



**AGENDA**  
**Planning Commission Meeting**  
**June 15, 2021 | 6:30 p.m.**  
**Electronic Meeting**

*Due to COVID-19 and pursuant to Minnesota Statutes Section 13D.021,  
this Planning Commission meeting is taking place virtually via Zoom.*

- **Watch the meeting electronically:** To observe the meeting electronically, visit [www.newbrightonmn.gov](http://www.newbrightonmn.gov) or tune into CTV Channel 8023 (CenturyLink) or Channel 16 (Comcast).
- **To comment on a public hearing item in advance of the meeting:** As City Hall is currently closed to the public due to the COVID-19 pandemic, we strongly encourage you to forward your comments and questions to [Ben.Gozola@newbrightonmn.gov](mailto:Ben.Gozola@newbrightonmn.gov) up to noon on the day of the meeting, or call Ben Gozola at 651-638-2059. Your comments will be included in the record and addressed as part of the meeting.
- **To provide public comment during the electronic meeting:** To participate and speak as part of the public hearing, visit: <https://us02web.zoom.us/j/81603862779?pwd=K1FUSINzQ0FNM2M5WktFU1hZbDFEz09> (no app needed) or use your Zoom app to join by entering: Meeting ID: 816 0386 2779 and Passcode: 985059 to join the meeting.

**I. Call to Order**

**II. Roll Call\***

- |                                |                                 |
|--------------------------------|---------------------------------|
| ▪ Chair Erin Nichols-Matkaiti  | ▪ Commissioner Jeanne Frischman |
| ▪ Commissioner Liza Allen      | ▪ Commissioner Tim McQuillan    |
| ▪ Commissioner Todd Biedenfeld | ▪ Commissioner Eric Nelsen      |
| ▪ Commissioner Youssef Enanaa  |                                 |

**III. Approval of Agenda**

**IV. Approval of Minutes**

1. May 18<sup>th</sup>, 2020

**V. Report from City Council Liaison**

\* A quorum of the City Council may be present.

## **VI. Public Hearings**

- 1. Special Use Permit Amendment:** Request from NBMN TT, LLC to add an allowance for operating a “trucking terminal” on the property at 201 5th Avenue SW – PID 32-30-23-14-0014.

## **VII. Business Items**

- 1. Preliminary Plat:** Request from Ibiza LLC to subdivide the existing parcel at 2221 7<sup>th</sup> Street NW into four lots meeting R-1 zoning standards – PID 30-30-23-13-0001.

## **VIII. Adjournment**



**MINUTES  
PLANNING COMMISSION  
May 18, 2021 City Hall  
Council Chambers 6:30 p.m.**

**I. Call to Order**

The meeting was called to order at 6:30 p.m. by Chairperson Nichols-Matkaiti. Due to the COVID-19 pandemic this meeting was held virtually.

**II. Roll Call**

Members Present.....Chairperson Erin Nichols-Matkaiti, and Commissioners Liza Allen, Todd Biedenfeld, Youssef Enanaa, Jeanne Frischman, Tim McQuillan, and Eric Nelsen

Members Absent.....None

Also Present .....Ben Gozola (Assistant Director of Community Assets and Development) and Councilmember Abdullahi Abdulle

**III. Approval of Agenda**

**Motion by Commissioner Frischman, seconded by Commissioner Enanaa, to approve the May 18, 2021 agenda as presented.**

**A roll call vote was taken. Approved 7-0.**

**IV. Approval of Minutes**

**Minutes from April 20, 2021**

**Motion by Commissioner Biedenfeld, seconded by Commissioner Allen, to approve the April 20, 2021 meeting minutes as presented.**

**A roll call vote was taken. Approved 7-0.**

## V. Report from City Council Liaison

Councilmember Abdulle provided the Commission with an update from the City Council. He stated the Council discussed Commission optimization and work plans at a recent worksession meeting, along with the role of student commissioners. He reported the Council had a robust discussion regarding manufactured home parks and received an update from Ramsey County regarding their HRA efforts.

## VI. Public Hearing

### (A) **Ordinance 884: An Ordinance to rezone properties from R-3B and R-2 (the Lakeside and Oak Grove Manufactured Home Parks) to MHC (Manufactured Home Community), and to update regulations relating to manufactured homes in Chapter 16 of City Code and Chapter 4 of the Zoning Code.**

Assistant Director of Community Assets and Development Gozola reported in April, the Planning Commission and City Council were introduced to a host of problems in the City Ordinance relating to existing and future manufactured home parks. Existing codes had guided the City's manufactured home parks for decades without issue, but a recent complaint prompted an in-depth examination of our regulations, and staff agreed that historic practices could not continue given how code was written. Without immediate action, this discovery was poised to have a significant impact on ALL manufactured home owners (over 360 homes) in the form of increased permit costs (\$350+) and permit review times (+40 days). To protect these residents and to maintain past practices, staff immediately published notice for Ordinance 881 to update the City Code and Zoning Code as needed to eliminate the newly identified problems. On April 27, 2021, Ordinance 881 was approved, but will not be effective until the City's Manufactured Home Parks are rezoned to the newly created Manufactured Home Community (MHC) zoning district. Ordinance 884 will complete the rezonings, and will make minor amendments to the language approved in Ordinance 881 in response to feedback from the Planning Commission and Council last month. It was noted the Lakeside Manufactured Home Park will be rezoned from R-3B to MHC. The Oak Grove Manufactured Home Park will be rezoned from R-2 to MHC. Chapter 16 is being further updated to ensure development of new parks or expansion areas of existing parks results in overall densities consistent with historic expectations. Staff provided further comment on the request and recommended approval of Ordinance 884 based on the following rationale:

- Ordinance 884 will implement the changes approved by Ordinance 881, and will ensure our oversight of manufactured homes remains unchanged from previous decades.
- Failure to approve this ordinance essentially ends activity within our manufactured home parks unless variances are both applied for and granted, thereby increasing both cost and review time to complete projects within the existing parks.
- Resident requests to create new standards for manufactured home parks can be considered as part of the upcoming zoning code rewrite project. Adding new regulations is not the intent of Ordinance 884.

Chair Nichols-Matkaiti asked for comments or questions from the Commission.

Commissioner McQuillan asked if the sales area within the Lakeside Manufactured Home Park along Old Highway 8 was allowed. Assistant Director of Community Assets and Development Gozola reported he does not know the rules and regulations for sales, but noted the park has space set aside for unit sales.

Commissioner Nelson stated it felt like there was a degree of urgency. He questioned if there were any active applications for either of these lots. Assistant Director of Community Assets and Development Gozola explained Lakeside was looking to move a new home onto one of their vacant areas and this was when the City was notified and Chapter 16 was then reviewed by staff.

Chair Nichols-Matkaiti inquired if there was a penalty for an existing park that was looking to expand the property. Assistant Director of Community Assets and Development Gozola described how a manufactured home park could expand and how staff would review the overall analysis. It was noted that any deficiencies within the park would have to be addressed on the new land.

Chair Nichols-Matkaiti opened the Public Hearing at 7:12 p.m.

Steve Barns, 1400 Piper Drive, requested further comment on how the City calculated the size of the Lakeside Manufactured Home Park. Assistant Director of Community Assets and Development Gozola discussed how staff calculated the size of the Lakeside Manufactured Home Park.

Mr. Barns stated 95% of the units within the Lakeside park have 25 foot spacing between the long sides of the homes. He commented if only a 10 foot setback was required and the neighbor on the west side of his house moves, he could potentially lose three-fourths of his yard space. He believed this was unfair as a resident. Assistant Director of Community Assets and Development Gozola explained these are not new rules.

Mr. Barns explained these were new rules. Assistant Director of Community Assets and Development Gozola stated he would have to disagree. He reported he went through every file for the Lakeside development and understood the old owners chose to maintain bigger separations because this provided value to their development. He understood there were two different owners for the parks and they have gotten to two different end points.

Mr. Barns did not believe the old owner was lying. He was of the opinion more information could be gathered by speaking to the old owners of the park. He indicated there was no urgency to this matter and commented residents don't typically pull permits because a lot of work does not get done on the units. He believed more residents should be weighing in on this. He explained residents believe the 25 foot setback was being enforced. He anticipated more people would be in attendance if the meeting information was made available, especially if the residents were made aware they could be losing 50% of their yards.

Chair Nichols-Matkaiti stated if the City has stricter standards, the manufactured home park owners could still enforce their own setback standards. Assistant Director of Community Assets and Development Gozola reported this is the case. He explained the owners of the manufactured home park have every right to enforce their own rules and regulations. He stated this was similar to the actions taken by HOA's within single family residential developments. He indicated the City does not get involved with regulating these matters.

Curt Williams, Regional Manager for Riverstone Communities, reported his company owns and operates the Lakeside North. He spoke to several of the issues that were brought up. He explained Riverstone purchased the community in 2016 from the previous owners. He indicated the previous owners conducted manufactured home sales and had large equipment to move the homes. He stated Riverstone Communities owns 80 properties across the country. He commented he did not want the overall aesthetic of the Lakeside community to be changed. He wanted to see the spacing maintained in order to protect the yards and greenspace. He discussed the location of the utility and sewer hookups for his 245 addresses within Lakeside and stated it would not make financial sense to move these hookups. He reported he would not be expanding the Lakeside community but rather would maintain the existing 245 addresses. He then reviewed several photographs of the homes and spacing within the Lakeside community.

Chair Nichols-Matkaiti thanked Mr. Williams for his presentation and for sharing photos with the Commission.

Mr. Barns commented he appreciated how the new owners were following the same guidelines as the previous owners. He hoped the park would continue to have the same look and feel. He supported the 25 foot setbacks within Lakeside be kept in place, and that each lot have one tree.

Mr. Williams discussed the notes he received from the previous owners and how it was held to a very high standard. He understood the City did not require one tree per lot, but he would keep this in place.

Commissioner Biedenfeld asked how legal non-conformities were be managed by the City and what would happen if the City were to adopt a 25 foot setback requirement within manufactured home parks. Assistant Director of Community Assets and Development Gozola described how every property owner within the Oak Grove community would have to apply for a variance in order to be allowed to remain in their current location. He noted the variance process was \$350 and was a 40+ day process.

Mr. Barns questioned how many permits were pulled by manufactured home owners each year. Assistant Director of Community Assets and Development Gozola stated he did not have that data in front of him, but noted when permits are pulled, the properties are inspected by the City.

**Motion by Commissioner McQuillan, seconded by Commissioner Frischman to close the Public Hearing.**

**A roll call vote was taken. Approved 7-0.**

Commissioner Biedenfeld commented the differences between the manufactured home parks was similar to the differences within HOA's, as was noted by staff. He stated he did not want the City to be overly restrictive and he appreciated staff's insight and recommendation for this Ordinance.

