

City of Ramsey
Agenda
Regular Planning Commission
Thursday October 3, 2013
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 5, 2013
- 5. Public Hearing/Commission Business**
 1. Consider Request for Site Plan approval for a Building Expansion on the Property Located at 6820 143rd Ave NW; Case of Molin Concrete Products Company
 2. PUBLIC HEARING: Consider Request for Sketch Plan Review and Preliminary Plat Approval for Brookfield 4th Addition; Case of Capstone Homes
 3. FOR UPDATE ONLY: Receive Update on Housing Assistance Policy Progress
 4. FOR UPDATE ONLY: Discuss Minnesota Department of Natural Resources (DNR) Rulemaking for Mississippi River Corridor Critical Area (MRCCA/Critical Area)
 5. FOR UPDATE ONLY: Staff Update
 - Receive Development Update
 - Receive Update on 167th Avenue/TH 47 Node Collaborative Process
 - Receive Update on Long Term Road Reconstruction Program
 6. Zoning Bulletins
- 6. Commission/Staff Input**
- 7. Adjournment**

Regular Planning Commission

4. 1.

Meeting Date: 10/03/2013

By: JoAnn Shaw, Community Development

Information

Title:

Approve the Following Planning Commission Meeting Minutes:

Planning Commission Meeting Minutes Dated September 5, 2013

Background:

n/a

Notification:

Observations/Alternatives:

Funding Source:

Staff Recommendation:

Action:

Attachments

Planning 9.5.13

Form Review

Inbox

Tim Gladhill

Form Started By: JoAnn Shaw

Final Approval Date: 09/27/2013

Reviewed By

Tim Gladhill

Date

09/27/2013 10:12 AM

Started On: 09/24/2013 12:42 PM

**PLANNING COMMISSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Ramsey Planning Commission conducted a regular meeting on Thursday, September 5, 2013, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Chairperson Gary Levine
 Commissioner Randy Bauer
 Commissioner Ralph Brauer
 Commissioner Joseph Field
 Commissioner Matthew Maul
 Commissioner Cindy Nosan
 Commissioner Gary VanScoy

Members Absent: None

Also Present: Development Services Manager Timothy Gladhill
 Associate Planner/Environmental Coordinator Chris Anderson

1. CALL TO ORDER

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

2. CITIZEN INPUT

Mary Weinhold, 5600 164th Lane NW, stated she had comments for Item 5.01 on the agenda.

Chairperson Levine recommended she hold her comments until the Commission reaches that item on the agenda.

3. APPROVAL OF AGENDA

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

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Field, VanScoy, Bauer, Brauer, Maul, and Nosan. Voting No: None. Absent: None.

4. APPROVE PLANNING COMMISSION MINUTES

4.01: Approve the Following Planning Commission Minutes:

4.01.1: Planning Commission Meeting Minutes Dated August 1, 2013

Motion by Commissioner Bauer, seconded by Commissioner Nosan, to approve the following minutes as presented: Planning Commission Meeting Minutes dated April 4, 2013.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Nosan, Brauer, Field, Maul, and VanScoy. Voting No: None. Absent: None.

5. PUBLIC HEARINGS/COMMISSION BUSINESS

5.01: Public Hearing: Consider Request for a Home Occupation Permit for Matt's Plumbing Solutions Located at 5565 164th Avenue NW; Case of Matt Ariola

Public Hearing

Chairperson Levine called the public hearing to order at 7:02 p.m.

Presentation

Associate Planner/Environmental Coordinator Anderson presented the staff report noting the City learned of a home occupation based business being operated on the property located at 5565 164th Avenue NW by Matt Ariola through the code enforcement program. He noted the applicant owns and operates Matt's Plumbing Solutions out of a 1,596 square foot detached accessory building on the subject property and has three (3) non-resident employees. City Code stated that on properties less than three acres, there shall be no more than one (1) non-resident employee that works on the subject property. The applicant has one employee that works onsite and two plumbers that do not work on the subject property, but visit the site several times each week.

Associate Planner/Environmental Coordinator Anderson explained a site visit of this property was completed in August and there were 14 items stored outside. This number far exceeds the amount allowed within City Code. In addition, a class five driveway was installed without the issuance of a permit. It was noted there was a Quonset style detached accessory building on the property that also required a building permit and there is no evidence of a permit for this structure.

Associate Planner/Environmental Coordinator Anderson stated the concerns identified for this property could be easily corrected by the applicant in order to bring the property into compliance with the overall allowed number of outside items, being eight. He explained business owners are allowed to bring home their commercial work vehicles so long as they are parked in the side or rear yard on an improved surface, and need to be screened to a degree of 50% from adjacent properties. He indicated the property was heavily wooded to the west and north.

Associate Planner/Environmental Coordinator Anderson commented that noise concerns have been brought to the City regarding this property. It was his understanding that no pipe was being

cut onsite, unless it was of a flexible nature. It was staff's opinion that the concerns on the site would be resolved in a timely manner and for that reason, staff recommended approval of the home occupation permit.

Citizen Input

Mary Weinhold, 5600 164th Lane NW, read a letter to the Commission stating she moved to Ramsey 35 years ago to be in a peaceful neighborhood. She requested her neighboring property remain compatible with her residential property. She wanted to be assured her property value would be maintained and recommended the outdoor storage issues at her neighbors property be addressed. She suggested that her neighbor not be allowed to cut pipe onsite unless indoors.

Barry Deline, 16326 Germanium Street NW, expressed frustration that he has not heard from his neighbor about the activity that has been taking place on his property.

Mike Jensen, 5610 164th Lane, did not feel an industrial business was appropriate in his residential neighborhood. He indicated Mr. Ariola put in a Class 5 driveway without City approval and stores a great deal of material outdoors, which devalues all adjacent property. He commented there was over 20 commercial/industrial properties available in Ramsey for Mr. Ariola to relocate his business. He expressed concern with the grinding and cutting noises that come from the neighboring property. He recommended the Commission not allow this business to continue.

Sandy Jensen, 5610 164th Lane, stated she just retired in April and has become frustrated with the noise generated from her neighbors' property on a daily basis.

Michelle Ariola, 5565 164th Avenue NW, commented she moved to this property several years ago and has two children that play outside daily. She explained that some of the noise the neighbors have complained about was from her pressure washing her driveway and retaining walls. She noted that she drives a diesel vehicle and this was unrelated to the work vehicles on their property. She stated that pipe cutting does not take place onsite. She reported the beeping on her husband's vehicles has been turned off.

Matt Ariola, 5565 164th Avenue NW, indicated no plumbing work takes place onsite, except for the cutting of plastic pipes. He stated that all work was completed off the property. He commented that he does use a chainsaw on occasion to cut wood, which his family burns in their home.

Ms. Ariola discussed the concerns with the storage items. She indicated the fish house, four wheelers and snowmobiles would now be stored at that location. She reported they were planning to build a fence from the front of the garage to the property line to assist with screening the property. Ms. Ariola explained she and her husband planned on pulling building permits as was necessary and apologized for the driveway.

Ms. Ariola indicated there was a great deal of noise in the neighborhood that was not generated from their property. She explained she has been trying to appease the neighbors by not burning wood and turning off lights, but issues continue to arise.

Commissioner Bauer recommended the reverse alarm be reengaged for safety reasons.

Mr. Ariola stated it was his understanding it was not illegal to disengage the backup alarm. He explained one of his large box trucks came without an alarm and he had no problem keeping it off for the benefit of his neighbors.

Commissioner VanScoy asked what kind of plumbing material was stored onsite.

Mr. Ariola stated PVC piping was stored in the Quonset, along with overflow items from time to time. He indicated all appliances were purchased when needed and were not stored onsite. He noted old water heaters were stored onsite occasionally.

Commissioner VanScoy inquired if the vehicle parking area was Class 5.

Mr. Ariola stated this was the case.

Commissioner Field questioned how long Mr. Ariola had been in the plumbing business.

Mr. Ariola reported he had been in this business for the last 4 ½ years and moved to the City of Ramsey 2 ½ years ago.

Commissioner Field discussed the noise concerns from the Ariola property. He reviewed the Zoning Code regarding home occupations and noted the language does state the peace, quiet and domestic tranquility was to be protected. He asked how the applicant could address the noise concerns.

Mr. Ariola commented he would investigate the backup alarm situation to assure he was in compliance. He reported that no pipe cutting was taking place onsite. He stated he ran a leaf blower and mower in the evening hours several times a week. He expressed frustration that all of the noise generated from his property was being lumped into business noise, when the majority of the traffic and noise was personal activities.

Associate Planner/Environmental Coordinator Anderson stated he has heard noise complaints from neighbors and has heard the explanation from the Ariolas. He suggested a condition be written into the home occupation permit that would address the acceptable noise levels in a residential property, along with the off-street parking language.

Commissioner Nosan inquired how many company vehicles Mr. Ariola had.

Mr. Ariola explained for business purposes he had an E-350 cube van, an F-450 diesel truck, and an S-10 truck. He reported he personally owned a 2500 Chevy pickup.

Commissioner Nosan commented she lived in that neighborhood for 12 years and expressed concern that a business was operating out of this neighborhood. She recommended Mr. Ariola more closely abide by the home occupation rules set forth by the City.

Ms. Jensen understood the noise generated by leaf blowers and mowers. However, the sound coming from her neighbors was something else.

Ms. Weinhold expressed concern with the bobcat and skid steer that were parked near the shop on her neighbors property. She explained she could see this equipment from her dining room window. She thanked Mr. Ariola for moving the equipment stating the visual sight lines on the property was greatly improved.

Mr. Ariola indicated it was his intention to keep the bobcat and skid steer inside the shop unless they were in use or being cleaned.

Commissioner Bauer stated the recommended home occupation permit notes the business hours would be Monday through Friday from 8:00 a.m. to 4:00 p.m. He asked if Mr. Ariola could be compliant with these hours.

Mr. Ariola stated he would be able to make adjustments to operate his business within these hours Monday through Friday.

Commissioner Brauer asked how many vehicles were onsite during the site visit in August.

Associate Planner/Environmental Coordinator Anderson explained there were six vehicles onsite along with other personal and business equipment. He discussed the other items found onsite noting many were personal items that would be removed and stored offsite. He commented the applicant would have to remove a number of items from the property in order to remain in compliance with the off street parking regulations.

Commissioner Brauer inquired how the City would enforce the home occupation permit, if it were approved this evening.

Associate Planner/Environmental Coordinator Anderson indicated the last condition in the home occupation permit was to allow for annual compliance checks. This could be done on a quarterly basis if there was a concern. He then discussed the revocation process.

Commissioner Field reviewed the nuisance prevention language within the home occupation permit. He requested further information from staff on this matter.

Associate Planner/Environmental Coordinator Anderson stated the Commission could draft reasonable conditions to address any potential nuisance concerns for the home occupation.

Commissioner VanScoy was pleased that the applicant was already addressing the concerns of the neighbors. He asked if Mr. Ariola had any other concerns with the conditions written into the home occupation permit.

Mr. Ariola explained at times he used the business equipment for personal use, such as pushing snow out of his driveway or leveling his property with the bobcat. He questioned if this would be allowed, if not done during business hours. He stated he was having difficulty understanding how to separate the use of his business equipment on his personal property.

Associate Planner/Environmental Coordinator Anderson indicated Code does not prohibit the use of private property for home improvement projects. He suggested the applicant make the City aware of potential future projects.

Development Services Manager Gladhill recommended the public hearing be closed at this time.

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

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, VanScoy, Brauer, Field, Maul, and Nosan. Voting No: None. Absent: None.

Chairperson Levine closed the public hearing closed at 8:06 p.m.

Commission Business

Development Services Manager Gladhill summarized the findings and concerns expressed by the adjacent property owners during the public hearing in detail with the Commission. These findings will be included in the findings of fact forwarded to the City Council. Some of these findings are already included. In these instances, the findings will be combined. In cases where conflicts occur, the following findings entered into record shall replace the current draft.

Development Services Manager Gladhill indicated the City must react to evidence available at this time, and rely on our code enforcement procedures if violations are confirmed in the future. There are clearly some corrections to the existing business operation that must be completed before final approval by the City Council.

Development Services Manager Gladhill noted adjacent property owners have expressed noise concerns. He reported the City will monitor to ensure compliance with City Code Section 30-3 and will act upon evidence provided if violations are confirmed.

Development Services Manager Gladhill reported adjacent property owners have expressed concern with safety device for rear movements on commercial vehicles. He indicated the City cannot require the disconnection for certain vehicles and the applicant shall provide evidence of compliance with State of Minnesota vehicle regulations.

Development Services Manager Gladhill stated adjacent property owners have expressed concern with pipe cutting. The City finds that this activity is a nuisance to adjoining property owners and shall not occur.

Development Services Manager Gladhill noted adjacent property owners have expressed concern with reasonable hours of operation. He referred the Commission to Draft Permit Item #3.

Development Services Manager Gladhill indicated adjacent property owners have expressed concern with the accessory structure. He reported the applicant must prove compliance with City Code regulations prior to City Council approval.

Development Services Manager Gladhill commented adjacent property owners have expressed concern with monitoring compliance. He stated annual inspections would be completed or upon complaint.

Development Services Manager Gladhill reported adjacent property owners have expressed concern with skid rollers and backhoes on streets. He indicated the applicant must be in compliance with City Code for both off-street and on-street parking and traffic regulations.

Development Services Manager Gladhill stated adjacent property owners have expressed concern with this being an industrial business. This is actually commercial. He explained City Code does provide for approval of home based businesses in residential neighborhoods known as home occupations per City Code Section 117-351. Industrial businesses are defined by Section 117-1. This use does not fit that definition.

Development Services Manager Gladhill noted adjacent property owners have expressed concern with property values. He explained the City does not have sufficient evidence at this point to indicate a reduction in property values.

Development Services Manager Gladhill indicated adjacent property owners have expressed concern with permits not previously granted. He commented the City must act on the information provided to us and rely on code enforcement procedures and the applicant shall secure proper permits for all existing and future structure as required.

Development Services Manager Gladhill reported the applicant has stated that water heaters are brought to the Subject Property. The Applicant had indicated that some water heaters would be stored indoors and the City does not support this activity.

Development Services Manager Gladhill stated adjacent property owners have expressed concern with commercial equipment west of the accessory structure. He explained this equipment shall be screened in accordance with City Code Section 117-355 or be stored indoors. This standard shall be added to the permit requirements as well.

Development Services Manager Gladhill noted adjacent property owners have expressed concern with smoke encroaching to adjoining properties. This issue was not related to the home occupation, however shall be in accordance with fire code standards.

Development Services Manager Gladhill explained adjacent property owners have expressed concern with the number of items on the Subject Property. It was noted the applicant must remain in compliance with City Code Section 117-355 related to number of items. He reported the City can attach reasonable conditions to mitigate concerns with compatibility. In addition, the City can attach additional reasonable conditions per City Code Section 117-351 Subd. 4 provided that there is a reasonable nexus between the standard and the activity.

Development Services Manager Gladhill reported the Applicant has stated that some of the equipment is used for activities accessory to normal residential settings. This use must be in compliance with Section 117-111(R-1 Residential [MUSA] District).

Commissioner Brauer commented in 15 years, he had never seen an applicant come before the Commission with such a high number of violations. He questioned how this item could proceed as the occupation and residential uses were tangled together.

Development Services Manager Gladhill recommended the Commission be very specific on the conditions within the permit. In addition, staff would be inspecting the site prior to City Council approval to assure that the site was in compliance. This would assure the proper level of use was being met by the applicant. If there was evidence that the standards were not being met, a revocation process would begin.

Commissioner Bauer encouraged the Commission to be very clear on the issues at hand as some of the findings discussed this evening had nothing to do with the home occupation.

Associate Planner/Environmental Coordinator Anderson stated storage was taking place within the Quonset and this issue would have to be addressed.

Commissioner Bauer explained the Quonset building was on the property prior to the Ariola family moving to the site.

Associate Planner/Environmental Coordinator Anderson stated this was the case. He reported the City had no record of a permit for the Quonset structure or for the modifications made by the Ariola family.

Commissioner Brauer reiterated that the property had seven violations at this time.

Development Services Manager Gladhill commented the applicant should be allowed to correct these violations and this situation would be monitored by the City.

Commissioner VanScoy questioned why the smoke issue needed to be addressed this evening, since the Ariola family ceased outdoor burning after a request was made by their neighbor. He stated this was a normal neighborhood activity.

Development Services Manager Gladhill commented he did not have concerns with the outdoor fires. He explained the Commission simply had to note the comment expressed by the neighbors.

Commissioner Field agreed with Commissioner VanScoy that the fire burning was a residential issue and not a home occupation issue. He stated he was impressed by the applicant's willingness to address his neighbors concerns. He encouraged Mr. Ariola to reach out to his neighbors in the future to discuss the plans he has for his property, as this would eliminate some of the animosity. He recommended the fencing be pursued by the applicant.

Development Services Manager Gladhill stated an alternative that could be considered this evening would be to direct staff to redraft clear findings.

Commissioner Bauer recommended the item proceed and that the permit be granted only after the property was brought into compliance with City Code and the staff recommended conditions.

Motion by Commissioner Bauer, seconded by Commissioner VanScoy, to recommend that City Council adopt Resolution #13-09-148 adopting the Findings of Fact #0917 as amended by Senior Gladhill's summarized comments relating to the applicant's request for a home occupation permit as outlined by Staff.

Further discussion

Commissioner Brauer was in favor of delaying action on this item until the findings could be redrafted.

Commissioner VanScoy asked for clarification on the storage of water heaters on the property.

Associate Planner/Environmental Coordinator Anderson indicated that based on the discussion this evening with the applicant, up to four water heaters have been stored on the site just outside the accessory structure.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, VanScoy, Brauer, Field, Maul, and Nosan. Voting No: None. Absent: None.

Motion by Commissioner Bauer, seconded by Commissioner VanScoy, to recommend that City Council adopt Resolution #13-09-149 approving a home occupation permit to operate a plumbing business on the property located at 5565 164th Avenue NW based on the amended Findings of Fact #0917 contingent upon compliance with the Staff Report dated August 29, 2013 and only after Conditions 1, 2 and 3 were met by the applicant.

Further discussion

Commissioner Brauer offered a friendly amendment requiring the applicant to screen the business materials instead of requiring fencing.

Commissioners Bauer and VanScoy accepted the friendly amendment to Condition 3 requiring the applicant screen the business materials.

Commissioner Brauer recommended the home occupation permit requirements only apply to business related vehicles and equipment.

Commissioners Bauer and VanScoy accepted this friendly amendment to Condition 3 noting that the home occupation permit will apply only to business related vehicles and equipment.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, VanScoy, Brauer, Field, Maul, and Nosan. Voting No: None. Absent: None.

5.02: Public Hearing: Consideration Resolution #13-09-150 Granting Amendment to Planned Unit Development Approval of Town Center Gardens Third Addition

Public Hearing

Chairperson Levine called the public hearing to order at 8:40 p.m.

Presentation

Development Services Manager Gladhill presented the staff report noting on April 12, 2005 the Council granted preliminary plat approval to Town Center Gardens Third Addition. The Final Plat was approved on August 9, 2005. The plat was approved as a Planned Unit Development (PUD). He explained the City has received a building permit application for a single-family dwelling that deviates from the original site plan approval. While staff does not object to approving the model, it does not appear that the PUD approval gave sufficient administrative capacity to approve this split entry model without an amendment to the PUD. Staff recommends approval of the amendment, consistent with the proposed findings.

Citizen Input

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

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Field, Brauer, Maul, Nosan, and VanScoy. Voting No: None. Absent: None.

Chairperson Levine closed the public hearing closed at 8:44 p.m.

Commission Business

Commissioner VanScoy asked how many homes would be affected by the new home style. He questioned why the applicant was making a change at this time.

Development Services Manager Gladhill explained there were eight remaining lots that would be affected. He noted the housing market has changed, along with the builder.

Commissioner VanScoy expressed frustration that the developer was requesting to vary the home style at this time because this would change the nature of the neighborhood.

Development Services Manager Gladhill stated he was trying to work with the property owner on this issue to resolve the requirements within the PUD. He explained that all future PUD's would have more clearly defined design frameworks.

Commissioner VanScoy did not understand how the single-family home models within the neighborhood should be allowed to be changed.

Development Services Manager Gladhill stated this could only be done through the PUD amendment process. He then reviewed the location of the eight lots within Town Center Gardens Third Addition. It was noted the lots were interspersed within the development.

Chairperson Levine stated the adjustment was necessary in order to get the final lots developed.

Commissioner VanScoy asked if any architectural standards should be attached to the PUD amendment.

Chairperson Levine did not see the need for this as the original PUD did not include architectural standards.

Commissioner VanScoy stated he would not be able to support the PUD Amendment request.

Commissioner Field indicated there were no homeowners present this evening objecting to the modified home-style amendment to the PUD. For this reason, he recommended the amendment proceed.

Commissioner Brauer agreed.

Motion by Commissioner Bauer, seconded by Commissioner Nosan, to recommend that City Council adopt Resolution #13-09-150 granting Planned Unit Development Amendment for Town Center Gardens Third Addition.

Further discussion

Commissioner VanScoy explained the original intent and character of the neighborhood was to have front porches on each home. He did not want to see the new homes deviate from the original plans.

Commissioner Brauer asked if the new builder had to be held to the original standards.

Development Services Manager Gladhill commented the legal documents do not require front porches or full two-story homes. All that was in the file was three approved home models.

Motion by Commissioner Field, seconded by Commissioner Bauer, to Call the Question.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Field, Bauer, Brauer, Maul, Nosan and VanScoy. Voting No: None. Absent: None.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Bauer, Nosan, Brauer, Field, and Maul. Voting No: VanScoy. Absent: None.

5.03: For Discussion Only: Review Concept Plan for Rum River Hills Housing Development

Presentation

Development Services Manager Gladhill presented the staff report stating the City received a request from Rum River Hills Golf Course to review a concept plan to introduce housing units on the golf course property. Based on the current concept plan, there would be approximately 72 housing units created. Two golf course holes would be impacted, but the overall primary use as a golf course would remain. Staff requested the Commission discuss this item be further and provide staff with feedback on the concept plan.

Commission Business

Tom Anderson, 16831 Helium Street, discussed the concept plan proposed by the Rum River Hills Golf Course in further detail with the Commission. He indicated the motivation behind this project was to make the golf course financially viable while also reviving the commercial node in the area.

Chairperson Levine questioned how many units the golf course was proposing.

Mr. Anderson stated originally he was proposing unattached townhomes, which would create 71 units. However, with the water tower property and an adjacent 25 acres, additional units would be combined into this project. He anticipated as many as 200 to 225 units could be completed.

Chairperson Levine stated this number of new residential units would positively impact the commercial node.

Development Services Manager Gladhill explained the proposed number of units within the Concept Plan for the Rum River Hills Housing Development would require public involvement.

Chairperson Levine questioned what action the Commission needed to take this evening.

Development Services Manager Gladhill commented staff was looking for feedback on the concept of residential homes in this area.

Commissioner Maul supported additional residential units in this area.

Commissioner Bauer agreed stating the new residential units would assist with invigorating the adjacent commercial properties.

Chairperson Levine also supported the concept. Further discussion ensued regarding the style and type of units proposed for the area.

Dick Tollette, 16903 Iodine Street NW commented the best market at this time was those in their late forties or early fifties. The townhome units would pull residents to Ramsey while not requiring the aging population to move out of the community.

Commissioner Field asked how the golf course property would be developed.

Mr. Anderson stated he would be working in conjunction with the developer to assure the units were high quality.

Commissioner Nosan appreciated the vision of the golf course stating it would allow residents in Ramsey to age within the community while developing further property in the City.

Commissioner Field questioned how the area would be serviced.

Development Services Manager Gladhill indicated the concept plan did show sanitary sewer and water. He stated trunk water lines were in place adjacent to Quicksilver Street NW. He noted sanitary sewer would be a different situation as the closest lines were at Alpine Drive.

Chairperson Levine summarized that the Commission fully supported the proposed concept plan and looked forward to hearing more on the proposed development.

5.04: Review Calendar Upcoming Public Process Related to Land Use Review

Presentation

Development Services Manager Gladhill presented the staff report stating the Minnesota Department of Transportation (Mn/DOT) is preparing an Access Planning Study for the Highway 10 Corridor in the cities of Ramsey and Anoka. He commented the first meeting would be held on Thursday, September 12, 2013 at 6:00 p.m. at the Alexander Ramsey Room.

Development Services Manager Gladhill indicated another meeting regarding the Mississippi River Corridor Critical Area (MRCCA/Critical Area) Pre-Process Public Collaborative Process

was scheduled by staff with the DNR and would be held on Monday, September 16, 2013 at 6:00 p.m. at the Alexander Ramsey Room.

Development Services Manager Gladhill explained a public collaborative process would begin regarding the 167th Avenue Node Future Land Use. The first meeting would be held on Thursday, September 26, 2013 at 6:00 p.m. in the Alexander Ramsey Room. Invites would be sent out later this week.

5.05: Staff Update

Development Services Manager Gladhill provided the Commission with a Staff Update.

5.06: Zoning Bulletins

Zoning Bulletins were noted.

6. COMMISSION / STAFF INPUT

None.

7. ADJOURNMENT

Motion by Commissioner Nosan, seconded by Commissioner Maul, to adjourn the meeting.

Motion Carried. Voting Yes: Chairperson Levine, Commissioners Nosan, Maul, Bauer, Brauer, Field, and VanScoy. Voting No: None. Absent: None.

The regular meeting of the Planning Commission adjourned at 9:55 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: 10/03/2013

Submitted For: Tim Gladhill, Community Development

By: Tina Goodroad, Community Development

Information

Title:

Consider Request for Site Plan approval for a Building Expansion on the Property Located at 6820 143rd Ave NW; Case of Molin Concrete Products Company

Background:

The applicant, Molin Concrete Products Company, is requesting Site Plan approval to begin concrete product production on site with a 10,000 sq. ft. addition to the existing 60,092 sq. ft. facility (former Oldcastle Precast). The applicant is proposing this use at the property located at 6820 143 rd Avenue NW.

Notification:

Notification is not required for site plan reviews.

Observations/Alternatives:

The subject property is zoned E-2 Employment District. The intent of this district is to accommodate general industrial activities. The E-2 District allows manufacturing uses as a permitted use. The site plan indicates an existing area for outdoor storage at the southwest portion of the site. This outdoor storage meets the accessory use limits of 30% of the property and will remain within these parameters with the additional 10,000 square feet. The applicant is proposing a 10,000 square foot expansion to the east wall of the existing building in an area presently covered with an impervious surface.

The expansion includes 10,000 square feet of additional manufacturing space. The zoning ordinance requires one space for each 1,000 square feet of industrial or ten (10) additional parking spaces above the sixty (60) required for the existing building. The site has sixty-seven (67) existing parking stalls along north property line where seventy (70) are required. However, there is also extensive paving on the site that could accommodate three (3) additional spaces. Based on the proposed use of the expansion area as mainly manufacturing, Staff recommends that the applicant show proof-of-parking of the three (3) additional stalls.

The elevation plans for the proposed addition indicate the use of smooth face precast concrete wall panels that will abut existing ribbed precast concrete wall panels. The east elevation (most visible from a public street) includes an overhead door, small windows at the top and prefinished metal wall panels for accenting above the windows. Since different pre-cast concrete wall finishes are proposed, Staff recommends a condition to require a colored elevation plan and that proposed material colors match existing wall finishes.

The proposed landscaping is generally acceptable with requested revisions/clarifications as outlined in the Staff Review File dated September 27, 2013.

Additional information related to grading, drainage and erosion control, as outlined in the Staff Review File dated September 27, 2013, will be necessary prior to issuance of a building permit.

Funding Source:

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

Staff Recommendation:

Staff recommends approval of the Site Plan contingent upon compliance with the City Staff Review File September 27, 2013.

Action:

Motion to recommend that City Council approve the Site Plan submittal contingent upon compliance with the City Staff Review File dated September 27, 2013.

Attachments

Site Location Map

Site Plan

Draft Development Permit

Staff Review File Dated September 27, 2013

Form Review

Inbox

Tim Gladhill

Chris Anderson

Tim Gladhill

Form Started By: Tina Goodroad

Final Approval Date: 09/27/2013

Reviewed By

Jo Thieling

Chris Anderson

Tim Gladhill

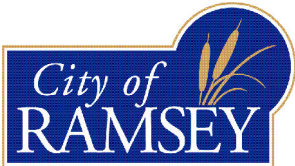
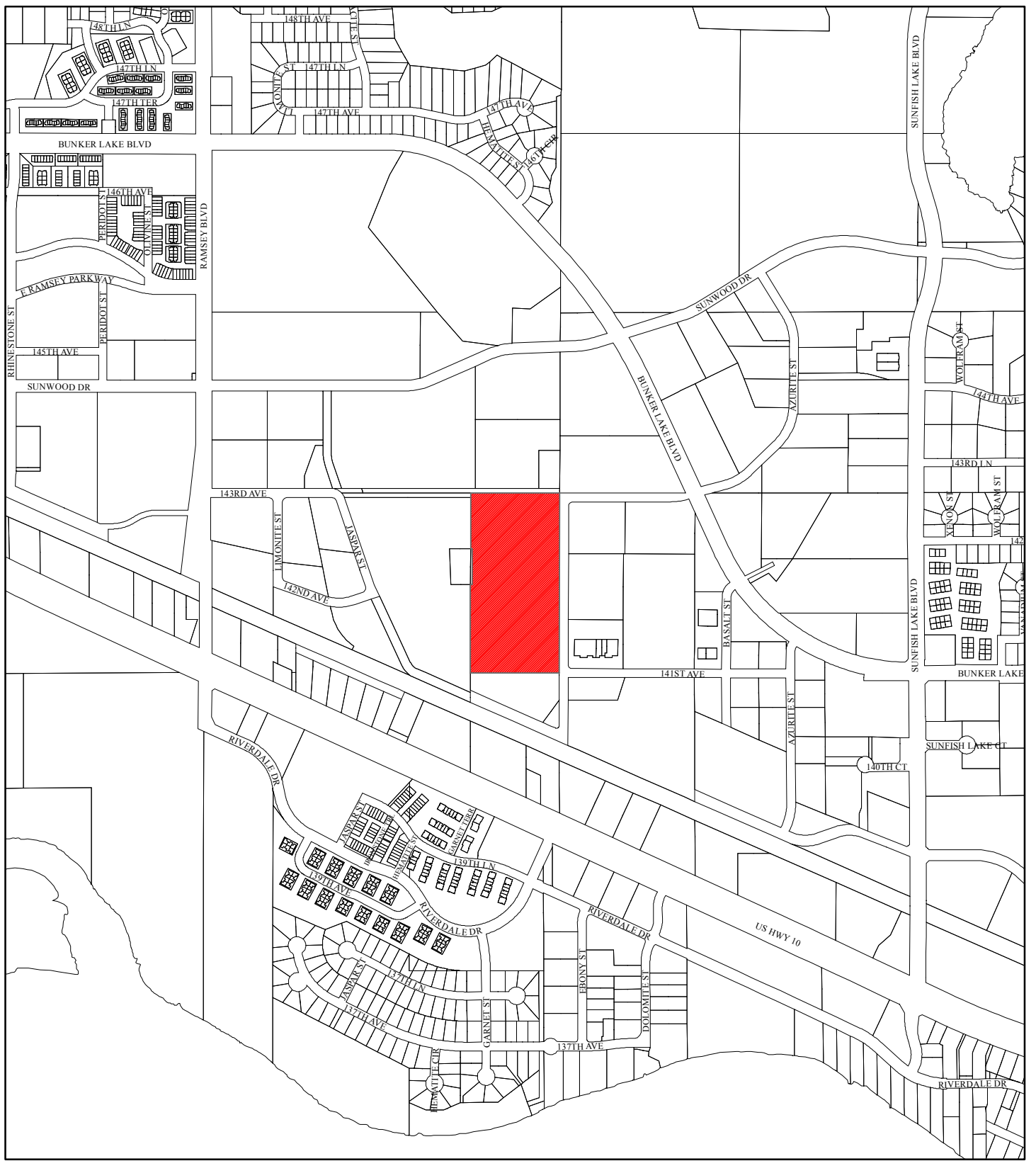
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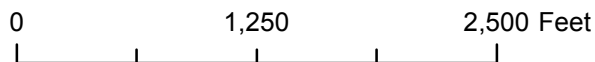
Started On: 09/23/2013 11:53 AM



Molin Concrete
6820 143rd Avenue NW

Legend

-  Site
-  Parcels



August 20, 2013

To: **Tim Gladhill, Development Services Manager**
City of Ramsey, 7550 Sunwood Drive NW, Ramsey, MN 55303

Re: **Proposed Building Addition**
Molin Concrete Products Company
6820 143rd Avenue NW, Ramsey, MN 55303

Mr. Gladhill,

We are writing to seek your review and recommendations with regard to documentation being assembled for an upcoming Site Plan Review submittal. The project is located at 6820 143rd Avenue NW in Ramsey - the site of the former Old Castle Precast plant. The property was purchased by Molin Concrete Products Co. in 2008, and has been vacant for several years.

The 19.79 acre property includes a 60,000 SF industrial building, paved employee parking area, and gravel & bituminous paving for outdoor storage and material handling.

The proposed project includes a one-story 10,000 SF building expansion, to house new concrete batch plant equipment. The addition of a new batch plant will allow Molin to operate the facility as a manufacturing site for precast concrete building products (columns, beams, wall panels, etc.). Molin anticipates that approximately 25 to 30 full-time employees will be working at the site on a regular basis.

We have reviewed the [Site Plan Review Guide](#), prepared by the City of Ramsey (revised January 1, 2013); including the list of drawings & information required for a Site Plan submittal. The attached 'Exhibit A' includes additional project information, and a list of documents attached to this letter for your reference.

We would appreciate an opportunity to meet with you in person to review the information provided herein, to discuss the Site Plan submittal process, and to determine a course of action for moving forward with this project.

Thank you for your consideration of this request. We look forward to working with you, and the City of Ramsey, throughout the planning and implementation of this project. Feel free to contact me directly if you have any questions.

Sincerely,

Douglas Feickert
President, Framework Architects, P.A.

ph. 612.220.3435
email: dfeickert@frameworkarch.com

Exhibit A

Site / Project Information:

Use: Manufacturing of precast concrete products

Legal Description: As indicated on attached Survey, sheet 1

Property ID: 27 – 32 – 25 – 34 - 0007

Address: 6820 143rd Avenue NW
Ramsey, MN 55303

Owner: Molin Concrete Products Company
415 Lilac Street
Lino Lakes, MN 55014

Architect: Framework Architects, P.A.
7914 Stafford Trail
Savage, MN 55378

Structural Engineer: Reigstad & Associates
192 West 9th Street, Suite 200
Saint Paul, MN 55425

Employees: 25 to 30 employees, typical

Zoning: Currently E-2 Employment District; no change to zoning is proposed

Access Points: Two existing bituminous surfaced driveways, connecting to 143rd Avenue; plus one existing curb cut access point connecting to Ebony Street NW

Loading Docks: There are no loading docks. Refer to building floor plans for locations of equipment access and overhead doors.

Structures: The existing structure includes a footprint of 60,092 SF, plus a mezzanine of approximately 4,500 SF. The proposed building addition will be adjoined to the existing structure; and will include 10,000 SF of new space. Total building area, upon completion of the addition, will be 74,592 SF.

Property Area: 19.79 acres, more or less
862,129 sq. ft., more or less

Attached Documents / Drawings:

Survey:

A survey prepared by Northstar Surveying, Inc. of Litchfield, MN, dated 8-7-2008, including two sheets; is attached for review

Site Plans:

Sheet SR-1 (Aerial Photo / Overlay) prepared by Framework Architects, is attached
Sheet SR-2 (Site Construction Plan) prepared by Framework Architects, is attached
Sheet SR-3 (Surface Calculations) prepared by Framework Architects, is attached

Architectural Drawings:

Sheet A-2 (Demolition Plan) prepared by Framework Architects, is attached
Sheet A-3 (Floor Plan) prepared by Framework Architects, is attached
Sheet A-6 (Building Elevations) prepared by Framework Architects, is attached

A color-rendered image of the building and proposed addition, will be provided as part of the Site Plan submittal package

Equipment Plan:

A preliminary equipment plan, prepared by Standley Batch Systems, Inc. is attached

Utility and Grading Plan:

A copy of Civil Engineering drawings (sheets C1, C2 and C3), dated 04-09-01; prepared by Brown Herkenhoff Engineers – Surveyors, of Sauk Rapids, MN; are attached

These Civil Engineering drawings illustrate the site grading and utility improvements constructed during the last major building expansion completed on the property.

No substantial changes to the existing grades, or to site utilities, are being proposed. We are proposing that new Utility and Grading plans not be required for this project.

Landscape Plan / Tree Removals Plan:

No tree removal is anticipated; and no new landscaping (trees, shrubs, irrigation, etc.) will be included in the proposed project. We propose that a Landscape Plan / Tree Preservation Plan not be required for this project.

Lighting Plan:

A site lighting and photometric plan will be provided as part of the Site Plan submittal package.

End of Exhibit

Building Addition
MOLIN
CONCRETE PRODUCTS COMPANY
6820 143rd Avenue NW
Ramsey, MN 55303

framework
architects
7914 stafford trail
savage, mn 55378
ph. 612.220.3435

PRELIMINARY
Not For Construction
09.03.2013



ISSUE / TITLE:	DATE:
SITE PLAN SUBMITTAL	09.03.13
REVISION:	DATE:

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.

DOUGLAS T. FEICKERT
MN Registration No. 43028
Date: September 3, 2013

PROJECT NO.:	
DRAWN BY:	
CHECKED BY:	DTF

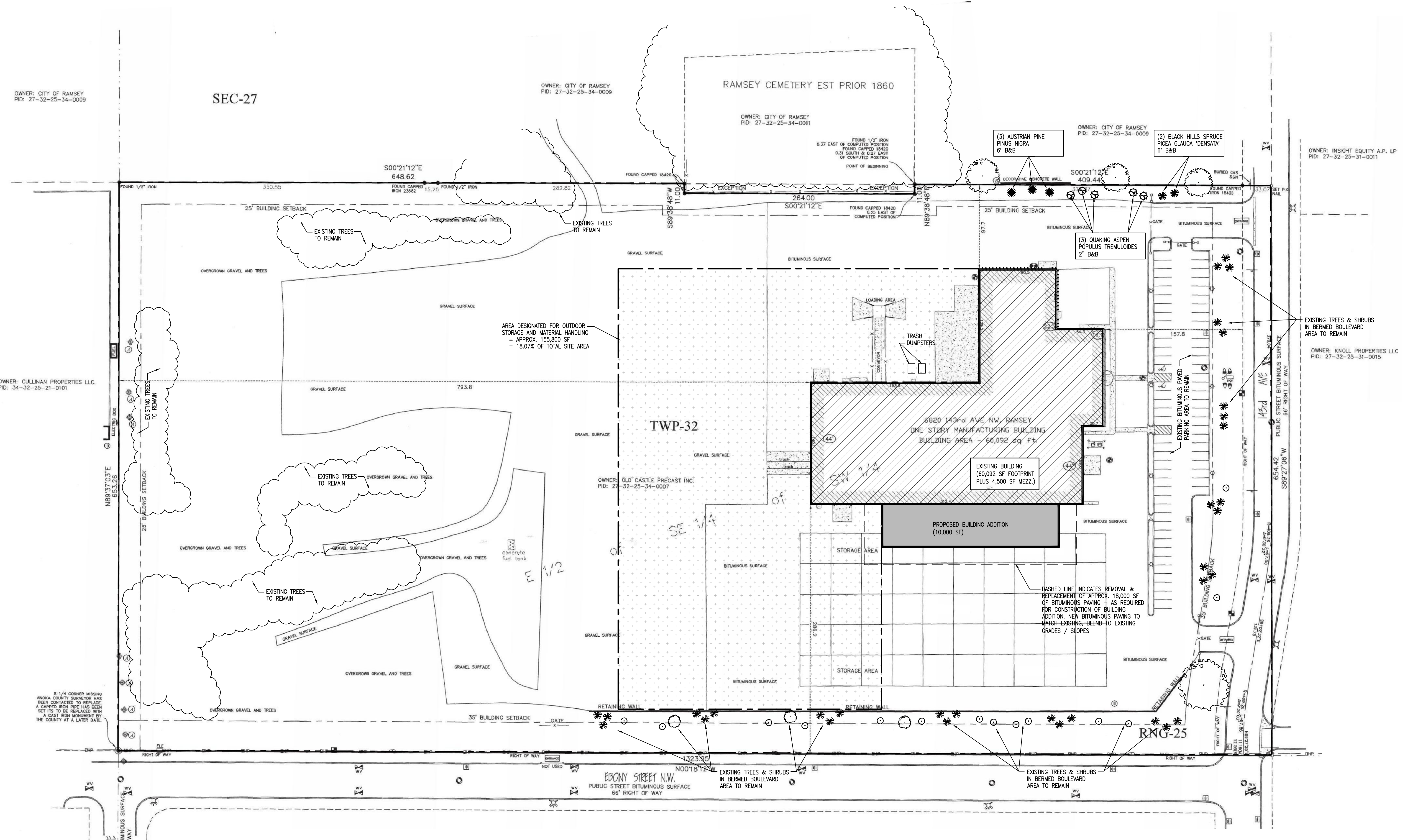
SHEET TITLE:
AERIAL PHOTO OVERLAY

SHEET NUMBER:
SR-1

Building Addition
MOLIN
 CONCRETE PRODUCTS COMPANY
 6820 143rd Avenue NW
 Ramsey, MN 55303

framework
 architects
 7914 stafford trail
 savage, mn 55378
 ph. 612.220.3435

PRELIMINARY
 Not For Construction
 09.03.2013



SITE PLAN - EXISTING CONDITIONS & PROPOSED CONSTRUCTION
 SCALE: 1" = 50'

SITE DATA:
 PROPOSED USE:
 MANUFACTURE OF PRECAST CONCRETE PRODUCTS
 PROPERTY ID:
 27-32-25-34-0007
 ADDRESS:
 6820 143RD AVENUE NW, RAMSEY, MN 55303
 OWNER:
 MOLIN CONCRETE PRODUCTS COMPANY
 415 LILAC STREET
 LIND LAKES, MN 55014
 ZONING:
 E-2 EMPLOYMENT DISTRICT
 SITE AREA:
 19.79 ACRES, MORE OR LESS
 862,129 SF, MORE OR LESS
 BUILDINGS:
 EXISTING STRUCTURE = 60,092 SF FOOTPRINT
 PROPOSED ADDITION = 10,000 SF
 PARKING
 EXISTING AUTO STALLS = 65
 HC ACCESSIBLE STALLS = 2

ISSUE / TITLE:	DATE:
SITE PLAN SUBMITTAL	09.03.13
REVISION:	DATE:

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.
 DOUGLAS T. FEICKERT
 MN Registration No. 43028
 Date: September 3, 2013
 PROJECT NO.:
 DRAWN BY:
 CHECKED BY: DTF
 SHEET TITLE:
SITE PLAN

Building Addition
MOLIN
 CONCRETE PRODUCTS COMPANY
 6820 143rd Avenue NW
 Ramsey, MN 55303

framework
 architects
 7914 stafford trail
 savage, mn 55378
 ph. 612.220.3435

PRELIMINARY
 Not For Construction
 09.03.2013

ISSUE / TITLE:	DATE:
SITE PLAN SUBMITTAL	09.03.13
REVISION:	DATE:

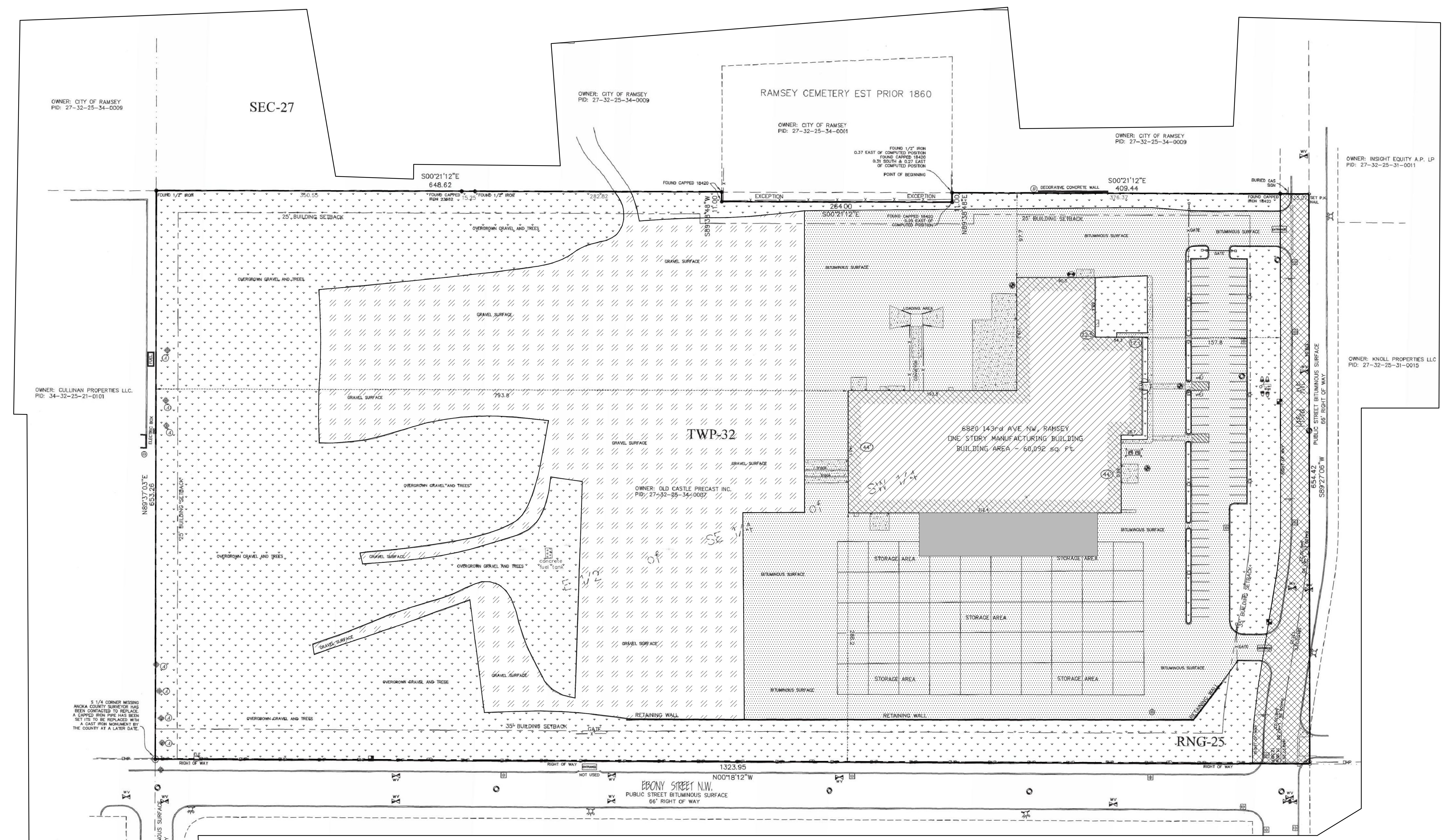
CERTIFICATION:
 I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

DOUGLAS T. FEICKERT
 MN Registration No. 43028
 Date: September 3, 2013

PROJECT NO: _____
 DRAWN BY: _____
 CHECKED BY: _____ DTF

SHEET TITLE:
SITE AREA CALCULATIONS

SHEET NUMBER:
SR-3



SITE PLAN - SURFACE CALCULATIONS
 SCALE: 1" = 50'

SURFACE / MATERIAL	AREA	% OF TOTAL
BUILDING - EXISTING	60,092 SF	7.0 %
BUILDING - NEW	10,000 SF	1.2 %
BITUMINOUS / CONCRETE PAVING	232,500 SF	27.0 %
RIGHT-OF-WAY	26,700	3.1 %
GRAVEL SURFACE	201,900	23.4 %
GRASS/TREES/LANDSCAPE (UNPAVED)	330,937 SF	38.4 %
TOTALS	862,129 SF	100 %

Utility Notes

PLEASE CALL 1-800-252-1166 BEFORE YOU DIG

UTILITY STATEMENT:

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

Statement of Encroachments

- ④ Sprinkler heads encroach up 7.8 feet onto subject property.
- ② Decorative concrete wall encroaches upto ## feet onto adjoining property.

Legend of Symbols & Abbreviations

- | | |
|---------------------------------|--------------------------|
| ☆ Light Pole | ⊙ Catch Basin Round |
| ♿ Indicates Handicapped Parking | ⊠ Catch Basin Square |
| ⊞ Electric Box | ⊕ Water Valve |
| ▣ Indicates Concrete Surface | ⊗ Fire Hydrant |
| ⌒ Guard Rail | ⊕ Guard Post |
| ⊕ Building height | ⊕ Power Pole |
| ⊕ No Parking | ⊕ Gas Meter |
| ⊕ Telephone Pedestal | -OHP- Overhead Powerline |
| ⊕ Sprinkler Head | -x- Chain Link Fence |
| ⊕ Ground Light | ⊕ Sanitary Sewer Manhole |
| ⊕ Flag Pole | ⊕ Storm Sewer Manhole |

Items Corresponding to Schedule B-Section II

- ⑩ Easement for electric utility purposes, in favor of the City of Anoka, dated September 20, 1996, recorded October 1, 1996, as Document No. 1243619. (Not plotted, document not provided)
- ⑫ Easement for road, utility and drainage purposes, in favor of the City of Ramsey, granted in warranty deed, dated March 22, 2001, recorded April 6, 2001, as Document No. 1560435. (Not plotted, document not provided)

Miscellaneous Notes

NOTE: WE ARE NOT AWARE OF ANY CHANGES IN STREET RIGHT-OF-WAY PRESENTLY OR PROPOSED

NOTE: BASED ON OBSERVED EVIDENCE ONLY THE SITE IS NOT BEING USED AS A SOLID WASTE DUMP, SUMP, OR SANITARY LANDFILL.

NOTE: ALL FIELD MEASUREMENTS MATCHED RECORD DIMENSIONS WITHIN THE PRECISION REQUIREMENTS OF ALTA/ACSM SPECIFICATIONS.

NOTE: BASED ON OBSERVED EVIDENCE ONLY THERE WAS NO EARTH MOVING WORK OR BUILDING CONSTRUCTION OR ADDITIONS IN RECENT MONTHS.

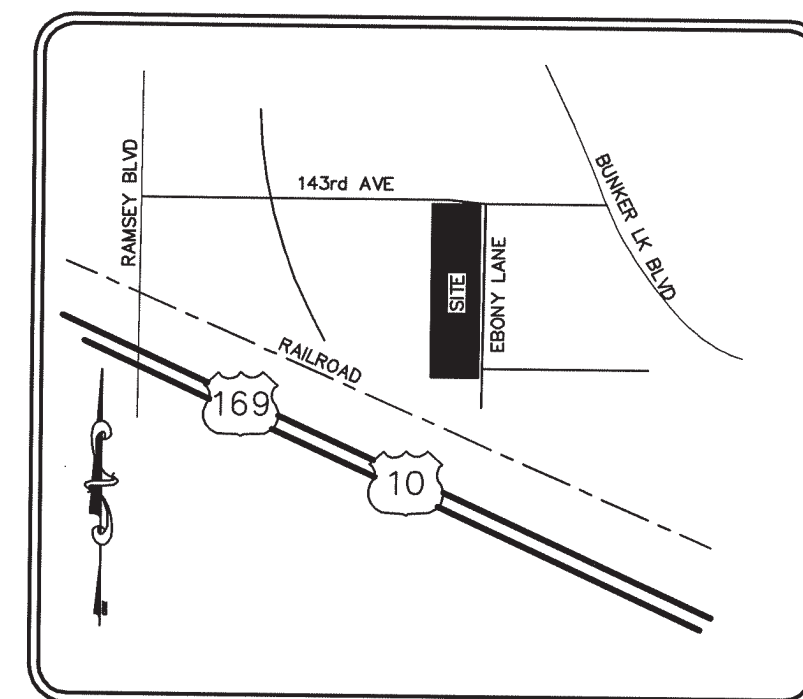
NOTE: BASED ON OBSERVED EVIDENCE ONLY THE SITE DOES NOT CONTAIN ANY CEMETERIES OR BURIAL GROUNDS.

NOTE: ORIENTATION OF THIS BEARING SYSTEM IS ASSUMED TO HAVE A BEARING OF N89°27'06"E ALONG THE NORTH LINE OF THE E 1/2 OF SE 1/4 OF SW 1/4, SEC-27, TWP-32, RNG-25.

SEE SHEET 2 OF 2 FOR DRAWING

Zoning Information

Status:	Permitted Use	District:	E-2 (Employment Dist.)
ITEM	REQUIRED	OBSERVED	Source of Information: City of Ramsey
Permitted Use	Industrial	Industrial	Address
Minimum Lot Area	1 acre	NONE NOTED	Person Contacted Joann Shaw
Minimum Frontage	NONE NOTED	NONE NOTED	Date Contacted 08/06/2008
Minimum Lot Width	200'	NONE NOTED	Phone / Fax Number (763) 433-9824
Max Building Coverage	45%	NONE NOTED	E-mail address
Minimum Setbacks:			
Front	35 feet	57.3 feet	
Side	25 feet	53.4 feet	Notes:
Rear	25 feet	239.5 feet	
Max Building Height	65 feet	13.8 feet ±	
Parking:			
Regular	61	65	
Handicap	3 (ADA)	2	
Total	64	67	



Vicinity Map
NOT TO SCALE

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FLOOD NOTE: By graphic plotting only, this property is in Zone(s) _____ of the Flood Insurance Rate Map, Community Panel No. 27068100208, which bears an effective date of November 1, 1979, and is NOT in a Special Flood Hazard Area. By a visit to the FEMA website on 8/5/2008. We have learned this community does currently participate in the program. No field surveying was performed to determine this zone and an elevation certificate may be needed to verify this determination or apply for a variance from the Federal Emergency Management Agency.

Legal Description

The land referred to herein below is situated in the county of Anoka, State of Minnesota and is described as follows:

The East Half of the Southeast Quarter of the Southwest Quarter of Section 27, Township 32, Range 25, Anoka County, Minnesota, except that part described as follows:

Commencing at the Northwest corner of said East Half of the Southeast Quarter of the Southwest Quarter; thence South along the West line of the said East Half of the Southeast Quarter of the Southwest Quarter, 409.44 feet to the point of beginning; thence East at right angles 11 feet; thence South at right angles 264 feet; thence West at right angles to the West line of said East Half of the Southeast Quarter of the Southwest Quarter; thence North along said West line to the point of beginning.

THE ABOVE DESCRIPTION DESCRIBES THE SAME PROPERTY AS IN TITLE COMMITMENT FILE NO. 100820083 OF CHICAGO TITLE INSURANCE COMPANY DATED JUNE 4, 2008.

Containing 19.79 acres, more or less.
Containing 862,129 Sq. Ft., more or less

As-Surveyed Legal Description

That part of E 1/2 of the SE 1/4 of the SW 1/4, Section 27, Township 32, Range 25, Anoka County, Minnesota, described as follows: Beginning at the Northwest corner of said E 1/2 of the SE 1/4 of the SW 1/4; thence on an assumed bearing of South 00 degrees 21 minutes 12 seconds East along the West line of said E 1/2 of the SE 1/4 of the SW 1/4, a distance of 409.44 feet; thence North 89 degrees 38 minutes 48 seconds East, 11.00 feet; thence South 00 degrees 21 minutes 12 seconds East, 264.00 feet; thence South 89 degrees 38 minutes 48 seconds West, 11.00 feet to the said West line of the E 1/2 of the SE 1/4 of the SW 1/4; thence South 00 degrees 21 minutes 12 seconds West along last said line, 648.62 feet to the South line of said E 1/2 of the SE 1/4 of the SW 1/4; thence North 89 degrees 37 minutes 03 seconds East along last said line, 653.26 feet to the East line of said E 1/2 of the SE 1/4 of the SW 1/4; thence North 00 degrees 18 minutes 12 seconds West along last said line, 1323.95 feet to the North line of said E 1/2 of the SE 1/4 of the SW 1/4; thence South 89 degrees 27 minutes 06 seconds West along last said line, 654.42 feet to the point of beginning.

AS-SURVEYED LEGAL DESCRIPTION TO BE USED FOR REFERENCE ONLY AND IS NOT TO BE RECORDED.

