

## **AGENDA**

### **NEW BRIGHTON PLANNING COMMISSION REGULAR MEETING**

**TUESDAY, FEBRUARY 18, 2014  
7:00 P.M.**

**1. Call to Order:**

**2. Roll Call:**

\_\_\_\_ **Bruce  
Howard**

\_\_\_\_ **Erin Nichols  
Matkaiti**

\_\_\_\_ **Michael  
Shardlow**

\_\_\_\_ **Verne  
McPherson**

\_\_\_\_ **Steve  
Danger**

\_\_\_\_ **Greg Meyers**

\_\_\_\_ **Paul Banker**

**3. Agenda Review**

**4. Approval of Minutes**

(A) January 21, 2014

**5. Report on Council Action:** Mary Burg, City Council Member

**6. Public Hearings**

(A) Jim Demetriou, owner of Emerald Manor Apartments, requests a Site Plan and Nonconforming Use Permit to allow construction of 20 additional surface parking stalls at 1380 and 1390 7th ST NW.

(B) Chris Wolla, on behalf of the New Brighton Parks and Recreation Department, requests a Special Use Permit to allow construction of a 30' x 40' maintenance structure at 1975 Silver Lake Road, Brightwood Hills Golf Course.

**7. Adjourn:** \_\_\_\_\_

#### **Work Session**

*(To follow regular meeting)*

Update: Moratorium on development of certain railroad property

Update: Development of a Shoreland Ordinance

Future work session schedule

## PLANNING COMMISSION PROCEEDINGS

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**Regular Meeting – January 21, 2014 7:00 p.m.**

**Present:** Chairperson Bruce Howard, Commissioners Paul Banker, Steve Danger, Erin Nichols-Matkaiti, Mike Shardlow, Greg Meyers, and Verne McPherson

**Absent:** None

**Also Present:** Janice Gundlach-City Planner, and Paul Jacobsen-Councilmember

**Agenda Review:** There were no changes to the agenda.

**Minutes from November 19, 2013:**

**Motion by Commissioner Danger, seconded by Commissioner Shardlow, to approve the November 19, 2013 meeting minutes as presented.**

**Approved 7-0.**

**Council Action:** Councilmember Jacobsen thanked the Planning Commission members for their service to the community stating he valued the work done by this group of individuals. He then discussed the recent action taken by the Council noting a negative levy was approved in December. He reported Brian Strub was welcomed to the City Council and a term sheet was approved with APi. He discussed the APi development in detail.

**Public Hearing:**

- (A) Continuation: Verizon Wireless LLC requests consideration of a Special Use Permit to allow installation of two additional telecommunications antenna on top of the City water tower located at 700 Silver Lake Road.

City Planner Janice Gundlach reported Verizon Wireless LLC is requesting a Special Use Permit to allow installation of two additional telecommunications antenna on the top of the City's water tower located at 700 Silver Lake Road. Verizon Wireless LLC currently has eight antennas at this location and wishes to increase their antenna amount to ten. All telecommunication uses are specially permitted uses in New Brighton. Because Verizon's original approval only allowed for eight antennas, a new Special Use Permit must be approved to increase the amount. No substantive changes will be made to the ground equipment or lease space.

City Planner Gundlach explained currently, several telecommunication providers use the water tower site at 700 Silver Lake Road for antenna display. The City consults a special water tower professional to review all plans and ensure the water tower facility will not be negatively impacted in any way. This consultant has reviewed the plans and determined the two additional antennas, and their method of attachment, can be structurally supported and has approved the plans.

City Planner Janice Gundlach reported the Planning Commission originally heard this request at the November 19, 2013 Planning Commission meeting. Following preparation of the written staff report a resident made inquiry regarding a potential interference problem between over-the-air TV reception and the existing and proposed telecommunications antenna. As such, at staff's recommendation the Planning Commission opened the public hearing on November 19<sup>th</sup>, but tabled action until a noninterference study could be completed.

Planner Gundlach indicated Verizon Wireless LLC commissioned Owl Engineering & EMC Test Labs, Inc. to conduct a noninterference study for the water tower site at 700 Silver Lake Road. The purpose of the study was to determine if any of the existing equipment on the tower was interfering with one another, as well as determining if there was interference

to radio, television, or other existing broadcast communications systems in the area. This study was completed and Owl Engineering provided a letter dated December 10, 2013 discussing the results.

Planner Gundlach explained that following submittal of the engineering analysis, staff inquired as to the methods used to ensure over-the-air broadcast television was not being interfered with as the letter from Owl Engineering suggested it was merely an “opinion”. At staff’s request, Verizon Wireless instructed Owl Engineering to meet with the affected resident who made the initial interference inquiry. This meeting is supposed to occur January 17<sup>th</sup> through 19<sup>th</sup>. Verizon Wireless has requested to move forward as they are confident their antennas are not the problem. Nonetheless, if the homeowner’s issues are not resolved, there may be a need to further discuss with Owl Engineering if there is a way to determine, with certainty, that Verizon’s antenna are not causing the problem.

Planner Gundlach commented that the engineering analysis conducted by Owl Engineering indicates there are and will be no interference issues with construction of two additional telecommunications antenna for Verizon Wireless atop the existing City water tower at 700 Silver Lake Road. As such, staff’s original analysis discussed in the Planning Report dated November 14, 2013 remains unchanged and staff continues to recommend approval of the request.

Garrett Glyziak, Owl Engineering, explained he owned an independent consulting firm and was hired to complete the noninterference study for Verizon Wireless. He discussed his findings with the Commission noting he had no reason to believe the two additional Verizon antennas would cause any interference. It was his opinion that the resident with TV interference issues required a digital antenna due to reflections. The problem could be corrected with a new digital antenna. He explained he drove the neighborhood surrounding the water tower and found there to be no interference.

Commissioner Danger asked if the homeowner had a UHF antenna. Mr. Glyziak deferred this question to the homeowner. He discussed how the digital broadcasting signals could be reflecting around this home creating mixed signals for the homeowners TV.

Chairperson Howard questioned how Mr. Glyziak came to the determination that there was no interference from the antennas on the water tower. Mr. Glyziak explained that he reviewed every frequency and wave ban combination, including public safety on the water tower and his results showed no low order mixes. He commented he included UHF television and radio frequencies as well. He reported the only interference found at the water tower site was between the cell carriers themselves.

Commissioner Danger encouraged the homeowner to change out his antenna to a digital model.

Fred Malford, 721 Redwood Lane, explained he lived directly west of the water tower. He indicated he found the entire antenna situation confusing but he was the only person in the neighborhood with interference issues. He commented he purchased a flat screen TV several years ago and had it hooked up to his old UHF/VHF antenna. He appreciated the suggestions from Mr. Glyziak with regard to the digital antenna. He indicated his TV concerns over a year ago and have subsided this winter, now that there was snow on his roof. Mr. Glyziak commented he would be willing to assist Mr. Malford with his antenna situation.

**Motion by Commissioner Nichols-Matkaiti seconded by Commissioner Banker to close the Public Hearing.**

**Approved 7-0.**

**Motion by Commissioner McPherson seconded by Commissioner Meyers, to approve staff recommendation.**

**Approved 7-0.**

**Other Business:** None.

**Adjournment:**

***Not Approved***

**Motion by Commissioner Nichols-Matkaiti, seconded by Commissioner Shardlow to adjourn the meeting.**

**7 Ayes, 0 Nays, Motion carried.**

**Meeting adjourned at 7:37 PM**

# **PLANNING REPORT**

**DATE:** February 13, 2014  
**CASE:** LP2014-001, NC2014-001  
**SUBJECT:** Site Plan and Nonconforming Use Permit to construct 20 additional surface parking stalls at 1380 & 1390 7<sup>th</sup> ST NW  
**APPLICANT:** Jim Demetriou, property owner

## **REQUEST & BACKGROUND**

The applicant is requesting Site Plan and Nonconforming Use Permit approval to allow expansion of the existing surface parking lot by 20 stalls at the Emerald Manor Apartment complex located at 1380 and 1390 7<sup>th</sup> Street NW. This apartment complex contains 54 units of housing. The expanded parking area would be provided between the two existing buildings. In order to expand the parking lot, an existing concrete pad/barbeque area, fence, and small shed would be removed. To control drainage and meet Rice Creek Watershed District requirements, the applicant has proposed a small drainage basin at the west end of the expanded parking area. Any exterior expansion of a building or structure (such as a parking lot) requires review and approval of a Site Plan. Additionally, because these buildings pre-date the existing multi-family residential standards there are several nonconformities on-site requiring a Nonconforming Use Permit.

In conjunction with the 20 new surface parking stalls, the applicant is proposing to re-surface the existing parking lot and install new speed bumps to slow traffic through the parking lot. The applicant has also indicated that last summer the existing detached garages were repaired and painted at the request of the City's Code Enforcement Officer and Crime Free Multi-Family Police Office. As stated in the applicant's narrative, these improvements collectively are having, and will have, a positive impact on the property.

## **ATTACHMENTS**

A – Resolution  
B – Project Location Map  
C – Zoning Map  
D – Aerial Photo  
E – Neighborhood Notification Map  
F – Applicant Narrative  
G – Interoffice Engineering Memo  
H – Sheet T: Title Sheet  
I – Certificate of Survey  
J – Sheet C1: Demolition Plan  
K – Sheet C2: Paving & Dimension Plan  
L – Sheet C3: Grading & Erosion Control Plan

## **FINDINGS**

Article 4, Chapter 4, R-3A District.  
Section 4-490. Design Guidelines – Multiple Family Housing (adopted in 2001)  
Section 8-010. Site Plan Approval.  
Section 8-460. Regulations as to Type 4 Nonconformities.  
Chapter 11, Parking Standards.

## SITE CHARACTERISTICS

Location:	1380 & 1390 7 <sup>th</sup> ST NW
Lot Size:	1.73 acres (75,360 SF)
Topography:	generally flat
Comprehensive Plan Designation:	HDR, High Density Residential
Zoning:	R-3A, High Density Residential
Surrounding Land Uses:	
North:	apartments
South:	7 <sup>th</sup> ST NW, single family homes
East:	cemetery
West:	apartments

## SITE PLAN ANALYSIS

A Site Plan analysis is required to determine if the proposed parking area will meet minimum requirements. The project impacts the requirements related to parking setbacks and the minimum amount of off-street parking stalls that is required per site based on use. Staff also sought input from the Public Safety and Public Works/Engineering Departments. Analyses of these issues are as follows:

### Parking Setbacks

Section 11-020(6)	Required	Proposed
<i>Front</i>	30'	No change
<i>Side (west)</i>	15'	60'
<i>Side (east)</i>	5'	No change
<i>Side (north)</i>	5'*	No change

\*0' is allowed per Zoning Code Section 11-040(7) when joint facilities exist (the applicant has an easement with the property owner to the north for shared access)

The only setback impacted by the proposed project is the distance from the proposed parking area to the western property boundary. All other yards are not encroached upon further by the project. As illustrated in the above table, all parking lot setbacks have been met.

### Required # of Parking Stalls

Zoning Code Section 11-030 provides a standard for the minimum amount of off-street parking stalls that are required per site, based on use. Section 11-030(3) (D) states that 2 stalls shall be provided per dwelling unit with half of those being enclosed. Additionally, 1 visitor stall shall be provided for each unit up to 10 units and .5 visitor stalls shall be provided for each unit over 10 units. The apartment complex contains 54 total dwelling units. This equates to the following:

$$54 \text{ surface stalls} + 54 \text{ enclosed stalls} + 10 \text{ visitor stalls} + 22 \text{ visitor stalls} = 140 \text{ total stalls}$$

Currently, the site contains 52 parking stalls, 37 of which are surface stalls and 15 of which are enclosed. The applicant is proposing 20 additional stalls, accomplishing a total of 72 total stalls on site. Constructing 20 additional parking stalls is necessary in order to achieve closer

compliance with the minimum standard. This topic is discussed below in the Nonconforming Use Permit Analysis section. While even more additional parking is needed (at least on paper), there are no more available areas to construct parking without encroaching on required setbacks.

### **Public Safety Comments**

Public Safety staff reviewed the plans and had no comments.

### **Public Works/Engineering Comments**

Public Works/Engineering staff reviewed the plans and provided comments in the attached Interoffice Engineering Memo dated 2-13-2014, which is attached. These comments are proposed as a condition of approval.

### **NONCONFORMING USE PERMIT ANALYSIS**

The Emerald Manor apartments were constructed in 1964, the same year New Brighton is believed to have adopted its first Zoning Code (August 13, 1964). Therefore, it's likely these building were constructed prior to enacting multi-family residential building standards. Because these buildings pre-date existing ordinances it's not unusual for several nonconformities to exist. Staff has identified the following nonconformities:

- A minimum lot area less than required by current code (135,000 SF required where only 75,360 SF exists).
- A front yard parking lot setback of 18' when 30' is normally required (along 7<sup>th</sup> ST NW).
- Off-street parking stalls less than required by current code. 140 parking stalls are required (54 of which should be enclosed) and 52 parking stalls exist (15 of which are enclosed).
- A building (detached garage structure) located less than 50' from a property line abutting an R-1 zone (cemetery to the east is zoned R-1). Actual setback of garage structure is 6'. It's also worth noting that detached garage structures are not permitted under current code (only underground or attached is allowed).
- A parking area less than 15' from a building (east end of southerly building). This is a design guideline of Section 4-490, which wasn't adopted until 2001.
- A two-way drive aisle less than 24' at 18' (main entrance off 7<sup>th</sup> ST). It should be noted that shared driveway easements are in place with the property to the north, where minimum widths are met for two-way traffic.

These nonconformities are not uncommon for much of New Brighton's multi-family housing stock as a majority of it was built in the early 1960's. The largest nonconformity relates to available off-street parking. The applicant is proposing 20 additional parking stalls, making an effort to better comply with current minimum parking standards, achieving a total 72 stalls where 140 is required.

Per Zoning Code Section 8-460(2), a nonconforming use permit may only be granted if one or more of the following conditions are met (staff responses in *italics*):

- A. The total number of nonconformities is reduced.

*The applicant is proposing to reduce the level of nonconformity related to available off-street parking. Currently, 52 parking stalls are available when 140 are required under current code. With the proposed plan, 20 new surface parking stalls are proposed, bringing available off-street parking to 72 stalls. This is a reduction in nonconformity of 23%.*

B. The impact of any nonconformity upon adjacent premises is reduced to the greatest practical extent.

*Adding the additional parking likely decreases the impact of the nonconformity upon adjacent premises in that tenants of Emerald Manor are less likely to find and utilize parking off-site.*

C. The extent of any nonconformity is reduced where practical.

*None of the other nonconformities are practical to reduce as it would entail a loss of parking or acquiring additional property, which isn't available.*

Based on the above nonconforming analysis, staff finds the nonconforming use permit criteria of Section 8-460 to be met and would recommend approval.

**STAFF RECOMMENDATION**

Approve the request as submitted and subject to compliance with the items noted in the Interoffice Engineering Memo dated 2-13-2014.