Commissioner Enanaa agreed staff had done a good job on presenting this Ordinance. He noted he would be supporting staff's recommendation.

Commissioner Frischman agreed.

Commissioner McQuillan stated he supported this Ordinance moving forward to the City Council.

Commissioner Nelson questioned if the City would be making additional changes to the zoning code. Assistant Director of Community Assets and Development Gozola reported the City Council has assigned residents to a Zoning Code Steering Committee and he expected this group would be working on the zoning code for the next 12 to 18 months.

Chair Nichols-Matkaiti discussed the differences between the City's proposed requirements and one of the manufactured home parks. She indicated the management of the Lakeside community has chosen to be more restrictive.

**Motion by Commissioner Frischman, seconded by Commissioner McQuillan, to recommend the City Council approve Ordinance 884, An Ordinance to rezone properties from R-3B and R-2 (the Lakeside and Oak Grove Manufactured Home Parks) to MHC (Manufactured Home Community), and to update regulations relating to manufactured homes in Chapter 16 of City Code and Chapter 4 of the Zoning Code.**

**A roll call vote was taken. Approved 7-0.**

Councilmember Abdulle commented City staff was working to make things easier for residents and not more difficult through this Ordinance. He thanked the Commission for their discussion and deliberation on this matter. He encouraged the public to reach out to him, or any other Councilmember with questions or concerns.

## **VII. Business Items**

Assistant Director of Community Assets and Development Gozola discussed the plans for the Zoning Code Steering Committee.

**VIII. Adjournment**

**Motion by Commissioner Frischman, seconded by Commissioner Biedenfeld, to adjourn the meeting.**

**A roll call vote was taken. Approved 7-0.**

**Meeting adjourned at 7:52 PM**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ben Gozola". The signature is stylized with a large, looped "B" and a cursive "G".

Ben Gozola  
Assistant Director of Community Assets and Development



Agenda Section: VI
Item: 1
Report Date: 6/10/21
Commission Meeting Date: 6/15/21

## REQUEST FOR COMMISISON CONSIDERATION

<b>ITEM DESCRIPTION:</b> <b>Special Use Permit Amendment:</b> Request from NBMN TT, LLC to add an allowance for operating a “trucking terminal” on the property at 201 5 <sup>th</sup> Avenue SW – PID 32-30-23-14-0014.
<b>DEPARTMENT HEAD’S APPROVAL:</b>
<b>CITY MANAGER’S APPROVAL:</b>
<b>No comments to supplement this report</b> ____ <b>Comments attached</b> ____

**15.99 Deadline:** 7/19/21

- Recommendations:**
- Staff believes the SUP amendment can be approved with conditions.
  - Template motions, recommended findings, and suggested conditions can be found on pages 12 & 13.

- Legislative History:**
- Application received on 5/20/21
  - Planning Commission review scheduled for 6/15/21

**Financial Impact:** None

- Summary:**
- NBMN TT, LLC has purchased the property at 201 5th Avenue SW, and is looking to amend the existing Special Use Permit on the property to add “trucking terminal” as a permitted use. Previous special use permit approvals for this site have already authorized truck and trailer sales, truck and trailer repair, and outdoor storage; all of which would continue under this new ownership following the proposed SUP amendment.

- Attachments:**
- 1) Staff Report
  - 2) Engineering Memo
  - 3) Draft Resolution
  - 4) City Maps
  - 5) Applicant’s supporting documentation



Ben Gozola, AICP

Assistant Director of Community Assets and Development

**To:** Planning Commission  
**From:** Ben Gozola, Assistant Director DCAD  
**Meeting Date:** 6-15-21  
**Applicants:** NBMN TT, LLC  
**Main Contact:** Mike Tingum, Attorney  
**Location:** 201 5<sup>th</sup> Avenue SW  
**Zoning:** I-2

### ***Introductory Information***

- |                           |                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><i>Project:</i></b>    | NBMN TT, LLC has purchased the property at 201 5 <sup>th</sup> Avenue SW, and is looking to amend the existing Special Use Permit on the property to add “trucking terminal” as a permitted use. Previous special use permit approvals for this site have already authorized truck and trailer sales and repair and outdoor storage which would continue under this new ownership. |
| <b><i>History:</i></b>    | <ul style="list-style-type: none"><li>▪ 2004: A special use permit and site plan were approved for truck repair and outdoor storage.</li><li>▪ 2015: A special use permit amendment, site plan, and nonconforming use permit were approved to expand the existing uses on site to include truck and trailer sales.</li></ul>                                                       |
| <b><i>Request(s):</i></b> | <ul style="list-style-type: none"><li>▪ <b>SUP amendment request to add a “trucking terminal” use to the uses already authorized at 201 5<sup>th</sup> Avenue SW.</b></li></ul>                                                                                                                                                                                                    |

### ***General Findings***

- |                          |                                                                                                                                                                                                                                                                                                  |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><i>Site Data:</i></b> | <ul style="list-style-type: none"><li>▪ Existing Lot Size ≈ 3.55 acres</li><li>▪ Existing Approved Uses – Truck &amp; Trailer Sales, Truck &amp; Trailer Repair, and outside storage.</li><li>▪ Existing Zoning – I-2</li><li>▪ Property Identification Number (PID): 32-30-23-14-0014</li></ul> |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



<b>Comp Plan Guidance:</b>	<ul style="list-style-type: none"> <li>▪ The 2040 Comprehensive Plan guides this property for Heavy Industrial (HI). The proposed use under the I-2 zoning classification is therefore appropriate.</li> </ul>
<b>Notable Code Definitions:</b>	<ul style="list-style-type: none"> <li>▪ None</li> </ul>
<b>Applicable Codes:</b>	<ul style="list-style-type: none"> <li>▪ <b>Chapter 6, Article 2, <u>I-2 District</u>.</b> Identifies “outside storage” as a specially permitted use.</li> <li>▪ <b>Chapter 8, Article 2, <u>Special Use Permit and Variance</u>.</b> Identifies the process by which a special use requests are to be reviewed and decided.</li> </ul>
<b>Applicant’s Narrative:</b>	<p>[Christensen &amp; Laue PLLC] represents NBMN TT, LLC with regard to the property located at 201 5th Ave. SW (the “Property”), New Brighton, Minnesota (the “City”). The Property has most recently housed truck and trailer repair, service and sales businesses, which have operated in accordance with a 2004 Special Use Permit approving of truck and trailer repair business uses, including outdoor storage (the “2004 SUP”) and a 2015 Special Use Permit and Nonconforming Use Permit, approving of the addition of truck and trailer sales business uses on the Property (the “2015 SUP”). NBMN TT, LLC (“NBMN TT”) has contracted to purchase the Property, and intends to add trucking terminal activities as an additional allowed use on the Property, with all such operations to be operated under Bay &amp; Bay Transfer Co., Inc. (“Bay &amp; Bay”), an affiliate of NBMN TT. This letter and the enclosed materials support NBMN TT’s applications for a special use permit (“SUP”) relating to the Property.</p> <p><b>Background and Introduction</b></p> <p>The Property is currently owned by Truck Country of Minnesota, Inc. (“Truck Country”), who has been operating a Truck Country franchise, being a truck and trailer sale and repair business, on the Property since approximately 2015, when Truck Country’s affiliate McCoy Group obtained the 2015 SUP, adding truck and trailer sales as an allowed use. Prior to that, the Property was owned and operated by Mike’s Truck and Trailer Repair (“Mike’s”), a truck and trailer repair business that had operated on the Property since approximately 2004, when Mike’s obtained the 2004 SUP to convert the Property from a lumberyard to a truck and trailer repair business. Pursuant to an agreement between Truck Country and Mike’s, Mike’s truck and trailer repair business continued to operate on the Property, alongside Truck Country’s truck and trailer sales business, following Truck Country’s acquisition of the Property.</p> <p>Truck County and NBMN TT have entered into a Purchase and Sale Agreement, in which Truck Country has contracted to sell the Property to NBMN TT. NBMN TT is an affiliate of Bay &amp; Bay, and proposes to establish a Bay &amp; Bay trucking terminal on the Property.</p>

(cont.) Bay & Bay is an established and well-respected Minnesota based trucking company, which has been operating since 1941, and is currently headquartered in Eagan, MN, with trucking terminals in Eagan, MN, Burnsville, MN and Denton, TX. Bay & Bay desires to grow its business by adding a trucking terminal with truck and trailer repair, service and sales, outdoor storage and general trucking terminal activities at the Property in New Brighton, which would include approximately 12-16 full-time employees on the Property.

Truck Country made significant improvements to the Property as part of, and following the 2015 SUP, including the demolition of older structures, landscaping, new downcast lighting, a security fence and gating, new asphalt as necessary, and crack fill with seal coating. The Property, and current improvements thereon, are well maintained and well-suited for NBMN TT's proposed use of the Property, so NBMN TT does not anticipate the need for any new construction or demolition on the Property. The Property includes a truck and trailer repair facility, driver lockers and amenities, office space and outdoor truck and trailer parking areas.

As part of the 2015 SUP, the City approved of a parking plan on the Property for the outdoor truck and trailer parking. As part of this 2021 Special Use Permit Application, in addition to adding trucking terminal activities, NBMN TT is seeking approval of a modification to such outdoor truck and trailer parking arrangement, which will allow Bay & Bay to better utilize the outdoor parking areas on the Property for their needs, in a manner which remains safe, properly lighted and screened off from neighboring properties. A survey is included with this Application, showing the proposed location of the new parking and outdoor storage plan, which allows for adequate driving lanes for emergency vehicles to access the Property.

Bay & Bay's fleet of trucks and trailers are new and late-model trucks, with proactively maintained trailers, and all of Bay & Bay's facilities are clean, well maintained and orderly. The majority of the operations on the Property will be screened from both the adjacent Interstate 35W and Fifth Avenue SW by a row clean and well maintained new and late model trucks and trailers, and various shrubs and bushes as shown on the Survey.

