~a~~ b.1 of this section. This yields a base number of dwelling units and sites for each tier.

5. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria.

c. *Density increase multipliers.*

1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards are met or exceeded and the design criteria are satisfied. The allowable density increases in subsection (~~e~~e)(~~3~~5)~~b~~ c.2 of this section will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

2. Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

Density Evaluation Tiers	Maximum Density Increase Within Each Tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(6) *Maintenance and design criteria.*

a. *Maintenance and administration requirements.*

1. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

2. Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance

of open space. The instruments must include all of the following protections:

(i) Commercial uses prohibited (for residential PUDs);

(ii) Vegetation and topographic alterations other than routine maintenance prohibited;

(iii) Construction of additional buildings or storage of vehicles and other materials prohibited; and

(iv) Uncontrolled beaching of watercraft prohibited.

3. Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

(i) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

(ii) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;

(iii) Assessments must be adjustable to accommodate changing conditions; and

(iv) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

b. *Open space requirements.* Planned unit developments must contain open space meeting all of the following criteria:

1. At least 50 percent of the total project area must be preserved as open space;

2. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;

3. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

4. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;

5. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;

6. Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
7. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
8. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50 percent of the shore impact zone must be preserved in its natural state.

c. *Erosion control and stormwater management.* Erosion control and stormwater management plans must be developed and the PUD must:
1. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
2. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUDs 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with this subdivision.

d. *Centralization and design of facilities.* Centralization and design of facilities and structures must be done according to the following standards:
1. Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site

water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the state department of health and this subdivision. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

2. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with this subdivision for developments with density increases;

3. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

4. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

5. Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and

6. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in this subdivision and are centralized.

(7) *Conversions.* Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

a. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

c. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

1. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

2. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

3. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

d. Existing dwelling unit or dwelling site densities that exceed standards may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

(Code 1978, § 9.25.07; Ord. No. 04-32, 5-30-2005)

~~Sec. 117-228.~~ **~~(j) Enforcement.~~**

~~(g)~~(f) *Enforcement.* The city shall be responsible for the administration and enforcement of this subdivision. Any violation of the provisions of this subdivision or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor. Violations of this subdivision can occur regardless of whether or not a permit is required for a regulated activity pursuant to ~~section 117-223~~ section 117-221(~~a~~f).

(Code 1978, § 9.25.08; Ord. No. 04-32, 5-30-2005)

~~Sec. 117-229. – (k) Interpretation.~~

~~(h)~~(g) *Interpretation*: In their interpretation and application, the provisions of this subdivision shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Code 1978, § 9.25.09; Ord. No. 04-32, 5-30-2005)

~~Secs. 117-230—117-251. - Reserved.~~

Sec. 117-~~148~~223. - Critical River Overlay District ~~development standards~~.

(a) *District Boundaries*. The Mississippi River Corridor Critical Area as set forth and legally described in Minnesota State Executive Order No. 7919 as recorded in the State Register, Monday, March 12, 1979. This district hereinafter is called Critical River Area and shall be identified on the official environmental overlay map referenced in this section.

(~~a~~b) *Zoning provisions.* The following standards shall apply to the Critical River Area~~,~~ of the Mississippi River~~,~~ as shown on the official environmental overlay map of the city. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply:

(1) Area standards and permitted uses for the lots located in the Critical River Area *and* rural service area.

	Residential District	Business District	Employment District
Lot size without public sewer any permitted use (riparian)	~~2.5 acres*~~ 4 acres	2.5 acres	2.5 acres
Lot size without public sewer any permitted use (non-riparian)	2.5 acres*	2.5 acres	2.5 acres
Lot width without public sewer any permitted use	~~200 feet~~300 (at bldg. line and OHW)	~~200 feet~~300 (at bldg.line and OHW	~~200 feet~~ 300 (at bldg.line and OHW

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Front yard setback without public sewer any permitted use	40 feet***	40 feet***	40 feet***
Rear yard setback without public sewer any permitted use	35 feet	35 feet	35 feet
Side yard setback without public sewer any permitted use	10 feet	10 feet	10 feet
River setback without public sewer any permitted use	35 feet from bluff line or 200 feet from ordinary high water mark whichever is greater***		
Maximum building height any permitted building	35 feet	35 feet	35 feet
Maximum impervious surface area permitted as percent of total lot area**	30%	30%	30%
On-site sewage treatment system setback from ordinary high water level	~~75 feet~~100 feet	~~75 feet~~100 feet	~~75 feet~~ 100 feet

*The underlying zoning limits the density to a maximum of one per ten acre.

**Includes all structures, surfaced roads, parking lots, and other impervious areas.

***~~River setbacks may be less than 40 feet provided that the front setback matches the front setback of existing properties on each side of the proposed building~~Where a setback pattern from the ordinary high water level already has been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. This provision shall only apply to lots that do not meet the minimum lot width requirement of subsection (b) (1) and (2) of this section.

(2) Area standards and permitted uses for the lots located in the critical river area and urban service area.

	Residential District	Business District	Employment District
Lot size with public sewer (riparian)	20,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.
Lot size with public sewer (non-riparian)	12,150 sq. ft.	20,000 sq. ft.	20,000 sq. ft.
Lot width at building line and river frontage (riparian)	90 feet	125 feet	125 feet
Lot width at building line (non-riparian)	90 feet	125 feet	125 feet
Front yard setback	35 feet*	35 feet*	35 feet*
Rear yard setback	35 feet	35 feet	35 feet
Side yard setback	10 feet	10 feet	10 feet
River setback any permitted use	20 feet bluff line or 100 feet from ordinary high water mark whichever is greater*		
Maximum impervious surface area permitted as percent of total lot area.	30%	30%	30%
Maximum building height any permitted building	35 feet	35 feet	35 feet

On-site sewage treatment system setback from ordinary high water level	75 feet	75 feet	75 feet

*~~River yard setbacks may be less than 40 feet provided that the front setback match the front setback of existing properties on each side of the proposed building.~~ Where a setback pattern from the ordinary high water level already has been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. This provision shall only apply to lots that do not meet the minimum lot width requirement of subsection (b) (1) and (2) of this section.

Permitted uses: The permitted uses for the Critical River Area shall be those uses presently permitted in the respective zoning districts.

(~~b~~c) *Existing uses.*

(1) *Existing structures.* Existing structures, the location or the use of which is inconsistent with this subdivision or the critical areas designation order shall not be eligible for any permit granted by the city for expansion, change of use, renewal of existing permit or building permit unless the following criteria are met:

a. The applicant shall provide and maintain adequate screening of the structure from the water through the use of natural vegetative means.

b. Expansion of existing structures shall be in a direction away from the riverfront.

c. The public's ability to view the river and river corridor from existing public streets shall not be further degraded by the proposed activity.

(2) *Signs.*

a. Advertising signs are prohibited between the flood fringe borderline and all county, state or federal highway located within 1,000 feet of the line except where the river cannot be viewed from the highway due to natural topography or existing buildings.

b. All advertising signs permitted within the critical area outside the area set forth in subsection (~~b~~c)(2)a of this section shall conform with the provisions of article II, division 8 of this chapter.

1. Views of the water from vistas and public roads shall not be impaired by the placement of business or advertising signs; and

2. Advertising signs may be located only on the shore side of public transportation routes that are parallel and adjacent to the riverfront.

c. All advertising signs, the location of which is not in conformance with this subdivision, are deemed nonconforming uses and shall be

removed within seven years of the effective date of the ordinance from which this subdivision is derived.

(3) *Existing lots of record.*

a. Lots of record in the office of the county register of deeds (or registrar of titles) prior to the date of enactment of the ordinance from which this subdivision is derived, which do not meet the requirements of ~~section 117-148~~ section 117-223(~~a~~b), may be allowed as building sites provided:

1. Such use is permitted in the zoning district;
2. The lot is in separate ownership from abutting lands; and
3. All other sanitary and dimensional requirements of this subdivision are complied with insofar as practical.

(~~e~~d) *River crossing.*

(1) *Utility facilities.* Utility crossings of the Critical Area Corridor or routing within the corridor shall meet the following standards:

a. Underground placing of the utility facility shall be required unless economic, technological and land characteristic factors make underground placement infeasible. Economic considerations alone shall not be made the major determinate regarding feasibility.

b. Overhead crossings, if required, shall meet the following criteria:

1. The crossings shall be adjacent to or part of an existing utility corridor, including bridge or overhead utility lines;
2. All structures utilized shall be as compatible as practicable with land use, scenic views and existing transmission structures in height, material, color and design;
3. Right-of-way clearance shall be kept to a minimum;
4. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;
5. Routing shall avoid unstable soils, bluff lines or high ridges, the alteration of the natural environment, including grading, shall be minimized; and
6. The crossings shall be subject to the site planning requirements set forth in ~~section 117-146~~ section 117-221(~~f~~)(~~26~~)b.

c. Utility substations. Utility substations shall be subject to the following standards:

1. All substations shall be subject to the site planning requirements set forth in ~~section 117-146~~ section 117-221(~~f~~)(~~26~~)b; and
2. New substations or refurbishment of existing substations shall be compatible in height, scale, building materials, landscaping

and signing with the surrounding natural environment or land uses. Screening by natural means is encouraged and should be compatible with the surrounding environment.

d. Pipelines. Pipelines and underground utility facilities shall be subject to the following standards:

1. All pipelines and underground facilities shall be subject to the site planning requirements set forth in ~~section 117-146~~ section 117-221(~~d~~f)(~~2~~6)b; and
2. The facilities shall be located to avoid wetlands, woodlands and areas of unstable soils; and
3. All underground placing of utility facilities and pipelines shall be followed by revegetation and rehabilitation to the conditions that existed on site prior to development.

(2) *Public and private roads and railways.* New roads and railways crossing the Critical Area Corridor or routed within the Critical Area Corridor shall meet the following standards:

a. Roads and railways shall be constructed to minimize impacts on the natural terrain and natural landscape.
b. Cuts and fills are to be avoided.
c. All roads and railways shall be subject to the site planning requirements set forth in ~~section 117-146~~ section 117-221(~~d~~f)(~~2~~6)b.
d. New roads and railways shall not utilize the river corridor as a convenient right-of-way for new arterials or main lines.
e. New roads and railways shall be restricted to those facilities needed to access existing and planned residential, commercial and industrial uses.
f. All new roads and railways shall provide safe pedestrian crossing points to allow access to the riverfront. Rest areas, vistas and waysides shall be provided.

(~~d~~e) *Riverfront uses/access.*

(1) *Public property.* Public pedestrian access shall be provided to the riverfront of all public property.

(2) *Public pedestrian access.* Public pedestrian access shall be provided to the riverfront of developments on publicly owned and publicly controlled riverfront property whether leased to private leases or not, except where:

a. Unavoidable hazards exist to the public.
b. Public pedestrian access at a particular location cannot be designed or developed to provide a pleasant view or recreational experience.
c. Access to the riverfront may be denied to any person who creates a nuisance or who engages in illegal conduct on the property and public access may be temporarily or permanently closed upon a

finding by the city that such offensive conduct cannot otherwise be reasonably controlled.

(3) *Public access, private property.* Public pedestrian access shall be provided to the riverfront for all non-water-dependent uses that are:

a. Commercial or industrial.

b. Developed as a planned unit development or requiring subdivision approval.

c. Access to the riverfront may be denied to any person who creates a nuisance or who engages in illegal conduct on the property and public access may be temporarily or permanently closed upon a finding by the city that such offensive conduct cannot otherwise be reasonably controlled.

(4) *Riverfront uses.* Riverfront uses shall be preferred in the following order:

a. Water dependent;

b. Non-water dependent with public pedestrian access; and

c. Non-water dependent without public pedestrian access.

(~~e~~f) *Marinas, barge fleeting areas and loading facilities.*

(1) *Boat launching ramps.*

a. Boat launching ramps may be located only where access streets are adequate to handle the traffic load generated by the facility.

b. Shared or joint use accessory parking will be preferred. Loading will be permitted only at ramps. Parking areas must be screened from the river and adjoining residential property and located at least 50 feet from the normal high water mark.

c. The impact of the accessory parking must not adversely affect the environmental quality of the site or the surrounding neighborhood.

d. Boat launching ramps and minor accessory buildings and haul-off facilities must be in character and scale with the surrounding neighborhood.

(2) *Public marinas.* Public marinas shall be permitted subject to the following conditions:

a. The marina must have lavatory facilities adequate to service the marina clientele.

b. Off-street parking areas should be provided in accordance with the requirements set forth for boat launching ramps.

c. Areas for the winter storing of boats should be naturally screened from view from the river and from upland lots.

d. The marina shall be designed for and used only by pleasure craft.

e. Maximum height of any buildings or structures shall be 35 feet.

f. Accessory uses customarily incidental to public marinas including fueling stations may be permitted providing they are consistent in scale and intensity with the marina and surrounding uses.

(~~f~~g) *Vegetation management.*

(1) In rural open space, urban developed and urban open space districts, the following standards shall apply:

a. On undeveloped islands, public recreation lands, the slope or face of bluffs, within 200 feet of the normal high water mark of the river, and within the area 40 feet landward from bluff-lines, clear cutting shall not be permitted.

b. On all other lands within these districts, clear cutting shall be guided by the following provisions:

1. Any selective or clear cutting shall require an environmental permit from the city. The permittee shall submit a plan to the city showing the size and location of all trees on the site and which trees are proposed to be cut. The plan shall be drawn to an accurate scale. The permit application shall be reviewed by both the building inspector and the tree inspector;

2. Clear cutting shall not be used where soil, slope or other water shed conditions are fragile and subject to injury;

3. Clear cutting shall be conducted only where clear cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain;

4. The size of clear cut blocks, patches or strips shall be kept at the minimum necessary; and

5. Where feasible, all selective cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetation cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area; and where feasible, replanting shall be performed in the same spring or the following spring.

c. The selective cutting of trees greater than four inches in diameter may be permitted by local units of government when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

(2) These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

(~~g~~h) *Administration of the Mississippi River Critical Area.*

~~(1) In areas when overlapping standards are present the city council shall apply the most restrictive standards~~.

(~~2~~1) No development or alteration of the Critical Area shall take place without complete compliance with this chapter. All permits for conditional uses, building, sewer system construction or extension (public or private), DNR and EQB review if applicable, and variances shall be obtained prior to any construction. Variances shall be issued only upon demonstration of hardship as defined by section 117-1. Failure to comply with all the standards and regulations of this chapter may be enjoined by the city council through proper legal channels. Each day a violation is permitted to exist shall constitute a separate offense.

(~~3~~2) Notification procedure~~s~~ and certification.

a. Certain land use decisions which directly affect the use of land within the Mississippi Critical River Area District and involve ~~any~~ adopting or amending an ordinance regulating the use of land including rezoning of particular tracts of the land~~of the following actions~~ must be certified by the commissioner as specified in subsection (~~g~~h)(~~3~~2)b of this section:

~~1. Adopting or amending an ordinance regulating the use of land including rezoning of particular tracts of the land.~~

~~2. Granting a variance from a provision of this subdivision which related to the zoning dimension provision of subsection (a) of this section and any other zoning dimension provisions established in the Mississippi River Critical Area.~~

~~3. Approving a plat that is inconsistent with the local land use code.~~

~~4. Granting a conditional use permit for a private or commercial recreational development.~~

b. Certification process.

1. A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments~~, variances, or inconsistent plats~~ under this Code shall be sent so as to be received by the commissioner at least 30 days prior to such hearings or meetings to consider such actions. The notice of application shall include a copy of the proposed ordinances or amendment~~, or a copy of the proposed inconsistent plat, or a description of the requested variance, or a copy of the conditional use permit application, where applicable~~.

2. The city shall notify the commissioner of its final decision on the proposed action within ten days of the decision.

3. The action becomes effective when and only when either:

(i) The final decision taken by the city has previously received certification of approval from the commissioner;

(ii) The city received certification of approval after its final decision;

(iii) 30 days have elapsed from when the commissioner received notice of the final decision, and the city has received from the commissioner neither certification of approval nor notice of non-approval; or

(iv) The commissioner certifies approval within 30 days after conducting a public hearing.

4. In the case the commissioner gives notice of non-approval of an ordinance or zoning amendment, ~~variance, or inconsistent plat,~~ either the applicant or the administrator may, within 30 days of said notice, file with the commissioner a demand for hearing. If the demand for hearing is not made within 30 days, the notice of non-approval shall become final.

(i) The hearing will be held in an appropriate local community within 60 days of the demand and after at least two weeks published notice.

(ii) The hearing will be conducted in accordance with Minn. Stats. § 103G.311.

(iii) The commissioner shall either certify approval or disapproval of the proposed action within 30 days of the hearing.

~~5. The following recreational uses shall require certification approval by the commissioner:~~

~~(i) Governmental campgrounds.~~

~~(ii) Private campgrounds.~~

~~(iii) Public accesses, road access type with boat launching facilities.~~

~~(iv) Public accesses, trail access type.~~

~~(v) Temporary docks.~~

~~(vi) Other governmental open space recreational uses.~~

c. Notification process.

1. The City shall submit all notices of public hearings for variances, conditional use permits, interim use permits, and plats to the commissioner of natural resources at least thirty (30) days prior to such hearings or meetings to consider such

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actions as required by Minnesota Rules, part 6105.0230, subpart 3, item A, and part 6105.0240, and the notice(s) must include a detailed description of the proposal.

i. The City shall, within ten (10) days of final action, submit to the commissioner of natural resources copies of final decisions on variances, conditional use permits, interim use permits, and plats.

2. The City shall, prior to considering the proposal or requests, submit copies of all preliminary plats and Planned Unit Developments to the commissioner of natural resources for approval.

(3) Enforcement.

a. It is declared unlawful for any person to violate any of the terms and provisions of this subdivision. Violation thereof shall be a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.

b. In the event of a violation or a threatened violation of this subdivision, the city or the commissioner of natural resources, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations.

c. Any taxpayer of the city may institute mandamus proceedings in the district court to compel specific performance by the proper official of any duty required by this subdivision.

(Code 1978, § 9.21.07; Ord. No. 75-08, 6-27-1975; Ord. No. 85-02, 8-12-1985; Ord. No. 86-2, 8-25-1986; Ord. No. 88-11, 3-19-1989)

~~**Secs. 117-149—117-179. - Reserved.**~~

Sec. 117-~~252~~224. - Scenic River Protection Overlay District ~~Policy and authorization~~.

The purpose of this subdivision is to control bluff land and river land development in order to protect and preserve the outstanding scenic, recreational, natural, historical, and scenic values of the Rum River in Ramsey, Minnesota, in a manner consistent with Minn. Stats. §§ 103F.301—103F.345.84, Minn. Rules pts. 6105.0010—6105.0250, 6105.1400—6105.1500.

(Code 1978, § 9.23.01; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

~~**Sec. 117-253232. –**~~

(a) Scope and interpretation

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(1) The provisions of this subdivision shall apply only within the designated Scenic River Land Use District of the Rum River in accordance with the property descriptions contained in Minn. Rules pt. 6105.1400.

(2) In their interpretation and application, the provisions of this subdivision shall be held to be minimum requirements, and shall not be deemed a limitation or repeal of any powers or rights granted by Minnesota Statutes.

(3) It is not intended by this subdivision to repeal, abrogate, or impair any existing easement, covenants, deed restrictions, or land use controls. Where this subdivision imposes greater restrictions, the provisions of this subdivision shall prevail.

(4) Compliance. The use of any land within the Scenic River Land Use District; the size and shape of lots; the use and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading, lagooning, or dredging of any river area; the cutting of vegetation or alteration of the natural topography within the district; and the subdivision of land shall be in full compliance with the terms of this subdivision and other applicable regulations. Permits from the zoning authority are required by this Code, for the construction of buildings, public or private water supply and sewage treatment systems, the grading and filling of the natural topography, and erection of signs within the Scenic River Land Use District of the Rum River.

(5) The term "wetland" shall be as defined in Minn. Stats. § 103G.005, subd. 19.

(Code 1978, § 9.23.03; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

~~Sec. 117-254~~233. ~~- District application.~~

(b) District application

(1) The Scenic River Land Use District of the Rum River, within the city, is divided into two areas~~)~~: The portion of the Scenic River Land Use District located within the 2000 Urban Area as defined and located in article II, division 3 of this chapter shall be classified as an urban area; and the remainder of the Scenic River Land Use District within the city shall be classified as a rural area.

(2) The Scenic River Land Use District shall be shown on the official zoning map, as shall the urban and rural area portions of the district contained therein.

(3) The provisions of Minn. Rules pts. 6105.0010—6105.0250 shall apply within the Scenic River Land Use District, as specified in the Minn. Rules pts. 6105.1400—6105.1500. Where the provisions of this Code are in conflict with Minn. Rules pts. 6105.1400—6105.1500, the provisions of Minn. Rules pts. 6105.1400—6105.1500 shall apply. Copies of Minn. Rules pts. 6105.0010—6105.0250 and 6105.1400—6105.1500 shall be kept on file in the office of the administrator.

(Code 1978, § 9.23.04; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

~~Sec. 117-255~~234. ~~- Uses.~~

(c) Uses

(1) Urban area. The urban area of the Scenic River Land Use District is designated the Urban Area Overlay District.

(2) Permitted uses are all permitted uses allowed and regulated by the applicable zoning district underlying the urban area overlay district, as indicated on the official zoning map of the city, except that public roads, utility crossings, and all private and commercial recreation uses shall be conditional uses.

(3) Conditional uses are all conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying the urban area overlay district, as indicated on the official zoning map of the city.

(4) *Rural areas.* The uses allowed within the rural area of the Rum River Scenic Land Use District shall be those prescribed for a Scenic River Minn. Rules pt. 6105.0100 as follows:

	Scenic River	
(1)	Governmental campgrounds, subject to management plan specifications and the provisions of ~~section 117-261~~ section 117-224(~~g~~j).*	P*
(2)	Private campgrounds, subject to management plan specifications and the provisions of ~~section 117-261~~ section 117-224(~~g~~j).	C**
(3)	Public accesses, road access type with boat launching facilities subject to management plan specifications and the provisions of ~~section 117-261~~ section 117-224(~~g~~j).	P
(4)	Public accesses, trail access type, subject to management plan specifications and the provisions of ~~section 117-261~~ section 117-224(~~g~~j).	P
(5)	Temporary docks.	C
(6)	Other governmental open space recreational uses, subject to management plan specifications and the provisions of ~~section 117-261~~ section 117-224(~~g~~j).	P
(7)	Other private open space recreational uses, subject to management plan specifications and the provisions of ~~section 117-261~~ section 117-224(~~g~~j).	C
(8)	Agricultural uses.	P
(9)	Single-family residential uses.	P
(10)	Forestry uses.	P

(11)	Essential services.	P
(12)	Sewage disposal systems.	P
(13)	Private roads and minor public streets.	P
(14)	Signs approved by federal, state, or local government which are necessary for public health and safety and signs indicating areas that are available or not available for public use.	P
(15)	Signs not visible from the river. ~~that are not specified in section 117-253(e).~~	P
(16)	Governmental resource management for improving fish and wildlife habitat; wildlife management areas; nature areas; accessory roads.	P
(17)	Underground mining that does not involve surface excavation in the Land Use District.	C
(18)	Utility transmission power lines and pipelines, subject to the provisions of ~~section 117-260~~ section 117-224(~~e~~h)(7).	C
(19)	Public roads, subject to the provisions in ~~section 117-260~~ section 117-224(~~d~~h)(8).	C

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P* means permitted use

C** means conditional use

(Code 1978, § 9.23.05; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

~~Sec. 117-256~~235. ~~- District provisions.~~

(d) District provisions

(1) The following chart sets forth the minimum dimensional requirements of the urban area overlay district:

		Unsewered Area	Sewered Areas Riparian Lots	Sewered Areas Non-Riparian Lots
(1)	Lot size (in square feet)	43,560	20,000	12.150
(2)	Lot width at building line and ordinary high water level	150'	90'	90'
(3)	Building setback from ordinary high water level	100'	75'	75'
(4)	Building setback from federal, state and county trunk highway rights-of-way	50'	50'	50'
(5)	Building setback from other roads and public street rights-of-way	20'	20'	20'
(6)	On-site sewage treatment system setback from ordinary high water level	75'	NA	NA
(7)	Maximum structure height*	35'	35'	35'
(8)	Maximum total area of all impervious surfaces on each lot**	30%	30%	30%
(9)	Minimum road parking area setback from ordinary high water level	***50'	50'	50'
(10)	Controlled vegetative cutting area measured from the ordinary high water level	100'	75'	75'

*Does not apply to buildings used primarily for agricultural purposes.

**Includes all structures, surfaced roads, parking lots, and other impervious areas.

***Where practical and feasible, all roads and parking areas shall meet the setback requirements established for structures in subsection (9) of this section.

(2) The following chart sets forth the minimum dimensional requirements for the rural areas of the Rum River Scenic Land Use District:

(1)	Minimum lot size above ordinary high water level	
	Riparian lots	4 acres
	Non-riparian lots	2½ acres
(2)	Lot width at building line	300 feet
(3)	Lot width at ordinary high water level	300 feet
(4)	Building setback from ordinary high water level	150 feet
(5)	Building setback from bluff line	30 feet
(6)	On-site sewage treatment system setback from ordinary high water level	100 feet
(7)	Maximum structure height*	35 feet
(8)	Controlled vegetative cutting area (see ~~section 117-260~~ section 117-224(~~a~~h))	
	Setback from ordinary high water level	150 feet
	Setback from bluff line	30 feet

*This requirement shall not apply to buildings used primarily for agricultural uses.

(3) Trott Brook is a designated tributary of the Rum River and the following setbacks shall also apply:

1. Building setback from the OHW level of Trott Brook: 100 feet.
2. On-site sewage treatment system setback from OHW level of Trott Brook: 75 feet.
3. Controlled vegetative cutting area setback from ordinary high water level of Trott Brook: 100 feet. (See ~~section 117-260~~ section 117-224(~~a~~h).)

(Code 1978, § 9.23.06; Ord. No. 81-04, 8-18-1981; Ord. No. 81-07, 11-21-1981; Ord. No. 86-2, 8-25-1986)

~~Sec. 117-257~~236. ~~- Sanitary provisions; sewage disposal and water supply.~~

(e) Sanitary provisions; sewage disposal and water supply.

(1) Any premises intended for human occupancy must provide for an adequate method of sewage treatment. Public or municipal collection and treatment facilities must be used where available and feasible. Where public or municipal facilities are not available, all on-site individual sewer treatment systems shall conform to the minimum standards and administration procedures set forth in other applicable city regulations and the minimum standards of the Minnesota Pollution Control Agency (Minn. Rules ch. 7080) and ~~section 117-256~~ subsection (d) of this section.

(2) No person, firm, or corporation shall install, alter, repair, or extend any individual sewer disposal system or private well without first obtaining a permit for such action from the zoning authority for the specific installation, alteration, repair, or extension. Prior to issuance of any such permit, the zoning authority may require that soil boring tests be done on the proposed site to determine whether or not the site is capable of supporting a conforming sewage treatment system.

(3) Any public or private supply of water for domestic purposes must conform to state department of health standards for water quality and the administrative procedures of other applicable local ordinances.

(Code 1978, § 9.23.07; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

~~Sec. 117-258~~237. ~~- Placement of structures.~~

(f) *Placement of structures*

(1) Structures proposed within a floodplain area shall be consistent with all floodplain management regulations of the city.

(2) No structure shall be placed on any slope greater than 12 percent (12 feet vertical rise in 100 feet horizontal distance) unless such structures can be screened. Sewage disposal facilities can be installed so as to comply with the sanitary provisions of ~~section 117-257,~~ subsection (e) of this section and the permit applicant can prove to the zoning authority that any potential erosion or sedimentation problems related to locating such a structure either do not exist, or that adequate measures will be taken to prevent such problems through special construction methods.

(Code 1978, § 9.23.08; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

~~Sec. 117-259~~238. ~~- Subdivision of land.~~

(g) *Subdivision of land*.

(1) No land shall be subdivided which is determined by the city, or the commissioner of natural resources, to be unsuitable by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or the community. Soil percolation rate tests and soil borings shall be required on each proposed subdivision within the Rum Scenic River Land Use District, to establish the suitability of the land for development. Such testing is required before any final plat may be approved,

but may be waived by the zoning administrator when adequate data is already available.

(~~b~~2) Planned unit or cluster developments may be allowed in the Scenic River Land Use District if preliminary plans are first approved by the commissioner of natural resources and the applicable provisions of Minn. Rules pts. 6105.0010—6105.0250 pertaining to such development are satisfied, and the provisions of this Code are satisfied.

(Code 1978, § 9.23.09; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

~~Sec. 117-260~~239. ~~- Landscape alterations.~~

(h) *Landscape alterations*

(1) The vegetative cutting provisions of this section shall apply to those areas as specified in ~~section 117-256~~ subsection (d) of this section.