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Janice Gundlach, Planning Coordinator



**RESOLUTION  
PLANNING COMMISSION  
CITY OF NEW BRIGHTON**

**RESOLUTION** MAKING FINDINGS OF FACT AND RECOMMENDING APPROVAL OF A SITE PLAN AND NONCONFORMING USE PERMIT.

**WHEREAS**, an application has been made by Jim Demetriou on behalf of Emerald Manor apartments to consider a Site Plan and Nonconforming Use Permit to allow construction of 20 additional surface parking stalls at 1380 & 1390 7<sup>th</sup> ST NW, and

**WHEREAS**, the procedural history of the application is as follows:

1. An application for a Site Plan and Nonconforming Use Permit were received on January 14, 2014.
2. A public hearing notice was published in the *New Brighton Sun Focus* on February 7, 2014.
3. Public hearing notices were mailed to property owners within 350' of the golf course property on February 7, 2014.
4. The Planning Commission, pursuant to published and mailed notices, held a public hearing on February 18, 2014 where all interested parties were heard.
5. The Planning Commission recommended approval on February 18, 2014.

**WHEREAS**, the Planning Commission makes the following Findings of Fact with respect to the proposed Site Plan (LP2014-001) and Nonconforming Use Permit (NC2014-001):

1. The property is located at 1380 & 1390 7<sup>th</sup> ST NW.
2. The property is zoned R-3A, High Density Residential.
3. The property is guided in the Comprehensive Plan for HDR, High Density Residential.
4. The total property area is approximately 1.73 acres.
5. The applicant proposes to construct 20 additional surface parking stalls between the existing two buildings. The proposed project includes removal of the concrete pad/barbeque area, fence, and small shed to make room for the additional parking stalls.
6. The Planning Commission reviewed Site Plan in accordance with Zoning Code Section 8-010, and found all applicable criteria to be met.
7. The Planning Commission considered the parking setback standards of Section 11-020(6) and the off-street parking stall requirements of Section 11-030.
8. Several nonconformities were examined as outlined in the written Planning Report dated 2-13-2014.
9. The Planning Commission reviewed the Nonconforming Use Permit criteria in accordance with Zoning Code Section 8-460.
10. The Planning Commission found the nonconformity related to off-street parking will be reduced with construction of the proposed 20 parking stalls.
11. The Planning Commission determined the other nonconformities outlined in the written Planning Report cannot practically be reduced and/or eliminated without further negatively impacting parking.
12. The Planning Commission recommended the City Council approve the Site Plan and Nonconforming Use Permit requests.

**NOW THEREFORE BE IT RESOLVED** that based upon the above findings of fact the application for a Site Plan (LP2014-001) and Nonconforming Use Permit (NC2014-001) is hereby recommended for approval, subject to the following condition:

1. Compliance with the items noted in the Interoffice Engineering Memo dated 2-13-2014.

**Adopted** this 18<sup>th</sup> day of February, 2014.

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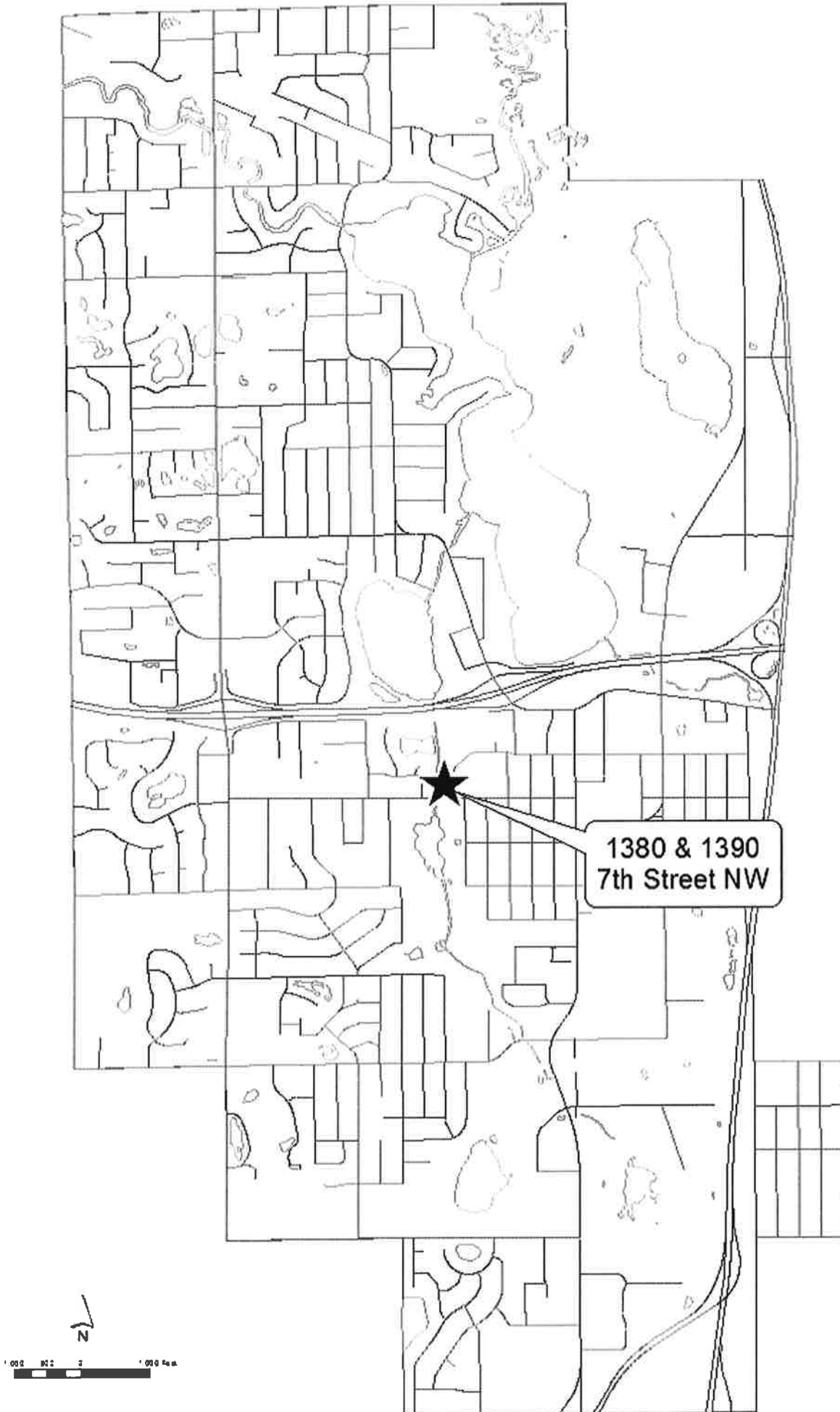
Bruce Howard, Planning Commission Chair

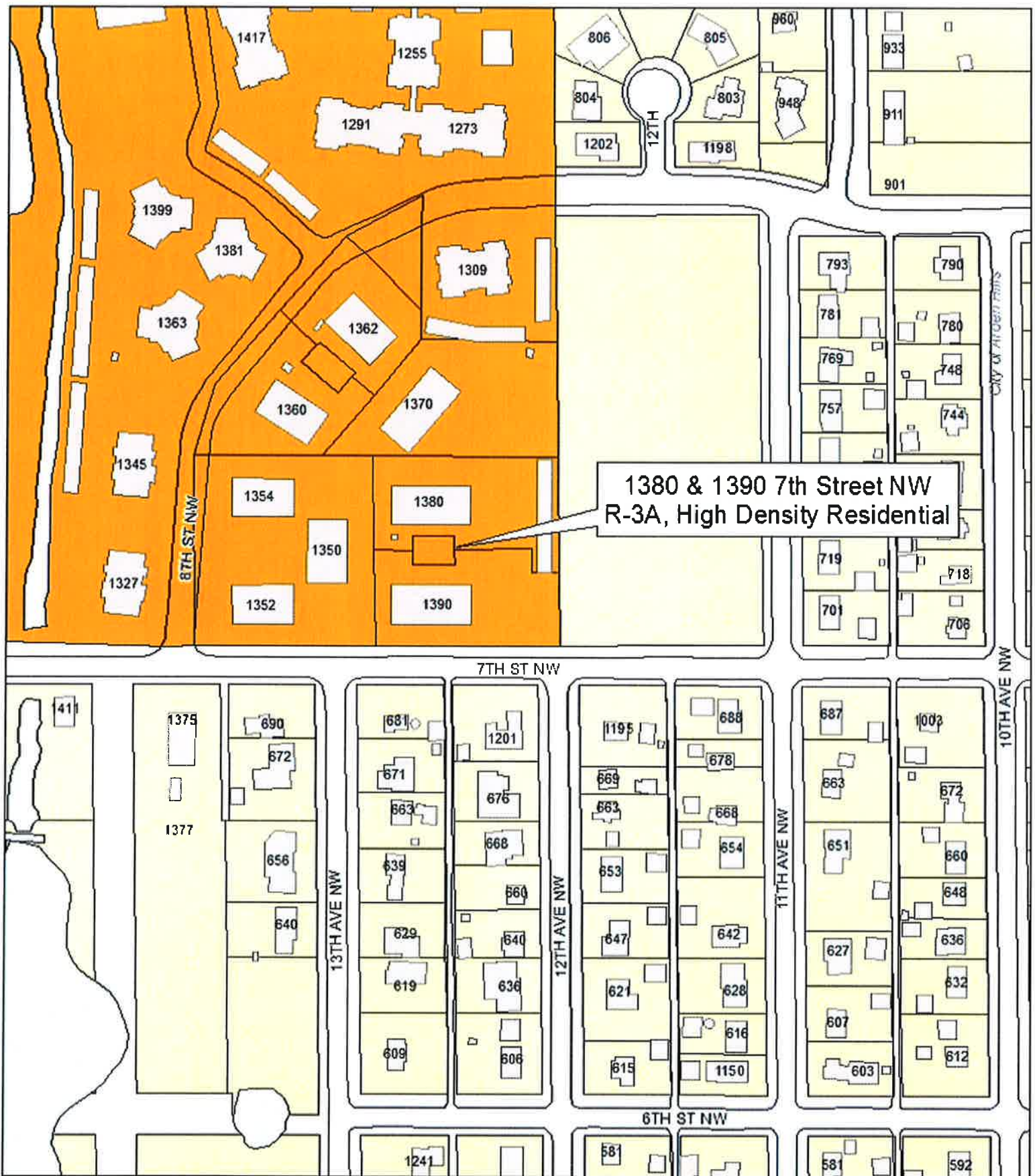
ATTEST:

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Janice Gundlach, City Planner

# Location Map - 1380 & 1390 7th St. NW



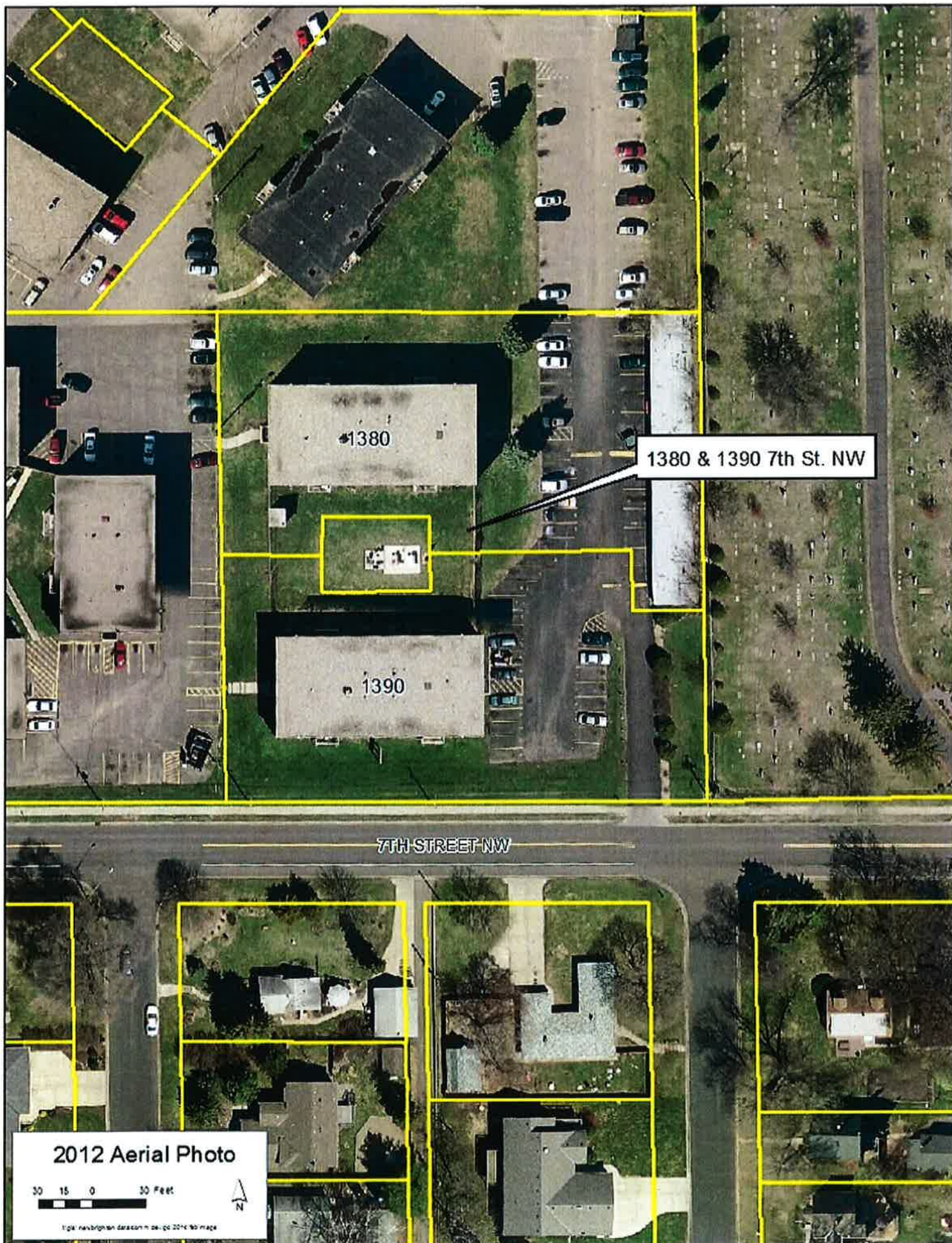


- R-1. Single Family Residential
- R-3A. High Density Residential



**Current Zoning**  
**1380 & 1390 7th St. NW**  
**High Density Residential**







350' Mailing Buffer - 1380 & 1390 7th St. NW



## Improvements to Emerald Manor, 1380 & 1390 7<sup>th</sup> ST NW

The parking lot project includes expansion of the existing parking lot, to the west, by 20 stalls. These stalls are necessary in order to serve our tenants. The expanded parking area will be between the two buildings. In order to realize the 20 new parking stalls, the existing fencing and barbeque area will be removed. Also, a small shed located at the west end of the site will also be removed to make room for a small drainage feature, which will accommodate the run off from the new parking area. We plan to complete this project by Fall 2014.

In conjunction with construction of the new parking stalls, we will be resurfacing the existing lot and installing new speed bumps to slow traffic through the lot. Over the last year, we've also painted the detached garages per the request of the City's Code Enforcement Officer and Crime Free Multi-Family Police Officer. Collectively, we believe these improvements have a positive impact to our property.