## Site Review

### ***In General:***

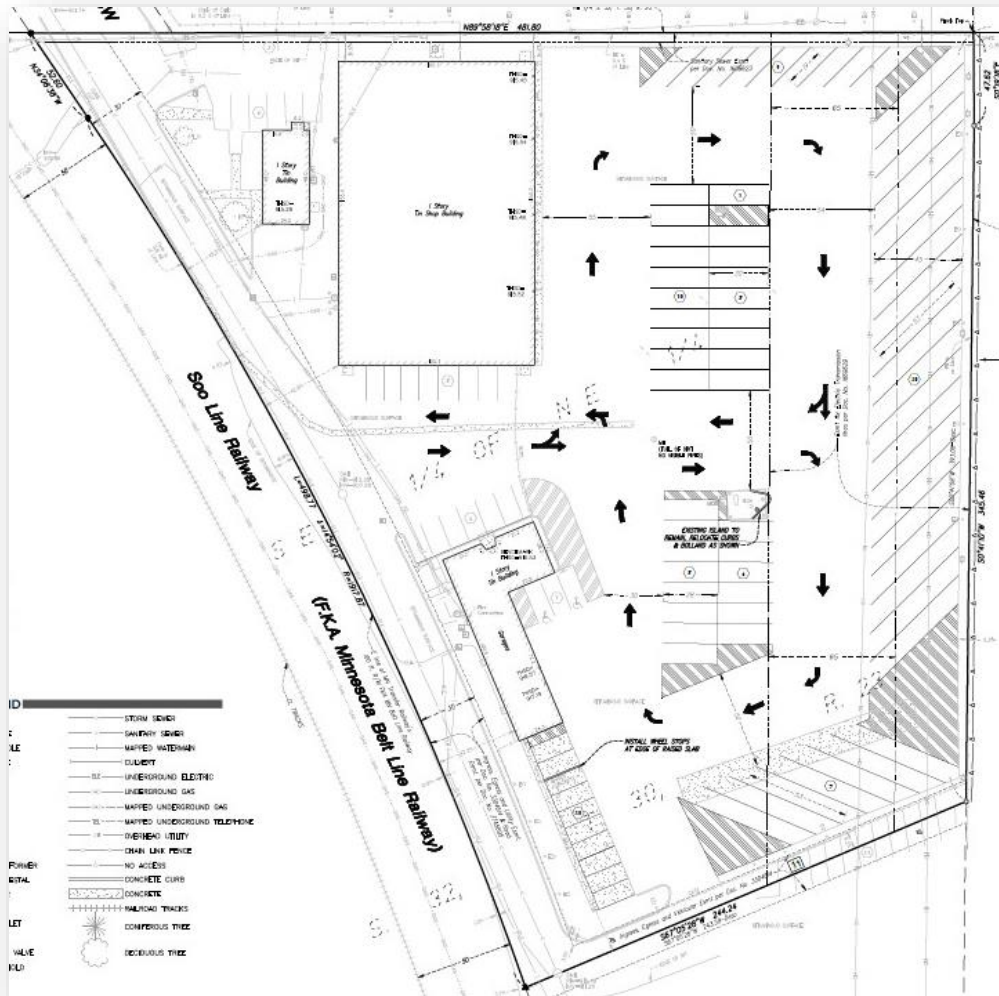
- No new buildings are proposed, so a formal site plan review is not required. However, examining the existing characteristics of the site is important to understand what (if any) conditions might be needed for the new use should the SUP amendment be approved.

### ***Existing Conditions:***

- Previous uses of the site dating back to 2004 have all included the outdoor parking of truck and other vehicles, and the three existing buildings have been on-site in different configurations over that timeframe.

**Proposed Site Plan Updates:**

- The primary (visible) change to the site will be in the form of a new parking plan for vehicles being stored on-site:



- The main concern of staff is to ensure there are adequate drive aisles for emergency vehicles, and that access is never cut off to various parts of the site due to the pattern of vehicle parking. The applicants have provided a turning radius exhibit (see attachments) showing this will not be a problem for the parking lot as planned. As a condition of approval, the applicant shall be required to stripe the lot in accordance with this authorized plan.

**Building Materials:**

- No changes are proposed to any of the buildings or fencing.

<b>Building Height:</b>	<ul style="list-style-type: none"> <li>All buildings currently conform to the 40 foot height maximum in the I-2 zoning district. Nothing proposed to be stored on site would violate any height restrictions.</li> </ul>
<b>Landscaping:</b>	<ul style="list-style-type: none"> <li>Because no expansions of the existing facility are proposed and the land does not abut any residential lands, there are no specific landscaping/screening standards that must be met.</li> </ul>
<b>Lighting:</b>	<ul style="list-style-type: none"> <li>Lighting on all sites and buildings shall be directed downward and installed so as to prevent direct light from being detectable at the lot line of the site on which the light source is located. Lighting is also not to shine directly into the public right-of-way.</li> <li>While no new lighting is proposed for this new use, any problems with existing lighting that are later identified shall be brought into compliance with code requirements.</li> </ul>
<b>Lot Access:</b>	<ul style="list-style-type: none"> <li>The access points to the property will not change from existing conditions.</li> </ul>
<b>Water System(s):</b>	<ul style="list-style-type: none"> <li>The site has access to Municipal water, and there are no engineering or public works concerns regarding the new use and water usage.</li> </ul>
<b>Sanitary System(s):</b>	<ul style="list-style-type: none"> <li>The site has access to Municipal sewer, and there are no engineering or public works concerns regarding the new use and sewer usage.</li> </ul>
<b>Storm water / Grading / Erosion:</b>	<ul style="list-style-type: none"> <li>The manhole located within the parking lot is shown on the survey is full of dirt &amp; debris. The manhole should be cleaned and properly maintained.</li> <li>Engineering has examined existing grades, and does not find any reason to require changes to the site to accommodate stormwater; however, the applicant shall address stormwater concerns if unforeseen issues arise (or become foreseeable) as a result of the revised on-site storage.</li> <li>Per the RCWD: <i>“From the project narrative, it appears no RCWD permit will be required. If plans were to created and/or reconstruct 10,000 sq. ft or more of impervious surface Rule C, Stormwater Management and Rule D, Erosion and Sediment Control Plans permits will be required. If land disturbance is proposed to be 10,000 sq. ft or more a Rule D, Erosion and Sediment Control Plan permit will be required. Review of the final plans would be needed to confirm.”</i></li> </ul>

<b>Signage</b>	<ul style="list-style-type: none"> <li>Sign changes on the building and/or site will need to be reviewed and approved via a separate sign permitting process.</li> </ul>
<b>Fire/Safety:</b>	<ul style="list-style-type: none"> <li>Public safety reviewed the plans and the provided turning movement exhibit, and found no reason for concern over the proposed changes to the parking/outdoor storage plan.</li> <li>While the City knows the site has fire dept connections from previous reviews, it is difficult to tell where hydrants are on the provided plan sets, and we do not have confirmation that any past requirements for fire safety improvements have been implemented. As a condition of approval, staff would suggest that the landowners show all previously required improvements from past SUPs for fire safety have been implemented. Alternatively, the applicants may schedule an in-person inspection of the property with the fire chief, and implement all fire safety improvements identified at that meeting.</li> </ul>
<b>Hours of Operations:</b>	<ul style="list-style-type: none"> <li>Not applicable. This use does not cater to daily customers coming on-site.</li> </ul>
<b>Parking &amp; Traffic:</b>	<ul style="list-style-type: none"> <li>The site is largely dedicated to the parking of vehicles which has already been authorized via a previous SUP. No further analysis was performed on minimum parking needs.</li> <li>It should be noted by the applicant that Section 29-34 of the City Code prohibits the parking of "...truck tractors, semitrailers, buses [etc]...whether attended or unattended, upon the public streets in any zoning district..." Accordingly, the landowner should inform all drivers that parking on 5<sup>th</sup> Avenue SW will not be allowed, and all business activity will need to occur on the premises outside of the public ROW.</li> </ul>
<b>Sidewalks &amp; Trails:</b>	<ul style="list-style-type: none"> <li>There are no sidewalks in this area nor are any planned. Given the high-level of industrial uses in this portion of town, we are not recommending promotion of pedestrian or bicycle use unless located on off-road trails.</li> </ul>
<b>Development Phasing:</b>	<ul style="list-style-type: none"> <li>The change in use will occur in a single phase if this special use permit amendment is approved.</li> </ul>
<b>Nonconforming Use Permit:</b>	<ul style="list-style-type: none"> <li>A nonconforming use permit was previously issued to this site in 2015 addressing all existing legal nonconformities. No new nonconformities have arisen since then to necessitate a new permit.</li> </ul>

## Special Use Permit Review

<b><i>In General:</i></b>	<ul style="list-style-type: none"> <li>▪ The need for a Special Use Permit is triggered by the proposed new use of “trucking terminal.” This use is triggered more by the mix of vehicles that will be coming to the site as opposed to new buildings and storage facilities being built on-site. From an outsider’s perspective, this amendment will be largely semantic as usage of the site will largely be consistent with usage since 2004.</li> </ul>
<b><i>SUP Standards Review:</i></b>	<p>Issuance of an SUP requires an analysis of the proposed use against the specific review criteria established in code. Staff has reviewed the City’s criteria for special use permits, and we offer the following analysis for consideration:</p> <p><u>General review Criteria (Section 8-130):</u></p> <p><b><i>1. That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.</i></b></p> <p><u>Applicant Comment:</u> The addition of the proposed trucking terminal activities operation is consistent and complimentary with the current use of the Property. The Special Use Permits that are currently in place on the Property, permit truck and trailer sales, service, and repairs, and outdoor storage on the Property. The addition of trucking terminal activities to the already permitted uses, and parking in accordance with the proposed Survey, attached hereto as Exhibit A, will not endanger public health, safety, morals, comfort or the general welfare of residents, as the location of the Property is in an established industrial area and separated by I-35W from the nearest residential uses, and the improvements previously made by Truck Country to the Property have increased security and have reduced off-site impacts, in a manner that would allow for trucking terminal activities. Furthermore, the Property does not have frontage on a public roadway, but rather is at the end of a dead-end road (5th Ave. SW), with railroad tracks running along the west side of such road, so the aesthetic impact to the public of the trucking terminal use will be minimal.</p> <p><u>Staff Comment:</u> Provided the parking of vehicles on-site follows the proposed layout in this application, we do not believe the proposed use will endanger the public welfare. The parking plan as proposed protects emergency vehicle access to all portions of the site when fully parked. To ensure this plan is followed, the applicant’s shall have the parking lot restriped per City specs in the proposed configuration. Restriping shall be completed prior to launching the new trucking terminal use. <b>Criterion satisfied with conditions.</b></p>

- (cont.) 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.***

Applicant Comment: The proposed use of the Property will not be injurious to the use and enjoyment of the Property in the vicinity and will contribute to improved property values within the area. The Property has historically been screened from traffic on the interstate by Truck Country's truck and trailer inventory, and NBMN TT will continue to screen the Property from traffic on the interstate, by similarly parking well maintained new and late-model trucks and trailers within the designated parking areas shown on the attached Survey. The proposed use will not interfere with neighboring properties, or the permitted uses on neighboring properties. NBMN TT will maintain the orderly and clean appearance of the Property, as trucks will be parked and stored in accordance with Survey.