(2) General provisions within designated setback areas:

a. Clear-cutting, except for any authorized public services such as roads and utilities, shall not be permitted within 200 feet of the OHW.

b. Selective cutting of trees in excess of four inches in diameter at breast height shall be permitted providing cutting is spaced in several cutting operations and a continuous cover is maintained.

c. The cutting provisions of subsections (~~a~~h)(2)a and b of this section shall not be deemed to prevent:

1. The removal of diseased or insect infested trees or of rotten or damaged trees that present safety hazards.

2. Pruning understory vegetation, shrubs, plants, brushes, grasses, or from harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.

(3) Clear-cutting. Clear-cutting anywhere within the Scenic River Land Use District of the Rum River is subject to the following standards and criteria:

a. Clear-cutting shall not be used as a cutting method where soil, slope, or other watershed conditions are determined by the zoning authority to be fragile and subject to severe erosion and/or sedimentation.

b. Clear-cutting shall be conducted only where clear-cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain.

c. The size of clear-cut blocks, patches or strips shall be kept at the minimum necessary.

d. Where feasible, all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear-cutting is conducted shall be

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replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same spring or the following spring.

(4) Grading, filling, alterations of the bed of public waters. Any grading and filling work done within the Scenic River Land Use District of this section shall require a permit and shall comply with the following:

a. Grading and filling of the natural topography that is not accessory to a permitted or conditional use shall not be permitted in the Scenic River Land Use District.

b. Grading and filling of the natural topography that is accessory to a permitted or conditional use shall not be conducted without a grading and filling permit from the zoning authority. A grading and filling permit may be issued only if the conditions of the following subsections (~~b~~h)(~~1~~4)c and d of this section are properly satisfied.

c. Grading and filling of the natural topography which is accessory to a permitted or conditional use shall be performed in a manner which minimizes earthmoving, erosion, tree clearing, and the destruction of natural amenities.

d. Grading and filling in of the natural topography shall also meet the following standards:

1. The smallest amount of bare ground is exposed for as short a time as feasible.
2. Temporary ground cover such as mulch is used and permanent ground cover such as sod, is planted.
3. Methods to prevent erosion and to trap sediment are employed.
4. Fill is stabilized to accepted engineering standards.

(5) Excavation of material from, or filling in a wild, scenic or recreational river, or construction of any permanent structures of navigational obstructions therein is prohibited unless authorized by a permit from the commissioner of DNR pursuant to Minn. Stats. § 103G.245.

(6) Drainage or filling in of wetlands is not allowed within the Scenic River Land Use District designated by this subdivision.

(7) Utility transmission lines. All utility transmission crossings of land within the Scenic River Land Use District designated by this subdivision shall require a

conditional use permit. The construction of such transmission services shall be subject to the standards and criteria of Minn. Rules pt. 6105.0170. No conditional use permit shall be required for high voltage transmission lines under control of the environmental quality council pursuant to Minn. Stats. § 216E.10.

(8) Public roads. In addition to such permits as may be required by Minn. Stats. § 103G.245, a conditional use permit shall be required for any construction or reconstruction of new public roads within the Scenic River Land Use District of this subdivision. Such construction or reconstruction shall be subject to the standards and criteria of Minn. Rules pt. 6105.0200. A conditional use permit is not required for minor public streets that are streets intended to serve primarily as an access to abutting properties. Public roads include township, county, and municipal roads and highways that serve or are designed to serve flows of traffic between communities or other traffic generating areas.

(Code 1978, § 9.23.10; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

~~Sec. 117-261~~240. ~~- Administration.~~

(i) *Administration*

~~*Organization provisions.*~~

(1) The provisions of this subdivision shall be administered by the city's zoning authority.

(2) The board of adjustment shall act upon all questions as they arise in the administration of this subdivision, to hear and decide appeals; and to review any order, requirement, decision or determination made by the zoning authority, who is charged with enforcing this subdivision as provided by Minnesota Statutes.

(3) Permit fees and inspection fees as may be established by ordinance shall be collected by the zoning authority for deposit with the city and credited to the appropriate general fund.

(4) Substandard lots and uses, nonconforming uses.

a. *Substandard lots.*

1. Lots of record in the office of the county recorder on the effective day of enactment of this subdivision that do not meet the dimensional requirements of this Code shall be allowed as building sites; provided that such use is permitted in the land use district; the lot was in separate ownership from abutting lands on the date of enactment of this Code; and all sanitary and dimensional requirements are complied with to the greatest extent practicable.

2. If in a group of two or more contiguous lots under single ownership any individual lot does not meet the lot width requirements of this Code, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land each meeting the lot width requirements of this Code, except that such lots which meet or exceed 60 percent or more of the lot width standards of these regulations may be considered as a separate parcel of land for the purpose of sale or development, if on-site sewage disposal systems can be installed so as to comply with these regulations.

b. *Nonconforming uses.*

1. *Nonconforming uses.* Uses which are prohibited by this subdivision but which are in existence prior to the effective date of the ordinance from which this subdivision is derived shall be nonconforming uses. Such uses shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use or activity as stipulated in most current permit issued prior to the adoption of the ordinance from which this subdivision is derived.

2. *Nonconforming sanitary systems.* All sanitary facilities inconsistent with the performance standards of other applicable local ordinances and the minimum standards of MPCA shall be brought into conformity or discontinued within five years of the date of enactment of the ordinance from which this subdivision is derived or other applicable ordinances.

(5) *Substandard uses.* All uses in existence prior to the effective date of enactment or amendment of the ordinance from which this subdivision is derived which meet the allowable use criteria within the newly established land use district provisions of this subdivision, but do not meet the minimum lot area, setback, or other dimensional requirements of this subdivision are substandard uses. All substandard uses, except for substandard signs, shall be allowed to continue subject to the following conditions and exceptions:

a. Any structural alteration or addition to a substandard use that will increase the substandard dimensions shall not be allowed.

b. Substandard signs shall be gradually eliminated over a period of time not to exceed five years from the date of enactment of the ordinance from which this subdivision is derived.

c. Where a setback pattern from the ordinary high water level already has been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. This provision shall only apply to lots that do not meet the minimum lot width requirement of ~~section 117-256~~ subsection (d) of this section.

(6) *Variances.* The granting of a variance requires the presence of the following conditions:

a. The strict enforcement of the land use controls will result in unnecessary hardship.

b. Granting of the variance is not contrary to the purpose and intent of the zoning provisions herein established by these standards and criteria, and is consistent with Minn. Rules pts. 6105.1400—6105.1500.

c. There are exceptional circumstances unique to the subject properties that were not created by the landowner.

d. Granting of the variance will not allow any use which is neither a permitted or conditional use in the land use district in which the subject property is located.

e. Granting of the variance will not alter the essential character of the locality as established by Minn. Rules pts. 6105.1400—6105.1500.

~~(f) All variances to the requirements of this subdivision must be certified in accordance with subsection (g) of this section.~~

(7) *Plats.*

a. Copies of all plats within the boundaries of the Scenic River Land Use District shall be forwarded to the commissioner within ten days of final approval by the city.

b. Inconsistent plats: Approval of a plat which is inconsistent with this subdivision is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal.

~~c. All inconsistent plats approved by the council must be certified in accordance with subsection (g) of this section.~~

(8) *Amendments.*

a. This subdivision may be amended whenever the public necessity and the general welfare require such amendments by the procedure specified in this subdivision. Amendments to this subdivision must be certified by the commissioner as specified in subsection (~~gj~~)(10) of this section.

b. Requests for amendments of this subdivision shall be initiated by a petition of the owner of the actual property; or by action of the council.

c. An application for an amendment shall be filed with the zoning authority.

d. Upon receipt in proper form of the application and other requested materials, the planning commission shall conduct a public hearing in the manner prescribed in article II, division 2 of this chapter.

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e. Following the public hearing, the planning agency shall make a report of its recommendations on the proposed amendment and shall file a copy with the council within 60 days after the hearing for the city council's action. Certification from the commissioner must be obtained as specified in subsection (~~gj~~)(10) of this section before the proposed amendment becomes effective.

f. To defray the administrative costs of processing requests for an amendment to this subdivision, a fee not exceeding administrative costs shall be paid by the petitioners. Such fee shall be determined by the council.

(9) *Conditional use permit review.*

a. A copy of all notices of any public hearing, or where a public hearing is not required, a copy of the application to consider issuance of a conditional use permit shall be sent so as to be received by the commissioner at least 30 days prior to such hearings or meetings to consider issuance of a conditional use permit. A copy of the decision shall be forwarded to the commissioner within ten days of such action.

~~b. Conditional use permits relating to private or commercial recreational development must be certified in accordance with subsection (g) of this section.~~

(10) Notification procedure and ~~C~~c*ertification.*

a. Certain land use decisions which directly affect the use of land within the Scenic River Land Use District and involve adopting or amending an ordinance regulating the use of land, including rezoning of particular tracts of the land, ~~any of the following actions~~ must be certified by the commissioner as specified in subsection (~~9~~j)(~~2~~11) of this section.

~~1. Adopting or amending an ordinance regulating the use of land including rezoning of particular tracts of the land.~~

~~2. Granting a variance from a provision of this subdivision that related to the zoning dimension provisions of section 117-256 subsection (d) and any other zoning dimension provisions established in Minn. Rules pts. 6105.1400 - 6105.1500.~~

~~3. Approving a plat that is inconsistent with the local land use.~~

~~4. Granting a conditional use permit for a private or commercial recreational development.~~

b. Notification process.

1. The City shall submit all notices of public hearings for variances, conditional use permits, interim use permits, and plats to the commissioner of natural resources at least thirty (30) days prior to such hearings or meetings to consider such actions as required by Minnesota Rules, part 6105.0230, subpart 3, item A, and part 6105.0240, and the notice(s) must include a detailed description of the proposal.

i. The City shall, within ten (10) days of final action, submit to the commissioner of natural resources copies of final decisions on variances, conditional use permits, interim use permits, and plats.

2. The City shall, prior to considering proposals or requests, submit copies of all preliminary plats and Planned Unit Developments to the commissioner of natural resources for approval.

(11) Certification process.

a. A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments~~, variances, or inconsistent plats under local code~~ shall be sent so as to be received by the commissioner at least thirty (30) days prior to such hearings or meetings to consider such actions. The notice of application shall include a copy of the proposed ordinance or amendment., ~~or a copy of the proposed inconsistent plat, or a description of the requested variance, or a copy of the conditional use permit application, where applicable.~~

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b. The city shall notify the commissioner of its final decision on the proposed action within ten (10) days of the decision.

c. The action becomes effective when and only when either:

1. The final decision taken by the city has previously received certification of approval from the commissioner;

2. The city received certification of approval after its final decision;

3. Thirty (30) days have elapsed from the day the commissioner received notice of the final decision, and the city has received from the commissioner neither certification of approval nor notice of non-approval; or

4. The commissioner certifies approval within thirty (30) days after conducting a public hearing.

d. In case the commissioner gives notice of non-approval of an ordinance~~, variance or inconsistent plat,~~ either the applicant or the administrator may, within thirty (30) days of said notice, file with the commissioner a demand for hearing. If the demand for hearing is not made within thirty (30) days, the notice of non-approval becomes final.

1. The hearing will be held in an appropriate local community within sixty (60) days of the demand and after at least two weeks published notice.

2. The hearing will be conducted in accordance with Minn. Stats. § 103G.311.

3. The commissioner shall either certify approval or disapproval of the proposed action within thirty (30) days of the hearing.

~~e. The following recreational uses shall require certification approval by the commissioner:~~

~~1. Governmental campgrounds.~~

~~2. Private campgrounds.~~

~~3. Public accesses, road access type with boat launching facilities.~~

~~4. Public accesses, trail access type.~~

~~5. Temporary docks.~~

~~6. Other governmental open space recreational uses.~~

(12) *Enforcement.* It is declared unlawful for any person to violate any of the terms and provisions of this ~~subdivision~~section. Violation thereof shall be a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.

a. In the event of a violation or a threatened violation of this subdivision, the city or the commissioner of natural resources, in addition to other remedies may

institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations.

b. Any taxpayer of the city may institute mandamus proceedings in the district court to compel specific performance by the proper official of any duty required by this subdivision.

(Code 1978, § 9.23.11; Ord. No. 81-04, 8-18-1981; Ord. No. 86-2, 8-25-1986)

Sec. 117-~~252~~225. - Wetlands.

(a) Wetlands.

1. The state department of natural resources (DNR) uses the U.S. Fish and Wildlife classification system for wetlands and currently requires a permit for alteration of wetland Types 3—5 which are 2.5 acres or larger.
2. Wetland Types 1, 2 and 6 and wetlands as small as one acre are recognized as having importance as storm sewer ponding basins, but the DNR does not presently require permits for alteration of these areas.
3. In the city, there is an abundance of wetlands, some found along the edges of the streams and rivers and the others in upland depressional areas. The wetlands are not concentrated in one area, but rather scattered throughout the community. All Type 3, 4 and 5 wetlands of 2.5 acres or more as referenced in this section have been mapped by the DNR and the county and shall be identified on the official environmental map referenced in this section. A copy of the public waters/wetlands map as prepared by the county is on file at the city offices and is adopted as part of this Code. This Code shall apply to an impact area within 50 feet of all Type 3, 4, and 5 wetlands and Type 1, 2, and 6 wetlands one acre in size or larger.

Secs. 117-262—117-285. - Reserved.

SECTION 3 SUMMARY

The following official summary of Ordinance #12-__ has been approved by the City Council of the City of Ramsey as clearly informing the public of the intent and effect of the Ordinance.

It is the intent and effect of Ordinance #12-__ to amend Ramsey City Code Chapter 117 (Zoning and Subdivision of Land) Article II (Zoning) Division 4 (District Regulations) by consolidating Subdivisions

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II, IV and V ~~are hereby repealed and replaced with~~into one ~~Subdivision~~subdivision (Subdivision II, (Shoreland~~s Management Overlay District~~) ~~Section 117-349 (Accessory Structures)~~ and to:

- Establish Sections 117-221 (Background, statutory authority, policy, general definition, compliance and administration), 117-222 (Shoreland management overlay district), 117-223 (Critical river overlay district), 117-224 (Scenic river protection overlay district) and 117-225 (Wetlands).
- Repeal language related to DNR certification for variances, inconsistent plats, conditional use permits and interim use permits.

SECTION 4 EFFECTIVE DATE

The effective date of this ordinance is thirty (30) days after its passage and publication, subject to City Charter Section 5.07.

Adopted by the Ramsey City Council the ___ day of _____, 2012.

_____

Mayor

ATTEST:

_____

City Administrator

Introduction Date:_____
Posting Dates:_____
Adoption Date:_____

Publication Date:_____

Effective Date:_____

Regular Planning Commission **6. 7.**

Meeting Date: 10/04/2012

By: Tim Gladhill, Community Development

Information

Title:

Staff Update

Background:

The following is a brief summary of approvals given in September that may be of interest to the Planning Commission :

Vacate Easement at 8250 163rd Ave NW, Case of William Nemec and Shari Monchamp. The City Council introduced an ordinance to vacate portions of drainage and utility easements at 8250 163rd Ave NW. The vacation eliminates an existing encroachment that was recently discovered during a survey of the property. Staff will also be processing an Administrative Subdivision to address an encroachment into a side yard setback. Upon completion of both requests, the Property will be removed of all nonconformities.

Request for an Interim Use Permit at 5900 167th Ave NW; Case of Hope Fellowship. The City Council approved the request for an Interim Use Permit for a Place of Assembly at 5900 167th Ave NW for a term of five (5) years.

Request for Comprehensive Plan and Zoning Amendment for Lot 9, Block 2, WINDSORWOOD; Case of the City of Ramsey. The City Council approved the Comprehensive Plan and Introduced the Ordinance to Amend the Future Land Use Designation from Public/Quasi-Public to Rural Developing and amend the Zoning Designation from Public/Quasi-Public to R-1 Residential (Rural Developing). The City Council will consider sale of this Property in the near future.

Notification:

Observations:

Funding Source:

Staff Recommendation:

Committee Action:

Form Review

Inbox	Reviewed By	Date
Tim Gladhill (Originator)	Tim Gladhill	09/26/2012 09:01 AM
Form Started By: Tim Gladhill		Started On: 09/20/2012

Final Approval Date: 09/26/2012

Regular Planning Commission **6. 8.**

Meeting Date: 10/04/2012

By: JoAnn Shaw, Community Development

Information

Title:

Zoning Bulletins

Background:

Enclosed are zoning periodicals for your review.

Notification:

Observations:

Funding Source:

Staff Recommendation:

Committee Action:

Attachments

Zoning Bulletins

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	09/28/2012 01:25 PM

Form Started By: JoAnn Shaw Started On: 09/26/2012 12:09 PM

Final Approval Date: 09/28/2012

QUINLAN™ July 10, 2012 | Volume 6 | Issue No. 13

Zoning Bulletin

in this issue:

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Fees—Township imposes "impact fees" upon applicants for zoning certificates for new construction or redevelopment 4

Eminent Domain—Parish adopts ordinances imposing weight restriction on roadway 7

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Zoning News from Around the Nation 11

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Mat #41112572

Time for Proceedings—Neighbor challenges issuance of building permit

City says challenge is untimely and that permit issuance triggered appeal period

Citation: *Ferguson v. City of Dayton, 277 P.3d 705 (Wash. Ct. App. Div. 3 2012)*

WASHINGTON (06/05/12)—This case addressed the issue of what constituted the final "land use decision" in an action brought under Washington's Land Use Petition Act ("LUPA").

Contributors

Corey E. Burnham-Howard

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The Background/Facts: On August 14, 2009, the City of Dayton (the "City") issued a building permit to Thomas Goddard ("Goddard"). The building permit allowed Goddard to erect a 36-foot by 30-foot pole building on his property. On September 2, 2009, the City planner advised Goddard that under the planner's interpretation of the allowed building height, the building height was to be measured to the top of the wall where the roof system attached.

Goddard's neighbor, Laurie Ferguson ("Ferguson") questioned the building permit and challenged the planner's interpretation and asked that it be reviewed. On October 12, 2009, the city council, mayor, planning committee, and staff concluded that the building permit was valid. On July 21, 2010, the City's Planning Commission eventually affirmed the planner's interpretation of the building height measurement.

Subsequently, on August 9, 2010, Ferguson filed a LUPA petition, challenging the City's issuance of the building permit.

The City asked the court to dismiss the action. The City argued that the building permit was the final land use decision that triggered the 21-day appeal period. LUPA requires a challenge to a land use decision be filed in superior court within 21 days of the "land use decision."

The trial court agreed. It concluded that since the August 14, 2009 building permit was the final land use decision, Ferguson's August 9, 2010 LUPA appeal was untimely.

Ferguson appealed.

DECISION: Judgment of superior court reversed, and matter remanded.

The Court of Appeals of Washington, Division 3, held that, "[t]he August building permit was not a 'land use decision' because it was not a final determination." The "land use decision" appealable under LUPA occurred when the administrative appeals process was exhausted—which was when the City Planning Commission issued its determination on Goddard's building permit (on July 21, 2010).

The court reached its conclusion by interpreting the definition of "land use decision" under LUPA. A "land use decision" is defined as: "a final determination by a local jurisdiction's body or officer with the highest level of authority to make the determination, including those with authority to hear appeals, on. . . [a]n application for a project permit." (RCW 36.70C.020(2).) A "final determination," said the court, "is one that ends an action between the parties." Since a petitioner only has standing to bring a LUPA action once he/she has exhausted his/her administrative remedies, a "final determination" comes at the end of the administrative appeals process, concluded the court.

Thus, here, the court found that the building permit was a "land use decision," but that it was not a "land use decision" under LUPA until final determination by the City Planning Commission, which was "the entity with the last word on the permit." Thus the land use decision did not occur on August 14, 2009 when the building permit issued; rather, it occurred on July 21, 2010, when the Planning Commission reached its conclusion on the building permit.

See also: *Samuel's Furniture, Inc. v. State, Dept. of Ecology, 147 Wash. 2d 440,452, 54 P.3d 1194 (2002).*

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See also: *Asche v. Bloomquist, 132 Wash. App. 784, 133 P.3d 475 (Div. 2 2006), as amended, (Apr. 4, 2006).*

Case Note:

After making its conclusion as to the interpretation of "land use decision," the court did not explicitly decide whether Ferguson's LUPA appeal was timely; rather, the court remanded the matter to the lower court to make that determination. However, since Ferguson's appeal (brought on August 9, 2010), was brought within 21-days of the "land use decision" (the Planning Commission's July 21, 2010 decision), it is expected that the lower court will find it was filed timely.

Fees—Township imposes "impact fees" upon applicants for zoning certificates for new construction or redevelopment

Applicants contended "impact fees" are actually taxes, unauthorized under Ohio statute

Citation: *Drees Co. v. Hamilton Twp., 2012-Ohio-2370, 2012 WL 1957881 (Ohio 2012)*

OHIO (05/31/12)—This case addressed the issue of whether an "impact fee" imposed by a township upon applicants for zoning certificates for new construction or redevelopment within the township's unincorporated areas, was a tax—unauthorized under Ohio's home rule statute (R.C. 505.04(A)(1)).

The Background/Facts: Hamilton Township (the "Township") is a township that has adopted a limited-home-rule government, as defined under Ohio's home rule statute. In May 2007, the Township adopted an Amended Resolution. The resolution adopted a schedule of fees to be charged to applicants for zoning certificates for new construction or redevelopment within unincorporated areas of the Township. The resolution included four categories of fees: a road-impact fee; a fire-protection-impact fee; a police-protection-impact fee; and a park-impact fee. The purpose of the impact fee was "to benefit the property by providing the Township with adequate funds to provide the same level of service to that property that the Township currently affords previously developed properties." The impact fee assessed was intended to offset increased services and improvements needed because of the new development. The amount of the fees varied based upon the land use. All impact fees collected by the township were deposited into impact-fee accounts, not into a general fund. The township would not issue a zoning certificate until the applicant had paid the applicable impact fee.

Several developers, including the Drees Company, Fischer Single Family

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Homes II, L.L.C., John Henry Homes, Inc., and Charleston Signature Homes, L.L.C., all: sought zoning certificates to construct single-family homes; paid a $200 zoning-application fee; and, under protest, paid impact fees of $2,030.16 per application. These developers, along with Home Builders Association of Greater Cincinnati, (collectively, the "Developers") eventually brought an action against the Township, challenging the impacts. The Developers alleged that the impact fees were a prohibited form of taxation that were contrary to Ohio's home rule statute.

Under Ohio's home rule statute, limited-home-rule townships such as the Township here, are prohibited from enacting taxes other than those authorized by general law.

Here, the Developers noted that Ohio law already empowers townships to employ specified methods of taxation to raise money to pay for police and fire service (R.C. 505.51 and 505.39), parks (R.C. 511.27 and 511.33), and roads (R.C. 5571.15, 5573.07, 5573.10, 5573.11, and 5573.211). There was no dispute that the impact fees imposed by the Township did not meet the requirements of those methods of taxation. The Developers argued that the "impact fees" imposed by the Township were taxes "other than those authorized by general law," and thus the Township was unauthorized to impose them.

The Township maintained that the impact fees were permitted fees, not taxes.

Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the trial court issued summary judgment in favor of the Township.

The Developers appealed. The Twelfth District Court of Appeals affirmed. It held that, contrary to the Developers' arguments, the impact fees were fees and were not a prohibited form of taxation, and did not conflict with general laws of the state.

The Developers again appealed.

DECISION: Judgment of court of appeals reversed and matter remanded.

The Supreme Court of Ohio held that the Township's impact fees were taxes, imposed in violation of Ohio's limited home rule statute.

In so holding, the court explained that in order to determine whether certain assessments are taxes, it must analyze "the substance of the assessments and not merely their form." Impact fees are a revenue-generating measure designed to support infrastructure improvements benefitting the entire township, said the court. Whereas, "[t]axation refers to those general burdens imposed for the purpose of supporting the government, and more especially the method of providing the revenues which are expended for the equal benefit of all the people."

The court acknowledged that it was "not possible to come up with a single test that will correctly distinguish a tax from a fee in all situations where the words 'tax' and 'fee' arise." However, the court was able to look to its own case law and that of other jurisdictions for guidance in making its determination in this case. The court said that in determining whether an assessment is a fee or a tax, the court must consider: "(1) the entity that imposes the assess-

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ment; (2) the parties upon whom the assessment is imposed; and (3) whether the assessment is expended for general public purposes, or used for the regulation or benefit of the parties upon whom the assessment is imposed."

Generally, found the court, a fee is: (1) usually imposed by an agency upon those subject to its regulation, in furtherance of regulatory measures; (2) not placed in a general fund, but is to be used only for "narrow and specific purposes"; (3) a charge imposed by the government in return for a service it provides.

In comparison, generally, a tax is: (1) imposed by a legislature upon many, or all, citizens; (2) placed in a general fund; and (3) spent for the benefit of the entire community.

The court noted that since most assessments fall "somewhere near the middle of the spectrum between a fee and a tax," the use of funds may be the predominant factor in making the ultimate determination as to whether the assessment is a fee or tax.

Here, the court concluded that the Township's impact fees were taxes in light of the facts that the assessments: (1) were imposed by a legislative body, not a regulatory body, to a "fairly large swath of people—anyone who wants to engage in any type of development in the [T]ownship"; and (2) although not deposited into a general fund, but into segregated accounts; (3) were used for general purposes of police protection, fire protection, road improvement, and parks—that benefited the entire community.

The Township had argued that the impact fees were not for general public benefit, but, as the resolution provided, were intended: "to benefit *the property* by providing the Township with adequate funds to provide the same level of service to *that property* that the Township currently affords previously developed properties." The court rejected that interpretation, finding the goal of the impact fees "to allow *all* properties in the township to maintain their same level of service despite recent, rapid growth." "[M]aintaining the general welfare of the community [was] the aim of the resolution," found the court. The assessments, found the court, resulted in no direct service to the landowner, other than the issuance of a zoning certificate, for which there was already a separate $200 fee. Since the amount of the fee imposed exceeded the cost and expense of the service, the court concluded the "impact fee" constituted a tax.

See also: *State, ex rel. Petroleum Underground Storage Tank Release Comp. Bd., v. Withrow, 62 Ohio St. 3d 111, 579 N.E.2d 705, 11 A.L.R.5th 1010 (1991).*

See also: *American Landfill, Inc. v. Stark/Tuscarawas/Wayne Joint Solid Waste Management Dist., 166 F.3d 835, 29 Envtl. L. Rep. 20500, 1999 FED App. 0035P (6th Cir. 1999).*

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Eminent Domain—Parish adopts ordinances imposing weight restriction on roadway

Property and business owners argue ordinances effectively ended their truck business, constituting an unconstitutional taking of property

Citation: *Boudreaux v. Larpenter, 2011-410 La. App. 1 Cir. 6/1/12, 2012 WL 1964098 (La. Ct. App. 1st Cir. 2012)*

LOUISIANA (06/01/12)—This case addressed the issue of whether enforcement of a zoning ordinance that established a 15-ton limit weight restriction on a road deprived the landowners of virtually all economically viable use of their property though an unconstitutional taking of property.

The Background/Facts: Robert and Jessica Boudreaux lived on Bayouside Drive in Chauvin, Louisiana. This was also the location of Tradewinds, their family-owned business. As early as 1990 or 1991, Tradewinds hauled and sold river sand and limestone. In order for Tradewinds to conduct this work, it was necessary for large, heavy, commercial trucks to traverse Bayouside Drive to conduct business at the Boudreauxs' property. By 1999 or 2000, Tradewinds owned twelve to fourteen tandem dump trucks (weighing up to twenty-five tons when fully loaded), a fleet of eighteen-wheel trailer trucks (weighing up to forty-four tons when fully loaded), three bulldozers, and two excavators.

In October 1996, the Terrebonne Parish Consolidated Government ("TPCG") enacted an Ordinance 5685, which, among other things, established a 15-ton weight limit restriction on the entirety of Bayouside Drive. Ordinance 5685 was based on engineering studies of Bayouside Drive that were performed to establish the condition and capacity of the roadway.

In December 2000, TPCG adopted Ordinance 6362, which, among other things, repealed the weight limit restrictions established in Ordinance 5685 and enacted section 18-30 of the Terrebone Parish Code. Section 18-30 re-enacted the 15-ton weight limit on Bayouside Drive, and allowed for a person to obtain a permit to operate vehicles in excess of the weight limit.

Through January 2002, Tradewinds and its drivers continued to violate the weight limit restrictions on Bayouside Drive, without applying for a permit. In January 2002, Tradewinds received a notice from the Sheriff of Terrebonne Parish, advising it to cease operating trucks on Bayouside Drive in violation of the weight limits.

Thereafter, the Boudreauxs and Tradewinds (hereinafter, collectively "Tradewinds") filed a legal action in court. Among other things, Tradewinds alleged that the TPCG's passage of the weight limit restrictions constituted an unconstitutional taking—an inverse condemnation—of the Bayouside Drive Property because it deprived the Tradewinds of the practical economic uses of the property and substantially diminished the value of the property, without expropriation, due process, and compensation. Specifically, Tradewinds

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contended that, by passing Ordinances 5685 and 6362, the TPCG destroyed Tradewinds' business value, as Tradewinds could no longer operate its trucks to haul dirt, sand, and limestone from the Bayouside Drive property to their customers.