## **interoffice**

### **MEMORANDUM**

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**to:** Janice Gundlach, City Planner  
**from:** Craig Schlichting, Senior Engineering Supervisor  
**subject:** Emerald Manor - Parking Addition  
**date:** February 13, 2014

The Engineering Department has reviewed the site plan for Emerald Manor and we offer the following comments:

#### **Streets-Parking Lot**

1. The owner has indicated adding speed bumps. Detail of design is shown, but location not shown on plans.
2. The existing entrance does not allow for side by side cars and the plans indicate that this undesirable situation will remain.
3. A note shall be added to the plans indicating that the contractor must contact Mark Herrick in the Engineering Department at 651-638-2054 for inspection erosion control measures and storm sewer utility work (i.e filtration basin).
4. The engineer shall verify the location of all small utilities prior to construction to avoid potential conflicts with the proposed excavation of the filtration basin.
5. A maintenance plan should be provided to the City for the proposed filtration basin.

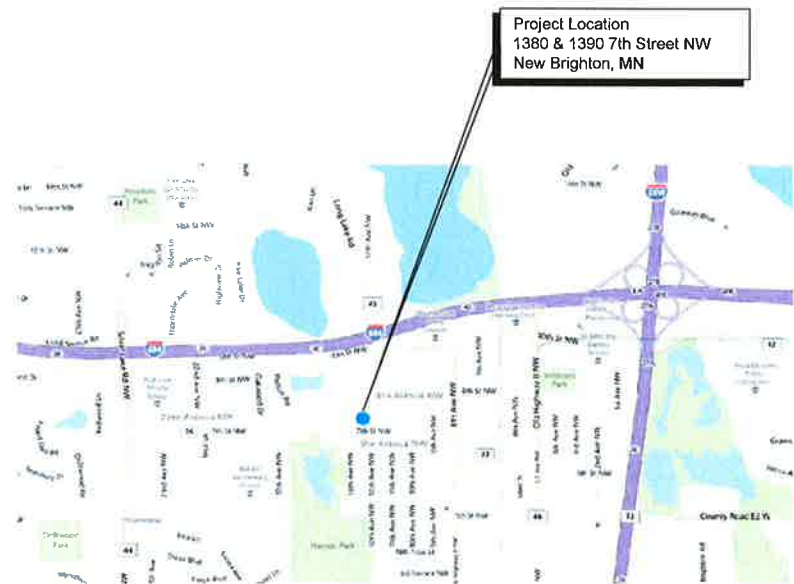
#### **Storm Sewer-Grading**

1. The HWL of the proposed filtration basin is shown on the plans. The engineer shall also provide the appropriate plantings/seed for these features.
2. A rock construction entrance is shown on the plans, and outfall stabilization is provided.
3. Please submit correspondence from Rice Creek Watershed District that no permit is required, or a copy of their permit for erosion control measures for our records.
4. Hydrology calculations have been submitted to demonstrate compliance with rate control measures.
5. The contractor will need to acquire a permit for the movement/placement of dirt. They will need to provide a CY quantity and this will dictate the permit fee.



PROJECT:  
2013 PARKING LOT EXPANSION

VICINITY MAP



INDEX OF DRAWINGS

T	Title Sheet
-	Topographic Survey
C1	Demolition Plan
C2	Paving and Dimension Plan
C3	Grading and Erosion Control Plan

PROJECT CONTACTS

Civil Engineer:  
Eric G. Meyer, P.E.  
Larson Engineering, Inc.  
3524 Labore Road  
White Bear Lake, MN 55110  
Tel: 651.481.9120  
Fax: 651.481.9201

Surveyor  
Thomas Hodorff, L.S.  
HSJ Land Surveyors  
9063 Lyndale Ave S  
Bloomington, MN 55437  
Tel: 952.884.5341  
Fax: 952.884.5344



Larson  
Engineering, Inc.  
3524 Labore Road  
White Bear Lake, MN 55110  
651.481.9120 (T) 651.481.9201  
www.larsonengr.com

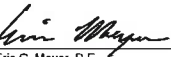
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Client:

EMERALD MANOR  
1380 & 1390 7TH STREET NW  
NEW BRIGHTON, MN

Project Title:

2013 PARKING LOT  
EXPANSION  
1380 & 1390 7TH STREET NW  
NEW BRIGHTON, MN

I hereby certify that this plan,  
specifications or report was prepared  
by me or under my direct supervision  
and that I am a duly licensed  
Professional Engineer under the laws  
of the state of Minnesota.  
  
Eric G. Meyer, P.E.  
Date: 11.18.13 Reg. No.: 44592

Rev.	Date	Description
1	11.07.13	City Comments
2	11.18.13	City Comments

Project #: 12136119  
Drawn By: KBK  
Checked By: EGM  
Issue Date: 11.18.13  
Sheet Title:

TITLE SHEET



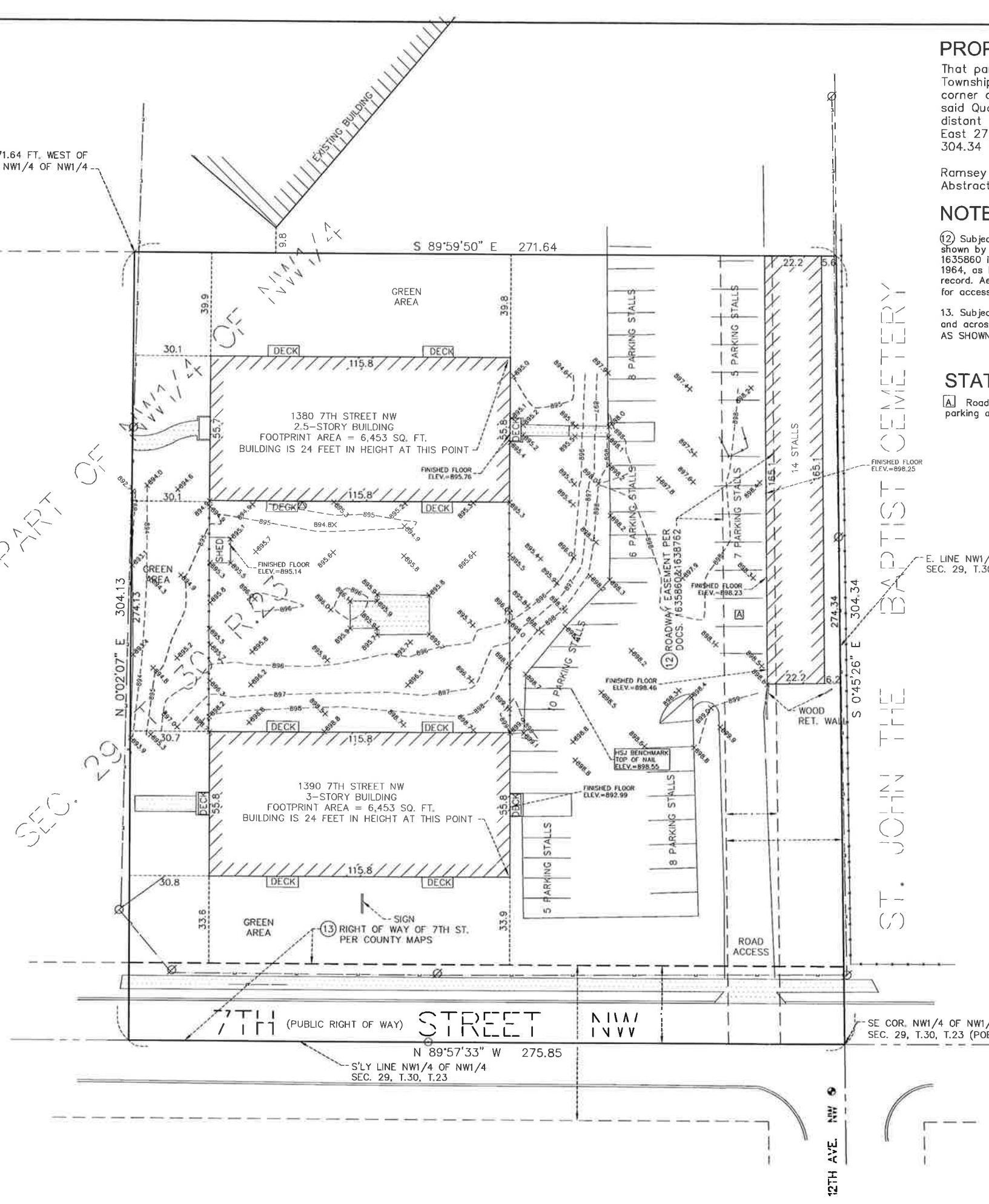
CALL BEFORE YOU DIG!  
Gopher State One Call  
TWIN CITY AREA: 651-454-0002  
TOLL FREE: 1-800-252-1166

T

Sheet: 1 of 5

PT. DISTANT 271.64 FT. WEST OF  
EAST LINE OF NW1/4 OF NW1/4

PART OF  
SEC. 29



## PROPERTY DESCRIPTION

That part of the Northwest Quarter of the Northwest Quarter of Section 29, Township 30, Range 23, described as follows: Commencing at the Southeast corner of said Quarter Quarter section; thence West on the Southerly line of said Quarter Quarter section 275.85 feet; thence North 304.13 feet to a point distant 271.64 feet West of the East line of said Quarter Quarter section thence East 271.64 feet to the East line of said Quarter Quarter section; thence South 304.34 feet to the point of beginning.

Ramsey County, Minnesota  
Abstract Property

## NOTES CORRESPONDING TO EASEMENTS:

(2) Subject to a road easement over the Westerly 20 feet of the Easterly 45 feet of the land, as shown by Warranty Deed dated November 30, 1964, filed December 1, 1964, as Document No. 1635860 in Book 1940, Page 507, by Quit Claim Deed dated November 30, 1964, filed December 31, 1964, as Document No. 1638762 in Book 1946, Page 442, and by numerous other documents of record. Aerial photographs indicate that the easement is used by the adjacent property to the North for access to 7th Street Northwest. (AFFECTS PROPERTY, AS SHOWN ON SURVEY)

13. Subject to the right of way of 7th Street Northwest, formerly known as Cemetery Road, over and across the Southerly boundary of the land, as disclosed by county maps. (AFFECTS PROPERTY, AS SHOWN ON SURVEY)

## STATEMENT OF POTENTIAL ENCROACHMENTS:

(A) Roadway Easement per documents 1635860 and 1638762 appear to encroach onto the parking and above ground garage as shown on survey

## GENERAL NOTES:

- The bearing system used is assumed.
- The location of the underground utilities shown hereon, if any, are approximate only. PURSUANT TO MSA 216D CONTACT Gopher State ONE CALL AT (612) 454-0002 PRIOR TO ANY EXCAVATION.
- Subject property is identified as being in "Zone X, Other Areas" on Flood Insurance Rate Map No. 27123C00126, effective date June 4, 2010.
- Site area = 83,279 square feet = 1.912 acres including 7th Street NW right of way. Site area = 75,009 square feet = 1.722 acres excluding 7th Street NW right of way.
- There are a total of 63 dedicated parking subject property. There are 49 striped stalls and 14 garage stalls 0 designated as handicap.
- This survey was made on the ground.
- No current title work was furnished for the preparation of this survey, legal description, recorded or unrecorded easements and encumbrances are subject to revision upon receipt of current title work.
- Elevation datum is based on NAVD 88 data. H.S. Benchmark is located Top of Nail (AS SHOWN ON SURVEY) Elevation = 898.55

## LEGEND

	Property Monument
	Concrete
	Concrete Curb
	Fence
	Overhead Electric
	Underground Electric
	Underground Telephone
	Water
	Gas
	Sanitary Sewer
	Storm Sewer
	Electric Meter
	Electric Box
	Electric Manhole
	Power Pole
	Hydrant
	Unknown Manhole
	Gate Valve
	Catchbasin
	Catchbasin
	Air Conditioning Unit
	Light Pole
	Gas Meter
	Telephone Manhole
	Telephone Box
	Water Manhole
	Window Well
	Sanitary Manhole
	Storm Manhole
	Existing Contour
	Existing Spot Elevation Gutter
	Existing Spot Elevation



SCALE: 1 INCH = 20 FEET

## REVISIONS

Date:	

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

*Thomas E. Hodoff*  
Thomas E. Hodoff, L.S.  
Minnesota Reg. No. 23677

Date: October 17, 2013

## BOUNDARY AND TOPOGRAPHICAL SURVEY

For:

LARSON ENGINEERING  
OF MINNESOTA

## SITE: EMERALD COURT APARTMENTS

1380 & 1390 7TH STREET NW  
NEW BRIGHTON, MINNESOTA

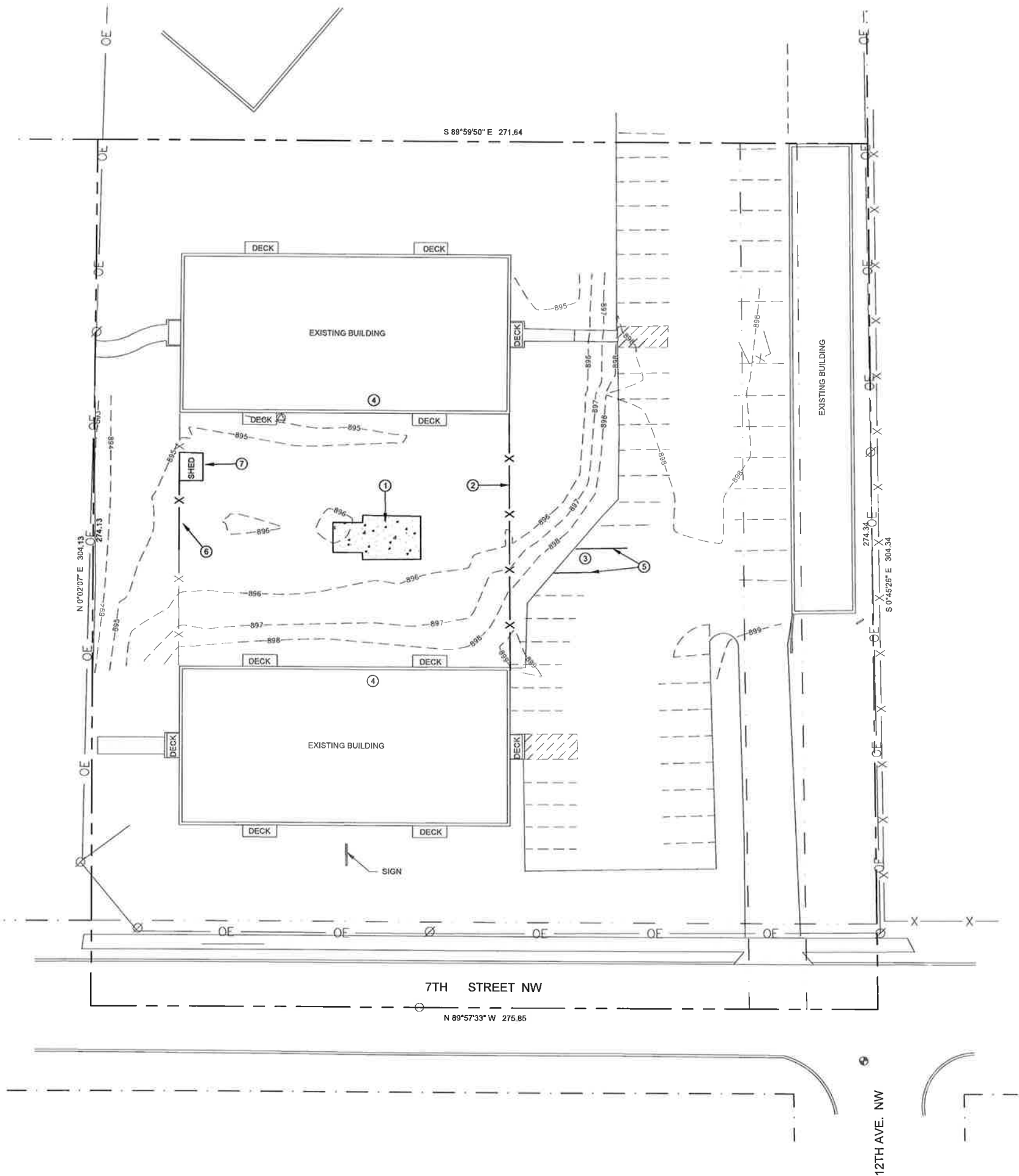
RAMSEY COUNTY

HARRY S. JOHNSON CO., INC.  
LAND SURVEYORS

9063 Lyndale Avenue South  
Bloomington, MN. 55437  
Tele. 952-884-5341 Fax 952-884-5344

www.hsjsurveyors.com

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SYMBOL LEGEND



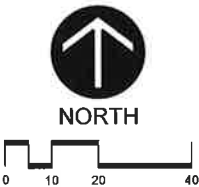
REMOVE AND DISPOSE OF EXISTING  
CONCRETE PAVEMENT SECTION

KEY NOTES

- 1 REMOVE AND DISPOSE OF EXISTING CONCRETE PAVEMENT SECTION.
- 2 REMOVE AND DISPOSE OF EXISTING CHAIN LINK FENCE FABRIC, POSTS AND FOOTINGS.
- 3 PROTECT EXISTING BITUMINOUS PAVEMENT SECTION.
- 4 PROTECT EXISTING BUILDING.
- 5 REMOVE EXISTING STRIPING (GRIND OR WATER/SODA BLASTING).
- 6 REMOVE, SALVAGE, AND REINSTALL FENCE AS NECESSARY FOR GRADING AND DRAINTILE INSTALLATION.
- 7 EXISTING SHED TO BE REMOVED BY OWNER.

DEMOLITION NOTES

1. Verify all existing utility locations.
2. It is the responsibility of the Contractor to perform or coordinate all necessary utility relocations necessary to perform the work shown. These connections include, but are not limited to, water, sanitary sewer, cable tv, telephone, gas, electric, site lighting, etc.
3. Prior to beginning work, contact Gopher State OneCall (651-454-0002) to locate utilities throughout the area under construction. The Contractor shall retain the services of a private utility locator to locate the private utilities.
4. Sawcut along edges of pavements, sidewalks, and curbs to remain.
5. All construction shall be performed in accordance with state and local standard specifications for construction.



**Larson**  
Engineering, Inc.  
3524 Labore Road  
White Bear Lake, MN 55110  
651.481.9120 (f) 651.481.9201  
www.larsonengr.com

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**EMERALD MANOR**  
1380 & 1390 7TH STREET NW  
NEW BRIGHTON, MN

**2013 PARKING LOT  
EXPANSION**  
1380 & 1390 7TH STREET NW  
NEW BRIGHTON, MN

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

*Eric G. Meyer*  
Eric G. Meyer, P.E.

Date: 11.18.13 Reg. No.: 44592

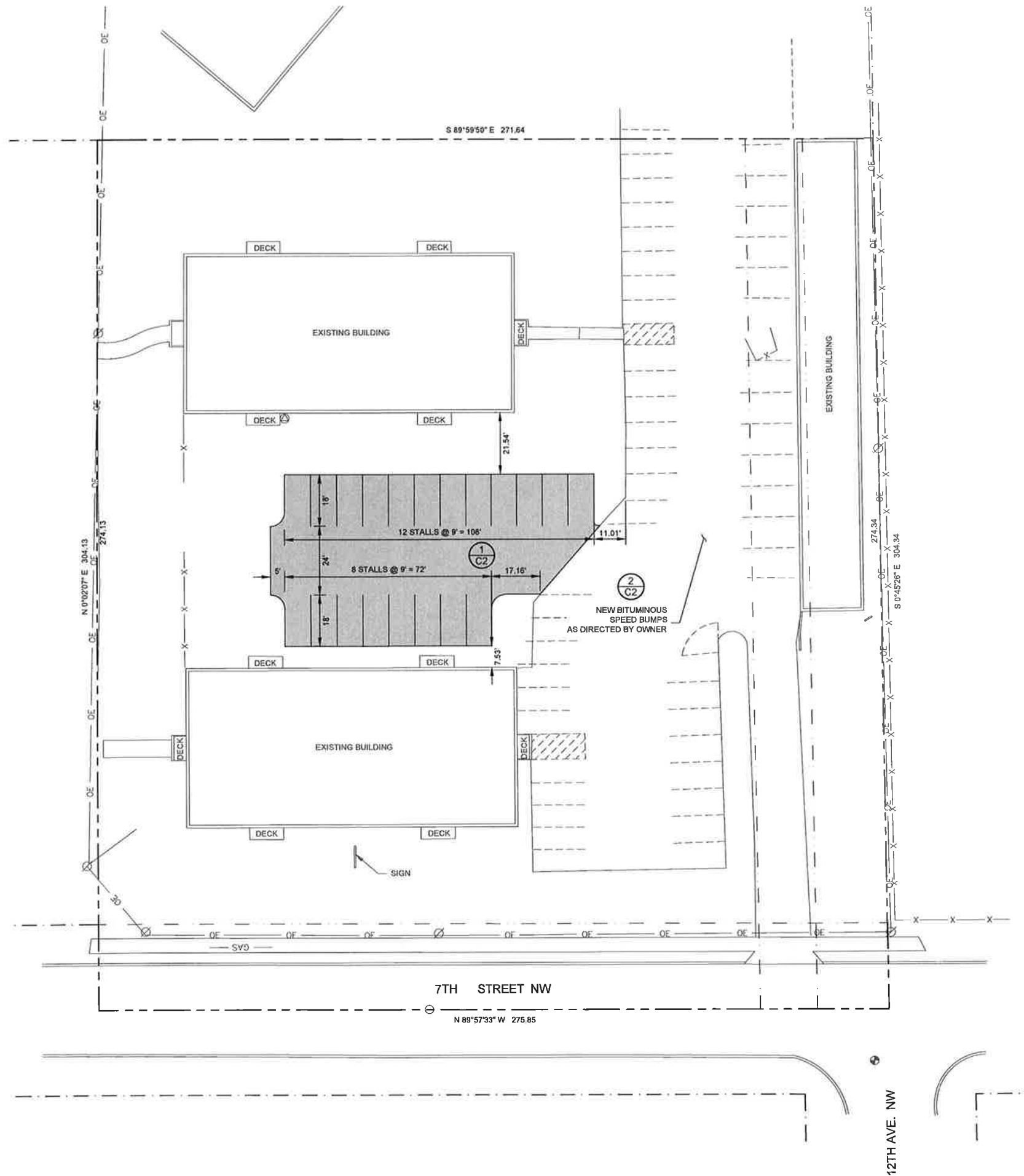
Rev.	Date	Description
1	11.07.13	City Comments
2	11.18.13	City Comments

Project #: 12136119  
Drawn By: KBK  
Checked By: EGM  
Issue Date: 11.18.13  
Sheet Title:

DEMOLITION PLAN

**C1**

Sheet: # of 5



### SITE INFORMATION


SITE AREA: 1.912 ACRES (INCLUDING 7TH STREET NW R/W)  
1.722 ACRES (EXCLUDING 7TH STREET NW R/W)

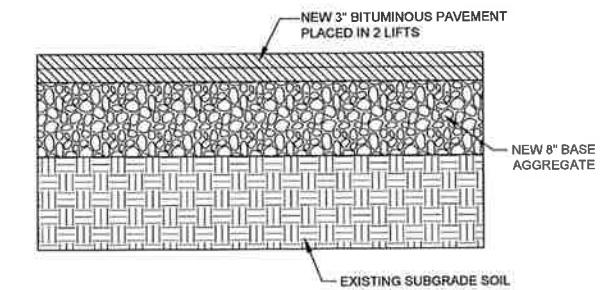
DEMOLISHED IMPERVIOUS: 420 SQUARE FEET

PROPOSED IMPERVIOUS: 5,768 SQUARE FEET

DISTURBED AREA: 9,940 SQUARE FEET

### LEGEND

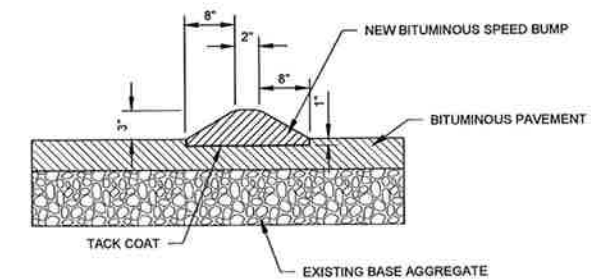
 NEW BITUMINOUS PAVEMENT  
SEE DETAIL 1/C2



BITUMINOUS  
PAVEMENT SECTION

NOT TO SCALE

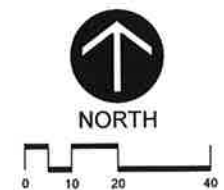
1  
C2



SPEED BUMP DETAIL

NOT TO SCALE

2  
C2



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*Eric G. Meyer*  
Eric G. Meyer, P.E.  
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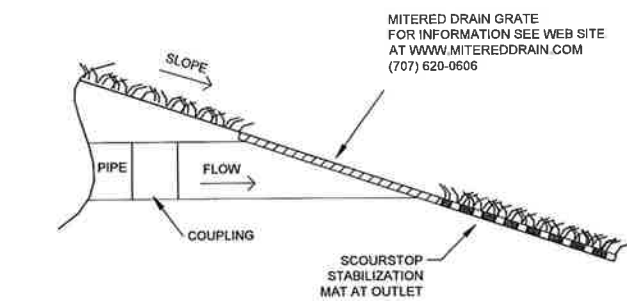
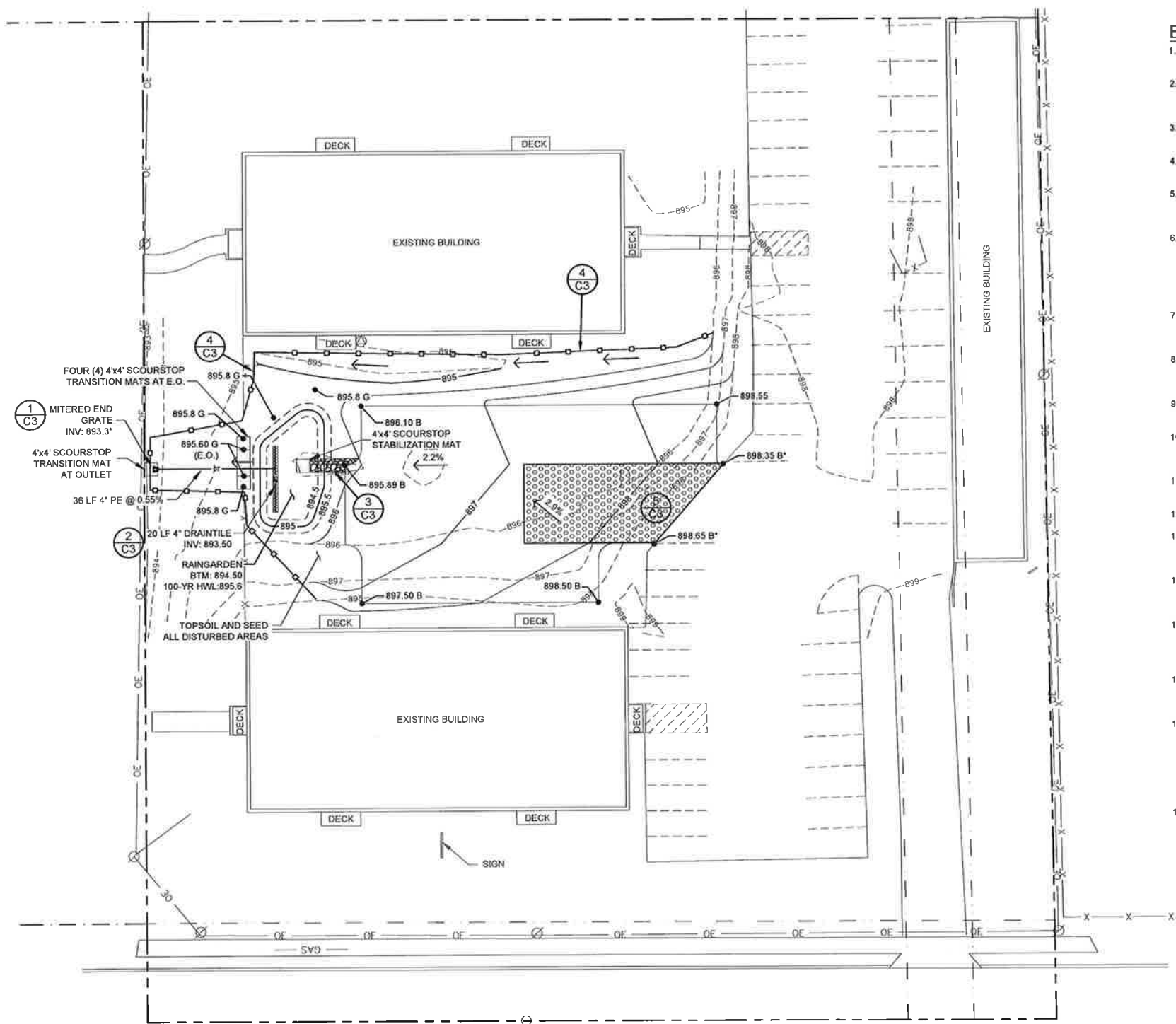
Rev.	Date	Description
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Project #: 12136119  
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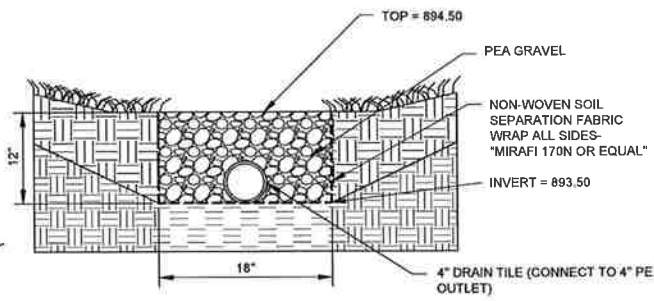
PAVING AND  
DIMENSION PLAN