ALTA/ACSM Land Title Survey

Oldcastle Ramsey Project

B&C Project No. 200801040, 001
Ramsey
6820 143rd Avenue NW, Ramsey, MN 55303

Surveyor's Certification

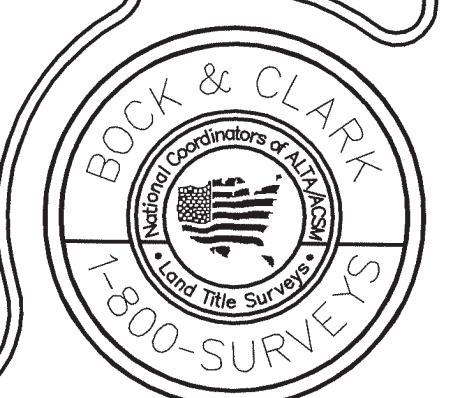
To: [parties to be named later]; Chicago Title Insurance Company, and Bock & Clark Corporation.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2005, and includes Items 1, 2, 3, 4, 6, 7(a), 7(b)(1), 7(c), 8, 9, 10, 11(a), 14, 16, 17 & 18 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Minnesota, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

Larry J. Huhn
Registration No. 24332
In the State of Minnesota
Date of Survey: 8-4-2008
Date of Last Revision: 8-7-2008
Network Project No. 200801040-1

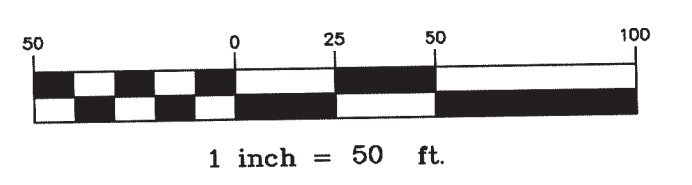
Survey Performed By:
Northstar Surveying, Inc.
310 East Depot Street
Litchfield, MN 55355
Phone: 320-693-3710
Fax: 320-693-1003
Email: ns_kim@qwestoffice.net

Bock & Clark's National Surveyors Network
National Coordinators of ALTA/ACSM Land Title Surveys
537 North Cleveland-Massillon Road Akron, Ohio 44333
Phone: (800) Surveys, Fax: (330) 666-3608 www.1800surveys.com



Legend of Symbols & Abbreviations

- | | | | |
|---|-------------------------------|---|------------------------|
| ☆ | Light Pole | ⊙ | Catch Basin Round |
| ♿ | Indicates Handicapped Parking | ⊠ | Catch Basin Square |
| ⊠ | Electric Box | ⊕ | Water Valve |
| ⊠ | Indicates Concrete Surface | ⊕ | Fire Hydrant |
| ⊠ | Guard Rail | ⊕ | Guard Post |
| ⊠ | Building height | ⊕ | Gas Meter |
| ⊠ | No Parking | ⊕ | Overhead Powerline |
| ⊠ | Telephone Pedestal | ⊕ | Chain Link Fence |
| ⊠ | Sprinkler Head | ⊕ | Sanitary Sewer Manhole |
| ⊠ | Ground Light | ⊕ | Storm Sewer Manhole |
| ⊠ | Flag Pole | | |



OWNER: CITY OF RAMSEY
PID: 27-32-25-34-0009

SEC-27

OWNER: CITY OF RAMSEY
PID: 27-32-25-34-0009

RAMSEY CEMETERY EST PRIOR 1860

OWNER: CITY OF RAMSEY
PID: 27-32-25-34-0001

OWNER: CITY OF RAMSEY
PID: 27-32-25-34-0009

OWNER: INSIGHT EQUITY A.P. LP
PID: 27-32-25-31-0011

OWNER: KNOLL PROPERTIES LLC
PID: 27-32-25-31-0015

OWNER: CULLINAN PROPERTIES LLC.
PID: 34-32-25-21-0101

OWNER: OLD CASTLE PRECAST INC.
PID: 27-32-25-34-0007

TWP-32

6820 143rd AVE NW, RAMSEY
ONE STORY MANUFACTURING BUILDING
BUILDING AREA - 60,092 sq. ft.

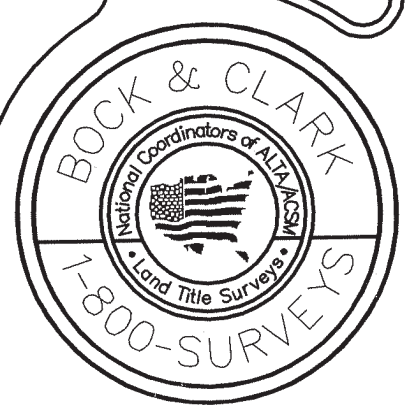
RNG-25

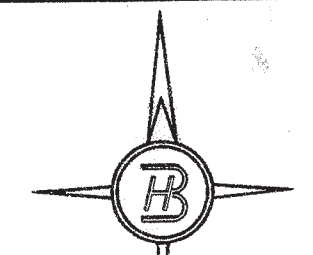
EBONY STREET N.W.
PUBLIC STREET BITUMINOUS SURFACE
66' RIGHT OF WAY

143rd AVE
PUBLIC STREET BITUMINOUS SURFACE
66' RIGHT OF WAY

S 1/4 CORNER MISSING
ANKARA COUNTY SURVEYOR HAS
BEEN CONTACTED TO REPLACE
A CAPPED IRON PIPE HAS BEEN
SET ITS TO BE REPLACED WITH
A CAST IRON MONUMENT BY
THE COUNTY AT A LATER DATE

Bock & Clark's National Surveyors Network
National Coordinators of ALTA/ACSM Land Title Surveys
537 North Cleveland-Massillon Road Akron, Ohio 44333
Phone: (800) Surveys. Fax: (330) 666-3608 www.1800surveys.com





BROWN HERKENHOFF
ENGINEERS-SURVEYORS
1424 2nd Street North
Sauk Rapids, MN. 56379
Phone (320) 259-1234
Fax (320) 203-1234

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 ENGINEER under the laws of the state of MINNESOTA.

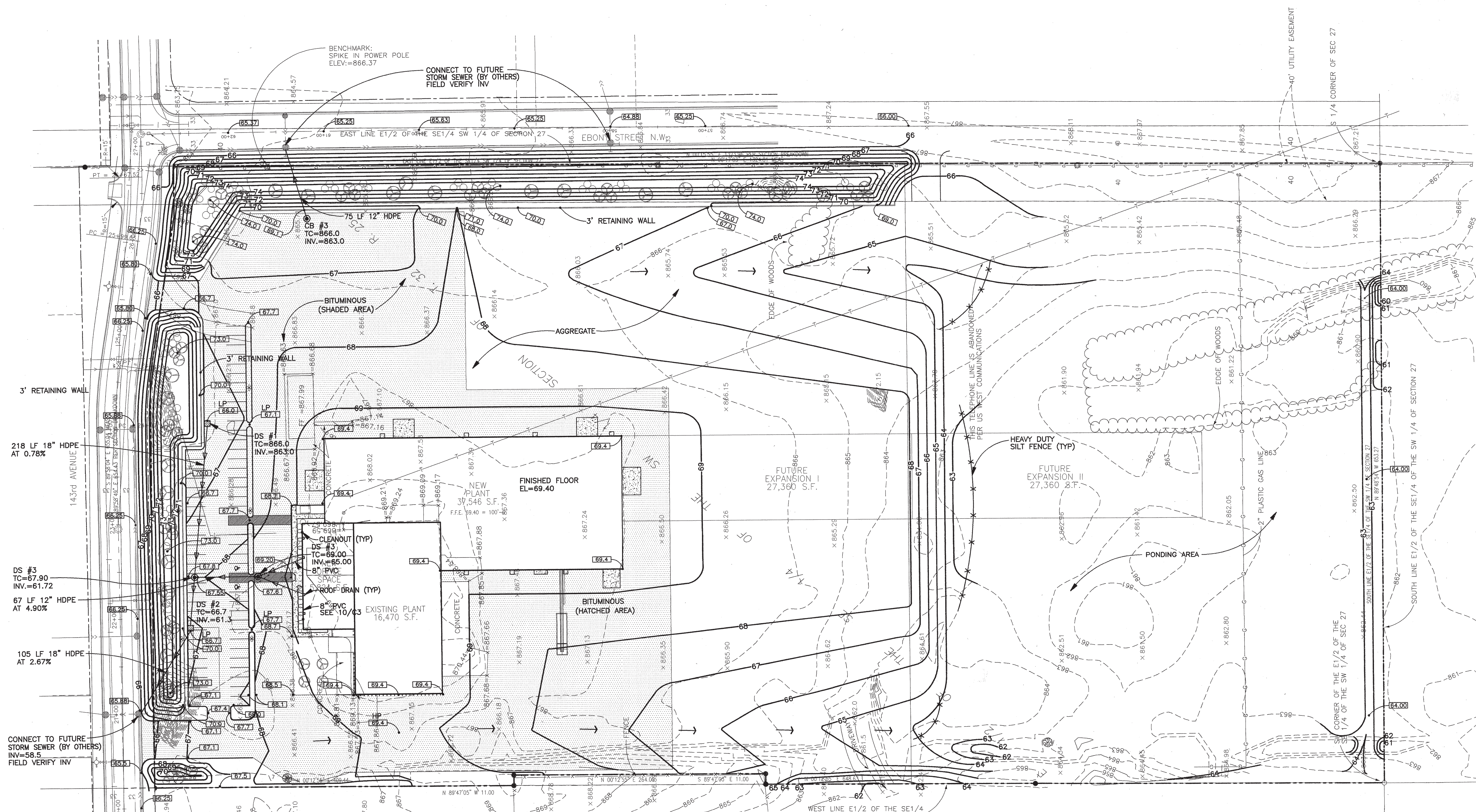
Tom Herkenhoff
TOM HERKENHOFF, PE
05-31-01 25520
Date License No.

REVISIONS:	No.	Date	Action
	1.	04-27-01	CITY REQUESTED CHANGES
	2.	05-11-01	CITY REQUESTED CHANGES
	3.	05-31-01	GENERAL SITE REVISIONS & BERM

GRADING PLAN

AMCOR PRECAST, INC
RAMSEY, MN

Project No.: 01091
Date: 04-09-01
Drawn by: SDS
Checked by: TJH



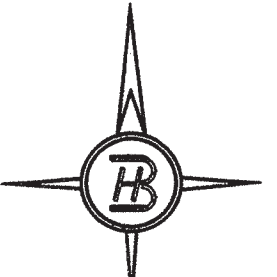
GENERAL NOTES:

- BENCHMARK: SEE PLAN
- NOTIFY ENGINEER IMMEDIATELY IF ANY DISCREPANCIES ARE NOTED BETWEEN EXISTING CONDITIONS AND CONDITIONS NOTED ON THE PLANS WHICH ARE SIGNIFICANT ENOUGH TO ALTER THE INTENT OF THE DRAWINGS.
- NOTIFY ALL UTILITY COMPANIES BEFORE CONSTRUCTION AND VERIFY LOCATION OF ALL UTILITIES BEFORE BEGINNING WORK.
- CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS INCLUDING LOCATIONS, RIM AND INVERT ELEVATIONS OF EXISTING DRAINAGE AND SANITARY STRUCTURES, LOCATION AND SIZE OF EXISTING SANITARY AND WATER STUBS AND EXISTING GRADES.
- EXERCISE BEST MANAGEMENT PRACTICES (BMP'S) TO MINIMIZE EROSION AND SEDIMENTATION DURING CONSTRUCTION. USE SILT FENCE AND CATCH BASIN PROTECTION TO MINIMIZE SEDIMENTATION OFF-SITE OR TO PUBLIC OR PRIVATE STORM SEWER SYSTEMS.
- OWNER SHALL MAINTAIN EROSION AND SEDIMENTATION CONTROL DEVICES SUCH AS CATCH BASIN PROTECTION, SILT FENCE, ETC. UNTIL PAVING IS INSTALLED AND GRASS OR SOD IS ESTABLISHED. NO MORE EXISTING VEGETATION SHALL BE DISTURBED THAN IS NECESSARY TO COMPLETE THE SITE WORK INDICATED ON THIS DRAWING.
- SEE SHEET C3 FOR MISCELLANEOUS DETAILS.
- HORIZONTAL CONTROL IS PROVIDED BY MILLER ARCHITECTS AND BUILDERS.
- SEE ARCHITECTURAL PLANS FOR SITE IMPROVEMENTS.
- SPOT ELEVATIONS ARE FLOWLINE AND/OR FINISHED GRADES UNLESS OTHERWISE INDICATED BY LOCATION OF THE SPOT. ADD 6" TO FLOWLINE ELEVATIONS TO GET TOP OF SIDEWALK ELEVATIONS UNLESS NOTED OTHERWISE.
- ALL PROPOSED ELEVATIONS ARE TOP OF PAVING OR GUTTER UNO. PROPOSED ELEVATIONS ARE SUGGESTED ELEVATIONS TO PROVIDE POSITIVE DRAINAGE TOWARDS CATCH BASINS OR OUTLETS. THE CONTRACTOR SHALL BE RESPONSIBLE TO VERIFY THESE AND PROVIDE THE REQUIRED ELEVATIONS TO PROMOTE POSITIVE DRAINAGE THROUGHOUT THE PARKING LOT.

GRADING PLAN

1"=50'





BROWN HERKENHOFF
 ENGINEERS-SURVEYORS
 1424 2nd Street North
 Sauk Rapids, MN, 56379
 Phone (320) 259-1234
 Fax (320) 203-1234

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 ENGINEER under the laws of the state of MINNESOTA.

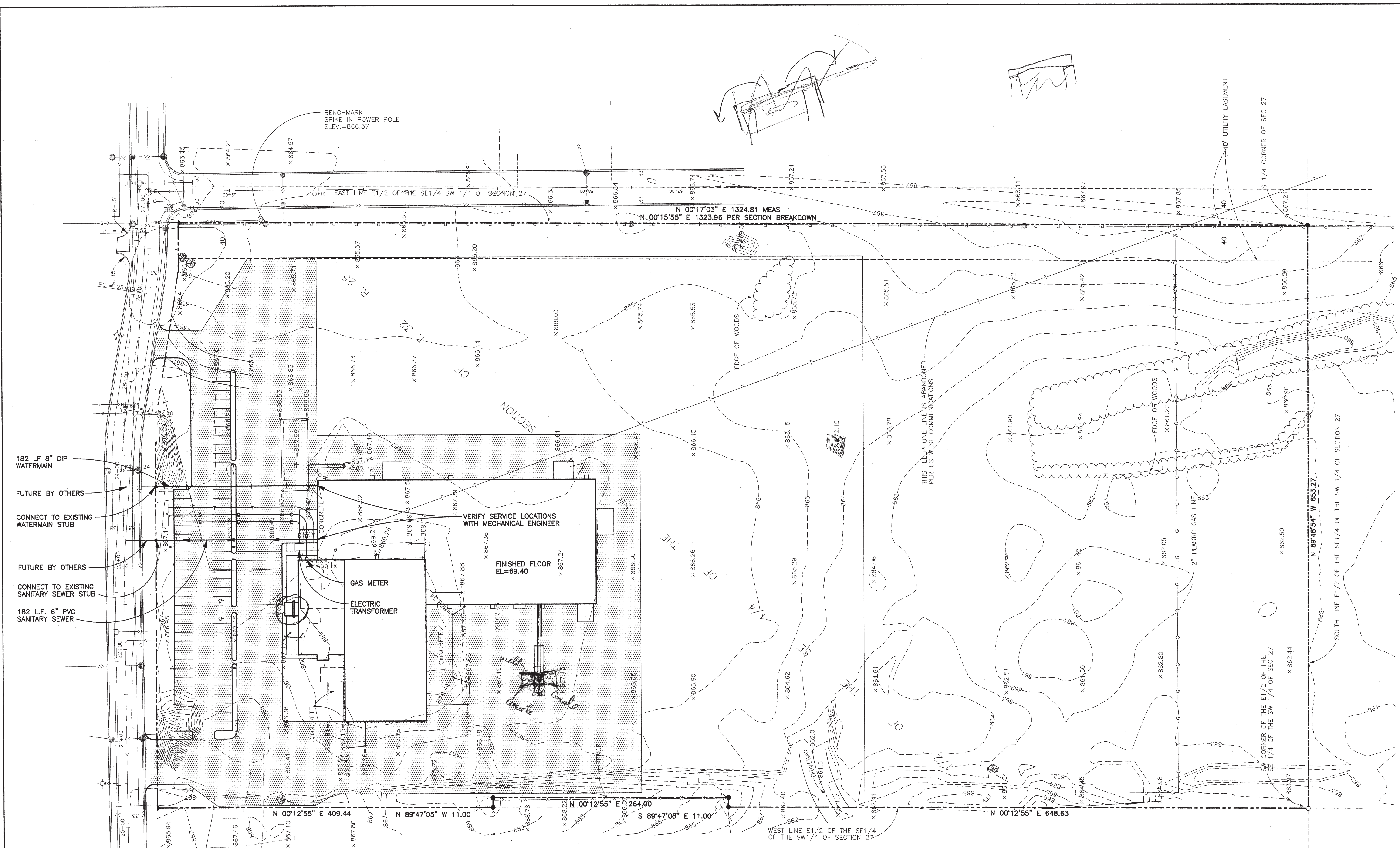
Tom Herkenhoff
TOM HERKENHOFF, PE
 04-25-01 25520
 Date License No.

REVISIONS:	No.	Date	Action
	1.	04-27-01	WATERMAIN CHANGE

UTILITY PLAN

AMCOR PRECAST, INC
RAMSEY, MN

Project No.: 01091
 Date: 04-09-01
 Drawn by: SDS
 Checked by: TJH



182 LF 8" DIP WATERMAIN
 FUTURE BY OTHERS
 CONNECT TO EXISTING WATERMAIN STUB
 FUTURE BY OTHERS
 CONNECT TO EXISTING SANITARY SEWER STUB
 182 L.F. 6" PVC SANITARY SEWER

VERIFY SERVICE LOCATIONS WITH MECHANICAL ENGINEER

GAS METER

ELECTRIC TRANSFORMER

FINISHED FLOOR EL=69.40

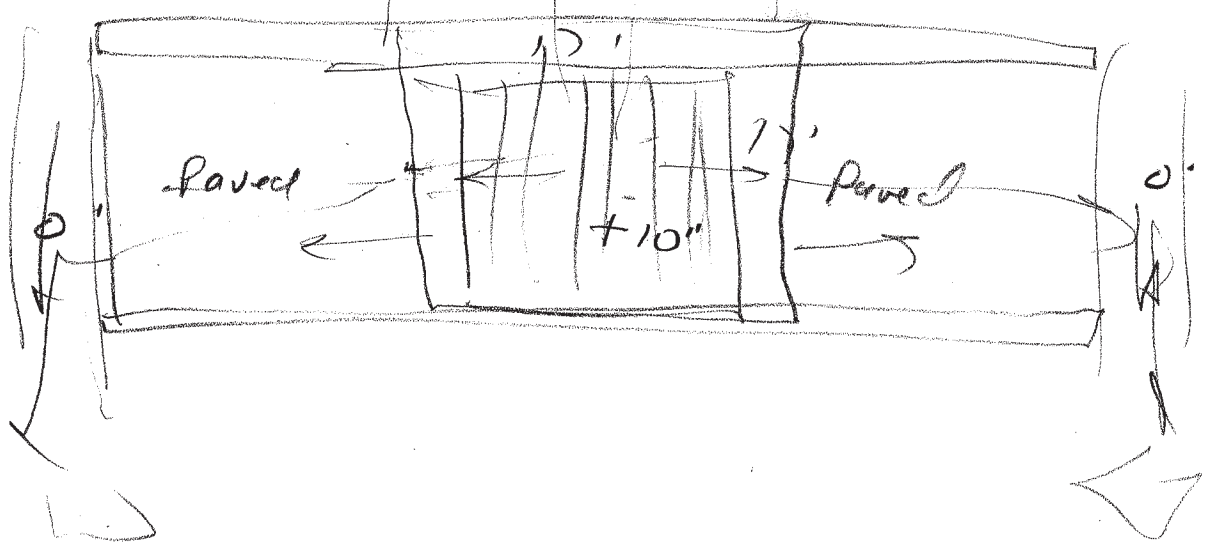
cancel
cancel

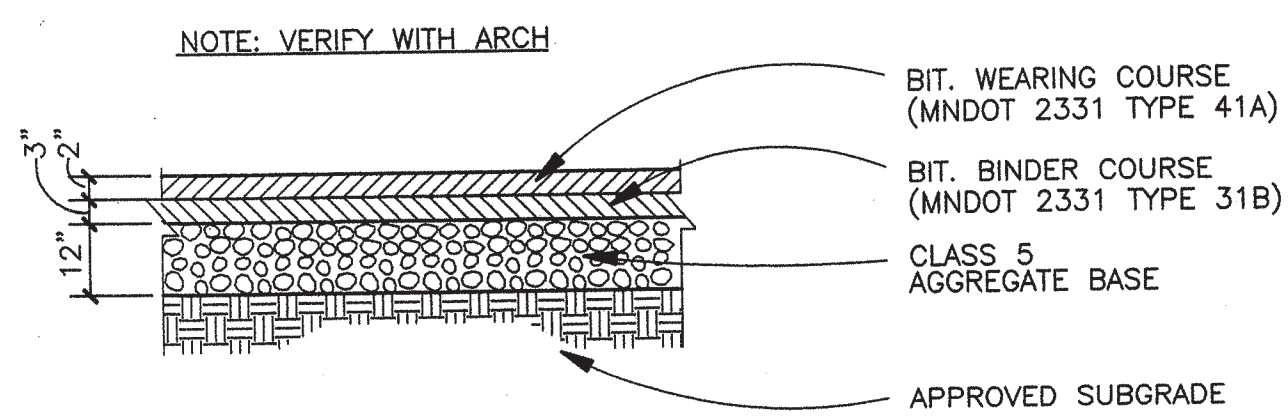
NOTES:

- 8' MINIMUM COVER OVER WATERMAIN.
- LOWER OR RAISE WATERMAIN APPROPRIATELY IN ORDER TO AVOID CONFLICTS WITH THE SANITARY SEWER, SERVICES AND STORM SEWER CROSSINGS.
- ALL APPLICABLE CITY, STATE, AND FEDERAL STANDARDS, REGULATIONS, AND REQUIREMENTS MUST BE FOLLOWED WHEN RUNNING THE WATER AND SEWER SERVICES UNDER THE BUILDING.
- INSULATION MUST BE PLACED BETWEEN THE PIPES IN AREAS WHERE THE WATERMAIN AND SANITARY SEWER CROSS THE STORM SEWER (INCLUDING SERVICES).
- SEE SHEET C1 FOR STORM SEWER GRADING AND GENERAL NOTES.
- SEE CIVIL SPECIFICATIONS FOR ADDITIONAL REQUIREMENTS.
- SEE SHEET C3 FOR PIPE BEDDING AND MISC. DETAILS.
- PLACE SANITARY SEWER SERVICE LINE CLEANOUTS AS REQUIRED BY THE CITY OF RAMSEY.
- COORDINATE ELECTRIC, GAS AND TELEPHONE UTILITY LOCATIONS WITH THE LOCAL UTILITY COMPANIES TO ENSURE THE MOST ECONOMICAL WAY TO HOOK UP THESE UTILITIES.

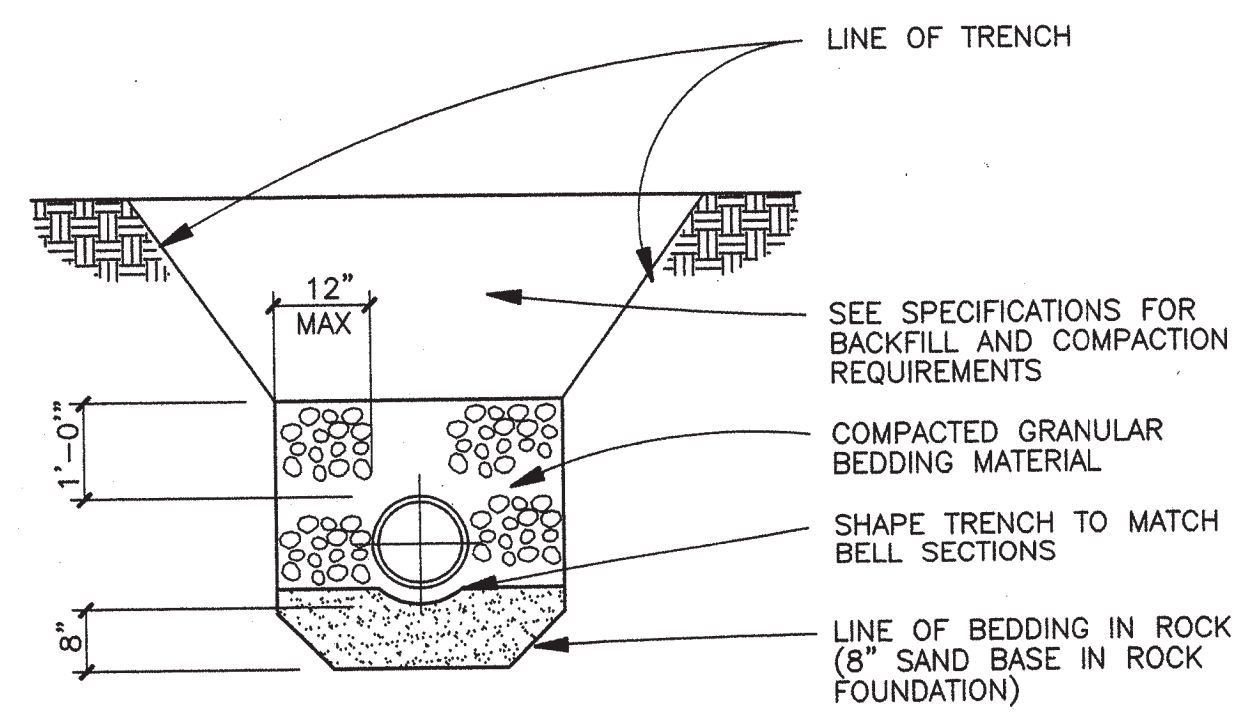
UTILITY PLAN

1"=50'

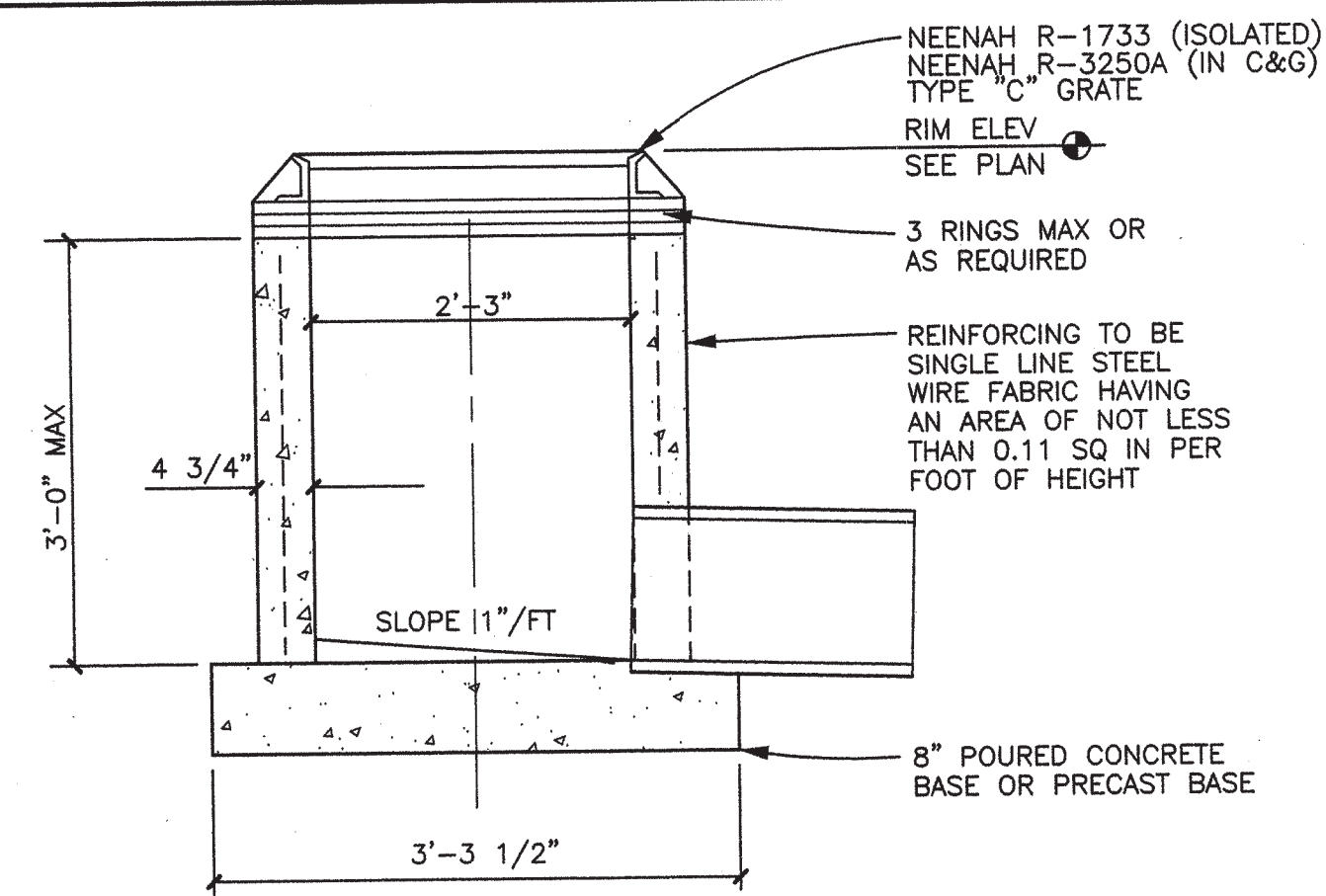




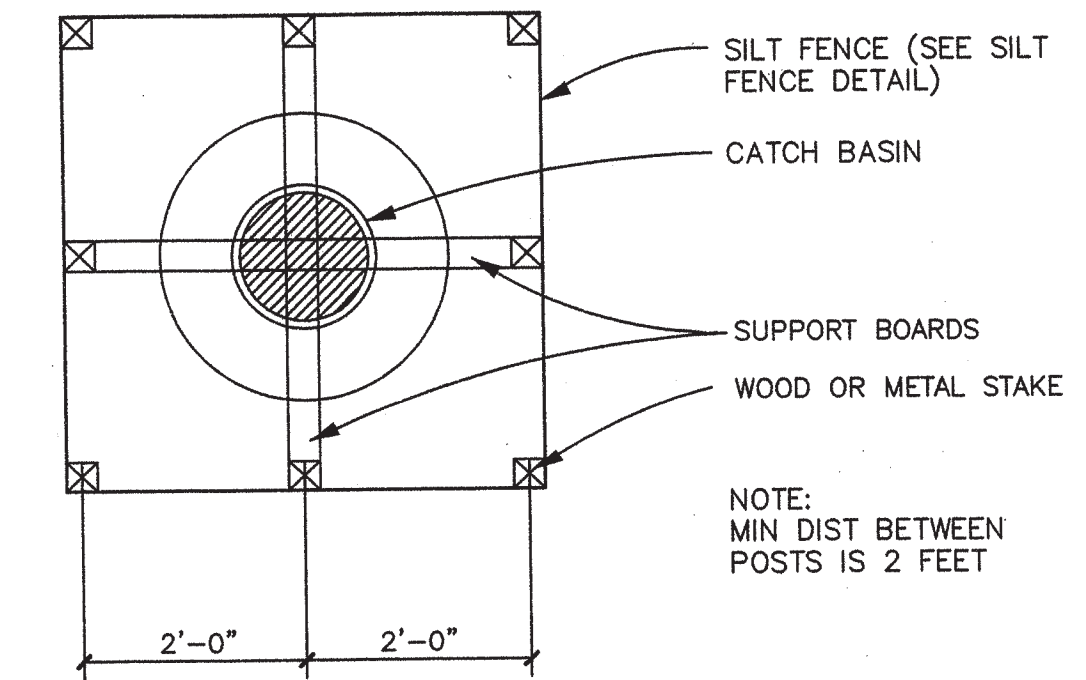
1 PARKING LOT NTS



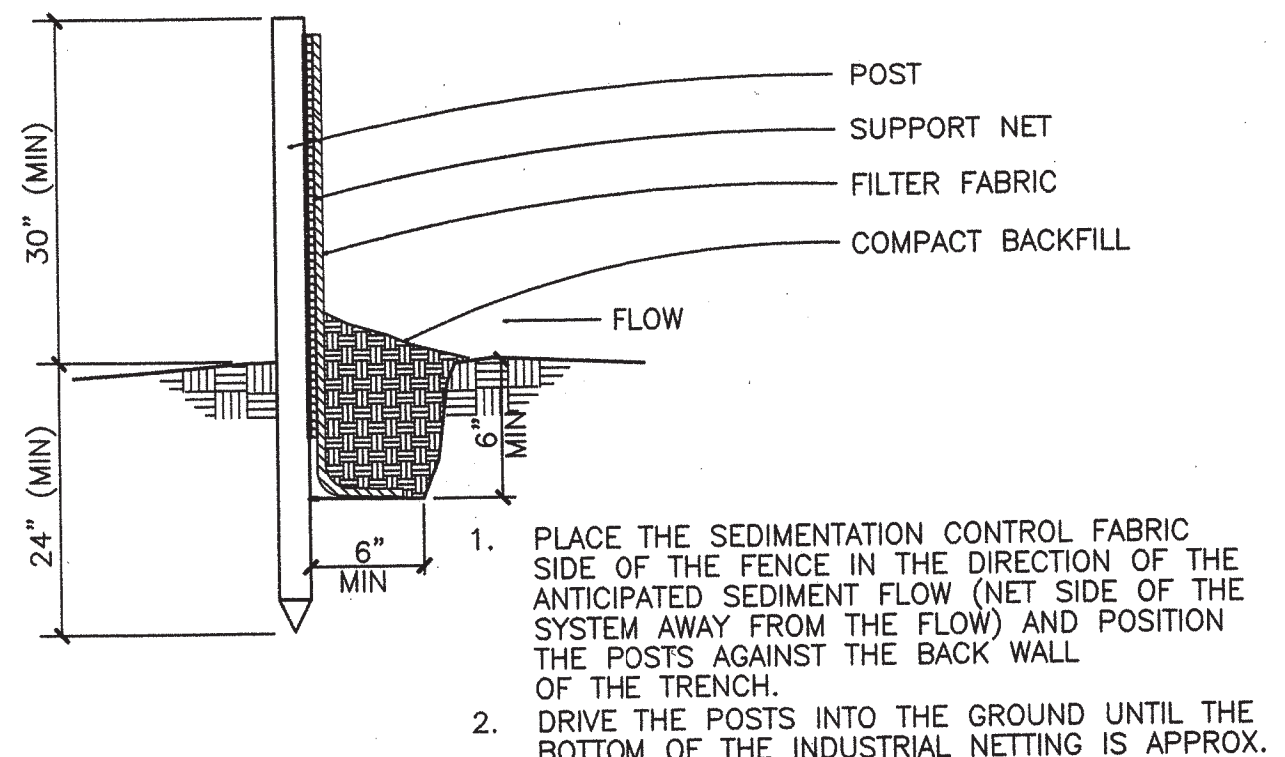
2 PIPE BEDDING DETAIL (SAN & STORM) NTS



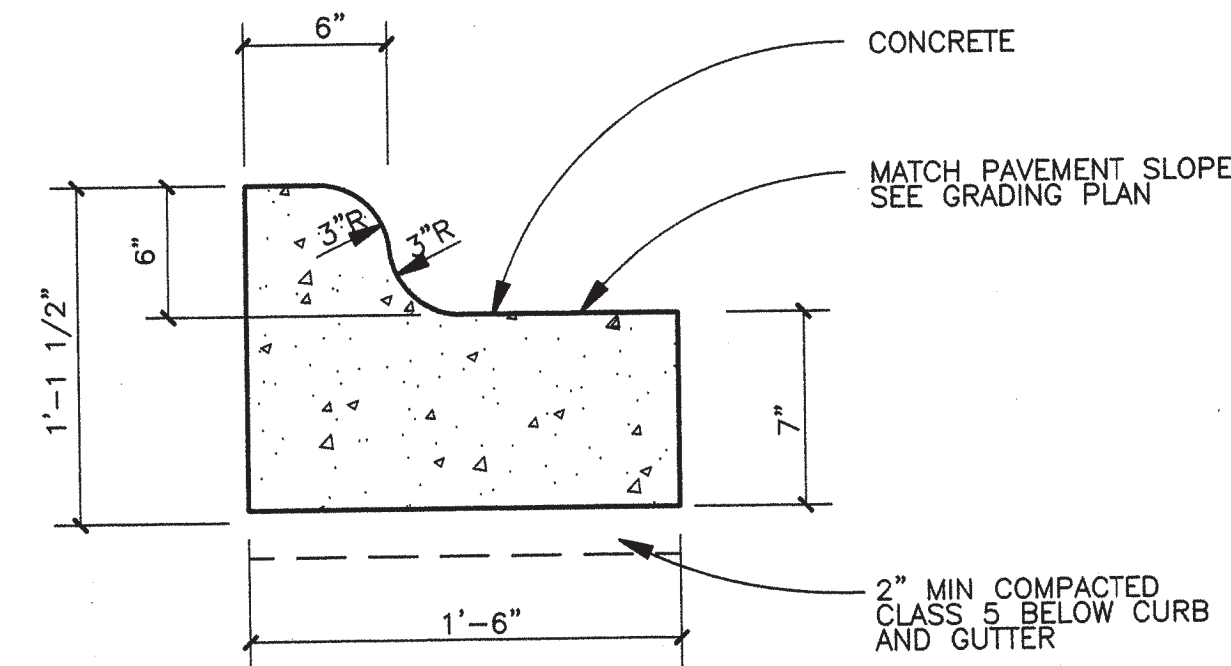
3 DESIGN 'H' CATCH BASIN NTS



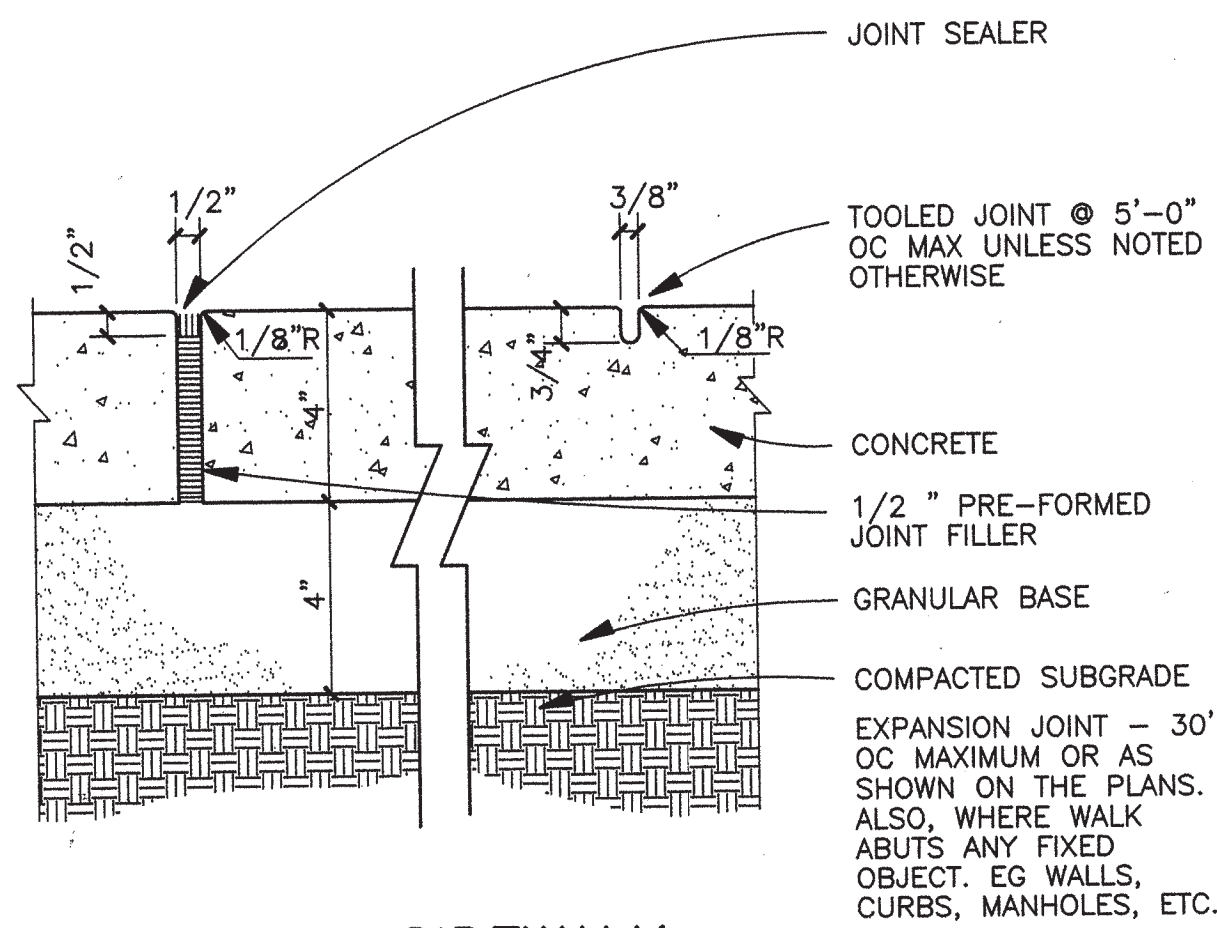
4 CATCH BASIN PROTECTION NTS



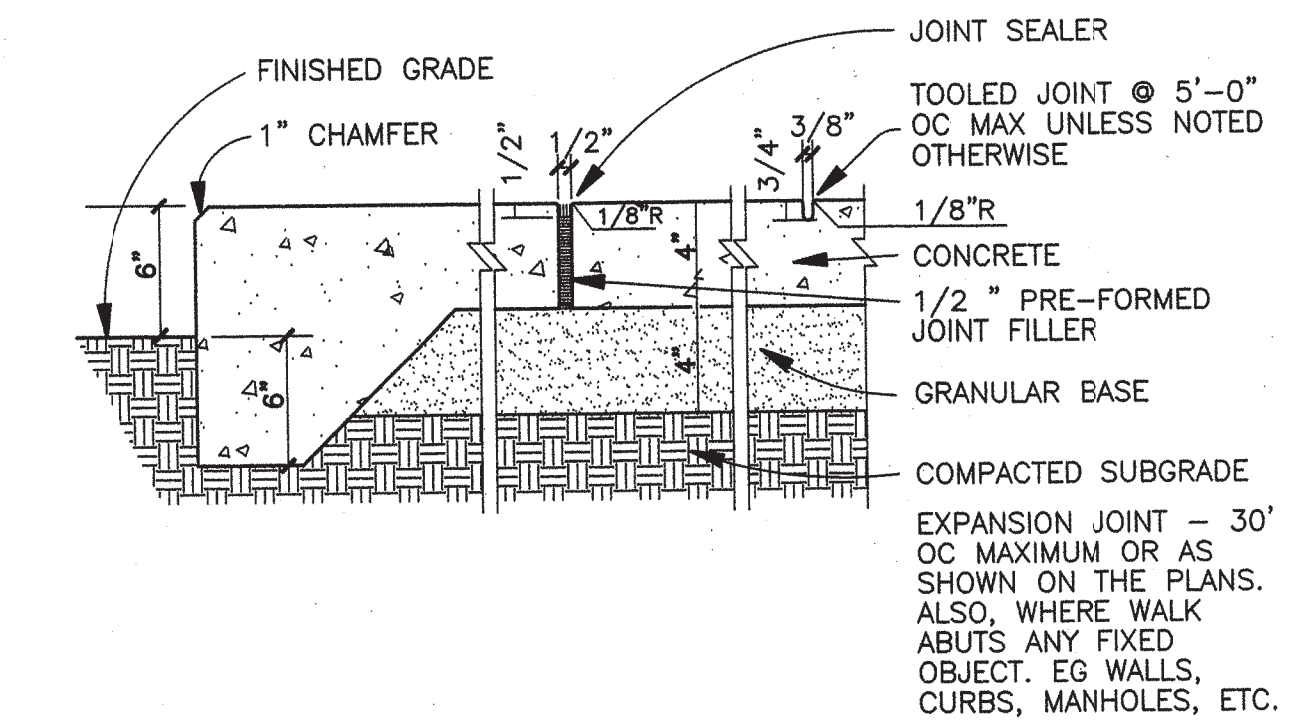
5 SILT FENCE NTS



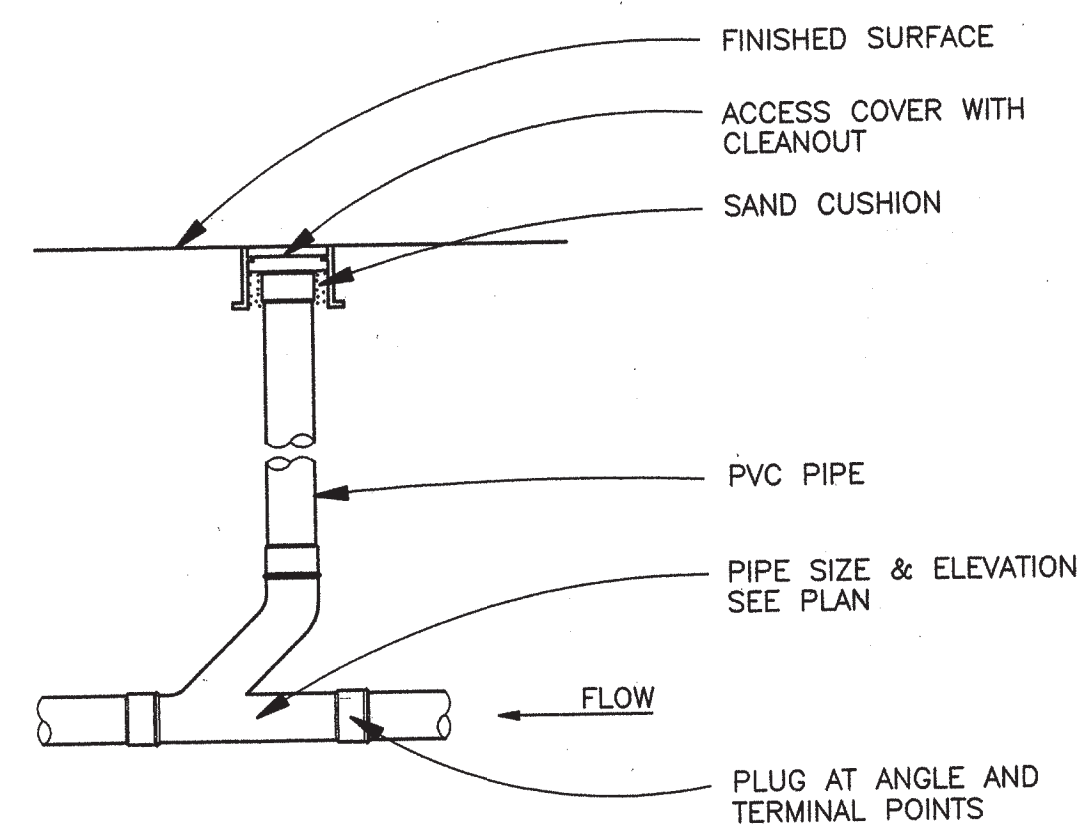
6 CURB & GUTTER (B612) NTS



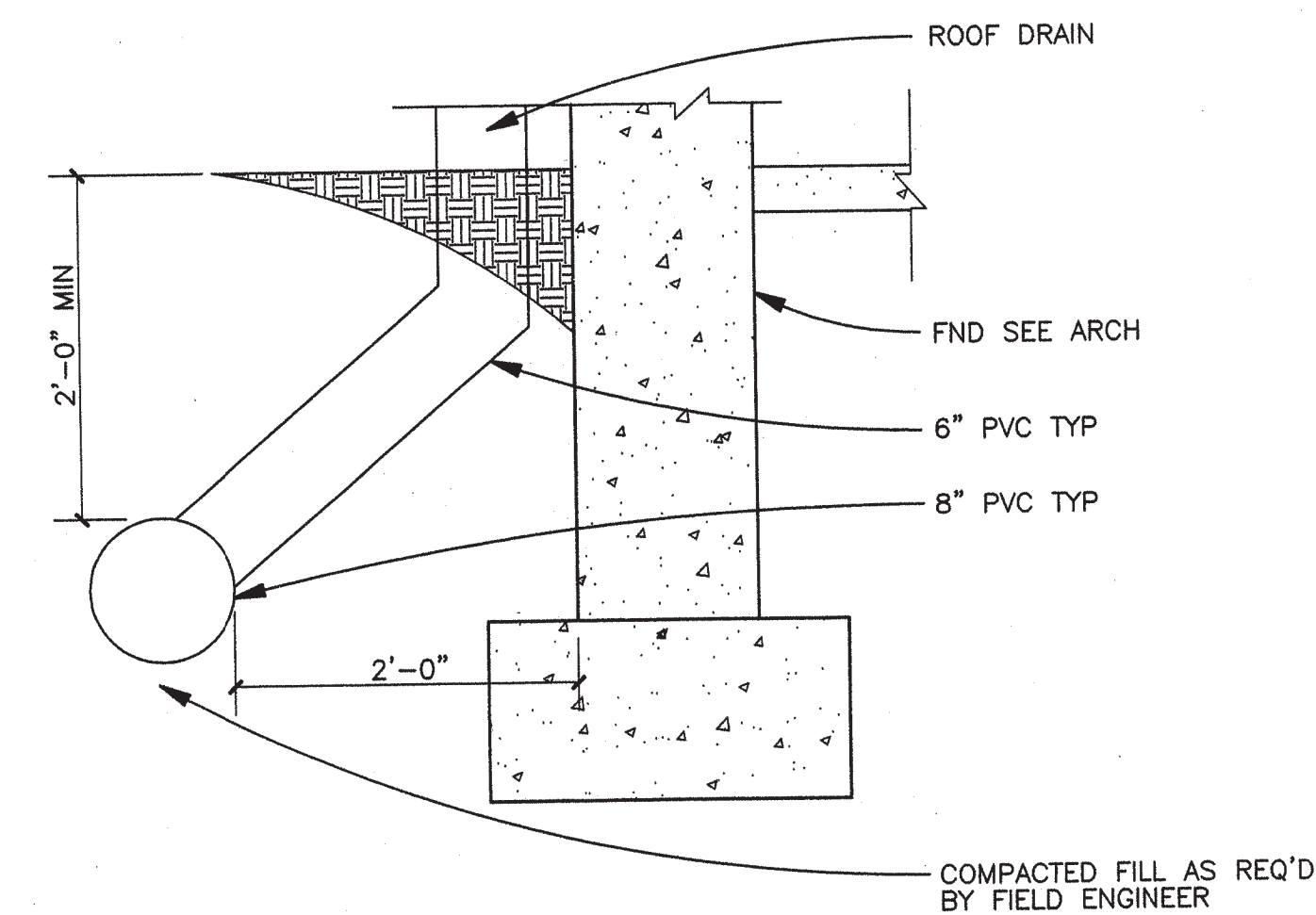
7 TYPICAL SIDEWALK NTS



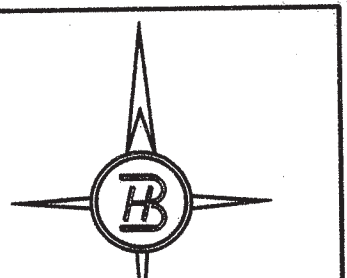
8 TYP THICKENED EDGE SIDEWALK NTS



9 EXTERIOR CLEANOUT NTS



10 ROOF DRAIN NTS



BROWN HERKENHOFF
ENGINEERS-SURVEYORS
1424 2nd Street North
Souk Rapids, MN 56379
Phone (320) 259-1234
Fax (320) 203-1234

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 ENGINEER under the laws of the state of MINNESOTA.
Tom Herkenhoff
TOM HERKENHOFF, PE
04-25-01 25520
Date License No.