Staff Comment: Larger vehicles using this site in greater numbers than before will not have an impact on surrounding properties provided all activities of this business remain on-site and do not extend into the public right-of-way. No business related parking shall occur on 5<sup>th</sup> Avenue SW to ensure continued and unimpeded access for other businesses along this street. **Criterion satisfied with conditions.**

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.***

Applicant Comment: The establishment of a trucking terminal on the Property will not impede the normal and orderly development and improvement of the surrounding properties. All properties in the vicinity, including the Property, are zoned I-2 Heavy Industrial District. This District allows for a range of heavy industrial uses. The proposed use will not restrict the use or development of any of the surrounding properties for uses permitted in the District.

Staff Comment: The proposed new use on this property will not have any impact on the development or improvement of surrounding lands. **Criterion satisfied.**

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

Applicant Comment: The Property is currently served by adequate utilities and has sufficient access to accommodate any proposed traffic from the west via 5th Avenue Southwest. Fiber optic cable was installed through the Property by Truck Country for Internet access. No improvements on the Property are contemplated that would impact the drainage of the Property. NBMN TT will not remove or alter any of the existing utilities, access roads and

(cont.)	<p>facilities currently on the Property. The Property already includes driver lockers, showers and amenities, office space and outdoor truck and trailer parking areas which support the proposed use of a trucking terminal operation.</p> <p><u>Staff Comment:</u> No engineering issues were identified that would preclude the proposed development. As noted in the site plan review, maintenance to existing on-site infrastructure is needed though (specifically the manhole located within the parking lot as shown on the survey is full of dirt &amp; debris, and must be cleaned and properly maintained). Required maintenance must be completed to ensure adequate utilities will continue to be provided. <b>Criterion satisfied with conditions.</b></p> <p><b>5. <i>That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.</i></b></p> <p><u>Applicant Comment:</u> The proposed use of the Property will conform to all applicable regulations of the I-2 Heavy Industrial District. Once approved, NBMN TT will operate the proposed use in compliance with all applicable local and state regulations.</p> <p><u>Staff Comment:</u> The plans as drawn up appear to meet all other requirements of the I-2 zoning district. <b>Criterion satisfied.</b></p>
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### Supplementary Review & Public Comment

<b>Additional Information:</b>	<ul style="list-style-type: none"> <li>▪ None</li> </ul>
<b>Engineering Review:</b>	<p>Engineering comments that must be addressed are denoted in their 6/7/21 memo attached to this report. General comments are as follows:</p> <ol style="list-style-type: none"> <li>1) Any work near the easterly right of way line will require a review from MnDOT.</li> <li>2) The fence located along the northerly property line appears to be installed on the neighboring property.</li> <li>3) The manhole located within the parking lot is shown as full of dirt/debris. Manhole should be cleaned and properly maintained.</li> <li>4) Additional clarity on proposed use is needed. Will loading and unloading of trucks take place under this use?</li> </ol> <p>Conditions, as needed, to address each of the above concerns have been outlined in this report.</p>

<b>Public Safety Review:</b>	▪ No public safety concerns on this application.
<b>Public Comment:</b>	▪ The only feedback staff has received regarding this application came from the business to the south (Freeway Towing) who just wanted to ensure that nothing proposed would inhibit access to their business. All plans were provided to them for review, and no further comments were received as of 6/10/21.
<b>Planning Commission Review:</b>	▪ The Planning Commission is scheduled to review this application on 6/15/21.

### Conclusion:

The application is requesting approval of a special use permit to authorize the addition of a “trucking terminal” use to the property at 201 5<sup>th</sup> Avenue SW.

Applicant's Concluding Comments: Based on [our] narrative, NBMN TT's proposed use of the Property satisfies the requirements to grant the requested special use permit, and continue with the previously granted special use permits and nonconforming use permits for the Property. We respectfully request staff's support in making a recommendation of the approval to the Planning Commission and City Council.

**Staff Recommendation: Per the analysis outlined in the report, staff is recommending APPROVAL of the proposed special use permit amendment with conditions.**

<b>Commission Options:</b>	<p>The Planning Commission has the following options:</p> <ul style="list-style-type: none"> <li>A) RECOMMEND APPROVAL OF THE REQUEST based on the applicant's submittals and findings of fact.</li> <li>B) RECOMMEND DENIAL OF THE REQUEST based on the applicant's submittals and findings of fact.</li> <li>C) TABLE THE ITEM and request additional information.</li> </ul> <p>Based on an application date of 5/20/21, the 60-day review period for this application expires on 7/19/21. This deadline can be extended an additional 60 days if more time is necessary.</p>
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<p><b>Template Denial Motion:</b>  (<u>not</u> recommended)</p>	<ul style="list-style-type: none"> <li>▪ “I move that we recommend the City Council deny the proposed special use permit amendment based on the following findings of fact:”                             <ul style="list-style-type: none"> <li>○ (provide findings to support your conclusion)</li> </ul> </li> </ul>
<p><b>Template Approval Motion:</b>  <b>RECOMMENDED</b></p>	<ul style="list-style-type: none"> <li>▪ “I move we recommend the City Council approve the proposed special use permit amendment based on the findings of fact and conditions listed on pages 12 &amp; 13 of the staff report as may have been amended here tonight.”</li> </ul>
<p><b>Suggested Findings of Fact:</b></p>	<ol style="list-style-type: none"> <li>1. The proposed trucking terminal use will not be detrimental to the public health or general welfare provided all parking follows the approved plan;</li> <li>2. The proposed use will not impact the use of surrounding properties, and will not impact surrounding property values provided access to 299 5<sup>th</sup> Avenue SW is not impeded;</li> <li>3. The proposed use will not have any impact on the normal and ordinary development of surrounding properties;</li> <li>4. The subject site is adequately served by municipal utilities and infrastructure provided maintenance of existing facilities is completed by the landowner;</li> <li>5. The proposed use can conform to all underlying zoning district requirements.</li> </ol>
<p><b>Recommended Conditions:</b></p>	<ol style="list-style-type: none"> <li>1. Adherence to all engineering requirements outlined in the Engineering memo dated 6/7/21.</li> <li>2. To ensure the parking plan is followed, the applicant’s shall have the parking lot restriped per City specs in the proposed configuration. Restriping shall be completed prior to launching the new trucking terminal use.</li> <li>3. Lighting on the site and buildings shall be directed downward and installed so as to prevent direct light from being detectable from surrounding properties. Lighting is also not to shine directly into the public right-of-way. Any problems with existing lighting that is later identified shall be brought into compliance with code requirements.</li> <li>4. The manhole located within the parking lot shall be cleaned and properly maintained throughout the life of the SUP.</li> <li>5. The applicant shall address storm water concerns if unforeseen issues arise (or become foreseeable) as a result of the revised on-site parking and storage plan.</li> </ol>

- (cont.)
6. The landowners shall show all previously required improvements from past SUPs for fire safety have been implemented. Alternatively, the applicants may schedule an in-person inspection of the property with the fire chief, and implement all fire safety improvements identified at that meeting.
  7. All activities related to this business shall remain on-site in accordance with the approved parking and site plan, and no activities shall block vehicle access to 299 5<sup>th</sup> Avenue NW.
  8. A sign permit shall be obtained for any future signage changes requested on the property.
  9. Reconfiguration of the approved parking and storage layout, which does not substantially change or increase overall storage or parking on the property, may be administratively approved by City staff provided the amended storage pattern is approved by public safety, will always allow for emergency access to all areas of the site, and is restriped in accordance with City specifications.

**cc:** *Mike Tingum, Applicant's Representative/Attorney*



# interoffice

## MEMORANDUM

---

**to:** Ben Gozola, Assistant Director of Community Assets and Development/City Planner  
**from:** Dustin Lind, Engineering Supervisor  
**subject:** 201 5<sup>th</sup> Avenue SW  
**date:** June 7, 2021

The Engineering Department has reviewed the site plan for the property at 201 5<sup>th</sup> Avenue SW and we offer the following comments:

- 1) Any work near the easterly right of way line will require a review from MnDOT.
- 2) The fence located along the northerly property line appears to be installed on the neighboring property.
- 3) The manhole located within the parking lot is shown as full of dirt/debris. Manhole should be cleaned and properly maintained.
- 4) Additional clarity on proposed use is needed. Will loading and unloading of trucks take place under this use?

**RESOLUTION \_\_\_\_\_**  
**CITY COUNCIL**  
**CITY OF NEW BRIGHTON**

RESOLUTION MAKING FINDINGS OF FACT AND APPROVING A SPECIAL USE PERMIT  
AMENDMENT ADDING TRUCKING TERMINAL AS A USE ON THE PROPERTY AT 201  
5<sup>TH</sup> AVENUE SW

**WHEREAS**, the City of New Brighton is a municipal corporation, organized and existing under the laws of the State of Minnesota; and,

**WHEREAS**, the City Council of the City of the New Brighton has adopted a comprehensive plan and corresponding zoning regulations to promote orderly development and utilization of land within the city; and,

**WHEREAS**, NBMN TT, LLC, has purchased the property at 201 5th Avenue SW legally described as:

That part of the Southeast Quarter of the Northeast Quarter of Section 32, Township 30, Range 23, Ramsey County, Minnesota, lying Easterly of the Minnesota Transfer Railway's 100 foot right-of-way, lying Westerly of the Interstate Highway No. 35W right-of-way, and lying North and West of the following described line:

Commencing at the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 89 degrees 58 minutes 15 seconds West along the North line of said Southeast Quarter of the Northeast Quarter, a distance of 500.93 feet to the West right-of-way line of said Interstate Highway No. 35W; thence South 00 degrees 41 minutes 08 seconds West along said West right-of-way line 393.08 feet to the point of beginning of the line to be described; thence South 67 degrees 05 minutes 26 seconds West 243.59 feet to the East right-of-way line of said Minnesota Belt Line Railway and said line there terminating.

(Abstract Property)

**WHEREAS**, NBMN TT, LLC (the “Applicants”) made application to the City on 5/20/21 for a Special Use Permit (SUP) Amendment to add Trucking Terminal as a use on the property at 201 5<sup>th</sup> Avenue SW; and

**WHEREAS**, staff fully reviewed the request and prepared a report for consideration by the Planning Commission at their meeting on June 15, 2021; and

**WHEREAS**, the Planning Commission held a public hearing on the request at the June 15, 2021, meeting and considered input from residents; and recommended approval of the request based on the applicant’s submittals and findings of fact; and

**WHEREAS**, the City Council considered on June 22, 2021, the recommendations of the Planning Commission, Staff, the Applicant's submissions, the contents of the staff report, and other evidence available to the Council.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of New Brighton hereby approves the requested special use permit amendment based on the following findings of fact:

1. The proposed trucking terminal use will not be detrimental to the public health or general welfare provided all parking follows the approved plan;
2. The proposed use will not impact the use of surrounding properties, and will not impact surrounding property values provided access to 299 5th Avenue SW is not impeded;
3. The proposed use will not have any impact on the normal and ordinary development of surrounding properties;
4. The subject site is adequately served by municipal utilities and infrastructure provided maintenance of existing facilities is completed by the landowner;
5. The proposed use can conform to all underlying zoning district requirements.