**C2**

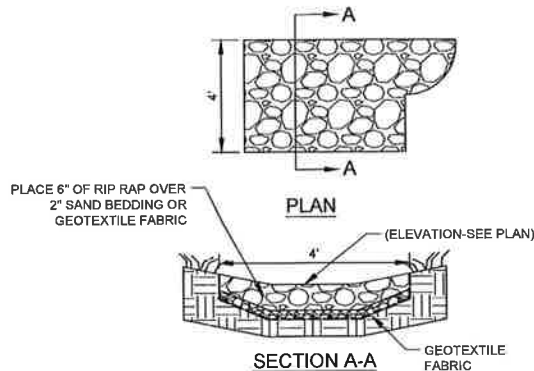
Sheet: 4 of 5



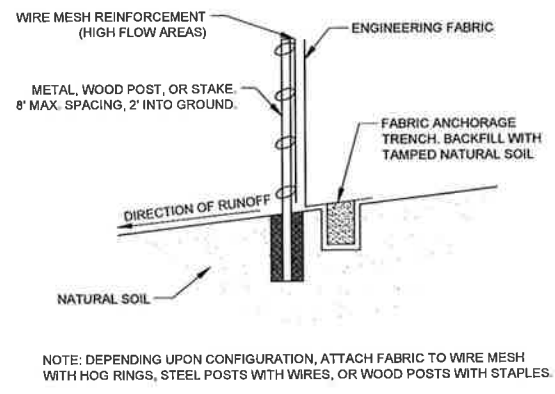
1 C3 MITERED END GRATE DETAIL  
NOT TO SCALE



2 C3 DRAIN TILE SECTION  
NOT TO SCALE



3 C3 RIP RAP OVERFLOW  
NOT TO SCALE

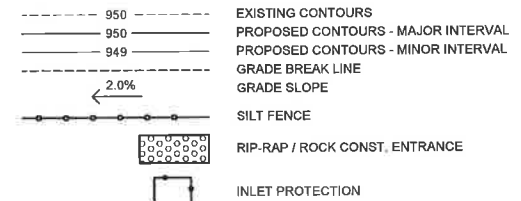


4 C3 SILTATION FENCE INSTALLATION DETAIL  
NOT TO SCALE

## EROSION CONTROL NOTES

1. Install temporary erosion control measures (inlet protection, silt fence, and rock construction entrances) prior to beginning any excavation or demolition work at the site.
2. Erosion control measures shown on the erosion control plan are the absolute minimum. The contractor shall install temporary earth dikes, sediment traps or basins, additional siltation fencing, and/or disk the soil parallel to the contours as deemed necessary to further control erosion.
3. All construction site entrances shall be surfaced with crushed rock across the entire width of the entrance and from the entrance to a point 50' into the construction zone.
4. The toe of the silt fence shall be trenched in a minimum of 6". The trench backfill shall be compacted with a vibratory plate compactor.
5. All grading operations shall be conducted in a manner to minimize the potential for site erosion. Sediment control practices must be established on all down gradient perimeters before any up gradient land disturbing activities begin.
6. All exposed soil areas must be stabilized as soon as possible to limit soil erosion but in no case later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. Temporary stockpiles without significant silt, clay or organic components (e.g., clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles) and the constructed base components of roads, parking lots and similar surfaces are exempt from this requirement.
7. All storm sewer catch basins not needed for site drainage during construction shall be covered to prevent runoff from entering the storm sewer system. Catch basins necessary for site drainage during construction shall be provided with inlet protection.
8. In areas where concentrated flows occur (such as swales and areas in front of storm catch basins and intakes) the erosion control facilities shall be backed by stabilization structure to protect those facilities from the concentrated flows.
9. Inspect the construction site once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours. All inspections shall be recorded.
10. All silt fences must be repaired, replaced, or supplemented when they become nonfunctional or the sediment reaches 1/3 of the height of the fence. These repairs must be made within 24 hours of discovery, or as soon as field conditions allow access. All repairs shall be recorded in the SWPPP.
11. If sediment escapes the construction site, off-site accumulations of sediment must be removed in a manner and at a frequency sufficient to minimize off-site impacts.
12. All soils tracked onto pavement shall be removed daily.
13. Temporary soil stockpiles must have silt fence or other effective sediment controls, and cannot be placed in surface waters, including stormwater conveyances such as curb and gutter systems, or conduits and ditches unless there is a bypass in place for the stormwater.
14. Collected sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, construction and demolition debris and other wastes must be disposed of properly and must comply with MPCA disposal requirements.
15. Oil, gasoline, paint and any hazardous substances must be properly stored, including secondary containment, to prevent spills, leaks or other discharge. Restricted access to storage areas must be provided to prevent vandalism. Storage and disposal of hazardous waste must be in compliance with MPCA regulations.
16. External washing of trucks and other construction vehicles must be limited to a defined area of the site. Runoff must be contained and waste properly disposed of. No engine degreasing is allowed onsite.
17. All liquid and solid wastes generated by concrete washout operations must be contained in a leak-proof containment facility or impermeable liner. A compacted clay liner that does not allow washout liquids to enter ground water is considered an impermeable liner. The liquid and solid wastes must not contact the ground, and there must not be runoff from the concrete washout operations or areas. Liquid and solid wastes must be disposed of properly and in compliance with MPCA regulations. A sign must be installed adjacent to each washout facility to inform concrete equipment operators to utilize the proper facilities.
18. Upon completion of the project and stabilization of all graded areas, all temporary erosion control facilities (silt fences, hay bales, etc.) shall be removed from the site.

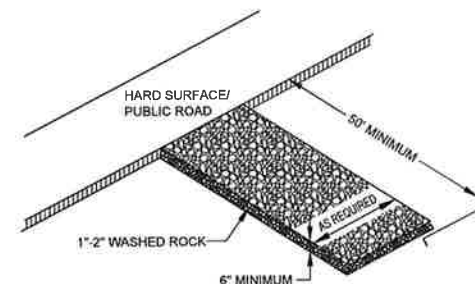
## LEGEND



**SPOT ABBREVIATIONS:**  
TC - TOP OF CURB  
GL - GUTTER LINE  
B - BITUMINOUS  
C - CONCRETE  
G - GROUND  
EO - EMERGENCY OVERFLOW  
TW - TOP OF WALL  
BW - BOTTOM OF WALL (F/G)  
(\*) - EXISTING TO BE VERIFIED

## GRADING NOTES

1. Tree protection consisting of snow fence or safety fence installed at the drip line shall be in place prior to beginning any grading or demolition work at the site.
2. All elevations with an asterisk (\*) shall be field verified. If elevations vary significantly, notify the Engineer for further instructions.
3. Grades shown in paved areas represent finish elevation.
4. Restore all disturbed areas with 8" of good quality topsoil, MnDOT type 260 or 270 seed mix, and erosion control blanket.
5. Install ScourStop stabilization mats (or approved equal) at three (3) concentrated flow areas shown on plan. Install mats according to manufacturer's installation guidelines.
6. All construction shall be performed in accordance with state and local standard specifications for construction.



5 C3 ROCK CONSTRUCTION ENTRANCE  
NOT TO SCALE

**Larson Engineering, Inc.**  
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I hereby certify that this plan, specifications or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the state of Minnesota.

*Eric G. Meyer, P.E.*  
Eric G. Meyer, P.E.  
Date: 11.18.13 Reg No.: 44592

Rev.	Date	Description
1	11.07.13	City Comments
2	11.18.13	City Comments

Project #: 12136119  
Drawn By: KBK  
Checked By: EGM  
Issue Date: 11.18.13  
Sheet Title:

GRADING AND EROSION CONTROL PLAN

**C3**

Sheet: 5 of 5



# PLANNING REPORT

**DATE:** February 12, 2014  
**CASE:** SP2014-001  
**SUBJECT:** Special Use Permit to allow construction of new maintenance garage  
**APPLICANT:** Chris Wolla on behalf of New Brighton Parks & Recreation

## REQUEST & BACKGROUND

Chris Wolla, on behalf of the New Brighton Parks and Recreation staff, request special use permit approval to allow construction of a new maintenance garage structure at Brightwood Hills Golf Course, located at 1975 Silver Lake Road. The golf course is a specially permitted use as the underlying zoning designation is single family residential. As such, in order to erect a new building, a special use permit must be obtained. The proposed garage structure measures 30' x 40' and would replace two existing garages, which have become fatigued over decades of use. The proposed garage structure would house general storage of equipment and materials needed to maintain the golf course. The proposed structure would include steel walls and a steel roof, painted to match the existing club house. The walls of the proposed garage would measure 10' 6" with a peak height of 16'. Two overhead doors and a service door would be installed on the west façade of the proposed building, providing access.

Replacement of the maintenance garage structure will be done in conjunction with other improvements, including new asphalt, grass, and a practice bunker area (illustrated in the site plan detail attached). The proposed garage will be constructed in a flat location and include a concrete floor. The existing vegetation will remain and provide year-round screening. Overall, with the improvements provided, this area of the golf course will be made more aesthetically pleasing for the public and more user-friendly for maintenance staff.

## ATTACHMENTS

A – Resolution  
B – Project Location Map  
C – Zoning Map  
D – Aerial Photo  
E – Neighbor Notification Map  
F – Applicant Narrative  
G – Special Use Permit Criteria Worksheet  
H – Interoffice Engineering Memo  
I – Overall Site Plan  
J – Site Plan Detail  
K – Color Rendering  
L – Floor Plan & Elevation Views

## FINDINGS

Section 4-030(4). Special Permit Uses in an R-1 District.  
Section 8-130. Special Use Standards.

## SITE CHARACTERISTICS

Location:	1975 Silver Lake Road
Lot Size:	1,501,514 SF (34.50 acres)
Topography:	Varies

Comprehensive Plan Designation: P, Park  
Zoning: R-1, Single Family Residential  
Surrounding Land Uses:  
North: church, single family homes  
South: single family homes  
East: single family homes  
West: Silver Lake Road, single family homes

#### **SPECIAL USE PERMIT ANALYSIS**

Per Zoning Code Section 4-030(4), golf courses are specially permitted uses in the R-1, single family residential zoning district. This requires that any exterior change to a building or structure on the site requires review of a special use permit, allowing for adequate notice to neighbor's residing within 350' of the property.

In order to approve a special use permit, the Planning Commission shall find the project meets the following special use standards of Zoning Code Section 8-130 (staff responses in *italics*):

- (1) That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

*Staff finds this criterion to be met. The proposed 30' x 40' garage is needed to improve maintenance and operations at the golf course. Removal of the two, tired existing garages will have a positive impact on the public health, safety, morals, comfort, and general welfare of those using the golf course and nearby uses.*

- (2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

*Staff finds this criterion to be met. The new structure, as well as the other improvements proposed, will be a positive impact to the use and enjoyment of other property in the immediate vicinity. Also, the new structure should have no negative impacts on property values within the neighborhood.*

- (3) That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

*Staff finds this criterion to be met. The areas surrounding the golf course are fully developed and construction of the proposed 30' x 40' garage will not negatively impact these nearby uses. Further, one could argue the impact to nearby uses will be positive in that two tired structures will be replaced with one new structure, improving the aesthetics of the area.*

- (4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

*Staff finds this criterion to be met. Public Works/Engineering staff have reviewed the plans and will assist with any engineering and/or permits necessary to ensure drainage works properly and does not have a negative impact to other areas of the golf course. Additionally, access to electricity and roads is available and will be utilized.*

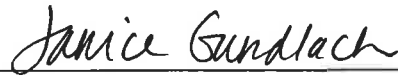
- (5) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.

*Staff finds this criterion to be met. The proposed garage exceeds the minimum setbacks that would be enforced in the R-1 zoning district. The proposed garage also is below the maximum height of 30' at 16'. Lastly, the garage will be constructed with materials and colors that will compliment and/or match the existing clubhouse.*

To conclude, based on the above applicable special use standards, staff finds the proposal to meet the standards of Section 8-130. Additionally, and as noted in criterion number five, the proposed structure meets all development standards of the residential zoning district, including setbacks and building height. Lastly, the exterior materials proposed and the location and size of the structure are specifically meant to not negatively impact surrounding uses and preserve existing landscaping.

**STAFF RECOMMENDATION**

Approve the request as submitted, subject to compliance with the engineering comments stated in the Interoffice Memo dated 2-13-2014.



---

Janice Gundlach, Planning Coordinator



**RESOLUTION  
PLANNING COMMISSION  
CITY OF NEW BRIGHTON**

**RESOLUTION MAKING FINDINGS OF FACT AND RECOMMENDING APPROVAL OF A SPECIAL USE PERMIT.**

**WHEREAS**, an application has been made by Chris Wolla on behalf of the New Brighton Parks and Recreation Department requesting a special use permit to allow construction of a 30' x 40' maintenance garage at 1975 Silver Lake Road, Brightwood Hills Golf Course, and

**WHEREAS**, the procedural history of the application is as follows:

1. An application for a Special Use Permit was received on January 31, 2014.
2. A public hearing notice was published in the *New Brighton Sun Focus* on February 7, 2014.
3. Public hearing notices were mailed to property owners within 350' of the golf course property on February 7, 2014.
4. The Planning Commission, pursuant to published and mailed notices, held a public hearing on February 18, 2014 where all interested parties were heard.
5. The Planning Commission recommended approval on February 18, 2014.

**WHEREAS**, the Planning Commission makes the following Findings of Fact with respect to the Special Use Permit (SP2014-001):

1. The property is zoned R-1, Single Family Residential.
2. The property is guided in the Comprehensive Plan for P, Park.
3. The property address is 1975 Silver Lake Road.
4. The current use of the property is a municipal golf course.
5. New Brighton Parks and Recreation staff has requested a special use permit to allow replacement of two existing storage buildings with one, 30' x 40' maintenance garage, which will be used for general storage of equipment and materials needed to maintain the golf course.
6. The proposal consists of a steel building placed upon a concrete pad, painted in colors to compliment/match the existing clubhouse.
7. The Planning Commission reviewed the proposal in accordance with the following Special Use Permit conditions of Zoning Code Section 8-130:
  - a. That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
  - b. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
  - c. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - d. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

- e. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.
- 9. The Planning Commission found all Special Use Permit criteria of Section 8-130 to be met, based on the following findings:
  - a. The proposed structure is needed to replace two existing buildings that require replacement due to their tired condition.
  - b. The proposed structure will be located in a manner that is nearly 400' from the nearest residence and screened by existing vegetation.
  - c. Other improvements are proposed to this general area of the golf course, including new asphalt, grass, and a putting green, having an overall positive impact on the golf course.
  - d. The proposed structure will not negatively impact drainage and will utilize existing utilities and access roads.
  - e. All other development standards, such as setbacks and building height, meet the standards of the R-1 zoning district.

**NOW THEREFORE BE IT RESOLVED** that based upon the above findings of fact the application for a Special Use Permit (SP2014-001) is hereby recommended to the City Council for approval as submitted, subject to the following condition:

- 1. Compliance with the engineering comments stated in the Interoffice Memo dated 2-13-2014.