The trial court issued judgment in favor of TPCG. It found that Tradewinds "failed to carry their burden of proving that the ordinance in question was unconstitutional."

Tradewinds appealed.

DECISION: Judgment of trial court affirmed.

The Court of Appeal of Louisiana held that Tradewinds failed to show that the ordinances amounted to an unconstitutional taking of property.

In so holding, the court explained that the ordinances would be found to be constitutionally valid exercises of the TPCG's police power if, under all circumstances, the ordinances were "reasonable" and "designed to accomplish a purpose properly falling within the scope of the police power."

The parties did not dispute that TPCG had the power to pass ordinances to establish weight limits on the roads within the parish. However, Tradewinds contended that the passage of these ordinances constituted an inverse condemnation of its property in violation of the constitutional provisions of reasonableness and for a public purpose.

The court concluded that the TPCG's establishment of the weight limits was reasonable to prevent roadway damage for which it was financially responsible. Thus, the court found the ordinances were constitutional.

Looking at whether the ordinances amounted to inverse condemnation, the court further explained that to establish inverse condemnation, a party must show that: (1) a recognized species of property right has been affected; (2) the property has been taken or damaged in a constitutional sense; and (3) the taking or damaging was for a public purpose.

Here, the court found that: (1) the imposition of the 15-ton weight limit on Bayouside Drive affected Tradewinds' ability to use its property in the manner it had previously been used, at least without their having to go through the additional steps necessary to qualify for a permit; and (2) any alleged taking or damaging of the Bayouside Drive property by the passage of the ordinances would have been for a public purpose (i.e., maintenance of the roadway). However, the court did not find that the Bayouside Drive property had been taken or damaged in a constitutional sense. In order for the ordinance to constitute a constitutional taking, it had to destroy a major portion of the property's value. And, here, the court found that Tradewinds failed to show that the TPCG's adoption of the ordinances destroyed Tradewinds' business value by prohibiting Tradewinds operation of its trucks. The court found that Tradewinds had the ability to continue conducting its business at the Bayouside Drive location by complying with the requirements necessary to obtain a permit that would have allowed it to operate its trucks with a total weight in excess of the limit on Bayouside Drive, but, chose not to comply.

See also: *Wes-T-Erre Development Corp. v. Terrebonne Parish, Through Police Jury of Terrebonne Parish, 416 So. 2d 209 (La. Ct. App. 1st Cir. 1982), writ denied, 421 So. 2d 251 (La. 1982).*

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See also: *Suire v. Lafayette City-Parish Consol. Government, 907 So. 2d 37 (La. 2005).*

Case Note:

Tradewinds had argued that it could not comply with the requirements to obtain a permit because the amount of security required by the TPCG was excessive (i.e., a $125,000 bond in favor of the Parish). The court found that the TPCG had relied on DOTD guidelines in establishing the amount of security requested, and that another company had been required to post a $375,000 line of credit for an overweight permit to operate on Bayouside Drive. Accordingly, the court found that Tradewinds "failed to carry its burden of proof that the passage of the ordinances caused the Bayouside Drive property to be taken or damaged in a constitutional sense."

Case Note:

Tradewinds had also alleged deprivation of procedural due process, substantive due process and right to equal protection. The Court of Appeal rejected these arguments.

Time for Proceedings—Property owner appeals neighbor's building permit nearly four years after issuance

Board of appeals says appeal is untimely since property owner had constructive notice at the time of permit issuance

Citation: *Richardson v. Board of Appeals of Chilmark, 81 Mass. App. Ct. 912, 2012 WL 2053200 (2012)*

MASSACHUSETTS (06/11/12)—This case addressed the issue of whether a property owner brought a timely appeal. Specifically, the case addressed whether a property owner had constructive notice of the issuance of a building permit to her neighbor, such that the 30-day period for appeal was triggered and ran before she brought her challenge.

The Background/Facts: Edwin C. Cohen ("Cohen") proposed construction of a large single-family dwelling on property he owned in the town of Chilmark, Massachusetts (the "town"). Cohen's neighbor, Jacqueline Carlin ("Carlin") opposed Cohen's proposed construction. By September 1999, Carlin had an attorney to assist in her opposition of Cohen's proposed construction. Carlin's attorney was "intimately involved in all the proceedings and met with members of the town." In April of 1999, Carlin filed a complaint

in Superior Court appealing from the issuance of a septic system upgrade permit to Cohen. In that complaint, Carlin acknowledged Cohen's plans to build a large single-family dwelling on his property.

On September 11, 1999, a building permit was issued to Cohen. The permit authorized him to demolish and replace a small dwelling on his property with the larger proposed one. Cohen began construction in the fall of 2001. By letters dated June 20, 2004 and September 21, 2004, Carlin urged the town to revoke the building permit. She appealed the building inspector's inaction to the town's zoning enforcement officer and board of appeals (the "board") on October 8, 2004. She argued that the building permit was issued in violation of a zoning bylaw; she alleged that Cohen's property lacked adequate frontage.

The board denied Carlin's appeal. She appealed to the Land Court.

Before the Land Court, the board argued that Carlin had failed to timely appeal within 30 days of the issuance of the building permit.

Under Massachusetts statutory law (Mass. Gen. L. c. 40A, §§ 8, 15) "a party with adequate notice of an order or decision that violates a zoning provision must appeal that order or decision to the appropriate authority within the thirty-day period allotted for such an appeal."

Carlin contended that she did not have "chargeable" knowledge of the building permit until construction began in the fall of 2001.

The Land Court dismissed the appeal on the grounds that Carlin failed to timely appeal.

DECISION: Judgment of land court affirmed.

The Appeals Court of Massachusetts held that Carlin had constructive notice of the issuance of the permit in 1999 and failed to timely appeal within 30 days of that constructive notice.

The court explained that the "adequate notice" that starts the 30-day appeal period may be "actual or constructive." The court said that a party has constructive notice "when the evidence is 'sufficient to place on [that party] a duty of inquiry' regarding the building permit's issuance."

The court found that "although 'difficult questions concerning adequacy of notice may arise at the margins,' Carlin had constructive notice of the issuance of the permit on September 11, 1999." The court made this finding based on the facts of: Carlin's attorney's "intimate" involvement with Cohen's proceedings, as well as Carlin's 1999 appeal from Cohen's municipal permit for a septic system upgrade. The court found these facts established Carlin's awareness of Cohen's intention to begin construction on his property as soon as possible. The court concluded that Carlin possessed evidence "more than 'sufficient to place on [her] a duty of inquiry' into the building permit's issuance on September 11, 1999."

Moreover, noted the court, even assuming Carlin did not have chargeable knowledge of the permit until construction began (as she alleged), Carlin still delayed her challenge to the permit by more than two additional years. (Carlin had brought a 2001 Land Court action alleging infringement of her beach access easement, but she had failed to raise the alleged zoning by-law violation in that action.)

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The court concluded that Carlin's subsequent enforcement request "could not resurrect the neglected appeal for which she possessed actual or constructive notice." It said her failure to timely appeal within thirty days of the issuance of the permit on September 11, 1999, required the entry of summary judgment in favor of Cohen (and the board) and dismissal of her complaint.

See also: *Gallivan v. Zoning Bd. of Appeals of Wellesley, 71 Mass. App. Ct. 850, 887 N.E.2d 1087 (2008).*

Case Note:

The court also concluded, as an independent ground of decision, that the doctrine of laches applied to bar Carlin's appeal. The doctrine of laches says that a legal right or claim will not be enforced or allowed if a long delay in asserting the right or claim has prejudiced the adverse party (e.g., here, harmed Cohen). Here, the court found that Carlin's delay was "unjustified, unreasonable, and prejudicial."

Case Note:

The plaintiff-appellant in the case was actually John W. Richardson, the bankruptcy trustee for Carlin's estate. For simplification, the appeal was referred to as Carlin's.

Zoning News from Around the Nation

PENNSYLVANIA

After a recent hearing, "[a] constitutional challenge by seven municipalities to Pennsylvania's new law regulating the growth of natural gas exploration is in the hands of seven Commonwealth Court judges." "The heart of the argument is the extent of the state's power to tell municipalities where they must allow drilling-related activity, including rigs, waste pits, pipelines and the compressor and processing stations that help move gas from the underground Marcellus Shale formation in Pennsylvania to consumers across the northeastern United States. Among the objectionable provisions cited by the towns' March 29 lawsuit are requirements that drilling, waste pits and pipelines be allowed in every zoning district, including residential districts, as long as operators observe certain buffers."

Source: *Bloomberg Businessweek; www.businessweek.com*

VIRGINIA

Governor Bob McDonnell recently signed several bills into law, which went into effect July 1, 2012. Included in those new laws are: (1) HB869/SB 274- Urban Development Areas—making incorporation of urban development areas optional rather than mandatory; and (2) HB1216- Zoning Amendment Notices on Federal or State Lands—providing that when a proposed amendment to the zoning ordinance involves a tract of land of not less than

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500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract.

Source: *Augusta Free Press; http://augustafreepress.com*

WASHINGTON

Pasco City Council have voted to end a moratorium on collective medical marijuana gardens and amend Pasco's zoning code to prohibit anything that violates local, state and federal law. Accordingly, now prohibited is the issuing of a building permit or business license for a collective medical marijuana garden, where authorized patients would grow cannabis plants together.

Source: *The News Tribune; www.thenewstribune.com*

WEST VIRGINIA

The Morgantown City Council unanimously passed the first reading of zoning ordinances that will limit extraction activities only to industrialized zones that meet certain requirements. The ordinance is an effort to regulate extractive industries such as drilling for natural gas in the Marcellus shale. Under the proposed ordinance, extractive drilling would be allowed in six industrial districts in the city, but only if the site is: 625 feet from any residential areas, schools, day care facilities, hospitals, churches or parks; 100 feet from the floodplain; 1,000 feet from the public water supply intake; and 1,000 feet from the floodplain of the Monongahela River south or upstream of the Morgantown Lock and Dam.

Source: *The State Journal; www.statejournal.com*

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Validity of Regulation/First Amendment—State Agency Regulations Require Permits for Commercial Weddings on State Beaches

Wedding planners say permit requirement violates their First Amendment rights

Citation: *Kaahumanu v. Hawaii, 2012 WL 2018171 (9th Cir. 2012)*

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The Ninth Circuit has jurisdiction over Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon and Washington.

NINTH CIRCUIT (HAWAI'I) (06/06/12)—This case addressed the issue of whether state agency regulations requiring permits for commercial weddings on state beaches and placing specific terms and conditions on such permits violated the First Amendment to the United States Constitution.

The Background/Facts: In November 2002, the State of Hawai'i Department of Land and Natural Resources ("DLNR") began to regulate commercial activities on "unencumbered" public beaches. Unencumbered beaches include those that have not been: "(1) Set aside for any purpose, by statute, executive order, or other means to a governmental agency; or (2) Encumbered by lease, license, permit, easement, or other document issued by [DLNR]." (Haw. Rev. Stat. § 171-1.) Beaches within the jurisdiction of DLNR extend from the water's edge to the hightide line.

DLNR regulations require a permit for commercial activities on unencumbered beaches, including—beginning in August 2008—commercial weddings (i.e., those involving compensation for services or goods rendered). Those obtaining a commercial wedding permit had to comply with "General Terms and Conditions for Commercial Activity" (the "Terms and Conditions"). Among other things, the Terms and Conditions required that an applicant: obtain "comprehensive public liability insurance," naming the State of Hawai'i as an additional insured, of "at least $300,000 per incident and $500,000 aggregate"; and agree to indemnify and hold harmless DLNR for loss or damage arising out of actions by the applicant. The Terms and Conditions also, with certain exceptions, prohibited "accessories" (such as arches, alters, tables, tents, signage, posts, and ropes) from being placed on the permitted right-of-entry area.

Laki Kaahumanu, a Native Hawaiian pastor who performed religious wedding ceremonies, and Maui Wedding and Event Professionals Association ("Event Professionals"), an association of individuals and businesses providing commercial services for weddings (collectively, the "Wedding Planners"), challenged DLNR's permit requirements. They filed suit in federal district court, alleging, among other things, that DLNR's commercial wedding permit requirements unduly burdened their right to organize and participate in weddings on unencumbered state beaches, in violation of the First Amendment.

The Wedding Planners argued that wedding ceremonies constitute "speech" that is protected by the First Amendment. They also argued that DLNR's commercial wedding permit requirements unconstitutionally burdened that speech because the permit requirements "unduly burden[ed] their right to organize and participate in weddings on unencumbered state beaches."

Finding there were no material issues of fact in dispute and deciding the matter on the law alone, the district court granted summary judgment to DLNR.

The Wedding Planners appealed.

DECISION: Judgment of district affirmed in part, reversed in part, and remanded.

The United States Court of Appeals, Ninth Circuit, held that the DLNR regulations requiring permits for commercial weddings on unencumbered

state beaches did not violate the First Amendment. The court also found that the accessories limitations and the insurance and indemnity requirements did not violate the First Amendment. The court did, however, conclude that unbridled discretion reserved to DLNR to revoke permits or add to permits' terms and conditions violated the First Amendment.

In so concluding, the court first held that wedding ceremonies are protected expression under the First Amendment. The court said this was because the First Amendment protects more than political speech and more than just the spoken and written word; it also protects expressive conduct so long as that conduct "convey[s] a particularized message" and is likely to be understood in the surrounding circumstances. The court found wedding ceremonies were protected expressive conduct in that they conveyed "important messages about the couple, their beliefs, and their relationship to each other and to their community."

Next, the court explained that the level of its scrutiny regarding the constitutionality of DNLR's commercial wedding permit requirements depended on the nature of the public forum at issue. The Wedding Planners contended that the unencumbered state beaches were traditional public forums—subjecting them to the most exacting test for restrictions on forum. Under that test, the government can exclude a speaker "only when the exclusion is necessary to serve a compelling state interest and the exclusion is narrowly drawn to achieve that interest." DLNR, on the other hand, contended that the beaches were "nonpublic forums"—requiring the least exacting test and that regulations simply be reasonable and viewpoint neutral.

The court said that it "need not decide the precise nature of the forum." For the regulations it upheld, it assumed without deciding that unencumbered state beaches in Hawai'i were a traditional public forum. For the regulations that it concluded were invalid, the court assumed without deciding that the unencumbered state beaches in Hawai'i were nonpublic forums.

The court explained that restrictions on speech in a traditional public forum are reasonable, and thus permissible, provided that they: (1) serve a significant governmental interest; (2) are narrowly tailored to serve that significant governmental interest; (3) are content neutral (i.e., justified without reference to the content of the regulated speech); and (4) leave open ample alternative channels for communication of the information.

Here, the court found that DLNR's regulations requiring a permit to hold commercial weddings on Hawai'i public beaches did not violate First Amendment free speech because they: (1) served a significant governmental interest in minimizing conflicting uses of limited beach area and conserving the physical resource of the beaches; (2) were narrowly tailored given that the application process was not burdensome, and there was no evidence that any application had ever been denied; (3) were content-neutral, requiring a permit for any kind of commercial activity; and (4) left open ample alternate opportunities for public beach weddings, including county beaches or private property.

The court also found DLNR's regulations limiting accessories that may be used in commercial weddings on Hawai'i public beaches did not violate the First Amendment free speech as applied because it found such accessory limitations: (1) served a significant governmental interest in not allowing such

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weddings to interfere unduly with activities of other beachgoers; (2) were narrowly tailored to serve that interest in that while there were some limitations, allowance was made for other things such as unamplified musical instruments, loose flowers, chairs for elderly or disabled attendees, a podium, and nonobtrusive hand-carried wedding accessories; (3) were content-neutral in that they made no reference to religion; and (4) left open ample alternate opportunities for public beach weddings, including county beaches or private property.

Also, the court held that the regulations' insurance, and indemnification requirements did not violate the First Amendment as applied because if found such requirements: (1) served a significant governmental interest in compensating third parties and DLNR for injury or property damage caused by the permit holder and in protecting DLNR from liability to third parties caused by the permit holder; (2) were not overly broad since they did not require a permittee to hold the state harmless for all consequences of the event, including those caused by the state's own actions, but only required indemnification for acts or omissions of the permittee; and (3) were content-neutral in that they did not depend on the type of wedding, its religious content, or any content-based discrimination, and the amount of insurance did not vary depending on the type of commercial wedding or the content of what might be said at the wedding.

The court, however, held that the discretion that DLNR reserved, under the regulations, was not sufficiently constrained, and thus violated First Amendment right to free speech on its face. The court said that "a time, place, and manner regulation [must] contain adequate standards to guide the official's decision and render it subject to effective judicial review." The court found that "adequate guiding standards [were] not provided here" given that DLNR could revoke a permit authorizing commercial weddings on Hawai'i public beaches "at any time," "for any reason," and "in the sole and absolute discretion of the Chairperson," and could add to its terms and conditions "as it deem[ed] necessary or appropriate."

See also: *Santa Monica Food Not Bombs v. City of Santa Monica, 450 F.3d 1022 (9th Cir. 2006).*

See also: *Long Beach Area Peace Network v. City of Long Beach, 574 F.3d 1011 (9th Cir. 2009), cert. denied, 130 S. Ct. 1569, 176 L. Ed. 2d 110 (2010).*

Case Note:

The Wedding Planners sought to bring both facial and as-applied challenges to DLNR's commercial wedding regulations. The court concluded that they could bring only an as-applied challenge because DLNR's regulations did not require permits for anything inherently expressive; the regulations did not, on their face, seek to regulate spoken words or patently expressive or communicative conduct. However, the court did allow the Wedding Planners to bring a facial challenge to the portion of the regulations that gave DLNR discretion to grant and revoke the permits and amend their terms and conditions.

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Case Note:

The Wedding Planners also brought equal protection and due process claims. The court found the regulations did not violate equal protection as DLNR clearly had a rational basis to regulate commercial beach weddings—given the large number of them—but to leave noncommercial beach weddings unregulated—given the relatively small number of them. The court also rejected the due process claims, finding they failed.

Validity of Statute—Permit Applicants Challenge State Statute Placing Limitations on Size and Location of Solid Waste Landfills

Applicants argue statute is unconstitutional in violation of the Commerce Clause and Contract Clause

Citation: *Waste Industries USA, Inc. v. State, 725 S.E.2d 875 (N.C. Ct. App. 2012)*

NORTH CAROLINA (05/01/12)—This case addressed the issue of whether a North Carolina statute that places limitations on the size and location of solid waste landfills violated the commerce clause and contract clause of the United State Constitution.

The Background/Facts: In 2007, North Carolina's General Assembly enacted legislation governing approval of solid-waste landfills: 2007 N.C. Sess. Laws ch. 543 and ch. 550. The legislation, codified in N.C. Gen. Stat. § 130A-295.6, included additional restrictions for landfills relating to buffers, height, capacity, and size. More specifically, among other things, under the law, the North Carolina Department of Environmental and Natural Resources ("DENR") "shall not issue a permit" for a sanitary landfill if it is located: (1) within five miles of a National Wildlife Refuge; (2) within one mile of a State gameland owned, leased, or managed by the Wildlife Resources Commission; or (3) within two miles of a component of the State Parks System. The DENR also "shall not issue a permit" for a sanitary landfill that exceeds: (1) a capacity of 55 million cubic yards of waste; (2) a disposal area of 350 acres; or (3) a maximum height of more than 250 feet above the mean natural elevation of the disposal area.

These restrictions (the "challenged restrictions") applied to the permit application of Black Bear Disposal, LLC ("Black Bear"), a wholly-owned subsidiary of Waste Industries USA, Inc. ("Waste Industries") (hereinafter, both entities are collectively referred to as "Waste Industries"). After Waste Industries paid a $50,000 permit fee, DENR denied their application for a sanitary landfill permit. The permit application was denied because, among other reasons, Waste Industries' proposed sanitary landfill site did not comply

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with the requirements of N.C. Gen. Stat. § 130A-295.6(d) due to its proximity to a national wildlife refuge and state park.

Waste Industries brought suit against the State of North Carolina and DENR (hereinafter, collectively "the State"). Waste Industries alleged that 2007 N.C. Sess. Laws ch. 543 and ch. 550 (the "Statute") violated the United States Constitution and the State Constitution on various grounds and deprived Waste Industries of their common law vested rights. Among other things, Waste Industries alleged that: (1) the statute had a discriminatory purpose against out-of-state waste in violation of the Commerce Clause in that its purpose was to block out-of-state waste from entering the state; (2) the statute had prohibited discriminatory effects under the Commerce Clause evidenced by the nonconstruction of four proposed landfills which were intended to accept out-of-state waste; (3) the statute violated the Commerce Clause because it had incidental effects on interstate commerce in that it resulted in increased costs for waste disposal; and (4) the statute violated the Contract Clause because it "substantially impair[ed]" Waste Industries' franchise agreement with the county (North Carolina statutory law, N.C. Gen. Stat. § 130A-294(b) required Waste Industries to obtain a franchise agreement from the county prior to applying for a permit to operate a solid waste facility in the state).

All parties moved for summary judgment, asking the court to find there were no material issues of fact in dispute and to decide the matter in their favor based on the law alone. The trial court entered an order denying Waste Industries' motion for summary judgment and granting the State's motion for summary judgment.

Waste Industries appealed.

DECISION: Affirmed.

The Court of Appeals of North Carolina held that: (1) the statute did not have a discriminatory purpose against out-of-state waste in violation of the Commerce Clause; (2) the statute did not have prohibited discriminatory effects under the Commerce Clause; (3) the statute did not violate the Commerce Clause based on any incidental effect on interstate commerce; and (4) the statute did not violate the Contract Clause.

In evaluating whether the statute had a discriminatory purpose in violation of the Commerce Clause, the court said that it must "assume that the objectives articulated by the legislature are actual purposes of the statute, unless an examination of the circumstances forces us to conclude that they could not have been a goal of the legislation." The court found that none of the purposes articulated by the General Assembly suggested a purpose of discriminating against out-of-state waste. Rather, the court found that the state had a history of concern about the disposal of waste in landfills regardless of source. The court also found no evidence that the General Assembly, in adopting the statute, was motivated by an intent of discriminating against interstate commerce by blocking out-of-state waste from entering the state. Although Waste Industries' CEO had claimed that "certain legislators had reported to him that other unidentified legislators wanted to block the importing of out-of-state waste," the court rejected them as evidence of a discriminatory intent, noting they: were secondhand statements; not part of any legislative history; and not part of any other official reporting of legislators' positions and views.

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Waste Industries had argued that, in any case, the statute had prohibited discriminatory effects in violation of the Commerce Clause evidenced by the nonconstruction of four proposed landfills that were intended to accept out-of-state waste. The court disagreed. The court found the buffer, height, area, and capacity limitations of the statute did not distinguish between in-state and out-of-state waste. Also, the court found out-of-state waste could still continue to come into the state because existing landfills could expand or new landfills could be built in compliance with the challenged regulations.

Waste Industries had also argued that the statute violated the Commerce Clause because it had the incidental effect on interstate commerce of increasing costs for waste disposal. The court said that where a statute regulates even-handedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld against a commerce clause challenge; it will only be found to be unconstitutional if the burden imposed on interstate commerce is clearly excessive in relation to the putative local benefits. Here, the court found the Statute effectuated legitimate local public interests of the following benefits: environmental; public health; environmental justice; and financial security. Also, the court found that Waste Industries failed to provide evidence that any related burden on interstate commerce clearly outweighed those benefits.

As to Waste Industries' Contract Clause violation argument, the court explained: "Whether a change in state law is an impairment of contract in violation of the Contract Clause 'has three components': (1) whether there is a contractual relationship; (2) whether a change in law impairs that contractual relationship; and (3) whether the impairment is substantial." The court found there was no dispute in this case that a contract existed. As for the second element, the court found the statute did not retroactively alter any rights of Waste Industries or the county under the franchise agreement or change either party's obligations. The franchise agreement did not grant plaintiffs a right to build or operate a landfill, but rather simply made it possible for plaintiffs to apply to the state for a permit allowing them to build and operate the landfill. Indeed, the agreement anticipated that a permit might be denied or—as happened here—the law governing landfills might be changed.

See also: *Minnesota v. Clover Leaf Creamery Co., 449 U.S. 456, 101 S. Ct. 715, 66 L. Ed. 2d 659, 15 Env't. Rep. Cas. (BNA) 1473, 11 Envtl. L. Rep. 20070 (1981).*

See also: *United Haulers Ass'n, Inc. v. Oneida-Herkimer Solid Waste Management Authority, 550 U.S. 330, 127 S. Ct. 1786, 167 L. Ed. 2d 655, 64 Env't. Rep. Cas. (BNA) 1129, 41 A.L.R. Fed. 2d 601 (2007).*

See also: *General Motors Corp. v. Romein, 503 U.S. 181, 112 S. Ct. 1105, 117 L. Ed. 2d 328 (1992).*

Case Note:

Waste Industries had also contended that they had a common law vested right and, therefore, were entitled to have the law applied to their landfill project as it existed before the change in the statutes. (In 2004, Waste Industries had first submitted a site study to DENR, as required by law, in order to obtain a sanitary landfill permit.) The

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court explained that a party's common law right to develop and/or construct vests when: (1) the party has made, prior to the amendment of a zoning ordinance, expenditures or incurred contractual obligations substantial in amount, incidental to or as part of the acquisition of the building site or the construction or equipment of the proposed building; (2) the obligations and/or expenditures are incurred in good faith; (3) the obligations and/or expenditures were made in reasonable reliance on and after the issuance of a valid building permit, if such permit is required, authorizing the use requested by the party; and (4) the amended ordinance is a detriment to the party. Here, because no permit was issued in this case, the court found that Waste Industries could not meet the requirement for the vested rights analysis that their expenditures on the proposed landfill "were made in reasonable reliance on and after the issuance of a valid . . . permit." As a result, the court held that Waste Industries had no common law vested rights in the proposed landfill.

Standing—Nonprofit Organization Appeals Board's Decision to Rezone Property

Board and applicant maintain organization lacks standing to bring challenge

Citation: *Dakota Resource Council v. Stark County Bd. of County Com'rs, 2012 ND 114, 2012 WL 2053713 (N.D. 2012)*

NORTH DAKOTA (06/07/12)—This case addressed the issue of whether a membership-based nonprofit corporation had "associational standing" (i.e., the legal right) to challenge a board of county commissioner's decision to approve a zone change.

The Background/Facts: Great Northern Project Development ("Great Northern") planned to construct and operate a coal gasification facility on a tract of land in Stark County, North Dakota (the "County"). Great Northern's planned 8,100-acre complex would include: a coal gasification plant; a chemical fertilizer plant; an electrical power plant; a coal mine; a solid waste landfill; and facilities for manufacture and storage of hazardous, explosive, and odorous products.

In furtherance of this planned construction, Great Northern submitted an application to the County Zoning Commission (the "Commission"). Great Northern asked the Commission to change the zoning of the subject land from agricultural to industrial and to allow nine conditional uses of the land.

Following a hearing, the Commission voted to recommend that the County Board of County Commissioners (the "Board") approve Great Northern's application for a zone change, conditioned upon Great Northern obtaining all necessary local, state, and federal permits or approvals.

Subsequently, the Board approved Great Northern's application to rezone

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the property from agricultural to industrial and approved the requested conditional uses.

The Board's approval of the rezone was opposed by several parties, including: Dakota Resource Council (the "Council"), a membership-based nonprofit corporation which, among other things, works for preservation of family farms, regulation of coal mining and oil and gas development, protection of ground water and clean air, and sound management of solid and toxic wastes.

The district court affirmed on the merits the Board's decision to rezone the property and allow the conditional uses.

The Council appealed. In their cross-appeal, the Board and Great Northern contended that the Council lacked standing to appeal the Board's decision to the district court.

DECISION: Affirmed

The Supreme Court of North Dakota held that the Council had associational standing to appeal the Board's decision.

In so holding, the court explained that "standing" is "the concept used 'to determine if a party is sufficiently affected so as to insure that a justiciable controversy is presented to the court.' " The court said that a party seeking relief from a court "must demonstrate they have standing by alleging such a personal stake in the outcome of a controversy to justify the court's exercise of remedial powers on their behalf."

Here, the Council had contended that it had associational standing because it was representing the interests of some of its members who would have individual standing.

The court said that as a nonprofit that had not suffered an injury itself, the Council could bring this challenge to the rezone as a representative of its members (with associational standing) if: "(a) its members would otherwise have standing to sue in their own right; (b) the interests it [sought] to protect [were] germane to the organization; and (c) neither the claim asserted nor the relief requested require[d] the participation of individual members in the lawsuit."

The Board and Great Northern contested only the first element of that three-prong test for associational standing. They argued that the record did not establish that any of the Council's members had standing to sue in their own right.