**BE IT FURTHER RESOLVED**, that approval of the special use permit amendment shall be subject to the following conditions:

1. Adherence to all engineering requirements outlined in the Engineering memo dated 6/7/21.
2. To ensure the parking plan is followed, the applicant's shall have the parking lot restriped per City specs in the proposed configuration. Restriping shall be completed prior to launching the new trucking terminal use.
3. Lighting on the site and buildings shall be directed downward and installed so as to prevent direct light from being detectable from surrounding properties. Lighting is also not to shine directly into the public right-of-way. Any problems with existing lighting that is later identified shall be brought into compliance with code requirements.
4. The manhole located within the parking lot shall be cleaned and properly maintained throughout the life of the SUP.
5. The applicant shall address storm water concerns if unforeseen issues arise (or become foreseeable) as a result of the revised on-site parking and storage plan.
6. The landowners shall show all previously required improvements from past SUPs for fire safety have been implemented. Alternatively, the applicants may schedule an in-person inspection of the property with the fire chief, and implement all fire safety improvements identified at that meeting.

7. All activities related to this business shall remain on-site in accordance with the approved parking and site plan, and no activities shall block vehicle access to 299 5th Avenue NW.
8. A sign permit shall be obtained for any future signage changes requested on the property.
9. Reconfiguration of the approved parking and storage layout, which does not substantially change or increase overall storage or parking on the property, may be administratively approved by City staff provided the amended storage pattern is approved by public safety, will always allow for emergency access to all areas of the site, and is restriped in accordance with City specifications.

**ADOPTED** this 22<sup>nd</sup> day of June, 2021 by the New Brighton City Council with a vote of \_\_\_ ayes and \_\_\_ nays.

\_\_\_\_\_  
Kari Niedfeldt-Thomas, Mayor

\_\_\_\_\_  
Devin Massopust, City Manager

ATTEST:

\_\_\_\_\_  
Terri Spangrud, City Clerk

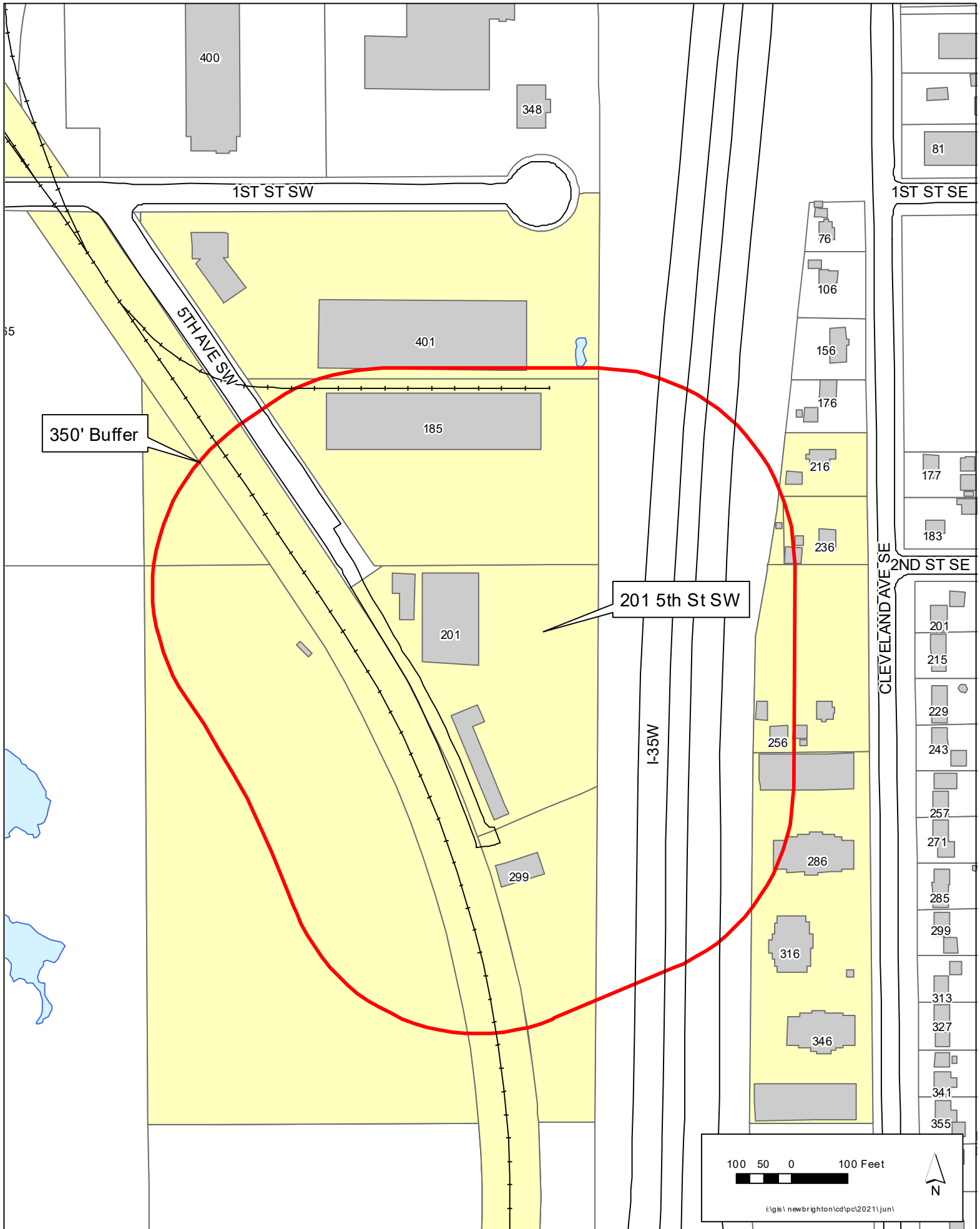
The undersigned Applicants have read, understand and hereby agree to the terms of this resolution and on behalf of himself/herself, his/her heirs, successors and assigns, hereby agree to the conditions set forth above, and to the recording of this resolution and attachments in the chain of title of the property.

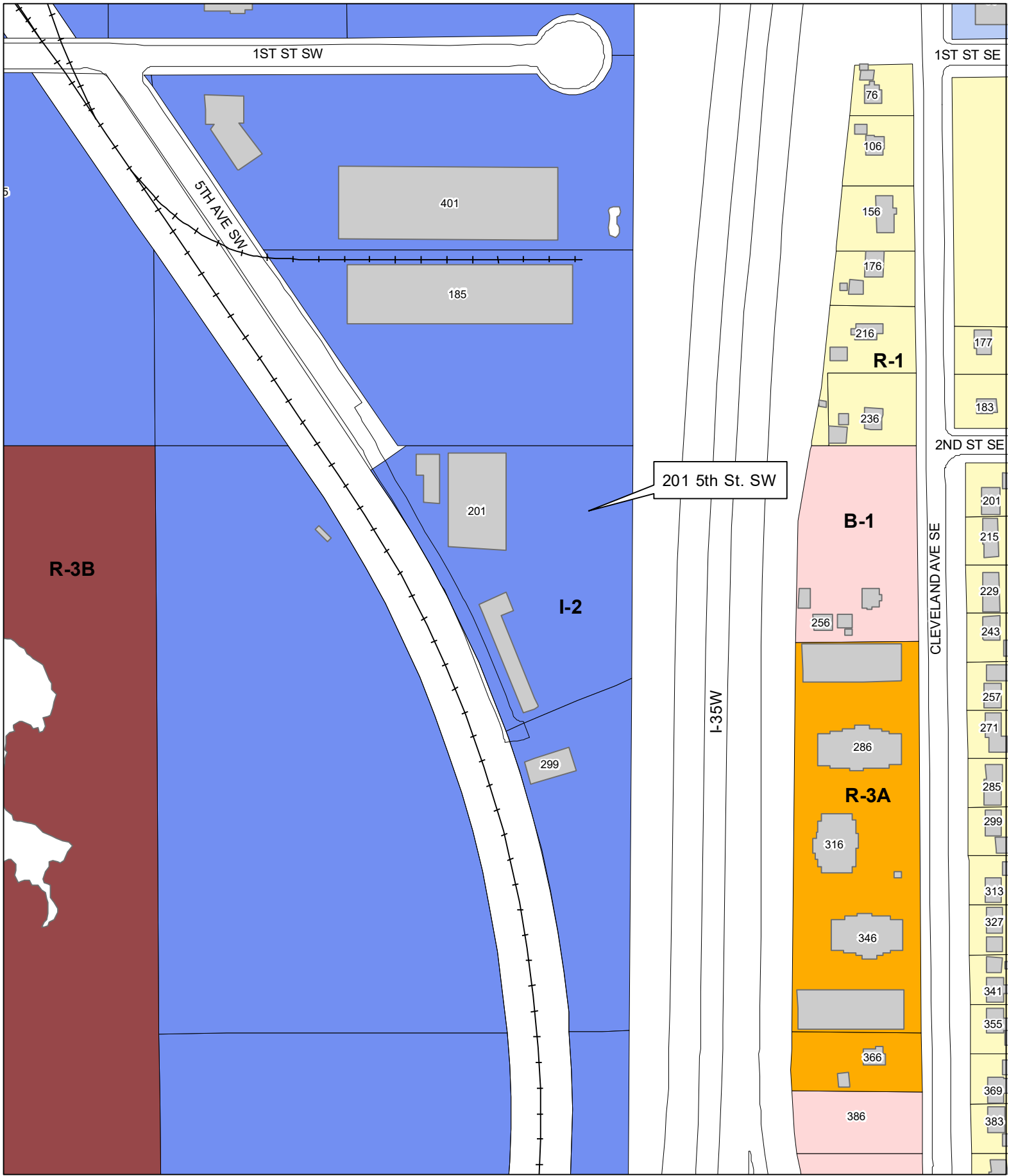
Dated \_\_\_\_\_  
\_\_\_\_\_  
<authorized representative>