**Adopted** this 18<sup>th</sup> day of February, 2014.

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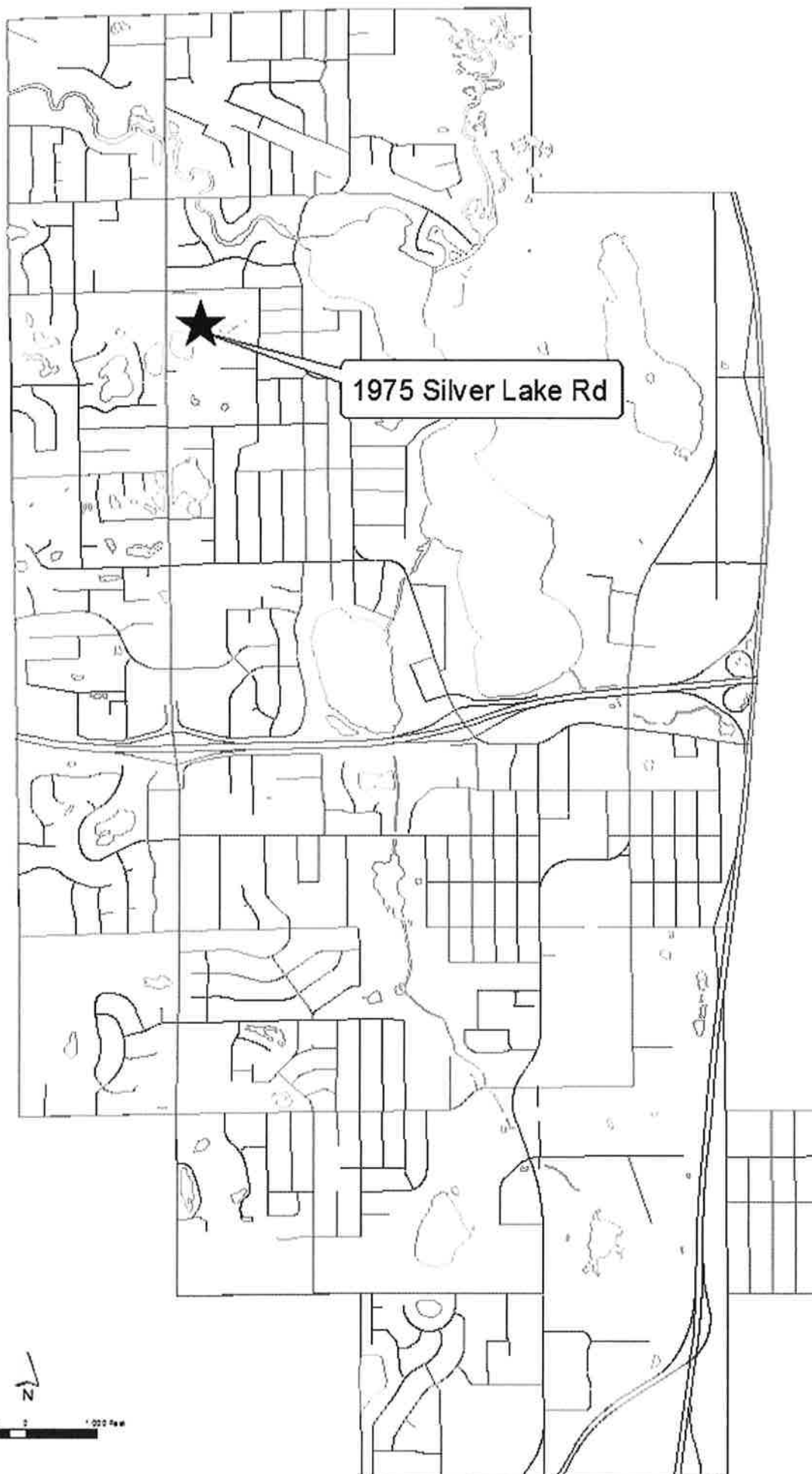
Bruce Howard, Planning Commission Chair

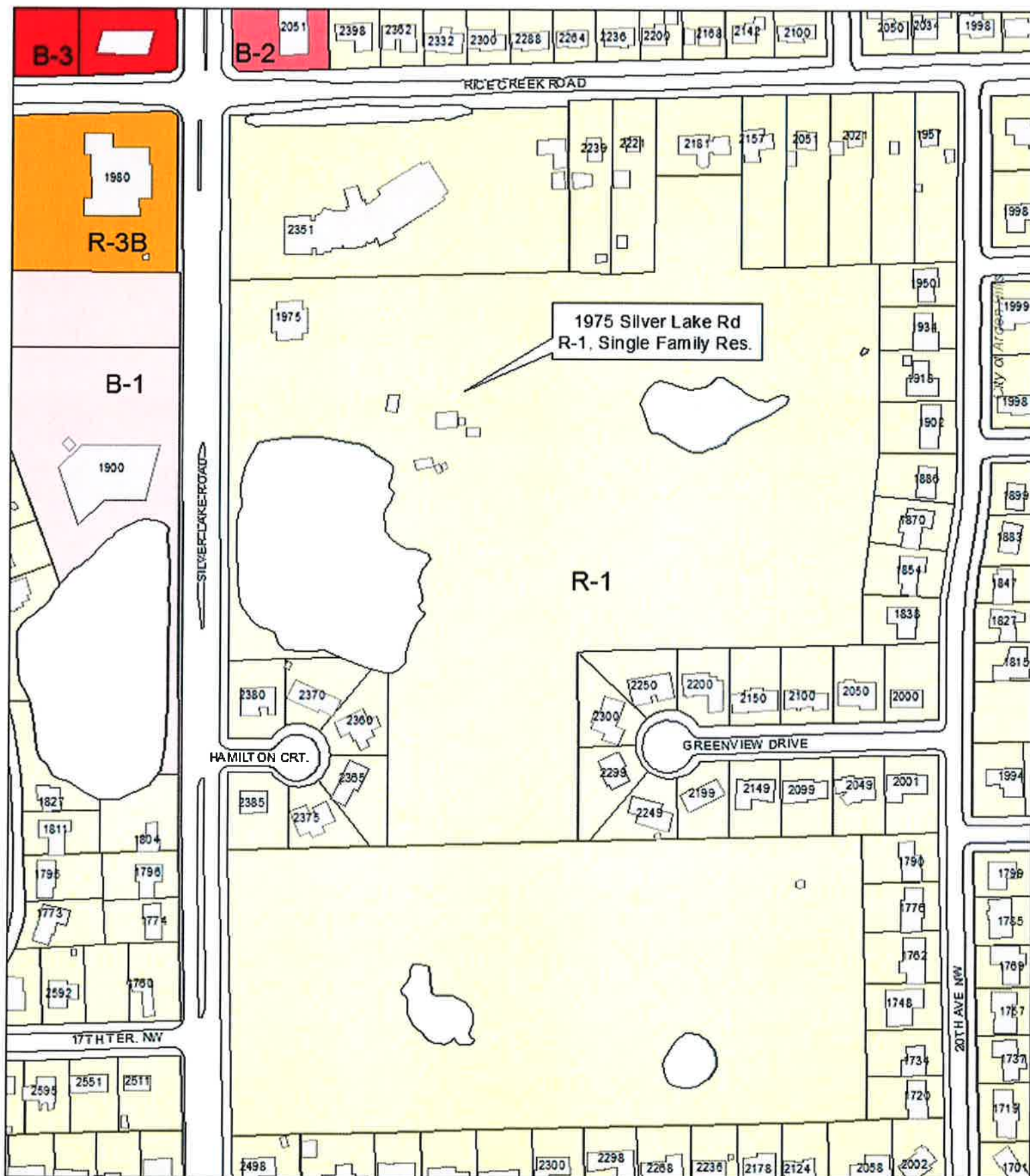
ATTEST:

---

Janice Gundlach, City Planner

# Location Map - 1975 Silver Lake Rd.





- B-1, Limited Business
- B-2, Neighborhood Business
- B-3, General Business
- R-1, Single Family Residential
- R-3A, High Density Residential

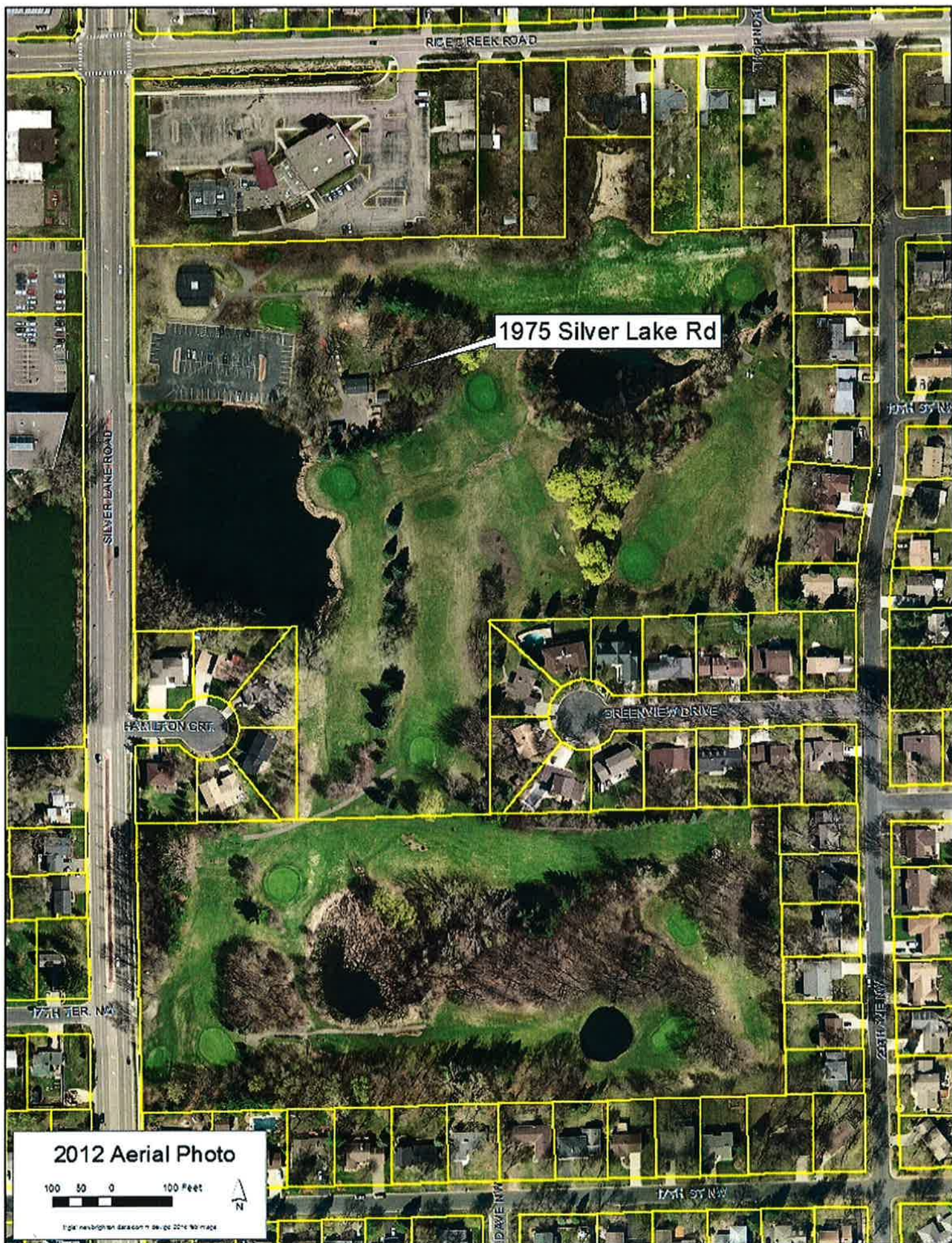


## Current Zoning

### 1975 Silver Lake Rd

### R-1 Single Family Residential





2012 Aerial Photo

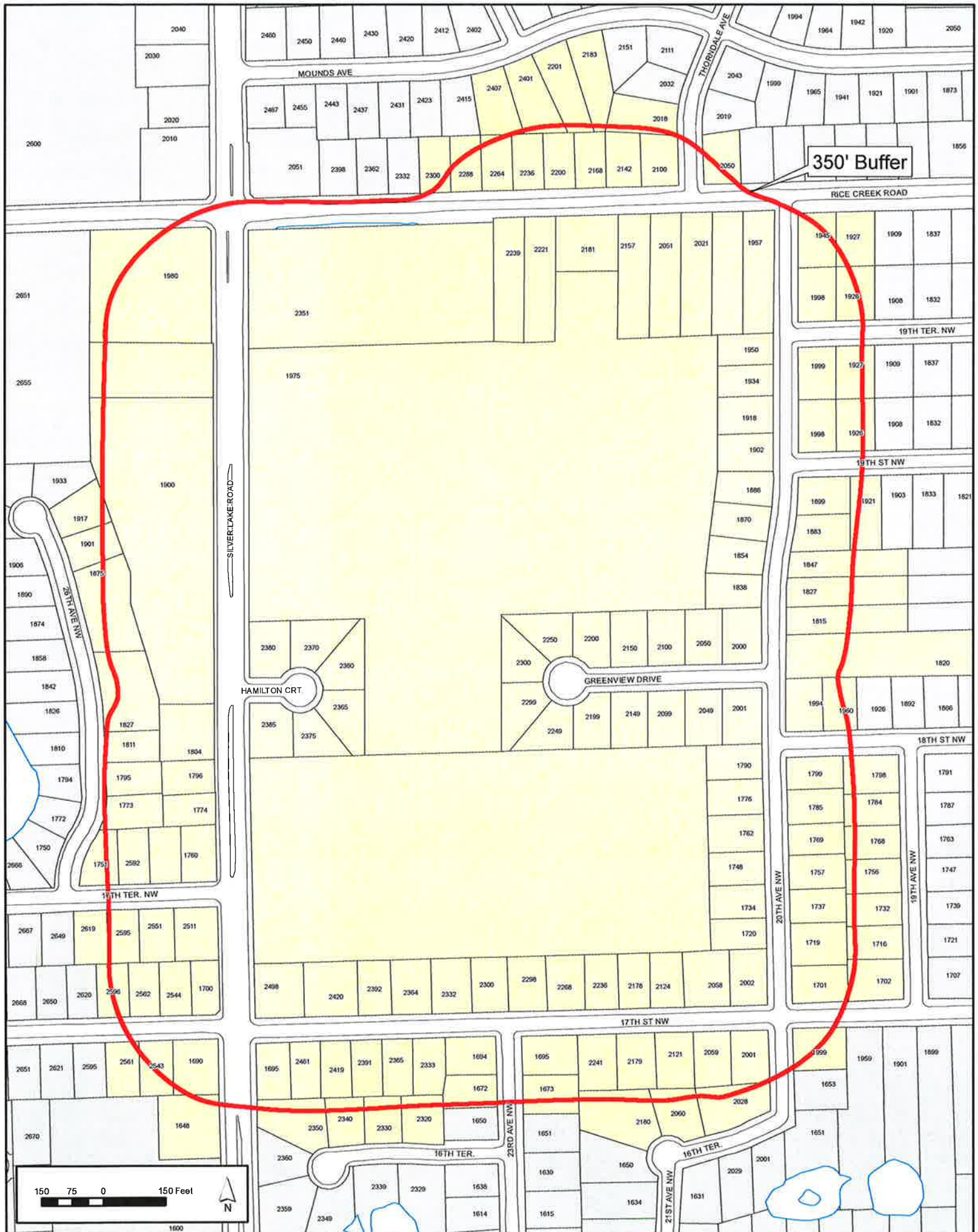
100 50 0 100 Feet



Image: newbrighton datacom n design 2014 9/10 map



# 350' Mailing Buffer - 1975 Silver Lake Rd.



The City of New Brighton is proposing to beautify and improve the maintenance area of Brightwood Hills Golf Course by demolishing the fatigued two maintenance garages and constructing one 30' x 40' new maintenance structure. The new garage will be used for general storage of equipment and materials needed to maintain the course. This new maintenance garage would require minimal grading since the area is flat and the floor would be concrete. The walls of the structure would be approximately 11 feet tall with steel siding and a steel pitched roof with a color that would blend in with the natural outdoor environment. The areas south and west of the proposed structure have existing vegetation for natural screening. With the nearest homes being over 400 feet to the northeast and to the south, the proposed structure likely be only be somewhat visible, thus there should be no negative impacts to nearby residences.