The court disagreed with the Board and Great Northern. If found that at least two of the Council's members had standing to appeal the Board's decision in their own right because the two individuals were "aggrieved" by the Board's approval of Great Northern's request for a zone change. The court found they were aggrieved in that they had a personal interest that could be enlarged or diminished by the Board's decision. More specifically, the County zoning ordinance required all landowners within 200 feet of the proposed rezoned tract be given notice of the hearing on any application for a zoning change. The court found this notice requirement was "effectively a legislative determination that landowners within 200 feet of the proposed rezoned property have a significant, protectable interest in the Board's decision whether to

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grant an application to rezone the property and permit requested conditional uses." Since the two individuals were within 200 feet of the proposed rezoned tract and had received notice, the court found that the notice requirement established that those individuals' property interests were affected by the Board's decision "in a manner different than that suffered by the public generally," and they were "more than just an elector and resident taxpayer affected by the . . . decision."

Accordingly, the court concluded that the Council established that at least some of its members were "aggrieved" by the Board's decision and would have had standing to appeal the decision in their own right. Therefore (and because the Board and Great Northern did not challenge the Council's satisfaction of the two remaining requirements for associational standing), the court concluded that the Council had associational standing to appeal the Board's decision to the district court.

The court went on to uphold the Board's decision to grant Great Northern's application to rezone the property. The court found the Board did not, as the Council had argued, misinterpret or misapply the applicable zoning ordinance when it granted to the application to rezone and allowed the requested conditional uses for the property.

See also: *Nodak Mut. Ins. Co. v. Ward County Farm Bureau, 2004 ND 60, 676 N.W.2d 752 (N.D. 2004).*

See also: *Hagerott v. Morton County Bd. of Com'rs, 2010 ND 32, 778 N.W.2d 813 (N.D. 2010).*

Case Note:

Along with the Council, Neighbors United, an unincorporated association that promotes the protection of farming and ranching, as well as individual landowners, also challenged the Board's approval of the zone change. Because Neighbors United and the individual landowners did not appeal the matter to the Supreme Court of North Dakota, the court did not address whether they had standing.

Zoning News from Around the Nation

CONNECTICUT

Under a new state law, zoning enforcement officers in Connecticut "will no longer be subject to being sued for triple damages by angry landowners." Previously, "zoning enforcement officers were liable for triple damages if they issued a citation 'frivolously or without probable cause' against a landowner. Under the new law, they are liable for actual damages, and then only if they are found to have issued a citation 'maliciously or wantonly.' "

Source: *The Hour; www.thehour.com*

MAINE

The Maine Supreme Judicial Court has struck down a "consent judgment"

that the City of Westbrook had negotiated with Pike Industries. The consent order sought to "permanently settle the dispute related to the lawful status of Pike's right to operate [a] quarry," by providing conditions of Pike's operations and release from liability and a covenant not to sue Pike. "The Supreme Judicial Court concluded that the consent judgment violated the law by circumventing Westbrook's zoning rules and procedures and illegally cutting off the rights of ordinary citizens (and Westbrook's other businesses) to stop Pike from violating local zoning laws."

Source: *The Portland Daily Sun; http://www.portlanddailysun.me*

MICHIGAN

In an effort to "keep fireworks sales in [its] business districts and out of its subdivisions," Macomb Township board of trustees recently approved a zoning ordinance amendment to allow the sale of fireworks in commercial and warehouse districts. "Because the Michigan Fireworks Safety Act, which went into effect on Jan. 1 of this year, forbids local governments from restricting fireworks sales in any way, Macomb officials have elected to use zoning power to retain some oversight on the location of sales . . . . By amending its ordinances to allow fireworks sales in commercial zones, the township keeps sales out of residential areas without violating state law."

Source: *Macomb Patch; http://macomb.patch.com*

NEW JERSEY

The state Legislature is considering legislation (S-1534 and A-2586) which would reportedly exempt some private colleges and universities in New Jersey from following local zoning regulations. Currently, under New Jersey law, "private universities and colleges in the state must receive planning and zoning approvals from the municipalities in which their projects are built," while "public institutions do not need to receive local approvals" and instead need only a "courtesy review that is non-binding." Opponents reportedly fear the legislation could have "long term consequences," setting a precedent for other nonprofits.

Source: *Planet Princeton; http://planetprinceton.com*

NORTH CAROLINA

The state Senate recently approved a second reading of a bill that would take away Boone's extraterritorial jurisdiction (ETJ) powers. ("North Carolina law allows towns and cities to wield ETJ powers as a way of helping oversee growth near the communities' corporation limits.") Opponents of the legislation reportedly say it will pave the way for construction of high-density housing and industrial or retail development near the town. Proponents, on the other hand, say it will "help people who live in the 1-mile perimeter affected by Boone's ETJ, saying those people are controlled by town officials but don't have representation in town government."

Source: *Charlotte Observer; www.charlotteobserver.com*

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Constitutional Validity of Regulations—Through Ordinances, City Imposes, Extends Moratorium on Shoreline Development

Waterfront-property owners assert the moratorium violates their constitutional substantive and due process rights

Citation: *Samson v. City of Bainbridge Island, 2012 WL 2161371 (9th Cir. 2012)*

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The Ninth Circuit has jurisdiction over Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

NINTH CIRCUIT (WASHINGTON) (05/15/12)—This case addressed the issue of whether a city's moratorium on pier and dock construction violated waterfront-property owners' substantive and due process rights under the 14th Amendment to the United States Constitution.

The Background/Facts: In Washington, shoreline property is subject to a regulatory scheme that consists of three parts. One of those parts is "Shoreline Master Programs," which are comprehensive use plans adopted by local jurisdictions and approved by the Washington Department of Ecology.

The City of Bainbridge Island (the "City") adopted a Shoreline Master Program in 1996. In 2000, the Washington Department of Ecology revised its statewide shoreline regulations. State law in effect at the time required the City to update its Shoreline Master Program to comply with the new regulations within two years of their passage.

While undertaking a comprehensive review of its 1996 Shoreline Master Program, the City, through a series of ordinances, imposed a moratorium on applications for "new overwater structures (piers, docks and floats) and new shoreline armoring (bulkheads and revetments) where none ha[d] previously existed." In imposing that moratorium, along with several extensions initiated via ordinances, the City Council found, among other things that: "shoreline structures such as piers, docks, and bulkheads had the 'potential to cause significant impact to critical shoreline habitat' and to adversely affect juvenile salmon populations." The City Council also found that with regulatory changes pending, it would receive an increased volume of applications from landowners seeking to be subject to the existing regime.

Kelly and Sally Samson, along with other persons and corporate entities (totaling 18) (collectively, the "Samsons"), owned waterfront property in Blakely Harbor in the City. They wished to build a pier or a dock on their property during the time that the moratorium was imposed. The Samsons challenged the moratorium in state court. The state courts ultimately declared that the moratorium violated the state constitution. Shortly thereafter, the City amended the Shoreline Master Program to permanently ban new dock construction in Blakely Harbor. The state courts eventually upheld those permanent changes.

The Samsons then challenged the moratorium in federal court. They argued that the moratorium violated their substantive and procedural rights under the 14th Amendment, and sought damages against the city under 42 U.S.C.A. § 1983.

The 14th Amendment prohibits states from "depriv[ing] any person of life, liberty, or property, without due process of law." A government entity may be held liable under 42 U.S.C.A. § 1983 if an "action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers."

Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the district court granted summary judgment in favor of the City.

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The Samsons appealed.

DECISION: Affirmed.

The United States Court of Appeals, Ninth Circuit, held that the City ordinances establishing and extending the moratorium did not violate the Samsons' substantive or procedural rights under the 14th Amendment.

The court explained that for the Samsons to succeed on their claim under § 1983 for an unconstitutional deprivation of property, they had to show: (1) a deprivation; (2) of property; (3) under color of state law.

The parties disputed whether the Samsons had a property interest sufficient to support their § 1983 claims. The City argued that the property right the Samsons asserted was merely the "abstract need or desire to construct private, single-use docks on Blakely Harbor." The Samsons insisted that their property interest was grounded firmly in Washington's "vested rights doctrine" (an "unusual legal rule that gives Washington residents who apply for building permits a vested right to have their application processed according to the zoning and building ordinances prevailing at the time of the application").

The court, however, decided it need not determine whether the Samsons had a cognizable property interest. This was because the court found that, even assuming that the Samsons did have such a property interest, the City did not violate the Samsons' substantive due process rights. To establish a substantive due process violation, the Samsons had to show that the City's ordinances establishing and extending the moratorium were "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals or general welfare." The court found that the Samsons could not make that showing.

The court found that none of the City's conduct "was arbitrary in the constitutional sense." Rather, the court found that, "[a]t a minimum, it [was] 'at least fairly debatable' that [the City] furthered its legitimate interest in orderly, environmentally protective shoreline development by instating a moratorium on new over-water projects."

The court also rejected the Samsons' procedural due process claim. The court said the due process is satisfied when the legislative body performs its responsibilities in the normal manner prescribed by law. Here, the court found that the City Council had used validly enacted ordinances to impose and extend the moratorium, and the ordinances applied generally to all owners of shoreline property in Blakely Harbor.

See also: *Kawaoka v. City of Arroyo Grande, 17 F.3d 1227 (9th Cir. 1994).*

See also: *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U.S. 302, 122 S. Ct. 1465, 152 L. Ed. 2d 517, 54 Env't. Rep. Cas. (BNA) 1129, 32 Envtl. L. Rep. 20627, 10 A.L.R. Fed. 2d 681 (2002).*

Case Note:

The Samsons had argued that the state supreme court's judgment that the moratorium violated the state constitution sufficed to establish that the City was liable under § 1983. The federal appeals court disagreed, noting that "not every violation of state law amounts to an infringement of constitutional rights." "Unless there is a breach of

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constitutional rights, . . . § 1983 does not provide redress in federal court for violations of state law." Finding the Samsons had suffered no violation of their constitutional rights to substantive and procedural due process, the court affirmed the order granting the City's motion for summary judgment.

Case Note:

In finding that the choice of a moratorium as the favored policy mechanism for regulating development was nonarbitrary, the court noted that "moratoria, or 'interim development controls' . . . are an essential tool of development."

Restrictive Conditions/Landfill—State Agency Permits Landfill Expansion Subject To Restrictive Condition

City challenges restriction, saying it is unsupported by substantial evidence

Citation: *Department of Environmental Services, City and County of Honolulu v. Land Use Com'n, State of Hawaii, 127 Haw. 5, 275 P.3d 809 (2012)*

HAWAI'I (05/04/12)—As a matter of first impression (i.e., the first time the court addressed such an issue), this case addressed the issue of whether a restrictive covenant imposed by decision or order of an agency (the Land Use Commission) was supported by substantial evidence, and thus valid.

The Background/Facts: In 2008, the Department of Environmental Services for the City and County of Honolulu (the "DES") applied to the state Land Use Commission ("LUC") for a special use permit ("SUP") to expand the existing Waimanalo Gulch Sanitary Landfill ("WGSL"). The LUC approved the SUP (the "LUC Order") subject to, among other things, a condition prohibiting the WGSL from accepting municipal solid waste after July 31, 2012 ("Condition 14").

DES appealed the LUC Order, challenging the validity of Condition 14. DES argued that Condition 14 was "Arbitrary and Capricious, Characterized by Abuse of Discretion, and a Clearly Unwarranted Exercise of Discretion." DES asserted that the record on which the LUC relied established that there would always be waste material that could not be combusted, recycled, reused, or shipped. Therefore, DES argued, an option to dispose of municipal solid waste at WGSL would continue to be necessary beyond the July 31, 2012 deadline as imposed in Condition 14.

Among other things, the LUC maintained that Condition 14 was reasonable and supported by the record.

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The circuit court affirmed Condition 14.

DES appealed, and the Supreme Court of Hawai'i granted an application of transfer to itself.

On appeal, DES reiterated its position that the imposition of Condition 14 was arbitrary in light of the record and findings adopted by the LUC, which it said: "clearly demonstrated the continuing need to dispose of, [among other things], [municipal solid waste] at WGSL beyond July 31, 2011." Moreover, DES argued that no other landfill site would be available by July 31, 2012, as the record and the findings adopted by the LUC established that it would take more than seven years to identify and develop a new landfill site to either replace or supplement WGSL. DES asked the court to strike the July 31, 2012, deadline to accept municipal solid waste at WGSL, contained in Condition 14 of the LUC Order, and to permit the disposal of municipal solid waste at WGSL until that site reached capacity.

DECISION: Vacated, and matter remanded with instructions.

The Supreme Court of Hawai'i held that, as a matter of first impression (i.e., the first time the issue was addressed by the court), the LUC's action in imposing Condition 14 was not supported by substantial evidence.

The court explained that although the LUC had the authority to impose restrictive conditions in its approval of SUPs (HRS § 205-6(d)), its decision to impose such a restriction had to be supported by substantial evidence.

Never having previously looked at the issue of whether a restrictive condition imposed by decision or order of the agency (LUC) was supported by substantial evidence, the court looked to the federal Administrative Procedure Act. Under that Act, the court found the authority that: a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . unsupported by substantial evidence." (5 U.S.C.A. § 706(2)(E).)

Ultimately, the court found that the LUC's action in imposing Condition 14 was inconsistent with the evidence shown in the record and not supported by substantial evidence. The court found that the facts adopted by the LUC did not support the restriction in Condition 14 imposing a termination date of July 31, 2012, for the deposit of municipal solid waste at WGSL. To the contrary, as DES had argued, the court found the facts clearly demonstrated: the continuing need to dispose of municipal solid waste at WGSL beyond July 31, 2012; that the WGSL was the only permitted public municipal solid waste facility on the island of Oahu; and that a related City and County Planning Commission's Decision and Order had expressly provided that municipal solid waste could be deposited at WGSL's expanded site "until capacity as allowed by the State Department of Health is reached."

Thus, concluded the court: "the evidence in the record as a whole d[id] not support, much less constitute 'substantial evidence' for the imposition of Condition 14." Accordingly, the court held that Condition 14 could not stand.

Having held that Condition 14 could not stand because it was inconsistent with the evidence shown in the record and not supported by substantial evidence, the court concluded that the LUC's approval of the SUP also could not stand because Condition 14 was a material condition to the LUC's approval.

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Consequently, the court remanded the matter to the LUC for further hearings as the LUC deemed appropriate.

See also: *Kinkaid v. Board of Review of City and County of Honolulu, 106 Haw. 318, 104 P.3d 905 (2004), as amended, (Nov. 10, 2004).*

See also: *Bustamante v. Massanari, 262 F.3d 949, 75 Soc. Sec. Rep. Serv. 358, Unempl. Ins. Rep. (CCH) P 16620B (9th Cir. 2001).*

See also: *Sousa v. Callahan, 143 F.3d 1240, 57 Soc. Sec. Rep. Serv. 22, Unempl. Ins. Rep. (CCH) P 16035B (9th Cir. 1998).*

Case Note:

Again, not finding a case directly on point from its jurisdiction, the court looked to caselaw from other jurisdictions to support a remand to LUC where LUC's action was not supported by substantial evidence.

Authority/Jurisdiction—Town Says Airport Authority Must Get Town's Zoning Approval Before Undertaking Construction

Airport authority insists it has exclusive zoning jurisdiction over airport

Citation: *Town of Zionsville v. Hamilton County Airport Authority, 2012 WL 2343370 (Ind. Ct. App. 2012)*

INDIANA (06/20/12)—This case addressed the issue, as a matter of first impression (i.e., the first time the court heard such an issue), of whether, as a governmental unit of general authority, a town had zoning jurisdiction over an airport within the town, or whether the airport authority had sole zoning jurisdiction.

The Background/Facts: In 2003, Hamilton County purchased an airport located in Boone County. The airport was along Hamilton County's border. In 2006, Hamilton County created the Hamilton County Airport Authority (the "Airport Authority"). It then transferred ownership of the airport to the Airport Authority.

In 2008, three towns combined into a single entity, known as the Town of Zionsville (the "Town"). The newly created Town gained zoning jurisdiction over certain townships in areas where Boone County had previously exercised zoning jurisdiction, including the airport.

In 2010, the Town's planning director informed the Airport Authority that it needed approval from the Town's planning department prior to obtaining construction permits. The Airport Authority, which had adopted its own land use ordinance for the airport, disagreed.

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The Airport Authority filed a complaint for declaratory judgment in superior court. Among other things, it asked the court to declare that the Airport Authority had exclusive jurisdiction over the zoning at the airport.

Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the superior court granted summary judgment in favor of the Authority.

The Town appealed.

On appeal, the Town and the Airport Authority each argued they had exclusive zoning jurisdiction over the airport, citing pertinent state statutes.

The Town noted that the Indiana Code's leading provisions granting general zoning authority over a relevant geographic area assign that authority to "units" of local government and specifically define a "unit" as a county, municipality, or township, not including specialized entities like airport authorities. (Ind. Code § 36-1-2-23.) The Town maintained that because it had adopted a comprehensive zoning ordinance pursuant to the processes the Code prescribed, and because the airport lay within the Town's geographic boundaries, the Town had sole zoning jurisdiction over the airport. (Ind. Code § 36-7-4-601.)

In response, the Airport Authority contended that it had separate statutory authority to exercise zoning jurisdiction over the airport. It cited the Code's list of powers for an airport authority. (Ind. Code § 8-22-3-11.) One of the powers on the list is that the Authority may "fix and determine exclusively the uses to which the airport lands may be put." (Ind. Code § 8-22-3-11(16)) (hereinafter "Subsection 16"). The Airport Authority reasoned that the power to control "the uses" of airport property included the power to control the zoning of airport property.

DECISION: Reversed.

The Court of Appeals of Indiana held that the Town, not the Airport Authority, had zoning jurisdiction over the airport.

In so holding, the court observed that cities and towns could develop a comprehensive land use plan that was broad-reaching. The court recognized that "the general power to regulate zoning does not specifically include the power to require that other political subdivisions comply with zoning regulations." The court also noted that "a survey of other statutes granting local authority to perform and regulate government functions shows that none of the powers delegated to government units contain explicit authority to require compliance by another political subdivision. Thus, while [units] may 'regulate the use of public ways,' Ind. Code § 36-9-2-7, no specific authorization is given to enforce such regulation on any other political subdivision." However, said the court, strict interpretation of the limitation that a unit may not impose a duty on a political subdivision without express statutory authority would lead to . . . absurdity" (i.e., inability to enforce speed zones on city employees, or environmental regulations on counties).

So, concluded the court, while the Town had broad zoning authority over the airport, it did not mean that the Town had absolute power to enforce its zoning requirements against the Airport Authority. Rather, the Airport Authority "must be allowed to seek relief under some circumstances [but] must . . .

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bear the burden [of showing] that . . . [such relief] is necessary to advance the governmental ends it seeks." If the Town denied such a request, the Airport authority could appeal to the courts, which would "balance the interests to determine which must prevail."

As for the Airport Authority's argument that subsection 16 gave it zoning jurisdiction over the airport because it authorized the Airport Authority to "fix and determine exclusively the uses," the court found subsection 16 actually "cut[] against the Authority's position." The court found that subsection 16 did not give the Airport Authority zoning jurisdiction over the airport. The legislature had elsewhere given airport authorities actual zoning authority beyond the boundaries of their own property to the extent that it was necessary to assure safe descent and ascent of aircraft. Thus, when the legislature desired to grant airport authorities zoning powers, it did so in § 14(d) and did not do so in subsection 16. In other words, the court determined that if the legislature had intended to grant the Airport Authority sole zoning jurisdiction over the airport, it would have done so. The court concluded that subsection 16 did not prevail over the general zoning powers of the Town.

See also: *City of Crown Point v. Lake County, 510 N.E.2d 684 (Ind. 1987).*

Case Note:

In its decision, the court noted that there were "a host of specialized local government entities authorized under Indiana law" which have "enumerated powers [that are] often read as rather robust in order to portray a sufficient picture of independence to warrant avoidance of the municipal debt limitations [under the Indiana Constitution]." Thus, the legal claim of exclusive power advanced by the Airport Authority was one that, the court recognized, "could be deployed by any number of other local governmental entities."

Case Note:

The court also concluded that covenants governing uses at the airport, which the Airport Authority's predecessor (Hamilton County) had executed with Boone County in exchange for Boone County's creation of a special airport zoning district, were not rendered invalid by the creation of the Airport Authority and the passage of ownership from Hamilton County to the Airport Authority—at least not by the grounds espoused by the Airport Authority (which were that Subsection 16 gave the Airport exclusive zoning jurisdiction), which the court had rejected.

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Billboard/Injunctive Relief—State Agency Issues Permit for Billboard

Neighboring landowners assert permit applicant failed to satisfy regulatory requirements

Citation: *Plamondon v. Outcepts Management & Consulting, LLC, 81 Mass. App. Ct. 845, 969 N.E.2d 730 (2012)*

MASSACHUSETTS (06/11/12)—This case addressed the issue of whether a permit was wrongly issued for a billboard (under state regulations), warranting injunctive relief of removal of the billboard.

The Background/Facts: Michael Rodrigues ("Rodrigues") owned property in Westport, Connecticut. For 40 years, a billboard had stood on his property. In 2009, Rodrigues agreed to partner with Outcepts Management & Consulting, LLC ("Outcepts") to replace an existing billboard. Because the new billboard was to be different from the old one, it had no grandfather status and was required to meet all of the requirements for new billboards as contained under Massachusetts statutory and regulatory law—G.L. c. 93 and 711 Code Mass Regs. § 3.00.

Under G.L. c. 93, § 29, the state's Outdoor Advertising Board ("OAB")—now known as the Massachusetts Office of Outdoor Advertising ("MOOA")—was given the power to make rules and regulations that "may require billboards . . . be located in business, commercial, industrial, marketing or mercantile areas." Under 711 Code Mass. Regs. § 3.07, OAB regulations provide that: "No permit shall be granted or renewed for a sign that is not located in an area of a business character." An area of "business character" is defined as one, when viewed from the principal highway upon which the sign is to face, both of the following requirements are met: "(a) At least two separate business, industrial or commercial activities are being conducted within a distance of 500 feet from the proposed location of the sign, measuring from such proposed location to the buildings or parking lots or other places of actual business, industrial or commercial activity . . ."; and "(b) The area in which the sign is to be located is not predominantly residential, agricultural or open space or natural area."

As required by law, in 2010, Outcepts filed two written applications with the MOOA.

Since the OAB had been essentially dismantled in 2009, permitting decisions were made solely by MOOA's director, Edward Farley ("Farley"), without a public hearing. In acting on applications to approve billboards, Farley relied on information provided by applicants, as well as information from MOOA's field inspectors. A MOOA field inspector had visited Rodrigues' property and concluded that: there were two businesses (i.e., storage garages) within 500 feet of the proposed billboard location; and the area was not residential in character. Based partly on this information, Farley approved Outcepts' application.

Subsequently, residents living within a 500 foot radius of the billboard (the

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"Neighbors") filed an action in superior court, seeking injunctive relief. The Neighbors argued that the requirements of 711 Code Mass. Regs. § 3.07(3)(b) had not been met because the billboard was placed in a residential area. Within a 500-foot radius of the billboard there were seven homes, a large tract of undeveloped residential agricultural land, and two garages used for commercial storage.

The superior court judge visited the site, and agreed with the Neighbors. The judge concluded that Outcepts failed to show that the area in which their new billboard was located was "not predominately residential, agricultural or open space or natural area" "when viewed from the principal highway upon which the sign [was] to face." (711 Code Mass. Regs. § 3.07(3) (2010).) The judge ordered the billboard be removed within 90 days.

Outcepts appealed.

DECISION: Affirmed.

The Appeals Court of Massachusetts agreed that removal of the billboard was warranted. The court found it undisputed that the new billboard did not satisfy the regulatory requirements of 711 Code Mass. Regs. § 3.07 in two respects: First, the MOOA did not consider the characteristics of the neighborhood as viewed from the highway. Second, the MOOA ignored the word "both" in § 3.07. MOOA, found the court, in concluding that the area was "not residential in character," relied only on the fact that two separate businesses were being conducted within 500 feet of the billboard (§ 3.07(a)); it did not give independent meaning to § 3.07(b), which required that the billboard location area not be predominantly residential, agricultural or open space or natural. Here, the court found that the presence of two businesses within 500 feet of the billboard location satisfied subsection (a). However, the court also found that there was nothing more to satisfy the independent requirements of subsection (b). The court said that while MOOA could consider the presence of two businesses in determining whether the neighborhood was primarily residential, it could not rely solely on the two businesses without considering the entire composition and character of the relevant area.

Considering the fact that there were seven homes within a 500-foot radius of the billboard, and 20 homes within a 1,000-foot radius, the court concluded that the area around the billboard was not primarily of a business character as viewed from the highway. Having found the requirements of 711 Code Mass. Regs. § 3.07 were not satisfied, the court concluded that ordering removal of the billboard was warranted.

Zoning News from Around the Nation

MICHIGAN

Michigan lawmakers are considering a bill that may make development on dunes easier. Under current law, "[p]eople wanting to build in critical dune areas must prove the construction won't harm the ecosystem." Under the proposed bill, the burden of proof would shift; in order to deny a construction permit, the Michigan Department of Environmental Quality would have to

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show that the construction will cause significant harm. Reportedly, "[t]he bill would also make it harder for residents to request a public hearing before a permit is issued, remove local zoning that is stricter than the state's and prohibit the denial of a permit for not being in the public interest." The bill was approved by the state Senate in early June, and now awaits House consideration.

Source: *Great Lakes Echo; http://greatlakesecho.org*

PENNSYLVANIA

The state's General Assembly "has approved legislation that places a drilling moratorium on any oil or gas operations in the South Newark Basin which lies under much of Bucks County." Proponents of the moratorium tout it as being "entirely appropriate at this point in time because it gives all of the interested stakeholders in the process—local residents, scientists and governments—the ability to study the formation in depth and to determine the next appropriate steps on whether or not drilling is even possible or desirable."

Source: *Bucks Local News; http://www.buckslocalnews.com*

WASHINGTON

The Maple Valley City Council approved a ban on medical marijuana collective gardening. Under a new ordinance, collective gardens are prohibited from being grown within the city limits. The reasons cited for the ban were "[t]he conflict between state and federal law [regarding legality of medical marijuana], and the concept of federal preemption."

Source: *Covington & Maple Valley Reporter; http://www.mapleval-leyreporter.com*

WEST VIRGINIA

The Morgantown City Council has voted to limit gas drilling to 600 acres surrounding the city's airport. Reportedly, the council "unanimously approved six zoning ordinances restricting all mining and drilling to designated industrial zones around the Morgantown Municipal Airport." Under the ordinances, drilling sites must be 100 feet from the floodplain, 1,000 feet from the public water supply intake, and 1,000 feet from the floodplain of the Monongahela River south or upstream of the Morgantown Lock and Dam.

Source: *The Marietta Times; http://www.mariettatimes.com*

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Constitutionality of Statute—State Statute Preempts Local Zoning Regulation of Oil, Gas Operations

Municipalities say statute is unconstitutional because its provisions do not further police power purpose of zoning

Citation: *Robinson Tp. v. Com., 2012 WL 3030277 (Pa. Commw. Ct. 2012)*

PENNSYLVANIA (07/26/12)—This case addressed the constitutionality of provisions of Pennsylvania's recently enacted Act 13 (58 Pa. C.S. §§ 2301-

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3504) pertaining to Oil and Gas—Marcellus Shale, which repealed Pennsylvania's Oil and Gas Act and replaced it with a codified statutory framework regulating oil and gas operations in Pennsylvania.

The Background/Facts: Among other things, Pennsylvania's Act 13 (58 Pa. C.S. §§ 2301-3504) preempted local regulation, including environmental laws and zoning code provisions (except in limited instances regarding setbacks in certain areas) involving oil and gas operations.

In March 2012, several Pennsylvania municipalities, among others (collectively, the "Municipalities"), filed a legal action against the Commonwealth of Pennsylvania (the "Commonwealth"). They asked the court to declare Act 13 unconstitutional and to order injunctive relief, permanently enjoining the Commonwealth from enforcing its provisions. The Municipalities' petition was lengthy, consisting of 108 pages and 12 counts. Among other things, the Municipalities alleged that Act 13—specifically § 3304—violated Article 1, § 1 of the Pennsylvania Constitution and violated the Equal Protection Clause (the 14th Amendment) of the United States Constitution.

Section 3304 mandated that all municipalities had to enact zoning ordinances in accordance with its provisions. It provided that "all local ordinances regulating oil and gas operations shall allow for the reasonable development of oil and gas resources" by, among other things: not imposing more stringent "conditions, requirements or limitations on the construction of oil and gas operations" than imposed on "construction activities for other industrial uses"; not imposing more stringent "conditions, requirements or limitations on the heights of structures, screening and fencing, lighting or noise relating to permanent oil and gas operations" than "imposed on other industrial uses or other land development within the particular zoning district"; authorizing "oil and gas operations, other than activities at impoundment areas, compressor stations and processing plants, as a permitted use in all zoning districts"; and by not imposing more stringent setback, noise or vehicular access provisions than those specified in § 3304.