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

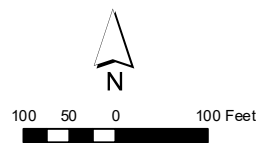
\_\_\_\_\_  
Notary Public

# 201 5th St. SW - 350' Mailing Buffer



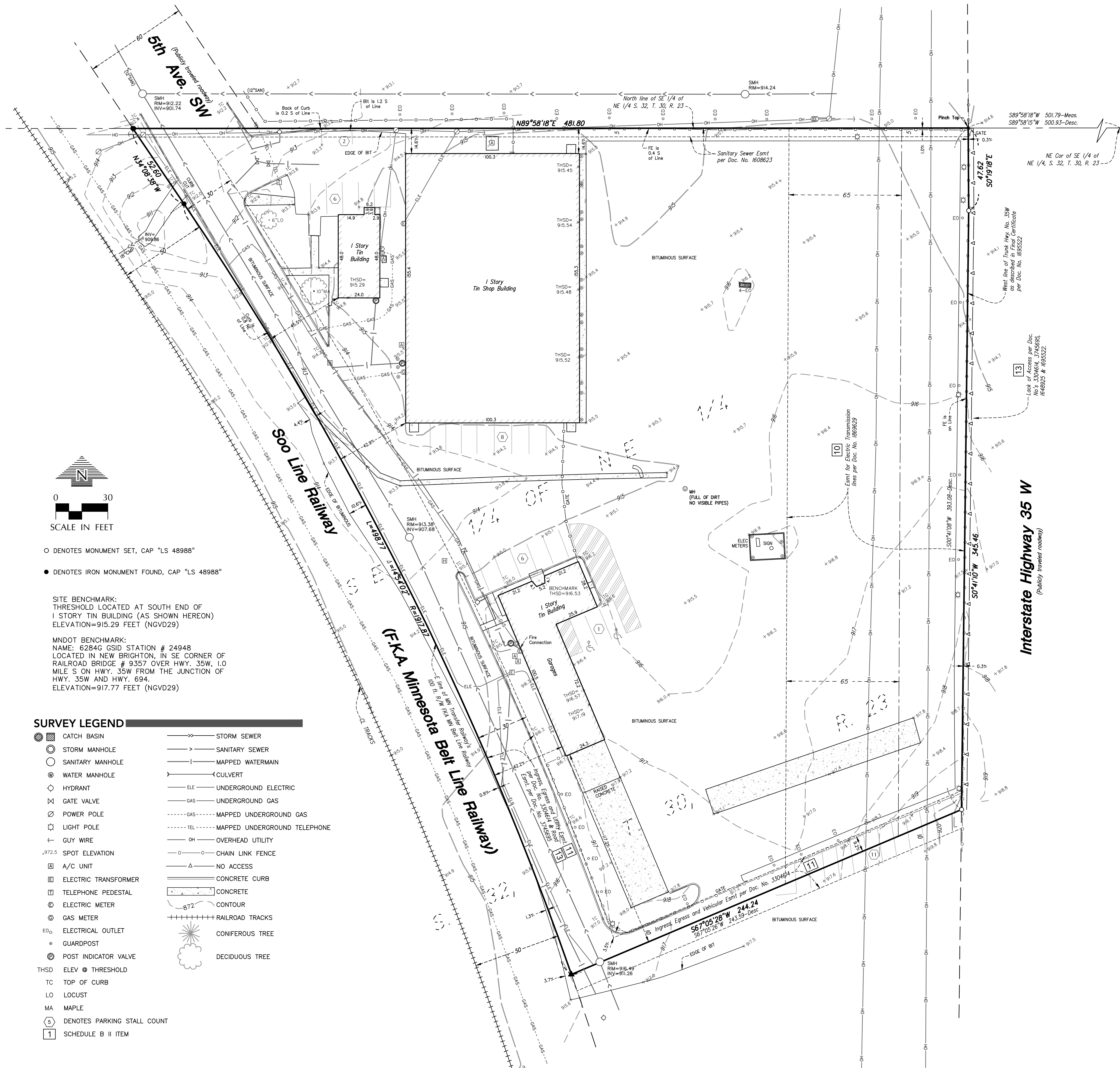


- R-1, Single Family Residential
- R-3A, High Density Residential
- R-3B, High Density Residential
- B-1, Limited Business
- I-2, Heavy Industrial



## Current Zoning

201 5th St. SW  
I-2, Heavy Industrial



1 OF 3

201 - 5TH  
AVENUE SW

NEW BRIGHTON, MN 55112

BAY & BAY  
TRANSPORTATION

2905 W. SERVICE ROAD  
SUITE 2000  
EAGAN, MN 55121

LOUCKS

PLANNING  
CIVIL ENGINEERING  
LAND SURVEYING  
LANDSCAPE ARCHITECTURE  
ENVIRONMENTAL

7200 Hemlock Lane, Suite 300  
Maple Grove, MN 55369  
763.424.5505  
www.loucksinc.com

CADD QUALIFICATION

CADD files prepared by the Consultant for this project are instruments of the Consultant professional services for use solely with respect to this project. These CADD files shall not be used on other projects, for additions to this project, or for completion of this project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to obtain copies of the CADD drawing files for information and reference only. All intentional or unintentional revisions, additions, or deletions to these CADD files shall be made at the full risk of that party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any & all responsibilities, claims, and liabilities.

SUBMITTAL/REVISIONS

05/14/21	SURVEY ISSUED
05/26/21	ADDED SHEET 2
05/27/21	ADDED SHEET 3

PROFESSIONAL SIGNATURE

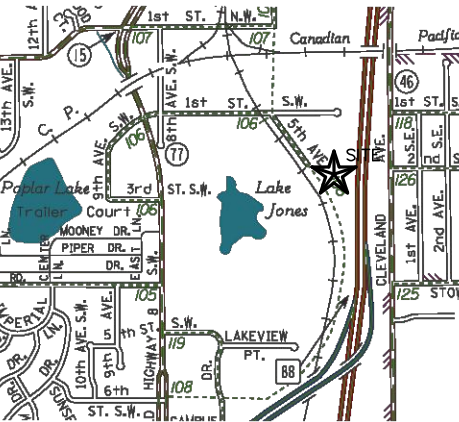
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

*Max L. Stanislawski*  
Max L. Stanislawski - PLS  
License No. 48988  
Date 05/14/21

QUALITY CONTROL

Loucks Project No.	15-501A
Project Lead	MLS
Drawn By	SFM
Checked By	MLS
Field Crew	CMS

VICINITY MAP



PARKING  
EXHIBIT

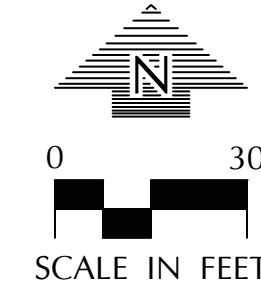
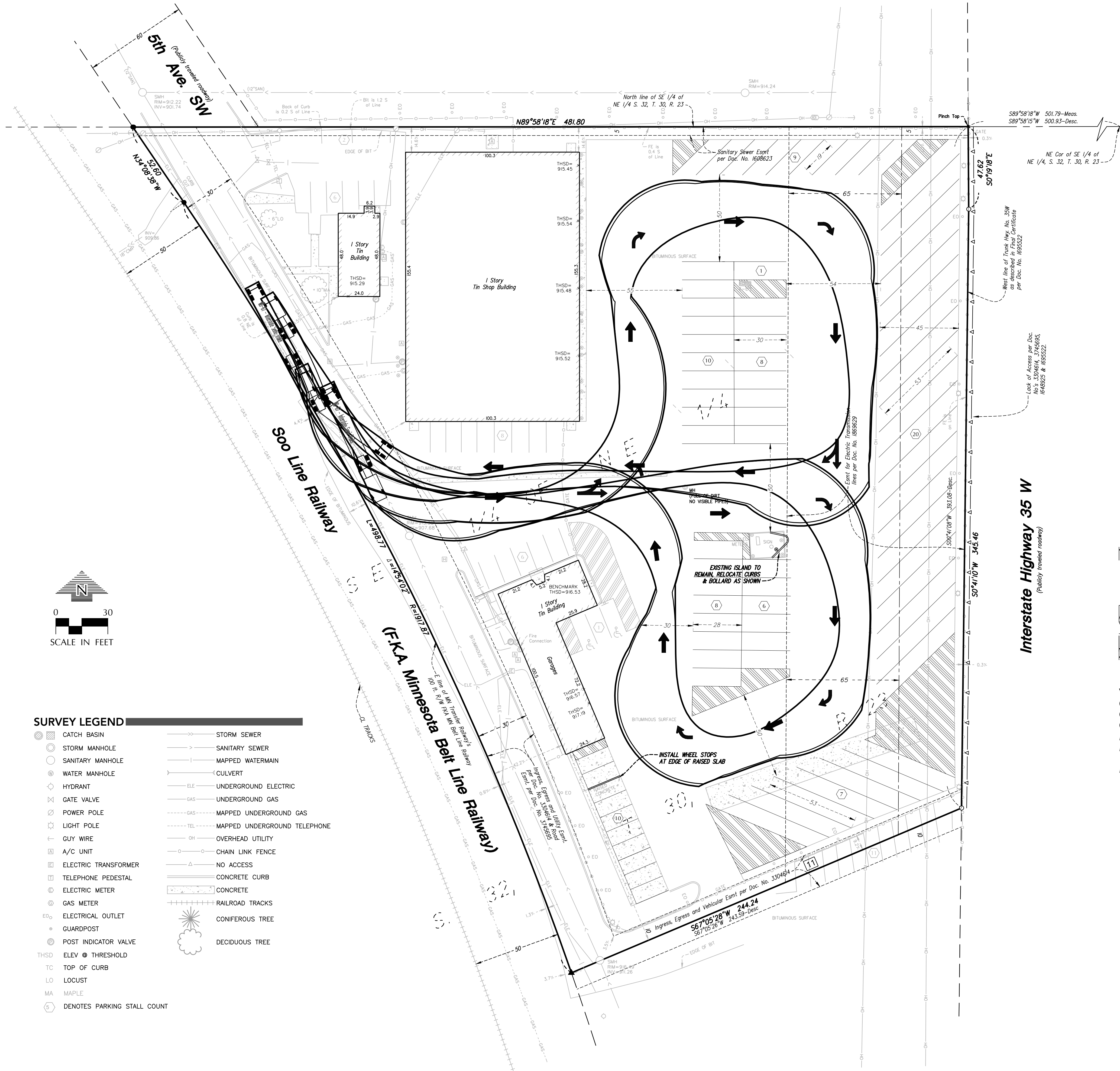
2 OF 3

NOTE

- The purpose of this sheet is to portray the proposed parking and drive aisles for the site.
- See sheet 1 for ALTA Survey and sheet 3 for Truck Simulation.