## Special Use Permit Criteria Worksheet

1. The establishment, maintenance or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

With the addition of a larger maintenance garage at Brightwood Hills Golf Course, there is in no way that it will endanger or be detrimental to the public's health or general welfare. In fact, the area will be better maintained and more aesthetically pleasing providing an asset to the community.

2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

The current maintenance garage structures that are currently on site are tired and old hence a new structure will greatly improve the aesthetics to all those who will be able to see the structure.

3. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The proposed new maintenance garage will enhance the surrounding properties and will not impede the normal and orderly development.

4. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

Minimal grading will take place to construct a concrete slab for the flooring of the new maintenance garage. Adequate utilities such as electric and water will be provided and the necessary drainage will be installed.

5. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.

Since Brightwood Hills Golf Course property is zoned residential, all residents within 350 feet of the premise will be notified of the maintenance garage construction and the golf course will comply with any conditions that may be placed on the new garage through the special use permit process.





# interoffice

## MEMORANDUM

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**to:** Janice Gundlach, City Planner  
**from:** Craig Schlichting, Senior Engineering Supervisor  
**subject:** Brightwood Hills, Maintenance Area Reconstruction  
**date:** February 13, 2014

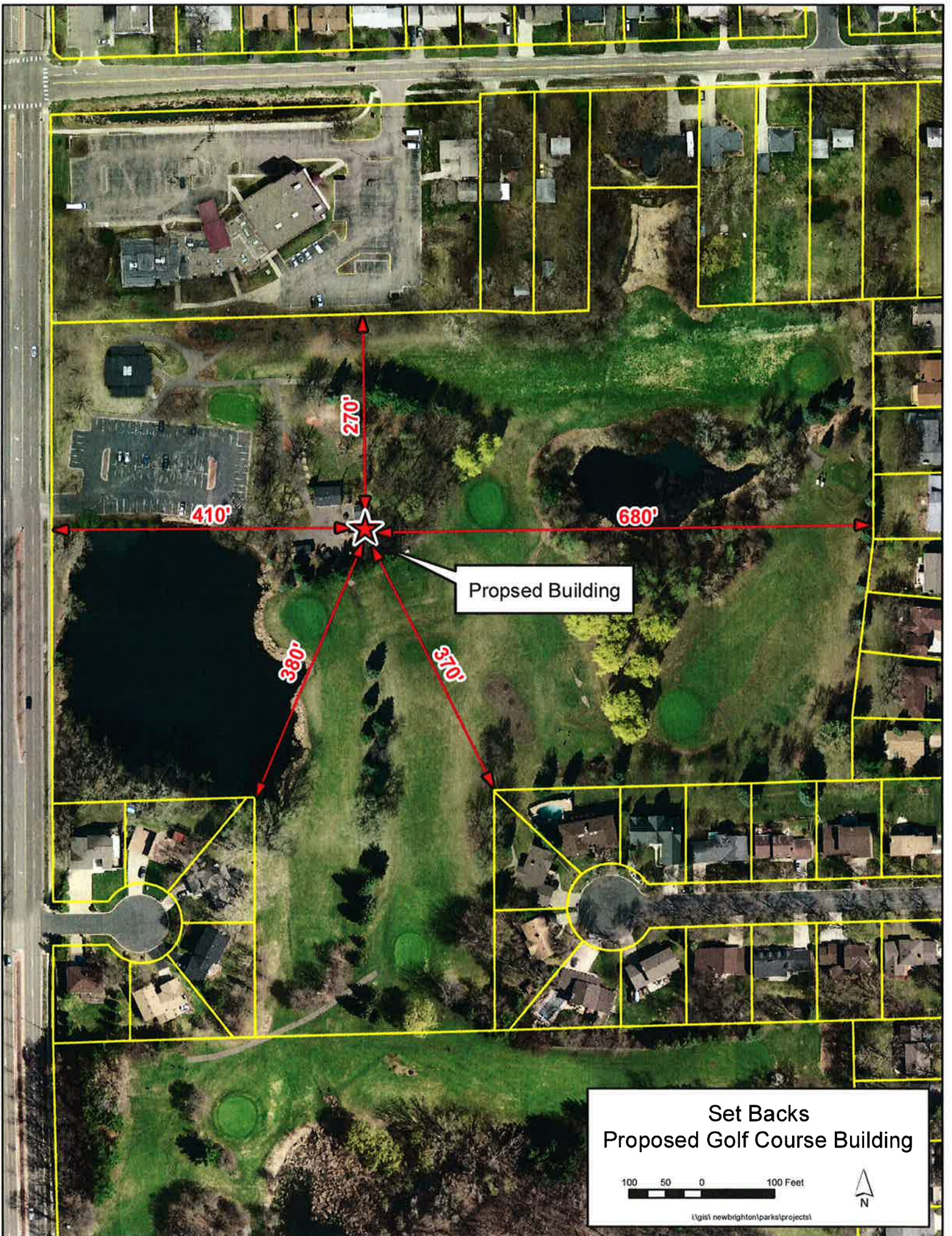
The Engineering Department has reviewed the site plan for Brightwood Hills and we offer the following comments:

### **Paving-Grading**

1. A note shall be added to the plans indicating that the contractor must contact Mark Herrick in the Engineering Department at 651-638-2054 for inspection erosion control measures and storm sewer utility work (i.e filtration basin).
2. The existing conditions need to be surveyed, and a proposed grading plan developed. Proposed elevations should be included to indicate proper drainage.
3. The disturbed area needs to be calculated and the pre project vs post project hard surface indicated on the plan.
4. Please submit correspondence from Rice Creek Watershed District that no permit is required, or a copy of their permit for erosion control measures for our records.
5. Hydrology calculations may be required to demonstrate compliance with rate control measures.
6. The building official will need to work with the Parks Department on the removal/demolition of the existing facilities to be removed.

The City Engineering Department will work with Parks to address items 1-5, and Community Development for Item 6.





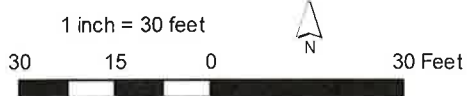
**Set Backs**  
**Proposed Golf Course Building**

100 50 0 100 Feet

Ugis\newbrighton\parks\projects\

N

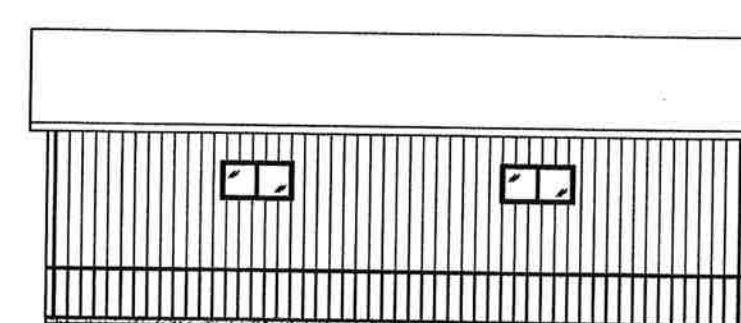




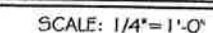
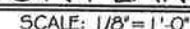
Brightwood Hills  
Maintenance Area Reconstruction

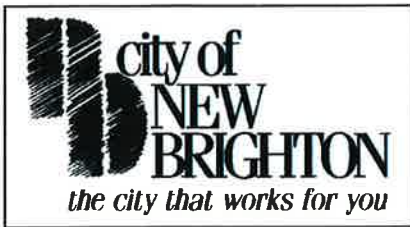






SCALE: 3/32" = 1'-0"





## Community Development Department

### MEMORANDUM

---

DATE: February 13, 2014  
TO: Planning Commission  
FROM: Janice Gundlach, Planning Coordinator JB  
SUBJECT: Future Work Session Topics

#### **Introduction**

Recently, two issues have come up that will require work session time by the Planning Commission. The two issues include 1) a moratorium the City Council adopted on January 28, 2014 concerning some railroad property Belair Excavating recently acquired and 2) the need to develop a Shoreland Ordinance. Staff would like the Commission to commit to several work sessions over the course of 2014, and early 2015, to work through these issues and develop a recommendation that would be forwarded to the City Council. The City Council is aware of both topics and has directed the Planning Commission to work through the zoning issues and forward a recommendation. The deadline for resolution of the moratorium issue is July 28, 2014 and the deadline for the Shoreland Ordinance is the end of February, 2015. There may be some flexibility with these deadlines, particularly as it relates to the Shoreland Ordinance, but staff would suggest delaying those deadlines only under extenuating circumstances. Staff would suggest holding a work session immediately following regular monthly meetings, but to conclude no later than 9pm. In the event busier regular meetings become necessary, there may be a need to hold an additional meeting. If that becomes necessary, staff will coordinate with all commissioners on dates and times.

To update the Commission, staff provides the following explanation of both the moratorium and shoreland issues:

#### **Moratorium**

Belair Excavating (2200 Old Highway 8 NW) recently acquired a substantial amount of vacant land from the federal government that was previously part of the former TCAAP site. The acquisition involves excess railroad property of at least 22 acres (see attached map). The railroad will continue to operate through an easement, with Belair intending to expand their operations onto the remaining area.

Of primary concern is this land has never been zoned or guided for any type of land use. Rather, all zoning maps depict this land as right-of-way, just like any other public right-of-way in the City (see attached zoning map). This creates a unique situation where Belair is seeking to develop un-zoned land and staff is left to make assumptions about what might be required absent actual zoning. Belair has already cleared vegetation from certain areas and is working with the Rice Creek Watershed District and Minnesota Pollution Control Agency (staff understands there is buried construction debris at depth) on grading the land and preparing it for expansion of their current, adjacent operations at 2200 Old Highway 8 NW.

Due to the lack of any zoning designation, staff has been in contact with the City Attorney about how to handle the requests by Belair Excavating. It would seem, at a minimum, the land would need to be zoned, and then Belair could apply for the appropriate land use approvals (such as Special Use Permits). Rather than waiting for Belair to submit application for land use approval, at the City Attorney's suggestion, it was deemed appropriate to adopt a moratorium allowing the City to take a more proactive approach. The moratorium allows the City to initiate a study to determine how best to zone the land in question to ensure land use compatibility with surrounding land uses. The moratorium prevents anyone from making land use application to develop the land until the City has concluded study of how it should be zoned and completed the necessary zoning and guide plan changes. On January 28, 2014, the City Council adopted Ordinance No. 820 enacting a six month moratorium. Over the next month, staff will work with the City Attorney to strategize a path forward, which would be presented to the Planning Commission in March for discussion at a work session. Representatives of Belair Excavating are expected to attend these meetings to ensure a cooperative effort to reach resolution.

### **Shoreland Ordinance**

Back in July of 2013 City staff was presented with a situation where an inquiry was made by a prospective buyer of a lakeshore home regarding shoreland setback requirements (primarily structure setbacks from Long Lake). This particular buyer was inquiring about whether something could be built within 50' of Long Lake. In past years, a 50' lake setback was enforced by the Rice Creek Watershed District's Rule H, Shoreland Development. However, RCWD rescinded those rules in 2008. Because the City has never adopted a Shoreland Ordinance, from a practical standpoint the City could not deny a building permit request to build a structure within 50' of a lake. The particular request mentioned here went away as the buyer proceeded with an addition meeting a 50' lake setback.

Since 1990, all cities having shoreland are legally obligated to adopt DNR approved Shoreland Ordinances. For whatever reasons, New Brighton has not done this. After City staff made inquiries to DNR staff about the effect of not having a Shoreland Ordinance, staff learned that New Brighton (and many other more urban communities) was not a priority community and the DNR simply never has allocated resources to take enforcement action, even though such enforcement action is allowed under Minnesota

Statutes, Section 103F.221. The City Attorney drafted a memo dated July 18, 2013 on this topic, which was circulated to the City Council in July (see attached).

Also impacting the need for a Shoreland Ordinance is a commitment that was made by the City to Rice Creek Watershed District in 2012 to prepare a draft Shoreland Ordinance by February 28, 2014 and adopt an ordinance by February 28, 2015. This commitment was necessary in order to secure their acceptance of the City's updated and revised Surface Water Management Plan, which was approved by the City Council on August 28, 2012.

Because of these reasons, the City Council, at a work session on January 14, 2018, directed staff to have the Planning Commission develop a Shoreland Ordinance and forward such ordinance to the Council for consideration. The Council's direction is very specific in that there isn't a desire to adopt an ordinance that results in additional regulation. Rather, Council is interested in an ordinance that meets the minimum requirements of the DNR, which have essentially been enforced by RCWD up until 2008.

The process to develop and adopt a Shoreland Ordinance will require stakeholder input. Staff suspects the likelihood for controversy will result by possible pushes to enact more restrictive regulations. On the flip side, it's also likely there will be a public perception that new regulations are being proposed, rather than the City simply adopting an ordinance with regulations shoreland owners have already been subject to and the City should have enacted nearly 20 years ago. As the commission moves forward on review of a Shoreland Ordinance, it is important to remember the direction provided by the Council and keeping the public perceptions in check. Staff anticipates bringing this item back to the Commission, for a work session, starting in July or August where staff will present a draft ordinance for discussion.

#### **Attachments**

- Moratorium Ordinance adopted 1/28/2014
- Belair Acquisition Map
- Zoning Map Excerpt
- Memo dated July 18, 2013 from City Attorney Charlie LeFevre RE a Shoreland Ordinance



**CITY OF NEW BRIGHTON**

**ORDINANCE NO.**

**820**

AN ORDINANCE FOR PROTECTING THE PLANNING PROCESS AND THE HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE CITY, PLACING A MORATORIUM ON NEW DEVELOPMENT ON CERTAIN PROPERTY OF THE CITY OF NEW BRIGHTON FORMERLY USED AS RAILROAD RIGHT-OF-WAY

THE CITY COUNCIL OF THE CITY OF NEW BRIGHTON ORDAINS AS FOLLOWS:

Section 1. Background.

1.01. Certain property in the City that was previously owned by the United States Government and used as railroad right-of-way has been sold and is now in private ownership.

1.02. Because of the ownership and use of said property said property has not been addressed in the City comprehensive land use plan and does not have a zoning designation on the City's zoning map.

1.03. Accordingly, there is no guidance in the City's comprehensive land use plan and no official controls, or inadequate official controls, for the zoning, use and development of said property.

1.04. Therefore the council has determined that there is a need for further studies to be conducted so that the city may adopt appropriate amendments to its comprehensive plan and zoning code so as to ensure protection of the public, health, safety and welfare. The council has directed that such studies be undertaken.