REVISIONS:	No.	Date	Action
	1	04-27-2001	ADDED DETAIL #10 & CHANGED DETAIL #1

SECTIONS AND DETAILS

AMCOR PRECAST, INC

RAMSEY, MN

Project No.: 01091
Date: 04-09-01
Drawn by: SDS
Checked by: TJH

Building Addition
MOLIN
 CONCRETE PRODUCTS COMPANY
 6820 143rd Avenue NW
 Ramsey, MN 55303

framework
 architects
 7914 stafford trail
 savage, mn 55378
 ph. 612.220.3435

PRELIMINARY
 Not For Construction
 09.03.2013

ISSUE / TITLE:	DATE:
SITE PLAN SUBMITTAL	09.03.13
REVISION:	DATE:

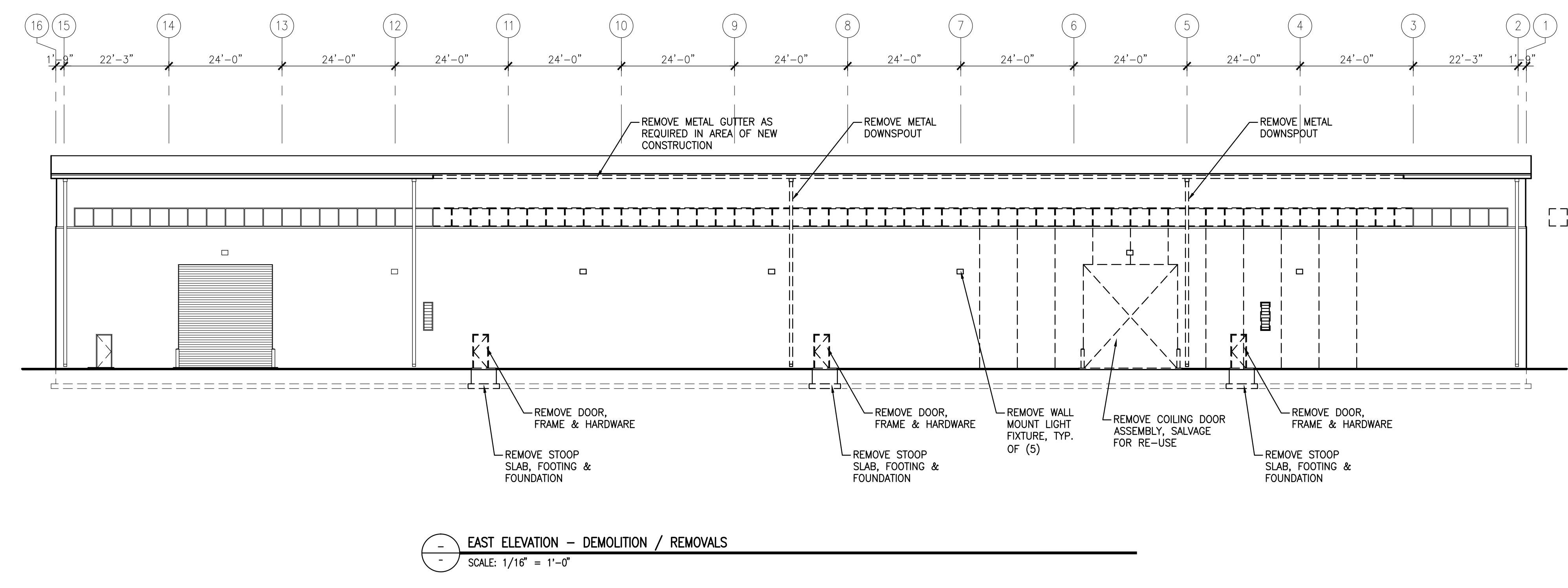
CERTIFICATION:
 I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

DOUGLAS T. FEICKERT
 MN Registration No. 43028
 Date: September 3, 2013

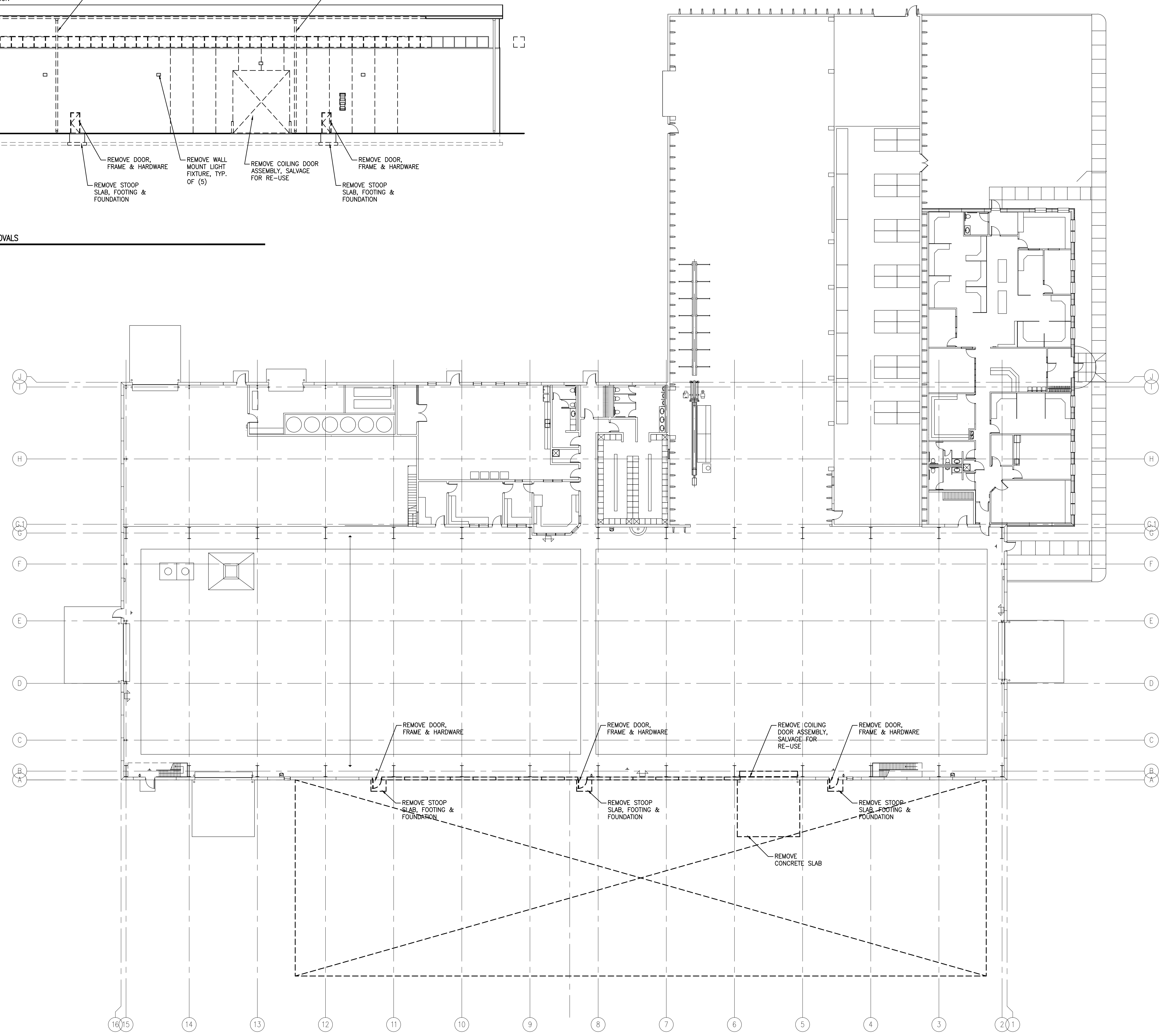
PROJECT NO.:
 DRAWN BY:
 CHECKED BY: DTF

SHEET TITLE:
DEMOLITION PLAN

SHEET NUMBER:
A-2



EAST ELEVATION - DEMOLITION / REMOVALS
 SCALE: 1/16" = 1'-0"

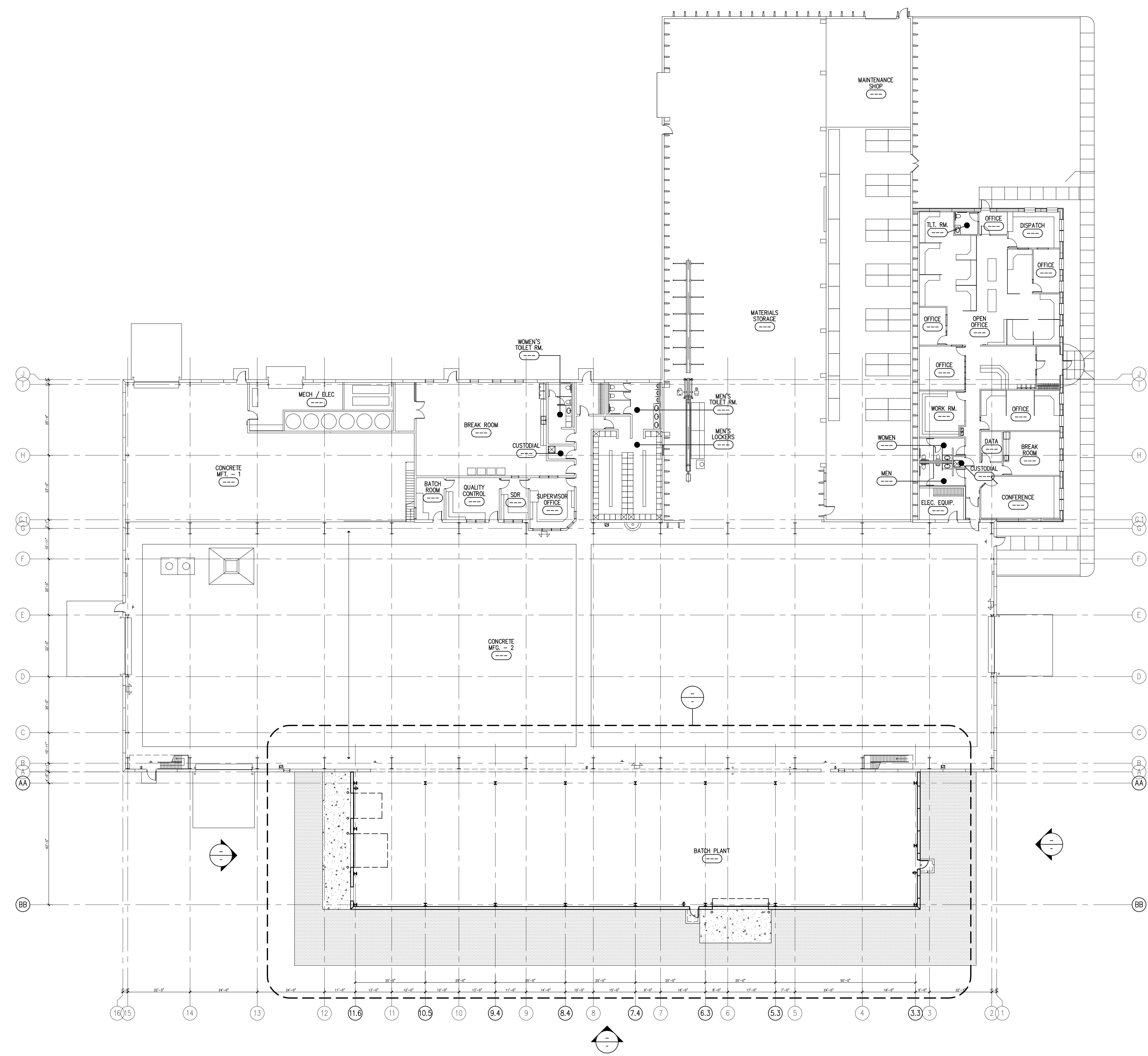


DEMOLITION / REMOVALS PLAN
 SCALE: 1/16" = 1'-0"

Building Addition
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 09.03.2013



FLOOR PLAN
 SCALE: 1/16" = 1'-0"
 NORTH

ISSUE / TITLE:	DATE:
SITE PLAN SUBMITTAL	09.03.13
REVISION:	DATE:

CERTIFICATION:
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DOUGLAS T. FEICKERT
 MN Registration No. 43028
 Date: September 3, 2013

PROJECT NO.:	
DRAWN BY:	
CHECKED BY:	DTF

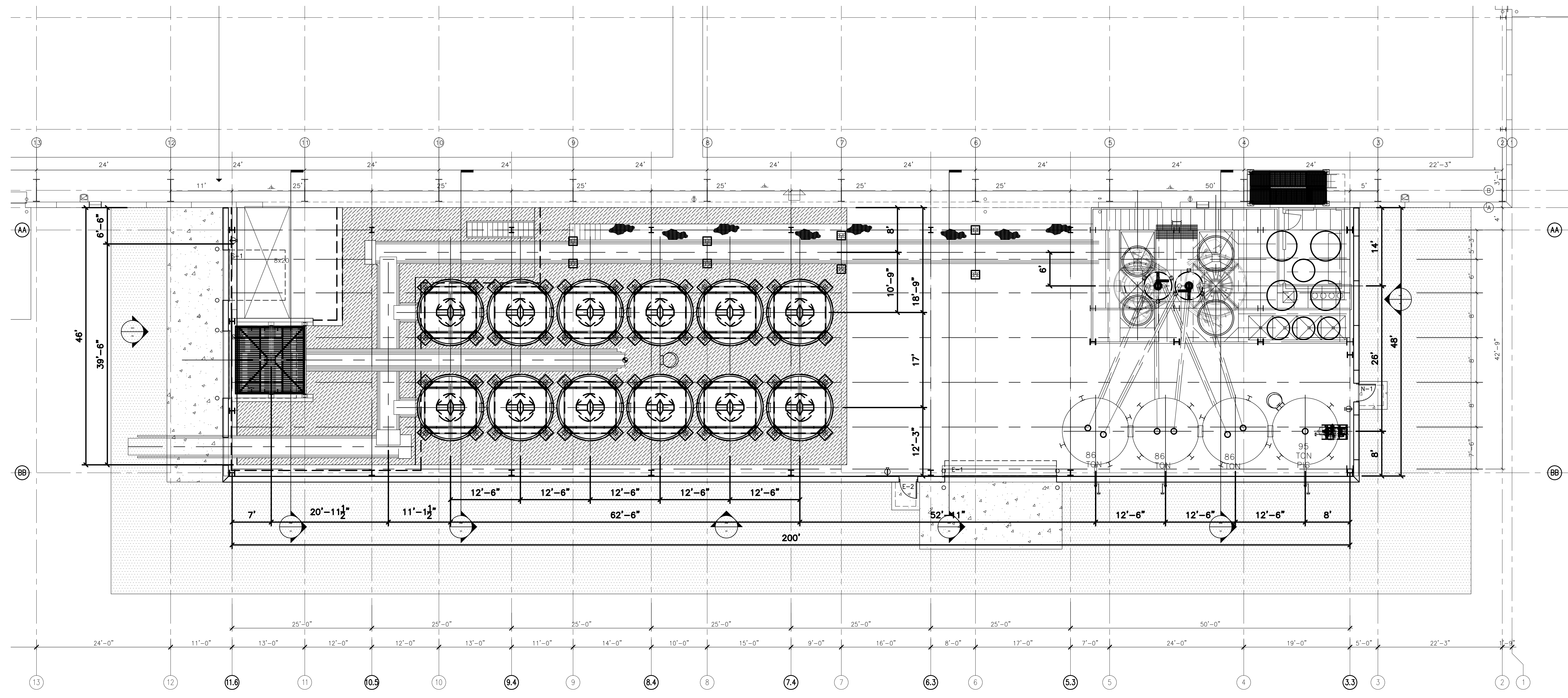
SHEET TITLE:
FLOOR PLAN

SHEET NUMBER:
A-3

Building Addition
MOLIN
 CONCRETE PRODUCTS COMPANY
 6820 143rd Avenue NW
 Ramsey, MN 55303

framework
 architects
 7914 stafford trail
 savage, mn 55378
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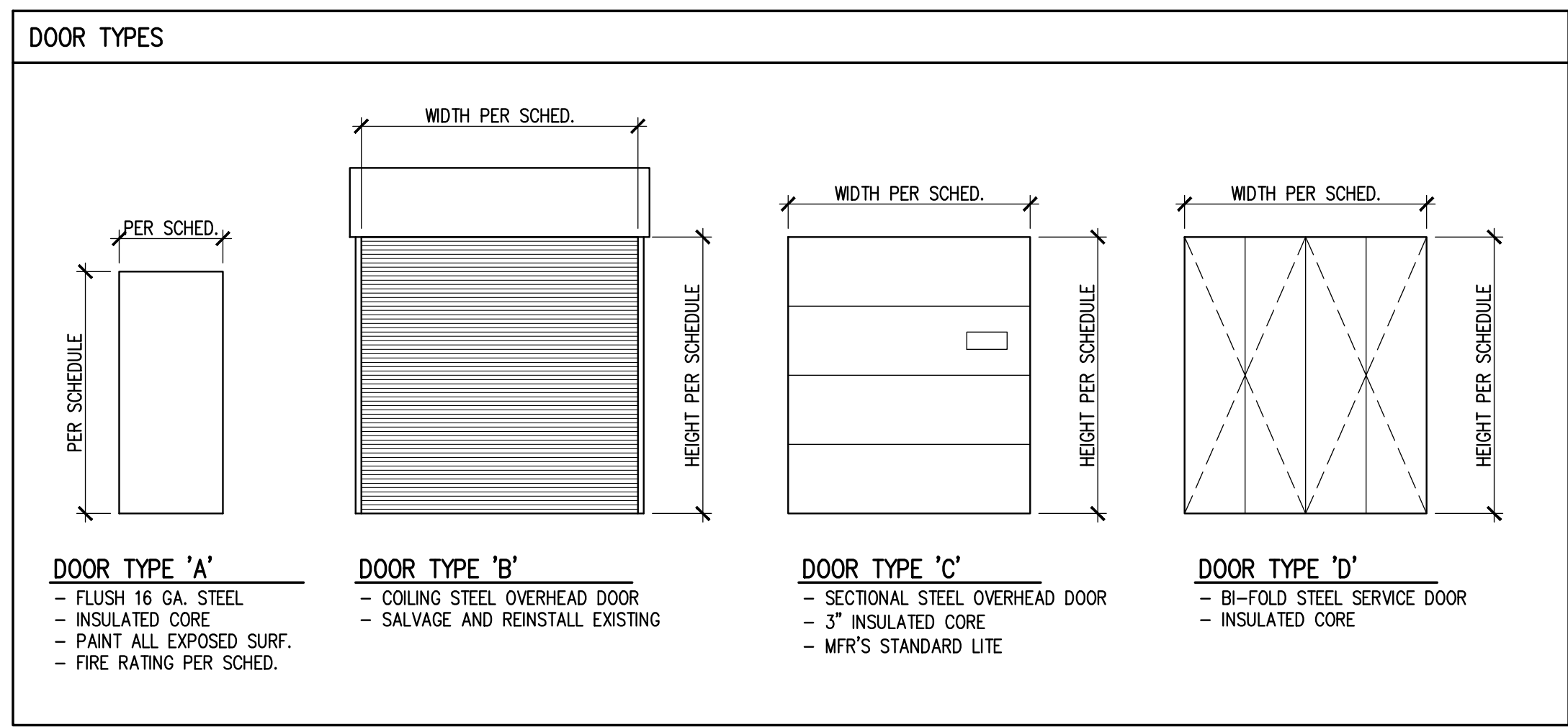
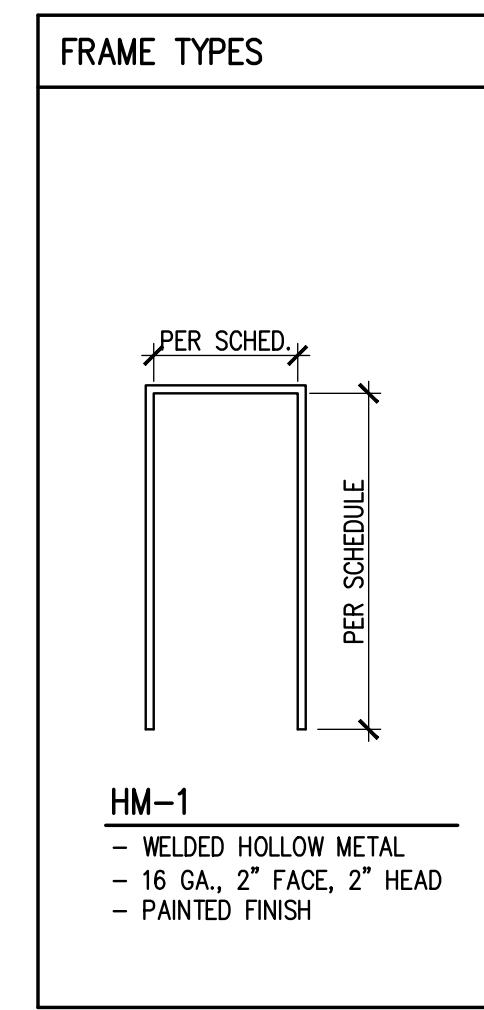
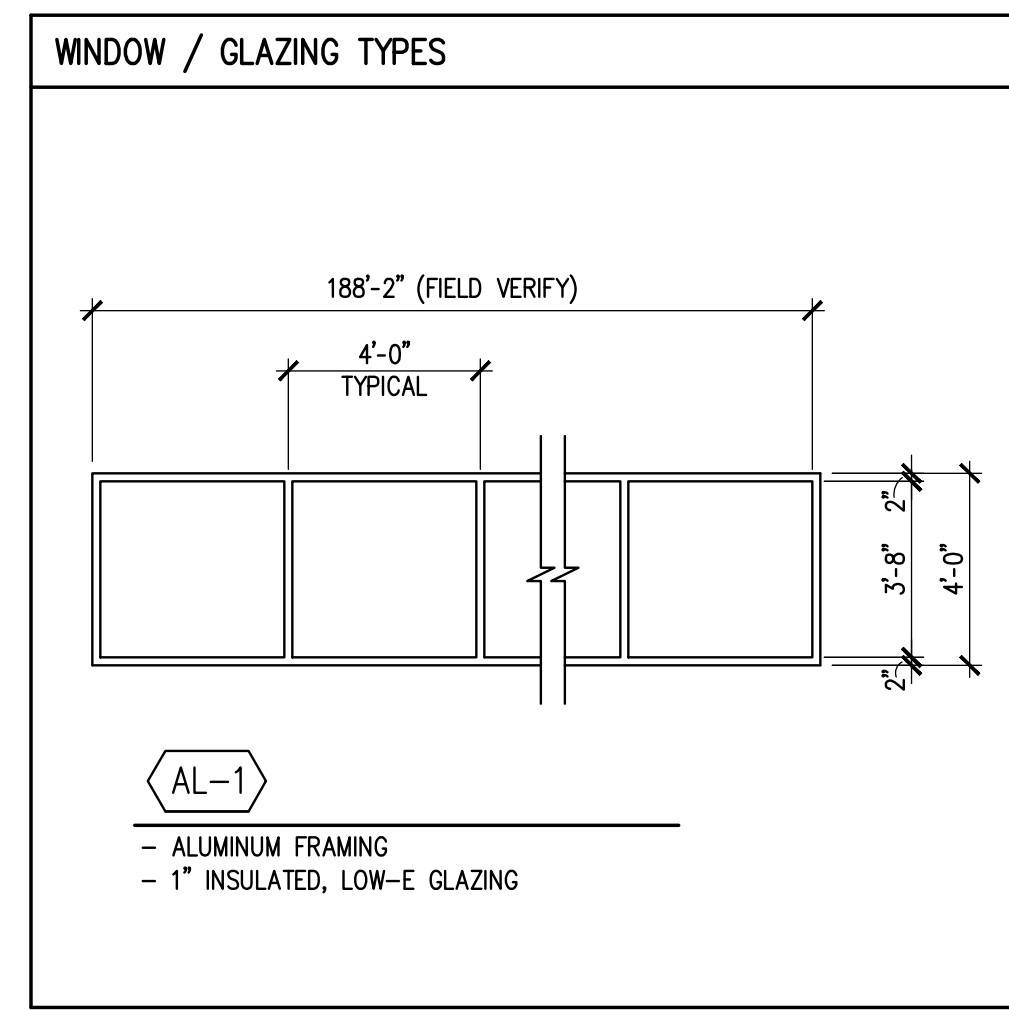
PRELIMINARY
 Not For Construction
 09.03.2013



LG. SCALE FLOOR PLAN - BATCH PLANT
 SCALE: 1/8" = 1'-0"
 NORTH

DOOR, FRAME AND HARDWARE SCHEDULE

DOOR NO.	DOOR LOCATION	NEW/ EXIST.	FIRE RTNG.	DOOR WIDTH X HEIGHT	DOOR TYPE	FRAME TYPE	CARD REDR / ELEC. STRIKE	MAG. H.O.	HARDWARE HINGE	LATCH/ LOCK	CLSR.	STOP	THRSH.	WTHR. STRIP	DRIP CAP	KICK PLATE	PUSH/ PULL	PANIC DEVICE	SMOKE SEAL	AUTO OPER.	DETAILS	REMARKS	
N-1	BATCH PLANT	RE-USE EXIST.	---	3'-0" X 7'-0" X 1 3/4"	A	HM-1			58B1HW (NF)	ENTRY/EXIT LOCKSET	●	OVHD	●	●	●								
E-1	BATCH PLANT	RE-USE EXIST.	---	20'-0" X 22'-0"	B																		
E-2	BATCH PLANT	RE-USE EXIST.	---	3'-0" X 7'-0" X 1 3/4"	A	HM-1			58B1HW (NF)	ENTRY/EXIT LOCKSET	●	OVHD	●	●	●								
S-1	BATCH PLANT	NEW	---	9'-0" X 12'-0"	C																		
S-2	BATCH PLANT	NEW	---	12'-0" X 12'-0"	C (BASE BID) D (ALTERNATE)																		



ISSUE / TITLE:	DATE:
SITE PLAN SUBMITTAL	09.03.13
REVISION:	DATE:

CERTIFICATION:
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DOUGLAS T. FEICKERT
 MN Registration No. 43028
 Date: September 3, 2013

PROJECT NO.:
 DRAWN BY:
 CHECKED BY: DTF

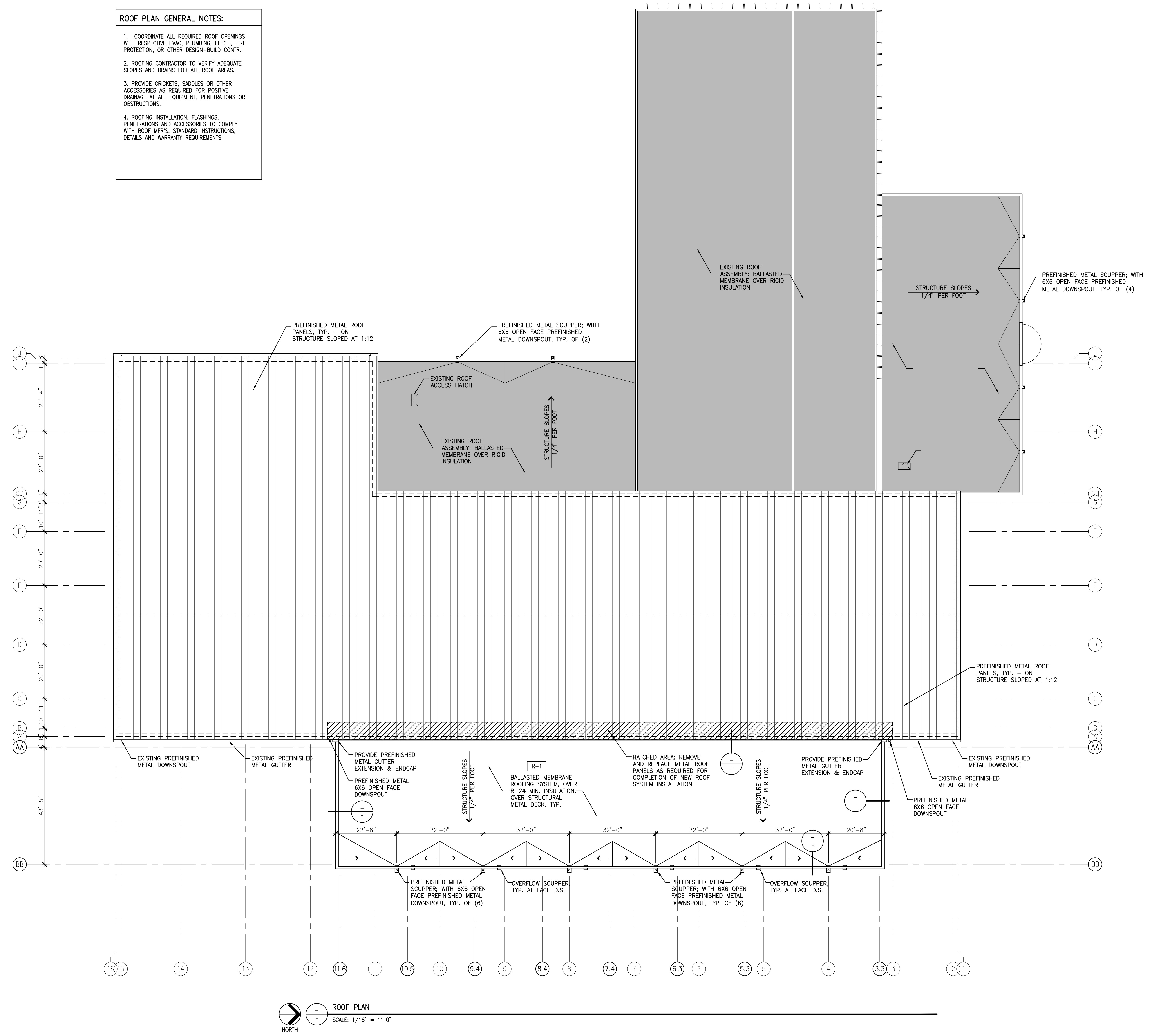
SHEET TITLE:
**PARTIAL PLAN;
 LG. SCALE**

Building Addition
MOLIN
 CONCRETE PRODUCTS COMPANY
 6820 143rd Avenue NW
 Ramsey, MN 55303

framework
 architects
 7914 stafford trail
 savage, mn 55378
 ph. 612.220.3435

PRELIMINARY
 Not For Construction
 09.03.2013

- ROOF PLAN GENERAL NOTES:**
1. COORDINATE ALL REQUIRED ROOF OPENINGS WITH RESPECTIVE HVAC, PLUMBING, ELECT, FIRE PROTECTION, OR OTHER DESIGN-BUILD CONTR..
 2. ROOFING CONTRACTOR TO VERIFY ADEQUATE SLOPES AND DRAINS FOR ALL ROOF AREAS.
 3. PROVIDE CRICKETS, SADDLES OR OTHER ACCESSORIES AS REQUIRED FOR POSITIVE DRAINAGE AT ALL EQUIPMENT, PENETRATIONS OR OBSTRUCTIONS.
 4. ROOFING INSTALLATION, FLASHINGS, PENETRATIONS AND ACCESSORIES TO COMPLY WITH ROOF MFRS. STANDARD INSTRUCTIONS, DETAILS AND WARRANTY REQUIREMENTS



ISSUE / TITLE:	DATE:
SITE PLAN SUBMITTAL	09.03.13
REVISION:	DATE:

CERTIFICATION:
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DOUGLAS T. FEICKERT
 MN Registration No. 43028
 Date: September 3, 2013

PROJECT NO: _____
 DRAWN BY: _____
 CHECKED BY: _____ DTF

SHEET TITLE:
ROOF PLAN

SHEET NUMBER:
A-5

Building Addition
MOLIN
CONCRETE PRODUCTS COMPANY
6820 143rd Avenue NW
Ramsey, MN 55303

framework
architects
7914 stafford trail
savage, mn 55378
ph. 612.220.3435

PRELIMINARY
Not For Construction
09.03.2013

ISSUE / TITLE:	DATE:
SITE PLAN SUBMITTAL	09.03.13
REVISION:	DATE:

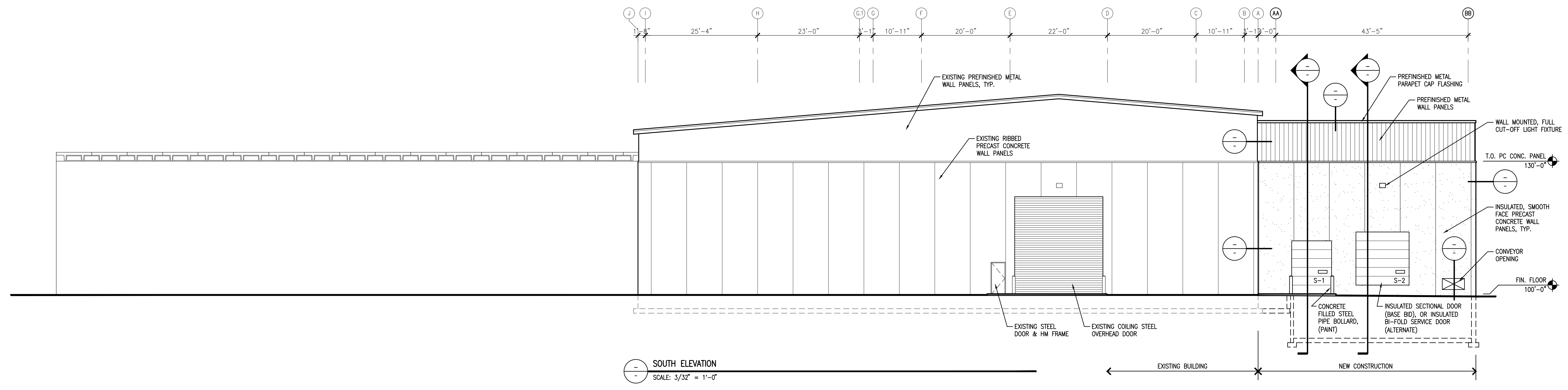
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DOUGLAS T. FEICKERT
MN Registration No. 43028
Date: September 3, 2013

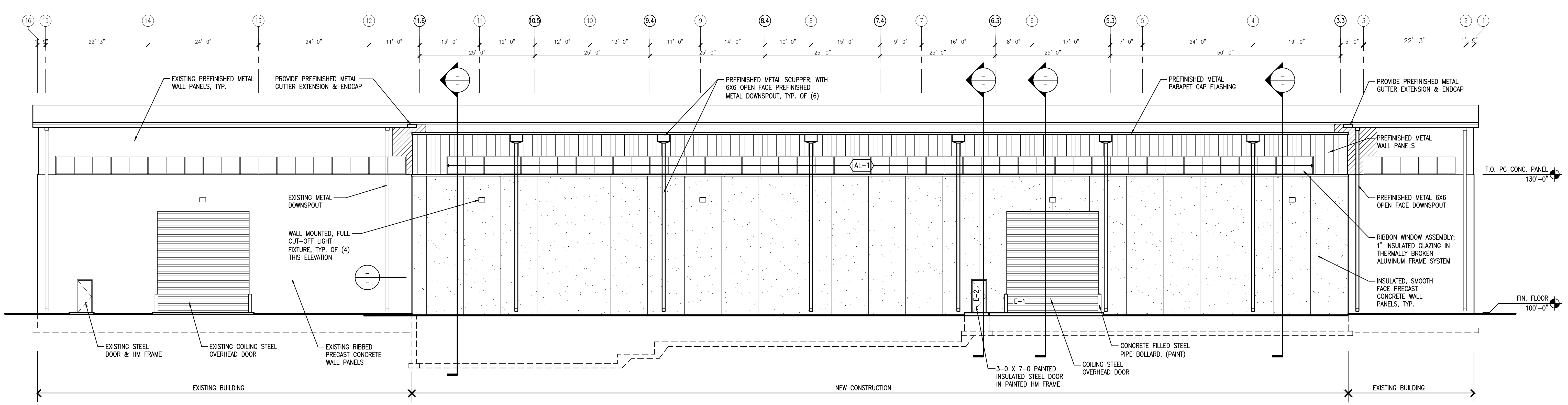
PROJECT NO.:	
DRAWN BY:	
CHECKED BY:	DTF

SHEET TITLE:
BUILDING ELEVATIONS

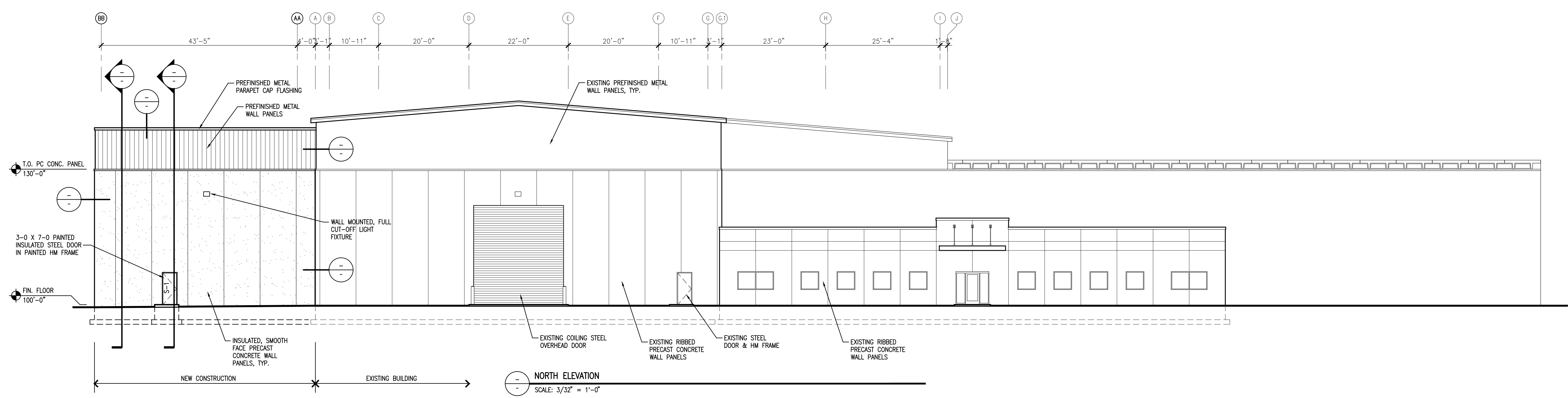
SHEET NUMBER:
A-6



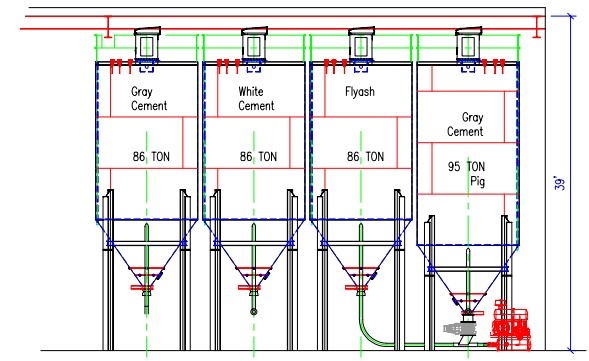
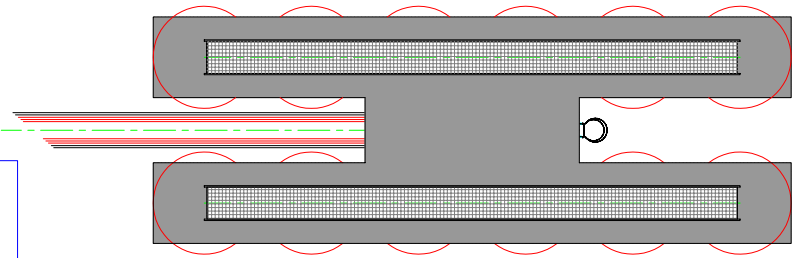
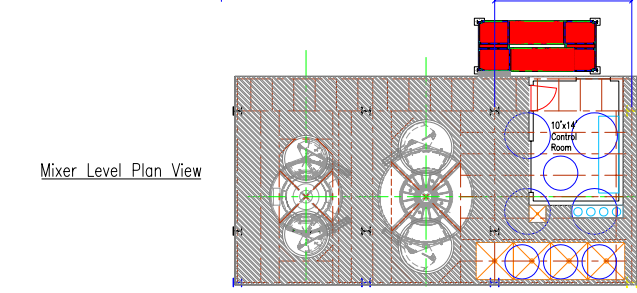
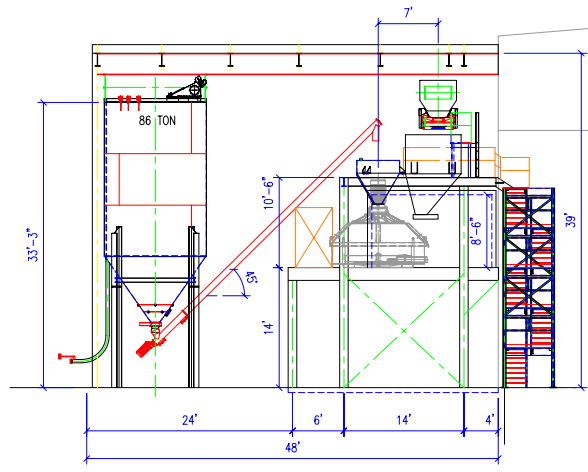
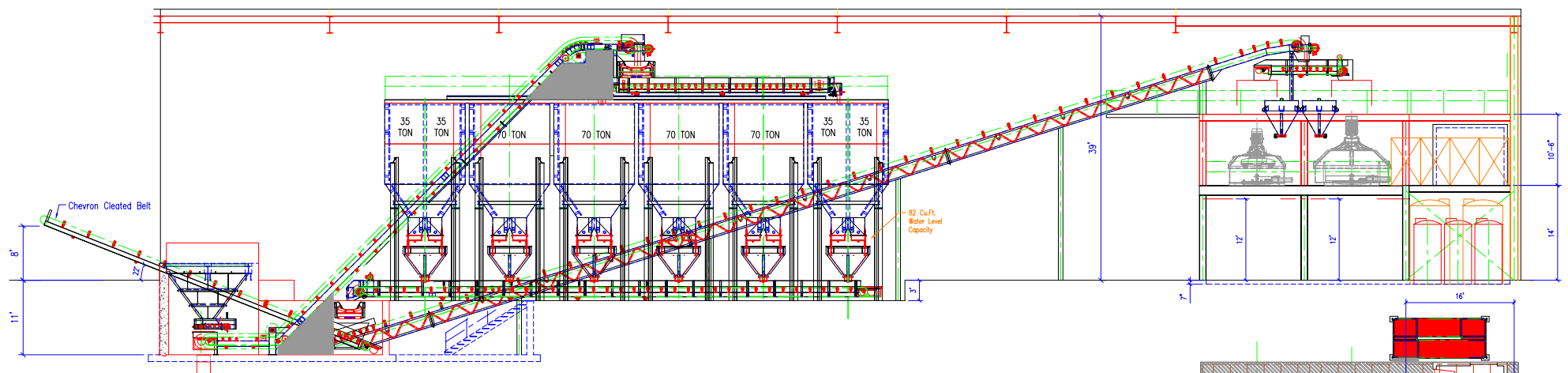
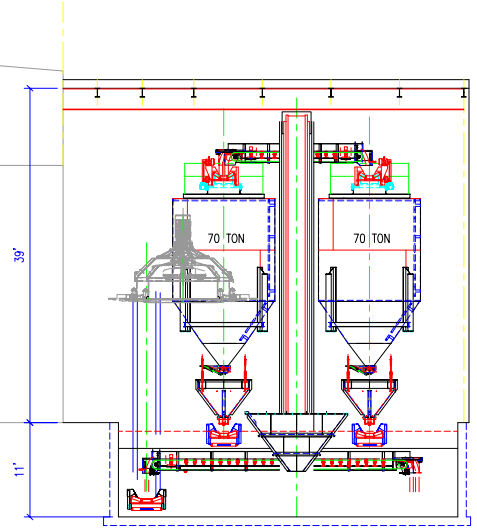
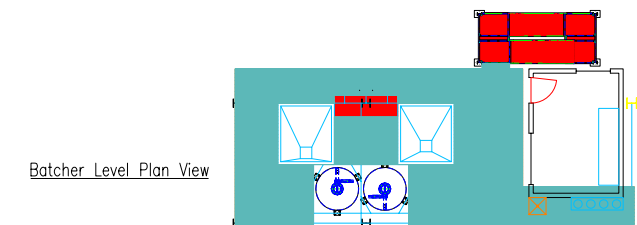
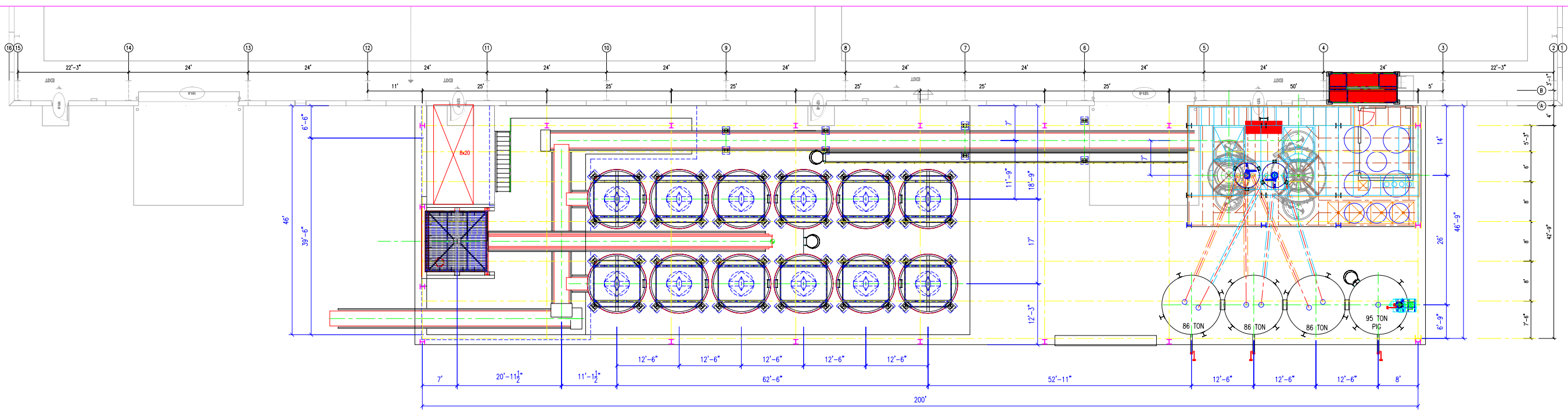
SOUTH ELEVATION
SCALE: 3/32" = 1'-0"



EAST ELEVATION
SCALE: 3/32" = 1'-0"



NORTH ELEVATION
SCALE: 3/32" = 1'-0"



- Estimated HP List:**
- 0.25 HP Truck Hopper Vibrator
 - 3 HP Feeder Conveyor
 - 40 HP Flexwall Conveyor Belt Drive
 - 2 HP Flexwall Conveyor Belt Beater Drive
 - 10 HP Rev. Cross Conveyor
 - 5 HP Rev. Shuttle Drive 1A
 - 5 HP Rev. Shuttle Drive 1B
 - 1 HP Rev. Shuttle Wheel Drive 1C
 - 5 HP Rev. Shuttle Drive 2A
 - 5 HP Rev. Shuttle Drive 2B
 - 1 HP Rev. Shuttle Wheel Drive 2C
 - 20 HP Collecting Conveyor-1
 - 20 HP Collecting Conveyor-2
 - 10 HP Rev. Cross Conveyor
 - 10 HP Clean-Out Conveyor
 - 40 HP Incline Conveyor
 - 10 HP Rev. Cross Conveyor
 - 25 HP Screw Conveyor-1
 - 25 HP Screw Conveyor-2
 - 25 HP Screw Conveyor-3
 - 25 HP Screw Conveyor-4
 - 25 HP Screw Conveyor-5
 - 25 HP Screw Conveyor-6
 - 75 HP RP1500 Rapid Mixer
 - 150 HP RP3000 Rapid Mixer
 - 40 HP Cement Transfer Blower Motor

- Estimated CFM List:**
- Flexwall Air Knife 80CFM @ 80psi (Max.)
 - Agg Bin Discharge (Each) 64CFM @ 80-90psi.
 - Silotop Dust Collectors (Each) 3CFM @ 87 psi.
 - Cement Batcher Discharge (Each) 27CFM @ 80-90psi.
 - Agg Holding Discharge (Each) 27CFM @ 80-90psi.
 - Silo Aeration Cones (Each) 16CFM @ 14 psi.
 - Mixer Discharge Gates (Each) 12CFM @ 80 psi.
- Total CFM Based on a 4 Agg Weigh Up.
Total CFM = 456 @ 90psi.
- Total CFM Based on a 6 Agg Weigh Up.
Total CFM = 584 @ 90psi.
- Total CFM Based on a 12 Agg Weigh Up.
Total CFM = 968 @ 90 psi.

Total Amps Usable At One Time
620 Amps - 460V 3PH- 60Hz

Rev.	Date	By	Remarks

STANDLEY
BATCH SYSTEMS, INC.
P.O. Box 800 / 505 Aquamsi Street
Cape Girardeau, MO 63701
800/325-8084 573/334-2831 FAX:573/334-3704

Molin Concrete
Ramsey Plant MN
Plant General Layout

Drawn By: Pattengill
SCALE: 3/32"=1'-0"
DATE: 29Aug13

DRAWING NO. 23117-E1
REVISION NO. 1

**MOLIN CONCRETE PRODUCTS COMPANY
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 **MOLIN CONCRETE PRODUCTS COMPANY**, a business corporation (Domestic) under the laws of the State of Minnesota, whose address is 6820 143rd Ave NW, Ramsey, MN 55303 (the "**PERMITTEE**").

WITNESSETH:

WHEREAS, the **PERMITTEE** is the fee owner of the property generally known as 6820 143rd Ave NW, Ramsey, MN 55303, and legally described as follows:

The East half of Southeast quarter of Southwest quarter of Section 27, Township 32, Range 25, except that part described as follows:

Commencing at Northwest corner of said East half, thence South along west line of said East half 409.44 feet to point of beginning, thence East at right angle 11 feet, thence South at right angle 264 feet, thence West at right angle to West line of said East half, thence North along said West line to point of beginning, except road subject to easement of record, Anoka County, Minnesota

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

WHEREAS, on October 22, 2013 the **CITY** approved the final site plan for Molin Concrete Products Company on the **Subject Property**; and

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 (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 Framework Architects, dated September 3, 2013, revised _____, by Brown Herkenhoff Engineers-Surveyors dated May 31, 2001, and by Bock & Clark's National Surveyors Network/Northstar Surveying, Inc. dated August 7, 2008.
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 structure(s) shall be constructed in accordance with the requirements of the Building Code.
5. **Fire Lanes.** Fire lanes shall be maintained on the **Subject Property**. The exact locations of these items on the **Subject Property** 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** prepared by Framework Architects dated September 3, 2013, revised _____, and approved by the City Council on October 22, 2013 contingent upon compliance with the Staff Report dated September 27, 2013, revised on _____.
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. Installation of bituminous surfacing around building addition in accordance with the Site Plan prepared by Framework Architects, dated September 3, 2013, revised _____.
 - b. Installation of Landscaping in accordance with the Landscape Plan prepared by Framework Architects, dated September 3, 2013, revised _____.
 - c. Establishment of turf in areas disturbed during construction and in accordance with the Site Plan.
 - d. Installation and removal of temporary erosion control measures.
 - e. Temporary and permanent erosion control.

("Required Improvements").

The **PERMITTEE** agrees to construct the Required Improvements according to the terms and conditions of this agreement, in accordance with **PERMITTEE's** plans submitted to the **CITY**, and in compliance with the Staff Report dated September 27, 2013, revised _____, 2013.

8. **Required Improvements Completion Date.** The Required Improvements shall be completed on or before October 22, 2014.
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 an irrevocable letter of credit, approved as to form by the **CITY**, in the amount of Six Thousand Dollars and No Cents. (**\$6,000.00**), 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 and written acceptance by the **CITY**, the financial guarantee shall be returned to the **PERMITTEE** and the **PERMITTEE** shall be required to provide the landscaping maintenance guarantee described in Item #13 of this Development Permit. The determination of completion of the construction of the Required Improvements shall be made by City Staff. 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 Three Hundred Dollars and No Cents (**\$300.00**) (5% x \$6,000.00). 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**.
11. **Development Fees.** All applicable development fees were satisfied with the original improvements to the **Subject Property**.

SECTION II PERMITS AND OCCUPANCY

12. **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, (f) all applicable development fees, as outlined in Exhibit A attached hereto, have been paid to the **CITY**. 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 is in accordance 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 two (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**; and (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.

SECTION IV LANDSCAPING

13. **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 an irrevocable letter of credit, approved as to form by the **CITY**, in the amount of Nine Hundred Dollars and No Cents (**900.00**) [# plantings (10 trees) x cost/planting (\$300/tree) x 30% average non-survival rate], which shall be in effect for a two (2) year period commencing on the date of the **CITY**'s written acceptance of said plantings as part of the Required Improvements.

At the end of the two (2) year period, the **PERMITTEE** shall contact the **CITY** to schedule a final inspection of the landscaping. 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. Upon approval of the final landscape inspection by the **CITY**, the maintenance guarantee shall be returned to the **PERMITTEE**. In the event the **PERMITTEE** fails to maintain the required plantings for a two (2) 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

14. **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.
15. **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.
16. **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.
17. **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.
18. **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.
19. **Invalidity of Any Section.** If any portion, section, subsection, sentence, clause, paragraph or phrase 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.
20. **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.
21. **Violation of This Permit.** If the **PERMITTEE** fails to perform any of the terms of this Development 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.

22. **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 _____, 2013.

MOLIN CONCRETE PRODUCTS COMPANY CITY OF RAMSEY

By: _____

By: _____

Its: Mayor

Its: _____

ATTEST

By: _____

Its: City Clerk

STATE OF MINNESOTA)

) ss.

COUNTY OF ANOKA)

On this _____ day of _____, 2013, before me a Notary Public personally appeared Sarah Strommen 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 Sarah Strommen and Jo Thieling acknowledge said instrument to be the free act and deed of said municipal corporation.

Notary Public

STATE OF MINNESOTA)
)
COUNTY OF) ss.

The foregoing was acknowledged before me this ____ day of _____, 2013, by _____, the _____ of Molin Concrete Products Company, a Business Corporation (Domestic) 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 Drive NW
Ramsey, MN 55303

REVIEWED BY:
Ratwik, Roszak & Maloney
730 Second Ave. S. Suite 300
Minneapolis, MN 55402

DRAFT

September 27, 2013

Molin Concrete Products Company
Attn: Matt Westgaard
415 Lilac Street
Lino Lakes, MN 55014

Re: Site Plan Review—Molin Concrete Products Company Building Expansion

Dear Mr. Westgaard:

The City of Ramsey has received your application for Site Plan Review to construct a 10,000 square foot addition to an existing building located at 6820 143rd Ave NW. City Staff is recommending to the Planning Commission approval of the Site Plan contingent upon the following:

- Required amendments as outlined in the attached Staff Report dated September 27, 2013.
- Execution of a Development Permit (draft included)

Please note: this is only a recommendation that is subject to review by the Planning Commission and final decision by the City Council. A copy of the Staff Report and draft Development Permit are attached for your review. The Planning Commission will review the request on **Thursday, October 3rd, 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 Site Plan request will need to be reviewed for a final decision by the City Council. This hearing would tentatively be scheduled for Tuesday, October 22nd, 2013, 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: Framework Architects, Attn: Doug Feickert, 7914 Stafford Trail, Savage, MN 55378

**CITY OF RAMSEY LAND USE APPLICATION
TECHNICAL REVIEW FILE**

DATE	9-27-13	PROJECT ADDRESS	6820 143 RD AVENUE NW
PROJECT. TITLE	MOLIN CONCRETE PRODUCTS COMPANY-SITE PLAN REVEIW		
ESCROW #	113792		
DEPARTMENT:	Planning		
TECHNICAL REVIEWER:	Name: Tina Goodroad Phone: 651-967-4537 Email: tina.goodroad@stantec.com		

We offer the following comments regarding your request for site plan review approval.

General: The request is for Site Plan Review approval to begin concrete product production on site with a 10,000 sq. ft. addition to the existing 60,092 sq. ft. existing facility (former Oldcastle Precast). The applicant is proposing this use located at 6820 143rd Avenue NW.

Zoning: The subject property is zoned E-2 Employment District. The intent of this district is to accommodate general industrial activities. The E-2 District allows manufacturing uses as a permitted use. The site plan indicates an existing area for outdoor storage at the southwest portion of the site. This outdoor storage meets the accessory use limits of 30% of the property and will remain within these perimeters with the additional 10,000 sq. ft.

Site Plan: The applicant is proposing a 10,000 square foot expansion to the east wall of the existing building in an area presently covered with an impervious surface. The building addition will accommodate expansion of the existing manufacturing uses. Access to the site will be unchanged and there appears to be no impact to existing landscaping areas. Full drive circulation will be provided around the building and its expansion. Existing loading docks will remain.

The site meets the E-2 standards for lot size, lot area, lot width and impervious surface. The building addition meets all required building and parking setback requirements.

Parking: Required parking is based on the proposed use. The expansion includes 10,000 square feet of additional manufacturing space. The zoning ordinance requires one space for each 1,000 square feet of industrial or ten (10) additional parking spaces above the sixty (60) required for the existing building. The site has sixty-seven (67) existing parking stalls along north property line where seventy (70) are required. However, there is also extensive paving on the site that could accommodate three (3) additional spaces. *Based on the proposed use of the expansion area as mainly manufacturing, Staff recommends that the applicant indicate location for proof-of-parking of the three (3) additional stalls on the site plan.*

Review File:

Molin Concrete Site Plan Review

9-9-13

Page 2 of 2

Landscaping: One (1) new tree per every 1,000 square feet of building addition is required. Based on the proposed addition, ten (10) trees must be planted across the site. Deciduous trees shall be at least 2.5 inches in diameter and evergreen trees must be at least six (6) feet in height.

- *Please update the landscape plan to include a planting schedule that identifies the common and scientific name, root stock, and quantity for each proposed species.*
- *The landscape plan shows five (5) Quaking Aspen but the caption states three (3), please address this discrepancy (incorporation of a planting schedule should address this). Please note that Staff assumes this is meant to be five (5) as that is what is shown on the plan and that would also ensure that the minimum number of required trees is being installed.*
- *The size of the Quaking Aspen must be increased to at least 2.5 inches in diameter.*
- *A planting detail must be included with the landscape plan (another option is to incorporate the City's tree planting detail). At a minimum, it should state:*
 - *Planting depth shall be such that the 1st set of primary roots is at finished grade*
 - *Only prune out dead/broken/deformed branches at time of installation*
 - *Remove the upper portion of wire basket and burlap after being placed in planting hole if using B & B stock.*

Building Elevations:

The elevation plans for the proposed addition indicate the use of smooth face precast concrete wall panels that will abut existing ribbed precast concrete wall panels. Colors are not indicated. The east elevation (most visible from a public street) includes an overhead door, small windows at the top and prefinished metal wall panels for accenting above the windows. *Since different pre-cast concrete wall finishes are proposed, Staff will require a colored elevation plan and that proposed material colors match existing wall finishes.*

**CITY OF RAMSEY LAND USE APPLICATION
TECHNICAL REVIEW FILE**

DATE	SEPTEMBER 27, 2013	PROJECT ADDRESS	6820 143 RD AVE NW
PROJECT. TITLE	MOLIN CONCRETE PRODUCTS COMPANY		
ESCROW #	113792		
DEPARTMENT:	Engineering		
TECHNICAL REVIEWER:	Name: Leonard Linton Phone: 763 433-9834 Email: llinton@ci.ramsey.mn.us		

The plans reviewed consist of 7 pages prepared by Framework Architects, dated August 20, 2013 stamped preliminary, 4 pages prepared by Brown Herkenhoff Engineers-Surveyors dated May 31, 2001, 2 pages prepared by Bock & Clark's National Surveyors Network/ Northstar Surveying, Inc. dated August 7, 2008

We offer the following comments regarding your request for an application to expand the building:

General: The property is 19.79 acres with a 60,000 sf. industrial building, The applicant is proposing to add a 10,000 sf. building addition constructed over existing pavement. This project is not creating new impervious area so the storm water utility charge will not change. The new disturbed area is less than 1 acre so a Lower Rum River WMO permit is not required.

Grading, Drainage and Erosion Control: The current submittal does not include a grading, drainage and erosion control plan. A plan will be required prior to issuing the building permit. The plan must show existing and proposed grades and drainage patterns, location of erosion control devices to protect existing storm sewers and ponds, and notes for storm water pollution prevention.

Regular Planning Commission

5. 2.

Meeting Date: 10/03/2013**Submitted For:** Tim Gladhill, Community Development**By:** Tina Goodroad, Community Development

Information**Title:**

PUBLIC HEARING: Consider Request for Sketch Plan Review and Preliminary Plat Approval for Brookfield 4th Addition; Case of Capstone Homes

Background:

The applicant is requesting Preliminary Plat approval of Brookfield 4th Addition. This plat is a continuation of the Brookfield Addition west of Nowthen Boulevard and generally north of 167th Avenue and will encompass a majority of the remaining lots from the original Preliminary Plat. The current Preliminary Plat includes seventy-seven (77) lots.

Notification:

In accordance with City Code, City Staff attempted to notify owners of property within 700 feet of the Subject Property of the preliminary plat public hearing.

Observations/Alternatives:

The site is guided LDR on the Comprehensive Plan and zoned R-1 Residential (MUSA). The minimum lot size in the R-1 Residential (MUSA) zone is 10,800 sq. ft. Each of the proposed lots meets the minimum lot size. The lots meet the required setbacks of the R-1 district. A variance to front yard setback was approved as part of the original Preliminary Plat for lots in Blocks 3 and 4, granting a twenty-five (25) foot front yard setback.

The landscaping plan largely meets the ordinance with a few additional details and revisions needed as noted in the Staff Review File. The proposed plat is adjacent to an existing larger lot residential neighborhood. These lots are also zoned R-1 Residential (MUSA) so density transitioning, as required by the ordinance, does not apply as the zoning districts are the same. However, as the existing lots are of a different size and character, staff is requesting that the applicant consider providing transitioning between these abutting lots. This can be accomplished through new plantings or use of existing streets. In addition, a detailed inventory, prepared by an ISA Certified Arborist or a Society of American Foresters Certified Forester, must be submitted identifying all existing significant trees, species, DBH and condition.

A Development Agreement will be required. This agreement will include required park dedication, suggested as a cash contribution. Other related fees and reimbursements associated with previous phases will be clarified in the Development Agreement.

The Staff Review File discusses some outstanding issues related to the previous developer amenities and home owners association. The City acknowledges a number of concerns related to the above amenities and maintenance obligations of said amenities have been submitted to the City. An open house has been scheduled for Thursday, October 3rd at 4:00-6:30 p.m. to provide an opportunity for area residents surrounding the Brookfield 4th Addition to meet with staff and the applicant and discuss plans prior to the public hearing.

The Staff Review File also addresses various items related to street, grading, drainage, and utilities.

Funding Source:

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

Staff Recommendation:

City Staff recommends approval of the Preliminary Plat for Brookfield 4th Addition contingent upon compliance with the Staff Review File dated September 27, 2013.

Action:

Motion to recommend City Council approval of the preliminary plat for Brookfield 4th Addition contingent upon compliance with the Staff Review File dated September 27, 2013.