The Municipalities argued that § 3304 forced municipalities to enact zoning ordinances regarding mining and gas operations in all zoning districts, which were incompatible with municipalities' comprehensive plans that denominated different zoning districts—thus making zoning irrational. They argued that, under § 3304, they could not constitutionally enact a zoning ordinance even if they wanted to. Accordingly, they specifically alleged that § 3304 violated Article 1, § 1 of the Pennsylvania Constitution and violated the Equal Protection Clause (the 14th Amendment) of the United States Constitution because: it was an improper exercise of the Commonwealth's police power that was not designed to protect the health, safety, morals, and public welfare of the citizens of Pennsylvania; it allowed for incompatible uses in like zoning districts in derogation of municipalities' comprehensive zoning plans and constituted an unconstitutional use of zoning districts; and it was impossible for municipalities to create new or to follow existing comprehensive plans, zoning ordinances or zoning districts that protect the health, safety, morals, and welfare of citizens and to provide for orderly development of the community in violation of the Pennsylvania Municipalities Planning Code ("MPC") resulting in improper use of its police power.

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DECISION: Municipalities' motion for summary relief granted (and with other counts dismissed).

The Commonwealth Court of Pennsylvania agreed with the Municipalities. It held that § 3304 was unconstitutional—in violation of substantive due process—because it required all oil and gas operations in all zoning districts, including residential districts, as a matter of law.

In other words, it was unconstitutional because the "changes required by [3304] d[id] not serve the police power purpose of the local zoning ordinances, relating to consistent and compatible uses in the enumerated districts of a comprehensive zoning plan," and therefore, "any action by the local municipality required by the provisions of Act 13 would violate substantive due process as not in furtherance of its zoning police power."

The court explained that to determine whether a zoning ordinance is unconstitutional under Article 1, § 1 of the Pennsylvania Constitution and the 14th Amendment to the United States Constitution, a substantive due process inquiry must take place. When making that inquiry, the court said it takes into consideration the rights of all property owners subject to the zoning and the public interests sought to be protected. In order for a zoning ordinance to be constitutional, it "must be directed toward the community as a whole, concerned with the public interest generally, and justified by a balancing of community costs and benefits."

The Commonwealth had essentially argued that its police powers allowed a mandate under Article 13 that zoning regulations be rationally related to its objective of promoting exploitation of oil and gas resources. The court responded that "the interests that justify the exercise of the police power in the development of oil and gas operations and zoning are not the same" as those interests to be protected by zoning: While the "state's interest in oil and gas development is centered primarily on the efficient production and utilization of the natural resources in the state," "[z]oning, on the other hand, is to foster the orderly development and use of land in a manner consistent with local demographic and environmental concerns."

The court found that § 3304 required zoning amendments that had to be "normally justified on the basis that they were in accord with the comprehensive plan, not to promote oil and gas operations that were incompatible with the uses by people who had made investment decisions regarding businesses and homes on the assurance that the zoning district would be developed in accordance with comprehensive plan and would only allow compatible uses." The court said that "[i]f the Commonwealth-proffered reasons [were] sufficient, then the Legislature could make similar findings requiring coal portals, tipples, washing plants, limestone and coal strip mines, steel mills, industrial chicken farms, rendering plants and fireworks plants in residential zones for a variety of police power reasons advancing those interests in their development. It would allow the proverbial 'pig in the parlor instead of the barnyard.' "

Having found § 3304 allowed incompatible uses in zoning districts and failed to protect the interests of neighboring property owners from harm, altered the character of the neighborhood, and made irrational classifications—the court declared § 3304 unconstitutional and null and void. The court permanently enjoined the Commonwealth from enforcing it, as well as

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the remaining provisions of Chapter 33 that enforced 58 Pa.C.S. § 3304 (other than 58 Pa.C.S. §§ 3301 through 3303, which remain in full force and effect).

See also: *Huntley & Huntley, Inc. v. Borough Council of Borough of Oakmont, 600 Pa. 207, 964 A.2d 855, 168 O.G.R. 524 (2009).*

Case Note:

The Municipalities had brought many other counts, on which the court held as follows:

Section 3215(b)(4) is also unconstitutional. It violates Article 2, § 1 of the Pennsylvania Constitution because Act 13 provides insufficient guidance to the DEP as to when to grant a waiver from the setback requirements established by the Legislature—thus giving DEP the power to make legislative policy judgments otherwise reserved for the General Assembly.

Act 13 does not violate Article 3, § 32 of the Pennsylvania Constitution—which prohibits passage of "special laws." While Article 13 does treat the oil and gas industry differently from other extraction industries, it is not unconstitutional because the distinction is based on real differences that justify varied classifications for zoning purposes.

The Municipalities' claim that Act 13 was unconstitutional under the United States and Pennsylvania Constitutions because it allowed on behalf of a private person the taking of property for storage reservoirs and protective areas around those reservoirs failed because, in order to bring such a claim, the Municipalities' had to first take the step of filing preliminary objections to a declaration of taking.

Chapter 33 of Act 13 does not violate Article 1, § 27 of the Pennsylvania Constitution in taking away municipalities' ability to strike a balance between oil and gas development and "the preservation of natural, scenic, historic and esthetic values of the environment by requiring a municipality to allow industrial uses in nonindustrial areas with little ability to protect surrounding resources and community" because, under § 3203, the General Assembly specifically stated that all local obligation or power to deal with the environment was preempted because Chapter 32 occupied "the entire field to the exclusion of all local ordinances." Because municipalities were relieved of their responsibilities to strike a balance between oil and gas development and environmental concerns under the MPC, the Municipalities failed to make out a cause of action under Article 1, § 27.

Section 3305(a) does not violate the Separation of Power doctrine by permitting an executive agency, i.e., the Pennsylvania Public Utility Commission (the "Commission"), to perform both legislative and judicial function. Section 3305(a) merely allows the Commission to give a nonbinding advisory opinion, and § 3305(b) specifically gives the Court de novo review of a Commission final order.

The setback, timing and permitting provisions and requirements for municipalities under Act 13 are not unconstitutionally vague. Both §§ 3304 and 3215 provide specific information regarding the local ordinance requirements. Section 3215 specifically provides well location restrictions and the distance within which they may be drilled from existing water wells, surface water intakes, reservoirs or other water supply extraction points. While § 3304(b)(4) does not provide for adequate standards, § 3304 is not unconstitutionally vague.

Constitutionality of Ordinance—City Ordinance Restricts Medical Marijuana Collectives to Those Previously Registered, Banning All Others

Collectives argue ordinance is unconstitutional in violation of equal protection and procedural due process

Citation: *420 Caregivers, LLC v. City of Los Angeles, 207 Cal. App. 4th 703, 143 Cal. Rptr. 3d 754 (2d Dist. 2012)*

CALIFORNIA (07/19/12)—This case addressed the issue of whether a municipal zoning ordinance restricting medical marijuana collectives was unconstitutional and/or preempted by state law.

The Background/Facts: In January 2010, the City of Los Angeles, California (the "City"), passed an ordinance (the "Ordinance") that regulates the number and geographic distribution of medical marijuana collectives within City limits. The City enacted the Ordinance "for the express purpose of protecting the health, safety, and welfare of the City residents by regulating the collective cultivation of medical marijuana inside City limits." The Ordinance regulates all "medical marijuana collectives," defined as "incorporated or unincorporated associations of four or more qualified patients, persons with identification cards, or primary caregivers, who collectively or cooperatively associate at a given location to cultivate medical marijuana in accordance with the [California's Compassionate Use Act] CUA and [California's Medical Marijuana Program Act] MMPA." The Ordinance caps the total number of medical marijuana collectives to 70. The Ordinance limits those eligible to register for the 70 spots to including those who had previously registered with the City under a prior ordinance three years earlier. In enacting those limits, the City reasoned that collectives that had registered under the prior ordinance had already shown a willingness to be openly compliant with and regulated by the law. The Ordinance essentially banned from operating in the City medical marijuana collectives that had not previously registered.

In March 2010, various collectives and members of collectives (the "Collectives") filed lawsuits seeking to enjoin enforcement of the Ordinance. Those lawsuits were eventually consolidated. Among other things, the Collectives argued that the: (1) the Ordinance was unconstitutional in violation of federal equal protection rights because it required eligible collectives to have previously registered; (2) the Ordinance violated state constitutional procedural due process rights because it required collectives that did not previously register to cease operation immediately without the benefit of a hearing.

The trial court agreed with the Collectives' arguments. The court issued a preliminary injunction, enjoining enforcement of portions of the Ordinance on those grounds.

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The City appealed.

DECISION: Judgment of trial court reversed, and matter remanded.

The Court of Appeal, Second District, Division 8, held that the Ordinance did not violate equal protection (requiring parties similarly situated with respect to a law to be treated alike under the law) by requiring eligible collectives to have previously registered.

The Collectives had failed to make an "as-applied" equal protection challenge, so the court looked only at the constitutionality of the Ordinance on its face. The court explained that where a statute makes distinctions involving inherently suspect classifications or fundamental rights, it is subject to strict scrutiny under the equal protection clause and may be upheld only if the government establishes the distinction is necessary to achieve a compelling state interest. However, in areas of social or economic policy not involving suspect classifications or fundamental rights, a statute must be upheld against an equal protection claim so long as there is any reasonably conceivable set of facts that provides a rational basis for the classification.

Here, the court found the Ordinance did not make a distinction involving either fundamental rights or suspect classification. At its base, held the court, the Ordinance essentially provided a "grandfather provision" "with the added gloss of a prior registration requirement." So-called "grandfather provisions," noted the court, "have routinely withstood equal protection challenges." The court concluded that the exclusion of a group of (unregistered) medical marijuana dispensaries, while perhaps arguably "unfair," did not violate equal protection under the rational basis test.

The court also held that the Ordinance did not violate state procedural due process by requiring collectives that did not previously register to cease operation immediately without the benefit of a hearing. The court said that California due process protection requires the existence of some statutory benefit or entitlement before it is triggered. Here, the court found no such benefit or entitlement that was in any way affected by the Ordinance. The MMPA did not create a right collectively to cultivate medical marijuana. The MMPA created no right or benefit, other than the right of certain specified persons to be free from prosecution for certain specified state offenses based upon certain specified conduct. The court found that the Ordinance in no way affected the availability of this limited immunity and thus did not abrogate any right or benefit created by the MMPA.

Furthermore, noted the court, even if the MMPA could be construed to create some type of benefit or right affected by the Ordinance, there was no deprivation without due process. The Ordinance was enforceable by the City only if the City commenced formal legal proceedings—misdemeanor criminal prosecutions, nuisance actions, or civil suits—subject to all the procedural protections that full adversarial hearings provide.

The trial court's order granting preliminary injunction was reversed. The case was remanded for further proceedings consistent with this opinion.

See also: *City of New Orleans v. Dukes, 427 U.S. 297, 96 S. Ct. 2513, 49 L. Ed. 2d 511 (1976).*

See also: *Martinet v. Department of Fish & Game, 203 Cal. App. 3d 791, 250 Cal. Rptr. 7 (4th Dist. 1988).*

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Case Note:

The Collectives had also argued that the Ordinance's sunset and penal provisions were preempted by the CUA or the MMPA. The court disagreed, finding neither of these state laws expressly or impliedly sought to occupy the entire field of medical marijuana use. In fact, found the court, the MMPA "expressly contemplates" local regulation in the area of medical marijuana use.

Case Note:

The Collectives had also alleged that the Ordinance's record-keeping and record disclosure requirements violated the state constitutional right to privacy. The court disagreed. Since the Collectives operated in a heavily regulated area, and a number of collectives were involved in criminal activity, any expectation of privacy in the information was unreasonable, and any invasion of any reasonable expectation of privacy was justified by a legitimate and competing state interests.

Water-Related Uses/Authority—Waterfront Property Owners Argue Their Construction of Boathouses on Lake Placid Not Subject to Local Zoning Laws

Owners contend New York's Navigation Law preempts local laws regarding construction in those waters

Citation: *Town of North Elba v. Grimditch, 2012 WL 2431687 (N.Y. App. Div. 3d Dep't 2012)*

NEW YORK (06/28/12)—This case addressed the issues of: whether the State of New York holds title to a lake bed (Lake Placid); whether the State of New York has exclusive jurisdiction over structures on Lake Placid; and whether New York's Navigation Law displaces local land use laws on navigable waters not owned by the state in its sovereign capacity.

The Background/Facts: William H. Grimditch Jr. ("Grimditch") owned lakefront property on the shores of Lake Placid in the Town of North Elba (the "Town"). Grimditch began construction of a boathouse in the waters of Lake Placid adjacent to his lakefront property. He did so without first applying to the Town for a building permit. Similarly, Grimditch's children had begun construction of a second unpermitted boathouse adjacent to their nearby, separate parcel of lakefront property. The Town's Code Enforcement Officer

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("CEO") issued a stop work order on the construction of the boathouses. The Town then asked the court to issue a preliminary injunction preventing further construction.

The Supreme Court issued a limited preliminary injunction.

The Town then sought a permanent injunction on the ground that the boathouses were in violation of the Town's Land Use Code ("LUC").

The Grimditches argued that New York's Navigation Law § 30 preempted Town enforcement of the LUC, making it inapplicable to any construction in the waters of Lake Placid. The Grimditches contended that, under the Navigation Law, "navigable waters of the state" (Navigation Law § 2(4)) are subject to the exclusive jurisdiction of the state (Navigation Law §§ 30 and 32).

The Supreme Court later vacated the preliminary injunction, and the Grimditches completed construction of the boathouses.

As to the permanent injunction sought by the Town, alleging violations of LUC, both parties moved for summary judgment. Finding there were no material issues of fact in dispute and deciding the matter on the law alone, the court issued summary judgment to the Grimditches. It dismissed the action against them. In doing so, the Supreme Court held that the waters of the lake were "not privately owned" because of the State's ownership of a public boat launching site and the northeast portion of the lake. As a result, the court concluded that Lake Placid met the definition set forth in Navigation Law § 2(4)—and was "navigable waters"—and, therefore, Navigation Law §§ 30 and 32 applied, conferring exclusive jurisdiction over structures in the lake upon the State. Accordingly, the Supreme Court declared that the LUC did not apply to the construction of the Grimditches' boathouses. The court further declared that the boathouses complied with the State Uniform Prevention and Building Code (the "SBC") and ordered the Town to issue building permits.

The Town appealed.

DECISION: Judgment of Supreme Court affirmed as modified.

The Supreme Court, Appellate Division, Third Department, New York, agreed with the Supreme Court that Lake Placid was subject to the Navigation Law. The court also agreed that the Grimditches' boathouses were structures subject to the SBC. However, the court disagreed that the lake bed was owned by the state in its sovereign capacity, instead finding that title to the lake's bed was held by riparian owners. Most significantly, the court held that the Navigation Law, although applicable, did not preempt the power of local municipalities to administer and enforce local land use laws by conferring upon the State exclusive jurisdiction over structures in the navigable waters of the state. The court held that only when the State owns title to the land under the water in its sovereign capacity does it have exclusive jurisdiction preempting local land use laws.

In so holding on the ownership of the lake bed, the court applied common-law principles governing ownership of inland lakes and rivers. As a general rule, said the court, nontidal waters, with the exception of those that courts have deemed to be owned by the State in its sovereign capacity, are owned in a proprietary capacity by the riparian owners, whether such owners be the State, individuals or other entities. Title to the beds of "these smaller and less

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important bodies of water" passes into private ownership with a grant of riparian land, absent an express reservation. Applying this rule to Lake Placid, a nontidal, inland lake, the riparian owners have title to the bed of the lake, concluded the court. Therefore, explained the court, while the State may hold proprietary title to portions of the lake bed based on its ownership of riparian property on the lake, it does not own Lake Placid in a sovereign capacity and, accordingly, does not have "absolute control" over the lake.

In light of its conclusion that the State did not own Lake Placid in it sovereign capacity so as to give it exclusive jurisdiction over "every form of regulation [of the lake] in the public interest," the court next addressed the issue of whether the Navigation Law was the source of exclusive jurisdiction preempting local authority here. While the court agreed with Supreme Court's finding that the Navigation Law applies to Lake Placid, the court found that none of the Navigation Law's provisions gave the State exclusive jurisdiction over structures located in the lake so as to preempt the application of the Town's zoning restrictions to defendants' boathouses.

While Navigation Law § 2(2) and § 30 give the Commissioner of Environmental Conservation jurisdiction "over navigation on the navigable waters of the state" in the region where Lake Placid is located, § 30 explicitly provides that "nothing authorized hereunder shall be construed to . . . authorize . . . any infringement of . . . local laws or regulations," found the court. Thus, by its plain language, Navigation Law § 30 applies only to navigation and does not infringe upon the application of the LUC to structures built upon the waters of Lake Placid, concluded the court.

Likewise, the court found that Navigation Law § 32 was not an exclusive statute controlling the placement of docks and other similar structures in the navigable waters of the state, but was enacted to provide an administrative remedy if a structure placed in navigable waters of the state should interfere with "free and direct access" to the water from any other person's property, wharf, dock or similar structure. The court concluded that Navigation Law § 32 did not infringe upon the Town's use of the LUC to regulate the construction of boathouses on the lake.

Moreover, the court found that Navigation Law §§ 46 and 46-a allowed local municipalities to regulate the use of a lake or other body of water within the municipality by setting speed limits for vessels or prohibiting personal watercraft within a designated "vessel regulation zone."

The court concluded that: "As Lake Placid is not owned by the State in its sovereign capacity and most of the lake is within the Town's boundaries, the Town's zoning authority includes that portion of the lake, making the LUC applicable to structures constructed therein." The Grimditches' boathouses were subject to the Town's LUC.

Case Note:

The holding here that the Navigation Law does not confer exclusive jurisdiction upon the State over structures in the navigable waters of the state abrogated holdings in Mohawk Valley Ski Club, Inc. v. Town of Duanesburg, 304 A.D.2d 881, 757 N.Y.S.2d

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357 (3d Dep't 2003) and Higgins v. Douglas, 304 A.D.2d 1051, 758 N.Y.S.2d 702 (3d Dep't 2003).

Zoning News from Around the Nation

NEW JERSEY

The state Senate has passed a bill (S-1534) that would exempt private universities and colleges from following local zoning laws. The bill now awaits consideration by the state Assembly.

Source: *Town Topics; www.towntopics.com*

PENNSYLVANIA

As detailed in a case summary in this bulletin, a Pennsylvania court has found portions of Act 13 unconstitutional. "That law enacted a sweeping set of changes for how the gas drilling industry operates within Pennsylvania. It created a per-well annual fee, updated dozens of regulations, and, most controversially, dictated which aspects of drilling can and cannot by regulated locally." The court concluded that the Commonwealth "cannot require municipalities to allow drilling in areas where it would conflict with their zoning rules." Other portions of the law, including those governing impact fees, remain in effect.

Source: *Pittsburgh Post-Gazette; http://shale.sites.post-gazette.com*

WISCONSIN

The Wisconsin Supreme Court has ruled that municipalities are barred from placing conditions on a livestock facility siting permit that exceed state requirements under the state's livestock and facility siting law, Wis. Stat. § 93.90. The court held that state siting laws and regulations now generally preempt such municipal action.

Source: *State Bar of Wisconsin; www.wisbar.org*

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Estoppel—After Issuing Zoning Permit for Project, Zoning Officer Issues Cease and Desist Order

Project applicant invokes doctrine of municipal estoppel

Citation: *Crisman v. Zoning Bd. of Appeals of Town of Morris, 137 Conn. App. 61, 46 A.3d 1005 (2012)*

CONNECTICUT (07/24/12)—This case addressed the issue of

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whether the doctrine of municipal estoppel applied, thereby precluding the enforcement of a cease and desist order that prohibited construction of a proposed structure.

The Background/Facts: Forrest E. Crisman, Jr. ("Crisman") owned property on the east shore of Bantam Lake in Morris, Connecticut (the "Town"). The primary dwelling on the property was less than 800 square feet in size. Prior to December 2007, a one-car garage erected circa 1900 also was located on the property. The garage was a preexisting, legal nonconforming structure. In December 2007, a tree fell on the garage and caused substantial damage.

Shortly after the tree damaged the garage, Crisman met with the town's zoning enforcement officer, Leon Bouteiller ("Bouteiller"). Crisman wanted to obtain the requisite permits and approvals for the replacement and enlargement of the garage. After repeated meetings between Crisman and Bouteiller, Bouteiller issued a zoning permit on April 23, 2008. The zoning permit provided for restoration of the existing nonconforming garage and construction of a 1,536-square-foot addition.

In July 2008, at the direction of the Town's planning and zoning commission (the "PZC") Bouteiller issued a cease and desist order to Crisman. Although not clear in the cease and desist order, it was later determined that the PZC issued the cease and desist order because Crisman's proposed structure was not subordinate to the primary dwelling on the property. Therefore, the Town determined that the structure was not a permissible accessory building under the Town's zoning regulations. At the time the cease and desist order was issued, Crisman had already had expended approximately $100,000 on the project.

Crisman appealed to the Town's zoning board of appeals (the "ZBA"). The ZBA upheld the cease and desist order.

Crisman then appealed to superior court.

The court found there was sufficient evidence in the record to support the ZBA's conclusion that the proposed building was not a permissible accessory building.

Crisman argued, however, that the doctrine of municipal estoppel should apply, barring the Town from enforcing the cease and desist order.

The doctrine of estoppel may be applicable to municipalities in the enforcement of zoning laws. "There are two essential elements to an estoppel: (1) the party [here, the Town] must do or say something that is intended or calculated to induce another [here, Crisman] to believe in the existence of certain facts and to act upon that belief"; and (2) "the other party [here, Crisman], influenced thereby, must actually change his position or do some act to his injury which he otherwise would not have done . . . ."

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The court agreed with Crisman,finding that he had satisfied all of the requirements necessary to invoke the doctrine of municipal estoppel. Essentially, the court found that Crisman, in reliance on the zoning permit issued to him by the Town's authorized representative, Bouteiller, began construction and expended more than $100,000 on the project prior to the issuance of the cease and desist order. For those reasons, the court found that the Town should be estopped from enforcing the cease and desist order.

The ZBA and David M. Geremia ("Geremia"), an abutting landowner, who had intervened in the case, appealed.

DECISION: Affirmed.

The Appellate Court of Connecticut held that the doctrine of municipal estoppel applied to bar the Town from enforcing the cease and desist order against Crisman's construction of the garage.

In so holding, the court explained that in seeking municipal estoppel, Crisman had a substantial burden of proof. Crisman needed to establish that: (1) an authorized agent of the Town had done or said something calculated or intended to induce Crisman to believe that certain facts existed and to act on that belief; (2) Crisman had exercised due diligence to ascertain the truth and not only lacked knowledge of the true state of things, but also had no convenient means of acquiring that knowledge; (3) Crisman had changed his position in reliance on those facts; and (4) Crisman would be subjected to a substantial loss if the Town were permitted to negate the acts of its agents.

The court found that Crisman established all of those necessary factors: (1) Bouteiller, as the Town's authorized agent, made statements and took actions calculated to induce Crisman to believe that he was proceeding in compliance with zoning regulations and to induce him to act on that belief; (2) Crisman proved that he had exercised due diligence to ascertain the truth and that he did not know that his proposed structure was not a permissible accessory building and that he had no convenient means of acquiring that knowledge; (3) Crisman relied on Bouteiller's advice and the issuance of the zoning permit; and (4) Crisman's expenditure of more than $100,000 would be a substantial loss if the cease and desist order was enforced.

See also: *O'Connor v. City of Waterbury, 286 Conn. 732, 945 A.2d 936 (2008).*

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Preemption—City Ordinance Bans Medical Marijuana Dispensaries

Dispensaries argue ban is void because it is preempted by state medical marijuana laws

Citation: *County of Los Angeles v. Alternative Medicinal Cannabis Collective, 207 Cal. App. 4th 601, 143 Cal. Rptr. 3d 716 (2d Dist. 2012)*

CALIFORNIA (07/02/12)—This case addresses the issue of whether a county's complete ban on "medical marijuana dispensaries" conflicts with, and is thus preempted by, California's medical marijuana laws.

The Background/Facts: On December 7, 2010, the Los Angeles County Board of Supervisors banned medical marijuana dispensaries in all zones in unincorporated areas of the County of Los Angeles (the "County") effective January 6, 2011. The County Code ("LACC") § 22.56.196B provides that "medical marijuana dispensaries which distribute, transmit, give, or otherwise provide marijuana to any person, are prohibited in all zones in the County."

In March of 2011, the Countyfiled a nuisance action against Alternative Medicinal Cannabis Collective (doing business as Alternative Medicinal Collective of Covina), Erik M. Andresen, Kara Reyes, Justin W. Samperi, Martin Hill, and Mardy and Nordy Ying (collectively, the "Dispensaries"). It alleged that the Dispensaries violated § 22.56.196 B of the County Code by operating or permitting the operation of a medical marijuana dispensary in the County when such use was banned in all zones in the unincorporated areas of Los Angeles County. The County moved for a preliminary injunction. The trial court granted the motion. It enjoined the Dispensaries "from operating or permitting to operate a medical marijuana dispensary . . . from any . . . location within the unincorporated area of the County . . . ."

The Dispensaries argued that the County's ban on all medical marijuana dispensaries conflicted with, and thus was preempted by, California's Compassionate Use Act of 1996 ("CUA") (Health & Saf. Code, § 11362.5) and the Medical Marijuana Program Act ("MMPA") (Health & Saf. Code (§§ 11362.7 et seq.)). The CUA authorized the use of marijuana for medical purposes. The MMPA authorized the operation of a "medical marijuana cooperative, collective, dispensary" in a "storefront . . . outlet."

The County contended that its ban was a permissible land use regulation that was consistent with, and not preempted by, state medical marijuana laws.

The superior court agreed with the County. It characterized the pro-

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visions of the CUA and MMPA as "limited criminal defenses from prosecution" for cultivation, sale, and purchase of marijuana. Noting that the County's ban was "not a criminal ordinance," but "merely a zoning restriction and ha[d] no impact on the criminal defenses provided by the CUA and MMP[A]," the court rejected the Dispensaries' preemption argument. The court also found that the County had " 'authority to regulate the particular manner and location in which a business may operate' under the Constitution."

The Dispensaries appealed.

DECISION: Reversed, and matter remanded with directions.

The Court of Appeal, Second District, Division 1, agreed with the Dispensaries. It held that the County's complete ban on all "medical marijuana dispensaries," including collectives and cooperatives authorized under the Health and Safety Code § 11362.775, conflicted with, and was thus preempted by, California's medical marijuana laws. Accordingly, the court reversed the order granting a preliminary injunction to the County against the Dispensaries' operation.

In so holding, the court explained that "[i]f otherwise valid local legislation conflicts with state law, it is preempted by such law and is void." A conflict exists, said the court, if the local legislation "duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication;" "Local legislation is 'duplicative' of general law when it is coextensive therewith." "Similarly, local legislation is 'contradictory' to general law when it is inimical thereto." Also, "local legislation enters an area that is 'fully occupied' by general law when the Legislature has expressly manifested its intent to 'fully occupy' the area, or when it has impliedly done [so] . . . ."

Here, the court found California's medical marijuana laws preempted the County's ban on medical marijuana dispensaries because: "the MMPA authorizes marijuana cooperatives, collectives, and dispensaries and "shields them from nuisance abatement actions." The court found that "the repeated use of the term 'dispensary' throughout the statute and the reference in subdivision (e) of [§ 11362.768] to a 'storefront or mobile retail outlet' " made it "abundantly clear that the medical marijuana cooperatives or collectives authorized by [§] 11362.775 are permitted by state law to perform a dispensary function." The court also found that the MMPA expressly afforded immunity to nuisance abatement actions under § 11570. Section 11570 provides for exclusively civil remedies to curb the use of property for illegal drug activity, such as injunctions, damages, closing a building, and selling fixtures and personal property therein. Moreover, the court pointed to Civil Code § 3482, which specifies "[n]othing which is done or maintained under the express authority of a statute can be deemed a

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nuisance." Because medical marijuana cooperative or collective cultivation projects were authorized by the express terms of Health and Safety Code § 11362.775, the court found that Civil Code § 3482 applied, and their mere existence and operation (i.e., as dispensaries) pursuant to state law could not be deemed a nuisance under Civil Code §§ 3479 or 3480.

The court concluded that state law preempted the County's ban.

See also: *City of Claremont v. Kruse, 177 Cal. App. 4th 1153, 100 Cal. Rptr. 3d 1 (2d Dist. 2009).*

See also: *City of Corona v. Naulls, 166 Cal. App. 4th 418, 83 Cal. Rptr. 3d 1 (4th Dist. 2008).*

See also: *City of Riverside v. Inland Empire Patient's Health and Wellness Center, Inc., 133 Cal. Rptr. 3d 363 (Cal. App. 4th Dist. 2011).*

See also: *City of Lake Forest v. Evergreen Holistic Collective, 138 Cal. Rptr. 3d 332 (Cal. App. 4th Dist. 2012).*

Case Note:

In its holding, the court made clear that a complete ban, such as the County's ordinance here, stood in an "entirely different relationship to California's medical marijuana law than a temporary moratorium, general regulations applicable to all business operations, and reasonable restrictions on the location of medical marijuana collectives or cooperatives"—which all had been upheld as valid.