SURVEY LEGEND

	CATCH BASIN		STORM SEWER
	STORM MANHOLE		SANITARY SEWER
	SANITARY MANHOLE		MAPPED WATERMAIN
	WATER MANHOLE		CULVERT
	HYDRANT		UNDERGROUND ELECTRIC
	GATE VALVE		UNDERGROUND GAS
	POWER POLE		MAPPED UNDERGROUND GAS
	LIGHT POLE		MAPPED UNDERGROUND TELEPHONE
	GUY WIRE		OVERHEAD UTILITY
	A/C UNIT		CHAIN LINK FENCE
	ELECTRIC TRANSFORMER		NO ACCESS
	TELEPHONE PEDESTAL		CONCRETE CURB
	ELECTRIC METER		CONCRETE
	GAS METER		RAILROAD TRACKS
	ELECTRICAL OUTLET		CONIFEROUS TREE
	GUARDPOST		DECIDUOUS TREE
	POST INDICATOR VALVE		
	ELEV @ THRESHOLD		
	TOP OF CURB		
	LOCUST		
	MAPLE		
	DENOTES PARKING STALL COUNT		

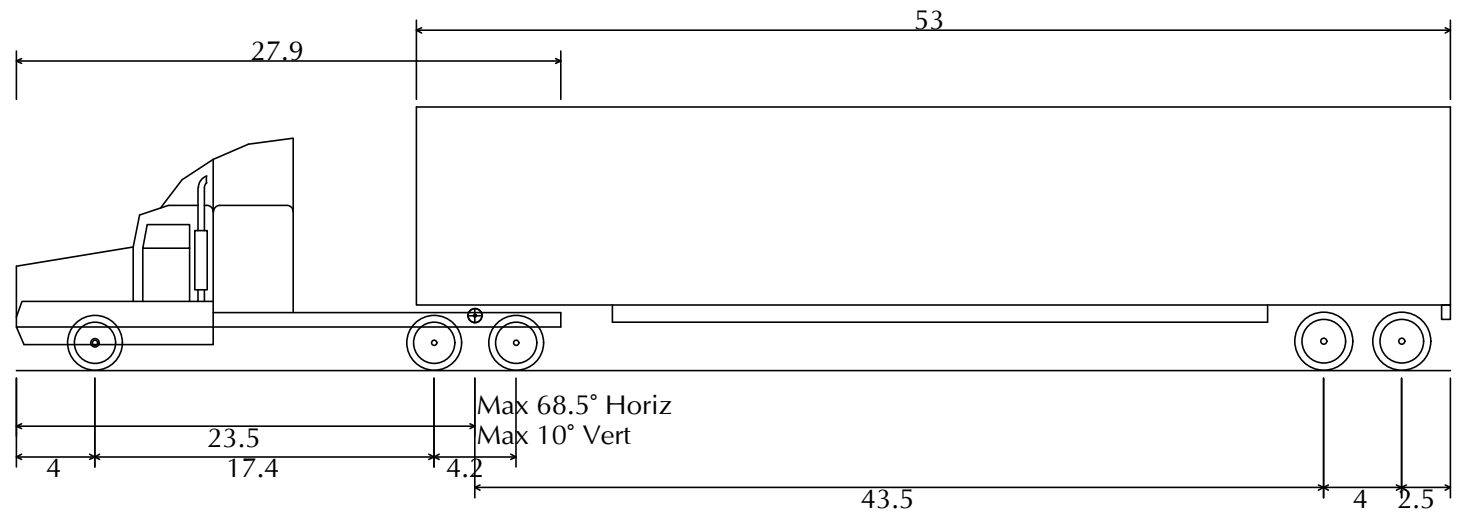


#### SURVEY LEGEND

	CATCH BASIN		STORM SEWER
	STORM MANHOLE		SANITARY SEWER
	SANITARY MANHOLE		MAPPED WATERMAIN
	WATER MANHOLE		CULVERT
	HYDRANT		UNDERGROUND ELECTRIC
	GATE VALVE		UNDERGROUND GAS
	POWER POLE		MAPPED UNDERGROUND GAS
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	POST INDICATOR VALVE		
	ELEV THRESHOLD		
	TOP OF CURB		
	LOCUST		
	MAPLE		
	DENOTES PARKING STALL COUNT		

#### NOTE

- The purpose of this sheet is to portray the truck simulation for the site.
- See sheet 1 for ALTA Survey and sheet 2 for Parking Exhibit.



WB-67 - Interstate Semi-Trailer  
Overall Length  
Overall Width  
Overall Body Height  
Min Body Ground Clearance  
Max Track Width  
Lock-to-lock time  
Max Steering Angle (Virtual)

73.501ft  
8.500ft  
13.500ft  
1.334ft  
8.500ft  
6.00s  
28.40°

201 - 5TH  
AVENUE SW

NEW BRIGHTON, MN 55112

BAY & BAY  
TRANSPORTATION

2905 W. SERVICE ROAD  
SUITE 2000  
EAGAN, MN 55121

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PLANNING  
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#### SUBMITTAL/REVISIONS

05/14/21	SURVEY ISSUED
05/26/21	ADDED SHEET 2
05/27/21	ADDED SHEET 3

#### PROFESSIONAL SIGNATURE

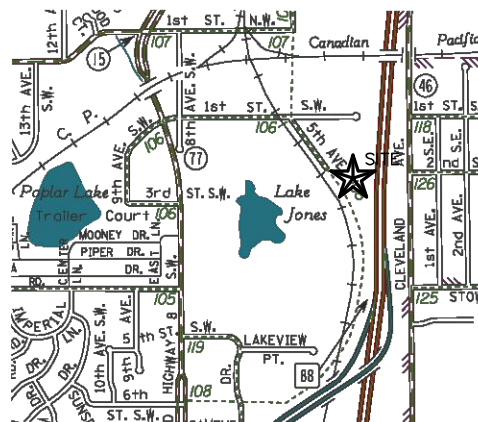
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

*Max L. Stanislawski*  
Max L. Stanislawski - PLS  
License No. 48988  
Date 05/14/21

#### QUALITY CONTROL

Loucks Project No. 15-501A  
Project Lead MLS  
Drawn By SFM  
Checked By MLS  
Field Crew CMS

#### VICINITY MAP



TRUCK  
SIMULATION  
EXHIBIT

3 OF 3



**CHRISTENSEN  
& LAUE PLLC**  
ATTORNEYS AT LAW

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ROBERT P. LAUE  
NATHAN J. BETTS  
MICHAEL D. TINGUM\*\*  
BENJAMIN M. PODOBINSKI

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TELEPHONE (952) 927-8855  
FACSIMILE (952) 927-5427

†REAL PROPERTY LAW SPECIALIST  
CERTIFIED BY MINNESOTA STATE  
BAR ASSOCIATION

\*ALSO ADMITTED IN WISCONSIN  
\*\*ALSO ADMITTED IN NORTH DAKOTA

**DRAFT**

Mr. Benjamin Gozola  
Assistant Director of Assets and Development  
803 Old Highway 8  
New Brighton, MN 55112

Re: Special Use Permit for Trucking Terminal Activities

Dear Mr. Gozola:

This firm represents NBMN TT, LLC with regard to the property located at 201 5<sup>th</sup> Ave. SW (the “**Property**”), New Brighton, Minnesota (the “**City**”). The Property has most recently housed truck and trailer repair, service and sales businesses, which have operated in accordance with a 2004 Special Use Permit approving of truck and trailer repair business uses, including outdoor storage (the “**2004 SUP**”) and a 2015 Special Use Permit and Nonconforming Use Permit, approving of the addition of truck and trailer sales business uses on the Property (the “**2015 SUP**”). NBMN TT, LLC (“**NBMN TT**”) has contracted to purchase the Property, and intends to add trucking terminal activities as an additional allowed use on the Property, with all such operations to be operated under Bay & Bay Transfer Co., Inc. (“**Bay & Bay**”), an affiliate of NBMN TT. This letter and the enclosed materials support NBMN TT’s applications for a special use permit (“**SUP**”) relating to the Property.

**Background and Introduction**

The Property is currently owned by Truck Country of Minnesota, Inc. (“**Truck Country**”), who has been operating a Truck Country franchise, being a truck and trailer sale and repair business, on the Property since approximately 2015, when Truck Country’s affiliate McCoy Group obtained the 2015 SUP, adding truck and trailer sales as an allowed use. Prior to that, the Property was owned and operated by Mike’s Truck and Trailer Repair (“**Mike’s**”), a truck and trailer repair business that had operated on the Property since approximately 2004, when Mike’s obtained the 2004 SUP to convert the Property from a lumberyard to a truck and trailer repair

business. Pursuant to an agreement between Truck Country and Mike's, Mike's truck and trailer repair business continued to operate on the Property, alongside Truck Country's truck and trailer sales business, following Truck Country's acquisition of the Property.

Truck Country and NBMN TT have entered into a Purchase and Sale Agreement, in which Truck Country has contracted to sell the Property to NBMN TT. NBMN TT is an affiliate of Bay & Bay, and proposes to establish a Bay & Bay trucking terminal on the Property.

Bay & Bay is an established and well-respected Minnesota based trucking company, which has been operating since 1941, and is currently headquartered in Eagan, MN, with trucking terminals in Eagan, MN, Burnsville, MN and Denton, TX. Bay & Bay desires to grow its business by adding a trucking terminal with truck and trailer repair, service and sales, outdoor storage and general trucking terminal activities at the Property in New Brighton, which would include approximately 12-16 full-time employees on the Property.

Truck Country made significant improvements to the Property as part of, and following the 2015 SUP, including the demolition of older structures, landscaping, new downcast lighting, a security fence and gating, new asphalt as necessary, and crack fill with seal coating. The Property, and current improvements thereon, are well maintained and well-suited for NBMN TT's proposed use of the Property, so NBMN TT does not anticipate the need for any new construction or demolition on the Property. The Property includes a truck and trailer repair facility, driver lockers and amenities, office space and outdoor truck and trailer parking areas.

As part of the 2015 SUP, the City approved of a parking plan on the Property for the outdoor truck and trailer parking. As part of this 2021 Special Use Permit Application, in addition to adding trucking terminal activities, NBMN TT is seeking approval of a modification to such outdoor truck and trailer parking arrangement, which will allow Bay & Bay to better utilize the outdoor parking areas on the Property for their needs, in a manner which remains safe, properly lighted and screened off from neighboring properties. A survey is included with this Application, showing the proposed location of the new parking and outdoor storage plan, which allows for adequate driving lanes for emergency vehicles to access the Property.

Bay & Bay's fleet of trucks and trailers are new and late-model trucks, with proactively maintained trailers, and all of Bay & Bay's facilities are clean, well maintained and orderly. The majority of the operations on the Property will be screened from both the adjacent Interstate 35W and Fifth Avenue SW by a row clean and well maintained new and late model trucks and trailers, and various shrubs and bushes as shown on the Survey.