Attachments

Site Location Map

Preliminary Plat

Staff Review File dated September 27, 2013

Resolution to Approve Preliminary Plat

Form Review

Inbox

Chris Anderson

Tim Gladhill

Form Started By: Tina Goodroad

Final Approval Date: 09/27/2013

Reviewed By

Chris Anderson

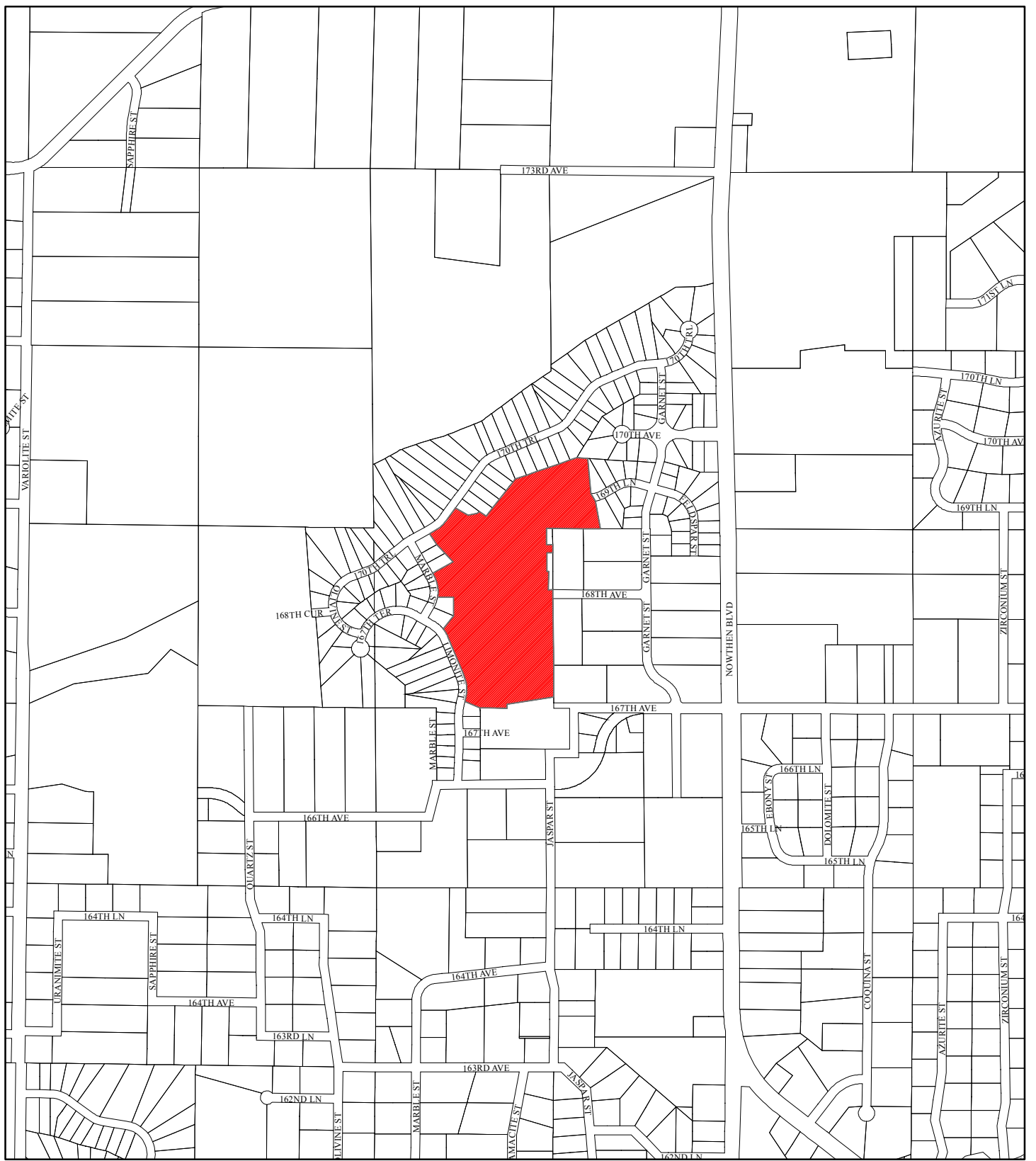
Tim Gladhill

Date

09/27/2013 08:54 AM

09/27/2013 12:04 PM

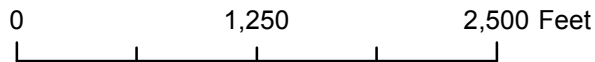
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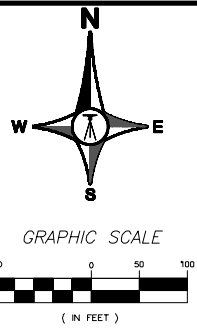
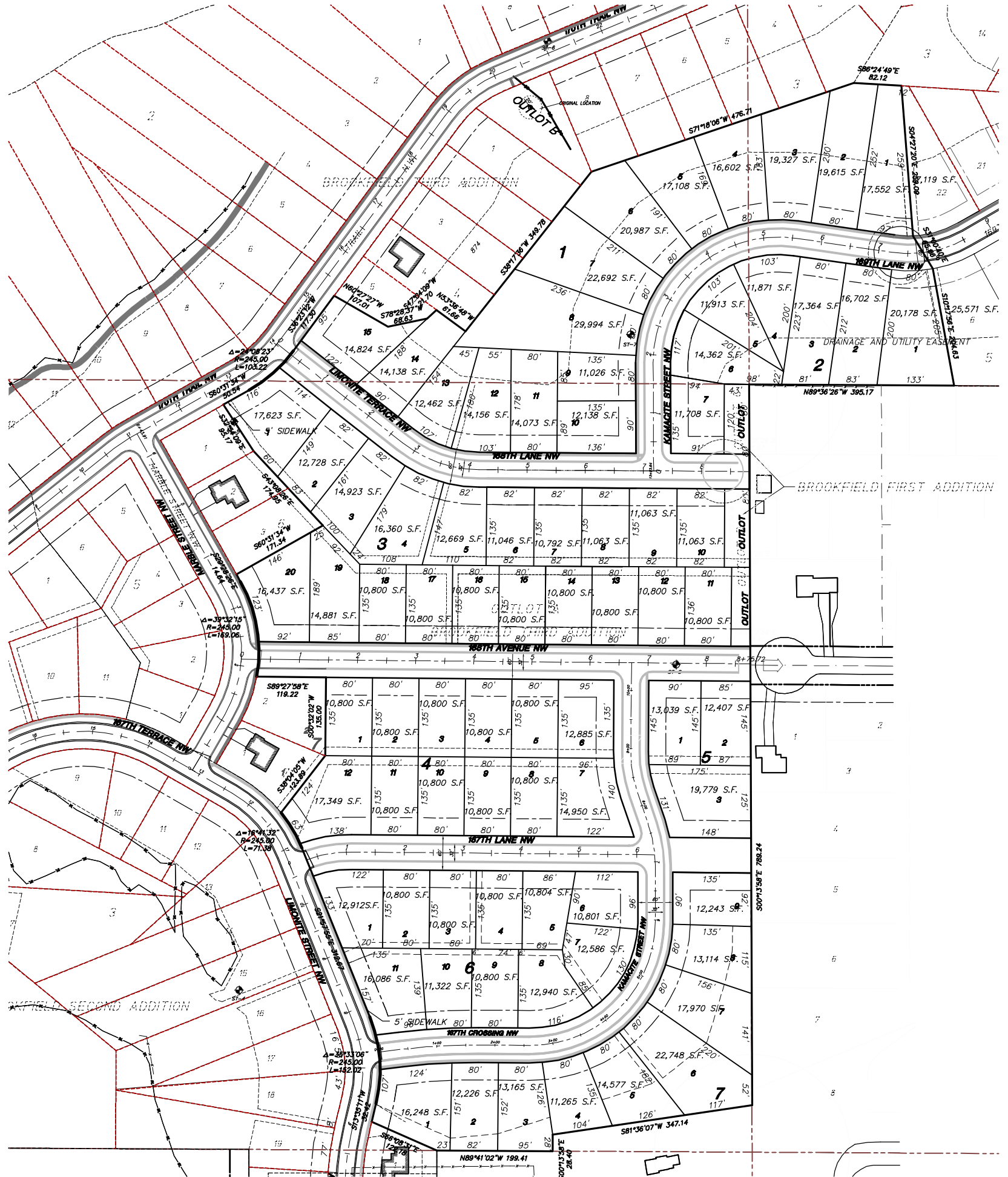


Brookfield 4th Addition

Legend

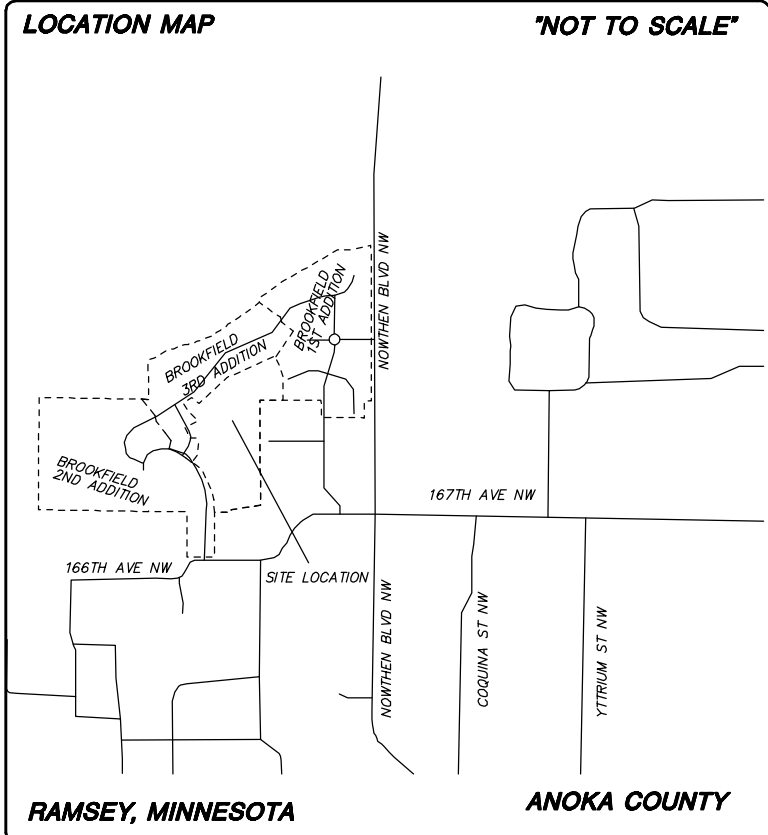
- Site
- Parcels





OWNER:
 Brookfield LLC
 14015 Sunfish Lake Blvd
 Ramsey, Minnesota 55303
 Phone: (763) 450-1201

ENGINEER/SURVEYOR:
 Anderson Passe & Assoc. P.A.
 200 Third Ave NE, Ste 100
 Cambridge, Minnesota 55008
 PHONE: (763) 689-4042



LEGAL DESCRIPTION

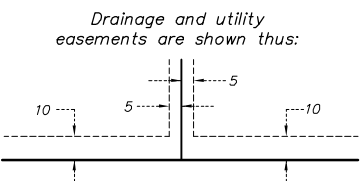
OUTLOT A, BROOKFIELD 3RD ADDITION according to the recorded plat thereof, Anoka, Minnesota.

MINIMUM SETBACKS

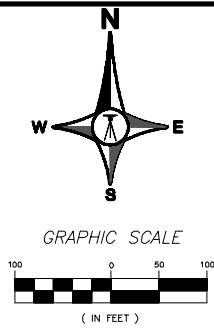
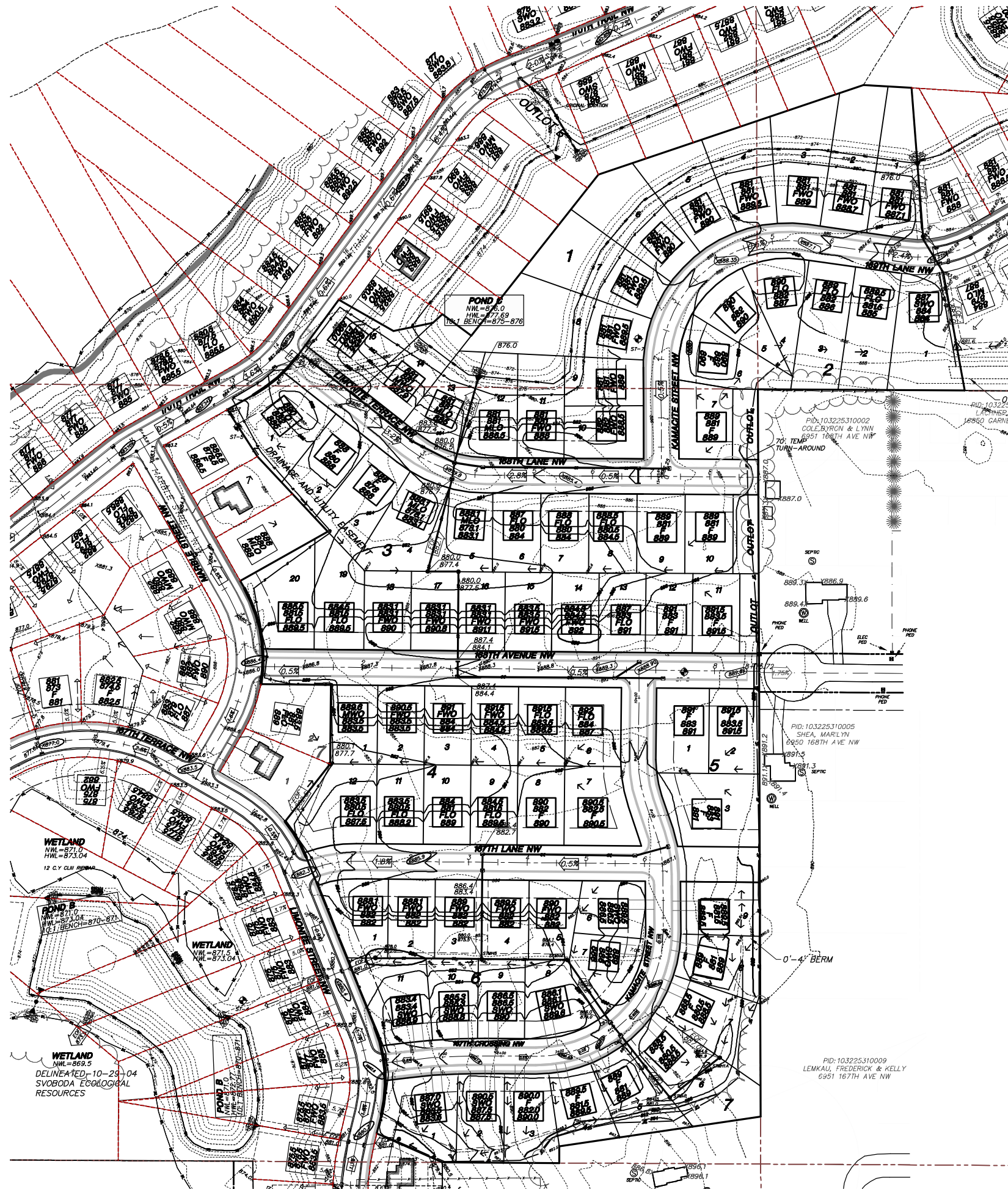
FRONT SETBACK (TYPICAL)	30 FT.
FRONT SETBACK (BLOCKS 3 AND 4)	25 FT.
HOUSE SIDE SETBACK	10 FT.
HOUSE SIDE (GARAGE)	6 FT.
CORNER SETBACK	30 FT.
REAR SETBACK	30 FT.
MINIMUM LOT FRONTAGE	80 FT.
MINIMUM LOT FRONTAGE (CORNER)	90 FT.

ZONING
 EXISTING ZONING R1
 PROPOSED ZONING R1

SITE DESCRIPTION
 TOTAL PROPOSED HOMES = 77
 MINIMUM LOT AREA = 10,800 SQ. FT.



DRAWN	DATE	SCALE	PROJECT	CHECKED	APPROVED	DATE	REG. NO.	BY	REVISIONS
									DATE
		1"=100'	127-13	BTP	BTP	8-29-13	24519	BTP	9/24/13 plat w.r. road connection to east.
<p>ANDERSON PASSE & ASSOCIATES 200 3RD AVE NE, SUITE 100 CAMBRIDGE, MINNESOTA 55008 phone 763-689-4042 fax 763-689-6681</p>									RECORD DRAWING
<p>BROOKFIELD 4TH ADDITION PRELIMINARY PLAT RAMSEY, MINNESOTA</p>									
<p>I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.</p> <p>DATE 8-29-13 REG. NO. 24519 BRENT ROSEHALL</p>									
<p>P1</p>									



BUILDING PAD LEGEND

909.0	GARAGE FLOOR ELEVATION
FWO/MWO/SWO	TYPE OF BUILDING
FLO/MLO/F	TYPE OF BUILDING
901.5	LOWEST FLOOR ELEVATION
909.0	LOWEST OPENING ELEVATION

BUILDING TYPE LEGEND

F	FULL BASEMENT
FWO	FULL BASEMENT WALKOUT
MWO	MODIFIED (NON STANDARD) WALKOUT BASEMENT VARIABLE 5 - 12 COURSE BASEMENT
SWO	SPLIT ENTRY WALKOUT BASEMENT (5 COURSE)
FLO	FULL BASEMENT LOOKOUT ON 5 COURSE
MLO	MODIFIED (NON STANDARD) LOOKOUT BASEMENT VARIABLE 5 - 12 COURSE BASEMENT

DATE	REVISIONS	BY
9/24/13	road connection to east	BT

ANDERSON PASSE
 & ASSOCIATES
 200 3RD AVE NE, SUITE 100
 CAMBRIDGE, MINNESOTA 55008
 phone 763-689-4042 fax 763-689-6661

BROOKFIELD 4TH ADDITION
 GRADING, DRAINAGE, & SWPP PLAN
 RAMSEY, MINNESOTA

DATE: 8-29-13
 PROJECT: 127-13
 SCALE: 1"=100'
 DRAWN: BT
 CHECKED: BT
 APPROVED: BT

REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA
 REC. NO. 24018
 DATE: 8-29-13
 BRYN ROSSELL



Stormwater Pollution Prevention Plan

The work described to implement the following Storm Water Pollution Prevention Plan (SWPPP) shall be considered part of the Contract Documents and shall be performed by the Contractor. The work to install and maintain the Best Management Practices (BMP's) to prevent erosion and provide sediment control shall be in accordance with Permit No. MN R100001 and shall include, but are not necessarily be limited to, the requirements contained herein.

1. Construction Activity Information

Project Name: **Brookfield 4th Addition** City/Township: **City of Ramsey** State: **MN** Zip Code: 55303
 All counties where construction will occur: **Anoka County**
 Project Size (number of acres to be disturbed): **11.05**
 Project Type: XX Residential Commercial/Industrial
 Road Construction Other (describe)

Cumulative Impervious Surface:
 Existing area of impervious surface to nearest quarter acre: **0.00**
 Post construction area of impervious surface to nearest quarter acre: **9.85**

Receiving Waters:
 Name of Water Body Type Appendix A Special Water?
 Existing On Site Pond Pond No

Dates of Construction
 Estimated Construction Start Date: **4/1/2014**
 Estimated Completion Date: **11/15/2014**
 Contact Information

Owner of Project Site: **Ben Minks** Business/Firm Name: **Brookfield LLC**
 Federal Tax ID Number: available as needed State Tax ID Number: available as needed
 Contact Person: **TBD** Title: **Project Supt.** Phone: **763-450-1201**
 Mailing Address: **14015 Sunfish Lake Blvd, Ste 400 City: Ramsey State: MN**
 Zip Code: 55303 E-mail Address:

Contractor/Person who will oversee all aspects of the SWPPP.
NOTE THIS PERSON MUST BE TRAINED PER THE GENERAL PERMIT AUTHORIZATION TO DISCHARG STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITY UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM/STATE DISPOSAL SYSTEM PERMIT PROGRAM (PART III.A.2.)

Contact Person:xxxxxxx Title:xxxx Phone:763xxxxxx
 Business Name: xxxxxxxxxxxxxxxx
 Mailing Address: 200 Third Avenue NE, Suite 100
 Cambridge, MN 55008
 Certification: Site Management (Erosion & Stormwater Management)
 Exp Date xxxxxx
 Instructor: xxxxxxxxxxxxxxxxxxxxxxxx
 Alternate Contact Person: TBD Phone: TBD
 E-mail:

General Construction Project Information
 Description of the construction activity (what will be built, general timeline, etc.):
Brookfield 4th Addition is a residential subdivision comprised of 76 lots to be done in 3 phases. The construction activities will include grading operations of streets, housepads, surface drainage, and a large infiltration basin. Utility construction, exposed soil stabilization, and paving will occur after grading operations. This is the last phase of a large development. Ponds were previously constructed for the development (2007).

Description of soil types found at the project: **Sand**

2. General Site Information
 Description of the location and type of all temporary and permanent erosion prevention and sediment control BMP's to be used, including the timing for installation and procedures used to establish additional temporary BMP's as necessary:

Contractor shall install and maintain the temporary and permanent erosion prevention and sediment control BMP's as shown on the accompanying drawing and as described herein. The timing shall be in accordance with the Construction Activity Sequence below and in accordance with sound and proactive construction scheduling and practices.

Accompanying this SWPPP is a site plan that includes the following features:
 * Existing and proposed grades, including dividing lines and direction of flow for all pre- and post-construction stormwater runoff drainage areas located within the project limits.
 * Locations of impervious surfaces and soil types.
 * Location of areas not to be disturbed.
 * Location of areas of phased construction.
 * All surface waters and existing wetlands within one-half mile from the project boundaries that will receive stormwater runoff from the site (identifiable on maps such as USGPS 7.5-minute quadrangle maps or equivalent). Where surface waters receiving runoff associated with construction activity will not fit on the plan sheet, they must be identified with an arrow, indicating both direction and distance to the surface water.
 * Method(s) to be used for final stabilization of all exposed soil areas.

Description of stormwater mitigation measures required as the result of an environmental, archaeological, or other required local, state, or federal review of the project:
 Not applicable to this project.

Description of the type and locations of BMP's appropriate for this site and sufficient to comply with all applicable requirements of the TMDL implementation plan and identification of the receiving water and of the areas of project site discharging to an impaired water that has an approved TMDL implementation plan that contains requirements for construction Stormwater discharges:

Not applicable to this project.

Selection of Permanent Stormwater Management System
 Will the project create a new cumulative impervious surface greater than or equal to one acre? XX Yes No

If yes, a water quality volume of 1/2 inch of runoff from this area must be treated before leaving the site or entering surface waters (1 inch of runoff from this area if discharging to special waters).

Method(s) to be used to treat runoff from the new impervious surfaces created by the project:

XX Wet sedimentation basin Infiltration/Filtration basin
 Regional ponds Combination of practices

Description of treatment method(s) to be used, including design information for each method :

*****Two large sedimentation/ retention ponds were previously constructed for this development. Additionally, smaller ponds were constructed that drain to these large ponds. Infiltration was not considered at that time. Small rear yard swales are proposed for this remaining development. These proposed swales along with the small ponds will infiltrate storm water per 2013 guidelines.*****

Description of why it is not feasible to meet the treatment requirement for water quality volume. This can include proximity to bedrock or road projects where the lack of right-of-way precludes the installation of any permanent stormwater management practices. Description of what other treatment, such as grassed swales, smaller ponds, or grit chambers, will be implemented to treat runoff prior to discharge to surface waters:
 Not Applicable

Description of how a proposed alternative method to treat runoff from new impervious surfaces will achieve approximately 80% removal of total suspended solids on an annual average basis:
 Not Applicable

3. Erosion Prevention Practices
 Description of construction phasing, vegetative buffer strips, horizontal slope grading, and other construction practices to be used to minimize erosion:

Stage the soil disturbing activities to minimize the amount of disturbed soil prior to stabilization. Disturbed areas will be considered stabilized when covered with materials such as anchored mulch, staked sod, riprap, wood fiber blanket, or other materials that prevent erosion from occurring. Grass seeding alone will not be considered stabilization.

Disturb only those areas where proposed contours and elevations are shown to differ from the existing and where removals and other operations are noted. Special areas of the project site that are not to be disturbed by construction activity are noted on the plan.

Install wood fiber blanket where shown on the plan to provide temporary erosion protection.

Description of temporary erosion protection or permanent cover to be used for exposed positive slopes within 200 lineal feet of a surface water (stream, lake, pond, marsh, wetland, reservoir, spring, river, storm water basin, storm water drainage system, waterways, water courses, and irrigation system whether surface water is natural or artificial, public or private with maximum time an exposed soil area can remain exposed when the area is not actively being worked:

Provide year round stabilization to the above mentioned areas in accordance with the following table:

Steepness of slope (H:V)	Maximum Exposure Duration When Area Is Not Actively Worked
Greater than 3:1	7 Days
3:1 through 10:1	14 Days
Less than 10:1	14 Days

Description of practices to be used to stabilize the normal wetted perimeter of drainage or diversion ditches within 200 lineal feet of the property edge or point of discharge to a surface water within 24 hours of connecting the ditch to the surface water:

Install seed, fertilizer, and disc-anchored mulch or temporary wood fiber blanket in ditches and swales within 24 hours of connecting the ditch or swale to the surface water where shown on the plan in accordance with the details.

Description of other erosion prevention practices to be used:
 Install the specified energy dissipation method, such as riprap and geotextile fabric, at pipe outlets within 24 hours of installation. Permanently seed disturbed areas prior to end of seeding dates specified by MnDOT.

4. Sediment Control Practices
 Description of sediment control practices to be used to minimize sediments from entering surface waters, including curb and gutter systems and storm drain inlets:

Permanent sediment control practices to be used on this project consist of sedimentation basins. Temporary sediment control practices to be used are silt fence, culvert inlet protection, storm sewer inlet protection, stone pad exits, concrete washout area, ditch checks, and, if necessary, street sweeping.

5. Dewatering and Basin Draining

If the project includes dewatering or basin draining, describe the BMP's to be used to prevent the discharge from adversely affecting the receiving waters and downstream landowners.

Dewatering for sanitary sewer construction to be performed in accordance with dewatering permit.

6. Additional BMP's for Special Waters and Discharges to Wetlands

This project does not discharge stormwater directly to a Special Water. This project does not discharge stormwater directly to wetlands.

7. Construction Activity Sequence

In addition to performing and sequencing the tasks associated with implementing this SWPPP as described herein and shown on the plan, the Contractor shall perform construction activities in accordance with the following sequence:

- (1) Install silt fence along property line of project site where shown on plan and where property line is down gradient and within 100 feet of areas to have disturbed soil and where property line is within 20 feet of soil disturbing and other construction activities.
- (2) Install silt fence along edge of wetlands and at other locations shown on the plan.
- (3) Install stone exit pads where shown on plan and at other locations where vehicles and equipment will leave the site onto paved and gravel surfaces.
- (4) Construct storm water ponds and related piping and control structures as shown on the project plans. Install and maintain temporary erosion prevention measures as shown on the plan.
- (5) Install silt fence along bottom of storm water pond inslopes and where shown on the plan.
- (6) Complete earthwork activities. Install and maintain sediment control measures such as ditch checks and stormwater inlet protection.
- (7) Complete utility construction. Install and maintain sediment control measures such as inlet protection as work proceeds.
- (8) Remove silt deposits from site, remove silt deposits from stormwater basins.
- (9) Provide soil stabilization to disturbed areas by preparing topsoil, seeding, fertilizing, mulching, anchoring mulch in accordance with plans and specifications.
- (10) Remove perimeter silt fence, other silt fence, check dams, and other sediment control measures upon achieving final stabilization and Owner submits the Notice of Termination.

8. Inspections and Maintenance

Description of procedures to be taken to routinely inspect the construction site:
 Contractor shall inspect erosion prevention and sediment control BMP's to ensure integrity and effectiveness. Repair, replace, or supplement non-functional BMP's to provide continually functional BMP's. Contractor shall inspect the entire construction site a minimum of once every seven (7) days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours. Inspections shall include stabilized areas, erosion prevention and sediment control BMP's, and infiltration areas. Specific tasks associated with the inspection and maintenance of the BMP's include the following:

- * Maintain and retain at the construction site written records of the inspections and maintenance performed. Records of each inspection and maintenance activity shall include: Date and time of inspection/maintenance activity; Name of person(s) performing the activity; Finding of inspection; Recommended corrective actions; Corrective actions taken; and Date and amount of rainfall events greater than 0.5 inches in 24 hours.
- * Repair, replace, or supplement silt fences that become non-functional or accumulate sediment to the level of 1/3 the silt fence height or more within 24 hours of discovery or as soon as conditions allow access.
- * Drain temporary and permanent sediment basins and remove sediment when the volume of sediment collected reaches 1/2 the permanent storage volume within 72 hours of discovery or as soon as conditions allow access.
- * Inspect surface waters, drainage ditches, and stormwater conveyance systems for evidence of sediment deposited by erosion. Remove deltas and deposited sediment and restabilize areas where sediment removal results in exposed soil within seven (7) days of discovery unless precluded by legal, regulatory, or physical constraints. Removal and stabilization shall be completed within seven (7) days of obtaining access. The NPDES/SDS permit holder is responsible for contacting the local, regional, state, and federal authorities and receiving the applicable permits prior to performing this work.
- * Inspect construction site vehicle exit locations for evidence of sediment being track off-site onto paved surfaces. Remove tracked sediment from off-site paved surfaces within 24 hours of discovery.
- * Inspect perimeter of construction site. Remove off-site accumulations of sediment in a manner and at a frequency to minimize off-site impacts.

9. Pollution Prevention Management Measures

Contractor shall implement the following pollution prevention management measures on the site:

- * Solid Waste: Collect and properly dispose of sediment, asphalt and concrete millings, floating debris, paper, plastic, fabrics, construction and demolition debris, and other wastes in accordance with MPCA disposal requirements.
- * Hazardous Materials: Properly store, provide required secondary containment, and dispose of oil products, fuels, paint products, and other hazardous substances to prevent spills, leaks, and other discharges in accordance with MPCA regulations. Provide restricted access storage areas to prevent unauthorized access and vandalism.
- * Equipment Washing: Restrict external washing of trucks and other construction equipment to a defined area of site. Contain runoff and properly dispose of waste. Engine degreasing is prohibited on the property.
- * Spill Prevention: Park construction equipment and store potentially hazardous materials in a designated area located as far as practicable from potential environmentally sensitive areas. Construct impoundment dike and take other measures required to contain spilled material. Remove and dispose of contaminated soil, vegetation, and other materials and perform other mitigation measures as required in accordance with MPCA regulations.
- * Sanitary and Septic Waste: Provide and maintain temporary facilities in accordance with MPCA and Minnesota Department of Health regulations.

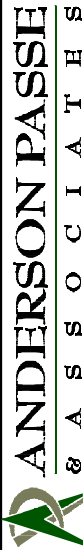
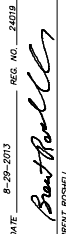

10. Final Stabilization

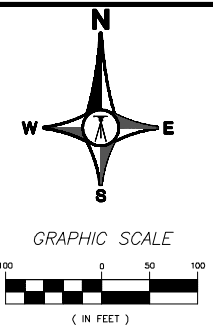
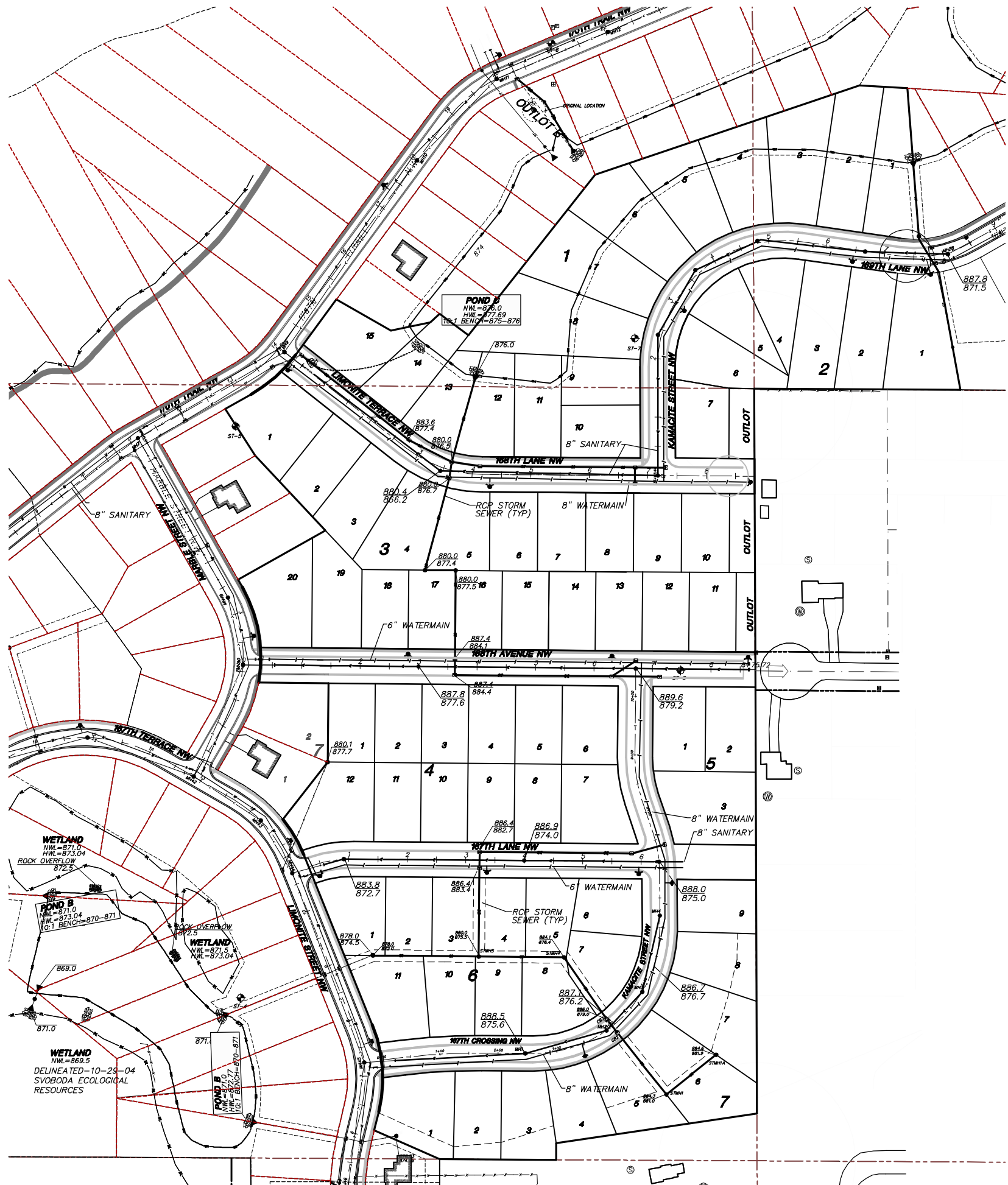
Contractor shall achieve final stabilization of the construction site by achieving the following:

- * Soil disturbing activities have been completed and soils are stabilized by a uniform perennial vegetative cover with a density of 70 percent over the entire pervious surface area or other equivalent means to prevent soil failure under erosive conditions.
- * Temporary synthetic and structural erosion prevention and sediment control BMP's are removed.
- * Sediment is removed from permanent sedimentation basins to return basins to the design capacity, removed from stormwater conveyance systems, and is stabilized or removed from the site.

11. Notice of Termination

Contractor shall notify Owner immediately upon achieving Final Stabilization. Owner must submit the Notice of Termination within 30 days after Final Stabilization or within 30 days of another owner assuming control according to Part II.B.5. over all areas of the site that have not undergone Final Stabilization.

DATE	4/10/13	SCOPE	STABILIZATION
BY		br	
REVISIONS			
 ANDERSON PASSH & ASSOCIATES 200 3RD AVE NE, SUITE 100 CAMBRIDGE, MINNESOTA 55008 phone 763-689-4042 fax 763-689-6681			
BROOKFIELD 4TH ADDITION STORM WATER POLLUTION PREVENTION PLAN RAMSEY, MINNESOTA			
DRAWN	PAD		
DATE			
SCALE			
PROJECT	127-13	DATE	8-29-2013
CHECKED		REG. NO.	24808
APPROVED		 BRENT ROSWELL	
			



MATERIALS
 WATER
 WATER MAIN - 6" & 8" CL 52 DIP
 WATER SERVICE - 1" TYPE K COPPER
 SANITARY
 SANITARY MAIN - 8" SDR 35 & SDR 26 PVC
 SANITARY SERVICE - 4" SDR 35 PVC

-ALL SANITARY SERVICES CONNECTED TO 8" DR 18 PIPE MUST INCLUDE CONCRETE AROUND THE WYE AND ELBOW.
 -10' TYPICAL HORIZONTAL SEPARATION BETWEEN SANITARY SEWER AND WATERMAIN.
 -3' TYPICAL HORIZONTAL SEPARATION BETWEEN SANITARY AND WATER SERVICES.
 -HYDRANTS LOCATED 5' FROM BACK OF CURB.
 -WYE STATIONED FROM DOWNSTREAM MH.
 -CURB STOPS SHALL BE PLACED @ PROPERTY LINE UNLESS SIDEWALK IS SHOWN THEN STUB INTO LOT 9' PAST R.O.W.



WETLAND
 NWL=871.0
 HWL=873.04
 ROCK OVERFLOW
 872.5

POND B
 NWL=871.0
 HWL=873.04
 10:1 BENCH=870-871

WETLAND
 NWL=871.0
 HWL=873.04

WETLAND
 NWL=869.5
 DELINEATED-10-29-04
 SVOBODA ECOLOGICAL
 RESOURCES

POND B
 NWL=871.0
 HWL=873.04
 10:1 BENCH=870-871

BY	REVISIONS	DATE	DATE
br	9/24/13 plot w/ road connection to east.		
ANDERSON PASSE & ASSOCIATES 200 3RD AVE NE, SUITE 100 CAMBRIDGE, MINNESOTA 55008 Phone 763-689-4042 fax 763-689-6681			
BROOKFIELD 4TH ADDITION PRELIMINARY UTILITIES RAMSEY, MINNESOTA			
DRAWN	P&G	DATE	REG. NO.
SCALE	1"=100'	8-29-13	84919
PROJECT	127-13	DATE	BY
CHECKED	BR		BR
APPROVED	BR		BR
 BRENT ROSZELL			
			

September 27, 2013

Capstone Homes, Inc.
Attn: Ben Minks
14015 Sunfish Lake Blvd NW
Ramsey, MN 55303

Re: Preliminary Plat Review—BROOKFIELD 4TH ADDITION

Dear Mr. Minks:

The City of Ramsey has received your application for Preliminary Plat Review for a 77 lot subdivision. City Staff is recommending to the Planning Commission approval of the Site Plan contingent upon the following:

- Required amendments as outlined in the attached Staff Report dated September 27, 2013.
- Execution of a Development Agreement (draft to be forwarded at a later date)

Please note: this is only a recommendation that is subject to review by the Planning Commission and final decision by the City Council. A copy of the Staff Report is attached for your review. The Planning Commission will review the request on **Thursday, October 3rd, 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 22nd, 2013, at 7:00 p.m. in the Council Chambers.

Also, as a reminder, the City has scheduled an Open House related for the request for interested parties for 4:00 p.m. to 6:30 p.m. at the Ramsey Municipal Center, Alexander Ramsey Room for October 3, 2013.

Please let me know if you have any questions or concerns. I can be reached at (763) 576-4308 or by email at tgladhill@cityoframsey.com.

Sincerely,

CITY OF RAMSEY

Tim Gladhill
Development Services Manager

Enclosures

Cc: 21st Century Bank, Attn: Tom Dolphin, 9380 Central Ave NE, Blaine, MN 55434

**CITY OF RAMSEY LAND USE APPLICATION
TECHNICAL REVIEW FILE**

DATE	9-27-13	PROJECT ADDRESS	
PROJECT TITLE	BROOKFIELD 4 TH ADDITION		
ESCROW #	113790		
DEPARTMENT:	Planning		
TECHNICAL REVIEWER:	Name: Tina Goodroad Phone: 651-967-4537 Email: tina.goodroad@stantec.com		

We offer the following comments regarding your request for a Preliminary Plat for Brookfield 4th Addition:

General: The applicant is requesting Preliminary Plat approval of Brookfield 4th Addition. This plat is a continuation of the Brookfield Addition west of Nowthen Boulevard and generally north of 167th Avenue and will encompass a majority of the remaining lots from the original Preliminary Plat. The current Preliminary Plat includes seventy-seven (77) lots. It is hereby noted that the previous Preliminary Plat has expired. It is further noted that the City had previously approved a Plat entitled BROOKFIELD 4TH ADDITION. However, the Plat was never recorded and has since expired.

The original Preliminary Plat was approved by the City Council on September 13, 2005. In 2009, the City Council approved an Amended and Restated Development Agreement related to the first three phases of BROOKFIELD as well as an Amendment to Water Main and Sanitary Sewer Cost Contribution/Reimbursement Agreement.

To service the BROOKFIELD as well as the SWEETBAY RIDGE developments, the original developer agreed to extend certain trunk lines (sanitary sewer and water) to these subdivisions at the cost of the developer. As the benefit of these trunk lines extends beyond these two (2) subdivisions, the City entered into the Reimbursement Agreement as a way for the developer to recapture a portion of the \$6,000,000 investment in trunk line construction. These credits are factored into the Development Fee calculations attached hereto.

Setbacks: Required	Proposed:
Front yard: 30 feet	Front Yard: 30 feet except for blocks 3 and 4 where 25 feet is proposed. This was approved by the original Preliminary Plat and approved Variance. The Applicant shall include the original Sheet S1 as part of the official review packet.
Side yard uninhabitable: 6 feet	6 feet
Side yard habitable: 10 feet	10 feet
Side yard corner: 30 feet	30 feet
Rear yard: 30 feet	30 feet
Minimum lot width: 80/corner 90	80 at setback (pie shaped lots less than 80 at the street).

**Note: Minimum Lot Width is measured at front yard setback (30 feet from front property line), not front property line, nor at curb line.*

It appears that the proposed Preliminary Plat meets or exceeds minimum standards required by City Code related to the above.

Land Use and Zoning: The site is guided LDR on the Comprehensive Plan and zoned R-1, MUSA. The minimum lot size in the R-1, MUSA zone is 10,800 sq. ft. Each of the proposed lots meets the minimum lot size. *Applicant shall provide total acreage of the proposed preliminary plat.*

Net Density Calculations. The Applicant shall provide gross acreage, as well as net acreage. Net acreage is calculated by subtracting wetlands and rights of way from the gross acreage. The Applicant must also provide Net Density Calculations described as number of units per net acre.

Landscaping: Two trees per dwelling unit are required. Deciduous trees shall be a minimum of one (1) inch caliper and evergreen trees shall be at least five (5) feet in height. *Please update the landscape plan to include a planting schedule that identifies the common and scientific name, root stock and quantity for each proposed species.*

- *While it appears generally that each lot will have two (2) trees planted, many of them indicate that one tree will be planted in the rear yard. Each lot shall have two (2) front yard trees. Please update the landscape plan.*
- *An alternative to Silver Maple should be utilized due to that species tendency to produce surface roots.*
- *A planting detail must be included with the landscape plan (another option is to incorporate the City's tree planting detail). At a minimum, it should state:*
 - *Planting depth shall be such that the 1st set of primary roots is at finished grade*
 - *Only prune out dead/broken/deformed branches at time of installation*
 - *Removal of upper portion of wire basket and burlap after being placed in planting hole if using B & B stock.*
 - *2-4 inches of wood chip mulch shall be included around all trees. Mulch shall not be piled against the trunk of trees.*

Density Transitioning: The proposed plat is adjacent to an existing larger lot residential neighborhood. These lots are also zoned R-1 so density transitioning, as required by the ordinance, does not apply as the zoning districts are the same. However, as the existing lots are of a different size and character, staff requests that the applicant consider providing buffering between these abutting lots. This can be accomplished through new planting or use of existing streets. In addition, a detailed inventory, prepared by an ISA Certified Arborist or a Society of American Foresters Certified Forester, must be submitted identifying all existing significant trees, species, DBH and condition. *Minimum tree size for transitioning plantings are 2.5 inches for overstory (shade) trees, 1.5 inches for ornamental trees, and six (6) feet in height for evergreen trees. A landscape easement or some other legal tool shall be required to ensure long-term maintenance and survival of the plantings. This easement or other tool shall be recorded against each of the lots encumbered with transitioning plantings.*

Tree Preservation: While the majority of the site is devoid of trees, there is some tree cover along the southern and western edges of the proposed plat. A detailed tree inventory (as mentioned above) must be provided for these trees, which may then be beneficial with regard to density transitioning (as suggested by staff). At least forty percent (40%) of the inches of existing significant tree DBH must be preserved on site. The tree preservation plan shall include the following:

- *All oak trees and evergreen trees that are four (4) inches or greater in Diameter at Breast Height (DBH) and all other deciduous trees that are eight (8) inches in greater DBH shall be identified on the tree inventory (cumulatively referred to as significant trees).*
- *Inventory shall include species, DBH, tree condition, whether the tree will be preserved or remove, a tally of total significant tree DBH on site and how many DBH inches will be removed.*
- *Inventory shall also identify location of tree save fencing, which shall be installed at least at the drip line of individual trees or groups of trees and shall be in place prior to any grading or removal work begins.*

Topsoil: Each individual lot will need to have four (4) inches of topsoil meeting the City’s topsoil specification. A topsoil inspection is required prior to landscaping being installed and copies of the load tickets are required as well. This is reviewed at time of Building Permit Application and request for Certificate of Occupancy for each individual lot.

Building Elevations: No elevations of the proposed homes were submitted. Individual models are not included for review. In a single family development, it is difficult to approve every individual potential model at time of Plat. As with the original Preliminary Plat, no enhanced architecture above the minimum City Code requirements of Section 117-111 (R-1 Residential District) is being proposed. The required Development Agreement shall clearly state that additional architectural requirements are not being required at this time, and that the underlying requirements for the R-1 Residential (MUSA) District are required.

Streets: All proposed streets appear to meet the 60 foot width minimum. Proposed street system appears to complete anticipated connections such as with 168th Avenue NW. The connection will result in additional traffic levels on 168th Avenue as well as Garnet Street. Garnet Street currently has a poor pavement condition (Paser Rating of 1) and is subject to reconstruction. The reconstruction of Garnet Street is currently dependent upon implementation of the City’s Long Term Street Maintenance Program currently under consideration.

The Plans shall be revised to clearly articulate the connection of 168th Avenue, including the removal and restoration of the existing cul-de-sac. Please review the Engineering Technical Report for additional details.

Sidewalks and Trails. The plans must be amended to clearly indicated sidewalks on at least one side of each public street.

Grading Corrections on Block 6, BROOKFIELD 3RD ADDITION. Interim grading approval by the City needs to be corrected to comply with the overall grading plan for BROOKFIELD. If the grading is not corrected or is proposed to follow the interim grading solution, the existing Temporary Grant of Drainage and Utility Easement must be re-affirmed before that Plat is released for recording. This applies to Block 3 of BROOKFIELD 3RD ADDITION.

Development Fee Calculations: Development Fees due on the Plat are attached hereto as an exhibit to this review file. Detailed analysis on unique provisions of development fees related to this plat are outlined below.

Park Dedication and Trail Development Fees: Park Dedication shall be due on the Plat. These fees are collected at the time the Final Plat is recorded at the rate in effect when the plat is recorded. The Park and Recreation Commission shall review and make a recommendation. At this time, Staff recommends that a

cash contribution be used to satisfy Park Dedication Requirements. It is further recommended that the Park Dedication be utilized to make the trail connection along Trott Brook to Variolite Street to the west. There is an existing storm water easement on Outlot C, Brookfield 3rd Addition that could be expanded as a trail easement to provide a public trail connection from 170th Trail. This connection would be a nice addition for the existing Brookfield residents and this new 4th Addition, consistent with the City's current Master Park and Trail Plan. The exact timing and level of construction will be dependent upon the number of lots created with the Final Plat (if the 77 lots are phased in over time) and an estimate of the costs to extend and connect the trail. It is further noted that 21st Century Bank has conceptually agreed to convey necessary trail easements and fee-title to areas to make additional connections.

The Parks and Recreation Commission will be meeting on Thursday, October 10, 2013 at 7:00 p.m. to review Park Dedication and Trail Development obligations.

Sanitary Sewer and Water Trunk Fees. Sanitary Sewer and Water Trunk Fees are subject to the existing reimbursement agreement with 21st Century Bank. Per the Reimbursement Agreement, these fees are not due with the Plat and are credited towards the previous investment made. The appropriate fees are listed in the attached exhibit in order to calculate the credits provided to subtract from the overall reimbursement amount. The Development Agreement will clearly articulate that these fees will not be collected, but will be credited against the reimbursement amount.

Development Agreement: *An executed Development Agreement will be required prior to releasing the plat for recording.*

Previous Developer Amenities and Home Owners' Association. As part of the original plat of BROOKFIELD, the original Developer, Oakwood Land Development, proposed several private amenities that were not required by the City. These improvements included, but were not limited to, a pond/water feature, landscaping within public right of way (roundabout/entrance area), landscaping along Nowthen Boulevard, and a private park. The City allowed these amenities to be constructed with the understanding that the City would not accept future maintenance obligations for said amenities. The water feature/pond was created by installing a liner in the development's Stormwater pond. Many of the landscape improvements were constructed within City right of way. Attached to this case report is a Fact Sheet prepared by the City and summarized below.

As these amenities were not required by the City, the City's expectations were that the development itself shall be responsible for the ongoing maintenance of these amenities. It is the City's understanding that the Developer set up a Home Owners' Association (HOA) as a mechanism to address long term maintenance of these features. Maintenance also included irrigation and billing for the utilities necessary to maintain these improvements.

In 2009, Oakwood Land Development transferred its interest in BROOKFIELD to 21st Century Bank. At that time, a large majority of the lots within BROOKFIELD remained undeveloped and under the ownership of 21st Century Bank. During the transfer of ownership and through a request to amend the existing Development Agreement, the City encouraged 21st Century Bank to maintain the HOA, but did not require this to occur, as it did not possess the legal ability to do so (it is not a City requirement). The City commented at that time that the City would not take on the maintenance obligations of these amenities, as clearly articulated when the plat was approved. 21st Century Bank indicated that it would make its best efforts to re-establish the HOA, but lacked the legal ability to require future property owners to participate financially due to the structure of the existing Declaration of Restrictive Covenants. 21st Century Bank has stated that

it was not able to require existing homeowners to contribute financially to the HOA under the existing documents. According to 21st Century Bank, it redrafted and re-recorded the Declaration of Restrictive Covenants to the best of its ability. A more detailed analysis from 21st Century Bank is included in this report. Furthermore, the City understands that it is the intent of the Applicant to not subject the proposed lots to the existing, nor future HOA.

As the HOA, nor the private amenities were required by the City (nor could be required by the City under current City Code provisions), it will be up to the Homeowners to administer the provisions of the HOA. The City will, however, assist by facilitating discussions amongst homeowners by providing a location to meet as a group and continue to provide educational materials related to HOAs and ways to improve water quality of the pond. The City cannot, however, be the legal counsel to establish HOA documents or revisions.

However, the City also reiterates that it is our current position that the City shall not accept maintenance obligations related to the water feature (other than ensuring proper functionality as a Stormwater pond), private park, center median and roundabout landscaping at the entrance from Nowthen Boulevard, or additional landscaping along Nowthen Boulevard that were proposed by the original developer, but not required by the City.

The City acknowledges a number of concerns related to the above amenities and maintenance obligations of said amenities have been submitted to the City. An open house has been scheduled for Thursday, October 3rd at 4:00-6:30 p.m. to provide an opportunity for area residents surrounding the Brookfield 4th Addition to meet with staff and the applicant and discuss plans prior to the public hearing.

Staff became aware of a ‘Town Hall Meeting’ hosted by a resident of BROOKFIELD related to HOA and private amenity concerns. Staff is pleased to see that the neighborhood is organizing in an attempt to revive the HOA, as these private amenities are a benefit to the neighborhood. It is noted that a representative from the City was not at this meeting, so the subject matter is unclear at this time. It is reiterated here that the official City review process begins on October 3, 2013.

**CITY OF RAMSEY LAND USE APPLICATION
TECHNICAL REVIEW FILE**

DATE	SEPTEMBER 27,2013	PROJECT ADDRESS	EAST OF MARBLE STREET, SOUTH OF 170 TH TRAIL
PROJECT. TITLE	BROOKFIELD 4 TH ADDITION		
ESCROW #	113790		
DEPARTMENT:	Engineering		
TECHNICAL REVIEWER:	Name: Leonard Linton Phone: 763 433-9834 Email: llinton@ci.ramsey.mn.us		

We offer the following comments regarding your request for the Preliminary Plat of Brookfield 4th Addition. The submittal consists of 5 sheets prepared by Anderson Passe & Associates dated August 29, 2013. Revised Grading and Utility Plans dated September 24, 2013 were also reviewed.

General: The submitted major subdivision proposes to plat Outlot A, Brookfield 3rd Addition to create 77 urban single family lots. The subject property is generally located south of 170th Trail NW and east of Marble and Limonite Streets. The eastern borders are Brookfield 1st Addition and Now and Then Estates. This development is approximately 26.8 acres.

Streets and Access: The development accesses Limonite Street NW, Marble Street NW, 170th Trail NW, and 169th Lane NW which were constructed in prior phases of Brookfield Addition. The plat will also connect to 168th Avenue NW in the Now and Then Estates Plat.

The streets will be urban section with concrete curb and gutter and bituminous pavement. A sidewalk is generally provided on one side. The existing cul-de-sacs shall be reshaped as follows:

- Remove all of the bituminous pavement.
- Reshape the area outside of the new roadway.
- Relocate drainage structures to align with the new curb.
- Reinstall the curb and pavement.
- This applies to 169th Lane NW and to 168th Avenue NW on the east edge of the plat.
- Extend the driveway from 6950 168th Avenue NW to the new edge of pavement.

Traffic Analysis Report: A traffic generation analysis for the Brookfield development has been prepared by Bolton & Menk Inc. which analyzed the impact of this development on the following intersections:

1. 166th Avenue and Variolite
2. Ramsey Blvd and Nowthen Blvd
3. 167th and Nowthen Blvd.
4. 167th Avenue and Coquina St.
5. 167th Avenue and St Francis Blvd.

All of the above intersections, except for 167th Avenue and TH 47 will continue to operate at acceptable levels of service. No immediate improvements are recommended for these intersections around the development. The intersection at 167th Avenue and TH 47 currently operates below a desirable level of service during the afternoon peak period. Improving the level of service at this intersection will require signalization of this intersection. The intersection must meet traffic warrants before this signalization will be allowed by MnDOT.

The lots in this plat were included in this traffic analysis, a separate study is not required.

Grading and Drainage Plans: A preliminary grading and drainage plan has been prepared for this subdivision by Anderson Passe & Associates, P.A. Staff offers the following comments on this plan:

1. Lot corner elevations need to be provided on all lot corners and along the centerline of drainage swales which do not coincide with common property lines. Drainage and utility easements need to be provided over such swales.
2. The 100 year flood elevations for ponding areas need to be noted on the grading plan. All lowest floor building elevations must be two feet above this elevation.
3. The emergency overflow elevation for each water quality pond must be one foot lower than the lowest adjacent grade of the building structures.
4. The maximum slope should not exceed one foot vertical to four feet horizontal. .
5. The font size/ pen weight of labels must be increased to make plan readable.
6. The existing swale across lots 14 and 15, Block 1 must be backfilled with fill suitable to support a structure. The existing curb and pavement at the intersection of 170th Trail NW and Limonite Terrace NW may need replacement due to undermining of the soil.
7. Sidewalks are generally shown adjacent to the streets. Sidewalks must be added to Kamacite Street NW between 168th Avenue NW and 168th Lane NW and 167th Lane NW between Limonite Street NW and Kamacite Street NW.
8. There are existing homes on lots 1-3, Block 6, Brookfield 3rd Addition. The grading for lots 1-4 and 18-20, Block 3 of Brookfield 4th must maintain the drainage pattern established when the homes were constructed.
9. The high point in 168th avenue must be at the east edge of the plat, drainage from this project cannot flow to the east.
10. Grades and catch basin placement at the intersection of 167th Lane NW and Kamacite Street NW must be revised.
11. The label size/ line width must be adjusted to allow for checking of street profiles and lot grading.

A permit from the Lower Rum River Water Management Organization must be obtained.

Utilities: All lots are proposed to be served by municipal sewer and water. A preliminary utility plan has been prepared which is generally acceptable. Construction plans and specifications are subject to review of the City Engineering Department.

Items that must be updated prior to approval of the Preliminary plat are noted below:

- Storm sewer inverts in Blocks 4 and 6 require adjustment, upstream inverts are lower than downstream inverts.
- Rim and invert labels must be added for all manholes and catch basins.
- Labels must be moved to point to the appropriate structure.
- The font size/ pen weight of labels must be increased to make plan readable.

Stormwater Pollution Prevention Plan: The Stormwater Pollution Prevention Plan must be modified as follows:

Update the disturbed area number.

Change text 'discharg' to discharge.

Change water quality volume from ½ inch to 1 inch per Lower Rum River WMO and the MPCA construction stormwater permit requirements.

Add item 7.11 – 'Remove soils tracked onto City streets with a pickup broom within 3 hours of notification by City.'

Landscaping Plan: The south and east sides of the plat adjoin existing single family rural lots. The landscaping plan does not show screening between the urban and rural lots.

These comments apply to the preliminary plat submittal. The Final Plat documents and construction plans will be subject to further review and comment.

City of Ramsey

2013 Residential Development Fee Calculator - BROOKFIELD 4TH ADDITION

	Units	Unit Type	Unit Price	Total	Notes
Park Dedication and Trail Development					
Park Dedication					
0-12 Units per acre; or	77	per unit	\$2,475	\$190,575	
12-19 Units per acre; or		per unit	\$2,289	\$0	7.5% Density Bonus
20+ Units per acre; or		per unit	\$2,104	\$0	15% Density Bonus
Assisted Living		per acre	\$4,738	\$0	
Trail Development	77	per unit	\$600	\$46,200	
Subtotal Park and Trail Development				\$236,775	
Water and Sewer Fees					
Water Fees - No Cash Collection (to be credited towards Reimbursement Agreement)					
Trunk/Connection	77	per unit	\$1,925	\$148,225	Per Reimbursement Agreement
Lateral		per connection	\$6,143	\$0	If already constructed
Sewer Fees - No Cash Collection (to be credited towards Reimbursement Agreement)					
Trunk/Connection	77	per unit	\$1,137	\$87,549	Per Reimbursement Agreement
Lateral		per connection	\$3,328	\$0	If already constructed
Subtotal Trunk and Lateral				\$235,774	
				Credit per Reimbursement Agreement	\$235,774
Accessibility Charges					
Accessibility Charge (WAC)	77	per SAC Unit	\$1,148	\$88,396	Collected with Building Permit
Accessibility Charge (SAC)	77	per SAC Unit	\$2,435	\$187,495	Collected with Building Permit
SAC Handling Fee	77	per address	\$25	\$1,925	Collected with Building Permit
<small>*SAC is a Metropolitan Council Environmental Services (MCES) Fee; SAC Unit Determined by MCES</small>					
Subtotal Water and Sewer Fees				\$277,816	
Stormwater Management Fees					
Stormwater Management	77	per unit	\$448	\$34,496	
Subtotal Stormwater Management				\$34,496	
Street Light Fees					
Street Light Type					
Cobra; or	10	per light	\$1,300	\$13,000	
The COR		per light	\$2,600	\$0	
Three (3) Years Operating and Maintenance	10	per light	\$294	\$2,940	
Subtotal Street Lights				\$15,940	
Sureties and Inspection Fees					
Sureties (to ensure completion; returned when complete)					
Subdivisions/Plats (public improvements)		cost of improvement	125%	\$0	Cash or Letter of Credit
Site Plans (private improvements)		cost of improvement	150%	\$0	Cash or Letter of Credit
Subtotal Sureties				\$0	
Engineering Inspection Fee		cost of improvement	5%	\$0	Cash Escrow
Subtotal Surety and Inspection Fee				\$0	
GRAND TOTAL FOR DEVELOPMENT FEES				\$287,211	
GRAND TOTAL FOR ENGINEERING INSPECTION FEES				\$0	Separate from Building Permit
GRAND TOTAL FOR SURETIES				\$0	
GRAND TOTAL FOR SAC/WAC				\$277,816	Collected with Building Permit

Brookfield Developer Amenities and Home Owners Association Fact Sheet

What amenities were proposed by the Developer?