Case Note:

The court further concluded that "the Legislature in Health and Safety Code [§] 11362.775 intended not only to bar civil nuisance prosecutions under [§] 11570, but also to preclude nuisance claims under Civil Code [§] 3479," the general nuisance statute (i.e., applying the "special over the general" rule of statutory construction).

Case Note:

The court held that the County's ordinance banning medical marijuana dispensaries was preempted by the MMPA, notwithstanding § 11362.768. Section 11362.78(f) provides that the MMPA does not prohibit local governments from adopting ordinances that "further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment or provider." Section 11362.768(g) provides that nothing in the MMPA "shall preempt local ordinances, adopted prior to January 1, 2011,

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that "regulate the location or establishment" of medical marijuana dispensaries. The court looked at the ordinary meanings of "restrict" and "regulate" and found they suggested a "degree of control or restriction falling short of 'banning,' 'prohibiting,' 'forbidding,' or 'preventing'." The court determined that had the Legislature intended to include an outright ban or prohibition among the local regulatory powers authorized in § 11362.768, subdivisions (f) and (g), it would have said so. The court found, therefore, that the Legislature decided in § 11362.775 to insulate medical marijuana collectives and cooperatives from nuisance prosecution "solely on the basis" that they engage in a dispensary function. "To interpret the phrases 'further restrict the location or establishment' and 'regulate the location or establishment' to mean that local governments may impose a blanket nuisance prohibition against dispensaries would frustrate the Legislature's intent and purpose in enacting the MMPA and CUA," said the court.

For similar reasons, the court also held that § 11362.83, which provides that the MMPA does not prohibit local governments from adopting "local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective," does not authorize local governments to ban, prohibit, forbid, or prevent all medical marijuana collectives and cooperatives from operating within the entire jurisdiction solely on the basis that they engage in medical marijuana activities authorized by the MMPA.

Case Note:

The court also concluded that the CUA § 11362.5(b)(2), which states that nothing in its section should be construed to "supersede legislation prohibiting persons from engaging in conduct that endangers others," does not authorize local governments to completely ban medical marijuana dispensaries. The court said that in light of the provisions and intent of the MMPA, merely operating a medical marijuana collective or cooperative authorized by § 11362.775 cannot be deemed to constitute "engaging in conduct that endangers others" or "condon[ing] the diversion of marijuana for nonmedical purposes."

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Uses/Construction of Ordinance—Village Zoning Ordinance Prohibits Operation of Formula Fast-food Restaurants

Property owner says ordinance unlawfully regulates ownership of property

Citation: *Mead Square Commons, LLC v. Village of Victor, 97 A.D.3d 1162, 948 N.Y.S.2d 514 (4th Dep't 2012)*

NEW YORK (07/06/12)—This case addressed the issue of whether a zoning ordinance prohibiting formula fast-food restaurants was invalid for unconstitutionally regulating based solely upon the ownership or control of the restaurant owner and not upon the characteristics of the use itself.

The Background/Facts: Mead Square Commons, LLC ("Mead") owned property in the Central Business District of the Village of Victor (the "Village"). Mead sought to rent its commercial space to a Subway restaurant.

Section 170-13(C)(1) of Village's Zoning Ordinance (the "Ordinance") prohibited the operation of a formula fast-food restaurant ("FFFR") in the Village's Central Business District. A FFFR was defined as "[a]ny establishment, required by contract, franchise or other arrangements, to offer two or more of the following: [1] Standardized menus, ingredients, food preparation, and/or uniforms[;] [2] Prepared food in ready-to-consume state[;] [3] Food sold over the counter in disposable containers and wrappers[;] [4] Food selected from a limited menu[;] [5] Food sold for immediate consumption on or offpremises [;] [6] Where customer pays before eating."

The Subway that Mead sought to rent its commercial space to qualified as an FFFR under the Ordinance.

Mead commenced a legal action challenging the validity of the Ordinance. It argued that the Ordinance should be declared invalid because it was unconstitutional. Mead alleged that the Ordinance was unconstitutional because it was "based solely upon the ownership or control of the restaurant owner and not upon the characteristics of the use itself."

Both Mead and the Village moved for summary judgment. Each asked the court tofind that there were no material issues of fact in dispute and to decide the matter in its favor on the law alone.

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The Supreme Court granted summary judgment in favor of the Village.

Mead appealed.

DECISION: Affirmed as modified.

The Supreme Court, Appellate Division, Fourth Department, New York, held that the Ordinance validly regulated use, not ownership, of Mead's property.

The court noted that the Ordinance did not single out a particular property owner for favorable or unfavorable treatment. Rather, the court found that all property owners in the Central Business District were treated the same under the Ordinance; all property owners were prohibited from operating an FFFR. Indeed, Mead was not an FFFR, nor did it seek to operate an FFFR. Therefore, Mead's ownership status bore no relationship to its inability to use its property for an FFFR; rather, Mead's use of the property was what was being regulated.

Thus, the court concluded that the Ordinance regulated the use, not the ownership, of the subject property.

The court declared the Ordinance, including the prohibition of FF-FRs, was valid and enforceable.

See also: *Dexter v. Town Bd. of Town of Gates, 36 N.Y.2d 102, 365 N.Y.S.2d 506, 324 N.E.2d 870 (1975).*

See also: *Village of Valatie v. Smith, 83 N.Y.2d 396, 610 N.Y.S.2d 941, 632 N.E.2d 1264 (1994).*

Case Note:

Mead had further alleged that the Ordinance was invalid because it "excessively regulate[d] the details" of Mead's business operations. The court disagreed, but did not provide an explanation for its holding.

Case Note:

The court noted that Mead failed to preserve for the court's review any contention that there was no rational basis for distinguishing between FFFRs and non-FFFRs that meet two or more of the criteria set forth in the Ordinance. Mead failed to advance that contention in support of its motion for summary judgment.

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Zoning News from Around the Nation

NEW YORK

Reportedly, Lenape Resources, a natural gas drilling company, is threatening to sue if New York regulators do not end moratoriums on horizontal drilling and high-volume fracturing (i.e., "fracking"). John Holko, president of Lenape Resources, argues that such moratoriums violate a 1981 law that says state rules supersede local ordinances in the regulation of gas development. Lenape argues that the state's Department of Environmental Conservation has an obligation to take enforcement action against towns that ban drilling.

Source: *The Republic; http://www.therepublic.com*

The Cape Vincent Town Council has voted to adopt a new zoning law that includes strict restrictions on wind turbines.

Source: *WRVO; www.wrvo.fm*

PENNSYLVANIA

On June 30, 2012, "state legislators slipped a ban on drilling in the South Newark Basin into a tax law, which passed. The ban on granting drilling permits will extend to 2018 to give the state time to evaluate the potential of the reserves and the impact on the environment." Reportedly, the ban "was also an attempt to protect the region from the new natural gas development law, Act 13."

Source: *Warminster Patch; http://warminster.patch.com*

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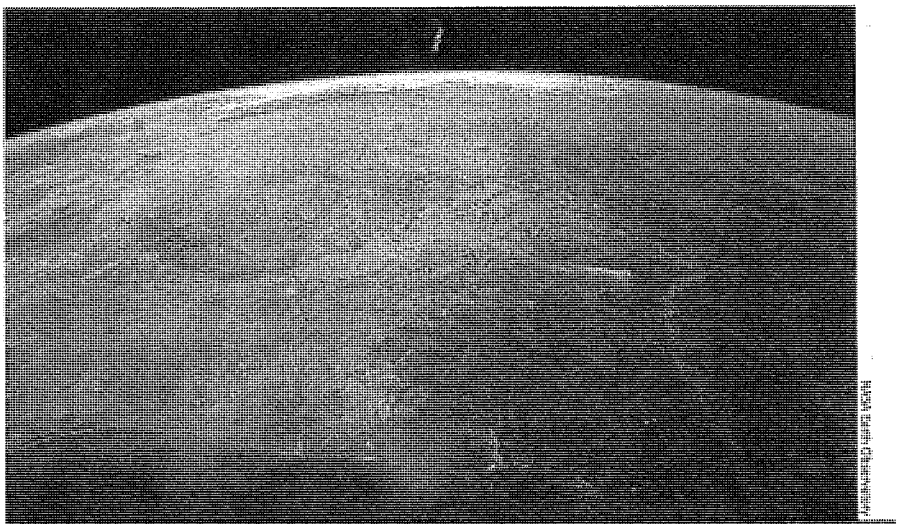
PRACTICE WILDFIRE MITIGATION

Limiting Wildfire Risk Through Land-Use Controls

By Molly Mowery and Paul Anthony, AICP

Wildfire hazard is a growing threat to communities around the United States.



In September 2011 astronauts aboard the International Space Station captured smoke plumes from wildfires burning near Austin and Houston in Texas and near Shreveport, Louisiana.

Preferences for second homes, suburban lifestyles, and the desire to live closer to nature have pushed populations into the wildland-urban interface (WUI)—areas with more vegetation, parks, and forests than their dense city center counterparts. Living closer to nature offers many benefits, but all too often the risk of brush, grass, or forest fires gets overlooked.

The reality of wildfire, however, is one we cannot afford to ignore. In 2011 the National Interagency Fire Center reported nearly 75,000 wildfires in the U.S., the majority of which were a result of human activities. At a time when public-sector budgets are being slashed, wildfire costs for suppression and damages are soaring. The federal government typically spends more than one billion dollars annually on responding to fires on both public and private land. In fact, the bulk of suppression costs goes to protecting homes, infrastructure, and other community amenities in the WUI (Headwaters Economics 2009). Losses associated with fires occurring on municipal lands also cost local governments millions of dollars annually (Thomas and Butry 2012).

In addition, the impacts to our communities play out in other tragic ways. A recent illustration is the historic 2011 fire season in Texas. At its peak last October, nearly 97 percent of the state was experiencing extreme or exceptional drought. This was preceded by 12 months of record-breaking temperatures and the driest period on record since the state began record keeping in the late 19th century. The extreme heat and dry conditions resulted in wildfires throughout Texas that burned nearly four million acres of land, destroyed nearly 3,000 homes, and claimed 10 lives. Major disaster declarations were made for 52 counties. Damage from the fires was estimated at roughly a half-billion dollars (Dutzik and Willcox 2012).

Texas is not alone. Trends throughout the country remind us that many different regions are facing prolonged droughts, longer and hotter summers, a rising number of climate-related threats to forest health such as pine beetle infestation, and the limited ability to manage landscapes—all of which can significantly increase wildfire risk (Bachelet et al. 2007). As communities push for strong economic, social, and environmentally responsible agendas, we should not be caught off guard by the next wildfire disaster. We know fires will continue to happen; the question is, how can we reduce wildfire threat to communities living close to nature and enjoying its benefits without causing harm and compromising safety?

The National Fire Protection Association (NFPA), a nonprofit organization whose mission since 1896 has focused on protecting lives and property from fire, has made it a priority to answer this question. For the past 25 years NFPA has been engaged with

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a host of federal, state, and local government agencies to support voluntary and mandatory measures that address wildfire risk. These efforts range from outreach and education, such as the successful Firewise Communities/USA recognition program, to the more recent Fire-Adapted Communities initiative, a major awareness campaign to increase public knowledge of resources and actions to reduce wildfire risk in the WUI.

NFPA has also been building stronger connections with the planning and development community, seeing a significant opportunity to influence the wildfire outcome through proactively planning for safer, more resilient communities. Very little research, however, has been done on the effectiveness of current land-use tools that planning professionals can employ as a means for reducing wildfire risk.

With WUI fire risks rising and public budgets shrinking, NFPA embarked on a study to assess the potential effectiveness of using local regulatory and planning tools to address community wildfire risk. The ultimate purpose of the study, however, was not to provide an inventory of wildfire regulations used by local communities, but to identify how planners can (and should) become more active participants in keeping their communities safe from wildfire. Clarion Associates was hired to conduct the study because of its broad national practice and expertise in sustainable development practices including hazard mitigation and efficient public administration.

The good news, as reinforced by the study's findings, is that the current technical tools and approaches available for addressing wildfire risk, such as defensible space and fire-resistant roofs, are effective at protecting structures and lives if used appropriately. Planners can confidently rely on the proven work of professional firefighters, foresters, landscape architects, and others who have developed these tools to fight wildfire, many of which are published in model codes and are easy to find.

With WUI fire risks rising and public budgets shrinking, NFPA embarked on a study to assess the potential effectiveness of using local regulatory and planning tools to address community wildfire risk.

The focus of this article will be on the lessons learned and regulatory implications of the study for planners, rather than a comprehensive recitation of the raw data or a listing of all the wildfire-related techniques used in local codes, both of which are available in the full report (www.nfpa.org/regulatorytools). We begin with an overview of the study's methodology and results.

REVIEW OF WILDFIRE REGULATORY TOOLS

Forty-two communities were initially selected for a targeted review of their local wildfire regulations. This selection was based on a literature review of current wildfire regulatory issues and included input from a panel of technical experts formed to serve as advisors for the study. The communities were selected to include a mix of geographic, demographic, and regulatory environments and were located in the regions with the highest wildfire risk—the Southwest, Rocky Mountains, West Coast, and Florida.

We then prepared a comprehensive inventory of the regulatory techniques used in each community to address wildfire risk. Few studies have collected this type of regulatory data in one place. Voluntary programs such as Community Wildfire Protection Plans or Firewise Communities/USA were not included in the research because our focus was on local regulatory controls (not advisory, voluntary, or educational programs) and especially those in fire, building, and land-use codes.

The inventory separated wildfire tools into one of four categories: 1) community scale, 2) neighborhood or subdivision scale, 3) individual lot scale, and 4) individual building scale. This approach provides a hierarchy of tools that allows planners to quickly assess and compare at what "level" each WUI tool regulates and to select the tools that correspond most closely with

PROFILES OF INTERVIEWED COMMUNITIES

Community	Population	State Regulatory Environment	Primary WUI Official(s)	Community-wide tools	Neighborhood subdivision level tools	Lot-Specific tools	Structural tools
Palm Coast, Florida	74,000	State WUI mapping	Building Dept.	High	Medium	Medium	None
North Port, Florida	56,000	State WUI mapping	Fire Dept.	High	Low	Medium	None
Clark County, Washington	425,000	No state WUI requirements	Building Dept.	Medium	Medium	Medium	Medium
Missoula County, Montana	110,000	No state WUI requirements	Fire Dept.	None	Low	Medium	Low
Bend, Oregon	76,000	State WUI mandate	Code Enforcement	High	High	High	Medium
Boise, Idaho	205,000	No state WUI requirements	Fire Dept.	Low	High	High	High
City of Santa Barbara, California	88,000	State WUI mandate	Fire Dept.	High	High	High	High
Glendale, California	192,000	State WUI mandate	Fire Dept.	High	High	High	High
Douglas County, Colorado	285,000	State WUI mapping	Building (Fire Specialist)	High	High	High	High
Utah County, Utah	530,000	State WUI model code	Fire Dept.	Medium	High	Medium	High
Village of Ruidoso, New Mexico	8,800	No state WUI requirements	Forestry Dept.	High	High	High	High
Prescott, Arizona	40,000	No state WUI requirements	Fire Dept.	High	High	High	High

their wildfire hazard needs and political environment.

INTERVIEWS WITH LOCAL COMMUNITIES

Based on the literature review and categorization of regulatory tools, 12 communities were selected for phone interviews with those local officials most responsible for the creation, implementation, and enforcement of local wildfire regulations (usually the fire marshal, building official, planner, local forester, landscape architect, or WUI specialist, as applicable). These discussions analyzed how well local wildfire regulations were working and where improvements could be made. This "ground truthing" is critical because, as planners know too well, regulations that appear innovative and desirable on paper may prove to be ineffective, unenforceable, or even counterproductive in practice.

The full text of the interview questions can be found in the report, but the purpose of the questions was to find out why communities adopted WUI standards, how the political process went, how their standards are working, whether enforcement was a problem, and how WUI regulations can be improved.

The 12 communities were selected to represent a range of cities and counties within each of the following four regulatory categories, namely: 1) states with a WUI regulatory mandate; 2) states with a WUI model code; 3) states that provide WUI mapping; and 4) states without WUI mapping, models, or requirements. These categories are important because a community's regulatory response to wildfire is often heavily influenced by state regulations and resources or the lack thereof. The table above provides a summary of each community's WUI profile.

The interview responses did not lend themselves to quantitative summary (i.e., five of 12 respondents said X) because the questions often required nuanced or multi-layered answers. Thus, answers were summarized according to the levels of general agreement and central themes, with indications of frequency where applicable (i.e., "most" communities do X).

The most significant general responses are summarized below:

- Most interview communities adopted their first set of WUI regulations in response to a major wildfire or due to state requirements or incentives. A smaller minority adopted wildfire regulations proactively based on historical trends and concerns about imminent wildfire danger.
- The public was often skeptical of proposed WUI regulations at first but usually came to accept or support the wildfire standards if a strong public education effort (such as

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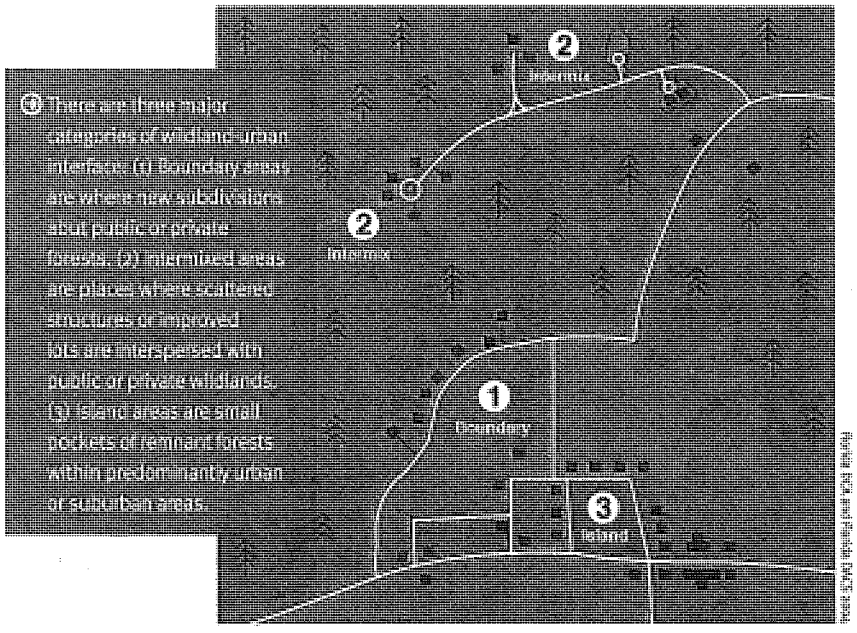
Firewise Community initiatives) was made to address concerns and correct misinformation in a transparent and open manner. Reaching out to stakeholders with a vested interest in wildfire regulations, such as home builders, second-home owners, and real estate brokers, was often necessary.

- Some communities adopted some portion of a NFPA uniform standard, an International Code Council model WUI code, or both. No community adopted a model WUI-related code from either organization in full, usually because those "packages" of standards were more comprehensive and complex than the community needed. Many communities used the models codes for guidance in crafting their own regulations, but did not adopt them in any formal way.
- Most communities were generally happy with the technical aspects of their WUI standards because wildfire standards are based on proven science and techniques for reducing wildfire risk.
- By far the most common WUI enforcement problem was the lack of ongoing maintenance of defensible space (i.e., control of vegetation that creates wildfire risk) due to the lack of landowner knowledge, political will, or local financial resources. In addition, the lack of funding to conduct public education and vegetative clearing was cited as a significant deficiency.
- The interview communities agreed that existing development presents a greater wildfire risk than new development because there is usually more of it in high-hazard areas and it is often served by nonconforming infrastructure (narrow streets, inadequate water supply, etc.), while new development is typically constructed in accordance with the latest WUI standards.
- Public education and nonregulatory programs that provide direct assistance to home owners (e.g., free expert consultations, free "chipper" days, or regular debris pick-up days during fire season) are important contributors to the effectiveness of WUI regulations.
- WUI regulations were usually administered and enforced by the fire or building department, and planners were rarely directly involved. However, because fire department personnel were usually not trained to perform enforcement duties, shifting enforcement to staff specifically trained in enforcement often resulted in better compliance. In all cases, having one or more persons with clear responsibility for and expertise in wildfire regulatory implementation was a significant aid to effective and consistent enforcement of wildfire regulations.
- Flexibility in the administration of WUI regulations is critical for maintaining community and political support. One-size-fits-all solutions that are unable to respond to unique wildfire and development circumstances in the community are seldom effective and often create political opposition.
- Wildfire regulations typically are scattered throughout multiple local codes and code sections, reflecting the need for interdepartmental enforcement of many wildfire programs. For example, the structural protections (e.g., fire-resistant roofs) may be in the building code, the fire-fighting water supply and road access requirements may be in the fire code, and the vegetative (e.g., defensible space) requirements may be in either the fire or land-use code. In other cases a separate, stand-alone wildfire ordinance may be adopted. Generally speaking, land-use codes were the least likely to contain significant wildfire regulations.



USING LAND-USE REGULATIONS TO REDUCE WILDFIRE RISK

So how can the report's findings help planners address (or improve) wildfire regulations in their community? As mentioned above, land-use planners have traditionally not played a significant role in wildfire mitigation, instead deferring responsibility to the fire marshal, building official, or other professionals. The number of ways planners can positively influence the outcome, however, is myriad. The following recommendations represent an abbreviated list of ways that planners can engage in addressing wildfire risk while working in their community. Many of these tools overlap and can be combined in unique ways to respond to local circumstances.

Comprehensive Plan/Zoning Policies

Zoning requirements that are explicitly supported by public policy through, for example, the goals and policies in a comprehensive plan tend to be much more legitimate and legally enforceable. Thus, the reduction of fire risk and protection of the ability to fight fires in the WUI should be added into local comprehensive plans and zoning purpose statements.

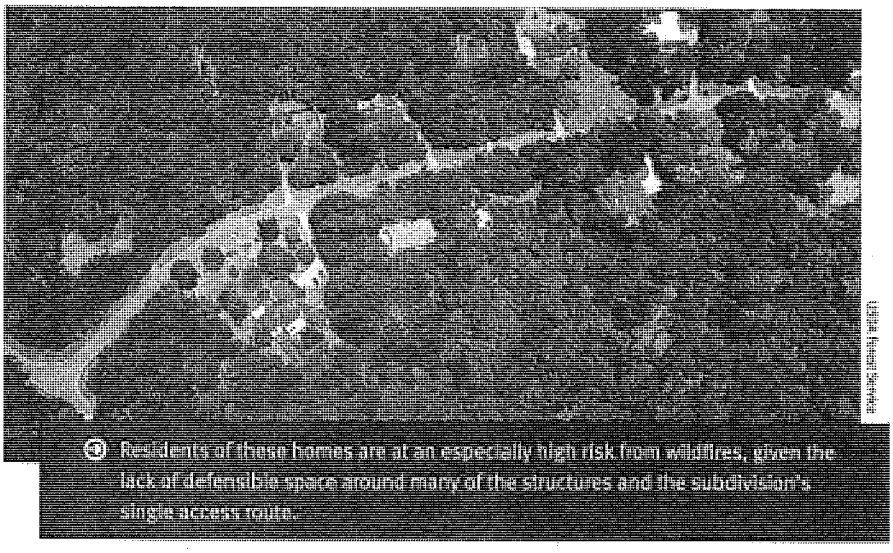
Subdivision Ordinances

Subdivision controls are one of the two most fundamental land-use regulatory tools—the other being zoning. In most states local government powers to regulate subdivision are independent of their powers to zone (i.e., to control the use of land). In communities that have not adopted zoning, subdivision controls may be the best and only option to address wildfire risk at a landscape level. Here are a few possible approaches to reducing fire risk through subdivision standards:

- For unplatted and undeveloped areas, add mapped high and extreme fire risk areas as types of sensitive lands where plats may not locate buildable lots, where allowed density

is reduced, or where building envelopes located to reduce fire risk must be shown.

- Ensure that subdivision regulations include adequate standards for fire protection water supply and access roads to allow efficient firefighting.
- Adopt a cluster subdivision regulation that requires lots to be grouped away from high and extreme fire risk areas.
- Require or encourage new subdivisions to adopt defensible space standards in their covenants, conditions, and restrictions with clear language for enforcement by the home owner's association.



Residents of these homes are at an especially high risk from wildfires, given the lack of defensible space around many of the structures and the subdivision's single access route.

- Require that open space areas, whether required or part of the project's design (e.g., golf course), be located to also serve "double-duty" as a community wildfire break.

Zoning

Zoning is the local government's right to control what uses can occur on legally platted lots and tracts of land as well as the size and location of structures on those lots and tracts. Cities and counties can use zoning to prohibit risky businesses (industry using or storing combustible or hazardous materials, gas stations, etc.), sensitive populations (hospitals), and large assembly uses (schools) in high and extreme fire risk areas. Alternately, the local zoning may only permit these risky or sensitive activities and operations as conditional uses subject to a public hearing, where fire risks can be considered and a permit denied if the risks cannot be adequately mitigated. Possible conditions include limitations on the size or capacity of the facility or requirements for an evacuation plan.

Overlay Zoning

Overlay zones are most useful when the intent is to regulate development on a geographic basis rather than a parcel basis. And because high wildfire risk area can usually be mapped clearly, a wildfire overlay is often the centerpiece of a local wildfire program. An analogous and common example is the Federal Emergency Management Agency's flood risk maps that create overlay zones to govern the uses, location, and design (i.e., "floodproofing") of buildings in floodplains. The risks involved in WUI areas are different, but the legal principles are the same—local governments can always prevent risky businesses, sensitive populations, and large assemblages of people from occupying lands with higher risks to public health and safety. Cities and counties can draft an overlay district based on high and extreme fire risk mapping to prevent the establishment of risky businesses in the overlay zone or require specific construction techniques (e.g., fire-retardant roofs, special soffit, or vent design) or specific site management practices (e.g., vegetation control) within the overlay zone.

Development and Design Standards

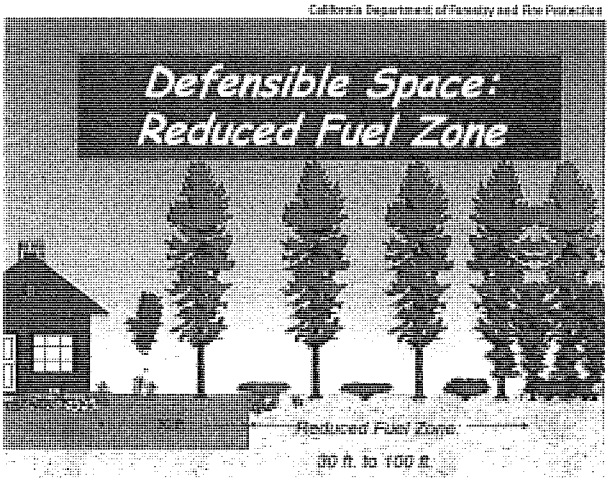
When development is allowed in the WUI, it is important that specialized development standards be included to minimize the risk of wildfire:

- Ensure that all existing code standards, especially those for landscaping, scenic protection, stream/riparian buffers, steep slopes, and tree preservation, are consistent with defensible space/vegetation management requirements.
- Ensure that sign regulations do not prohibit signs required by WUI regulations or those necessary to allow firefighters to locate rural and remote properties and structures.
- Consider requirements for postfire recovery to, in particular, protect soils from erosion where vegetation has been damaged by fire.

Incentives

For communities not ready to adopt mandatory WUI standards, especially rural or low-density communities, incentives may be the more politically acceptable option:

- Waive platting or site plan approval fees for development applications that agree to implement and maintain defensible-space protections or install fire-resistant roofs.
- Allow construction of a larger house in return for commitment to build a more fire-resistant house and to implement good vegetation management practices.
- In many cases any regulation that can be imposed on a mandatory basis can be con-



Defensible space requirements, either in development regulations, or in the covenants, conditions, and restrictions for new residential subdivisions are one of the most important pieces of a local wildfire mitigation strategy.

verted into an incentive by offering landowners something of value in exchange for voluntary wildfire mitigation.

Site Plan Review

Site plan review allows a "second look" at the proposed development (after subdivision and zoning) before issuing building permits. If zoning and subdivision approvals are not needed, site plan review can be used to ensure, for example, that high and extreme fire risk areas are avoided, that adequate and well-signed access is provided, and (if possible) that defensible spaces are included.