1.05. Due to the potential for use or development of said property that may not be consistent with future amendments to the comprehensive plan and official controls, the council has determined that there is a need for an interim ordinance to be adopted pursuant to Minnesota Statutes, Section 462.355, Subd. 4, for the purpose of protecting the planning process and the health, safety and welfare of the citizens of the city, and ensuring that the city and its citizens retain the benefits of, and the protection sought to be afforded by, the city's comprehensive plan and zoning ordinances until the study process is complete and any modifications to the city's comprehensive plan and zoning ordinance become effective.

Section 2. Properties Subject to Moratorium. Properties subject to the provisions of this moratorium include the properties with Ramsey County parcel identification numbers of:

17 30 23 43 0002,  
17 30 23 42 0006,  
17 30 23 42 0007, and  
16 30 23 32 0001,

which parcels were formerly owned by the United States Government and used for railroad purposes and lie generally south of the New Brighton-Mounds View border, west of Old Highway 8 east of Rice Creek and north-northwest of Rush Lake.

Section 3. Prohibition. During the period this interim ordinance is in effect, no properties subject to the moratorium may be used for any purpose other than railroad right of way purposes and may not be developed, or redeveloped and no site plan approvals, rezonings, licenses, platting or replatting, land divisions or consolidations, special use permits, grading or land alteration permits or building permits will be considered, approved or granted by the city.

Section 4. Effect on Pending Applications. All applications subject to this moratorium that are pending or that are received during the time this ordinance is in effect shall be deemed to be denied for purposes of Minnesota Statutes, Section 15.99. The City Manager shall cause notification of such denial to be given to all applicants stating the adoption of this ordinance as the reason therefor. Fees paid in connection with such applications shall be returned or refunded to the applicant.

Section 5. Effective and Termination Dates.

5.01. This ordinance shall be effective on the date following its publication.

5.02. This ordinance shall be repealed without further action by the City Council on July 23, 2014, unless earlier amended, repealed or extended by ordinance duly adopted by the City Council.

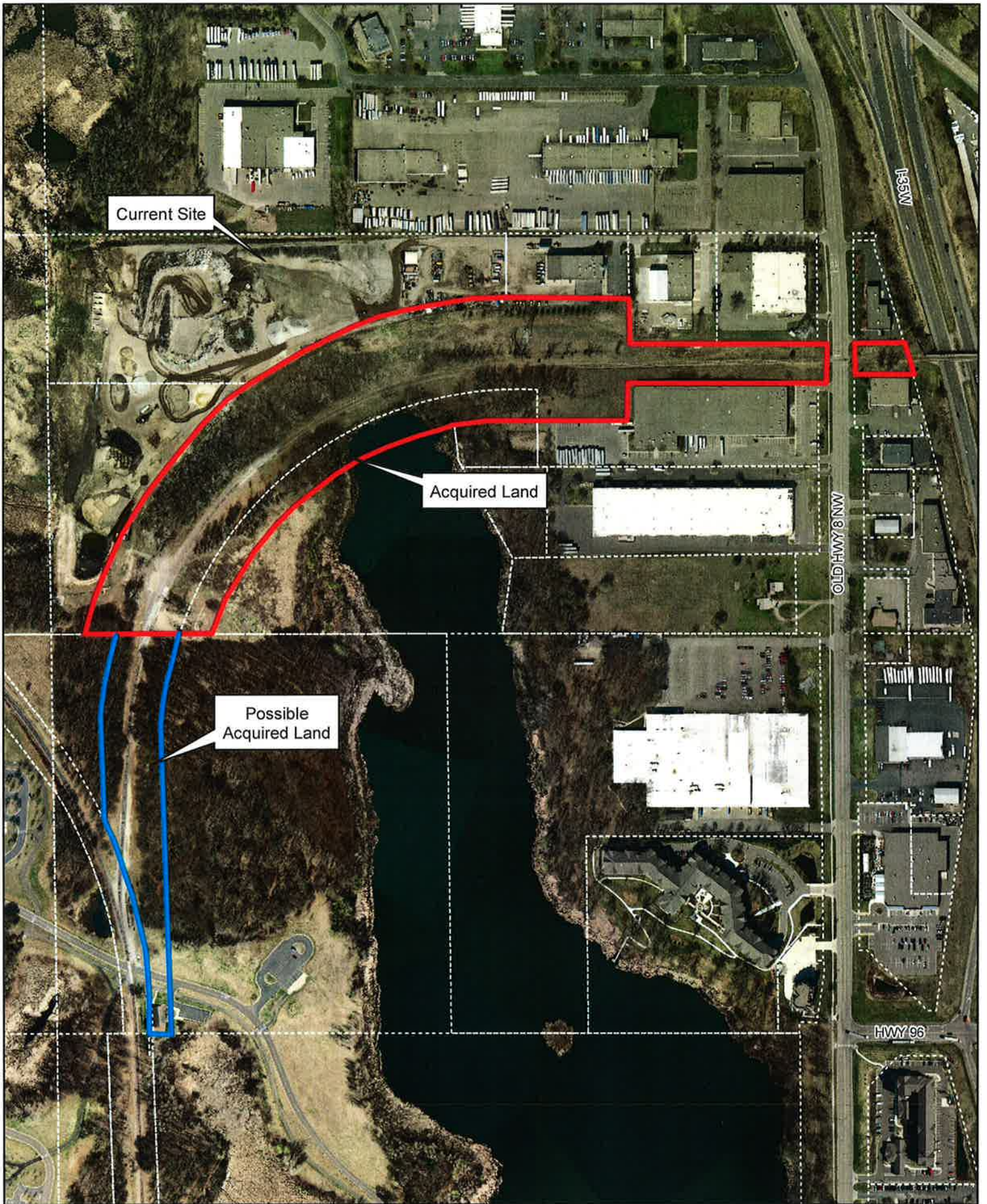
  
Dave Jacobsen, Mayor

  
Dean Lotter, City Manager

ATTEST:

  
Dan Maiers  
City Clerk/Finance Director





Current Site

Acquired Land

Possible  
Acquired Land

135W

OLD HWY 8 NW

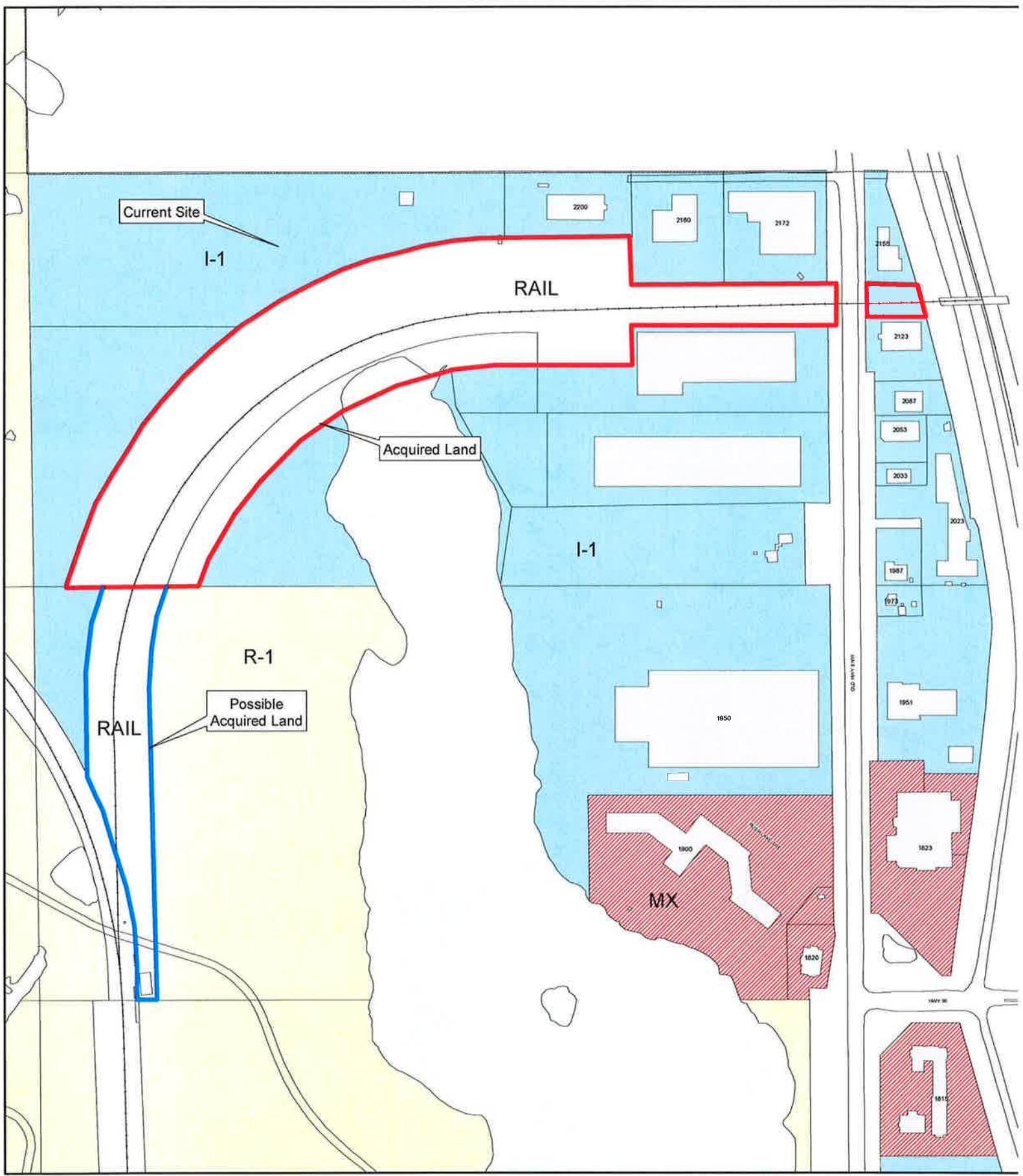
HWY 96



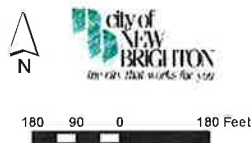
300 150 0 300 Feet

Bel Air Sites





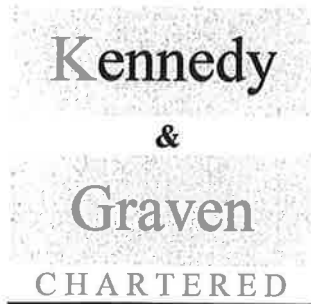
- R-1, Single Family Residential
- MX, Mixed Use
- I-1, Light Industrial
- I-2, Heavy Industrial
- ROW & RAIL



## Current Zoning

### Bel Air Sites





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[clefevere@kennedy-graven.com](mailto:clefevere@kennedy-graven.com)  
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## MEMORANDUM

DATE: July 18, 2013

TO: Manager Lotter, Mayor, Members of the Council

FROM: Charlie LeFevere

SUBJECT: Shoreland Ordinance

Recently, an inquiry was made by a potential buyer of a lakeshore home regarding shoreland setback requirements. The buyer was interested in building an addition to a home, within 50 feet of Long Lake. In past years, inquiries about shoreland setbacks have been directed to the Rice Creek Watershed District (RCWD), which has historically enforced shoreland setbacks (on Long Lake the setback was 50'). However, RCWD rescinded its shoreland rules in 2008 and the City has never had a Shoreland Ordinance. Thus, from a practical standpoint if the City were presented with a building permit request to build within 50 feet of the lake (and potentially as close as the water's edge), the City would be legally obligated to grant the permit, assuming all other requirements were met.

All cities having shoreland within their corporate boundaries have been required since 1990 to adopt DNR approved shoreland ordinances. (See Minnesota Statutes, section 103F.221). However, New Brighton has not yet done so. To date, no state agencies have taken steps to enforce this obligation. There may be several reasons for this. One is that the state agencies have limited money and staff resources and New Brighton and the water bodies within New Brighton may not be a high priority. Another is that, as long as the Rice Creek Watershed District had some shoreline protection in its Rules, it was less important that New Brighton have a shoreland protection ordinance.

Now that the RCWD has rescinded its shoreland setback rules, it is more important that the City adopt a shoreland ordinance. Failure to do so could have any one of a number of consequences. These include:

1. Without shoreland protection rules such as minimum setbacks from water bodies, a building could be constructed within a few feet of the water's edge in New Brighton. This could result in environmental damage as well as public criticism of the Council. In addition, if this were to happen, it could cause New Brighton's failure to have a shoreland protection ordinance to move up the priority list of state agencies for some sort of enforcement action or imposition of sanctions against the City.
2. Under Minnesota Statutes, Section 103F.221, subd. 2, the Commissioner of the DNR is authorized to adopt ordinances for the City and charge the City the cost of doing so, although it has taken no steps to do so for over 20 years.
3. The Minnesota Board of Water and Soil Resources ("BWSR") requires watershed management organizations such as the RCWD to adopt stormwater management plans. One of BWSR's requirements is that such plans list municipalities within the watershed that have DNR approved shoreland ordinances and, for those that do not, the projected completion dates for such ordinances. Minnesota Rules, Parts 8410.0060 and 8410.0100. The RCWD has adopted its plan and as a result, all state agencies have been advised of the fact that the City does not have a shoreland protection ordinance. Cities are required by Minnesota Statutes, Section 103B.235 to adopt local stormwater management plans and make those plans consistent with the plan of the watershed district. New Brighton adopted its plan after receiving comments from the RCWD. Because of RCWD comments about the lack of a shoreland protection ordinance in the City, the City acknowledged that obligation and stated in its local plan that the "City anticipates having a draft ordinance within 18 months of adoption of the Plan. Adoption of the Ordinance is anticipated within 30 months of the adoption of this Plan." The Plan was adopted on August 28, 2012.
4. Failure to implement a Plan could result in the imposition of a number of sanctions by the state under Minnesota Statutes, Section 103B.231, subd. 3. These include:
  - a) State agencies may withhold from local government units state funding for water programs for projects within the watershed;
  - b) State agencies may withhold from local government units delegation of state water resource regulatory authority within the watershed;
  - c) State agencies may suspend issuance of water related permits within the watershed; and
  - d) The Board of Water and Soil Resources may request state agencies to withhold portions of state aid funding used for the installation of curb and gutter and other drainage facilities of public transportation projects within the watershed.
5. Finally, Minnesota Statutes, Section 103B.101 authorizes the Board of Water and Soil Resources to impose penalties of up to \$10,000 for any violation of Minnesota Statutes, Chapter 103F, which includes the obligation of municipalities to adopt shoreland management ordinances.

The City has stated in its stormwater management plan that it will adopt shoreland protection ordinances. It still has some time to do that within the schedule set forth in the City's plan. However, at any time before the adoption of such an ordinance, any lakeshore property owner could construct buildings, in some cases within a few feet of the water's edge, and make other shoreland alterations that may not be in the best interests of the neighbors, the neighborhood, or the public. Therefore, City staff recommends that the Council task the Planning Commission with creation of a draft shoreland ordinance for consideration by the City Council.

If the Council is concerned about development that might occur before a shoreland protection ordinance is adopted, it could adopt an interim ordinance (moratorium) prohibiting certain specified development while City is conducting studies. For example, the Council could adopt an ordinance providing that the City will not issue building permits for any structures within 50 feet of the ordinary high water level of specified water bodies for six months while City is conducting studies and holding hearings on a shoreland protection ordinance.

CLL:peb