The original developer has proposed multiple amenities for the development including, but not limited to:

1. Private pond/water feature (within Stormwater pond)
2. Private park (slated for existing Outlot)
3. Landscaped medians (within City right of way)
4. Boulevard landscaping (within private property along Nowthen Boulevard)

Were these amenities required by the City?

No. The private amenities listed above are not a requirement of the City. The City allowed the developer to construct these amenities, but stated that the City would not accept future maintenance obligations of these private amenities.

Why was the Home Owners Association formed?

Although the City shall not comment on the legal aspects of the HOA or Declaration of Covenants and Restrictions, the HOA was formed in part in order to provide a mechanism to maintain the private amenities. This includes financing for a pump for the water feature and irrigation for landscaping.

Why is the pond not holding water as originally anticipated?

A pond liner was installed in order to maintain a level of water where it would normally infiltrate through the soil into the groundwater aquifer. It is the City's understanding that the pond liner failed, and that a portion of the water is infiltrating through the soil. It should be noted that the City only requires that the pond function as a Stormwater pond to capture surface water runoff from impervious surfaces within the development. The City does not require that the pond maintain a certain water level.

Which parcels are subject to the HOA?

The City is not in a position to comment on the legal aspects of the HOA, nor the accompanying declarations and restrictions. It is the City's understanding that a portion of the existing parcels were removed at least in part from certain obligations of the HOA, or lacked the ability to enforce certain provisions to begin with. Most notably, it has been communicated to the City that the original Declaration of Restrictive Covenants lacked the enforceability to collect HOA dues. This is not an official legal opinion of the City, simply communication provided to the City. Concerned residents should consult a real estate attorney for more information.

The City would, however, assist in facilitating a discussion amongst residents to discuss the future of the HOA. While the City cannot require the HOA, it can create a space for discussion and provide educational and technical information in an attempt to point the HOA in a positive direction related to administration and maintenance of the private amenities.

What happens if the private amenities are not properly maintained?

While the City is cognizant and aware of the benefit of providing these amenities for the neighborhood, the City is not in a financial position, nor a resource position, to take on these additional obligations at this time.

The City will ensure that the pond continues to function as a Stormwater pond in compliance with the approved grading plan. The City will not maintain the pond in such a way that guarantees a certain water level. If the residents of the community desire to maintain a level of water, it shall be their responsibility to do so through appropriate tools and mechanisms.

The City will not construct or maintain the planned private park, as stipulated throughout the platting and Development Agreement process for Brookfield 1st, 2nd, and 3rd Additions and, as it is not part of the City's Master Park and Trail Plan as recommended by the Park and Recreation Commission. The City will, however, continue to develop key connections through linear parks and trails as planned in the Master Park and Trail Map. The City will not maintain the landscape medians at the Nowthen Boulevard entrance and roundabout. In the event the lack of maintenance results in vegetation failure, the City will remove these improvements from the right of way. At this time, the City has no plans to remove the vegetation from the City right of way, so long as the condition of the landscaping remains acceptable. It is noted that said landscaping is beginning to deteriorate, so it is preferred if corrective action is commenced as soon as possible.

Will the future lots being created as part of BROOKFIELD 4TH ADDITION include an HOA?

Based on the materials submitted to date, it does not appear that the Applicant is planning on including itself as part of the existing HOA nor creating a new HOA. According to information provided to the City, the Declaration of Restrictive Covenants was only recorded on individual buildable lots for BROOKFIELD 1ST, 2ND, and 3RD ADDITIONS. The Declaration does not appear to have been recorded on Outlots, which are undeveloped portions anticipated for future development.

What options do we have to ensure the private amenities are properly constructed and maintained?

Interested individuals should consult legal counsel specializing in real estate law. Options include forming or re-forming an HOA or exploring other funding and maintenance alternatives. Again, the City is interested in assisting by facilitating discussion and providing educational materials, but cannot provide legal counsel nor require formation of an HOA.

To Whom it May Concern:

A number of misconceptions have been brought to our attention recently, and it is hoped that the following material will help to clear up some of these matters.

I. Ownership of Brookfield Lake

It has been stated that the Brookfield Homeowners Association (“HOA:”) owns the “Brookfield Lake”. This is not true. The land beneath the pond is owned by the individual lot owners along 107th, and the land beneath the pond is owned by 21st Century Bank on the southeast side. The Bank’s land is the land now being platted by Capstone. The pond area on the northwest side is a dedicated public drainage easement established in the previous Brookfield plats. Capstone will be required to dedicate a public drainage easement over the new lots that are platted on the southeast side of the pond.

II. Homeowner’s Association

An HOA was formed as a non-profit corporation by Oakwood. It has since been administratively dissolved by the Minnesota Secretary of State for non-filing of annual renewals, but it can be re-activated by a simple on-line process at a cost of less than \$50. The HOA has bylaws, and every lot owner in Brookfield is automatically a member.

III. Declarations

There is a recorded Declaration that is in effect that covers all of the existing lots in Brookfield. It excludes undeveloped land in the area. Further information is contained below.

IV. History

A. Brookfield Plats

The existing BF development consists of three plats, the First, Second and Third Additions, which were recorded in 2006-2007. Each had its own recorded development agreement, and a set of Declarations was recorded by the Developer, Oakwood Land Development Co. for each plat. The Declarations established some basic land use controls, made reference to an HOA, gave the HOA the duty to maintain the landscaped berm on County 5, and established an Architectural Control Committee to review house plans. No house standards were adopted and the ACC was free to approve whatever it wanted to approve. No dues or assessment methods

were established by the Declarations. According to the recorded Declarations, they were drafted by Oakwood

BF First Addition included a divided lane entrance road from County 5 (170th Avenue NW), with the lanes separated by a landscaped median area, and a roundabout at 170th and Garnet Street, with the center of the roundabout also containing landscaping. I believe that the median and roundabout center have irrigation systems in them, but are entirely within city right of way.

B. Brookfield Lake

This storm water retention pond was intended to be a sales amenity for the lots abutting the lake, and was also to be available for use by all residents of Brookfield via a small outlot on the north side. The bottom is lined with a synthetic material. At some point in time (estimated to be after the plats were all recorded), it was discovered that the lining did not work properly, and that the pond elevation could not be maintained by normal storm water runoff or groundwater levels. There was some dispute between Oakwood and a contractor, but apparently the damage could not be repaired. Oakwood obtained permission to install a well on the access outlot land to pump groundwater into the lake as needed to maintain an acceptable level. There may be a DNR permit involved, and there may be an annual limit on gallonage used.

C. 21st Century Bank Involvement

The Bank provided all of the construction financing for the BF plats. After 2007, the loans went into default, and the Bank eventually foreclosed its mortgages, taking title on March 30, 2010.

As the foreclosure period came to a close, the Bank, the City and Oakwood negotiated the terms of an agreement designed to allow for an orderly transfer of title to about 78 unsold but completed lots and several large future-development outlots to the Bank. The Bank at this time was obligated to fund some letters of credit, and the agreement that was reached in written form allocated the responsibilities for various items among the parties. It was by that time known to the Bank that the organizational documents and Declarations regarding the HOA were severely lacking in enforceability, establishment of dues and even scope, since there was no mention of the 170th Avenue median maintenance, the roundabout maintenance or the Brookfield Lake well.

One of the provisions of the settlement agreement was that the Bank and Oakwood would make good faith efforts to breathe life into the HOA, but with the disclaimer that neither the Bank nor Oakwood would or could guarantee that dues could be collected from residents. This was due to the fact that owners who had already closed and built on their lots had done so with no actual recorded documents requiring them to pay dues.

The agreement among Oakwood, the Bank and the City did not cover the issue of the pond level. The City took the position that their sole interest in the pond was as a drainage easement, for storm water runoff. The liner was not a City requirement. The Bank, by foreclosure of the

mortgages, had no obligation to complete Oakwood's work and the new agreement replaced the old development agreements.

The Bank now owns 18 lots that are not under purchase agreement. The Bank also owns the land being sold to Capstone, and two other undeveloped parcels to the west.

D. Efforts to Revive the HOA

After researching applicable law on the subject, 21st Century Bank did prepare and record Amended Declarations for the three Brookfield plats. These were recorded March 24, 2010 as Document Number 2014022.001. The amended Declarations included the following:

1. Referenced the Corporate Bylaws and recognized the HOA as a Minnesota Non-Profit Corporation. (The corporation was actually administratively dissolved in 2009 for failure to file annual renewals – a fact not known to me until I looked up the SOS records today. It can be revived on-line for under \$50).
2. Added maintenance of the median and roundabout maintenance, and the pumping apparatus for Brookfield Lake to the HOA duties.
3. Set up a voluntary dues system. We did not feel that we could legally set up an enforceable, mandatory dues system after-the-fact. However, the HOA is allowed to deny usage of Outlot B to lot owners who are delinquent in their dues. That would prohibit access to the pond.
4. Set \$50 per year as per lot annual dues, subject to change.
5. Made the Bank the successor declarant with sole right to amend the Declarations.

The Bank's attorney met with a group of about a dozen property owners and John Peterson, president of Oakwood, shortly thereafter, and explained what we had done. Several of those in attendance were openly hostile to the Bank, blaming the Bank for the Developer's work, and insisting that the Bank should pay for everything. The group was informed that the Bank would agree to turn over management of the HOA to them, subject to the right of the Bank to amend or eliminate the Declarations, and the Bank did in fact turn the HOA management over to this group. We have no idea if they elected a board, officers, or anything else.

In August of 2010, the Bank sent the HOA a check for \$3,900.00 in response to an invoice in this amount, representing \$50 per lot owned by the bank. This check was accompanied by the attached letter, in which the Bank advised the HOA that it would monitor the dealings of the HOA and would base its future participation on that monitoring. Verbally, the HOA was advised that the Bank would contribute in the same ratio as the other lot owners contributed.

The Bank received no response to this letter. The Bank received an invoice about a year later for the full dues, but with no documentation of payment of dues by other lot owners and no accounting for the previous years' expenditures. The Bank has no idea of how their \$3,900.00 contribution was used. Absent this documentation, the Bank has assumed that other property owners are not contributing to the HOA.

The expenses of the HOA include city water to run the irrigation systems, electrical power for the Brookfield Lake Pump, maintenance on these system, and mowing/landscaping labor, gas and equipment. The four areas of HOA responsibility under the present Declarations are:

1. Maintenance of the Berm on the west side of County 5. This area is all on privately owned lots, and we speculate that the individual property owners are mowing and maintaining the portions of the Berm that they own. I have no idea why Oakwood originally came up with this form of maintenance.
2. Maintenance of the median landscaping and roundabout landscaping. These areas are within City right of way, are owned by the City as such, and were not created as common areas. The City can fill them in, maintain them or ignore them. There is no way to force the HOA to maintain them if lot owners do not want to pay their dues.
3. Maintenance of the pump apparatus on Outlot B, BF 3. The plan was to convey this lot to the HOA. However, unless the HOA actually comes forward and re-organizes, there is no point in doing so at this time. For liability purposes, this outlot along with Outlot C have been conveyed to a subsidiary LLC. The Bank is also willing to convey these Outlots to the City if the City wants them. The Bank has been paying the nominal taxes on the outlots. Unless a viable HOA materializes, the outlots will probably eventually go tax forfeit.
4. ACC review of building plans. The Bank has been performing this role, reviewing all proposed new construction. Not all plans have been approved. This is somewhat of a simple review, as the original Oakwood declarations established no architectural standards, square foot minimums, etc. The Bank will continue to play this role as long as it owns any undeveloped lots.

E. Present HOA Status

We have no idea of the present status of the HOA. It was turned over to the other property owners three years ago, and the Bank intended to do no more than pay the same pro rata dues as the other owners, leaving HOA management up to the residents. Communication from those residents has been little or none since 2010. I have at two times in the past 2 years fielded calls from individual lot owners on the status of the HOA and have basically given the same explanation to those individuals. I stated to those callers our willingness to contribute on the lots we owned if the HOA could become a functioning entity collecting dues and communicating annually its financial status to us and other lot owners. As sales of lots have picked up, the Bank has received additional inquiries from new lot buyers regarding an HOA, and for that reason the Bank has now determined that unless a significant number of existing lot owners comes forward to actively and responsibly manage an HOA, it would be best for all concerned if the Declarations were now amended to simply eliminate the HOA. Land use restriction would remain in place, and the Bank would continue to serve as the ACC until the current inventory of vacant lots is sold.

Under this scenario, maintenance of the County 5 berm would go back to the individual lot owners. Maintenance of the median and roundabout landscaping would be left to whoever wanted to do so, if any, and the same is true of the Brookfield Lake pumping apparatus.

The bottom line here is that the original HOA documents and declaration were not properly prepared. Neither the Bank nor the City had anything to do with those documents. The Bank inherited the situation, and has contributed substantial time and money to try to fix what was already broken. The Bank is open to suggestions, and would, as we have been all along, amenable to working with a viable HOA, but that is entirely up to the residents.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read 'T. P. Dolphin', with a long horizontal flourish extending to the right.

Thomas P, Dolphin SR. CEO

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

RESOLUTION #13-09-173

RESOLUTION GRANTING PRELIMINARY PLAT APPROVAL OF BROOKFIELD 4th ADDITION

WHEREAS, Capstone Homes, Inc., hereafter referred to as “Developer”, properly applied for preliminary plat approval of the following described property located in the City of Ramsey:

Outlot A, BROOKFIELD 3RD ADDITION, Anoka County, Minnesota

(the ‘Subject Property’);

WHEREAS, on September 3, 2013, the City of Ramsey received an application and preliminary plat plans for Brookfield 4th Addition from Capstone Homes; and

WHEREAS, the Brookfield 4th Addition is a continuation of the Brookfield Addition; and

WHEREAS, on October 3, 2013, the Ramsey Planning Commission conducted a public hearing regarding the proposed preliminary plat; and

WHEREAS, the Ramsey Park and Recreation Commission reviewed the preliminary plat on October 10, 2013, and recommended that park dedication be satisfied with a cash payment; and

WHEREAS, on _____, 2013, the City Council approved the preliminary plat with conditions; and

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

- 1) That the Ramsey City Council hereby grants preliminary plat approval of Brookfield 4th Addition accordance with relevant City Codes, subject to the following conditions:
 - a) Compliance with City Staff Review File dated September 27, 2013.
 - b) The Developer entering into a Development Agreement with the City.

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 _____ of _____, 2013.

Mayor

ATTEST:

City Clerk

Regular Planning Commission

5.3.

Meeting Date: 10/03/2013

Submitted For: Tim Gladhill, Community Development

By: Tina Goodroad, Community Development

Information

Title:

FOR UPDATE ONLY: Receive Update on Housing Assistance Policy Progress

Background:

The purpose of this report is to update the Planning Commission on the status of the progress on the Housing Assistance Policy work by the Planning Commission ad-hoc sub-committee. No formal action or feedback is being requested, other than to receive input and comments from Commissioners.

Notification:

Observations/Alternatives:

In 2013, the City Council directed Staff to form an ad-hoc sub-committee of the Planning Commission for formulate a Housing Assistance Policy. This sub-committee has met three times over the course of the past several months. The purpose of the policy is to establish a framework in which to review requests for financial assistance (or other form of assistance) for housing projects. These requests could include, but are not limited to City financing options, third-party financing options, and grant opportunities available to the City. Given the number of requests the City has been receiving related to housing projects and the forecasted housing growth of the community, the City Council felt that a policy was necessary in order to ensure an equitable and fiscally responsible application to housing assistance.

The sub-committee has reviewed the following:

1. Current Housing Plan, Goals, and Implementation Strategies
2. Current housing and population demographics (Census data)
3. Current housing and population forecasts (2030 Comprehensive Plan)
4. Current employment demographics
5. Current employment forecasts

The sub-committee also has completed the following deliverables:

1. Framework of Policy
2. Interim Policy Statement
3. Housing Product Priority List

Framework

The sub-committee agreed to a framework of the policy as follows:

1. Housing Product Priorities
2. Minimum Thresholds
3. Scoring Matrix

Housing Product Priorities

The first effort of the sub-committee was to establish housing product priorities. It is important to note that this priority list is an evolving document that would need to be reviewed and updated on a regular basis and was based on current demographic data (see attachment to this case). With every housing development that is completed, the assumptions that went into formulating this list change, and the list needs to be amended. When the City accomplishes a single housing goal, the priority likely shifts, at least in part, to a different priority.

It should further be noted that the list includes priorities of housing types that City assistance should be focused. This is not a list that would indicate how to guide our future land use map or a reflection as to the number of units per housing type forecasted. The focus was on those housing types that met the City's housing goals, but presented the highest need for assistance to achieve a particular goal. For example, the sub-committee did not rank general, market-rate single-family high on the priority list, as standard market conditions appear to be sufficient to make this style successful. The sub-committee focused on those developments, which could include single-family, that brought other aspects such as high degree of architecture, a high amount of amenities, etc. The Priority List is as follows:

1. Senior Independent
2. Affordable/Workforce
3. Redevelopment
4. Energy Efficient
5. Rehabilitation of Existing
6. Amenity Rental
7. 3+ Unit Rental
8. Accessory Dwelling Unit
9. Executive Single-Family
10. Senior Skilled Nursing
11. Assisted Living/Memory Care
12. Condominium
13. Single-Family Detached
14. Single-Family Attached

Minimum Thresholds

The sub-committee agreed to utilize the existing Housing Goals and Implementation Strategies of the Comprehensive Plan as Minimum Thresholds. It is recommended that each development requesting housing assistance identify at least one existing goal/implementation strategy as Step #1. A development requesting assistance would need to be able to prove successful achievement of an implementation strategy in order to move to the formal review.

Scoring Matrix

The sub-committee has agreed that a scoring process should be part of the policy that would follow the minimum thresholds. A draft scoring matrix has been prepared. The scoring matrix is divided between affordable (aimed at units priced below 80% or area medium income) and market rate (units priced above 80% AMI). A Metropolitan Council ownership and rent affordability limits for 2013 is attached to provide example rents and ownership prices that would fall within certain affordability thresholds.

The scoring matrix then provides points based on each individual project and what the project includes. Points can be awarded for additional affordability levels, construction of senior housing, and provision of specialized senior housing, inclusion of development amenities, amount of private financing, redevelopment, architectural standards, development standards and energy efficiency.

Once the scoring matrix was developed staff requested professional peer review which we received from Karen Skepper of Anoka County and Barb Dacy with Washington County whom provided good feedback and encouraged us to ensure that the scoring process was easy to use and provided the most points for the City's highest priority. The sub-committee met on September 16th and reviewed the drafts, offered input and recommended that an update be provided to the Planning Commission.

Staff requests review and discussion by the Planning Commission at their meeting on October 3rd.

Funding Source:

Staff Recommendation:

Review, discussion and offer feedback to staff.

Action:

No action is being requested at this time.

Attachments

DRAFT Market Rate Housing Assistance Policy

DRAFT Affordable Housing Assistancy Policy

Met Council Affordability Limits

Form Review

Inbox

Tim Gladhill

Form Started By: Tina Goodroad

Final Approval Date: 09/27/2013

Reviewed By

Tim Gladhill

Date

09/27/2013 11:01 AM

Started On: 09/24/2013 11:21 AM

Housing Assistance Policy DRAFT – Market Rate

Background

The City Council and the Housing and Redevelopment Authority (HRA) of the City of Ramsey have determined that a policy is necessary to review requests for financial assistance related to housing projects.

Scoring Process

Projects will be scored on a two (2) step process: 1) Minimum Thresholds and 2) Priority Scoring. Priority scoring is divided between *affordable housing projects* (targeting households below 80% of AMI and *market rate housing projects* (targeting households 80% and above AMI. All projects must meet or exceed the minimum thresholds. Priority scoring will be used to gauge the quality of the project and used to rank projects in the event of multiple proposals. The City reserves the right to reject any and all applications if it deems necessary.

The amount of funds that will be provided, when grant money (or other funds) are available, (on a per unit basis) will be capped between \$4,000-8,000 per unit.

DRAFT

Housing Assistance Policy DRAFT – Market Rate

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Scoring Process

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The amount of funds that will be provided, when grant money (or other funds) are available, (on a per unit basis) will be capped between \$4,000-8,000 per unit.

Project Brief

Please briefly describe your project. This section will be used as general background on the project, and is not intended to be a full analysis of the project. This project description will be used for short marketing pieces if assistance is approved.

Project Details

Number of Units

	Market Rate	80% AMI	60% AMI	50% AMI	30% AMI	Total # of Units
# of Units						

Minimum Threshold: All applicants must meet one of the following minimum thresholds listed below. These are goals and implementation strategies from the City’s Master Housing Plan, adopted as part of the City’s 2009 Comprehensive Plan update. Check which threshold best matches your project and describe how your project will meet the implementation strategies.

Goal 1: Provide a variety of housing options for people at all life stages and income levels to encourage existing residents, and attract new residents, to stay in Ramsey throughout their lives.. Housing opportunities should include a mixture of rental and owner-occupied to provide life-cycle housing choices meeting a full spectrum of demographics. [Describe how your project will use one of the following implementation strategies to achieve this goal. Word limit = 500 words]		
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Housing Assistance Policy DRAFT – Market Rate

<ol style="list-style-type: none"> 1) Work toward developing various senior housing options including independent living, cooperatives, and assisted living facilities, both market rate and affordable. 2) Focus on providing choices for empty-nesters, including aging in place and downsizing, to allow the majority of current residents to stay in Ramsey. 3) Provide opportunities for young adults to continue to live in Ramsey after leaving their parents’ homes by supporting the development of quality rental housing. 4) Provide a balanced housing supply, with approximately 90% ownership housing and 10% rental housing, to expand options for workforce housing and housing for young professionals. 5) Continue to develop more affordable single family housing such as condominiums and small-lot single family homes that includes higher architectural variety and quality. 6) Explore opportunities to attract executive level housing to provide a variety of housing choices and opportunities in the City. 		
<p>Goal 2: Revitalize/rehabilitate areas where the housing is aging and in need of repair and where the land is underutilized and/or has potential for future redevelopment consistent with the Comprehensive Plan. [Describe how your project will use one of the following implementation strategies to achieve this goal. Word limit = 500 words]</p> <ol style="list-style-type: none"> 1) Encourage residents to upgrade the functionality and marketability of their aging housing, and put quality additions on as they need more space. 2) Provide options for residents to subdivide if consistent with and allowed by the Comprehensive Plan. 3) Encourage redevelopment where land has potential for future development consistent with the Comprehensive Plan. 		
<p>Goal 3: Maintain and improve the housing stock to preserve the character and quality of existing neighborhoods. [Describe how your project will use one of the following implementation strategies to achieve this goal. Word limit = 500 words]</p> <ol style="list-style-type: none"> 1) Encourage the development of homeowner’s associations or 		

Housing Assistance Policy DRAFT – Market Rate

<p>common interest communities for areas of older multifamily housing and new subdivisions of smaller lot neighborhoods.</p> <p>2) Ensure that new housing developments provide appropriate density transition with existing established neighborhoods.</p> <p>3) Update and enhance design standards for new developments and encourage housing construction that incorporates quality and diverse architecture.</p>		
<p>Goal 4: Provide a development environment that increases residential health and reduces energy consumption. [Describe how your project will use one of the following implementation strategies to achieve this goal. Word limit = 500 words]</p> <p>1) The development incorporates environmentally sensitive site planning, resource efficient building materials and superior indoor environmental quality practices.</p> <p>2) The development meets sustainability standards, such as Minnesota Green Star Certification or LEED.</p> <p>3) Use of sustainable development elements such as the use of storm water management BMP's to manage on site storm water</p> <p>4) The development incorporates connections to existing pathways and creates natural and safe walkable areas.</p>		

Rank Scoring

Market Rate Project Scoring –Projects targeted to occupants that are above 80% AMI

<p><u><i>Development of Senior Housing</i></u> Senior independent (owner or rental) = 5 points</p>		
<p><u><i>Additional Points for Specialized Senior Housing</i></u> Assisted living units= 5 points Memory care units on site= additional 5 points Senior skilled nursing on site= additional 5 points</p>		
<p><u><i>Owner occupied market rate and move up housing (rental or owner-occupied). Points will be awarded for projects containing amenities.</i></u></p>		

Housing Assistance Policy DRAFT – Market Rate

<p>Community room/gathering area= 1 point On-site fitness center= 1 point Roof top gathering area= 1 point Indoor theatre= 1 point Outdoor facilities= 1 point per element: (i.e. walking trails, tennis/basketball courts, playground, others as proposed by applicant) Indoor or outdoor swimming pool= 1 additional point</p> <p>Development wide streetscaping, decorative lighting= 1 point Development wide trail system= 2 points</p>		
<p><u>Mixed Income Development</u> Inclusion of market rate and affordable units within a single project (single or multiple buildings). All projects must have at least 50% of units at 80% AMI or above (market rate).</p> <p>30% of total units (SF or attached) at 80% of AMI = 5 points 30% of total units (SF or attached) at 50% of AMI= 10 points</p>		
<p><u>Redevelopment:</u> Rehabilitation of existing housing unit(s) at 80% or above AMI= 5 points.</p>		
<p><u>Proximity to Local Employment</u> Within two-mile radius of area zoned Employment- 5 pts</p>		
<p><u>Non-Financial Readiness to Proceed</u> Land use and zoning approvals= 2 points</p>		
<p><u>Site Control</u> Fee Title Ownership = 10 points</p>		
<p><u>Private Equity Percentage</u> Cash equity commitment of at least 5% down payment= 5 points</p>		
<p><u>Federal/Local or Philanthropic Partnerships</u> Project funds from the federal government, a local unit of government, area employer and/or a private philanthropic, religious or charitable organization.</p> <p>20.1% and above of the development cost= 10 points 15.1%-20%= 8 points 10.1%-10%= 6 points 5.1%-10%= 4 points 2.1%-5%= 2 points</p>		
<p><u>Architectural Standards (choose all that apply)</u> Use of Hardi-Board or equivalent= 2 points Horizontal siding accessory only = 2 points Minimum of 30% front elevation-brick or stone- 2 points</p>		

Housing Assistance Policy DRAFT – Market Rate

<p>50% brick or stone threshold = 2 points Building articulation= 2 points Roof articulation= 2 points Covered front porch > 50 square feet = 2 points Roof < 25% of front façade= 2 points 2+ dormers (gabled ends to not count) = 2 points Use of alley for garage access (HOA maintained) = 2 points Use of side loaded garages = 2 points House forward design= 2 points Architectural styled garage doors (15% of lots)= 2 points Anti-monotony elevation/color plan= 2 points Four sided architecture (attached or detached) = 2 points High speed internet access in all units= 2 points Smoke free units/buildings- 2 points</p>		
<p><u><i>Development Standards (choose all that apply)</i></u> Sidewalks to each front door= 2 points Sidewalks on both sides of public and private streets= 2 points Sidewalk ‘bump-outs’ or ‘chokers’ = 2 points Boulevard trees at 35 foot spacing= 2 points Trail connection beyond development= 2 points</p>		
<p><u><i>Energy Efficiency Elements (choose all that apply)</i></u> Storm water Best Management Practice (above minimum)= 2 points Energy efficient roofing material or colors= 2 points Buildings oriented on site to optimize passive solar and cooling= 2 points Installation of a green roof occupying a minimum of 30% of the total roof area= 2 points Use or resource efficient building materials= 2 points Use of Green Star certified mechanical and appliances = 2 points Use of energy efficient windows/doors= 2 points Other energy efficient new technology as approved by the City= 2 points</p>		

Qualitative Analysis

Walk through the Comprehensive Plan Housing Chapter here. Check boxes that coincide with housing goals and strategies. Click if applies. Explain.

Required Attachments

Sources and Uses

Please use the Sources and Uses Excel Spreadsheet and include as an attachment. This shall include all sources of financing for the project and how those funds will be used. The Applicant shall provide a detailed listing of each.

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Background

The City Council and the Housing and Redevelopment Authority (HRA) of the City of Ramsey have determined that a policy is necessary to review requests for financial assistance related to housing projects.

Scoring Process

Projects will be scored on a two (2) step process: 1) Minimum Thresholds and 2) Priority Scoring. Priority scoring is divided between *affordable housing projects* (targeting households below 80% of AMI and *market rate housing projects* (targeting households 80% and above AMI. All projects must meet or exceed the minimum thresholds. Priority scoring will be used to gauge the quality of the project and used to rank projects in the event of multiple proposals. The City reserves the right to reject any and all applications if it deems necessary.

The amount of funds that will be provided, when grant money (or other funds) are available, (on a per unit basis) will be capped between \$4,000-8,000 per unit.

DRAFT

Housing Assistance Policy DRAFT – Affordable

Background

The City Council and the Housing and Redevelopment Authority (HRA) of the City of Ramsey have determined that a policy is necessary to review requests for financial assistance related to housing projects.

Scoring Process

Projects will be scored on a two (2) step process: 1) Minimum Thresholds and 2) Priority Scoring. Priority scoring is divided between *affordable housing projects* (targeting households below 80% of AMI and *market rate housing projects* (targeting households 80% and above AMI. All projects must meet or exceed the minimum thresholds. Priority scoring will be used to gauge the quality of the project and used to rank projects in the event of multiple proposals. The City reserves the right to reject any and all applications if it deems necessary.

The amount of funds that will be provided, when grant money (or other funds) are available, (on a per unit basis) will be capped between \$4,000-8,000 per unit.

Project Brief

Please briefly describe your project. This section will be used as general background on the project, and is not intended to be a full analysis of the project. This project description will be used for short marketing pieces if assistance is approved.

Project Details

Number of Units

	Market Rate	80% AMI	60% AMI	50% AMI	30% AMI	Total # of Units
# of Units						

Minimum Threshold: All applicants must meet one of the following minimum thresholds listed below. These are goals and implementation strategies from the City’s Master Housing Plan, adopted as part of the City’s 2009 Comprehensive Plan update. Check which threshold best matches your project and describe how your project will meet the implementation strategies.

Goal 1: Provide a variety of housing options for people at all life stages and income levels to encourage existing residents, and attract new residents, to stay in Ramsey throughout their lives.. Housing opportunities should include a mixture of rental and owner-occupied to provide life-cycle housing choices meeting a full spectrum of demographics. [Describe how your project will use one of the following implementation strategies to achieve this goal. Word limit = 500 words]		
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Housing Assistance Policy DRAFT – Affordable

<ol style="list-style-type: none"> 1) Work toward developing various senior housing options including independent living, cooperatives, and assisted living facilities, both market rate and affordable. 2) Focus on providing choices for empty-nesters, including aging in place and downsizing, to allow the majority of current residents to stay in Ramsey. 3) Provide opportunities for young adults to continue to live in Ramsey after leaving their parents’ homes by supporting the development of quality rental housing. 4) Provide a balanced housing supply, with approximately 90% ownership housing and 10% rental housing, to expand options for workforce housing and housing for young professionals. 5) Continue to develop more affordable single family housing such as condominiums and small-lot single family homes that includes higher architectural variety and quality. 6) Explore opportunities to attract executive level housing to provide a variety of housing choices and opportunities in the City. 		
<p>Goal 2: Revitalize/rehabilitate areas where the housing is aging and in need of repair and where the land is underutilized and/or has potential for future redevelopment consistent with the Comprehensive Plan. [Describe how your project will use one of the following implementation strategies to achieve this goal. Word limit = 500 words]</p> <ol style="list-style-type: none"> 1) Encourage residents to upgrade the functionality and marketability of their aging housing, and put quality additions on as they need more space. 2) Provide options for residents to subdivide if consistent with and allowed by the Comprehensive Plan. 3) Encourage redevelopment where land has potential for future development consistent with the Comprehensive Plan. 		
<p>Goal 3: Maintain and improve the housing stock to preserve the character and quality of existing neighborhoods. [Describe how your project will use one of the following implementation strategies to achieve this goal. Word</p>		

Housing Assistance Policy DRAFT – Affordable

<p>limit = 500 words]</p> <ol style="list-style-type: none"> 1) Encourage the development of homeowner’s associations or common interest communities for areas of older multifamily housing and new subdivisions of smaller lot neighborhoods. 2) Ensure that new housing developments provide appropriate density transition with existing established neighborhoods. 3) Update and enhance design standards for new developments and encourage housing construction that incorporates quality and diverse architecture. 		
<p>Goal 4: Provide a development environment that increases residential health and reduces energy consumption. [Describe how your project will use one of the following implementation strategies to achieve this goal. Word limit = 500 words]</p> <ol style="list-style-type: none"> 1) The development incorporates environmentally sensitive site planning, resource efficient building materials and superior indoor environmental quality practices. 2) The development meets sustainability standards, such as Minnesota Green Star Certification or LEED. 3) Use of sustainable development elements such as the use of storm water management BMP’s to manage on site storm water 4) The development incorporates connections to existing pathways and creates natural and safe walkable areas. 		

Rank Scoring

Affordable Housing Project Scoring –Projects must target occupants that are below 80% AMI

<p><u>Affordable Housing - Rental:</u> Points will be given for <u>units rented at greater affordability levels:</u> 50% of units at 60% AMI = 5 points 50% of units at 50% AMI= 7 points 50% of units at 30% or less AMI= 10 points</p>		
<p><u>Affordable Housing- ownership</u> Points will be given for homes priced at:</p>		

Housing Assistance Policy DRAFT – Affordable

<p>30% of units between 60 and 80% AMI = 5 points 30% of units at 60% and below AMI- 8 points 30% of units at 30% or less AMI= 10 points Proposed affordable lots shall be deed restricted and scattered throughout the development.</p>		
<p><u>Long-Term Affordability- Rental Housing</u> Projects that demonstrate the ability to serve tenants for longest period of time. (i.e. keeping rents affordable for extended period of time) <u>30 years or more= 10 points</u> <u>15-29 years = 8 points</u> <u>10- 15 years = 3 points</u></p>		
<p><u>Long-Term Affordability- Owner-occupied Housing</u> Projects that demonstrate the ability to serve tenants for longest period of time. (i.e. keeping prices affordable for extended period of time) 5 years or more= 5 points 10 years or more= 10 points Deed restriction will be required for homes constructed with affordability limits in order to earn points.</p>		
<p><u>Development of Senior Housing</u> Senior independent (owner or rental) = 5 points</p>		
<p><u>Additional Points for Specialized Senior Housing</u> Assisted living units= 5 points Memory care units on site= additional 5 points Senior skilled nursing on site= additional 5 points</p>		
<p><u>Mixed Income Development</u> Inclusion of market rate and affordable within a single project (single or multiple buildings). All projects must have at least 50% of units at 80% AMI or above (market rate). 30% of total units (SF or attached) at 60-80% of AMI = 5 points 30% of total units (SF or attached) at 50% (or below) of AMI= 10 points</p>		
<p><u>Redevelopment:</u> Rehabilitation of existing housing unit(s) for occupants below 80% of AMI= 5 points. Rehabilitation of existing housing unit(s) 30% of AMI= 7 points. Infill redevelopment that results in removal of blighted residential and/or commercial buildings/sites that result in new housing units: Occupants must be at or below 80% AMI. Additional points will be given for greater affordability levels: 50% of units at 60% AMI = 5 points 50% of the units at 50% AMI= 7 points 50% of the units at 30% AMI= 10 points</p>		
<p><u>Proximity to Transit</u> Within quarter mile (.25) of Northstar Commuter Rail-Ramsey Station</p>		

Housing Assistance Policy DRAFT – Affordable

<p>10 pts. Within one-half mile (.5) of Northstar Commuter Rail-Ramsey Station 5 pts.</p>		
<p><u>Proximity to Local Employment</u> Within two-mile radius of area zoned Employment- 5 pts</p>		
<p><u>Number of Bedrooms</u> At least 25% of units include three + bedrooms = 5 points At least 50% of units includes three + bedrooms total units= 10 points</p>		

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Housing Assistance Policy DRAFT – Affordable

<p><u>Non-Financial Readiness to Proceed</u> Land use and zoning approvals= 2 points</p>		
<p><u>Site Control</u> Fee Title Ownership = 5 points</p>		
<p><u>Private Equity Percentage</u> Cash equity commitment of at least 5% down payment= 5 points</p>		
<p><u>Federal/Local or Philanthropic Partnerships</u> Project funds from the federal government, a local unit of government, area employer and/or a private philanthropic, religious or charitable organization. 20.1% and above of the development cost= 10 points 15.1%-20%= 8 points 10.1%-10%= 6 points 5.1%-10%= 4 points 2.1%-5%= 2 points</p>		
<p><u>Architectural Standards (choose all that apply)</u> Use of Hardi-Board or equivalent= 2 points Horizontal siding accessory only = 2 points Minimum of 30% front elevation-brick or stone- 2 points 50% brick or stone threshold = 2 points Building articulation= 2 points Roof articulation= 2 points Covered front porch > 50 square feet = 2 points Roof < 25% of front façade= 2 points 2+ dormers (gabled ends to not count) = 2 points Use of alley for garage access (HOA maintained) = 2 points Use of side loaded garages = 2 points House forward design= 2 points Architectural styled garage doors (15% of lots)= 2 points Anti-monotony elevation/color plan= 2 points Four sided architecture (attached or detached) = 2 points High speed internet access in all units= 2 points Smoke free units/buildings- 2 points</p>		
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<p><u>Energy Efficiency Elements (choose all that apply)</u> Storm water Best Management Practice (above minimum)= 2 points Energy efficient roofing material or colors= 2 points Buildings oriented on site to optimize passive solar and cooling= 2 points Installation of a green roof occupying a minimum of 30% of the total</p>		

Housing Assistance Policy DRAFT – Affordable

roof area= 2 points Use or resource efficient building materials= 2 points Use of Green Star certified mechanical and appliances = 2 points Use of energy efficient windows/doors= 2 points Other energy efficient new technology as approved by the City= 2 points		
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Community Development Committee

Meeting date: February 4, 2013

ADVISORY INFORMATION**Date:** January 8, 2013**Subject:** Livable Communities Act – Ownership and Rent Affordability Limits 2013**District(s), Member(s):** All**Policy/Legal Reference:** Livable Communities Act, Minnesota Statute 473.25**Staff Prepared/Presented:** Libby Starling, 651-602-1135**Division/Department:** Community Development / Livable Communities**Proposed Action**

None. Information only.

Background

The Council's definition of "affordable housing" represents the upper limit of monthly rents and home-purchase prices for housing referred to in Framework policy as affordable to low- and moderate-income families. These income limits for determining affordability have been a part of the foundation for goals negotiations and monitoring of goals progress with Livable Communities Act (LCA) participating cities since 1995, and have been the basis for counting all new affordable units in the housing stock, i.e., all new publicly-assisted and market rate units affordable to low-and-moderate income households.

For units constructed in 2011 and beyond, the Council is using a consistent income limit of what a family of four with an income at or below 60 percent of area median income (AMI) can afford to pay in monthly housing costs for either rental housing or mortgage costs (including principal, interest, property taxes and home insurance).

This level is also consistent with the preference adopted in 2001 by the Local Housing Incentives Account Additional Metropolitan Housing Implementation Group (MHIG) Funding Criteria for funding homeownership units affordable at 60 percent of area median income.

Through 2010, the Council had identified a purchase price ceiling or target maximum price for owner-occupied homes based on what a family of four with an income at or below 80 percent of AMI could afford at prevailing interest rates. For affordable rental units, the Council had previously used the maximum monthly rents affordable for households at 50 percent of AMI.

For 2013, HUD is calculating in area median income for a family of four of 2013 of \$82,300, down slightly from 2011 and 2012's area median incomes of \$83,900 and \$82,700 respectively.

**Area Median Income for a family of four
Minneapolis-St. Paul Metropolitan Statistical Area**

U.S. Department of Housing and Urban Development

	2013	2012	2011
Area median income	\$82,300	\$83,900	\$82,700
60% of area median income	\$49,400	\$50,340	\$49,600
30% of area median income	\$24,700	\$25,170	\$24,800

Applying an interest rate on a 30-year fixed-rate home loan of 3.25 percent for 2013 and other payment factors¹ to the 60 percent of area median income amount adjusted for a family of four (\$49,400), yields an affordable purchase price of \$177,500 in 2013. This compares to a 2011 limit of \$160,250 and a 2012 limit of \$171,500. Record low mortgage interest rates offered by Minnesota Housing are driving the expanded income limit for 2013 despite the decrease in the area median income.

To implement the Livable Communities Act in 2013, the Metropolitan Council will use as the upper limit of affordability for ownership purchase price and monthly rents, the following dollar amounts:

2013 HOMEOWNERSHIP	
Household Income Level:	Affordable Home Price
60% of area median income (\$49,400)	\$177,500
30% of area median income (\$24,700)	\$80,500

2013 RENTAL HOUSING			
Bedroom size:	Monthly gross rent including tenant-paid utilities, affordable at 30 percent of area median income	Monthly gross rent including tenant-paid utilities, affordable at 50 percent of area median income	Monthly gross rent including tenant-paid utilities, affordable at 60 percent of area median income
Efficiency	\$432	\$721	\$865
1 bedroom	\$463	\$772	\$927
2 bedrooms	\$555	\$926	\$1,111
3 bedrooms	\$642	\$1,070	\$1,284
4 bedrooms	\$716	\$1,193	\$1,432

¹ Assumes a 29 percent housing debt to household income ratio, 3.5 percent downpayment, a property tax rate of 1.25 percent of property sales price, mortgage insurance at 1.15 percent of unpaid principal, and \$100 / month for hazard insurance.

Meeting Date: 10/03/2013

By: Tim Gladhill, Community Development

Information

Title:

FOR UPDATE ONLY: Discuss Minnesota Department of Natural Resources (DNR) Rulemaking for Mississippi River Corridor Critical Area (MRCCA/Critical Area)

Background:

In 2013, the Minnesota Legislature authorized the Minnesota Department of Natural Resources (DNR) to commence rulemaking related to the Mississippi River Corridor Critical Area (MRCCA) (the "Critical Area"). The intent is to update existing regulations found in Minnesota Statute Chapter 116G. The Critical Area extends from the Ramsey's western border south down to Hastings, stretching nearly seventy-two (72) miles and encompasses approximately thirty (30) governmental subdivisions across the metro area. It is noted that these regulations presently exist. The rulemaking process proposes to update these existing rules.

The Critical Area is an overlay district that establishes minimum development standards intended to provide protections for the Mississippi River including, but not limited to, stormwater management, bluff stabilization, and protection of scenic qualities. Minnesota Statute Chapter 116G establishes the district and requires that local government units with land use and zoning authority adopt ordinances in substantial compliance with the Statute. The local ordinance must be approved by the DNR. The local unit of government is responsible for administration and enforcement. The City adopted its original ordinance in circa-mid 1980s. A majority of Ramsey is currently classified as 'Rural Open Space' under existing rules. There are a number of existing lots and future development scenarios under the City's Comprehensive Plan that conflict with this designation.

The rulemaking project originally commenced in 2009. However, the legislative timeframe expired, and updated rules were never adopted. The 2013 Legislature revised the original scope for rulemaking and authorized a new rulemaking project. Since some time has lapsed since the 2009 process, Staff is seeking policy direction on how to approach participation in the rulemaking process. As there have been a number of years since the last discussion on this rulemaking process, this is an opportunity to bring new members up to speed on the process, and ensure that Staff brings the proper policy message forward in discussions with the DNR. One potential positive outcome is to establish land use districts that are more compatible with existing development and planned future development under the Comprehensive Plan. However, there is an opportunity that additional lawful, non-conforming structures are created due to revised rules such as setbacks. Staff will need to fully analyze the impacts to Ramsey once the final version of the draft rules are available.

The League of Minnesota Cities and Metro Cities (both organizations working with local governments) held an introductory meeting with DNR staff and local communities. As the process has yet to formally begin, Staff is unable to fully understand the policy implications as it relates to Ramsey (either positive or negative).

The City held a collaborative public process for Ramsey residents on Monday, September 16, 2013 to identify key issues, resources, barriers, and alternatives. The intent was not for formulate support or opposition to the draft rules; the intent of the process was to identify key policy topics to help formulate the City's policy stance. This was also an opportunity to identify where questions still remain to determine if certain concerns could or could not be mitigated moving forward. Staff is working on compiling a final summary report to be forwarded to the Planning Commission and City Council at a later date. The unedited comments received from that process were forwarded to the DNR. It is Staff's hope that these comments will lead to positive changes to the current draft rules. The DNR will be hosting public Open Houses later this Fall/Winter, whereby the City will have a better understanding on the final draft rules anticipated to be forwarded to an official Rulemaking process. Key topics discussed at Ramsey's

process included the following:

- Retain ability to maintain local control over land use decisions
- Retain ability to perform vegetation management
- Retain ability to perform erosion control management (i.e. rip-rap at water line)
- Seek funding opportunities to assist property owners with erosion control issues
- Ensure that lawful, non-conforming ("grandfather") rights are maintained

DNR Staff met with City Staff on Thursday, September 25, 2013. The DNR is holding meetings individually with each of the impacted communities. The intent of the meeting was to (as outlined by the DNR):

- Meet the staff who develop plans and administer the MRCCA ordinance
- Provide an overview of and answer questions about the rulemaking process
- Review the district map(s) for your community
- Go over the draft rules and identify opportunities to improve them
- Review your MRCCA ordinances
- Review the bluff maps that have been developed – these are for informational purposes only and are not part of the rulemaking

At the September 25, 2013 meeting, Staff forwarded the comments received by Ramsey Residents to DNR Staff and discussed opportunities and issues Ramsey currently has with the overlay district as well as the draft rules. The next step is to review, when available, the revised draft rules from the DNR to determine the true impact to Ramsey residents. Staff will inform the Commission when the revised draft rules are available and of upcoming Public Open Houses hosted by the DNR.

There are a number of lawful, non-conforming lots created with the existing rules. One opportunity with the current rulemaking process would be to change existing lawful, non-conforming lots to conforming lots through revised land use districts. It should be noted that a number of protections are granted to property owners that constructed structures lawfully prior to an ordinance being adopted that classified as lawful, non-conforming (that being that an existing structure now does not conform to a new rule that did not exist when the structure was constructed). The City derives its powers to protect lawful, non-conforming uses and structures under Minnesota Statute 462.357. Staff is working on potential ability to further strengthen these protections based on resident feedback.

Additional information on the rulemaking process can be found at www.cityoframsey.com/shoreland.

Notification:

Notification is not required at this time.

Observations/Alternatives:

Funding Source:

Staff Recommendation:

Based on discussion.

Action:

Based on discussion.

Attachments

[Overview of Mississippi River Corridor Critical Area Program and Rulemaking Effort](#)

[2013-2014 MRCCA Rulemaking Schedule \(September 5, 2013\)](#)

[Existing Land Use Districts](#)

[Current City Code Standards](#)

Proposed Land Use Districts

Draft Rules

Bluff and Steep Slope Map

Invite from September 16, 2013 Collaborative Process

Comparison Table

Presentation from Collaborative Process on September 16, 2013

Comments from Collaborative Process

Written Comments Outside Collaborative Process

Form Review

Inbox

Tim Gladhill (Originator)
Form Started By: Tim Gladhill
Final Approval Date: 09/27/2013

Reviewed By

Tim Gladhill

Date

09/27/2013 01:04 PM
Started On: 09/27/2013 08:11 AM

Overview of Mississippi River Corridor Critical Area Program and Rulemaking Effort

History of the Mississippi River Corridor Critical Area

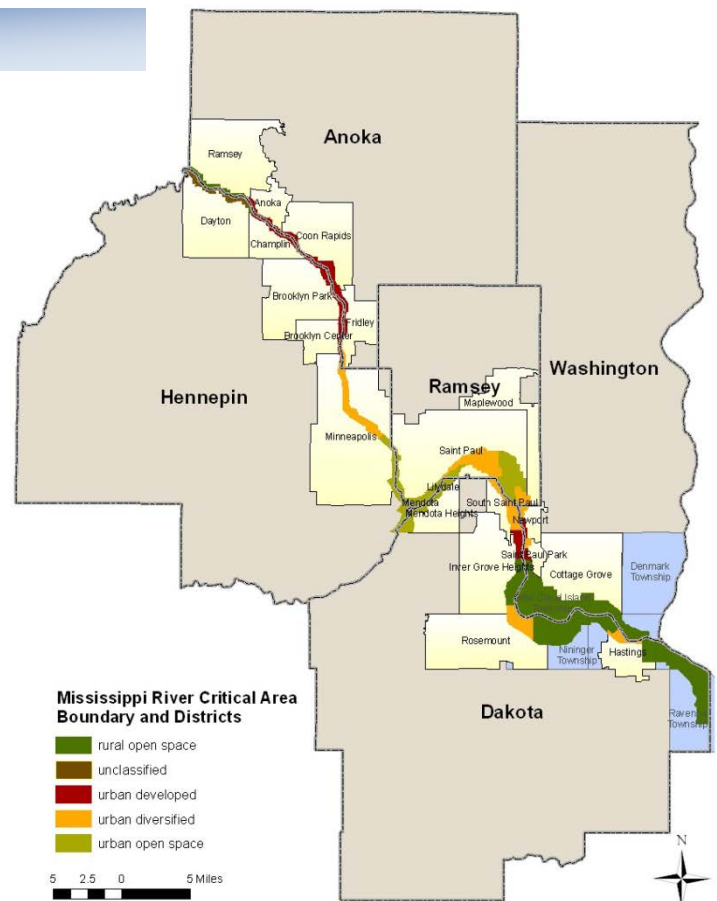
- 1973** Minnesota passes Critical Areas Act of 1973 (MN Statutes, Chapter 116G)
EQB adopts rules to implement Act (MN Rules, parts 4410.8100 – 4410.9910)
- 1976** Mississippi River and adjacent corridor designated a state critical area by Governor Wendell Anderson (Executive Order No. 130)
- 1979** Designation continued by Governor Albert Quie (Executive Order 79-19)
Metropolitan Council acts to make designation permanent (Resolution 79-48)
- 1988** Mississippi National River and Recreational Area (MNRRA) established by Congress as unit of NPS (MNRRA shares same boundary as Mississippi River Corridor Critical Area)
- 1991** MNRRA designated a state critical area per Critical Areas Act (MN Statutes, section 116G.15)
- 1995** Responsibility shifts from EQB to DNR by Governor Arne Carlson (Reorganization Order 170)
- 2007** Legislature directs DNR to prepare report on the Mississippi River Corridor Critical Area (Completed January 2008)
- 2009** Legislature amends MN Statutes, section 116G.15 and directs DNR to conduct rulemaking for the Mississippi River Corridor Critical Area (MN Laws 2009, Chapter 172, Article 2, Section 5.e.)
- 2011** DNR develops draft rule after participatory stakeholder process, but rulemaking authority lapses
- 2013** Legislature directs DNR to resume rulemaking process in consultation with local governments

Current Status

- 30 communities along corridor (21 cities, 5 counties, 4 townships) + several quasi-governmental entities. Most have adopted critical area plans and ordinances.
- EO 79-19 establishes four land use districts:
 - Rural Open Space
 - Urban Open Space
 - Urban Developed
 - Urban Diversified
- EO 79-19 establishes performance standards and guidelines for each land use district.
- Local government units (LGUs) administer and enforce a variety of regulations to meet the performance standards, which has led to general concern regarding consistency and adequacy to protect key resources and features.
- The critical area is cooperatively managed:

DNR Role: Adopts rules, reviews/approves plans and ordinances, and reviews actions requiring a public hearing.

NPS Role: Has provided funding assistance to local, regional, and state agencies; encourages LGUs to incorporate voluntary MNRRA policies



into plans; and provides stewardship, education, and historical and cultural resource protection.

Met Council Role: Reviews plans for consistency with regional policies, EO 79-19, and MNRRA policies and submits recommendation to DNR; and provides assistance to LGUs adopting or amending plans.

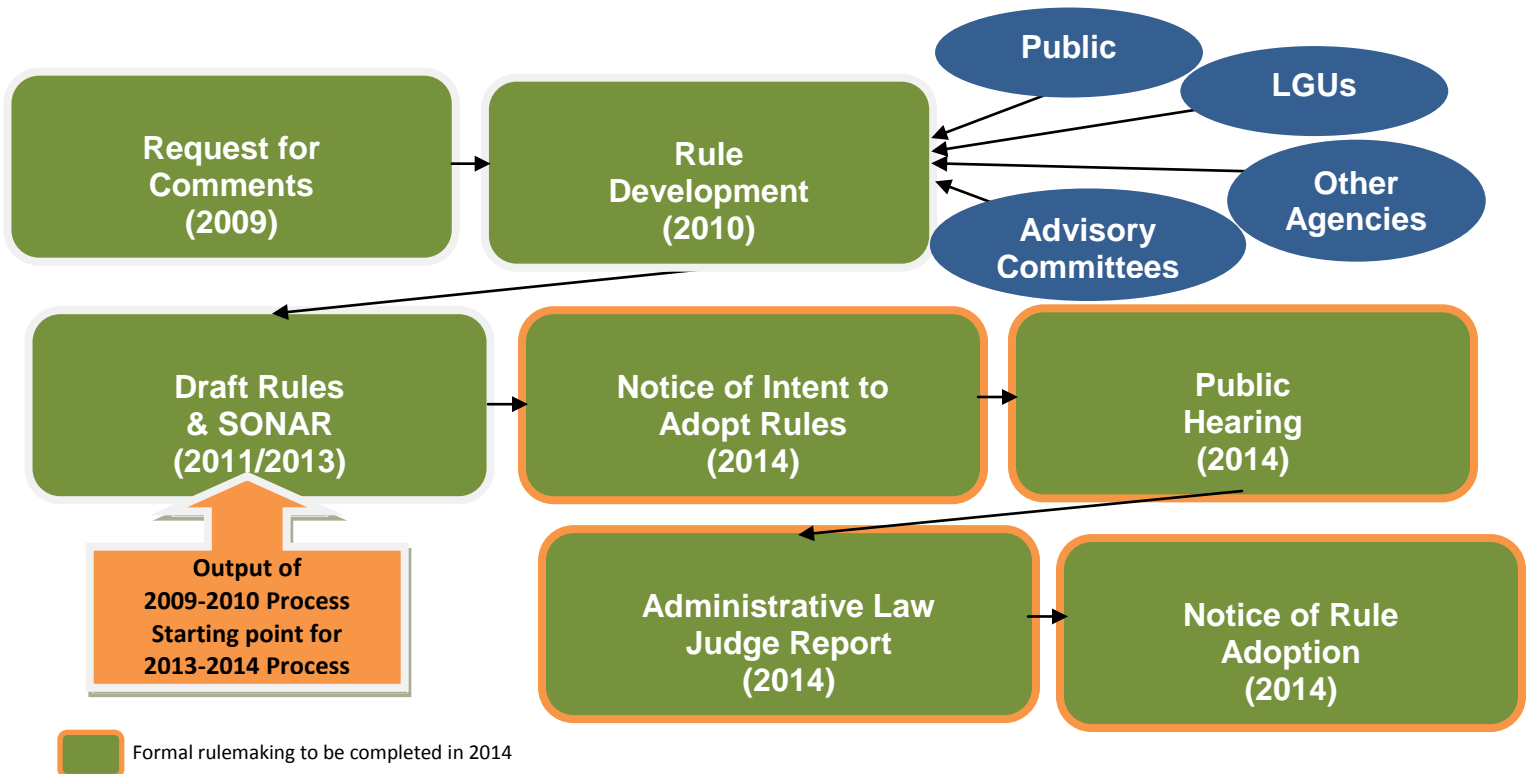
LGU Roles: Adopt DNR-approved plans and ordinances, and administer and enforce them.

Key Points of 2009 and 2013 Legislation

The legislation authorizes the DNR to adopt rules and requires the DNR to:

- establish, by rule, districts within the Mississippi River Corridor Critical Area. The DNR must:
 - determine appropriate number of districts within each municipality,
 - take into account municipal plans and policies, and existing ordinances and conditions, and
 - consider protection of key identified resources and features.
- establish, by rule, minimum guidelines and standards for the districts to protect key resources and features and use them when approving plans and regulations and reviewing development permit applications.
- consult with local governments prior to rule adoption (new in 2013).
- protect existing commercial, industrial and residential uses (new in 2013).
- 2009 legislation required preparation of a preliminary bluff map; this requirement was eliminated in 2013, but protection of bluffs and related features remains a priority.

General Overview of State Rulemaking Process (MN Statutes, Chapter 14)



The DNR will re-publish a Request for Comments in 2013 and will continue to involve local communities, interest groups, other agencies, and the public in improving and refining the draft rules. The DNR also intends to hold a public hearing as part of the formal rulemaking process. For more information, including a detailed 2013-2014 rulemaking schedule, visit the project website: http://mndnr.gov/waters/watermgmt_section/critical_area/rulemaking.html

2013-2014 MRCCA Rulemaking Schedule

Draft Rules

Output of
2009 - 2010 Process

PHASE II Public Outreach & Rule Revision

Oct 2013 – Dec 2013

Publish Request for Comments (RFC)
Nov 2013

Notify all Property Owners
Nov 2013

Public Comment Period
Nov – Dec 2013 (starts after RFC)

Meetings with Interested Parties
Nov – Dec 2013

Public Meetings & Open Houses
Nov – Dec 2013

Revise Rules Based on Comments
Nov 2013 – Jan 2014

Revise SONAR
Nov 2013 – Jan 2014

Report to Legislature
January 15, 2014

PHASE III Rule Adoption

Feb 2014 – Sep 2014

Publish Notice of Intent to Adopt Rules
with a Public Hearing
Feb 2014

Notify all Parties on Mailing List
Feb 2014

30-Day Formal Comment Period
Feb/Mar 2014 (starts after notice)

Public Hearing
Apr 2014

Respond to Comments/Rebuttal
Apr 2014

Administrative Law Judge Report
May 2014

Governor Review & Approval/Veto
Jul – Aug 2014

Adopt Rule
Sep 2014

PHASE I LGU Review

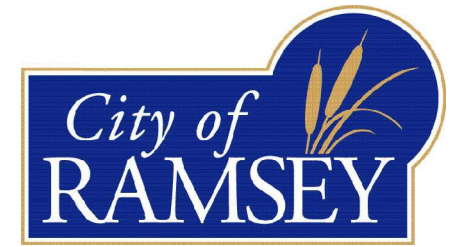
July 2013 – Sep 2013

Kick-off Meeting with LMC/Metro Cities
Jul 17, 2013

Meetings with LGUs to Identify
Opportunities for Improving Draft Rules
Aug - Sep 2013








Summarize Opportunities for
Improvement
Sep 2013

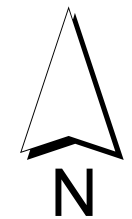
Meeting with LMC/Metro Cities to
Review Identified Opportunities
Oct 2013



**Mississippi River Corridor
Critical Area (CCA) [?]
Existing Districts [?]**



-  Parcels
-  Existing Districts
-  rural open space
-  unclassified [?]
-  urban developed
-  urban diversified [?]
-  urban open space



0 0.3 0.6 Miles

This map has been compiled using information gathered from various governmental offices and other sources and is to be used for reference purposes only. It is neither a legally recorded map nor a survey and is not intended for use as one. The Geographic Information System (GIS) data used to develop this map is not warranted by the City as being error-free.