Transfer of Development Rights

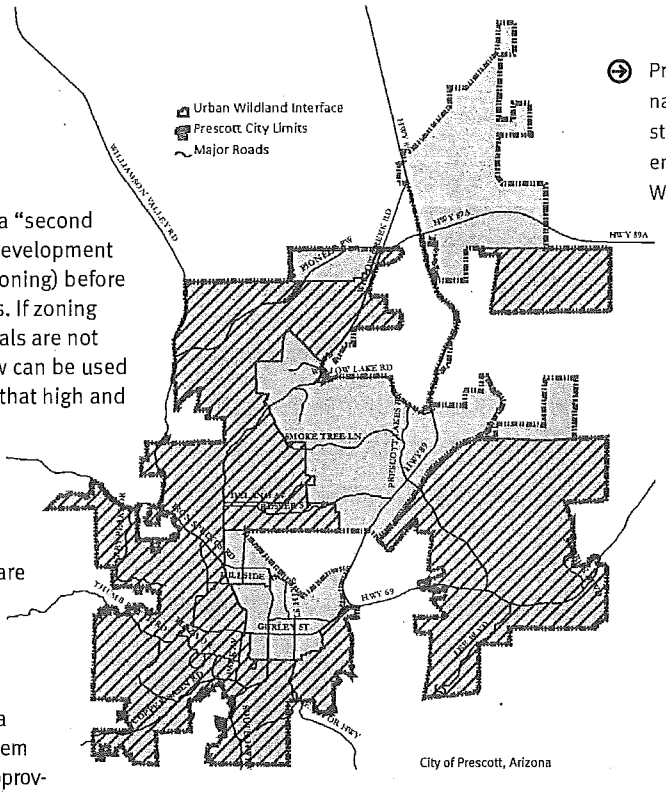
If the city or county uses a growth management system to ration development approvals, it can ensure that avoidance of high and extreme fire risk areas is reflected in the criteria for evaluation of proposals or for admission to a lottery system.

Maintenance and Operation Standards

Communities can include operating and maintenance standards in the zoning code that obligate all property owners subject to defensible space requirements. These standards may include provisions to ensure that vegetation is removed and the resulting debris disposed of safely on an annual basis and that required address or directional signs on the property be maintained in legible condition. Perhaps the simplest and most effective strategy is to adopt a jurisdiction-wide "weed ordinance" that requires all properties to prevent the growth of vegetation that could become a wildfire hazard (or be deemed a public nuisance subject to corrective actions and fines). Alternatively, these types of requirements can be added to development agreements.

Enforcement

Cities and counties can ensure that the land-use code enforcement provisions clarify that failure to maintain required fire risk reduction features is a violation of that code. List violations of the fire code as violations of the land-use code so they can (at the local government's option) be enforced through administrative land-use enforcement procedures often available in land-use codes.



City of Prescott, Arizona

Prescott, Arizona, has some of the nation's most comprehensive WUI standards. The city entrusts primary enforcement responsibilities to its Wildfire Code Enforcement Officer, who has demonstrated expertise in WUI implementation.

CONCLUSION

Although traditional roles may have dictated that the wildfire problem was someone else's responsibility, planners can and should have a significant role in protecting communities from this hazard. After all, the wildland-urban interface is not just a wildfire problem, it is a development location problem, just as building in a floodplain is not just a flood problem but an issue with dangerously located development.

If planners continue to assume that fire and building professionals will handle this issue, the result will be regulatory schemes that fail to address the underlying risks and costs created by the approval of development in high risk areas. In short, "planning" to prevent or minimize structures in the WUI is different than merely "bracing" structures for an impending wildfire event with regulatory controls.

Instead of just deferring to fire and building officials, planners should embrace their role as being uniquely qualified and positioned to assist the public in creating a more comprehensive approach to wildfire risk—one that goes beyond traditional fire-centric mitigations and applies land-use planning tools and regulations to fundamentally change the location, design, and type of development in high wildfire zones. These actions can complement and augment the already well-proven techniques applied in local fire and building codes for addressing wildfire risk.

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HOW DOES YOUR COMMUNITY LIMIT ITS WILDFIRE RISK?

5

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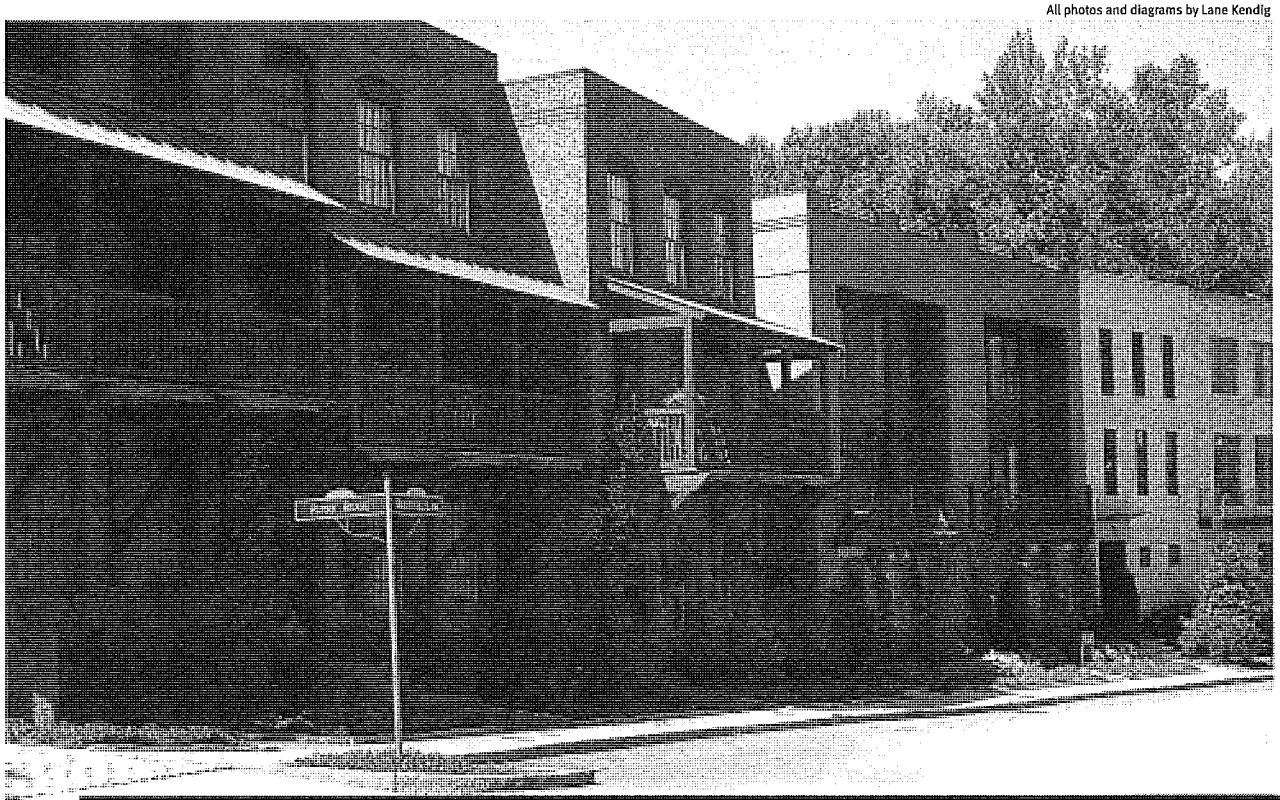
PRACTICE VARIANCES

Avoiding Idiotic Variances

By Lane Kendig

The drafters of the first zoning ordinances felt it was legally essential to provide a variance procedure to deal with unique circumstances that render a lot unbuildable.

All photos and diagrams by Lane Kendig



Because these town houses have a variety of unit configurations, many communities would require variances before approving the project.

For example, an existing lot might have a small ravine on it, making it impossible to locate a home within the required setbacks. The ravine was a unique condition that differed from the conditions on neighboring lots and a variance could allow for a relaxation of the setbacks to make the lot buildable.

All state enabling laws delegate the power to grant variances to a zoning board or board of appeals (comprised either of elected or appointed officials). These state laws generally include criteria that should be met in granting a variance. Some common ones are:

- There is a special condition on the site not present on other properties in the district.
- A literal enforcement of the provisions will result in unnecessary hardship.
- The condition is not self created.
- A strict interpretation would prevent the owner from enjoying the same rights as others in the district.
- A variance would not create a special privilege for the land owner.

The variance was an excellent tool for big cities where streets and blocks were often platted in advance of development and before the adoption of zoning. The initial intent of the variance was to grant relief to an existing lot that was rendered unbuildable, but planning and zoning objectives have expanded greatly since the first zoning codes. Consequently, there is now a second class of variances that develop-

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About the Author
Lane Kendig is the founder and former president of Kendig Keast Collaborative. He has been practicing and writing about the relationship between community design planning and regulatory tools for more than 40 years. In addition to the recent books *Community Character* and its companion, *A Guide to Planning with Community Character*, Kendig is the author of *Performance Zoning* and the PAS reports *Too Big, Boring, or Ugly; Traffic Sheds, Rural Highway Capacity, and Growth Management*; and *Performance Standards for Non-Residential Uses*.

ers seek because standards in the code do not permit a creative solution to laying out the development or result in the loss of lots or increased costs. A third class of variance applies to a whole series of controls in the zoning—none of which render a site unbuildable—that simply frustrate a developer's attempt to build a different type of community. For example, in some communities developers might have to obtain more than a dozen variances to build a cluster subdivision, planned unit development (PUD), or a rural hamlet. Yet another class of variances is attributable to code amendments that create a host of nonconforming uses. These last three classes are foolish, or idiotic, variances because good planning is frustrated by the ordinance.

Unfortunately, the administration of variance requests in many communities can also be described as idiotic. It is not unusual for communities to grant 70 to 95 percent of all variance requests. When nearly every variance for a larger sign, enclosed porch, or reduced setback is granted, then it is foolish to force owners to go through the variance process. This means zoning boards are either ignorant of or not following the local zoning code and variance criteria established by state statute.

Leaving aside the possibility that zoning board members are incompetent, why is this happening? One reason is that zoning boards see themselves as problem solvers for the residents. In small communities this may be a "help your neighbor" attitude. In other cases zoning board members may not understand the role of their quasi-judicial body. In older cities it may simply be a desire not to impede reinvestment. Too few communities use a hearing officer to create a truly quasi-judicial process, and there is rarely a review of the zoning board's performance.

Planners often share the blame. For example, some planners fail to strongly recommend denial in staff reports when an application fails to meet the criteria. There are many communities where staff never makes recommendations. In the absence of strong recommendations it is easy for zoning boards to grant variances. Furthermore, many variances are the result of poorly written or obsolete codes. Citizens are left to muddle through the zoning board instead of planners proposing code amendments to fix the code and eliminate the need for a variance. If there are many approved variances to a specific provision, it is irresponsible not to amend the code.

The last reason for the idiotic variance is rigidity. The first zoning codes used a minimum lot size combined with setbacks from front, side, and rear property boundaries to control character. Over the last nearly 100 years, designers developed more creative approaches to development: cluster, PUD, mixed use, and traditional neighborhood design. Unfortunately, zoning has not kept up and Euclidean provisions remain the dominant form of ordinance.

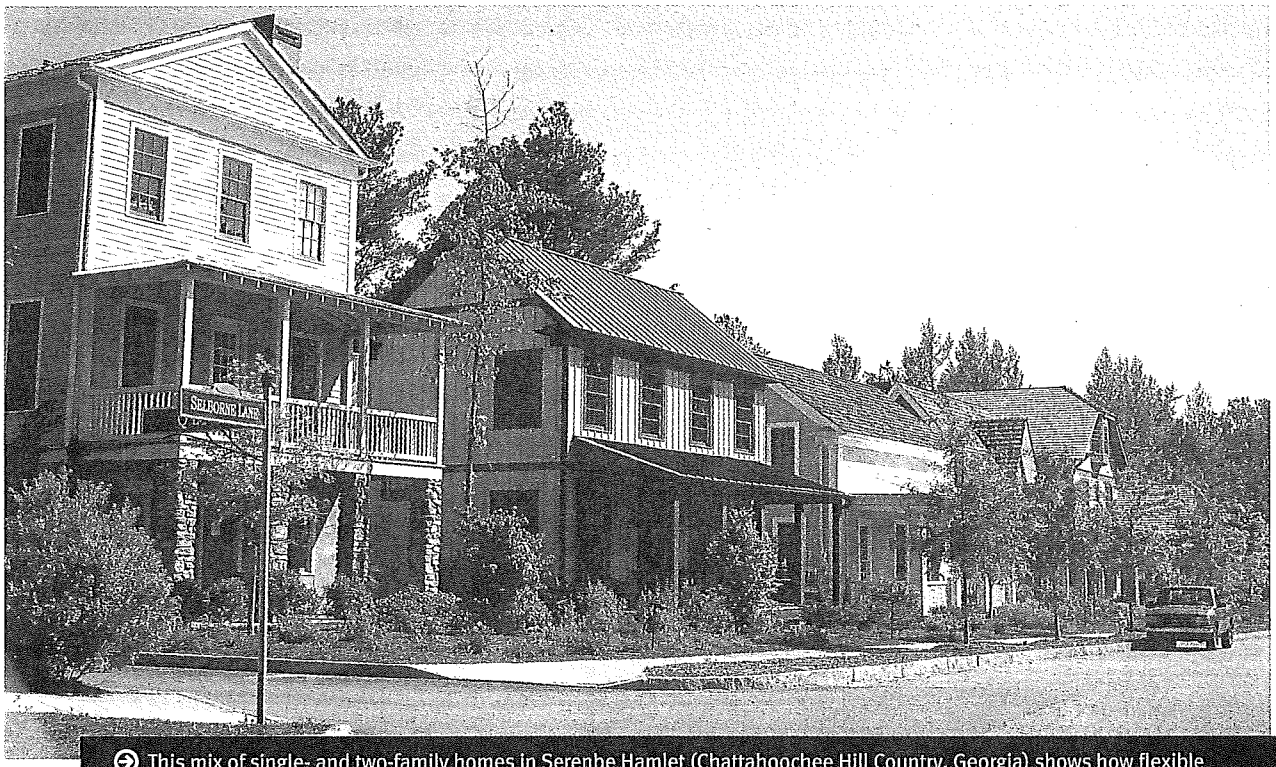
In an attempt to provide flexibility, communities introduced conditional approval processes instead of writing flexible standards. In many codes there is a specific enumeration of variances required for cluster or planned development options. The problem with this approach is that it is procedural and does not address the underlying inflexibility and rigidity. Worse, the approval process quickly became a battleground between developers seeking flexibility and NIMBYists who would prefer no development. While new urbanists decry the failure of Euclidean zoning to permit mixed use and traditional designs, form-based codes are rigid too in their street design, setbacks, requirements for porches and fences, and architectural detailing.

THE SOLUTION

The tongue-in-cheek solution is to permit "idiot variances" when the code is foolish as applied or if it stifles creativity. The reality is this would exacerbate the problem. It is unconscionable for a community to force its citizens to seek a variance (at considerable time, effort, and expense) when relief is nearly always granted. The solution is to reduce the need for variances to a few unique conditions. The discussion in the following sections details various approaches that eliminate the need for a variance to be requested.

Annual Review

One simple procedural means of eliminating improper variance approvals is an annual review. At the end of the year all approved variances would be submitted to the elected officials for review. The staff would prepare a report as to whether the approvals conformed to the required standards. In the case of the municipality that approved numerous sign-size variations, the elected officials could indicate to the zoning board that their actions were either improper—



This mix of single- and two-family homes in Serenbe Hamlet (Chattahoochee Hill Country, Georgia) shows how flexible standards can encourage high-quality design.

directing them not to approve similar requests, or proper—directing staff to change the maximum sign size. Either of the actions should eliminate the need for variances.

Neighborhood Conservation Districts

In cities and counties with a long development history, many subdivisions are nonconforming. Often the problem arose because areas were platted before zoning or because the zoning was changed. The problem of nonconforming residential lots is best addressed by creating a neighborhood conservation (NC) district that matches existing conditions. The NC district is applied to existing developed areas that were built to different standards than current districts, and no unplatted land may be zoned NC.

An example of the problem was a community that 20 years previously had changed the frontage requirement for their 5,000-square-foot lots from 50 to 60 feet. The result was that nearly half the homes in the zone were nonconforming, requiring many home owners to seek variances. This was corrected by creating two neighborhood conservation districts, an NC5n (narrow) and an NC5w (wide). The zoning map was revised to place all 5,000-square-foot lots in the proper class. The result was that the existing 5,000-square-foot district was eliminated and the map revised so that all the nonconforming narrow lots became conforming. Since these are residential districts, all single-family NC districts can be treated as one with a single-use table entry and lot requirements in tabular form for each district.

to 25-, 26 to 30-, 31 to 35-, 36 to 40-, and 41 to 49-foot lot widths. The result of these two approaches is that all, or nearly all, existing lots become conforming, eliminating the need for a variance. Where setbacks of existing homes are not uniform, the community can use setback averaging to eliminate the need to request a variance.

The problem of nonconforming residential lots is best addressed by creating a neighborhood conservation (NC) district that matches existing conditions.

The NC district works very well when the nonconforming areas are entire developments or blocks, and in most municipalities or counties this will be the case. Occasionally single-family lot size may vary within the block or development, which would require parcel-by-parcel mapping that would be tremendously costly and prone to error. A different approach can be used for these types of areas. All such areas would be NC single family with a table showing ranges of lot sizes, with a setback related to each range. Thus, the table might show 20

Limited Uses

Limited uses are uses permitted by right, provided they meet specific performance criteria. The performance criteria could be location, history, design, or other factors. For example, in many older cities sizeable areas were developed in the 1920s through 1950s with single-family homes, even though the zoning permitted duplexes or multifamily buildings. Decades later, developers saw opportunities to replace single-family homes in these aging neighborhoods with permitted duplexes or

apartments. Predictably, residents often objected that the redevelopment was inconsistent with the character of their neighborhood. While downzoning is a logical response, all existing higher-intensity uses would then become nonconforming. This was a problem for about 25 percent of such areas. However, if the downzoned district permits duplexes or apartments as limited uses, provided they existed on the date of the downzoning all existing units remain conforming uses and can be remodeled or rebuilt. This approach increases the likelihood that residents will accept the existing units, while preventing teardowns that change neighborhood character.

A similar approach can be used to address corner stores, restaurants, or even bars that existed prior to the zoning and have continued as nonconforming uses. Despite the convenience these uses provide to residents, their value has depreciated because of the nonconforming status. Corner stores are a particular problem because it is difficult to convert the ground floor to residential use. As a consequence, they sit vacant, or the lower floor is abandoned, creating an eyesore. All of these uses could be made limited uses in the district, with conditions that the buildings not only had to be built prior to a specific date, but that they also had to have been built for commercial use. For some uses such as restaurants or bars, additional criteria could be added to prevent a neighborhood-serving use from becoming a regional use involving late-night music or street activity. In this strategy the neighborhood is protected from the introduction of high-intensity commercial uses or nuisances while still permitting local commercial services. If formerly nonconforming uses can invest in improvements, it enhances the value of the neighborhood.

Mitigation

In theory nonconforming uses are supposed to disappear. In fact, nonconformities may continue for decades. When this happens, the nonconforming use often declines in value and appearance because the owner is unable to obtain financing for improvements. For this reason, communities should allow for conditional approvals to provide a means of mitigating nonconforming uses. A landowner can apply for mitigation via a conditional use. This requires a hearing to be held to examine the current effects of the use and to recommend improvements to make the use a better neighbor.

Converting a nonconforming use to a conditional use can remove the cloud that discourages investment and maintenance while protecting the neighbors. An example of this is a tire store on an arterial highway in a residentially zoned neighborhood. It has been nonconforming for decades and remains a viable business. For most residents, who have lived with it for years, the store is only a minor nuisance. The conditional use process would allow the owner to propose expansion of the use while providing things like screening walls or landscaping, facade renovation, or ensuring that tire work occurs indoors. Subject to a hearing that allows the neighborhood to review the proposal and suggest mitigation measures that improve the neighborhood, a conditional use permit can be issued.

ADDING FLEXIBILITY

Why are codes so rigid? First, mandating specific lot area, frontage, use, and other standards is easy to write or illustrate in drawings. No thought needs to be given to a problem with a particular property or to conflicting goals. One-dimensional thinking is easier than systemic thinking. As soon as one identifies a series of objectives that zoning is supposed to address, one needs to understand how all elements of design interact. Secondly, there is complexity associated with flexibility. If something is a problem, it is easier to throw the baby out with the bathwater than to write a section that identifies exceptions to a prohibition and rules governing permitting the design to be used. There are two basic approaches to dealing with rigidity: providing targeted flexibility and providing general flexibility.

Targeted Flexibility Using Modulation

As an alternate to variances or conditional uses, modulation is a tool that can address most flexibility issues. A great many regulations are written to eliminate a specific problem, by prohibiting the use of a design element or setting a limit. Unfortunately, this may mean prohibiting something that, while generally undesirable, can be a valuable tool in specific conditions. Providing flexibility requires looking beyond a specific problem and determining where or when the tool might be useful. Modulation provides staff with rules that permit modulation of the standards without having to appear before the zoning board.

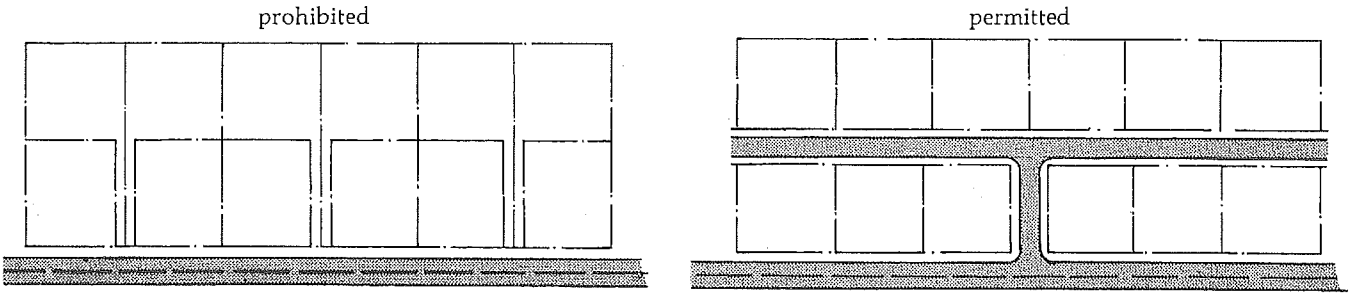
For example, developers used flag lots in the past to avoid building a street. In extreme cases there may be two rows of lots taking access off a street, resulting in numerous additional curb cuts and potential hazards. Consequently, most ordinances prohibit them. However, there are several situations where flag lots actually could result in better planning. As noted above, it is cumbersome and complex to write a series of exceptions to the prohibition. A better solution is a modulation article containing the conditions where the rules can specifically be relaxed, eliminating the need for a variance. Two exceptions illustrate the point. A flag lot that eliminated access on a collector road would be desirable. Another case would be using a shorter cul-de-sac with flag lots accessing several lots to reduce the disturbance of a wooded area created by a longer cul-de-sac.

A modulation chapter allows for simple base regulations while providing more complex rules in another article that is only used by those needing them. Rigid limits on block, cul-de-sac, or town house group length, or prohibitions on trapezoidal lots, are examples of regulations where flexibility is desirable. The key is providing staff with specific rules for the granting or denying of the modulation. Thus the areas of flexibility are pre-identified as are the rules for granting the flexibility.

Targeted Flexibility Using Pattern Books

Because poor design may make a unit undesirable, a means of permitting good design while avoiding the undesirable is important. For example, to avoid the monotony of row houses, communities often require facade offsets. Unfortunately, the same pattern of setbacks repeated on 100 or more units is equally monotonous. The uniformity of front setbacks makes great sense in cities where blocks are platted and uniformity is desirable. However, for hamlet, village, small traditional neighborhood, or estate developments this can be a severe design restriction. A pattern book includes the site plan but also all the essential design elements, building types, lot standards, setback, facades, and all the design details. It is akin to a final planned development approval in that it locks the developer into building what has been shown in the pattern book submission.

The conditional approval process used by most local governments includes review criteria that have nothing to do with design. Worse, they introduce nondesign issues into the approval process, most of which can be used to deny the approval, lower density, or otherwise frustrate a good design. The



Without carefully written standards, developers may use flag lots to avoid building new roads.

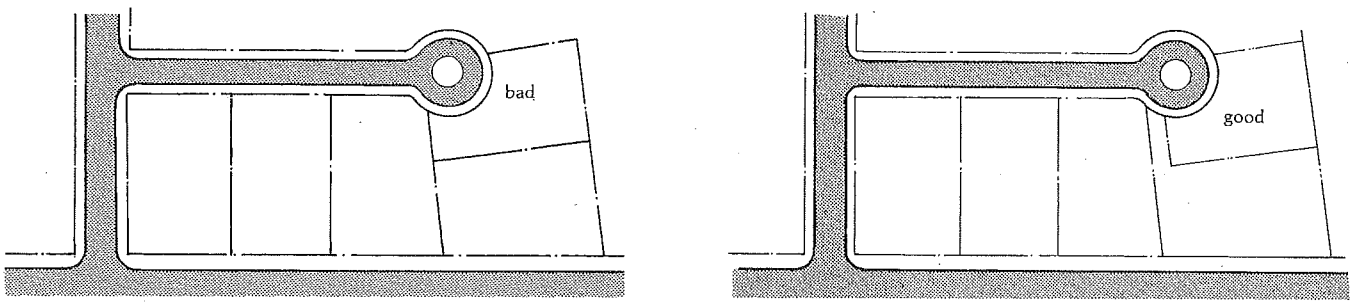
approval of the pattern book addresses the value of the modulation in achieving a superior design. While a single front yard setback makes sense in a large urban area, in a small hamlet or a traditional mixed use neighborhood decreasing setbacks as lots approach the center is one design technique to emphasize the pedestrian-oriented nature of the center. The modulation article should provide for approval of the pattern book-controlled modulation where it creates a desirable design, and the approval criteria should be limited to design considerations. When the regulations prohibit modulation to modify density, land use, and height, many common concerns of citizens at conditional use hearings are taken off the table. Also, limiting modulation to interior lots ameliorates the concerns of citizens worried about impacts on the character of adjoining development.

General Flexibility Permitting All Development Forms

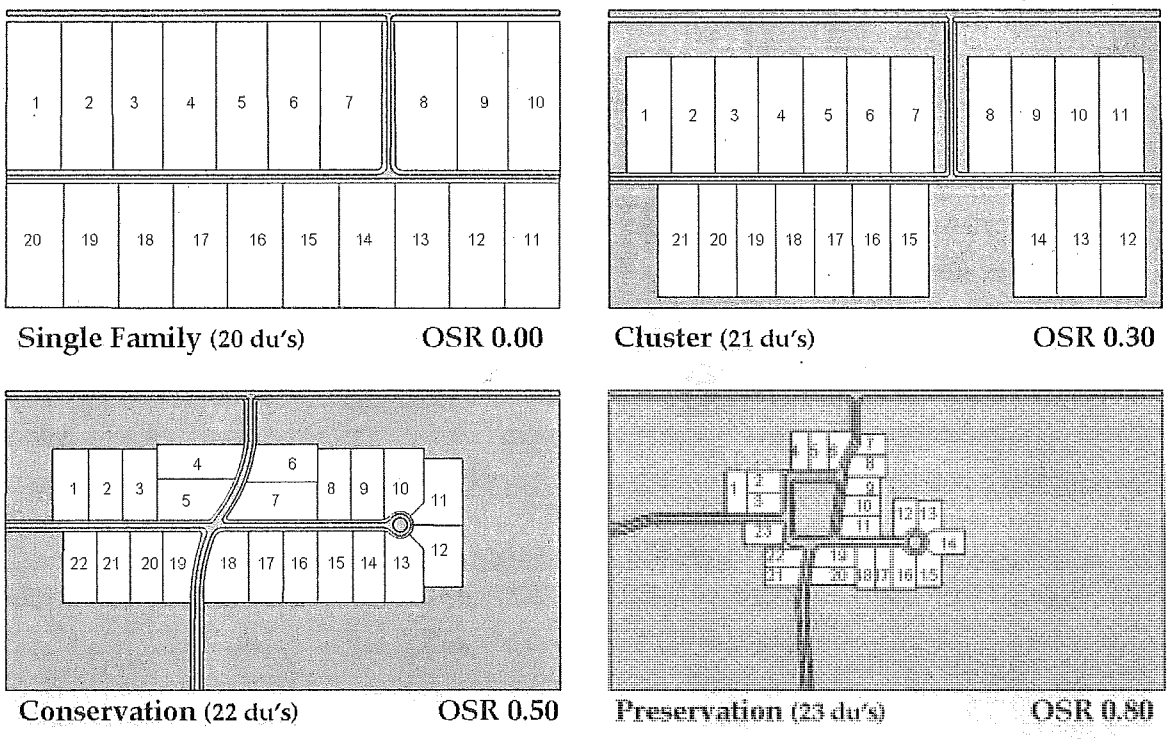
Euclidian zoning is very inflexible. Other approaches like clustering, planned developments, traditional neighborhood development, and mixed uses have all been found to be more desirable forms of development. In some states this finding is included in the statutes. Despite this, alternative development patterns are often forced to seek conditional approvals. In the 1960s, when clustering and planned developments were new and planners had no experience with them, the conditional approval made sense. But now it makes no sense for a better design form to have to go through a lengthy, costly, and uncertain process.

The modulation article should provide for approval of the pattern book-controlled modulation where it creates a desirable design, and the approval criteria should be limited to design considerations.

Communities can provide general flexibility by adopting ordinances that are designed to allow a developer multiple ways of meeting the standards of a district. For residential areas, all dwelling unit types should be permitted in the district subject to meeting density, open space, or design standards to protect the character of the district and to encourage traditional neighborhood, planned, and cluster developments. Permitting all dwelling units eliminates the exclusionary nature of many zoning districts. Development forms such as clustering, planned and traditional neighborhood, and mixed use should be permitted as a matter of right. The zoning standards would still regulate district intensity through density, open space, use mix, scale, average and maximum height, and form requirements. These basic controls are essential to ensure the design intent or character is met. Street width can be varied with general rules that address traffic volumes on the street, unit frontage, and parking needs. Quality should be addressed by sign and other controls that address quality of design by setting high standards that should not be modulated. Landscape can be addressed



With targeted flexibility, communities can permit flag lots only in special cases, such as when a flag lot would eliminate lot access from a collector road.



Communities can use general flexibility to encourage residential clustering by offering increasing density with increasing levels of clustering.

with flexible tools that describe the degree of opacity of the vegetation that is to be required, allowing the landscape architect flexibility in choosing the plant material to achieve the desired result.

Design Rules for Special Cases

There are relatively unique development forms like hamlets, villages, transit-oriented development, or new (very large) new communities where specific design standards are needed over and above density and other controls. For example, a hamlet or village needs a center where commercial and the highest intensities are located, perhaps an employment area for industrial uses, interior open space, provisions for a rural buffer, and setbacks from other developments. These design rules should be included in a modulation or a design article. The rules should be highly generalized, using ranges and illustrations so as not to force a rigid template. Pattern book approval allows a designer freedom to work site constraints and the forms of development in a design review.

CONCLUSION

The excessive use of variances, in conflict with state enabling legislation or through poor planning and zoning, is very costly. The general solution is to eliminate the need for variations. This can be accomplished by providing a legal path for transitioning existing nonconforming uses to conditional uses and by adopting zoning standards that acknowledge historic development patterns and permit both targeted and general flexibility. All of the tools above can be used in combination to virtually eliminate the need for a variance. In small communities it should be rare to even have variance request. In larger cities and counties a combination of these rules should also make legitimate variances rare. When variances are necessary, a professional hearing examiner should hold a quasi-judicial hearing for each request.

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PRACTICE URBAN FORESTRY

The Role of Tree Preservation Ordinances in Green Infrastructure

By Nancy Templeton, AICP, and David Rouse, AICP

The premise of green infrastructure planning is that the vegetative elements of the landscape, including trees, shrubs, grass, etc., interact with other natural systems of air, water, and soil to protect and enhance ecosystem functionality within urban environments.

Central to the concept of sustainable development and green infrastructure is that amenity and functionality come together to provide a "triple bottom line" of social, environmental, and economic benefits to people and the planet. While all vegetative elements, including open green spaces, are part of a community's green infrastructure network, urban forests arguably comprise the largest structural component of the network. Close to 80 percent of U.S. citizens live in urban areas. It is estimated that urban forests in the United States contain about 3.8 billion trees (Alig, Carr, Comas, Greenfield, Nowak, Randler, Stein, 2010). As urban areas continue to expand across the country, communities will depend more and more on the benefits of the urban forest as the largest component of the green infrastructure network. Protecting and enhancing this valuable resource is critical as a growing body of research and planning in green infrastructure has quantified the social, environmental, and fiscal benefits of the urban forest.

SOCIAL BENEFITS OF THE URBAN FOREST

Research on the impacts of trees on public health, safety, social behavior, and community interaction indicates that there are direct positive social influences from exposure to trees. For example, a 2001 study by Frances Kuo and William Sullivan of the University of Illinois compared the social behavior of low-income residents living in different parts of the Robert Taylor Homes public housing complex in Chicago. One part of the complex was planted with trees and other greenery, while the other had little or no landscaping. The study concluded that residents with views of trees and greenery from their homes experienced more social interaction with neighbors and less aggressive behavior toward their partners or children.

❖ GREEN INFRASTRUCTURE

Green infrastructure encompasses the naturally occurring and human-built features that manage stormwater, remove pollutants, conserve energy, and provide other ecological, cost-effective, and environmentally sustainable services (Vibrant Cities & Urban Forests Task Force 2011).

❖ URBAN FORESTRY

Urban Forestry means the planning, establishment, protection, and management of trees and associated plants, individually, in small groups, or under forest conditions within cities, their suburbs, and towns (Cooperative Forestry Act 1978).

Trees have also been recognized as positively influencing the academic performance of high school students based on research findings for "attention restoration" theory (Augustin and Cackowski-Campbell 2011). Attention restoration theory, developed by the University of Michigan School of Natural Resources and Environment, suggests that exposure to natural environments, either visual or tactical, restores mental energy and enhances concentration.

Crime and public safety are additional social conditions impacted by trees. There has been some disagreement among scholars as to whether trees deter crime by attracting more people to an area and signifying community strength, or facilitate it by providing concealment for criminals. A study by a team of environmental researchers from the University of Vermont examined crime rates and tree canopy coverage over an area from inner city Baltimore to suburban Baltimore County. Although disparities were found primarily because of the diversity in scale from urban to suburban communities, the researchers found that "a 10% increase in tree canopy was associated with a roughly 12% decrease in crime" (Troy, Grove, and O'Neil-Dunne 2012). In areas where high canopy coverage was also associated with high crime rates, it was found that poorly groomed and low-lying vegetation provided concealment for criminal activity.

ENVIRONMENTAL BENEFITS OF THE URBAN FOREST

The environmental benefits of urban forestry as a component of the green infrastructure network are well documented by federal agencies such as the U.S. Environmental Protection Agency and the U.S. Forest Service, as well as state departments of natural resources, universities, and local utility and watershed organizations. According

ASK THE AUTHOR JOIN US ONLINE!

Go online during the month of September to participate in our "Ask the Author" forum, an interactive feature of Zoning Practice. Nancy Templeton, AICP, and David Rouse, AICP, will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The authors will reply, and Zoning Practice will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of Zoning Practice at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA Zoning Practice web pages.

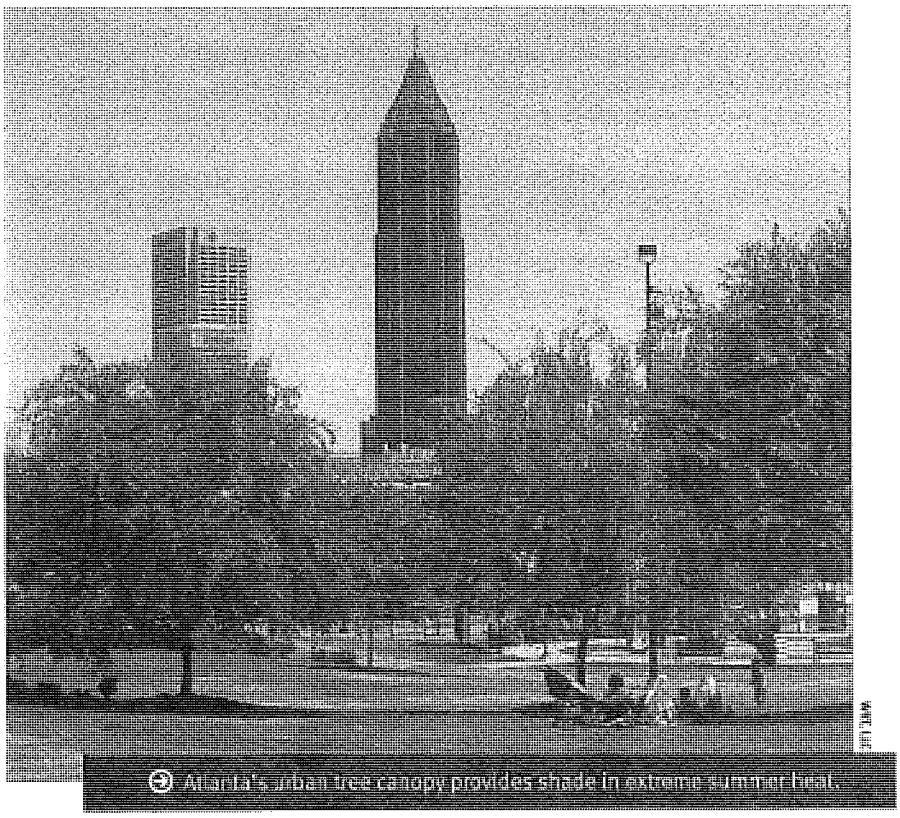
About the Authors

Nancy Templeton, AICP, is a WRT associate and certified planner with 30 years of diverse experience in community and comprehensive planning, development regulations, and design guidelines with an emphasis on sustainability and natural resource protection.

David Rouse, AICP, is a WRT principal, planner, and landscape architect with 30 years of experience. His work ranges from comprehensive plans and green infrastructure plans for regions and cities to zoning ordinances, design standards, and other implementation projects.

to *Planning the Urban Forest* (Schwab, ed. 2009), the environmental benefits of the urban forest include the following:

- Streambank stabilization—tree roots bind soil and prevent sedimentation.
- Carbon sequestration—trees absorb atmospheric carbon, which reduces greenhouse gases.
- Reduced air pollution—trees remove many pollutants from the atmosphere, including nitrogen dioxide, sulfur dioxide, ozone, carbon monoxide, and particulate matter.
- Urban heat island mitigation—trees absorb sunlight, provide shade, and prevent sunlight from reaching heat radiating surfaces (e.g., concrete, asphalt, and brick).
- Reduced energy consumption—trees provide shade and cooling in hot weather and block strong winds in cold weather.
- Stormwater interception and filtration—trees reduce stormwater runoff flow by intercepting rainwater on leaves, branches, and trunks; pollutants in stormwater runoff are also absorbed and filtered in the soil and taken up and filtered by trees.



Atlanta's urban tree canopy provides shade in extreme summer heat.

ECONOMIC BENEFITS THE URBAN FOREST

The economic benefits of the urban forest have also been realized and quantified, including both direct benefits (e.g., return on investment through real estate values and taxes) and indirect cost savings (e.g., health benefits and energy savings). These benefits have been well documented in studies, surveys, and reports, including a survey of realtors in 10 states conducted by Arbor National Mortgage, Inc. in 1993. When presented with a scenario in which two homes were identical except for the presence of trees, 84 percent of the participants felt the home with trees would be as much as 20 percent more sellable.

There is even a National Tree Benefit Calculator based on a street tree assessment tool called STREETS in the U.S. Forest Service's i-Tree software suite. This calculator measures the economic and ecological benefits of individual trees.

Evidence-based research concludes that protecting and enhancing the urban forest provides a high return on investment for municipalities, developers, and citizens. The most comprehensive research on the economic value of trees dates back

to the early 1990s in a study for the *Journal of Arboriculture* entitled "Assessing the Benefits and Costs of the Urban Forest" (Dwyer, McPherson, Schroeder, and Rowntree 1992), which documented the following economic benefits:

- increased property values;
- increased tax revenue;
- reduced building energy costs (by blocking wind and providing shade);
- reduced stormwater impacts and related costs; and
- improved health and lower health care costs.

URBAN FORESTRY IN DEVELOPMENT CODES

Given the strong social, ecological, and economic benefits of trees, communities should regard urban forest protection and enhancement as an investment that needs to be effectively managed over time. To this end, many cities and counties have adopted long-term urban forestry plans and added forestry provisions in their development regulations to manage and protect this critical resource.

Recognizing the range in benefits and return on investment of the urban forest, many municipalities have adopted regulations to ensure the preservation and replenishment of their tree canopy. Successful tree preservation ordinances consider the triple bottom line benefits of urban forestry that are most meaningful to their community. Tree protection standards will be most effective when based on goals and objectives that vary based on each community's unique conditions, yet there are common elements that can be found among municipalities with robust tree protection standards.

Statement of Purpose and Intent

The statement of purpose should be clear and concise, and is ideally based on the goals and objectives of an urban forestry master plan, green infrastructure plan, or urban forest element of the comprehensive plan. These objectives should enumerate the social, environmental, and financial benefits of tree preservation that justify a significant investment by the community.

Applicability

Tree ordinances generally come in two different categories: those that apply only to trees on public property (i.e., street trees) and those that apply to development on private

Recognizing the range in benefits and return on investment of the urban forest, many municipalities have adopted regulations to ensure the preservation and replenishment of their tree canopy

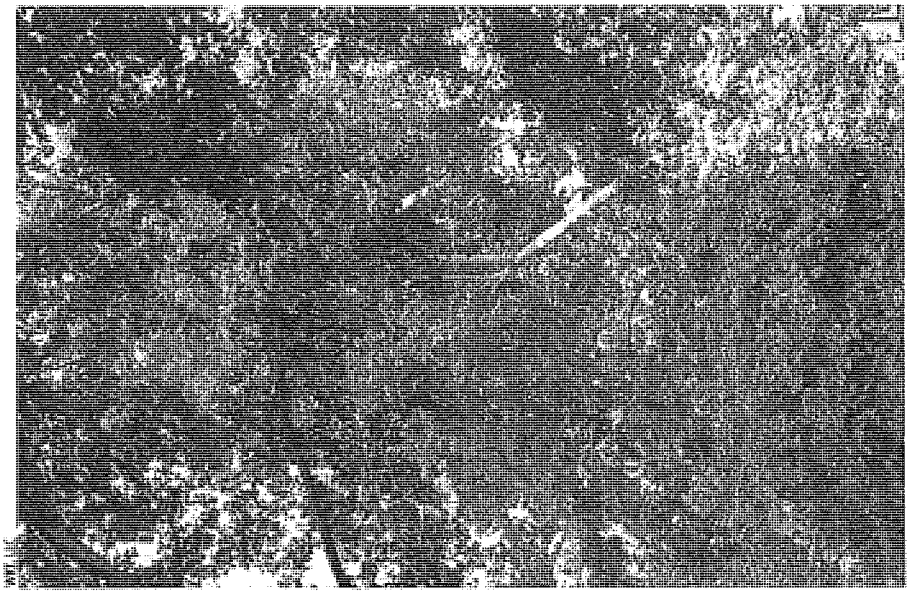
property. In most cases a municipality will not attempt to preserve or replace all trees everywhere to avoid placing a significant financial burden on individual home owners and the city's resources for enforcement and maintenance. In general, individual residential lots, developed lots, or properties under a certain size threshold are exempt from the regulations, although there are some exceptions depending on the circumstances of the community. Atlanta, for example, places preeminent value on its tree canopy because of its humid subtropical climate and recent substantial tree loss from development practices. With one of the most aggressive tree protection ordinances in the country, Atlanta requires a permit to remove healthy trees above a certain size threshold on any property of any size. While this approach has been successful in helping to maintain tree canopy for this large city, most communities must be more selective to maximize the effectiveness and benefits of tree preservation regulations.

Minimum Tree Coverage or Density Requirements

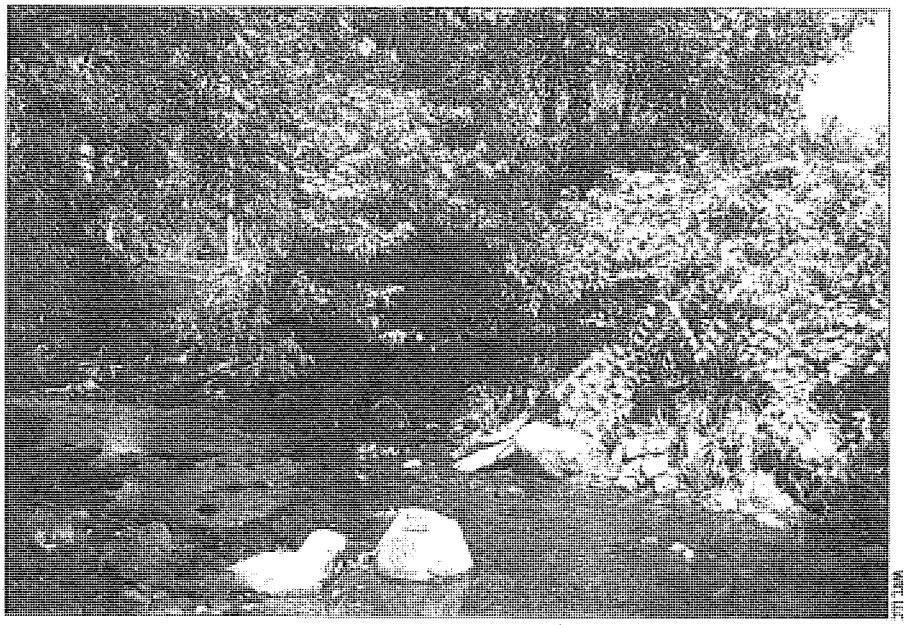
Typical tree ordinances establish a minimum number or percentage of trees of a given size, usually measured as diameter at breast height (dbh), which must be protected or planted on a site. Some communities apply a minimum percent tree canopy requirement that emphasizes the preservation of stands or clusters of mature trees, rather than individual trees. Existing tree canopy is considered more socially, economically, and environmentally beneficial because of the fully realized shade quality and root structure. By placing higher value on tree canopy, communities have a better probability of promoting preservation over planting of trees that could take years to mature. Fairfax County, Virginia, regulates tree canopy coverage based on 10-year tree canopy requirements (percentage of site to be covered by tree canopy in 10 years) that vary by zoning district. The ordinance requires that all efforts be made to preserve the existing tree canopy; however, any portion of the tree canopy requirement that cannot first be met through the preservation of trees can be provided through tree planting.

Protection of Special Trees

Many communities apply special regulations to trees that they consider to have



In addition to providing shade, trees intercept rainwater.



Trees help to stabilize streambanks from erosion.

Tree Size	Canopy (square feet)	Canopy Credits	Approximate Dimensions	Cost per $375/credit	Trees/acre per 50 percent Canopy	Minimum size at planting (inches)
Small	250	1	16 x 16	$375	87	1.5
Medium	500	2	22.5 x 22.5	$750	43.6	2 to 2.5
Large	1,000	4	31.5 x 31.5	$1,500	21.7	2 to 2.5

City of Sandy Springs, Georgia

This table shows the compensation requirements for removing trees in Sandy Springs, Georgia.

exceptional value, including historic or landmark trees and specimen trees. Historic trees are usually defined as having notable historic value and interest because of age, size, or historic association. Specimen trees apply to certain species of trees that provide particular value to a location. Communities with historic or specimen tree regulations typically prohibit their removal unless the tree is considered a nuisance or hazard. To discourage removal or destruction of special trees, some communities require extensive compensation for a lost tree. Sandy Springs, Georgia, requires replacement of a historic tree with a comparable species and with a canopy potential of 150 percent of the canopy of the removed tree.

Preservation and Planting Requirements

When developing tree preservation requirements, cities and counties typically avoid trying to preserve all trees everywhere in order to maximize benefits by balancing environmental goals and economic impacts. To this end, communities must determine which trees are worth protecting. That is, does a tree provide benefits greater than the cost of maintaining it, and is the tree a public safety risk? Communities must also consider the cost/benefit ratio when requiring replacement trees to compensate for removal. Most tree ordinances include a list of tree species that are acceptable replacement options for removed trees. Tree species must be selected to remain healthy and perform well in specific conditions and environments (i.e., climate conditions, soil conditions, and the built environment). Planting requirements also need to consider proper planting and maintenance procedures to ensure that trees will survive to maturity. This includes determining appropriate depths for planting and proper pruning, watering, and fertilization standards.

Tree Maintenance Requirements

Tree ordinances often mandate that planted trees must be maintained over a limited period of time, usually one to three years, and require replacement of trees that die within that time frame. Because of the limitations that can be placed on developers or landowners for maintenance responsibility, some communities partner with nonprofit or volunteer tree organizations to ensure ongoing tree maintenance. One example is Ithaca, New York's Citizen Pruner program, a partnership between the city, Cornell Cooperative Extension, and Cornell University. Under the program, volunteer citizen pruners receive free training in exchange for assisting the city forester with maintaining public trees, shrubs, and other landscape beautification projects.

Fee-In-Lieu of Tree Replacement Option

Good ordinances incorporate flexibility to address sites that are physically constrained and cannot accommodate the required tree coverage. In such cases, a fee-in-lieu option is an effective approach that allows developers to compensate for lost trees by paying into a tree fund, which can be used by the municipality for a variety of urban forest management functions, such as planting and maintenance of trees, administrative enforcement, and even education and outreach programs. The fee-in-lieu of replacement option places a monetary value on removed trees and the deficit of trees that are not replaced. Most ordinances apply a cost-per-caliper-inch or cost-per-tree fee. Sandy Springs, Georgia, takes a more progressive approach by basing the monetary replacement formula on the potential canopy coverage (estimated size at maturity) of planted trees rather than on a per-tree or per-caliper-inch basis. This approach avoids applying a one-size-fits-all cost formula to trees with different values.

Enforcement

Enforcement is critical to successfully fulfilling the purpose and intent of the tree preservation ordinance. No matter how advanced and progressive the regulations, without proper and consistent enforcement, the municipality will not achieve its urban forestry goals. When developing tree preservation codes, municipalities should revisit their goals and deter-

As the largest natural resource component of the green infrastructure network, the urban forest should ideally be addressed through an integrated green infrastructure code and management structure that optimizes the ecological, social, and financial benefits it yields as part of a larger system.

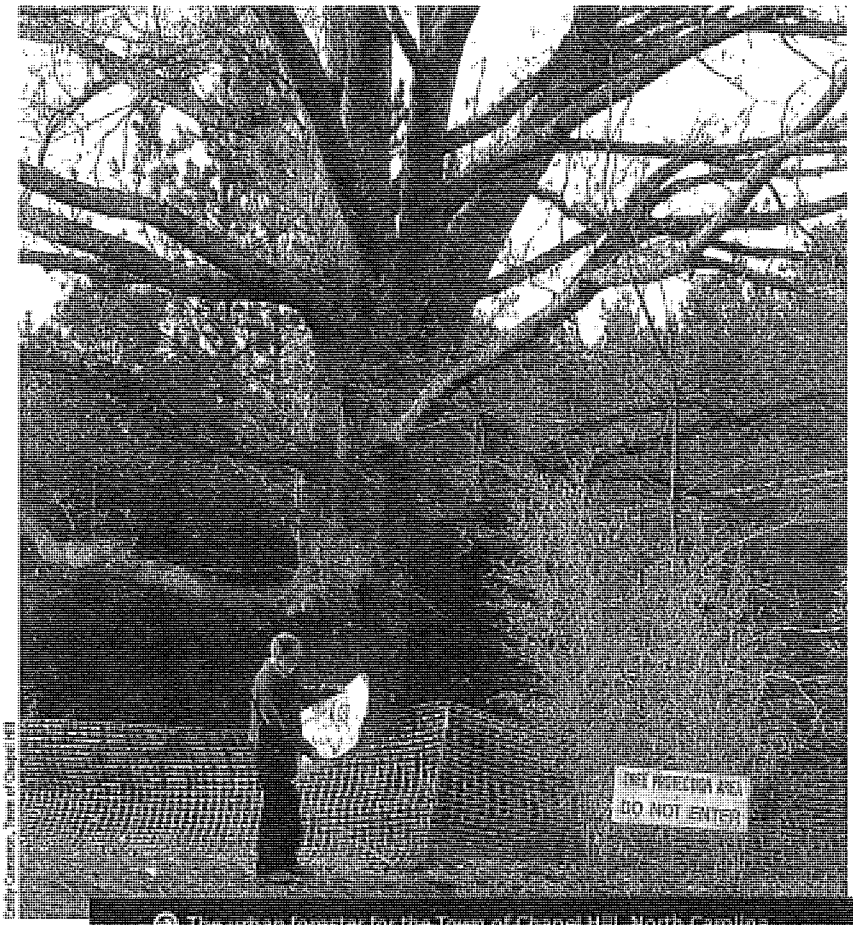
mine how much capacity they have to commit to enforcement. A higher level of complexity in regulations may require more staff commitment. However, the regulations do not have to be complex to be effective. They do need to be clearly tied to the objectives of the community and should be enforced by the proper professionals with in-depth knowledge of trees (i.e., arborists, foresters, or landscape architects) and established authority for enforcement and applying penalties.

RELATIONSHIP TO OTHER ORDINANCES

The tree preservation ordinance, when closely tied to community objectives and properly enforced, is a powerful tool for protecting and enhancing the urban forest. Yet it is only one of several municipal codes that impact urban forestry and interact to achieve the social, environmental, and economic benefits of the urban forest.

Stormwater Management Ordinances

Trees have an important function in stormwater management, including intercepting rainwater and filtering pollutants. These functions can be incorporated into stormwater management ordinances by requiring tree preservation and replacement standards as part of the stormwater management infrastructure and factoring the presence of trees in pre- and postdevelopment calculations for stormwater flow.



The urban forester for the Town of Chapel Hill, North Carolina, inspects a construction site to determine compliance with tree protection requirements.

Zoning Ordinances

Tree preservation regulations are often included in zoning and development codes as a stand-alone chapter or section. However, trees also typically appear in several other sections of the code, including landscaping standards, parking lot design, and riparian buffer requirements. The zoning ordinance should consider the various vegetative requirements in each section and make sure they are complementary and not redundant or conflicting. Development standards, such as setbacks, minimum lot sizes, and parking regulations should also be conceived with tree coverage in mind to make sure the required amount of trees can be accommodated on a site. As an example, Seattle allows for reduced front and rear yard setbacks of up to five feet to protect existing healthy trees. Reductions of more than five feet may be approved by special exception.

Erosion and Sedimentation Control Ordinances

Like stormwater management, trees can be incorporated into the traditionally engineered standards for managing the impacts of development on streambanks and steep slopes. Trees stablilize streambanks and slopes by binding soil and preventing sedimentation. Arlington County, Virginia, requires a landscape conservation plan, a stormwater management plan, and an erosion and sediment control plan for development projects that would disturb at least 2,500 square feet of land. The landscape conservation plan helps ensure the health and survival of trees.

Subdivision Ordinances

Right-of-way requirements and street- and sidewalk-design standards are typically found in subdivision regulations. Right-of-way and street and sidewalk design are

critically linked to the ability to plant and maintain healthy street trees by ensuring adequate planting widths and depths, providing the structure to avoid sidewalk obstructions (e.g., grates), preventing interference with underground and overhead utilities, and considering the types and sizes of trees that can thrive in such an environment. For example, the subdivision regulations for Bentonville, Arkansas, require that trees not be placed where they will require frequent pruning in order to avoid interference with overhead power lines. The ordinance provides a list of understory trees that are suitable to be placed under overhead utility lines.

THE CASE FOR AN INTEGRATED GREEN INFRASTRUCTURE CODE

The tree preservation ordinance has proven to be a valuable community tool for protecting and enhancing the urban forest. However, municipalities often develop these ordinances in isolation and don't always consider the relationship with other codes and regulations that promote the triple bottom line benefits of urban forestry. Protecting the community's investment in the urban forest is best accomplished by going beyond traditional "silos" to address the synergies between tree preservation and other codes that promote green infrastructure. Many communities have incorporated some elements of urban forestry and green infrastructure into regulations addressing issues such as stormwater management, riparian buffers, land development, and landscaping requirements. While the collective regulatory approaches of these communities demonstrate the motivation to promote green infrastructure solutions, none has yet achieved a fully integrated development code that considers the interactions of all the elements that form the green infrastructure network. As the largest natural resource component of the network, the urban forest should ideally be addressed through an integrated green infrastructure code and management structure that optimizes the ecological, social, and financial benefits it yields as part of a larger system. A three-step process is proposed to achieve this ambitious goal. This process starts with an inventory of all the community's regulations that address green infrastructure, including stormwater management, erosion control, tree preservation, open space preservation, land development, street and sidewalk design, riparian standards, etc. The inventory should also include the various departments and personnel responsible for administering the different regulations and their individual permitting and enforcement procedures. Next, the existing regulations should be evaluated together to identify areas of inconsistency or conflicting standards, overlapping provisions, and opportunities for regulations to work together and provide incentives for achieving maximum benefits. For example, allowing developers to factor the presence of trees in postdevelopment calculations for stormwater flow would reduce engineering costs while mitigating stormwater runoff and preserving trees. The evaluation should include an assessment of the various review and permitting procedures and consideration for how they might be integrated into one coordinated process. The regulatory evaluation will also help to identify any gaps and missed opportunities to apply green infrastructure best management practices. The final step in the process is to develop a recommended structure for bringing together existing regulations and review processes, along with new approaches, into an integrated ordinance that can maximize the triple bottom line of social, environmental, and economic benefits green infrastructure provides to communities.

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