The City does not represent that the GIS data can be used for exact measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found, please contact (763) 427-1410.

The City of Ramsey disclaims any responsibility for or liability for the accuracy of the information at any point of initial contact with a GIS to which the public has general access. The preceding disclaimer is provided pursuant to Minnesota Statute 466.03, Subd. 21 (2000), and the user of this map acknowledges that the City of Ramsey is immune from any and all claims brought by User, its employees or agents, or third parties in which access to the user's access of the data.

Sec. 117-148. - Critical River Overlay District development standards.

- (a) *Zoning provisions.* The following standards shall apply to the Critical River Area 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	2.5 acres*	2.5 acres	2.5 acres
Lot width without public sewer any permitted use	200 feet	200 feet	200 feet
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	35 feet	35 feet	35 feet

height any permitted building			
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	75 feet	75 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.

- (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	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	20 feet bluff line or 100 feet from ordinary high water mark which ever is greater		

permitted use			
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

Permitted uses: The permitted uses for the Critical River Area shall be those uses presently permitted in the respective zoning districts.

(b) *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)(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\(a\)](#), 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.

(c) *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\(d\)\(2\)](#).
- 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\(d\)\(2\)](#); 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\(d\)\(2\)](#); 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\(d\)\(2\)](#).
 - 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) *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) *Marinas, barge fleeting areas and loading facilities.*

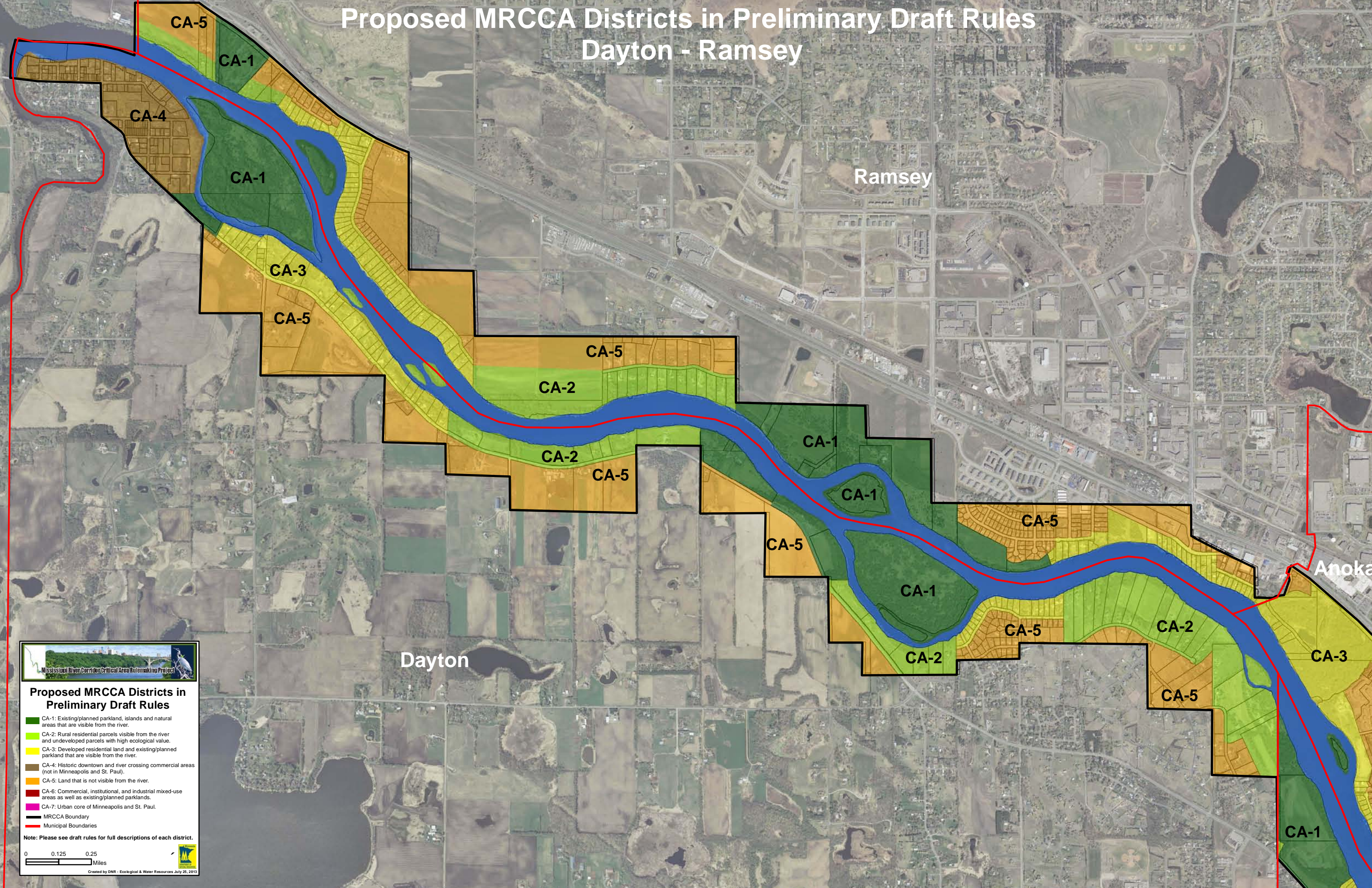
- (1) *Boat launching ramps.*
 - a. Boat launching ramps may be located only where access streets are adequate to handle the traffic load generated by the facility.
 - b. Shared or joint use accessory parking will be preferred. Loading will be permitted only at ramps. Parking areas must be screened from 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) *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.
- (9) *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) 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) Notification procedures and certification.
- a. Certain land use decisions which directly affect the use of land within the Mississippi Critical River Area District and involve any of the following actions must be certified by the commissioner as specified in subsection (g)(3)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 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, 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.
- (4) 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)

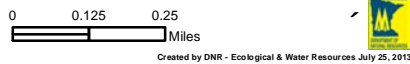
Proposed MRCCA Districts in Preliminary Draft Rules Dayton - Ramsey



Proposed MRCCA Districts in Preliminary Draft Rules

- CA-1: Existing/planned parkland, islands and natural areas that are visible from the river.
- CA-2: Rural residential parcels visible from the river and undeveloped parcels with high ecological value.
- CA-3: Developed residential land and existing/planned parkland that are visible from the river.
- CA-4: Historic downtown and river crossing commercial areas (not in Minneapolis and St. Paul).
- CA-5: Land that is not visible from the river.
- CA-6: Commercial, institutional, and industrial mixed-use areas as well as existing/planned parklands.
- CA-7: Urban core of Minneapolis and St. Paul.
- MRCCA Boundary
- Municipal Boundaries

Note: Please see draft rules for full descriptions of each district.



Proposed Rules Relating to Mississippi River Corridor Critical Area

Explanation of commentary: Comments describe what is contained in each rule section and highlight selected provisions. The commentary also identifies provisions that are problematic due to incorrect references or poor wording.

Draft Rules	Commentary
<p>PART 6106.0010 POLICY</p> <p>It is in the interest of present and future generations to preserve and enhance the natural, aesthetic, cultural, and historical values of the Mississippi River corridor within the Twin Cities metropolitan area and protect its environmentally sensitive areas. Accordingly, the commissioner does hereby provide standards and criteria for the preservation, protection, and management of the Mississippi River Corridor Critical Area, as authorized by Minnesota Statutes, chapters 116G, 394, 462, and 473, and by Executive Order 79-19.</p>	<p><i>The policy statement establishes the overall goal of the proposed rules as authorized by state laws.</i></p>
<p>PART 6106.0020 PURPOSE</p> <p>In furtherance of the policies declared in Minnesota Statutes, chapters 116G, 394, 462, and 473, and Executive Order 79-19, the commissioner provides the following minimum standards and criteria for the subdivision, use, and development of land within the Mississippi National River and Recreation Area, which is designated the Mississippi River Corridor Critical Area. The purposes of the minimum standards and criteria are to:</p> <ul style="list-style-type: none"> A. protect and preserve the Mississippi River and adjacent lands that the legislature finds to be unique and valuable state and regional resources for the benefit of the health, safety, and welfare of the citizens of the state, region, and nation; B. prevent and mitigate irreversible damages to these state, regional, and national resources; C. preserve and enhance the natural, aesthetic, cultural, and historical values of the Mississippi River and adjacent lands for public use and benefit; D. protect and preserve the Mississippi River as an essential element in the national, state, and regional transportation, sewer and water, and recreational systems; and E. protect and preserve the biological and ecological functions of the Mississippi River corridor. 	<p><i>This part lays out the goals of the rules. MS 116G.15 designates the Mississippi National River Recreation Area (MNRRA) as a state critical area per the Critical Areas Act and identifies these five purpose statements, which come directly from EO 79-19 and MS 116G.15.</i></p>
<p>PART 6106.0030 SCOPE</p> <p>Subpart 1. Applicability. The standards and criteria for the Mississippi River Corridor Critical Area established in parts 6106.0010 to 6106.0150 pertain to public waters and to public and private lands within the river corridor boundary established by Executive Order 79-19.</p> <p>Subp. 2. Government actions. The state and all local governments, including councils, commissions, boards, districts, departments, and</p>	<p><i>This part describes the physical land area covered by the rules, the general roles and responsibilities of agencies in furthering the purpose of the rules, and the applicability of other regulations within the MRCCA.</i></p> <p><i>This subpart requires all state and local units of government with jurisdiction in the MRCCA to act in accordance with these rules.</i></p>

Draft Rules	Commentary
<p>other public authorities, shall exercise their powers so as to further the purposes of parts 6106.0010 to 6106.0150.</p> <p>Subp. 3. State land. Land owned by the state and its agencies and subdivisions shall be administered according to parts 6106.0010 to 6106.0150.</p> <p>Subp. 4. Conflicting standards. In case of a conflict between this chapter and any other rule, the more protective provision applies.</p> <p>Subp. 5. Local determination.</p> <p>A. Local governments may determine whether to administer the Minnesota statewide shoreland management standards in parts 6120.2500 to 6120.3900 within the Mississippi River Corridor Critical Area.</p> <p>B. Local governments may determine whether to administer the Minnesota wild, scenic, and recreational river rules in parts 6105.0010 to 6105.0250 and 6105.0800 to 6105.0960 within the Mississippi River Corridor Critical Area.</p> <p>Subp. 6. Superseding standards. Specific standards found in this chapter supersede Executive Order 79-19 and parts 4410.8100 to 4410.9910 for management of the Mississippi River Corridor Critical Area.</p>	<p><i>Subpart 5 was added at the request of local governments to reduce complexity and confusion on overlapping regulations. It gives local governments the option of discontinuing administration of statewide Shoreland Management within the MRCCA.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Item 5.B is no longer relevant. Dayton and Ramsey were the only two local governments within the Wild & Scenic designated portion of the Mississippi River, and both were removed from this designation by the Legislature in 2012.</i></p> </div>
<p>PART 6106.0040 SEVERABILITY</p> <p>Minnesota Statutes, section 645.20, applies to this chapter.</p>	<p><i>Severability means that if particular elements of these rules are found to be unconstitutional, the remaining provisions will continue in force as law. This is a standard clause of all rules and ordinances.</i></p>
<p>PART 6106.0050 DEFINITIONS</p> <p>Subpart 1. Scope of terms and measurement of distances. For the purposes of parts 6106.0010 to 6106.0150, the terms used have the meaning given in this part. All distances, unless otherwise specified, are measured horizontally.</p> <p>Subp. 2. Access path. "Access path" means an area designated to provide ingress and egress to public waters.</p> <p>Subp. 3. Accessory structure. "Accessory structure" means a building, structure, or improvement subordinate to and on the same lot as the principal structure or use, including sheds, storage shelters, gazebos, hot tubs, swimming pools, pole buildings, detached garages, decks, patios, and other similar structures.</p> <p>Subp. 4. Adjacent. "Adjacent" means having a boundary that physically touches or adjoins.</p> <p>Subp. 5. Aggregate extraction. "Aggregate extraction" means removal of stone, sand, gravel, or other material from the land for commercial, industrial, or governmental purposes.</p>	<p><i>Eighty-seven definitions are included in this part. Of these terms and definitions:</i></p> <ul style="list-style-type: none"> <i>• 19 refer to or are derived from Minnesota Statutes, section 116G and/or Executive Order 79-19, including: adjacent; barge fleeting area; barge slip; bluffline; developer; development; development permit; discretionary action; essential services; local government; Metropolitan plans, guides, and standards; MUSA; off-premise general advertising signs; parcel; public transportation facilities; public safety facilities; setback; steep slopes; and transmission services.</i> <i>• 23 refer to existing terms and definitions in other state statutes or another chapter of rule, including: agricultural use; conditional use; conservation easement; dock; feedlot; floodplain; interim use; lot; marina; mooring facility; nonconformity; ordinary high water level; plat; port; public waters; shoreland;</i>

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Subp. 6. **Aggregate mining.** "Aggregate mining" means construction, reconstruction, repair, relocation, expansion, or removal of any facility for the extraction, stockpiling, storage, disposal, or reclamation of nonmetallic minerals. Aggregate mining does not include ancillary facilities such as access roads, bridges, culverts, and water level control structures. For purposes of this subpart, "facility" includes all mine pits, quarries, stockpiles, basins, and any structures that drain or divert public waters to allow mining.

stormwater; subdivision; subsurface sewage treatment system; variance; wetland; and wharf.

- *the remaining definitions are new and clarify concepts useful in administering the rules.*

Subp. 7. **Agricultural use.** "Agricultural use" has the meaning given under Minnesota Statutes, chapter 40A.

Subp. 8. **Barge fleeting.** "Barge fleeting" means temporarily parking and securing barges on the river, on or off channel, while tows are assembled or broken up.

Subp. 9. **Bioengineering.** "Bioengineering" means use of living and nonliving plant materials, in combination with natural and synthetic support materials, for slope stabilization, erosion reduction, and vegetative establishment.

Subp. 10. **Bluff.** "Bluff" means a natural topographic feature having all of the following characteristics:

- A. a slope that rises at least 25 feet above the ordinary high water level or toe of the bluff; and
- B. the grade of the slope from the ordinary high water level or toe of the bluff to the top of the bluff averages 30 percent or greater.

The bluff definition is consistent with that in the statewide Shoreland Management rules.

A bluff is a natural feature in contrast to man-made features such as highway embankments and road ditches.

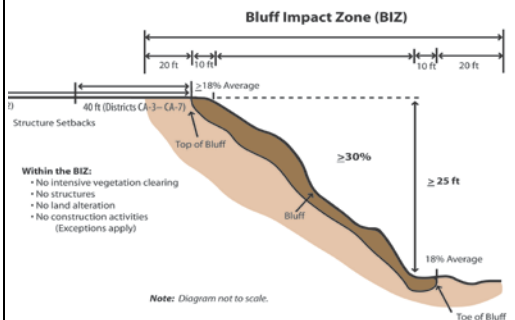
Bluff impact zone is the same definition used in the state shoreland rules.

Subp. 11. **Bluff impact zone.** "Bluff impact zone" means land on and within 20 feet of the bluff.

Bluffline is used for measuring structure setbacks.

Subp. 12. **Bluffline.** "Bluffline" means a line delineating the top of the bluff. More than one bluffline may be encountered proceeding landward from the river.

Subp. 13. **Buffer.** "Buffer" means land that is used to protect adjacent lands and public waters from development and more intensive land uses. The land is kept in a natural state that provides ecological services such as filtering runoff, controlling nutrient movement, and protecting fish and wildlife habitat. In areas of agricultural use, the land is used for less intensive agricultural purposes.



Subp. 14. **Buildable area.** "Buildable area" means the area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet setback requirements, rights-of-way, bluff impact zones, slope preservation zones, historic sites, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.

Subp. 15. **Certificate of compliance.** "Certificate of compliance" means a document, written after a compliance inspection, certifying that

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development is in compliance with applicable requirements at the time of the inspection.

Subp. 16. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subp. 17. **Conditional use.** "Conditional use" has the meaning given under Minnesota Statutes, chapters [394](#) and [462](#)

Subp. 18. **Conservation easement.** "Conservation easement" has the meaning given under Minnesota Statutes, chapter [84C](#).

Subp. 19. **Conservation subdivision.** "Conservation subdivision" means a pattern of subdivision that is characterized by the grouping of lots within a portion of a parcel, where the remaining portion of the parcel is permanently protected as open space. Site designs incorporate standards for low impact development.

Subp. 20. **Conventional subdivision.** "Conventional subdivision" means a pattern of subdivision that is characterized by lots that are spread regularly throughout a parcel in a lot and block design.

Subp. 21. **Deck.** "Deck" means a horizontal, unenclosed, aboveground level structure, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

Subp. 22. **Developer.** "Developer" has the meaning given under Minnesota Statutes, section [116G.03](#).

Subp. 23. **Development.** "Development" has the meaning given under Minnesota Statutes, section [116G.03](#)

Subp. 24. **Discretionary action.** "Discretionary action" means an action related to land use that requires a public hearing, such as preliminary subdivision proposals, final subdivision plats, planned unit developments, conditional use permits, interim use permits, variances, appeals, and rezonings.

Local governments asked for clarification on which actions fall under "discretionary actions".

Subp. 25. **Dock.** "Dock" has the meaning given under chapter [6115](#).

Subp. 26. **Dwelling unit.** "Dwelling unit" means a structure or portion of a structure or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motels, hotels, and resort rooms and cabins.

Subp. 27. **Electric power facilities.** "Electric power facilities" means equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under Minnesota Statutes, chapter [216E](#).

Subp. 28. **Essential services.** "Essential services" means underground or overhead gas, electrical, communications, steam, or water distribution, collection, supply, or disposal systems. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic

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signals, hydrants, or other similar equipment and accessories in conjunction with the systems, but do not include buildings, wastewater treatment works as defined in Minnesota Statutes, chapter [115](#), or electrical generation and transmission services.

Subp. 29. **Feedlot.** "Feedlot" has the meaning given for animal feedlots under chapter [7020](#).

Subp. 30. **Floodplain.** "Floodplain" has the meaning given under chapter [6120](#).

Subp. 31. **Historic site.** "Historic site" means an archaeological site, standing structure, site, district, or other property that is:

- A. listed in the National Register of Historic Places or the State Register of Historic Sites or locally designated as a historic site;
- B. determined to meet the criteria for eligibility to the National Register of Historic Places or the State Register of Historic Sites after review by the state archeologist or the director of the Minnesota Historical Society; or
- C. an unplatted cemetery that falls under the provisions of Minnesota Statutes, chapter 307.

Subp. 32. **Impervious surface.** "Impervious surface" means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, parking lots, storage areas, and driveways, including those with concrete, asphalt, or gravel surfaces, and riprap and other hard armoring.

Subp. 33. **Intensive vegetation clearing.** "Intensive vegetation clearing" means removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subp. 34. **Interim use.** "Interim use" has the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).

Subp. 35. **Land alteration.** "Land alteration" means an activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances.

Subp. 36. **Local government.** "Local government" means counties, municipalities, and townships and all agencies, boards, commissions, councils, and departments thereof.

Subp. 37. **Lot.** "Lot" has the meaning given under chapter [6120](#).

Subp. 38. **Lot width.** "Lot width" means the shortest distance between lot lines measured at both the ordinary high water level and at the required structure setback from the ordinary high water level for riparian lots. For nonriparian lots, the lot width is the shortest distance between side lot lines as measured at the midpoint of the longest axis

Local governments asked for clarification on what surfaces were considered "impervious".

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of the lot.

Subp. 39. **Marina.** "Marina" has the meaning given under chapter [6115](#).

Subp. 40. **Metropolitan urban service area.** "Metropolitan urban service area" means the area in which the Metropolitan Council ensures that regional services and facilities under the council's jurisdiction are provided.

Subp. 41. **Mooring facility.** "Mooring facility" has the meaning given under chapter [6115](#).

Subp. 42. **Native plant.** "Native plant" means a plant that is indigenous to a particular region. In Minnesota, a plant is considered native if the plant occurred in the state at the time of the public land survey, from 1847 to 1907.

Subp. 43. **Natural state.** "Natural state" means that the condition, composition, and diversity of the plant community is substantially unaltered by humans or that restoration has been consistent with the commissioner's guidelines or the local government's approved plan.

Subp. 44. **Nonconformity.** "Nonconformity" has the meaning given under Minnesota Statutes, chapters [394](#) and [462](#).

Subp. 45. **Nonriparian lot.** "Nonriparian lot" means a lot that does not abut public waters.

Subp. 46. **Off-premise advertising signs.** "Off-premise advertising signs" means those signs that direct attention to a product, service, business, or entertainment venue that is not exclusively related to the premises where the sign is located.

Subp. 47. **Ordinary high water level.** "Ordinary high water level" has the meaning given under Minnesota Statutes, section [103G.005](#).

Subp. 48. **Parcel.** "Parcel" means a quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

Subp. 49. **Patio.** "Patio" means a constructed hard surface located at ground level.

Subp. 50. **Planned unit development.** "Planned unit development" means a method of land use or development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel and by a mix of structure types and land uses. Planned unit development includes any conversion of existing structures and land uses that utilize this method of development.

Subp. 51. **Plat.** "Plat" has the meaning given under Minnesota Statutes, chapters [505](#) and [515B](#).

This definition is based on the PUD definition in the Shoreland Management rules, but makes no distinction between residential and commercial planned unit developments or types of structures. The definition also replaces the term "clustering" from EO-79-19.

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<p>Subp. 52. Port. "Port" means a water transportation complex established and operated under the jurisdiction of a port authority according to Minnesota Statutes, chapter 458.</p> <p>Subp. 53. Primary conservation areas. "Primary conservation areas" means key resources and features according to Minnesota Statutes, section 116G.15, subdivision 4, paragraph (b), and includes shore impact zones, bluff impact zones, slope preservation zones, floodplains, wetlands, gorges, areas of confluence with key tributaries, natural drainage routes, unstable soils and bedrock, significant existing vegetative stands, tree canopies, native plant communities, scenic views and vistas, cultural and historic sites and structures, and publicly owned parks, trails, and open spaces.</p> <p>Subp. 54. Professional engineer. "Professional engineer" means an engineer licensed to practice in Minnesota.</p> <p>Subp. 55. Project area. "Project area" means a parcel in its entirety as proposed for development.</p> <p>Subp. 56. Public recreational facilities. "Public recreational facilities" means recreational facilities provided by the state or a local government or dedicated to public use, including scenic overlooks, observation platforms, trails, docks, fishing piers, picnic shelters, water access ramps, and other similar water-oriented public facilities used for recreation. Public recreational facilities do not include buildings.</p> <p>Subp. 57. Public safety facilities. "Public safety facilities" means hydrants, fire alarm boxes, street lights, railway crossing signals, navigational structures and other aviation safety facilities, and similar facilities and accessories, but does not include buildings.</p> <p>Subp. 58. Public transportation facilities. "Public transportation facilities" means all transportation facilities provided by the state or a local government or dedicated to public use, such as roadways, transit facilities, railroads, and bikeways.</p> <p>Subp. 59. Public utilities. "Public utilities" means electric power facilities, essential services, and transmission services.</p> <p>Subp. 60. Public waters. "Public waters" has the meaning given under Minnesota Statutes, section 103G.005..</p> <p>Subp. 61. Readily visible. "Readily visible" means development is easily seen from the ordinary high water level of the opposite shore during summer months. This occurs when the river user first looks up at the surrounding landscape and sees the development without having to look hard or long or use any magnification devices.</p> <p>Subp. 62. Resource agency. "Resource agency" means</p> <p>Subp. 63. Retaining walls. "Retaining walls" means vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or</p>	<p><i>The purpose of this definition is to clearly identify key resources and features to protect as land is developed or redeveloped. The term is used in several parts of the rules, including the standards for subdivision and open space, to ensure that key resources and features are given priority consideration for protection as open space.</i></p> <p><i>"Readily visible" provides a performance standard in response to requests by local governments and other stakeholders to clarify visual standards.</i></p> <div style="border: 1px solid black; padding: 5px; background-color: #f0f0f0;"> <p><i>"Resource agency" was added by the Revisor's Office because it is used in rule text. It needs to be defined.</i></p> </div>

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stone regardless of size, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials.

Subp. 64. **Riparian lot.** "Riparian lot" means a lot that abuts public waters.

Subp. 65. **Riprap.** "Riprap" means coarse stones, boulders, cobbles, broken rock or concrete, or brick materials placed or constructed to create an irregular surface against the slope of the existing bank of a public water and other steep slopes, very steep slopes, or bluffs.

Subp. 66. **River-dependent commercial and industrial use.** "River-dependent commercial and industrial use" means use of land for commercial or industrial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business, such as barge facilities, ports, and marinas.

Subp. 67. **Setback.** "Setback" means a separation distance measured horizontally.

Subp. 68. **Shore impact zone.** "Shore impact zone" means land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback or 50 feet landward of the ordinary high water level in areas of agricultural use.

Subp. 69. **Shoreline facilities.** "Shoreline facilities" means facilities that require a location adjoining public waters for ingress and egress, loading and unloading, and public water intake and outflow, such as barge facilities, port facilities, commodity loading and unloading equipment, watercraft lifts, marinas, short-term watercraft mooring facilities for patrons, and water access ramps. Structures that would be enhanced by a shoreline location, but do not require a location adjoining public waters as part of their function, are not shoreline facilities, such as restaurants, bait shops, and boat dealerships.

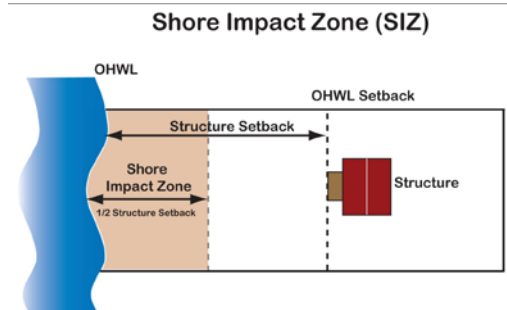
Subp. 70. **Shoreline recreational use area.** "Shoreline recreational use area" means the area within the shore impact zone where vegetation in a natural state need not exist.

Subp. 71. **Slope preservation zone.** "Slope preservation zone" means land on and within 20 feet of a very steep slope.

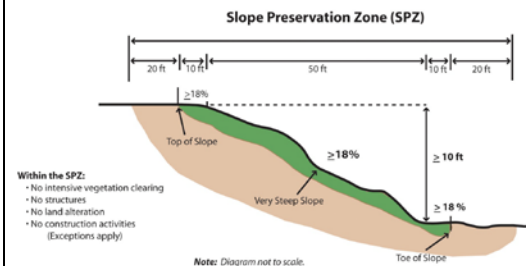
Subp. 72. **Steep slope.** "Steep slope" means a natural topographic feature with an average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater than 50 feet.

Subp. 73. **Storm water.** "Storm water" has the meaning given under chapter [7090](#).

Subp. 74. **Structure.** "Structure" means a building, sign, or appurtenance thereto, except for aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including



Shoreline facilities are river-dependent and need a riverfront location, consistent with the economic purposes of the river corridor as described in EO 79-19. The term is used in several parts of the draft rules, including the design standards for river-dependent commercial and industrial uses, and the list of exceptions to OHWL setbacks.



- No intensive vegetation clearing
- No structures
- No land alteration
- No construction activities (Exceptions apply)

Note: Diagram not to scale.

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<p>towers, poles, and other supporting appurtenances.</p> <p>Subp. 75. Subdivision. "Subdivision" has the meaning given under Minnesota Statutes, chapter 462.</p> <p>Subp. 76. Subsurface sewage treatment system. "Subsurface sewage treatment system" has the meaning given under chapter 7080.</p> <p>Subp. 77. Suitable area. "Suitable area" means the area remaining on a lot or parcel of land after shore impact zones, bluff impact zones, slope preservation zones, roads and rights-of-way, historic sites, wetlands, designated floodways, and land below the ordinary high water level are excluded.</p> <p>Subp. 78. Toe of the bluff. "Toe of the bluff," as associated with a bluff, means the lower point of the lowest horizontal ten-foot segment with an average slope exceeding 18 percent.</p> <p>Subp. 79. Toe of the slope. "Toe of the slope" means the lower point of the lowest horizontal ten-foot segment with an average slope exceeding 18 percent.</p> <p>Subp. 80. Top of the bluff. "Top of the bluff," as associated with a bluff, means the higher point of the highest horizontal ten-foot segment with an average slope exceeding 18 percent.</p> <p>Subp. 81. Top of the slope. "Top of the slope" means the higher point of the highest horizontal ten-foot segment with an average slope exceeding 18 percent.</p> <p>Subp. 82. Transmission services. "Transmission services" means:</p> <ul style="list-style-type: none"> A. electric power lines, cables, pipelines, or conduits that are: (1) used to transport large blocks of power between two points, as identified and defined under Minnesota Statutes, chapter 216; and (2) for mains or pipelines for gas, liquids, or solids in suspension, used to transport large amounts of gas, liquids, or solids in suspension between two points; and B. telecommunication lines, cables, pipelines, or conduits. <p>Subp. 83. Variance. "Variance" has the meaning given under Minnesota Statutes, chapters 394 and 462.</p> <p>Subp. 84. Very steep slope. "Very steep slope" means a natural topographic feature having all of the following characteristics:</p> <ul style="list-style-type: none"> A. the slope rises at least ten feet above the ordinary high water level or toe of the slope; and B. the grade of the slope from the ordinary high water level or toe of the slope to the top of the slope averages 18 percent or greater. <p>Subp. 85. Water access ramp. "Water access ramp" means a ramp, road, or other conveyance that allows launching and removal of a boat</p>	<p><i>Protection of slopes over 18% was required by EO 79-19</i></p>

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<p>with a vehicle and trailer.</p> <p>Subp. 86. Water-oriented accessory structure. "Water-oriented accessory structure" means a small building or other improvement, except stairways, fences, docks, and retaining walls, that, because of the relationship of its use to public waters, reasonably needs to be located closer to public waters than the normal structure setback. Examples include gazebos, screen houses, fish houses, pump houses, and detached decks and patios.</p> <p>Subp. 87. Wetlands. "Wetlands" has the meaning given under Minnesota Statutes, section 103G.005.</p> <p>Subp. 88. Wharf. "Wharf" has the meaning given under chapter 6115.</p>	<p><i>This term identifies structures that are commonly constructed closer to the river than most structures. These types of accessory structures are listed as an exception to OHWL setbacks in the dimensional standards.</i></p>
<p>PART 6106.0060 ADMINISTRATION</p>	<p><i>This part lays out the specific roles, responsibilities, and procedures for administering the rules. Many provisions are relatively unchanged from MS 116G.15, EO 79-19 and/or MR 4410.</i></p>
<p>Subpart 1. Terms and time frames. For the purposes of this part:</p> <ul style="list-style-type: none"> A. the terms "plan," "ordinance," and "plan and ordinance" mean Mississippi River Corridor Critical Area plans and ordinances, and updates or amendments thereto, prepared to implement parts 6106.0010 to 6106.0150; B. if plans and ordinances prepared under item A refer to underlying land use or zoning, then the underlying land use and zoning documents must be submitted and considered in combination with these plans and ordinances, and together must substantially comply with parts 6106.0010 to 6106.0150; and C. time frames are measured in calendar days. 	<p><i>This subpart clarifies which plans and ordinances are affected by these rules, the role that underlying zoning plays, and the timeframes for specific actions.</i></p> <p><i>"Plans" refer to those elements of each city's comprehensive plan (or stand-alone plan) that deal with land use within the MRCCA.</i></p> <p><i>"Ordinances" are those ordinances that specifically regulate land use activity within the MRCCA.</i></p> <p><i>This clarification in timeframes was requested by local governments.</i></p>
<p>Subp. 2. Responsibilities and authorities. The standards and criteria for the Mississippi River Corridor Critical Area established in parts 6106.0010 to 6106.0150 must be adhered to by:</p> <ul style="list-style-type: none"> A. the commissioner for reviewing and approving plans and ordinances and reviewing discretionary actions; B. the Metropolitan Council for reviewing plans and ordinances; C. local governments when preparing, updating, or amending plans and ordinances and reviewing and approving discretionary actions; and D. state and regional agencies for permit regulation and plan development within an agency's jurisdiction. 	<p><i>This subpart explains the roles and responsibilities of the DNR, the Metropolitan Council, and local units of government. These three bodies have distinct responsibilities related to plans, ordinances and discretionary actions. (Discretionary actions refer to actions requiring a public hearing.) This is unchanged from EO 79-19.</i></p>
<p>Subp. 3. Substantial compliance. Local governments within the Mississippi River Corridor Critical Area shall adopt, administer, and enforce plans and ordinances in substantial compliance with parts</p>	<p><i>This subpart states that local governments are responsible for implementing these rules on the ground. This is unchanged from</i></p>

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<p>6106.0010 to 6106.0150. Plans and ordinances must be submitted to the Metropolitan Council for review and must be approved by the commissioner before they are adopted as provided under subpart 11.</p>	<p><i>EO 79-19.</i></p> <p><i>The concept of “substantial compliance” is new to the MRCCA and provides local governments with flexibility to negotiate methods that satisfy the purpose of the rules without being in strict conformance with the rules. The method for pursuing flexibility is covered in subpart 11, item J, below.</i></p> <p><i>This approach to flexibility is used in the state shoreland rules.</i></p>
<p>Subp. 4. Greater restrictions.</p> <p>Nothing in parts 6106.0010 to 6106.1050 shall be construed as prohibiting or discouraging a local government from adopting and enforcing plans and ordinances that are more restrictive than parts 6106.0010 to 6106.0150.</p>	<p><i>This subpart clarifies that local governments may adopt regulations that are stricter than the rules. This clarification was sought by local governments and other stakeholders.</i></p>
<p>Subp. 5. Adoption schedule.</p> <p>A. In consultation with the Metropolitan Council, the commissioner shall prepare a notification schedule for local governments to prepare or amend plans and ordinances.</p> <p>B. Within the time frames provided under subpart 11, local governments must prepare or amend plans and ordinances to substantially comply with parts 6106.0010 to 6106.0150.</p> <p>C. All plans and ordinances adopted by local governments pursuant to Executive Order 79-19 and chapters 6105 and 6120 that are in existence on the effective date of this chapter remain in effect and shall be enforced until plans and ordinances are amended in substantial compliance with parts 6106.0010 to 6106.0150, approved by the commissioner, and adopted by the local government as provided under subpart 11.</p> <p>D. Where a local government has not adopted plans and ordinances, development shall continue to be governed by the interim development regulations in Executive Order 79-19, until such time as plans and ordinances that substantially comply with parts 6106.0010 to 6106.0150 are approved by the commissioner and adopted by the local government as provided under subpart 11.</p> <p>E. The adoption of plans and ordinances in substantial compliance with parts 6106.0010 to 6106.0150 do not in any way limit or modify the rights of a person to complete a development that is authorized as provided under Minnesota Statutes, section 116G.13.</p>	<p><i>This subpart clarifies that, once promulgated, these rules won’t take effect immediately; local governments won’t be required to prepare or amend plans and ordinances until notified by DNR, and will be given a reasonable amount of time to do so. Existing local plans and ordinances remain in effect until new plans and ordinances are approved by the DNR.</i></p> <p><i>Item D pertains to the cities of Brooklyn Center and Hastings, which currently do not have approved MRCCA ordinances in place and are subject to the interim development regulations in EO-79-19.</i></p> <p><i>Item E clarifies that land use applications and projects approved by a local government prior to the adoption of ordinances for compliance with this rule may be completed as approved.</i></p>
<p>Subp. 6. Duties of commissioner.</p> <p>A. The commissioner must consult with the United States Army</p>	<p><i>This subpart details the specific duties of the DNR in administering the rules.</i></p>

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<p>Corps of Engineers, National Park Service, Metropolitan Council, and other agencies and local governments to ensure that the Mississippi River Corridor Critical Area is managed as a multipurpose resource in a way that:</p> <ol style="list-style-type: none"> (1) conserves the scenic, environmental, recreational, mineral, economic, cultural, and historic resources and functions of the river corridor; (2) maintains the river channel for transportation by providing and maintaining barging and fleeting areas in appropriate locations consistent with the character of the Mississippi River and riverfront; (3) provides for the continuation and development of a variety of urban areas, including industrial, commercial, and residential uses, where appropriate, within the Mississippi River Corridor Critical Area; (4) utilizes certain reaches of the river as a source of water supply and as a receiving water for properly treated sewage, storm water, and industrial waste effluents; and (5) protects and preserves the biological and ecological functions of the Mississippi River Corridor Critical Area. <p>B. The commissioner shall provide advice and assistance to local governments and agencies in the Mississippi River Corridor Critical Area during the development, adoption, administration, and enforcement of plans and ordinances, consistent with the purposes in part 6106.0020, and specifically shall:</p> <ol style="list-style-type: none"> (1) develop model ordinances; (2) review and approve final draft plans and ordinances before adoption by a local government as provided under subpart 11. If requested by a local government, the commissioner shall review preliminary draft plans and ordinances and provide comments to assist the local government in complying with parts 6106.0010 to 6106.0150; and (3) consult with agencies identified in subpart 10 to ensure that the agencies administer lands and programs under the agencies' jurisdictions consistent with parts 6106.0010 to 6106.0150. <p>C. To aid in the fulfillment of the state's role to preserve and protect the Mississippi River Corridor Critical Area and to monitor the administration and enforcement of Mississippi River Corridor Critical Area ordinances, the commissioner may:</p> <ol style="list-style-type: none"> (1) review decisions concerning discretionary actions under Mississippi River Corridor Critical Area 	<p><i>This item states that the DNR must consult with other agencies and LGUs to ensure the corridor is managed as a multipurpose resource.</i></p> <p><i>Item B outlines how the DNR will assist local governments in complying with the rules.</i></p> <p><i>Item C outlines options the DNR may use to assess and improve local government performance in administering the rules.</i></p>

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<p>ordinances;</p> <ol style="list-style-type: none"> (2) evaluate local government actions and overall implementation and enforcement of Mississippi River Corridor Critical Area ordinances to ensure compliance with the state's minimum standards and criteria; (3) periodically report to local governments on potential deficiencies and achievements; (4) develop model plans; (5) develop materials for local governments to use in educational and marketing efforts that encourage the use of best management practices specified in parts 6106.0010 to 6106.0150; (6) develop model mitigation measures or systems for common conditions for local governments to use as provided under subpart 17; and (7) develop training programs for parts 6106.0010 to 6106.0150 and for the use of model ordinances. <p>D. If, after review, the commissioner determines that a local government has failed to adopt, administer, or enforce plans and ordinances in substantial compliance with parts 6106.0010 to 6106.0150, the commissioner may:</p> <ol style="list-style-type: none"> (1) adopt plans and ordinances for a local government that has failed to do so as provided under subpart 11, item G; (2) appeal the actions of a local government to the courts as provided under Minnesota Statutes, chapters 116G, 394, and 462, as applicable; (3) reduce or eliminate a local government's eligibility for grant programs administered by the commissioner; and (4) initiate judicial proceedings to compel specific performance by a local government of any duty required under parts 6106.0010 to 6106.0150 or under any plans and ordinances adopted according to parts 6106.0010 to 6106.0150. <p>The commissioner may seek reimbursement from the local government for any costs incurred to implement item D, subitem (1).</p>	<p><i>Item D outlines options the DNR may use to enforce local government compliance with the rules.</i></p>
<p>Subp. 7. Duties of Metropolitan Council. The Metropolitan Council must:</p> <ol style="list-style-type: none"> A. incorporate the standards and criteria in parts 6106.0010 to 6106.0150 into the council's planning processes; B. work with local governments and the commissioner to ensure that the standards and criteria in parts 6106.0010 to 106.0150 are being adopted and implemented; C. be the lead agency to coordinate the preparation, submission, 	<p><i>Duties of the Met Council are described in this subpart. The Met Council is responsible for reviewing plans and ordinances and providing recommendations to the DNR for approval of plans and ordinances. These duties are unchanged from EO 79-19.</i></p>

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<p>review, and modification of plans and ordinances that are prepared by local governments as provided under subpart 11; and</p> <p>D. provide written comments and recommendations to the commissioner on all proposed plans and ordinances submitted by local governments, within the time frames provided under subpart 11, item B.</p>	
<p>Subp. 8. Duties of local governments. Local governments must:</p> <p>A. prepare or amend plans and ordinances to meet or exceed the minimum standards and criteria in parts 6106.0010 to 6106.0150 and as provided under subpart 11;</p> <p>B. submit proposed plans and ordinances that affect lands within the boundaries of the Mississippi River Corridor Critical Area to the Metropolitan Council for review and subsequent review and approval by the commissioner, before adoption as provided under subpart 11;</p> <p>C. adopt, administer, and enforce plans and ordinances as provided under subpart 3;</p> <p>D. send notice of public hearings to consider plans and ordinances and development requiring discretionary action affecting lands within the boundaries of the Mississippi River Corridor Critical Area to the following parties so that the parties receive the notice at least ten days before the public hearing:</p> <ol style="list-style-type: none"> (1) the commissioner, in a format prescribed by the commissioner. Notices to the commissioner for discretionary actions must also include a copy of the completed application, the site plan as provided under subpart 13, and any other relevant information; (2) the National Park Service; and (3) adjoining local governments, including those with overlapping jurisdiction and those across the river; and <p>E. send notice of final decisions for actions under item D, including findings of fact, within ten days following the final decision, to those parties listed under and in the manner prescribed by item D.</p>	<p><i>This subpart outlines LGU responsibilities:</i></p> <ul style="list-style-type: none"> • <i>Updating plans and policies for consistency with the rules.</i> • <i>Updating ordinances for consistency with the rules</i> • <i>Reviewing and approving discretionary actions consistent with their ordinance and plans.</i> <p><i>Item D details the specific notification requirements.</i></p> <p><i>Local governments requested that notification of adjoining local governments be added to the notification list.</i></p> <p><i>Notification within 10 days of action is required by MS 116G.15.</i></p>
<p>Subp. 9. Duties of townships and counties.</p> <p>A. According to subpart 8, townships must prepare or amend plans and ordinances in substantial compliance with parts 6106.0010 to 6106.0150, under the authority of Minnesota Statutes, chapters 394, 462, and 473.</p> <p>B. According to subpart 8, counties must prepare or amend plans, and may prepare ordinances in substantial compliance</p>	<p><i>This subpart applies to four townships (Denmark, Grey Cloud Island, Nininger, and Ravenna) and two counties (Washington and Dakota) that have land use authority within the MRCCA. It describes the responsibilities and notification requirements of townships and counties.</i></p>

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<p>with parts 6106.0010 to 6016.0150, under the authority of Minnesota Statutes, chapters 394 and 473. If a county has adopted ordinances under this part:</p> <ol style="list-style-type: none"> (1) a township's plan and ordinances must be consistent with or more restrictive than the plan and ordinances adopted by the county in which the township is located as provided under Minnesota Statutes, chapter 394; (2) a township must provide for administration and enforcement of Mississippi River Corridor Critical Area ordinances in a manner that is at least as effective as the respective county's implementation; and (3) a township may adopt a county's ordinances by reference. 	<p><i>Township regulations must be at least as restrictive as the counties they are in.</i></p> <p><i>Since a county and township may have concurrent or overlapping jurisdiction, a township could adopt a county's ordinance by reference.</i></p>
<p>Subp. 10. Duties of other agencies.</p> <p>An agency owning and managing lands within the Mississippi River Corridor Critical Area shall manage the lands under the agency's ownership consistent with parts 6106.0010 to 6106.0150. For purposes of this subpart, "agency" means the Metropolitan Airports Commission, University of Minnesota, National Park Service, United States Army Corps of Engineers, Department of Natural Resources, Metropolitan Council, Minneapolis Park and Recreation Board, Three Rivers Park District, Department of Transportation, Anoka-Ramsey Community College, watershed management organizations as established under Minnesota Statutes, chapter 103B, watershed districts as established under Minnesota Statutes, chapter 103D, or any other federal, state, or local general or special purpose unit of government.</p>	<p><i>This subpart describes the duties for all special units of government or government agencies. This is unchanged from EO 79-19.</i></p>
<p>Subp. 11. Preparation, review, approval, and adoption of plans and ordinances.</p> <ol style="list-style-type: none"> A. Within one year of notification from the commissioner under subpart 5, local governments must prepare or amend plans and ordinances and formally submit a draft of these documents to the Metropolitan Council and the commissioner for review. Local governments may propose ordinance standards that are not in strict conformity with parts 6106.0010 to 6106.0150 as provided under items J and K. Local governments may submit preliminary draft plans and ordinances to the commissioner for informal review prior to formal submission to the Metropolitan Council. Upon a formal written request from the local government, the commissioner may grant an appropriate extension of time when the commissioner determines that the local government is making a good faith effort to meet the submittal deadline. B. Within 45 days of receiving draft plans and ordinances from 	

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local governments as provided under item A, the Metropolitan Council must review the draft plans and ordinances for consistency with regional objectives, parts 6106.0010 to 6106.0150, and Minnesota Statutes, chapter 116G; submit the council's written evaluation, copies of the draft plans and ordinances reviewed, and any other relevant materials to the commissioner; and provide a copy of the submission to the National Park Service. Upon a formal written request from the Metropolitan Council, the commissioner may grant an appropriate extension of time when the commissioner determines that the Metropolitan Council requires more time for review.

- C. Within 45 days of receiving a written evaluation of draft plans and ordinances from the Metropolitan Council as provided under item B, or revised draft plans and ordinances as provided under item D, the commissioner must review the draft plans and ordinances to determine their consistency with parts 6106.0010 to 6106.0150 and Minnesota Statutes, chapter 116G. Upon completing the review, the commissioner must take one of the following two actions and provide a copy of the decision to the Metropolitan Council and the National Park Service:
 - (1) approve the draft plans and ordinances by written decision and notify the local government; or
 - (2) return the draft plans and ordinances to the local government for modification, with a written explanation of the need for modification as provided under item D.
- D. When the commissioner returns a draft plan and ordinances to the local government for modification, the commissioner must provide a written explanation of the deficiencies of the draft plan and ordinances that need to be corrected by the local government before the commissioner can approve the draft plan and ordinances. Within 60 days of the receipt of the commissioner's written explanation, the local government must revise the draft plan and ordinances consistent with the instructions of the commissioner and resubmit the revised draft plan and ordinances to the commissioner. If requested by the local government or the Metropolitan Council, a final revision need not be made until a formal meeting has been held with the commissioner on the draft plan and ordinances. If, in the opinion of the commissioner, the local government is making a good faith effort to complete the modifications in a timely manner, the commissioner may grant an appropriate extension of time. Upon receiving the revised draft plan and ordinances from the local government, the commissioner shall conduct the review as provided under item C.

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<p>E. Within 45 days of receiving the commissioner's approval of a draft plan and ordinances, the local government must adopt the commissioner-approved draft plan and ordinances and submit a copy of the final adopted plan and ordinances, with evidence of adoption, to the commissioner, the Metropolitan Council, and the National Park Service. Plans and ordinances prepared according to this part become effective when adopted by the local government or upon such date as the commissioner may provide in the written order adopting the plans and ordinances as provided under item G.</p> <p>F. Local governments must enact, for lands within the Mississippi River Corridor Critical Area, only those plans and ordinances that have the written approval of the commissioner. Once in effect, the local government must implement and enforce the commissioner-approved plans and ordinances.</p> <p>G. If a local government fails to prepare and submit a draft plan and ordinances within one year of notification as provided under item A, fails to incorporate modifications that are acceptable to the commissioner as provided under item D, or fails to adopt commissioner-approved plans or ordinances as provided under item E, the commissioner must:</p> <ol style="list-style-type: none"> (1) prepare plans and ordinances in substantial compliance with parts 6106.0010 to 6106.0150 within 90 days of the deadline for preparation or adoption of plans and ordinances as provided under items A to E or the end date of an extension of time approved by the commissioner as provided under item D; (2) conduct a public hearing as provided by Minnesota Statutes, chapter 14, and other statutes as applicable; (3) within 60 days of the conclusion of the public hearing, adopt the plans and ordinances for the local government's portion of the Mississippi River Corridor Critical Area by written order; and (4) give notice of the adopted plans and ordinances to the affected local government, the Metropolitan Council, and the National Park Service. <p>H. Plans and ordinances that have been adopted by the commissioner apply and have the same effect as if adopted by the local government and shall be administered and enforced by the local government. At any time after the preparation and adoption of plans and ordinances by the commissioner, a local government may prepare or amend plans and ordinances according to parts 6106.0010 to 6106.0150. When the plans and ordinances are approved by the commissioner, they supersede the plans and ordinances adopted by the commissioner.</p>	

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<p>I. Local governments may update or amend plans and ordinances that have been approved by the commissioner by resubmitting the plans and ordinances with the recommended changes to the commissioner for consideration. Updates and amendments to plans and ordinances become effective only upon approval by the commissioner in the same manner as for approval of the original plans and ordinances as provided under this subpart.</p> <p>J. Local governments may, under special circumstances and with the commissioner's prior approval, adopt ordinances that are not in strict conformity with parts 6106.0010 to 6106.0150, if the purposes of Minnesota Statutes, section 116G.15, are satisfied. A local government must request the commissioner's consideration of alternative standards and obtain the commissioner's approval before formal submittal of draft ordinances to the Metropolitan Council as provided under item A. A local government requesting ordinance flexibility must submit the following items to the commissioner:</p> <ol style="list-style-type: none"> (1) a detailed description of the proposed alternative standards that are not in strict conformity with parts 6106.0010 to 6106.0150; (2) a demonstration that the alternative standards are consistent with the policies, purposes, and scope of this chapter according to parts 6106.0010 to 6106.0030; (3) a description of the special circumstances that justify the use of alternative standards; (4) input from adjoining local governments, including those with overlapping jurisdiction and those across the river, and the public potentially affected by the alternative standards; and (5) supporting information, maps, and documents, as appropriate, to explain the request to the commissioner. <p>K. Upon receiving a complete request for ordinance flexibility as provided in item J, the commissioner must:</p> <ol style="list-style-type: none"> (1) acknowledge, in writing, receipt of the request and, within 60 days of receipt of the complete request, issue a written decision approving or denying the request. The commissioner and the local government requesting ordinance flexibility may mutually agree to an extension of the 60-day response requirement; and (2) state in writing to the local government the reasons for the approval or denial and, as appropriate, suggest alternative solutions or regulatory approaches that would be acceptable to the commissioner. 	<p><i>This provision, along with item K, provides flexibility to local governments to adopt ordinances that deviate from the rules. Flexibility was requested by local governments to propose their own ordinance to meet the intent of the MRCCA</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Administration of items J and K will require clarification of the special circumstances where deviation from strict conformity will be allowed and development of criteria by which the proposed changes will be evaluated.</i></p> </div>

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<p>adopted under this part; and</p> <p>(2) scaled mapping, dimensional renderings, plans, maintenance agreements, and other materials that identify and describe the following and demonstrate compliance with plans and ordinances, as applicable:</p> <ul style="list-style-type: none"> a) primary conservation areas; b) buildable area and suitable area; c) existing and proposed topography and drainage patterns; d) proposed storm water and erosion and sediment control practices; e) existing and proposed vegetation to be removed and established; f) ordinary high water level, blufflines, and all required setbacks; g) existing and proposed structures; h) existing and proposed impervious surfaces; and i) existing and proposed subsurface sewage treatment systems. 	<div style="border: 1px solid black; padding: 5px;"> <p><i>Clarify this subpart by identifying the specific permits where site plans are required, instead of referring to the rule parts. The rules “require” three permits:</i></p> <ul style="list-style-type: none"> • Land disturbance > 250 sf • Work below OHWL • Work in the BIZ, SIZ, or SPZ </div>
<p>Subp. 14. Nonconformities.</p> <ul style="list-style-type: none"> A. Notwithstanding item B, nonconformities are regulated by local governments consistent with Minnesota Statutes, chapters 394.36 and 462.357. B. Expansion of nonconforming structures may be permitted if the expansion does not increase the degree of nonconformity and provided that any expansion of a nonconforming structure that increases the horizontal or vertical riverward structure face are not allowed unless it can be demonstrated that the expansion will not be readily visible. 	<p><i>This subpart references Minnesota Law (MS 394.36 for counties and MS 462.357 for cities) that grant rights to continue using nonconforming uses, structures, and properties. The rule allows structures that are nonconforming due to setback to be expanded as long as the expansion does not increase the nonconformity.</i></p>
<p>Subp. 15. Conditional and interim use permits.</p> <ul style="list-style-type: none"> A. In addition to meeting the requirements of Minnesota Statutes, chapters 394 and 462, local ordinances must incorporate standards for the review of conditional and interim use permits required by parts 6106.0090 to 6106.0150. Local government review must evaluate potential impacts on the resources and features identified in Minnesota Statutes, section 116G.15, subdivision 4, paragraph (b). B. When evaluation and assessment identify an impact under item A, then the issuance of a conditional or interim use permit must include conditions for mitigation according to subpart 17. C. Interim use permits must require compliance with plans and ordinances adopted under this part. 	<div style="border: 1px solid black; padding: 5px;"> <p><i>Poor wording makes intent unclear. Recommend rewriting this subpart to clarify intent. The intent is to require standards for evaluating CUP and IUP applications in the MRCCA and to require mitigation in situations where these permits affect MRCCA resources. The rules require a CUP or IUP for only one use-mining. Otherwise, this subpart applies to activities that LGUs regulate through their required CUPs and IUPs.</i></p> </div>

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<p>Subp. 16. Variances.</p> <p>A. A local government shall consider variances consistent with Minnesota Statutes, chapters 394 and 462.</p> <p>B. Variances must require mitigation as provided under subpart 17.</p>	<p><i>This subpart states that variances require mitigation.</i></p>
<p>Subp. 17. Mitigation.</p> <p>A. Mitigation is required for:</p> <ol style="list-style-type: none"> (1) a variance granted to ordinances adopted under this part; and (2) a conditional or interim use permit granted pursuant to ordinances adopted under parts 6106.0090 to 6106.0150. <p>B. Mitigation must be proportional to the impact of the project on the resources and features identified in Minnesota Statutes, section 116G.15, subdivision 4, paragraph (b).</p> <p>C. Mitigation must include one or more of the following measures as determined necessary by the local government:</p> <ol style="list-style-type: none"> (1) increased setbacks from the ordinary high water level and blufflines; (2) voluntary dedication of public access or trails; (3) modifications to structure or facility design or location to minimize the impact; (4) voluntary conservation easements to protect the shore impact zone, bluff impact zone, slope preservation zone, or other buffers; (5) restoration of native vegetation on the site; (6) limiting storm water runoff and directing it away from bluffs, steep slopes, and very steep slopes; (7) restoration of areas within the shore impact zone, bluff impact zone, slope preservation zone, wetlands, floodplains, or buffers to a natural state; (8) use of low-impact development storm water management as provided under Minnesota Statutes, section 115.03, subdivision 5c, to manage the rate and volume of storm water runoff to predevelopment conditions; (9) voluntary removal of nonconforming structures or impervious surfaces that do not comply with plans and ordinances adopted under this part; (10) use of techniques to reduce visual impact; (11) voluntary connection to a public sewer; or (12) other conditions considered necessary by the local unit of government. 	<p><i>This subpart clarifies when mitigation is required. It lists examples of mitigation measures that local governments may consider, many of which were suggested by local governments.</i></p>
<p>Subp. 18. Accommodating disabilities. Ramps or other facilities to provide persons with disabilities reasonable access to their property, as required by the federal Americans with Disabilities Act and the federal</p>	<p><i>This subpart outlines exceptions to the standards to accommodate people with disabilities through an IUP to allow for ADA</i></p>

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<p>Fair Housing Act and as provided by chapter 1341, are allowed by interim use permit, subject to the following standards:</p> <ul style="list-style-type: none"> A. parts 6106.0100 to 6106.0140 must be complied with to the maximum extent practicable; and B. the interim use permit expires and the ramp or other facilities must be removed once the property is no longer primarily used by persons with disabilities. 	<p><i>compliance without needing to go through the variance process.</i></p>
<p>PART 6106.0070 INCORPORATIONS BY REFERENCE.</p> <p>For purposes of parts 6106.0010 to 6106.0150, the following documents are incorporated by reference, are subject to frequent change, and are available through the Minitex interlibrary loan system:</p> <ul style="list-style-type: none"> A. The Minnesota Stormwater Manual, Minnesota Pollution Control Agency (2005 and as subsequently amended); B. Protecting Water Quality in Urban Areas, Minnesota Pollution Control Agency (2000 and as subsequently amended); C. Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota; Minnesota Department of Natural Resources (2000 and as subsequently amended); D. Design Handbook for Recreational Boating and Fishing Facilities, State Organization for Boating Access (2006 and as subsequently amended); E. Trail Planning, Design, and Development Guidelines, Minnesota Department of Natural Resources (2007 and as subsequently amended); and F. Mississippi River Corridor Critical Area District Map, Minnesota Department of Natural Resources (2011 and as subsequently amended). 	<p><i>These resources are included in this part to help local governments comply with the rules using current best practice guidance.</i></p>
<p>PART 6106.0080 DISTRICTS</p> <p>Subpart 1. Establishment of districts. For purposes of parts 6106.0010 to 6106.0150, seven districts are established, as described in this part. It is intended that all districts protect and enhance the resources and features identified in Minnesota Statutes, section 116G.15.</p>	<p><i>This part establishes new districts as required by MS, chapter 116G.15. Seven districts are provided in this part. These districts were the result of public input from the 2009-2010 process, and took into account the future land use plans of local governments. The dimensional standards covered in Part 6106.0100 vary by district.</i></p> <p><i>Subpart 2-8 below describe each district.</i></p>
<p>Subp. 2. CA-1 district.</p> <ul style="list-style-type: none"> A. The CA-1 district includes specific publicly owned existing and planned future park lands, islands, and natural areas that are riparian or readily visible from the river and designated rural or urban open space in Executive Order 79-19. B. The CA-1 district shall be managed to conserve existing and 	<p><i>CA-1 District: Existing/planned parkland, islands and natural areas that are visible from the river.</i></p>

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<p>potential recreational, scenic, natural, and historic resources for the use and enjoyment of the surrounding region. Natural shorelines, bluffs, steep slopes, and very steep slopes shall be protected and enhanced. Providing public access to and views of the river is a priority in the district.</p>	
<p>Subp. 3. CA-2 district.</p> <p>A. The CA-2 district includes privately owned rural lands that are riparian or readily visible from the river, as well as large, undeveloped tracts of high ecological value and privately owned undeveloped islands. Many of these areas are designated rural open space in Executive Order 79-19.</p> <p>B. The CA-2 district shall be managed to sustain the rural character and to protect and enhance existing scenic, natural, and historic areas.</p>	<p><i>CA-2 District: Rural residential parcels visible from the river and undeveloped parcels with high ecological value.</i></p>
<p>Subp. 4. CA-3 district.</p> <p>A. The CA-3 district includes developed areas that are riparian or readily visible from the river. These areas feature predominantly privately owned residential land, as well as publicly owned existing or planned future park lands designated urban developed in Executive Order 79-19.</p> <p>B. The CA-3 district shall be managed to protect the scenic and natural values of the river corridor within the context of existing development. In public park lands, enhancing natural shorelines, bluffs, steep slopes, and very steep slopes, and providing public access to and views of the river are priorities.</p>	<p><i>CA-3 District: Developed residential land and existing/planned parkland that are visible from the river.</i></p>
<p>Subp. 5. CA-4 district.</p> <p>A. The CA-4 district includes historic downtown areas where the developed landscape extends to the shoreline, as well as limited areas of high density development near river crossings designated urban open space in Executive order 79-19. These areas feature predominantly mixed uses and small, developed lots.</p> <p>B. The CA-4 district shall be managed in a manner that allows for growth consistent with the existing and planned development in historic downtowns and at river crossings. Providing public access to and public views of the river is a priority in the district.</p>	<p><i>CA-4 District: Historic downtown and river crossing commercial areas (not in Minneapolis and St. Paul).</i></p>
<p>Subp. 6. CA-5 district.</p> <p>A. The CA-5 district includes nonriparian lots separated from the river by distance, development, or a transportation corridor. The land in this district is not readily visible from the river.</p> <p>B. The CA-5 district provides flexibility in managing development</p>	<p><i>CA-5 District: Land that is separated and not visible from the river.</i></p>

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<p>without negatively affecting the key resources and features of the river corridor.</p>	
<p>Subp. 7. CA-6 district.</p> <p>A. The CA-6 district includes highly urbanized, mixed-use areas that are a part of the urban fabric of the river corridor, including publicly owned existing and planned future park lands designated urban diversified in Executive Order 79-19, public institutions, and commercial and industrial areas.</p> <p>B. The CA-6 district shall be managed in a manner that allows for future growth and potential transition of intensely developed areas. Providing public access to and public views of the river is a priority in the district.</p>	<p><i>CA-6 District: Commercial, institutional, and industrial mixed-use areas as well as existing/planned parklands.</i></p>
<p>Subp. 8. CA-7 district.</p> <p>A. The CA-7 district includes the urban cores of Minneapolis and St. Paul.</p> <p>B. The CA-7 district shall be managed with the greatest flexibility. Providing public access to and public views of the river is a priority in the district.</p>	<p><i>CA-7 District: Urban core of Minneapolis and St. Paul.</i></p>
<p>Subp. 9. District boundaries.</p> <p>A. The physical boundaries of each district are laid out in the Mississippi River Corridor Critical Area District Map, incorporated by reference under part 6106.0070. The commissioner shall maintain the map and may amend the map as provided in item B.</p> <p>B. The boundaries of a district established under item A may be amended according to subitems (1) to (4).</p> <p>(1) A local government or the Metropolitan Council must submit a formal written request to the commissioner requesting a district boundary amendment. The request must:</p> <ol style="list-style-type: none"> a) be approved by the appropriate governing body; b) identify proposed changes to plans and ordinances and new evidence to justify the proposed changes since parts 6106.0010 to 6106.0150 were adopted; c) be consistent with local, regional, state, and federal plans; d) address potential impacts to key resources and features identified in Minnesota Statutes, section 116G.15, subdivision 4, paragraph (b); and e) contain a summary of feedback from affected 	<p><i>This subpart describes the provisions to modify district boundaries administratively. This was requested by local governments in the 2009-2010 process since EO 79-19 does provide a mechanism for changing boundaries.</i></p>

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<p>parties as provided under subitem (2).</p> <p>(2) The local government or the Metropolitan Council requesting the district boundary amendment must give notice of the proposed district boundary amendment to adjoining or overlapping local governments, the Metropolitan Council, the commissioner, the National Park Service, and property owners in the area directly affected by the proposed district boundary amendment and publish notice in an official newspaper of general circulation in the area.</p> <p>(3) Upon receiving a complete request for a district boundary amendment as provided under subitem (1), the commissioner has 60 days to approve or deny the request or return the request for modification.</p> <p>(4) The commissioner must consider the request and all items submitted under subitem (1) and must, by written decision, approve or deny the request or return the request for modification. The decision must include findings that address the consistency of the proposed district boundary amendment with the purposes of parts 6106.0010 to 6106.0150.</p> <p>C. This subpart does not apply to the river corridor boundary established by Executive Order 79-19.</p>	
<p>PART 6106.0090 USES</p> <p>Subpart 1. Underlying zoning. Uses permissible within the Mississippi River Corridor Critical Area shall generally be guided by the local government's underlying zoning, with additional provisions for certain uses as specified by this part.</p> <p>Subp. 2. Agricultural use. Where agricultural use is allowed by the local government, perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone. Within the slope preservation zone, a local government may allow row crops subject to a conservation plan approved by the soil and water conservation district board.</p> <p>Subp. 3. Feedlots. New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform to the standards in chapter 7020.</p> <p>Subp. 4. Forestry. Where forestry is allowed by the local government, tree harvesting and biomass harvesting within woodlands, and associated reforestation, must be conducted consistent with recommended practices in Conserving Wooded Areas in Developing Communities, Best Management Practices in Minnesota, incorporated by reference under part 6106.0070.</p>	<p><i>This part describes how uses are regulated. With a few exceptions, uses are regulated by a local government's existing or underlying zoning.</i></p> <p><i>Subparts 2 – 6 describe five uses with special considerations.</i></p>

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<p>A. Parking areas and structures, except shoreline facilities, must meet the dimensional and performance standards in parts 6106.0010 to 6106.0150 and must be designed to incorporate topographic and vegetative screening.</p> <p>B. Shoreline facilities must comply with chapter 6115 and must:</p> <ul style="list-style-type: none"> (1) be designed in a compact fashion so as to minimize the shoreline area affected; and (2) minimize the surface area occupied in relation to the number of watercraft or barges to be served. <p>C. The placement of dredged material is allowed subject to existing federal and state permit requirements and agreements.</p>	
<p>PART 6106.0100 DIMENSIONAL STANDARDS</p>	<p><i>This part outlines standards for structure height; setbacks from the water and bluff; and lot area and width. These standards vary by district.</i></p>
<p>Subpart 1. Structure height.</p> <p>A. Structures, including accessory structures, must be no taller than the heights specified for each district:</p> <ul style="list-style-type: none"> (1) CA-1: 25 feet; (2) CA-2: 35 feet; (3) CA-3: 35 feet; (4) CA-4: 48 feet; (5) CA-5: height is determined by the local government's underlying zoning, provided the structure does not protrude above the treeline or height of existing surrounding development as viewed from the ordinary high water level of the opposite shore; (6) CA-6: 65 feet, provided tiering of structures away from the Mississippi River and from blufflines is considered, with lower structure heights closer to the river and blufflines, and structure design and placement minimize interference with views: <ul style="list-style-type: none"> (a) to the Mississippi River from public park land; and (b) to bluffs from the ordinary high water level of the opposite shore; and (7) CA-7: height is determined by the local government's underlying zoning, provided tiering of structures away from the Mississippi River and blufflines is considered, with lower structure heights closer to the river and blufflines, and structure design and placement minimize interference with views: <ul style="list-style-type: none"> (a) to the Mississippi River from public park land; and (b) to bluffs from the ordinary high water level of the 	<p><i>This subpart defines the height standard for each district.</i></p>

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opposite shore.

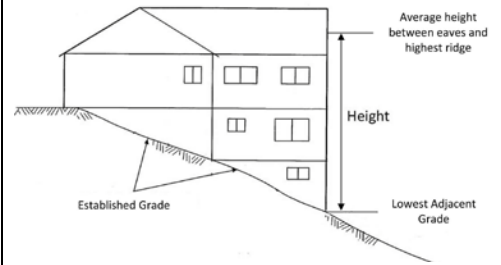
B. For the purposes of this subpart, height must be measured on the side of the structure facing the Mississippi River, and:

- (1) for buildings, height must be measured from the lowest adjacent grade to the highest point of a flat or mansard roof or the average height between the eaves and highest ridge for pitched, hip, or gambrel roofs; and
- (2) for nonbuilding structures, height must be measured from the lowest adjacent grade to the highest point of the structure.

C. Item A does not apply to:

- (1) industrial structures, barge facilities, terminal facilities, wastewater treatment facilities, elevators, and refineries that need to be taller for operational reasons, subject to performance standards to reduce visual impacts as determined necessary by the local government;
- (2) barns, silos, and similar farm structures;
- (3) bridges, bridge approach roadways, and public utilities, except cellular telephone towers as provided under subitem (7), according to part 6106.0110;
- (4) historic sites;
- (5) public safety facilities;
- (6) chimneys, church spires, flag poles, mechanical service stacks, public monuments, ventilation equipment, and similar equipment; and
- (7) cellular telephone towers with a conditional use permit or interim use permit, provided:
 - (a) the tower is not located in the bluff impact zone, shore impact zone, or slope preservation zone;
 - (b) the tower creates minimal interference with views to the river from public park land and to bluffs from the ordinary high water level of the opposite shore; and
 - (c) the applicant demonstrates that functional coverage cannot be provided through colocation, a tower at a lower height, or a tower at a location outside the Mississippi River Corridor Critical Area.

How height is measured



Item C lists structures that are exempt from the height limits. Exemptions in items 1-4 are from EO 79-19. Exemptions in items 5-7 are based on local government requests.

Subp. 2. Setbacks.

A. Structures, including accessory structures, and impervious surfaces must meet the following setback requirement from the ordinary high water level of the Mississippi River and other waters within the Mississippi River Corridor Critical Area, as specified for each district:

This subpart describes the structure setbacks in each district from the ordinary high water level of the Mississippi River and other rivers tributary to the Mississippi River in the MRCCA.

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<p>(1) CA-1: 200 feet from the Mississippi River and 150 feet from the Minnesota and Vermillion Rivers;</p> <p>(2) CA-2: 200 feet from the Mississippi River and 150 feet from the Vermillion River;</p> <p>(3) CA-3: 100 feet from the Mississippi River and 75 feet from the Rum River;</p> <p>(4) CA-4: 75 feet from the Mississippi River and 75 feet from the Crow River;</p> <p>(5) CA-5: 75 feet from the Vermillion River;</p> <p>(6) CA-6: 50 feet from the Mississippi and Rum Rivers;</p> <p>(7) CA-7: 50 feet from the Mississippi River; and</p> <p>(8) all other public waters within the Mississippi River Corridor Critical Area are subject to underlying zoning.</p> <p>B. Structures, including accessory structures, and impervious surfaces must meet the following setback requirements from the bluffline as specified for each district:</p> <p>(1) CA-1: 100 feet;</p> <p>(2) CA-2: 100 feet;</p> <p>(3) CA-3: 40 feet;</p> <p>(4) CA-4: 40 feet;</p> <p>(5) CA-5: 40 feet;</p> <p>(6) CA-6: 40 feet; and</p> <p>(7) CA-7: 40 feet.</p> <p>C. Items A and B do not apply to:</p> <p>(1) public bridges and approaches, railroad sidings, and public and private roadways serving river-dependent uses according to part 6106.0110;</p> <p>(2) public recreational facilities according to parts 6106.0110 and 6106.0120, except picnic shelters are prohibited in the bluff impact zone, the shore impact zone, and the slope preservation zone;</p> <p>(3) aboveground pumping stations for sewer lines, if the stations are not readily visible;</p> <p>(4) historic sites;</p> <p>(5) one water-oriented accessory structure for each riparian lot less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed per each additional 300 feet of shoreline on the same lot, except that structures are prohibited in the bluff impact zone and the slope preservation zone;</p> <p>(6) public safety facilities and airfield pavements;</p> <p>(7) shoreline facilities according to part 6106.0110;</p> <p>(8) rock riprap and retaining walls according to part 6106.0140;</p> <p>(9) flood control structures and public storm water</p>	<p><i>Structure setbacks from the OHWL vary by district and river. Specific standards were derived from EO79-19, existing standards in local government ordinances, natural resources, and existing development patterns.</i></p> <p><i>Item B lists the setbacks from bluffs in each district.</i></p> <p><i>Item C lists exceptions to setback requirements. It includes many items requested by local governments.</i></p> <p><i>This item allows one or more water-oriented accessory structures depending on lot width, provided they are not in a bluff impact zone or slope preservation zone.</i></p>

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<p>facilities;</p> <p>(10) public transportation facilities according to part 6106.0110, subpart 2;</p> <p>(11) restoration projects sponsored and approved by a resource agency or the local government;</p> <p>(12) one access path according to part 6106.0110;</p> <p>(13) stairways, lifts, and landings according to part 6106.0110, subpart 3;</p> <p>(14) directional signs for watercraft as provided under part 6106.0110, subpart 4; and</p> <p>(15) public signs, such as directional, interpretive, educational, safety, or handicapped designation signs.</p> <p>D. Where principal structures exist on the adjoining lots on both sides of a proposed building site, the setback may be altered to conform to the adjoining setbacks, provided that the new structure's height, area, and width riverward or bluffward of the setbacks required under items A and B are compatible with adjoining development. No structures or impervious surfaces are allowed within the bluff impact zone, shore impact zone, or slope preservation zone, unless specified in the exceptions under item C and part 6106.0120.</p> <p>E. Subsurface sewage treatment systems, including the septic tank and absorption area, must be located at least 75 feet from the ordinary high water level of the Mississippi River and all other public waters within the Mississippi River Corridor Critical Area.</p>	<p><i>Item D allows for setback averaging in developed areas. This will reduce nonconformities in developed areas.</i></p> <p><i>Item E requires septic systems to be setback at least 75 feet from the ordinary high water level.</i></p>
<p>Subp. 3. Lot area and width.</p> <p>A. Lot area and width for conventional subdivisions and commercial and industrial lots are determined as specified for each district:</p> <p>(1) CA-1 and CA-3 to CA-7: lot area and width is determined by underlying zoning; and</p> <p>(2) CA-2: minimum width of 200 feet and minimum area of two acres. Lot area and width may be smaller for conservation subdivisions and planned unit developments as provided under part 6106.0150, subpart 2</p> <p>B. Lots must have adequate buildable area to comply with parts 6106.0010 to 6106.0150.</p> <p>C. Lots of record in the office of the county recorder on the date of enactment of ordinances adopted under parts 6106.0010 to 6106.0150 that do not meet the requirements of this subpart may be allowed as building sites without variances from lot size requirements if the requirements of Minnesota Statutes,</p>	<p><i>Lot area and width requirements are described in this subpart.</i></p> <p><i>Lot area and width are only specified for the CA-2 district. The local government's zoning regulates lot area and width for all other districts.</i></p> <p><i>Existing lots that do not meet the minimum lot and width requirements of these rules may be built on without a variance as long as the conditions in state law are met.</i></p>

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section 394.36 or 462.357, are met.	
PART 6106.0110 GENERAL DEVELOPMENT STANDARDS	<i>This part specifies standards for the design of roads, parking areas public facilities, and utilities.</i>
<p>Subpart 1. Private roads, driveways, parking areas, and water access facilities.</p> <p>A. Private roads, driveways, and parking areas must:</p> <ol style="list-style-type: none"> (1) be designed and constructed: <ol style="list-style-type: none"> (a) to take advantage of natural vegetation and topography to achieve maximum screening from view so that they are not readily visible; and (b) according to applicable standards under part 6106.0140; (2) comply with structure setback requirements according to part 6106.0100; and (3) not be placed within the slope preservation zone, bluff impact zone, or shore impact zone according to part 6106.0120 <p>B. A local government may allow private water access facilities, including private water access ramps, access paths, and stairway, lifts, and landings, subject to the following requirements:</p> <ol style="list-style-type: none"> (1) the watercraft access ramp must comply with chapters 6115 and 6280; (2) an access path must comply with land alteration and storm water management requirements in part 6106.0140, and: <ol style="list-style-type: none"> (a) if placed within the shore impact zone, an access path must be no more than eight feet wide; and (b) if placed within the bluff impact zone or slope preservation zone, an access path must be no more than four feet wide; (3) stairways, lifts, and landings must comply with subpart 3; and (4) all water access facilities must be designed and constructed consistent with the applicable standards in the Design Handbook for Recreational Boating and Fishing Facilities, incorporated by reference under part 6106.0070. 	<p><i>Design standards for private facilities are described in the subpart.</i></p> <p><i>Private roads, driveways and parking areas must meet structure setbacks from the river and bluffs and cannot be placed in slope preservation zones.</i></p> <p><i>Access paths can be up to four-feet wide in slope preservation or bluff impact zones, otherwise, they may be up to eight-feet wide in the shore impact zone.</i></p>
<p>Subp. 2. Public transportation facilities, public recreational facilities, and public utilities.</p> <p>A. Public transportation facilities, public recreational facilities, and public utilities must be designed and constructed to:</p>	<p><i>Design standards for public facilities are described in this subpart.</i></p> <p><i>Public facilities are encourage d to meet setback and height requirem</i></p>

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vegetative stands, tree canopies, native plant communities, woodlands, and habitat.

D. Where public transportation facilities intersect or abut two or more of the districts established under part 6106.0080, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

- (1) scenic overlooks for motorists;
- (2) safe pedestrian crossings and facilities along the river corridor;
- (3) access to the riverfront in public ownership; and
- (4) reasonable use of the land between the river and the transportation facility.

E. Right-of-way maintenance for public transportation facilities, public recreational facilities, and public utilities is subject to the following standards:

- (1) vegetation currently in a natural state must be maintained, where reasonable and prudent;
- (2) where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and
- (3) chemical control of vegetation should be avoided when practicable, but when such methods are necessary, chemicals used and the manner of their use must be in accordance with the rules, regulations, and other requirements of all state and federal agencies with authority over the chemical's use.

F. Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to Minnesota Statutes, sections 84.415 and 103G.245. The commissioner must give primary consideration to crossings that are proposed to be located within or adjoining existing rights-of-way for public transportation and public utilities.

G. Public utilities must comply with the following standards:

- (1) high-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapters 216E, 216F, and 216G, respectively; and
- (2) if overhead placement is necessary, utility crossings must be hidden from view as much as practicable. The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.

Design standards for maintaining public facilities.

River crossings are governed by existing statutes.

Standards for the design of high voltage power lines.

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<p>Subp. 3. Stairways, lifts, and landings. Design and construction of stairways, lifts, and landings are subject to the following standards:</p> <ul style="list-style-type: none"> A. stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public park lands, conservation subdivisions, and planned unit developments if approved by the local government; B. 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 park lands, conservation subdivisions, and planned unit developments if approved by the local government; C. canopies or roofs are prohibited on stairways, lifts, or landings; D. stairways, lifts, and landings must be located in the least readily visible portion of the lot whenever practicable; and E. facilities such as ramps, lifts, or mobility paths for persons with physical disabilities are allowed for achieving access to shore areas according to items A to D and as provided under part 6106.0060, subpart 18. 	<p><i>This subpart describes the design standards for public and private stairways, lifts and landings. Local governments requested clarification on what is allowed and appropriate design standards for these features.</i></p>
<p>Subp. 4. Signs. Placement of signs is guided by the local government's underlying zoning, with additional provisions as specified under this subpart:</p> <ul style="list-style-type: none"> A. The local government may allow off-premise advertising signs, provided that: <ul style="list-style-type: none"> (1) the signs meet all required dimensional and performance standards of parts 6106.0010 to 6106.0150; and (2) the signs are not readily visible. B. The local government may allow directional signs for patrons arriving at a business by watercraft, provided that the signs <ul style="list-style-type: none"> (1) are consistent with Minnesota Statutes, chapter 86B; (2) if located within the shore impact zone, convey only the location and name of the establishment and the general types of goods and services available; (3) are no greater than ten feet in height and 32 square feet in surface area; and (4) if illuminated, have lighting that is shielded to prevent illumination out across the river or to the sky. 	<p><i>This subpart describes the design and placement of signs.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Greater clarity is needed on the design standards for off-premise signs. Item A (1) refers to all rule parts.</i></p> </div>
<p>PART 6106.0120 PROTECTION OF BLUFFS, STEEP SLOPES, AND VERY STEEP SLOPES</p>	<p><i>This section describes requirements for protecting bluffs and slopes.</i> 6106.0110</p>

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<p>Subpart 1. Bluff impact zone and slope preservation zone.</p> <p>A. No structures, impervious surfaces, land alteration, intensive vegetation clearing, or construction activities are allowed within the bluff impact zone or the slope preservation zone, except as provided in item B.</p> <p>B. The following structures, impervious surfaces, and activities are exempt from item A:</p> <ol style="list-style-type: none"> (1) public bridges and approaches, railroad sidings, and public and private roadways serving river-dependent uses according to part 6106.0110; (2) public recreational facilities according to part 6106.0110; (3) aboveground pumping stations for sewer lines, if the stations are not readily visible; (4) historic sites; (5) public safety facilities and airfield pavements; (6) shoreline facilities according to part 6106.0110, provided no reasonable alternative exists; (7) rock riprap and retaining walls according to part 6106.0140; (8) public transportation facilities according to part 6106.0110, subpart 2; (9) restoration projects sponsored and approved by a resource agency or the local government; (10) one access path, subject to part 6106.0110; (11) stairways, lifts, and landings according to part 6106.0110, subpart 3; (12) public signs, such as directional, interpretive, educational, safety, or handicapped designation signs; and (13) row cropping, subject to a conservation plan approved by the soil and water conservation district board. 	<p><i>Structures, impervious surface, land alteration and intensive vegetation removal are prohibited on slopes of 18% and greater (i.e. in and near very steep slopes and bluffs). MS 116G.15 requires the protection of bluffs and very steep slopes.</i></p> <p><i>Item B identifies exceptions to the prohibitions in item A.</i></p>
<p>Subp. 2. Development on steep slopes. A local government may allow structures, impervious surfaces, land alteration, intensive vegetation clearing, or construction activities on steep slopes when the following conditions are met:</p> <ol style="list-style-type: none"> A. the applicant can demonstrate that the development can be accomplished without increasing erosion or storm water runoff according to part 6106.0140; B. the soil types and geology are suitable for the proposed development; and C. vegetation is managed according to part 6106.0130. 	<p><i>Development is permitted on slopes between 12% and 18% with the listed conditions. There are no conditions for development on slopes less than 12%.</i></p>

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<p>PART 6106.0130 VEGETATION MANAGEMENT</p>	<p><i>This part outlines provisions to protect existing high quality vegetation.</i></p>
<p>Subpart 1. Requirements. Within shore impact zones, bluff impact zones, slope preservation zones, wetlands, floodplains, significant existing vegetative stands, canopies, and native plant communities, vegetation must be managed as provided in items A to F.</p> <ul style="list-style-type: none"> A. Existing vegetation in a natural state must be maintained. B. Restoration of vegetation to a natural state is encouraged. C. Intensive vegetation clearing is prohibited. D. Screening of structures, vehicles, and other facilities as viewed from the ordinary high water level of the opposite shore during summer months must be maintained. E. A local government may allow limited cutting, trimming, or clearing of trees, shrubs, understory, and groundcover vegetation for: <ul style="list-style-type: none"> (1) the minimum necessary for development allowed as exceptions under parts 6106.0100 to 6106.0120; (2) one shoreline recreational use area, subject to the following standards: <ul style="list-style-type: none"> (a) for residential lots with a lot width less than 300 feet, only one shoreline recreational use area is allowed on each lot and the recreational use area must not exceed 25 feet in width and must not extend more than 25 feet landward from the ordinary high water level; and (b) for conservation subdivisions, planned unit developments, and residential lots with a lot width 300 feet or greater, the shoreline recreational use area allowed by unit (a) may be increased by 25 feet in width for each 100 feet in lot width in excess of 300 feet, not to exceed 5,000 square feet in total area, with the depth of the shoreline recreational use area not exceeding 25 feet landward from the ordinary high water level; (3) the removal of trees, limbs, or branches that are dead, dying, diseased, or infested, which removal is necessary to prevent spread of disease or infestation or to address a safety hazard as determined by a forester, arborist, or other qualified local government representative; (4) the removal of invasive, nonnative plants as determined necessary by a forester, arborist, or other qualified local representative; (5) woodland or habitat management and restoration activities sponsored and approved by a resource 	<p><i>This subpart lists requirements for managing vegetation in sensitive environmental areas. This includes where vegetation should be managed, how, and in what situations restoration is to occur.</i></p> <div data-bbox="1065 793 1549 974" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>Clarification of the exemptions under item E (1) is needed. This item refers to rule parts dealing with dimensional, general development, and bluff standards.</i></p> </div> <p><i>This provision allows vegetation removal for development of shoreline recreational areas such as beaches.</i></p> <div data-bbox="1065 1142 1549 1323" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>Intent of item E (2) (b) is unclear due to poor wording. Intent is to allow larger recreational use areas as lots get larger and to allow large use areas if a common feature of subdivisions.</i></p> </div> <div data-bbox="1373 1877 1549 1921" style="border: 1px solid black; padding: 2px; text-align: right;"> <p>6106.0130</p> </div>

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<p>agency or the local government;</p> <p>(6) forest management activities sponsored and approved by a resource agency or the local government and pursuant to the forestry use standards in part 6106.0090; and</p> <p>(7) aviation safety facilities.</p> <p>F. In areas cleared of vegetation under item E, subitems (3) and (4), vegetation in a natural state must be reestablished, either by allowing regeneration naturally or with plantings subject to a restoration plan approved by a resource agency or the local government.</p>	
<p>Subp. 2. Compliance; restoration. Reestablishment of vegetation in a natural state according to items A to C is required upon failure to comply with subpart 1.</p> <p>A. The local government must require a restoration plan that includes planting comparable species, composition, density, and diversity of vegetation in a natural state in the same area. All aspects of the plan must be maintained in perpetuity, and loss of plantings must be replaced in kind.</p> <p>B. Open areas or lawns resulting from violations must be left unmowed or uncut and restored with vegetation in a natural state in the same area.</p> <p>C. The local government must issue a certificate of compliance after it has determined that the restoration requirements of items A and B have been satisfied.</p>	<p><i>This subpart describes compliance and corrective measures when there is a vegetation violation. This section was requested by local governments.</i></p>
<p>Subp. 3. Education. In cooperation with the commissioner and other resource agencies, local governments must implement an incentive, marketing, or educational program to encourage property owners to protect or restore vegetation in a natural state within the areas identified in subpart 1.</p>	<p><i>This subpart describes requirements for encouraging better vegetation management practices.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>There is concern with the practicality of this type of requirement in rule. Greater clarity around what constitutes an incentive, marketing or educational program would be needed to determine whether the requirements have been met.</i></p> </div>
<p>PART 6106.0140 LAND ALTERATION AND STORM WATER MANAGEMENT</p>	<p><i>This part describes measures to protect water quality of the Mississippi River and its tributaries. It recognizes and relies on existing federal, state, and local regulations as key elements in addressing water quality.</i></p>
<p>Subpart 1. Compliance with other plans and programs. All development must:</p> <p>A. be consistent with Minnesota Statutes, chapter 103B, and local water management plans completed under chapter 8410;</p>	<p><i>This subpart lists relevant statutes and rules regulating water protection activities.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px; text-align: right;"> <p>6106.0140</p> </div>

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<p>B. meet or exceed the wetland protection standards under chapter 8420; and</p> <p>C. meet or exceed the floodplain management standards under chapter 6120.</p> <p>Subp. 2. Land alteration.</p> <p>A. Within the shore impact zone, grading, filling, and land disturbance activities involving a volume of more than ten cubic yards of material or affecting an area greater than 250 square feet require a permit from the local government and must comply with subpart 3, with the following exceptions:</p> <ul style="list-style-type: none"> (1) emergency situations as determined by the local government; and (2) restoration projects sponsored or approved by a resource agency or the local government <p>B. Within the bluff impact zone and slope preservation zone, grading, filling, and land disturbance activities are prohibited, with the following exceptions:</p> <ul style="list-style-type: none"> (1) aggregate mining and extraction subject to subpart 3 and as provided under part 6106.0090, subpart 5; and (2) development allowed as exceptions under part 6106.0120, subpart 1, subject to subpart 3. 	<p><i>Subpart 2 regulates grading and filling activities in the shore impact zone (SIZ). Any land disturbance greater than 250 square feet in the SIZ requires an LGU permit. The SIZ is the area within 50 feet of the ordinary high water level.</i></p> <p><i>Land disturbance is prohibited in the bluff impact zone and the slope preservation zone, subject to some exceptions.</i></p>
<p>Subp. 3. Erosion and sediment control.</p> <p>A. Temporary and permanent erosion and sediment control is required for any development that disturbs a total land surface area of 3,000 square feet or more.</p> <p>B. Temporary and permanent erosion and sediment control measures must be consistent with Protecting Water Quality in Urban Areas Manual, incorporated by reference under part 6106.0070, and must comply with the standards provided in the National Pollution Discharge and Elimination System (NPDES) Program permit for construction storm water.</p>	<p><i>This subpart outlines erosion and sediment control measures.</i></p> <p><i>Any activity that disturbs more than 3,000 square feet requires temporary (construction) control measures as well as permanent (post-construction) control measures.</i></p>
<p>Subp. 4. Rock riprap and retaining walls.</p> <p>A. Placement of riprap and retaining walls below the ordinary high water level requires a permit from the commissioner and must comply with chapter 6115.</p> <p>B. Within shore impact zones, bluff impact zones, and slope preservation zones, a local government may allow by permit constructing or replacing retaining walls, riprap, or other impervious surfaces or using bioengineering techniques, provided the following standards are met:</p> <ul style="list-style-type: none"> (1) retaining walls, riprap, or other impervious surfaces must only be used for the correction of an established 	<p><i>Provisions for hard armoring are described in this subpart.</i></p> <div style="text-align: right; border: 1px solid black; padding: 2px;">6106.0140</div>

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<p>erosion problem that cannot be controlled through the use of vegetation, slope stabilization using mulch, a biomat, or similar bioengineering methods. This determination must be done by a professional engineer or person with certification in erosion control; and</p> <p>(2) design, construction, and maintenance must be consistent with best management practices in Protecting Water Quality in Urban Areas Manual, incorporated by reference under part 6106.0070, or other appropriate resource agency manual.</p>	
<p>Subp. 5. Storm water management.</p> <p>A. All development must meet or exceed the standards in chapters 7050, 7053, and 7090, as well as the Metropolitan Council's current water resources management policy plan.</p> <p>B. The impervious surface coverage limit is determined by underlying zoning.</p> <p>C. Storm water practices must be designed to capture runoff generated from one inch of rainfall over new or reconstructed impervious surfaces. Where site conditions do not allow for infiltration, other volume reduction practices or filtration practices must be given priority. This item applies to any development that requires a permit from the local government that involves land alteration. Design, construction, and maintenance must be consistent with The Minnesota Stormwater Manual, incorporated by reference under part 6106.0070.</p>	<p><i>This subpart describes standards for managing stormwater runoff.</i></p> <p><i>The first inch of rainfall must be captured.</i></p>
<p>PART 6106.0150 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS</p>	<p><i>This part describes standards for subdivisions and PUDs.</i></p>
<p>Subpart 1. General provisions.</p> <p>A. Subdivision and planned unit development proposals must be processed by local governments according to Minnesota Statutes, chapters 394, 462, 505, and 515B.</p> <p>B. Local governments must require detailed site information and provide for preproject review of all proposed subdivisions and planned unit developments as provided under part 6106.0060, subpart 13.</p> <p>C. The local government ordinances must contain provisions, including incentives, for conservation subdivisions and planned unit developments to protect primary conservation areas and open space.</p>	<p><i>General requirements for subdivisions are described in this subpart.</i></p> <p><i>This item describes the type of information local governments should use for reviewing subdivision proposals. Rules require a pre-project meeting.</i></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>In item B "part 6106.0060" needs to be clarified to refer to subp 13 – the list of items included in site plans.</i></p> </div>
<p>Subp. 2. Lot standards.</p>	<p><i>This subpart allows for dens</i></p> <div style="border: 1px solid black; padding: 2px; float: right; margin-top: -20px;"> <p>6106.0150</p> </div>

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<p>A. Lot area and width standards must comply with part 6106.0100, subpart 3, except as provided under item B.</p> <p>B. Smaller lot area and width is allowed:</p> <ol style="list-style-type: none"> (1) for conservation subdivisions and planned unit developments that provide greater protection or enhancement of open space, such as: <ol style="list-style-type: none"> a) increased distance between development and primary conservation areas and other areas identified for open space protection; b) decreased development density close to primary conservation areas and other areas identified for open space protection; c) use of minimum impact design; d) restoration of open space to native plant communities, wetlands, wildlife habitat, and other natural features; e) protection of open space greater than the minimum required by subpart 3; and f) other means as determined by the local government; and (2) in the CA-5 district, when development density has been transferred from other districts to achieve open space protection as provided by subpart 3, item C. 	<p><i>smaller lots if subdivisions provide additional resource protection.</i></p> <div data-bbox="1062 380 1542 621" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>Since these rules only regulate lot area and width in the CA-2 district, (underlying zoning applies to all other districts) subp. 2 could be moved to part 6616.0100, subpart 3 (A) (2) – the provision that deals with lot area and width for the CA-2 district.</i></p> </div> <div data-bbox="1062 737 1549 1005" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>Under (c), “minimum impact design” is a technical error. Intent was to state “low impact development.” Low impact development (LID) means an approach to stormwater management that mimics a site’s natural hydrology as the landscape is developed.</i></p> </div>
<p>Subp. 3. Open space. Local government ordinances must contain provisions for the protection, administration, and maintenance of open space as provided in items A to D.</p> <p>A. Open space protection is required for all subdivisions creating three or more lots and for all planned unit developments, except for:</p> <ol style="list-style-type: none"> (1) minor boundary line corrections; (2) resolutions of encroachments; (3) additions to existing lots of record; and (4) placement of essential services <p>B. Open space must be protected through:</p> <ol style="list-style-type: none"> (1) a perpetual conservation easement, as provided in Minnesota Statutes, chapter 84C, the terms of which must meet the purposes of parts 6106.0010 to 6106.0150 and must ensure long-term management of vegetation in a natural state, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river; or (2) fee title ownership by a government entity for conservation purposes consistent with parts 6106.0010 to 6106.0150. 	<p><i>This subpart describes the requirements for open space in subdivisions.</i></p> <div data-bbox="1062 1268 1552 1535" style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><i>The practicality of open space rules needs further discussion. Is “three or more lots” an appropriate threshold considering the requirement to protect open space through easements? Should open space requirements exist or vary by district and type of land use?</i></p> </div> <div data-bbox="1367 1829 1572 1877" style="border: 1px solid black; padding: 2px; text-align: center;"> <p>6106.0150</p> </div>

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C. Areas to be protected as open space shall be determined as follows:

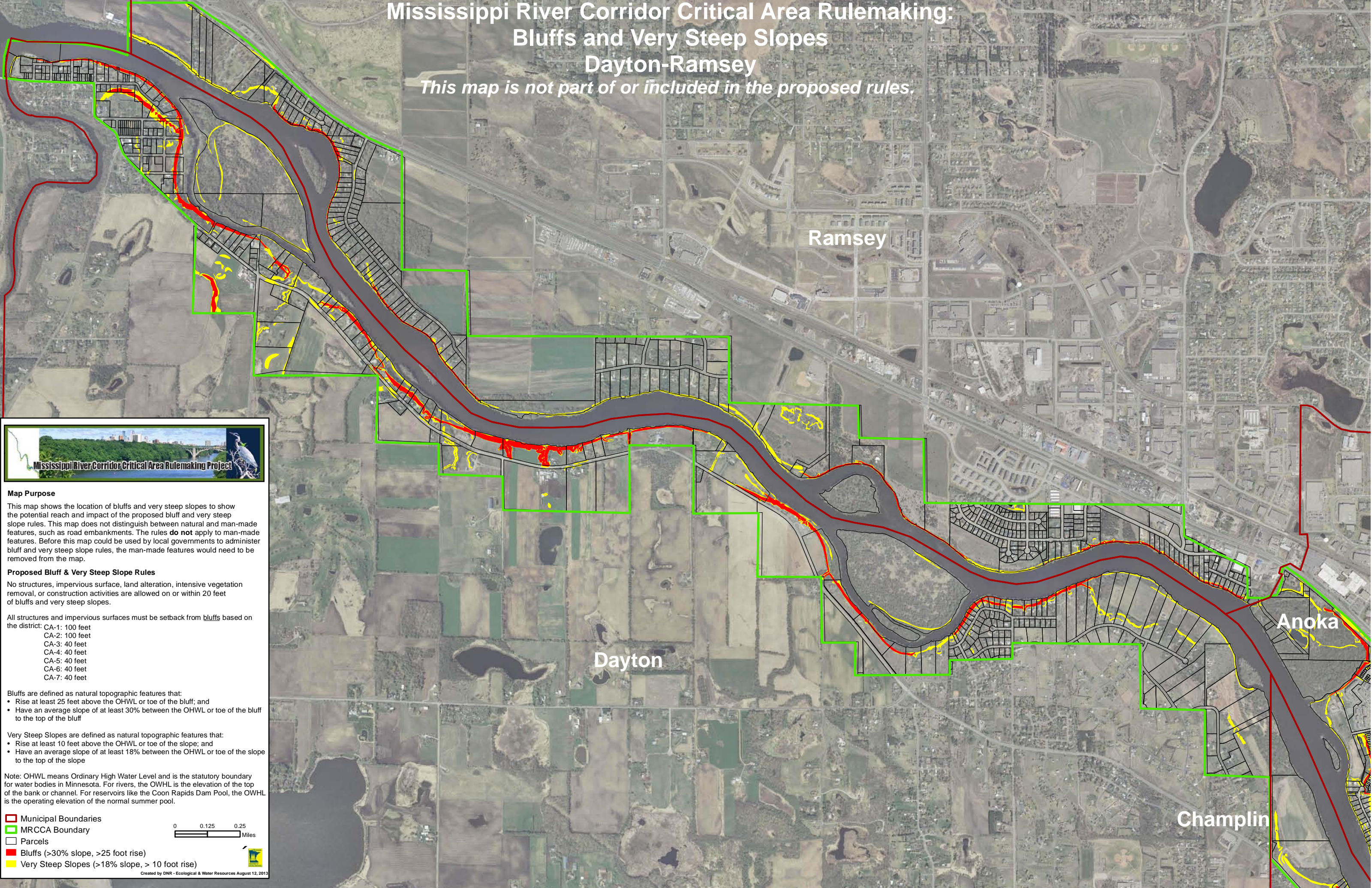
- (1) in the CA-1 and CA-2 districts, a minimum of 50 percent of the total project area of the proposed subdivision or planned unit development must be protected as open space, subject to the following provisions:
 - a) primary conservation areas must be the highest priority for protection;
 - b) if the primary conservation areas exceed 50 percent of the total project area, then the local government must determine which primary conservation areas are to be protected as open space; and
 - c) if the primary conservation areas constitute less than 50 percent of the total project area, then the local government must:
 - i. determine the location of the remaining balance of open space to be protected on the site; or
 - ii. accept cash in lieu of open space protection for the balance to be used only for purchasing land or conservation easements for open space, natural areas, and recreational areas within the Mississippi River Corridor Critical Area;
- (2) in the CA-3, CA-4, CA-6, and CA-7 districts, only primary conservation areas, if they exist, must be protected as open space up to a maximum percentage of the total project area as provided in units (a) to (d):
 - a) CA-3: 25 percent of the total project area;
 - b) CA-4, CA-6, and CA-7: 15 percent of the total project area;
 - c) if the primary conservation areas exceed the percentages provided by units (a) and (b), then the local government shall determine which primary conservation areas are to be protected as open space; and
 - d) if the primary conservation areas do not meet the percentages provided by units (a) and (b), then only the existing primary conservation areas must be protected as open space. If no primary conservation areas exist, then no open space protection is required; and
- (3) in the CA-5 district, underlying open space requirements apply, except that no open space is

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<p>required if development density is transferred to the CA-5 district from other districts.</p> <p>D. Open space must connect neighboring or abutting open space, natural areas, and recreational areas as much as possible to form an interconnected, corridorwide network.</p>	
<p>Subp. 4. Dedication.</p> <p>A. In the development of subdivisions creating three or more lots and planned unit developments, a developer must dedicate to the public a reasonable portion of land suitable for riverfront access or other lands in interest therein.</p> <p>B. In the event of practical difficulties or physical impossibility, the developer must contribute an equivalent amount of cash to be used only for the acquisition of land for parks, open space, storm water drainage areas, or other public services within the Mississippi River Corridor Critical Area.</p> <p>C. The area dedicated may include area protected as open space under subpart 3.</p>	<p><i>This subpart describes the requirement that all subdivisions must advance the need for public land for recreation and aesthetic enjoyment.</i></p>

Mississippi River Corridor Critical Area Rulemaking: Bluffs and Very Steep Slopes Dayton-Ramsey

This map is not part of or included in the proposed rules.



Map Purpose
This map shows the location of bluffs and very steep slopes to show the potential reach and impact of the proposed bluff and very steep slope rules. This map does not distinguish between natural and man-made features, such as road embankments. The rules **do not** apply to man-made features. Before this map could be used by local governments to administer bluff and very steep slope rules, the man-made features would need to be removed from the map.

Proposed Bluff & Very Steep Slope Rules
No structures, impervious surface, land alteration, intensive vegetation removal, or construction activities are allowed on or within 20 feet of bluffs and very steep slopes.

All structures and impervious surfaces must be setback from bluffs based on the district:
CA-1: 100 feet
CA-2: 100 feet
CA-3: 40 feet
CA-4: 40 feet
CA-5: 40 feet
CA-6: 40 feet
CA-7: 40 feet

Bluffs are defined as natural topographic features that:
• Rise at least 25 feet above the OHWL or toe of the bluff; and
• Have an average slope of at least 30% between the OHWL or toe of the bluff to the top of the bluff

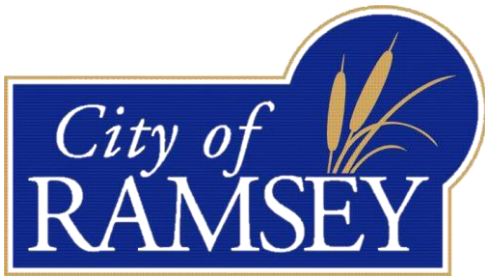
Very Steep Slopes are defined as natural topographic features that:
• Rise at least 10 feet above the OHWL or toe of the slope; and
• Have an average slope of at least 18% between the OHWL or toe of the slope to the top of the slope

Note: OHWL means Ordinary High Water Level and is the statutory boundary for water bodies in Minnesota. For rivers, the OHWL is the elevation of the top of the bank or channel. For reservoirs like the Coon Rapids Dam Pool, the OHWL is the operating elevation of the normal summer pool.

Legend:
■ Municipal Boundaries
■ MRCCA Boundary
■ Parcels
■ Bluffs (>30% slope, >25 foot rise)
■ Very Steep Slopes (>18% slope, > 10 foot rise)

Scale: 0 0.125 0.25 Miles

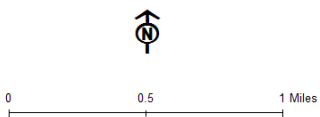
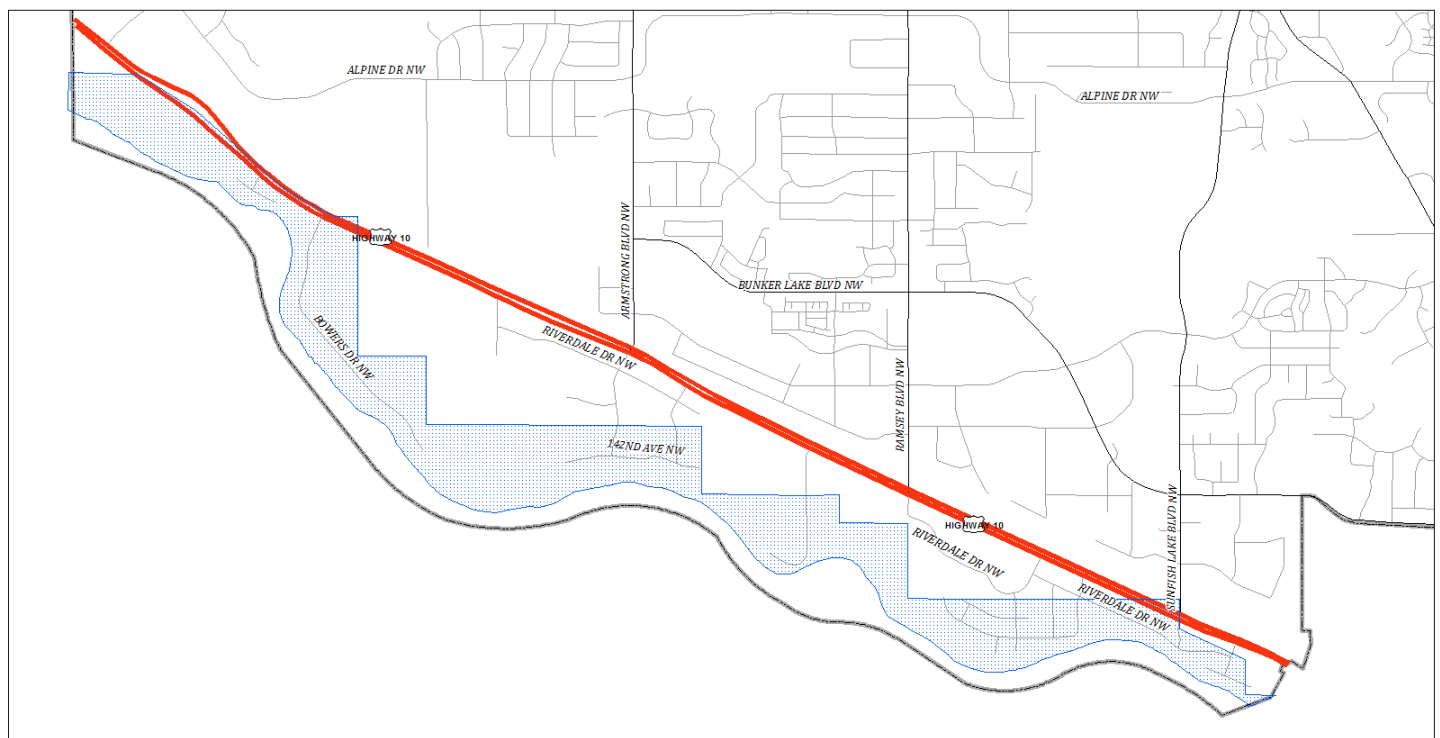
Created by DNR - Ecological & Water Resources August 12, 2013





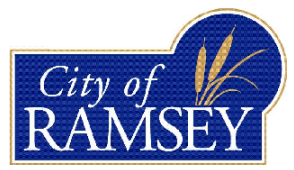
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Ramsey wants to invite you to participate in a public process to discuss appropriate standards and be part of the review for the Mississippi River Corridor Critical Area

The City of Ramsey is reaching out to you as a Property Owner near the Mississippi River that is located in the Mississippi River Corridor Critical Area (MRCCA/Critical Area). The Critical Area is a State of Minnesota designation that includes properties along the Mississippi River stretching from Ramsey to Hastings. The intent of this district is to protect key natural, economic, cultural, and ecological resources and protect the scenic quality of the river corridor. The map below indicates areas in Ramsey that are part of the Critical Area.



 Critical Area Boundary
 Ramsey Border



The City invites you to participate in being part of the process and reviewing alternatives (ranging from new and amended standards to no changes at all) related to an upcoming rulemaking project led by the Minnesota Department of Natural Resources (DNR).

*Monday, September 16, 2013 at 6:00 p.m.
Ramsey Municipal Center, Alexander Ramsey Room
7550 Sunwood Drive NW, Ramsey, MN 55303*

During the 2013 State of Minnesota Legislative Session, the Minnesota Legislature approved House File #1183 (Senate File #1051). This bill, also known as the Omnibus Legacy Bill, included direction for the DNR to update standards for the Critical Area. A similar

process was completed in 2009, however the process was not completed by the required deadline, and revised rules were not adopted. The Critical Area is an existing designation, and the City has previously adopted rules consistent with the existing Statute. This process will potentially update these existing rules.

In order for the Planning Commission, Environmental Policy Board (EPB), and City Council to make informed recommendations on potential draft rules, we first want to hear from you as Property Owners, those most impacted by potential changes to standards. You are an integral part of this process, and the City needs your feedback in order to make an informed decision. As the process has yet to formally begin, the City cannot fully analyze the potential impacts to our residents. However, the City desires to hear from you prior to the process beginning so that you can be part of the discussion, process, and ultimate outcome.

The City desires to hear your thoughts on:

- What key resources do you feel the City and State of Minnesota should protect through updated standards, if any?
- What types of standards (i.e. setbacks, limits on impervious [hard] surface, limits on vegetative removal) would you feel important for the City to protect through administration of additional land use controls, if any?
- What general questions or concerns regarding the Critical Area would you like the City to discuss with the DNR?

This initial public forum hosted by the City on September 16th will begin with a short background presentation at 6:00 p.m. followed by an open public forum and process.

The DNR will be meeting with City Staff and policy makers in late September. In order for this meeting to be productive, your participation in providing input is critical. In addition, the DNR will be hosting Open Houses on the process later this fall. The City Council has asked City Staff to reach out to impacted Property Owners prior to that stage to ensure that your feedback is incorporated into preliminary discussion and in preparation for the upcoming Open House sponsored by the DNR.

Please consider joining us on September 16, 2013 to be part of the discussion and solution. You may also submit comments to tgladhill@cityoframsey.com or by calling 763-576-4308. For more background information, visit our webpage at www.cityoframsey.com/shoreland under the 'Mississippi River Corridor Critical Area (MRCCA)' section.

Sincerely,

CITY OF RAMSEY



Tim Gladhill
Development Services Manager

Ramsey: Comparison of Existing MRCCA Ordinance and Proposed MRCCA Rule Standards

The purpose of this chart is to compare the existing ordinance to the proposed rules on key provisions. DNR staff started completing items in the column labeled "existing MRCCA district" & "existing MRCCA ordinance" based on the community's web based ordinance. Corrections and completion of these items will be completed at each meeting.

District-Specific Development Standards						
Standards	Existing MRCCA District		Proposed MRCCA Districts			
	Rural Open Space (96%)	Urban Developed (4%)	CA-1	CA-2	CA-3	CA-5
Height	35*		25'	35'	35'	underlying zoning w/ visibility limits
Setbacks:						
Bluffline	Unsewered 35', Sewered 20'		100'	100'	40'	40'
River - OHWL						
Mississippi	200' unsewered, 100' sewer		200'	200'	100'	
Rum					75'	
Crow						
Lot Area	Unsewered 2.5 acres (some underlying zoning is greater), with public sewer 12,150-40,000 sq ft depending on underlying zoning and riparian vs nonriparian		underlying zoning	2 acres	underlying zoning	underlying zoning
Lot Width	200' unsewered / 90 - 125' sewer		underlying zoning	200'	underlying zoning	underlying zoning

Underlying zoning districts in the MRCCA include: WSR recreational, low density residential, open space, ag, commercial.

primary part of Ramsey Zoning Ordinance: section 9.21, environmental protection

* In 1995 city considered reducing max height to 25 feet but did not approve it; proposed office park category will feature 45 foot heights

Corridor-Wide Development Standards		
Standards	Existing MRCCA Ordinance	Proposed MRCCA Rules
Private Transportation Facilities	Consistent with WSR, minimize impacts on natural terrain/landscape.	Private roads, driveways, and parking areas: not within SPZ, BIZ or SIZ; must meet structure setbacks, take advantage of natural screening. Exceptions for water access facilities in SPZ, BIZ, and SIZ.
Public Transportation, Recreational & Utility Facilities	Consistent with WSR, minimize visibility, underground where feasible, roads minimize impacts on natural terrain and landscape, avoid cuts and fills.	Avoid primary conservation areas, reduce visibility to extent feasible
Stairways. Lifts, Landings	Permit required	Specific dimensional standards for residential lots. Emphasis on limiting visibility
Signs	Don't impair views of the water; signs prohibited in some areas, other underlying zoning requirements.	Underlying zoning as long as off-premise signs meet dimensional and performance standards - Emphasis on limiting visibility
Bluffs & Slopes	Development and slope alteration prohibited on slopes > 12%	No structures, impervious surface, land alteration, and intensive vegetation removal on slopes of 18% and greater - some exceptions. Development on slopes between 12% and 18 % allowed with conditions.
Vegetation	Prohibits clearcutting on undeveloped islands, slope or face of bluffs, within 200 ft of OHWL, and within 40 ft of bluffline. Requires permit. Blend into views and maintain continuous natural cover.	Maintain existing vegetation within SIZ, BIZ, SPZ, wetlands, and floodplains - no intensive clearing, some exceptions. Restoration required for violations.
Stormwater	Imp surface coverage <=30%. City wide stormwater plan adopted in 2008. Plan requires development of controls consistent with MPCA urban BMPs.	Meet state and Metro Council standards, capture first inch rainfall.
Erosion & Sediment Control		BMPs required for land disturbance > 3,000 sq. ft.
Land Alteration	CUP required for >300 cu yd	Within SIZ, > 10 cu yd or > 250 sq ft requires permit; prohibited within BIZ and SPZ, with exceptions. Local permit and BMPs for rip rap and retaining walls in SIZ, BIZ, SPZ.
Mitigation		Mitigation required for variances, CUPs, & IUPs with impact on corridor resources. Nexus & proportionality.
CUPs & IUPs	Permits required for all structures	Required for mining
Subdivision	Minimize density through TDR and PUD, establish continuous trail corridor along river. Allow public access to river.	For CA-2 District only - smaller lots allowed with additional resource protections (conservation design). For all CA Districts - open space required for all subdivisions of 3 or more lots. Percentage varies by CA District. 50% in CA-1 and CA-2; primary conservation areas in CA-3, up to 25%, CA-5, CA-6, CA-7, up to 15%; open space must connect as part of network.
Subdivision-Dedication	All development in MRCCA must be done as a PUD with 50% open space preservation and minimal site alteration.	Dedication: if 3+ lots or PUD, reasonable portion of land or cash equivalent to be dedicated for riverfront access, parks, open space, etc. within MRCCA
Site Plans	Required for selective or clearcutting.	Site plans containing specific elements are required for variances, CUPs, IUPs, and subdivisions.
Other Overlay Districts	Shoreland, WSR. In 1995 and 2006 city proposed revisions to do a combined WSR-MRCCA-shoreland overlay, but the city council did not support the 50% open space requirement for PUDs in WSR.	WSR designation removed

Mississippi River Corridor Rulemaking
Public Process - September 16, 2013

Purpose of Tonight's Gathering

- Collaborate!
- Consensus building around the topic of updating land use standards along the Mississippi River
 - Minnesota Legislature has directed the DNR to update minimum standards in the Critical Area
 - Ramsey will be part of this rulemaking process
 - Ramsey will need to update its Zoning Code to be in substantial compliance with updated rules
 - Consensus can range from identification of key resources and standards to protect these key resources to recommending that no changes be made to the minimum standards

Schedule for Evening

Event	Time
Background of Critical Area and Overview of Public Process	6:00 – 6:20
Schedule Individual Sessions	6:20 – 6:30
Individual Session #1	6:30 – 7:15
Large Group Session #1	7:15 – 7:45
Individual Session #2	7:45 – 8:30
Large Group Session #2	8:30 – 9:00

What is the Critical Area?

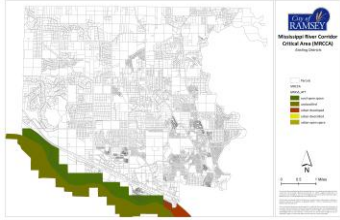
How was the Critical Area established?

History of the Mississippi River Corridor Critical Area

- 1973 Minnesota passes Critical Areas Act of 1973 (MN Statutes, Chapter 116G)
EOB adopts rules to implement Act (MN Rules, parts 4410.03100 – 4410.09110)
- 1976 Mississippi River and adjacent corridor designated a state critical area by Governor Wendell Anderson (Executive Order No. 130)
- 1979 Designation continued by Governor Albert Quie (Executive Order 79-19)
Metropolitan Council acts to make designation permanent (Resolution 79-48)
- 1988 Mississippi National River and Recreational Area (MNRRA) established by Congress as unit of NPS (MNRRA shares same boundary as Mississippi River Corridor Critical Area)
- 1991 MNRRA designated a state critical area per Critical Areas Act (MN Statutes, section 116G.15)
- 1995 Responsibility shifts from EOB to DNR by Governor Arne Carlson (Reorganization Order 170)
- 2007 Legislature directs DNR to prepare report on the Mississippi River Corridor Critical Area (Completed January 2008)
- 2009 Legislature amends MN Statutes, section 116G.15 and directs DNR to conduct rulemaking for the Mississippi River Corridor Critical Area (MN Laws 2009, Chapter 172, article 3, section 5.e.)
- 2011 DNR develops draft rule after participatory stakeholder process, but rulemaking authority lapses
- 2013 Legislature directs DNR to resume rulemaking process in consultation with local governments

This is an update of existing rules.

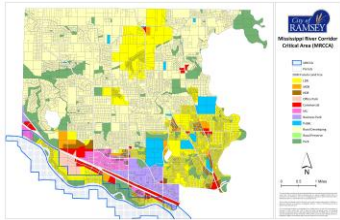
How is Ramsey Currently Classified



Development Standards (Existing)

Rural Open Space		Urban Developed	
Standard	Min. Threshold	Standard	Min. Threshold
Lot Size	2.5 acres	Lot Size	20,000 square feet/ 12,150 square feet
Lot Width	200 feet	Lot Width	90 feet
River Setback-bluff	35 feet	River Setback-bluff	20 feet
River Setback-water	200 feet	River Setback-water	100 feet
Septic Setback-water	75 feet	Septic Setback-water	75 feet

How Does This Compare to the Comprehensive Plan?

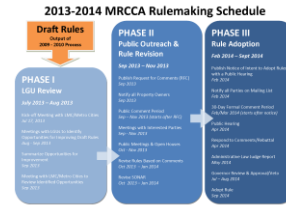


What is the Purpose of the Rulemaking Process

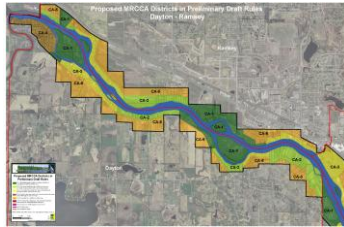
- According to the approved bill and DNR Feedback:
 - Protection of key features:
 - Floodplains, wetlands, gorges, areas of confluence with key tributaries, natural drainage routes, shorelines, riverbanks, bluffs, steep slopes, very steep slopes, unstable soils, bedrock, significant vegetative stands, tree canopies, native plant communities, scenic views, vistas, publicly owned parks, publicly owned trails, publicly owned open spaces, cultural sites, historical sites, historical structures, water quality, commercial resources, industrial resources, residential resources.
 - Clarify inconsistent/conflicting standards
 - Baseline of common standards
 - Currently variety of minimum standards between each community

Letter from DNR Commissioner Landwehr

What is the Rulemaking Process?



Proposed Districts



Preliminary Analysis

- Early in new process
- Need time to analyze impacts and policy directive from the Planning Commission and City Council
- Local Community Meeting on September 25, 2013
 - Suggest participation from the Chair of the City Council (Mayor), Planning Commission and Environmental Policy Board
- Potential participation by the Lower Rum River Watershed Management Organization (WMO) and Anoka Conservation District
 - Potential coordination and similar missions
- Preliminary Analysis to be presented to the Planning Commission at the October 3, 2013 Planning Commission Meeting



- Agenda - 10th Annual WRCOA Meeting**
November 20, 2013 6:00 am - 8:00 pm
- Introduction & Meeting Purpose**
- Welcome Remarks
 - Introduction of Key Stakeholders
- Review District Maps**
- Review proposed draft rules and maps
 - Districts to be reviewed in separate sessions
 - City, WMO, and Anoka
 - Public input and map
- Review Draft Rules**
- Districts to be reviewed
 - Districts to be reviewed with WMO, Anoka, and Environmental Policy Board
 - Districts to be reviewed with WMO, Anoka, and Environmental Policy Board
- Review Draft Maps**
- Review draft maps for opportunity
 - Meet again
- Proposed meeting location and date for implementation - City to confirm**
- Questions and Answers**
- Questions and Answers
 - District Maps
 - Draft Maps
- WRCOA Meeting for Public**
- Public input and map
 - Public input and map

Process for Tonight

- Identify potential issues and opportunities to bring to DNR staff
 - Participants will schedule and host individual sessions
 - Participants will document conversation: opportunities and issues
 - Participants will report back to the larger group
- Build consensus around topics to discuss
 - Not agreeing to specific standards this evening

MISSISSIPPI RIVER CORRIDOR CRITICAL AREA (MRCCA) RULEMAKING
Ramsey Initial Stakeholder Meeting

On existing properties - want to be able to:

- Mow to river bank
- Put in Rip Rap and rock to stabilize bank
- Trees do not stabilize river banks (see #2)
 - Can dead trees be removed?
- Funds from Federal or State Government for river bank stabilization

Local Control:

- MRT Concern
- Program for takeover
- Local control being key
- Create problem then find solution perception
- What are proactive steps identified so we can manage locally-necessary steps
- Define problem
- Grandfather rights
 - Transferable?
- City sewer vs. private septic
- Is DNR saying to keep things the same? Or what is the problem?
- See the list of problems
- Money available for Rip Rap, boulders, Etc. from Government?
 - Narrow in critical area
- Wing dams
- Department of Interior agenda?
- Make it clear that the City fights for retain rights for its citizens
- Ask for reasons of what drives setback – technical reasons
- City to develop statement for long term protection

Homeowners' rights to determine our vegetation management for:

- Future land use of undeveloped lot (river access)
- Erosion control options on bluff
- Pruning of trees and tree removal left up to homeowners discretion
- Maintain bank stabilization opportunity for banks and bluffs
- Describe vegetation maintenance
- Protect homeowners river view rights

MISSISSIPPI RIVER CORRIDOR CRITICAL AREA (MRCCA) RULEMAKING
Ramsey Initial Stakeholder Meeting

Comment 1:

What is a visual intrusion? Who determines it is a visual intrusion? What is screening? What material is it? Who determines what needs to be screened? Part 6106.0130 Subp. 12 Plans.

Comment 2:

Tim,

In regards to the open meeting on MRCCA proposed [rulemaking], I am having a tough time formulating any real ideas for comments and input. Is there any place on line that I can find a general idea of what may be proposed [?] Without having some indication of restrictions that may be part of the new rules I'm guessing and shooting in the dark.

As I look around our neighborhood and also travel up and down this beautiful river by water I really don't see anything that I would consider changing. I think that most of us have been good caretakers of this resource.

Are we sure we really need to fix things that appear not to need fixing?

It is hard for me to believe that home owners located on the river and paying high taxes are not taking care of their property. We have a fairly modest home of less than 3000 sq ft and pay taxes of \$5000.

So far in looking on line I only see that MRCCA will have more information on proposed rules shortly.

Obviously not in time for putting our comments together.

Thank you for your time.

Comment 3:

September 12, 2013

Dear Mr. Gladhill,

Re: MRCCA

We have been Ramsey residents for 39 years and have been property owners on the Mississippi River for 24 years. We support the protection and enjoyment by all of this valuable resource, but we find many of the new rules too imposing, intrusive and far reaching for the DNR as well as other government agencies. Many of these rules that impact property owners have no environmental value, but are primarily aesthetic in nature.

We would encourage the City of Ramsey to oppose limits on homeowners on the Mississippi specifically regarding removal of their own dead or diseased trees, branches, plants or shrubs. We don't need a specialist to oversee these activities. If tree branches are overgrown in our yards and new rules prevent us from maintaining them they could harming us by poking us in the eye or causing an

accident on our mower. (That's if we're still allowed to mow our grass, if, we can keep it.) We should be able to trim them on our own as we have over the years. We don't need a tree specialist or a government agent to make that determination. Seriously, who is going to foot that bill, guess who? We also are users of the river and when branches on trees are allowed to be fully overgrown we cannot enjoy the view either.

Speaking of enjoying the view. Who discerns what is visually intrusive? The person going by in a canoe? Should peoples['] homes, garages, vehicles be screened from view? How again does that improve our environment? People live in houses everywhere, we all know that and do we really have to keep them out of view so as not to offend "the user"? [Doesn't] he or she live in a house too? Is there a conforming material for that? Will there be tax credits for those people who cannot afford to comply, will others be penalized on their real estate taxes? Personally, a **concrete** or **asphalt** parking lot full of vehicles is intrusive to look at from the water, but that is exempt. I think it contributes to run off but I am no expert on that. Doesn't run off have an ecological impact? So public exempt properties don't have to be aesthetic or environmentally safe? Only privately held properties?

Restoration of vegetation to a natural state is a great idea. In a perfect world. But we also would like to enjoy parts of our acreage that we pay those exorbitant real estate taxes for. The person using the river is not the only user here. Let's not forget that. There are many properties where lawns meet the river. Ours is not one of those. I think that educating the homeowner and encouraging incorporation of some natural vegetation is acceptable. Forcing people to do these things does not bring about a good outcome. I also don't believe the original intention of this plan is to return to the way it used to be years ago.

We are also concerned that someday when we sell our home there will be something nonconforming given all of the rules. A nonconforming property creates an exception in the title policy. The mortgage company will not underwrite a loan for the buyer. What protection or guarantees do we have for availability of mortgages for MRCCA nonconforming properties? Will the Commissioner create a rule for that?

There are many other issues that impact homeowners (i.e. set backs, heights, zones) and their rights to enjoy their properties that don't personally affect our property as far as we can tell. However, the rules should be more inclusive to allow enjoyment of this resource by all with more reasonable standards supported by **proven** ecologically beneficial results.

The money generated by the Omnibus Legacy Bill provided to the DNR might be better spent improving the quality of this body of water rather than its aesthetics. Zebra mussels have now found their way to our area and other species continue to threaten Minnesota lakes and rivers but the DNR recently rejected the idea of using legacy fund dollars for prevention. We have all contributed sales tax money towards that since 2008, but we don't know best how it should be spent. Really?

Thank you for your consideration of our input. I hope that a mutually beneficial plan incorporating fewer updated standards and less land controls can be created.

Comment 4:

Hi Tim,

My Wife and I have been property owners on the Mississippi River since 1987. We support the protection for all to enjoy this valuable resource, but we find many of these new rules that would impact property owners to have no environmental value. Our property has both natural vegetation, and an area we have landscaped to enhance the property. People floating by in canoe's etc. always comment how nice our

landscaped area looks but never say anything about the natural area. Also the natural area during high water (April-June) is very difficult to keep protected, shoreline erosion is significant.

The roots from the trees and vegetation are not enough to keep the soil from eroding. Since we have owned the property we have lost many feet of shoreline from the high water in the natural vegetation area, but none of the area we have landscaped has been affected by high water.

We feel the money generated by the Omnibus Legacy Bill provided to the DNR would be better spent on improving the quality of the water. Many of the small river and tributes that feed into the Mississippi river are running through farm land.

Every year more farm land is getting tiled and it is drained into these tributes. Studies have shown how the herbicides, pesticides, and fertilizers are affecting the water quality. If the water continues to be contaminated no one will be able to enjoy the river.

We encourage the City of Ramsey to oppose limits on homeowners who live on the Mississippi River.

Regular Planning Commission

5. 5.

Meeting Date: 10/03/2013

By: Tim Gladhill, Community Development

Information

Title:

FOR UPDATE ONLY: Staff Update

- Receive Development Update
- Receive Update on 167th Avenue/TH 47 Node Collaborative Process
- Receive Update on Long Term Road Reconstruction Program

Background:

The attached reports provide an update on development review and land use policy activities completed by City Council, Boards and Commissions, and City Staff. The attached reports provide the most recent updates on development projects within the community.

Notification:

Observations/Alternatives:

Funding Source:

Preparation of the monthly updates are being handled as part of regular Staff duties.

Staff Recommendation:

Action:

For update only. No action requested.

Attachments

Development Update dated September 27, 2013

Form Review

Inbox

Tim Gladhill (Originator)

Form Started By: Tim Gladhill

Final Approval Date: 09/27/2013

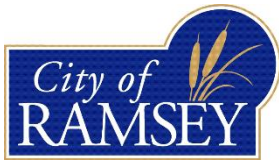
Reviewed By

Tim Gladhill

Date

09/27/2013 12:43 PM

Started On: 09/27/2013 08:57 AM



City of Ramsey Development Update

September 26, 2013

Report Background

The following report is updated weekly.

Molin Concrete Expansion and New Operations [Updated]

The City has received an application for Site Plan Review from Moline Concrete at 6820 143rd Ave NW. The site was purchased in 2008 by Molin Concrete Products Company, and has been leased for storage purposes since that time. Molin has now made the business decision to begin production on the site. The proposed expansion will add approximately 10,000 square feet to the existing 60,000 square foot facility. The Site Plan will be forwarded to the October 3, 2013 Planning Commission and the October 22, 2013 City Council for review.

The request will be reviewed by the Planning Commission on Thursday, October 3, 2013. [Updated September 26, 2013]

Brookfield 4th Addition [Updated]

The City has received an application for Major Plat – Preliminary Plat Review for Brookfield 4th Addition. The Brookfield Addition is an existing subdivision adjacent to Nowthen Boulevard (CSAH 5). The proposed plat encompasses a majority of the remaining lots from the original Preliminary Plat. The proposed plat includes 77 new lots, which may be phased over a series of Final Plats, according to the Developer (Capstone Homes). The proposed Preliminary Plat is set to be reviewed by the Planning Commission on October 3, 2013 and the City Council on October 23, 2013.

A Public Hearing is scheduled for Thursday, October 3, 2013 at 7:00 p.m. The City is also facilitating an open house as an additional opportunity for public input and a chance to meet the developer. The Open House is from 4:00 to 6:30 p.m. in the Alexander Ramsey Room on October 3, 2013. [Updated September 26, 2013]

Sweetbay Ridge [No Update]

The inventory of vacant lots currently platted (ready for Building Permit) have been substantially completed within the current phase of Sweetbay Ridge. The original Preliminary Plat indicated two (2) future phases. City Staff has been approached by a prospective buyer to plat an additional 85 lots (approximately). The potential developer is considering submitting an application this fall in order to commence construction in the spring of 2014.

Noble Roman's Pizza at Northstar Marketplace [No Update]

Staff has received an Application for Building Permit for a tenant build-out at Northstar Marketplace (Coborn's Anchored retail center). Noble Roman's is a 'take and bake' pizza restaurant. Noble Roman's is proposed to be located next to Anytime Fitness and the newly opened 'dollar store'.

Residence at The COR [Updated]

Primary Reviewer: Tim Gladhill (tgladhill@ci.ramsey.mn.us; 763-576-4308)

The Residence at The COR is a 230 unit apartment development along Sunwood Drive next to the Ramsey Municipal Center. For more information, visit www.corapts.com or call 763-208-5931.

Temporary Certificates of Occupancy have been issued for all units. However, there are a number of close out items remaining for exterior improvements. [Updated September 26, 2013]



The above photo of Residence at the COR was taken August, 2013 along Sunwood Drive looking west.

Seasons of Ramsey [No Update]

Primary Reviewer: Tim Gladhill (tgladhill@ci.ramsey.mn.us; 763-576-4308)

The Seasons of Ramsey is a 50 unit rental townhome development located in the Town Center Gardens plat at the northeast intersection of Bunker Lake Boulevard and Town Center Drive (also known as Center Street). The Planning Commission reviewed the Sketch Plan of the Plat on December 6, 2012. The Planning Commission held a Public Hearing on the Preliminary Plat and reviewed the Site Plan on January 31, 2013. The City Council approved the Preliminary Plat, Final Plat, Site Plan, and associated requests of February 12, 2013. The Developer was able to successfully close on the Property on Tuesday, March 19, 2013. The Developer anticipates to complete the entire project by December 31, 2013. The City is awaiting a request from the contractor to issue the Building Permit. Leasing information is available at www.essenceproperties.com, 320-255-9910, or info@essenceproperties.com.

Building Permits have been issued for 46 of the 50 planned units. Construction on 147th Lane has commenced (initial grading and staking). Staff continues to complete a number of building inspections on the project.



Photo taken on September 4, 2013 on the north side of Bunker Lake Boulevard looking west.

The Developer was issued a Certificate of Occupancy for one (1), four (4) unit building on Friday, August 30, 2013. Some of those units are now occupied. [Updated September 5, 2013]

McDonalds (Sunwood Retail in The COR) [No Update]

Primary Reviewer: Chris Anderson (canderson@ci.ramsey.mn.us; 763-433-9905)

The Planning Commission reviewed a Request for Site Plan Review for McDonalds on January 3, 2013. The site is located along the re-aligned Sunwood Drive at Armstrong Boulevard, located just north of Northstar Marketplace. The City Council approved the site plan and associated requests on January 22, 2013. The project is now eligible to

submit a Building Permit. The City has received an Application for Building Permit. The Plat (COR TWO) has been recorded.



Staff met with representatives from McDonald's USA on Wednesday, August 22, 2013. Progress continues for both parties on completion of respective obligations. The Stage I Improvements (access and utilities) is substantially complete, subject to verification of correct installation. [Updated August 22, 2013]

Northgate Performing Arts Center [No Update]

Primary Reviewer: Consulting Planner (Contact: Tim Gladhill (tgladhill@ci.ramsey.mn.us; 763-576-4308)

The Planning Commission reviewed a Request for Site Plan Review and Conditional Use Permit for Northgate Performing Arts Center located at 7295 Sunwood Drive NW (northeast intersection of Sunwood Drive and Peridot Street NW) on October 4, 2012. The City Council approved the request on October 23, 2012.

Construction has officially commenced on the facility. The City has approved a temporary closure of one (1) block on Peridot Street for June 18, 2013 to June 21, 2013 in order to set building panels along Peridot Street. The closure would only be from Sunwood Drive north to 145th Avenue (one [1] block). The closure will also impact traffic patterns for PACT Charter School, which is currently not in regular session. The detour would use 145th Avenue west to Peridot Street, then south to Sunwood Drive. The Contractor will be forwarding Staff a detour plan/map. A sketch provided by the Contractor is shown below. When a more detailed map is provided, Staff will ensure proper communication with the City Council and adjacent property owners.



Photo taken September 5, 2013 at Sunwood Drive looking north west.



Photo taken September 5, 2013 at Sunwood Drive and Peridot Street looking north east.

North Commons (COR THREE) [No Update]

Primary Reviewer: Tim Gladhill (tgladhill@ci.ramsey.mn.us; 763-576-4308)

The Planning Commission reviewed a Request for Minor Plat Review of COR THREE, a seventeen (17) lot single-family development located north of Bunker Lake Boulevard in The COR on June 19, 2012. The City Council approved the request on July 10, 2012.

Preliminary grading and utility work commenced at the end of 2012. The Plat will need to be recorded prior to any Building Permit issuance.

On May 28, 2013, the HRA amended the scope of the project to focus on four (4) of the seventeen (17) lots that are located abutting North Commons (park). The remaining thirteen (13) lots that were approved along Bunker Lake Boulevard could be re-evaluated in the future as market conditions improve. Utilities have been installed for the four (4) 'park lots'.

Staff issued a Notice to Proceed to Hakanson Anderson Associates to revise the approved Final Plat to include only the four (4) lots referenced above. [Updated August 29, 2013]

Stoney River [Updated]

Primary Reviewer: Tim Gladhill (tgladhill@ci.ramsey.mn.us; 763-576-4308)

The Planning Commission reviewed the request for Site Plan Review of Stoney River, a 72 unit assisted living and memory care development at the northwest intersection of Nowthen Boulevard and Saint Francis Boulevard in August, 2011. The site is adjacent to the Lord of Life Lutheran Church Campus. The City Council approved the request in August, 2011.

The Building Permit was issued on Monday, September 23, 2013. A ceremonial groundbreaking was held on Wednesday, September 25, 2013. [Updated September 26, 2013]



Housing Assistance Policy [No Update]

Primary Contact: Tim Gladhill (tgladhill@ci.ramsey.mn.us; 763-576-4308)

The City Council has directed Staff to complete a Housing Assistance Policy. The intent of the policy is to provide a framework for which to review requests for housing assistance and provide a mechanism to review proposals for compatibility with the City's housing goals. The Policy was forwarded to the Planning Commission for development. The Planning Commission has established an ad-hoc sub-committee to assist in the development of the policy.

The Housing Sub-Committee has met on two (2) occasions to date. Current accomplishments include completion of an Interim Policy Statement (until the final policy is adopted), agreement on the framework of the policy, and establishment of housing-type priorities. All drafts must still be approved by the City Council.

Staff provided an update to the City Council on June 11, 2013, and received positive feedback on direction to continue along the current path for completion.

To date, the sub-committee has completed an initial review of demographic data, established an Interim Policy Statement, and established a framework of the proposed policy (product type priorities, minimum thresholds, and scoring/ranking matrix). The ad-hoc sub-committee met on Tuesday, June 25, 2013 and finished a draft of the Minimum Thresholds. The Minimum Thresholds are based on the Housing Chapter Goals and Implementation Strategies of the 2030 Comprehensive Plan. The final step is to complete a draft of the Scoring/Ranking Matrix. This is anticipated to be completed over two (2) to three (3) sub-committee meetings. At that point, a full draft would be reviewed by Planning Commission, EDA, and City Council.

Staff is actively completing a draft of the final piece of the draft policy and has is currently reviewing the content of the draft. That draft is anticipated to be complete within two (2) weeks. The draft will then be reviewed by the sub-committee, forwarded to the Planning Commission in September, and then to City Council review at the end of September.

Staff has completed a draft of the scoring matrix and has had reviewed by area experts as to format and content. Staff will be forwarding a full draft for review in the near future.

A meeting of the sub-committee is scheduled for Thursday, September 12, 2013 to finalize the draft. [Updated September 5, 2013]

Cullinan Rigging [No Update]

Cullinan Rigging was granted approval of a Variance and Site Plan Approval for an expansion of their existing facility at 6815 McKinley St NW. The Building Permit has been issued and construction is underway. [Updated August 29, 2013]

Diamond Graphics Expansion [Updated]

Diamond Graphics was granted site plan approval for their existing facility at 14350 Azurite Street. Staff has completed the review of the Building Permit and the permit is awaiting pick up from the Contractor. [Updated September 26, 2013]

Ramsey Office Plaza Interior Tenant Build-out [No Update]

The City has issued Building Permits to Ramsey Office Plaza located at 7553 Sunwood Drive for multiple tenant build-outs. The tenant build-outs include relocation of PSD, LLC offices, expansion of the 10th Judicial District Administrative Offices, and expansion of Trott Brook Financial Offices. [Updated August 29, 2013]

5300 Alpine Drive NW (Former Allina Clinic) Tenant Build-out [No Update]

The City has issued Building Permits for 5300 Alpine Drive for two (2) new tenants: 1) Weikel Law Firm and 2) Metro Hydro Graphics. [Updated August 29, 2013]

167th Avenue Retail Node [No Update]

Primary Contact: Tim Gladhill (tgladhill@ci.ramsey.mn.us; 763-576-4308)

The Planning Commission and EDA have both discussed the status of the retail node located at the intersection of 167th Avenue and Saint Francis Boulevard (TH 47). The City had previously been asked to review two (2) potential users at 6001 167th Ave NW (indoor shooting range and clothing recycling warehouse distribution. Per EDA discussion, Staff will be setting up stakeholder meetings to discuss a comprehensive approach with all property owners of the node in regards to future land uses as well as mechanisms to achieve desired future land uses. A more detailed summary will be provided following the outcomes of these stakeholder meetings.

Staff has scheduled a Stakeholder/Property Owner Meeting with owners of commercial/retail property in the area for Wednesday, June 5, 2013. The intent of the meeting is to outline options (land use and economic development related) for Property Owners and discuss a unified vision for the future of the current retail node. Staff will provide an update to the Planning Commission, EDA, and City Council following the Stakeholder Meeting.

The EDA discussed the topic at their July 11, 2013 Meeting and a Special Meeting on July 18, 2013 to finalize a recommendation on formulating current policies and recommendations as well as potential next steps. Staff will update the City Council in the near future.

A Public Process has been tentatively scheduled for Thursday, September 26, 2013. Invites will be sent in the near future to area residents and stakeholders. [Updated September 5, 2013]

Former Municipal Center Future Land Uses *[No Update]*

Primary Contact: Patrick Brama (pbrama@ci.ramsey.mn.us; 763-433-9903)

In 2006, the City relocated the Ramsey Municipal Center from 15153 Nowthen Blvd NW to 7550 Sunwood Dr NW. The former location still operates as Fire Station #2. The City has been exploring options for future use of this campus and relocation of Fire Station #2. To assist in the analysis of acceptable land uses for this campus for future development, an Open House has been scheduled for Thursday, April 18th from 6:00 to 9:00 p.m. in the Council Chambers (7550 Sunwood Dr NW). The Open House will explore options for single-family and data center users. Multiple smaller group stations, with full size maps and ability for written comments, will be available from 6:00 to 7:00 p.m. A brief presentation will be presented, with ability for large group comment, from 7:00 to 7:30 (or until comments are complete). Small group stations will re-convene following the presentation and comment period.

The Open House was held as scheduled despite weather concerns. Staff continues to compile results and comments from that Open House and presented preliminary findings to the City Council on Tuesday, April 23, 2013. Based on the results of that open house, Staff will presenting the detailed results to the Planning Commission, EDA, and City Council in May prior to taking any further steps. It is at this stage that Staff will discuss future direction, if any direction is desired at this time.

Staff has updated the Planning Commission (5/2/13) and the EDA (5/16/13) on the status of the project.

Staff presented a case to discuss possible next steps at the June 11, 2013 City Council Meeting. The City Council directed Staff to re-engage the surrounding public through a collaborative process utilizing a task force to continue to review options for the site.

Staff met to discuss possible alternatives for the new public process, and anticipates bringing forward alternatives for consideration to the July 9, 2013 City Council Meeting.

The City Council approved the development of a Study Group to begin a collaborative input process to be held at a later date, in order to continue discussions with surrounding property owners as to desired future land uses for the site. Staff will be seeking interested individuals to participate in the process in the near future. Interested names in participating in the process will be brought forward to the City Council at a later date.

Staff has sent a mailing seeking individuals interested in participating in the public process later this year.

A Public Process has been tentatively scheduled for Thursday, October 24, 2013. Invites will be sent in the near future to area residents and stakeholders. [Updated September 5, 2013]

Building Permit Update

The City has issued 1,594 permits year to date. Included in that total are 74 new single-family homes, and 66 new townhome units, 72 units of assisted living/memory care (for a total of 212 new households), and numerous commercial/industrial expansions and tenant build outs (see above).

Detailed Report Information

For more information regarding the project listed above, please contact the Tim Gladhill at 763-576-4308 or visit www.cityoframsey.com/planning-division.

Tim Gladhill

Tim Gladhill, Development Services Manager

Regular Planning Commission

5. 6.

Meeting Date: 10/03/2013

By: JoAnn Shaw, Community Development

Information

Title:

Zoning Bulletins

Background:

Enclosed are zoning periodicals for your review.

Notification:

Observations/Alternatives:

Funding Source:

Staff Recommendation:

Action:

Attachments

[Zoning Bulletins](#)

Form Review

Inbox

Tim Gladhill

Form Started By: JoAnn Shaw

Final Approval Date: 09/27/2013

Reviewed By

Tim Gladhill

Date

09/27/2013 08:04 AM

Started On: 09/24/2013 02:42 PM

Zoning Bulletin

in this issue:

Preemption—Variance holder fails to record variance but relies on it to begin construction	2
Validity of Zoning Regulations—City alleges homeowner violated zoning code with short-term rental of house	4
Procedure/Open Meetings Law—As a result of large public turnout at public meeting on special use permit, planning board relocates meeting	7
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by Mass. Gen. L. c. 40A, § 10 will become effective if its holders have substantially relied upon it within that period.

The Background/Facts: Arthur and Irene Stefanidis, trustees of the A & I Trust (the “Stefanidises”), owned a single large lot in the city of Peabody (the “City”), on which there was an existing structure. They divided this parcel into Lot A, the front portion of the parcel containing the structure, and Lot B, the undeveloped portion at the rear of the parcel that did not have street frontage. They reserved an easement in favor of Lot B over the driveway and parking area of Lot A. The Stefanidises subsequently planned to build a two-family house on Lot B. In furtherance of that plan, they applied for a variance from the City’s zoning board of appeals (the “Board”) to allow them to build despite the lack of street frontage. The variance was approved, with certain conditions. The variance was filed in the city clerk’s office on June 23, 2008.

The decision granting the Stefanidises’ variance notified the Stefanidises that they were responsible for recording the variance decision in the county registry of deeds within one year. Pursuant to Massachusetts statutory law—Mass. Gen. L. c. 40A, §§ 10 and 11—the Stefanidises had one year to record and exercise their variance. Specifically, Mass. Gen. L. c. 40A, § 10 provides: “If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse . . .” Section 11 requires that the variance be recorded before it can “take effect.”

The Stefanidises nonetheless failed to record the variance; apparently they simply forgot to do so. Soon after receiving the variance, the Stefanidises applied for a building permit from the City building commissioner without submitting proof of recording. The building permit issued. The Stefanidises proceeded to obtain a loan for construction, hired a general contractor and supervising architect, and began to clear and prepare the site.

On June 29, 2009, approximately one week after the one-year anniversary of the grant of the Stefanidises’ variance, Mary E. Grady—an occupant of one of the units on Lot A—made a written request to the building commissioner that he revoke the building permit. She argued that the building permit should be revoked on the ground that the Stefanidises had failed to record the variance within one year.

Notified by the building commissioner, the Stefanidises recorded the variance on July 3, 2009, 11 days after the expiration of the one-year lapse period.

The building commissioner denied Grady’s request on the grounds that: the “rights authorized by the variance have been exercised within one year”; work had commenced pursuant to a building permit; and the Stefanidises had complied with the conditions specified in the variance.

Grady appealed and the Board upheld the building commissioner’s denial of the request to revoke the building permit.

Grady then filed a complaint in the Land Court. The Land Court judge determined that the variance had not lapsed because the Stefanidises had taken substantial steps in reliance upon it, and had recorded it within a short period of time after the expiration of the lapse period.

Grady appealed to the Appeals Court. The Supreme Judicial Court of Massachusetts took up the case on its own motion.

Cedar Point Road (the “Cedar Point House”) in the city of Sandusky, Ohio (the “City”). The Cedar Point House was located along a causeway, known as the Cedar Point Chaussee, which connected the City to a peninsula containing the Cedar Point amusement park.

The Cedar Point House was on a lot that was zoned as R1-75. That zone authorized “one-family dwellings” under § 1129.03 of the City’s Codified Ordinance (the “Zoning Ordinances” or the “Zoning Code”). Pursuant to § 1107.01(g)(2) of the Zoning Code, “[d]welling” was defined as a “building designed or occupied exclusively for non-transient residential use (including one-family, two-family, or multifamily buildings).”

Viviano did not reside at the Cedar Point House, but rather rented it for short terms to a series of third parties, who often used it as part of a vacation to the amusement park.

In August 2011, the City issued to Viviano a cease and desist order. The order alleged that Viviano’s rental of the Cedar Point House violated the Zoning Code. Each violation was designated a misdemeanor of the fourth degree, punishable by a \$250 fine, 30 days in jail, or both.

Viviano appealed to the City’s Board of Zoning Appeals (the “BZA”). Referencing §§ 1107.01(g)(2) and 1129.03 of the Zoning Code, the BZA found that “the rental of an entire Dwelling, located in a Residential District on a serial basis is not permitted.”

Viviano again appealed to the Erie County Court of Common Pleas. There his case was consolidated with appeals from several other property owners concerning the BZA’s decision regarding renting properties on the Chaussee.

Viviano argued that the definition of “dwelling” pursuant to § 1107.01(g)(2) of the Zoning Code was unconstitutional under the void-for-vagueness doctrine because it failed to provide property owners with a fair notice of what uses were permitted in the R1-75 zoning district pursuant to § 1129.03 of the Zoning Code. Specifically, Viviano pointed to the use of the conjunction “or” and to the use of the term “non-transient” in § 1107.01(g)(2). Again, § 1107.01(g)(2) defined a “dwelling” as a “building designed *or* occupied exclusively for *non-transient* residential use . . .” (emphasis added).

Viviano contended that the use of the conjunction “or” was disjunctive—meaning that the classifications on either side of “or” were to be read separately. Viviano believed that having a house meet a single listed criteria—in this case, either a building “designed” for “non-transient residential use” or a building “occupied” for non-transient use—was sufficient to satisfy the Zoning Code.

Viviano also contended that the term “non-transient,” which was undefined in the Zoning Code, was ambiguous—potentially encompassing rentals of any time frame and potentially resulting in discriminatory enforcement.

The court agreed with Viviano. Finding there were no material issues of fact in dispute, and deciding the matter on the law alone, the court issued an order granting summary judgment to Viviano.

The City appealed.

DECISION: Affirmed.

Procedure/Open Meetings Law—As a result of large public turnout at public meeting on special use permit, planning board relocates meeting

Opponents of special use permit contend the meeting relocation violated the Open Meetings Law

Citation: *Frigault v. Town of Richfield Planning Bd.*, 107 A.D.3d 1347, 2013 WL 3213803 (3d Dep't 2013)

NEW YORK (06/27/13)—This case addressed the issue of whether a town planning board's relocation of a meeting at which a special use permit was granted violated the Open Meetings Law.

The Background/Facts: In March 2011, Monticello Hills Wind, LLC (the "Applicant") applied to the Town of Richfield Planning Board (the "Board") for a special use permit. The Applicant proposed the construction of six wind turbines and associated facilities (the "Project") on 1,190 acres of land located in the Town of Richfield, Otsego County, New York (the "Town").

The Board evaluated the proposed Project under the State Environmental Quality Review Act ("SEQRA"), held a public hearing, conducted multiple meetings and considered public comments both in support of, and in opposition to, the Project. At a November 22, 2011 meeting, the Board, among other things, granted the Applicant a special use permit.

In regard to the November 22, 2011 meeting, the Board had initially provided proper notice that a Board meeting was scheduled to take place at the Town Hall at 7 p.m. on that date and that the Project would be the focus of the meeting. As a result of the large public turnout at that meeting, the room in the Town Hall was filled in excess of the maximum occupancy limit. The Town attorney announced to those in attendance that the meeting would be relocated to a community room in a church located approximately two blocks away. A note was placed on the door of the Town Hall to inform late attendees of the move, and the meeting commenced approximately one hour after it was scheduled to begin.

Subsequent to the November 22 meeting, a group of local citizens and property owners in the Town (the "Opponents") brought a legal action against the Board. Among other things, the Opponents contended that the Board failed to comply with the Open Meetings Law (Public Officers Law art 7) by relocating the meeting without proper notice.

The Open Meetings Law provides that "[p]ublic notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting," and "[p]ublic notice of the time and place of every other meeting shall be given, to the

Case Note:

The Opponents had also maintained that the Board had failed to properly notify the County Planning Department of the public hearing or provide it with a "full statement of the proposed action" and all materials on which the Board relied in reaching its negative declaration decision under SEQRA. The Opponents had contended that the Board had violated the Town's Land Use and Building Maintenance Ordinance by failing to provide any explanation or elaboration as to eight enumerated conditions that had to be met for a special permit grant. The appellate court agreed that the Board so failed and violated the Town Law and the Town Ordinance. Accordingly, the court concluded that the Board's resolution granting the special use permit was properly annulled by the Supreme Court.

Nonconforming Use—County says business use is in violation of zoning code

Business operator argues use is a legal, preexisting, nonconforming use, although it was not fully operational at the time of the zoning change

Citation: *King County, Dept. of Development and Environmental Services v. King County*, 2013 WL 3377420 (Wash. 2013)

WASHINGTON (06/27/13)—This case addressed the issue of whether a use was "established" as required by the county zoning ordinance so as to constitute a nonconforming use.

The Background/Facts: Beginning in October 2003, Ronald Shear ("Shear") leased a 10-acre parcel of property (the "Property") in King County, Washington (the "County"), from Jeffrey Spencer. The Property was zoned "agricultural." Shear intended to operate on the Property a business that processed organic materials into animal bedding and fuel. To that end, beginning in October 2003, Shear began bringing equipment and materials onto the Property for later processing. Shear's activities on the Property increased throughout 2004, although no actual "grinding or processing" had begun.

Then, in September 2004, the County amended its zoning code to require permitting for operations such as Shear's, classifying them as "materials processing facilities." Shortly after the zoning change, Shear began actual grinding of organic materials. In response to complaints from a nearby landowner, the County Department of Development and Environmental Services ("DDES") began to investigate Shear's operations. In October 2006, DDES issued an administrative order. Among other things, the order found Shear was operating a materials processing facility in a critical area without a permit.

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In order to determine whether the use of the Property as a materials processing facility existed prior to September 2004, the court had to determine "how the King County Code provisions allow[ed] uses to vest as nonconforming uses." Importantly, the court found that the past-tense form of the word "establish" was used twice in the Code's definition of "nonconforming." The court found that this showed that the use must already be established in order to be considered a nonconforming use.

The court next looked to what was required by the Code for a use to be "established." Again, the Code stated that a use was permanently established when the use "will or has been in continuous operation for a period exceeding sixty days." Again, the hearing examiner had interpreted the term "will" to mean that the County Code expressly recognized that preexisting uses could vest even if not in full operation. The court disagreed. It found that the term "will" spoke to existing established uses that had not been in operation for 60 days but were expected to continue for more than 60 days. A use in operation for less than 60 days was considered a "temporary use." Thus, the court concluded that "will" did not have any bearing on when a nonconforming use was "established" but instead referred to whether uses that were already "established" were considered "permanent" or "temporary."

The court determined that because Shear was not yet processing materials at the time of the September 2004 zoning change, his use as a materials processing facility was not yet established within the meaning of the Code.

Moreover, the court found no language in the County Code that allowed a landowner to create a preexisting use merely by undertaking preparatory steps with a plan to take action at some unknown time in the future. Thus, the court said that allowing some contemplated future use to be considered a "preexisting" use would be contrary to the requirements of the preexisting use doctrine. Accordingly, the court concluded that Shear failed to show his use was established at the time of the zoning change and therefore a vested nonconforming use.

Case Note:

The court said that if Shear had been fully processing the materials for 15 days (prior to the date of the zoning change), his use would have been established within the meaning of the Code and would have been permanent because it eventually would have been in continuous operation for 60 days.

Case Note:

The case also presented the issue of what effect a nonpermitted activity has on a later claim to a preexisting use when a permit was required for the activity asserted as support for a preexisting use. The hearing examiner had also concluded that permits (which had not been obtained) were required for grading that Shear had performed before the Code revisions. The court said that when a landowner utilizes unlawful methods to establish a nonconforming use, that unlawfulness precludes a subsequent finding of a lawful nonconforming use. Thus, the court found that because Shear had not appealed the ruling that permits were required for the grading, he could not meet the required showing that his use lawfully existed.

Zoning Bulletin

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Variance—Opponent challenges grant of conditional use variance	5
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conflicts with state law and is void

Citation: *Latinos Unidos Del Valle De Napa y Solano v. County of Napa*, 217 Cal. App. 4th 1160, 159 Cal. Rptr. 3d 284 (1st Dist. 2013)

CALIFORNIA (07/11/13)—This case addressed the issue of whether a county's density bonus ordinance—which required developers to include a higher percentage of affordable housing units than required by the state's Density Bonus Law in order to obtain a density bonus—impermissibly conflicted with the state's Density Bonus Law and was thus void.

The Background/Facts: In 1979, the California Legislature enacted the Density Bonus Law (Cal. Gov't Code § 65915). The law aims to address the shortage of affordable housing in California. In essence, the law rewards a developer who agrees to build a certain percentage of low-income housing with the opportunity to build more residences than would otherwise be permitted by the applicable local regulations. More specifically, under the Density Bonus Law, when a developer agrees to construct a certain percentage of the units in a housing development for low- or very low-income households, or to construct a senior citizen housing development, the city or county must grant the developer one or more itemized concessions and a "density bonus." The "density bonus" allows the developer to increase the density of the development by a certain percentage above the maximum allowable limit under local zoning law.

The Density Bonus Law required local governments to adopt an ordinance establishing procedures for implementing the directives of the statute. In 2010, Napa County (the "County") amended its ordinance to implement the state Density Bonus Law. Under the county's new density bonus ordinance (the "Ordinance"), the County would provide a developer with density bonuses when the developer "provides target units in addition to" an inclusionary requirement of up to 20% new dwelling units in a residential development project being made available at prices affordable to moderate-income households.

Latinos Unidos Del Valle de Napa y Solano and certain individuals (hereinafter, collectively, "Latinos Unidos") brought a legal action against the County. Among other things, Latinos Unidos alleged that the County's Ordinance conflicted with the state Density Bonus Law. They alleged that the Ordinance impermissibly required the developer to include a higher percentage of affordable units than the Density Bonus Law required in order to obtain a density bonus.

The trial court disagreed, and issued a decision finding in favor of the County.

Latinos Unidos appealed.

DECISION: Judgment of superior court reversed in part.


Variance—Opponent challenges grant of conditional use variance

Opponent contends zoning board erred by not requiring applicant to prove the negative criteria by “the enhanced quality of proofs”


Citation: *TSI East Brunswick, LLC v. Zoning Bd. of Adjustment of Tp. of East Brunswick*, 2013 WL 3802499 (N.J. 2013)

NEW JERSEY (07/23/13)—This case addressed the issue of whether, in considering an application for a conditional use variance (N.J.S.A. 40:55D-70(d)(3)), the applicant must prove the negative criteria by an enhanced quality of proofs.

The Background/Facts: New Vornado/Saddle Brook, LLC (“New Vornado”) owned a large tract of land in East Brunswick, New Jersey (the “Town”). The site was improved with a large shopping center that included a home improvement store, a variety of retail establishments, and one vacant free-standing building. New Vornado sought to convert the vacant building into an LA Fitness health club.

 Under the Town’s zoning ordinance for-profit health club facilities were a conditional use. Thus, the proposed LA Fitness facility had to comply with the relevant conditions established in the zoning ordinance, including a condition that prohibited such a facility from being located within 500 feet of any residence or residential zone. Because New Vornado’s property was within 500 feet of residences, New Vornado filed an application seeking a conditional use variance to enable it to open the LA Fitness facility.

Ultimately, the Town’s Zoning Board granted New Vornado’s application for a conditional use variance.

 TSI East Brunswick, LLC (“TSI”) was the owner and operator of a New York Sports Club, a for-profit health club that was located in a shopping center across the street from New Vornado’s property. After the conditional use variance was granted to New Vornado, TSI commenced a legal action. TSI asserted that the Zoning Board’s conclusions were flawed. Among other things, TSI argued that New Vornado’s application should have been tested against the standards applicable to a use variance, rather than in accordance with those applicable to a conditional use variance. TSI said this was because the condition related to the 500-foot distance effectively prohibited New Vornado from putting the fitness club in its chosen location. TSI also contended that the Zoning Board had erred by not requiring New Vornado to prove the negative criteria by “the enhanced quality of proofs.”

the conditions fixed by the zoning ordinance, the use “is reconcilable with the municipality’s legislative determination that the condition should be imposed on all conditional uses in that zoning district.” In undertaking that analysis, the court explained, the weighing is entirely different from that demanded for a use variance because the governing body has not declared that the use is prohibited but, instead, has elected to permit the use in accordance with certain expressed conditions. Accordingly, the focus of the analysis is on the effect of noncompliance with one of the conditions as it relates to the overall zone plan, said the court.

In other words, said the court, a use variance “proceeds in the context of a use that the governing body has prohibited, whereas [a conditional use variance] proceeds in the context of a use that, if it complies with certain conditions, is permitted.” The court determined that were it to require an enhanced standard of proofs for the negative criteria be applied in the conditional use context, the court would “effectively erase the distinction that a conditional use creates.” “Rather than recognizing that the use is essentially permitted, albeit with conditions, [the court] would be presuming that the use is prohibited unless the conditions are met or are proven in accordance with the standards ordinarily required to secure a use variance.”

Thus, here, the court upheld the Zoning Board’s conclusion that New Vornado was not required to prove the negative criteria by an enhanced quality of proofs. The court found that the Zoning Board properly applied a standard that involved weighing the proofs as to the negative criteria in order to determine whether, notwithstanding the failure of one of the conditions, the proposal was reconcilable with the zone.

See also: *Coventry Square, Inc. v. Westwood Zoning Bd. of Adjustment*, 138 N.J. 285, 650 A.2d 340 (1994).

See also: *Medici v. BPR Co.*, 107 N.J. 1, 526 A.2d 109 (1987).

Maryland Code § 2-404 governs the issuance of permits to construct emissions sources. Section 2-404(b)(1) prohibits the Department from processing an application for a permit until the applicant submits documentation:

- “(i) That demonstrates that the [proposed source] has been approved by the local jurisdiction for all zoning and land use requirements; or
- (ii) That the source meets all applicable zoning and land use requirements.”

In other words, the successful applicant has to show that the project has received approval from the local authority or otherwise satisfies local law.

Thereafter, Dominion filed a zoning application with the Town of Myersville. In August, the Town of Myersville denied Dominion’s zoning application on the grounds that the proposed compressor station was contrary to the local development plan, endangered public health, and posed a nuisance.

On December 20, 2012, FERC issued a certificate of public convenience and necessity for a number of Dominion facilities, including the compressor station in Myersville. With that certificate, Dominion applied to the Department once again for an air quality permit. Its cover letter stated it now satisfied § 2-404(b)(1) because all local zoning and land use requirements had been preempted by FERC’s certificate and were therefore not “applicable.”

The Department refused to proceed with the application because Dominion had “failed to provide the documentation of compliance required by § 2-404(b)(1).”

Dominion subsequently petitioned the United States Court of Appeals, District of Columbia Circuit, for review of the Department’s reasons for refusing to process its application. (The NGA provides for expedited judicial review of federal or state agency action or inaction that deprives a company building a FERC-certified natural gas facility of an authorization it requires to proceed with construction. (See 15 U.S.C.A. § 717r(d).))

In its petition, Dominion argued that the Department acted contrary to law by requiring a demonstration under § 2-404(b)(1) that the proposed compressor station was in compliance with local law. Dominion argued that the NGA preempted that state law requirement to the extent that it called for more from a natural gas facility than did FERC. Alternatively, Dominion asserted that it had in fact complied with the terms of § 2-404(b)(1). Dominion noted that § 2-404(b)(1) requires documentation of compliance with “applicable” local requirements, then argued that local law preempted by a federal law is not “applicable” because the Supremacy Clause bars its enforcement by a state agency. FERC’s certificate preempts all local requirements that

said the court. According to FERC, “state and local regulation[s] [are] preempted by the NGA to the extent they conflict with federal regulation, or would delay the construction and operation of facilities approved by” FERC. The court said that, presented with a FERC certificate that approved Dominion’s compressor station, the Department had to apply that standard to determine which of Myersville’s zoning and land use requirements it preempted, and which remained “applicable” to Dominion’s compressor station.

The court remanded the matter to the Department to make those determinations. Specifically, the court said that the Department must either identify one or more “applicable” (that is, not preempted) zoning or land use requirements with which Dominion had not demonstrated compliance, or it must process Dominion’s application for an air quality permit.

Case Note:

The Department had asserted 11th Amendment immunity to the jurisdiction of the United States District Court of Appeals, District of Columbia, on the ground that it was an agency of the State of Maryland. The court, however, held that Dominion could proceed against the Department’s Secretary under the doctrine of Ex Parte Young, which provides that the 11th Amendment does not bar suits against state officers for prospective relief.

Zoning News from Around the Nation

COLORADO

The Boulder City Council is considering possible zoning ordinance changes that would affect the sale of alcohol near the University of Colorado Boulder. Reportedly, the City Council plans to consider “a set of possible ordinances that could”: restrict new licenses in the area of the University; or ban new liquor licenses within 500 feet of the University; or only allow Beer & Wine licenses, a new license designation, in the 500-foot area. Another option being considered is a change to the zoning and land use codes “to ban certain types of liquor licenses in the Hill business area—for the so-called ‘high impact’ businesses that stay open after 11 p.m. or that serve primarily alcohol rather than food.”

Source: *Boulder Weekly*; www.boulderweekly.com

ILLINOIS

On August 1, Illinois Governor Pat Quinn signed the Compassionate

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PRACTICE FOOD TRUCKS



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. Rodney Arroyo, AICP, and Jill Bahm, 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

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suppliers and owners—will take place in Portland, Oregon.

On the worldwide stage, the World Street Food Congress is the first of its kind to connect and open up fresh ideas and thought leadership in the massive and growing street-food culture and industry throughout the world. This 10-day street-food festival was hosted in Singapore in January 2013 and featured well-known leaders in the food industry (www.wsfcongress.com).

Faced with inquiries from food vendors, many communities turn to their zoning codes, only to discover that mobile food vending isn't really defined and may not be permitted in the way vendors might like. With the approach to regulating mobile vending varying widely in communities, it can be hard to know where to begin when considering if and how to accommodate food trucks.

WHAT IS MOBILE FOOD VENDING?

Regulatory codes for many communities recognize transient merchants—those goods and services provided by a traveling vendor. The typical ice cream truck would be a good example of a transient merchant who is mobile most of the time, stopping only when requested for a few short minutes. Many operators of today's food trucks or carts, however, are seeking more than a few minutes on the street, sidewalk, or parking lot, staying in place for a few hours to serve breakfast, lunch, or dinner. In fact, when they are located on private property, some food trucks may be in one location for days, weeks, or even months. It is important to make a dis-

inction between the food vendors that are more transient in nature, like an ice cream truck, and those that seek to move about less frequently. Both types of uses can offer benefits to the community, and they will each have different potential issues to regulate.

Many mobile food vendors utilize self-driven vehicles that permit easy relocation throughout the community. However, mobile food vending also includes trailers, food kiosks, and food carts. Food kiosks are temporary stands or booths that are typically intended to sell prepared foods, including ice cream, pretzels, and the like. Food kiosks may be found inside a large office building or shopping mall, but may also be secured for outside use. Some communities, like Maui County, Hawaii, allow a variety of products to be sold at a kiosk, provided certain standards are met (§30.08.030). While temporary in structure, food kiosks are often stationary with a defined location. Food carts allow the vendor to sell from outside the moveable unit and are often used to sell fresh fruits and vegetables. Typically, the food in kiosks and carts is prepared elsewhere and kept cold or hot in the unit. The city of New York encourages "green carts" that offer fresh produce in certain areas of the city and has special regulations for these uses (www.nyc.gov/greencarts).

In communities across the U.S., mobile food vendors are seeking permits to start these innovative businesses. They often run into roadblocks at city hall, because while many zoning ordinances include provisions for temporary

uses, most do not contain current definitions for mobile food vending nor do they include any standards that specifically relate to vending and the issues that may arise. The net result in many communities, intentional or unintentional, is a prohibition on mobile food vending.

THE PROS AND CONS OF MOBILE FOOD VENDING

Over the past few years, most of the economy has been struggling and the workforce has been challenged to adapt. With laid-off workers trying to reinvent themselves and new immigrants looking for opportunities, the number of people starting new businesses is rising. Mobile food vending seems, for some, like a low-cost way to wade into the pool of business ownership. There are a number of reasons why communities may elect to sanction mobile food vending:

- **It provides an opportunity to increase jobs and businesses.** The cost of starting a food truck business can start at \$25,000, where a traditional bricks-and-mortar establishment may start at \$300,000, according to the National Restaurant Association (Emergent Research 2012).
- **It offers opportunities to provide food choices where zoning precludes restaurants.** Traditional zoning codes tend to restrict the uses permitted in office and industrial districts, only allowing uses that narrowly meet the intent of those districts. Office and industrial parks, in particular, are often isolated from the rest of the community, requiring employees to drive to retail and restaurant areas. In addition, some communities may not have access to variety of

- Are these mobile units just for food sales, or can other goods be sold as well?
- Does the community want to increase activity?
- How can the zoning ordinance address upkeep and maintenance?
- When can food trucks operate?
- How are visitor parking and circulation accommodated?
- How are these uses reviewed and permitted?
- What do vendors and their customers want or need?
- How is signage for the mobile unit regulated?
- How is the site lit to ensure safety?

Location

It is common to allow mobile food vending in commercial districts, but some communities add industrial districts or specify mixed use districts. Start with the community's comprehensive plan—is there a need or desire to increase activities in specific parts of the community? Are there concerns about the impact of single-purpose districts (especially office and industrial) on connectivity, traffic congestion, and business

In consideration for existing facilities, some communities decide that there should be a minimum distance between mobile units and bricks-and-mortar restaurants. Some communities try to limit the impact on adjacent residential uses through a distance requirement or by restrictions on hours of operation. Planners should test these locational restrictions to ensure that realistic business opportunities exist. El Paso, Texas, repealed its locational requirement of 1,000 feet from bricks-and-mortar establishments following a 2011 lawsuit to provide sufficient opportunities for mobile food vendors (Berk and Leib 2012). Attorneys Robert Frommer and Bert Gall argue that separation from other establishments is not necessary and that food truck regulations should be narrowly tailored to legitimate health, safety, and welfare concerns, not regulate competition (2012).

The American Heart Association has also looked at location issues related to mobile food vending. They report that several communities across the country prohibit mobile food vending within a certain distance of schools (or

nity and often is related to where mobile food vending is permitted. Some communities allow food trucks on public property but prohibit overnight parking. Where on-street parking is at a premium, communities may consider allowing food trucks to utilize public parking spaces for the same duration as other parked vehicles. Chicago requires food trucks to follow posted meter time restrictions, with no more than two hours in one location. In addition, the city also limits mobile food vending to two hours on private property (§4-8).

In contrast, some communities allow food trucks on private property for up to 30 days or more at one location. For example, Grand Rapids allows concession sales for up to 200 consecutive days over 12 calendar months (§5.9.32.K.6).

Regulations like this may impact vendors in terms of the types of food that can be sold and the manner in which they are prepared, especially when preparation is done on-site. Communities may wish to consider whether the allowed duration is reasonable for food vendors as well as adjacent property owners.



➡ This food truck rally in Royal Oak, Michigan, illustrates how a gathering of food trucks can activate an otherwise underutilized space.

retention and recruitment? Are there any areas in the community where the population is underserved by food choices? Planners can take these concerns to the community and invite residents and business owners to share their thoughts on where mobile food vending might be appropriate and desirable.

Some communities make a distinction between vending on public property, which often requires a license but is not regulated by zoning, and private property, which often requires a temporary use permit and is regulated by the zoning ordinance. When permitted on private property, zoning standards should require evidence of property owner approval.

at school release times) to limit the sometimes nutritionally challenged food choices available (2012). Woodland, California, prohibits mobile food vending within 300 feet of a public or private school, but will allow them on school property when approved by the school (§14-15). In a different twist, the Minneapolis Public School System introduced a food truck program this year to offer free nutritious meals to students during the summer months at four different sites in Minneapolis (Martinson 2013).

Duration

The length of time food trucks are permitted to stay in one place varies widely by commu-

Goods Available for Sale

Some communities, like College Station, Texas, are very specific that the goods sold from mobile vending to be food related (§4-20). This is often borne of a desire to start with mobile vending on a limited basis to gauge its impact. As mobile food trucks become more prevalent, surely people will explore the ideas of starting other types of businesses in this format. Communities may wish to consider the questions raised earlier about location and assess whether or not it makes sense to allow other goods in addition to food to be sold in designated areas. For example, Ferndale, Michigan, allows a variety of wares to be sold by a mobile

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table water, requiring mobile food vendors to store their water in an internal tank. The city also requires vendors to be located within 50 feet of an entrance of a primary building, and drive-through service is expressly prohibited (§3.02.01.A(20)). King County, Washington, requires that all mobile food vending in the county be located within 200 feet of a usable restroom (§5.34).

Signage

Some communities use their existing sign regulations, but others tailor standards for mobile units. In Michigan, both Grand Blanc Township (§7.4.9.F) and Kalamazoo (§§25-63–68) allow one sign on the mobile vending unit itself, but do not allow any other signage. This is fairly common. In many cases, the truck itself essentially functions as one big sign with colorful graphics. Additionally, many mobile food vendors now use social media to get out the word regarding the time and place they will set up shop, potentially reducing the need for additional signage beyond that on the unit itself.

Lighting

Lighting is not as commonly addressed as other issues, especially if a mobile food vending unit is located in an existing developed area, but it is likely presumed that other applicable lighting requirements appropriate to the location are to be followed. Consider adjacent uses and the impact of light trespass and glare. For example, Grand Blanc Township requires mobile food vending units to be lit with available site lighting. No additional exterior lighting is allowed unless permitted by the zoning board of appeals upon finding that proposed exterior lighting mounted to the mobile vending unit will not spill over on to adjacent residential uses as measured at the property line (§7.4.9.F.10).

TESTING, FOLLOW-UP, AND ENFORCEMENT

One of the nice things about mobile food vending is that it is really easy for a community to put a toe in the water and test the impact of regulations on mobile food vendors, other community businesses, and the public, and to adjust the regulations

as appropriate. The Metropolitan Government of Nashville-Davidson County, Tennessee, initiated a test phase beginning April 2012 that will provide evaluative data for a successful mobile food vendor program. The program will initially be operated under a temporary permit issued by the Metro Public Works Permit Office for two specified zones, the downtown core and outside of it. Oakland, California, has a pilot program for "Food Vending Group Sites," defined as "the stationary operation of three (3) or more 'mobile food vendors' clustered together on a single private property site, public property site, or within a specific section of public right-of-way" (§5.51).

Before embarking on extensive zoning rewrites, review the suggested considerations with the community to anticipate and plan for appropriate ways to incorporate this use in a reasonable way. Mobile food vending is on the rise all over the country, from urban sites to the suburbs. When regulated appropriately, mobile food vending can bring real benefits to a community, including jobs, new businesses, fresh food, and vitality.

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