### **Special Use Permit**

Consistent with City Code Section 8-130, the following findings necessary to grant the Special Use Permit for trucking terminal activities are satisfied:

- a. 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.*

The addition of the proposed trucking terminal activities operation is consistent and complimentary with the current use of the Property. The Special Use Permits that are currently in place on the Property, permit truck and trailer sales, service, and repairs, and outdoor storage on the Property. The addition of trucking terminal activities to the already permitted uses, and parking in accordance with the proposed Survey, attached hereto as Exhibit A, will not endanger public health, safety, morals, comfort or the general welfare of residents, as the location of the Property is in an established industrial area and separated by I-35W from the nearest residential uses, and the improvements previously made by Truck Country to the Property have increased security and have reduced off-site impacts, in a manner that would allow for trucking terminal activities. Furthermore, the Property does not have frontage on a public roadway, but rather is at the end of a dead-end road (5th Ave. SW), with railroad tracks running along the west side of such road, so the aesthetic impact to the public of the trucking terminal use will be minimal.

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

The proposed use of the Property will not be injurious to the use and enjoyment of the Property in the vicinity and will contribute to improved property values within the area. The Property has historically been screened from traffic on the interstate by Truck Country's truck and trailer inventory, and NBMN TT will continue to screen the Property from traffic on the interstate, by similarly parking well maintained new and late-model trucks and trailers within the designated parking areas shown on the attached Survey. The proposed use will not interfere with neighboring properties, or the permitted uses on neighboring properties. NBMN TT will maintain the orderly and clean appearance of the Property, as trucks will be parked and stored in accordance with Survey.

- c. 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 establishment of a trucking terminal on the Property will not impede the normal and orderly development and improvement of the surrounding properties. All properties in the vicinity, including the Property, are zoned I-2 Heavy Industrial District. This District allows for a range of heavy industrial uses. The proposed use will not restrict the use or development of any of the surrounding properties for uses permitted in the District.

- d. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.*

The Property is currently served by adequate utilities and has sufficient access to accommodate any proposed traffic from the west via 5<sup>th</sup> Avenue Southwest. Fiber optic cable was installed through the Property by Truck Country for Internet access. No improvements on the Property are contemplated that would impact the drainage of the Property. NBMN TT will not remove or alter any of the existing utilities, access roads and facilities currently on the Property. The Property

already includes driver lockers, showers and amenities, office space and outdoor truck and trailer parking areas which support the proposed use of a trucking terminal operation.

- e. The special use shall in all other respects conform to the applicable regulations of the district in which it is located.*

The proposed use of the Property will conform to all applicable regulations of the I-2 Heavy Industrial District. Once approved, NBMN TT will operate the proposed use in compliance with all applicable local and state regulations.

Based on the above-described narrative, NBMN TT's proposed use of the Property satisfies the requirements to grant the requested special use permit, and continue with the previously granted special use permits and nonconforming use permits for the Property. We respectfully request staff's support in making a recommendation of the approval to the Planning Commission and City Council.

Please contact me with any questions about this letter or the enclosed documents.

Very Truly Yours,

**CHRISTENSEN & LAUE, PLLC**

Michael D. Tingum,  
Attorney at Law

## Special Use Permit Criteria Worksheet

A special use permit cannot be approved unless the Planning Commission and City Council find that the following criteria have been met. Please provide a response on how/why your project meets the below stated criteria. Use additional sheets if necessary and consult with the Planning Director at the time of your Pre-Application Meeting as some items may not be applicable for your project.

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.

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road (5th Ave. SW), with railroad tracks running along the west side of such road, so the aesthetic impact to the public of the trucking terminal use will be minimal.

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.

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Property, as trucks will be parked and stored in accordance with Survey.

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.

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

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

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<b>Agenda Section:</b>	<b>VII</b>
<b>Item:</b>	<b>1</b>
<b>Report Date:</b>	<b>6/10/21</b>
<b>Commission Meeting Date:</b>	<b>6/15/21</b>

## REQUEST FOR COMMISISON CONSIDERATION

<b>ITEM DESCRIPTION:</b> Preliminary Plat – Request from Ibiza LLC to subdivide the existing parcel at 2221 7 <sup>th</sup> Street NW into four lots meeting R-1 zoning standards – PID 30-30-23-13-0001.
<b>DEPARTMENT HEAD’S APPROVAL:</b>
<b>CITY MANAGER’S APPROVAL:</b>
<b>No comments to supplement this report</b> ____ <b>Comments attached</b> ____

**15.99 Deadline:** 9/11/21

- Recommendations:**
- Staff believes the preliminary plat meets all minimum requirements and can be approved with conditions.
  - Template motions, recommended findings, and suggested conditions can be found on pages 15 & 16.

- Legislative History:**
- Application received on 5/14/21
  - Planning Commission review scheduled for 6/15/21

**Financial Impact:** None

**Summary:** Ibiza LLC proposes to subdivide the existing property at 2221 7th St NW into four lots. The existing home would be retained on one of the proposed lots. Each of the proposed lots is conforming to minimum code standards for R-1 zoned lots. Provided suggested conditions of approval are agreed to, staff finds the preliminary plat should be approved.

- Attachments:**
- 1) Staff Report
  - 2) Engineering Memo
  - 3) Draft Resolution
  - 4) City Maps
  - 5) Applicant’s supporting documentation

Ben Gozola, AICP

Assistant Director of Community Assets and Development

**To: Planning Commission**

**From:** Ben Gozola, Assistant Director DCAD

**Meeting Date:** 6-15-21

**Applicants:** Ibiza LLC

**Main Contacts:** Aleksey Derevyanko

**Location:** 2221 7<sup>th</sup> St NW

**Zoning:** R-1

### ***Introductory Information***

**Project:** Ibiza LLC proposes to subdivide the existing property at 2221 7<sup>th</sup> St NW into four lots. The existing home would be retained on one of the proposed lots.

**History:**

- The existing home was built in 1948 on land that has not been previously platted.
- Land was sold to Ibiza LLC in late April of 2021
- Complete application for preliminary plat received on 5/14/21
- Published notice occurred on: 5/30/21
- Public hearing notices sent out on: 6/2/21
- Planning Commission review & public hearing scheduled for 6/15/21

### ***General Findings***

**Site Data:**

- Land Area = 1.22 acres (53,053 sq ft)
- Existing Use – one (1) single family dwelling
- Existing Zoning – R-1 (Single Family Residential)
- Property Identification Number (PID): 30-30-23-13-0001

**Comp Plan Guidance:**

- The new 2040 Comprehensive Plan guides this property for “Low Density Residential.” Development meeting R-1 zoning standards will comply with this land use designation.



<b>Notable Code Definitions:</b>	<ul style="list-style-type: none"> <li>▪ <b>Accessory Building.</b> A subordinate building, excluding a private garage, the use of which is incidental to that of the main building or to the use of the premises.</li> <li>▪ <b>Block.</b> An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundary or boundaries of the subdivision, or a combination of these with a stream or water body.</li> <li>▪ <b>Building Line.</b> A line which designates the area within which a principal structure may be erected upon a lot.</li> <li>▪ <b>Preliminary Plat.</b> The proposed plat map, drawing, or chart indicating the proposed layout of the subdivision or consolidation to be submitted to the Planning Commission and City Council for their consideration as to compliance with the Comprehensive Plan and these regulations, along with required supporting data.</li> <li>▪ <b>Setback.</b> The minimum horizontal distance from a building, structure, fence, or parking lot to a lot line.</li> <li>▪ <b>Subdivision.</b> A parcel of land divided into smaller parts such as blocks or lots, or a tract of land which is re-divided after the first division.</li> </ul>
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<b>Primary Applicable Codes:</b>	<ul style="list-style-type: none"> <li>▪ <b>Chapter 26, Article 1, <u>General Conditions</u></b>                      Outlines minimum standards to follow when creating new lots.</li> <li>▪ <b>Chapter 26, Article 2, <u>Preliminary Plat</u></b>                      Outlines the required process to follow to gain approval of a proposed subdivision concept.</li> <li>▪ <b>Zoning Chapter 4, Article 1, <u>Single Family Residence District.</u></b>                      Outlines minimum standards for lots in the R-1 zoning district.</li> </ul>
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**Applicant's Narrative:** My name is Aleksey Derevyanko and I represent Ibiza LLC, which recently acquired property at 2221 7th St NW. We submitted an application for subdivision of the existing lot into 4 separate parcels. The existing site is 1.22 acres and is currently zoned R-1. There is no rezoning being proposed as part of our subdivision application.

Our plan is to retain the existing house on Lot 1 and create 3 new lots that would be accessed off Inca Ln. Our proposed layout of lots will fit seamlessly into the neighborhood and will follow the same lot structure as homes directly across the street on Inca Ln as well as similarly designed streets throughout the area. All of the 4 lots will meet minimum lot requirements of R-1 district of 10,000sf minimum lot area and 75ft min lot width. Lot 1 with the existing structure will meet

(cont.) setback requirements and 3 newly created lots will have plenty of room to meet setbacks for future homes. No variances are needed for our proposal.

No construction of homes is being proposed on the newly created lots at this time. Potential house pads are shown on survey drawings to illustrate that future houses can be placed on new lots with minimal impact on existing trees and grades. Majority of the exiting trees will be preserved and will provide privacy between future as well as the existing home.

No changes in grade are being proposed as part of our proposal. When houses will be built on Lots 2, 3, and 4 – each lot will be individually graded at the time of construction with minimal changes in grade. No out of ordinary impervious surface would need to be created outside of the house foundation/roof and driveway. Majority of the existing surface will be undisturbed due to Lot 1 one staying as is and Lot 4 being extra deep.

When finalized, our proposal will pave the way to create 3 new construction single family housing units within the city of New Brighton. In addition, the 1 existing single family housing unit will be retained and will serve as a great option for first time home owners looking for an affordable option to buy within the city.

Thank you for your time,

Aleksey Derevyanko, Ibiza LLC

## ***Preliminary Plat Review***

### **IN GENERAL:**

- Land Area:**
- The gross acreage proposed to be developed is 1.22 acres (53,053 sq ft)
    - All land is proposed to be used to create four new lots:

<b><u>Lot</u></b>	<b><u>Area (acres)</u></b> <i>(min 0.22)</i>	<b><u>Area (sq ft)</u></b> <i>(min 10,000)</i>	<b><u>Width (ft)</u></b> <i>(min 75')</i>
1	0.41	17,722	78'
2	0.27	11,621	96'
3	0.23	10,047	104'
4	0.31	13,664	77'

All lots are conforming to the minimum area and width requirements of the R-1 zoning district

- Park dedication is proposed to be met via cash-in-lieu of land.
- No land will be needed for additional ROW dedication, and no Outlots are proposed.

<b><i>Access:</i></b>	<ul style="list-style-type: none"> <li>▪ The existing home will reside on Lot 1, and its existing driveway on to 7<sup>th</sup> St NW will remain in its present location.</li> <li>▪ Whenever possible, all new lots must gain access to the City's road network via local roadways. Accordingly, as a condition of approval, access to Lots 2, 3, and 4 shall come off of Inca Lane and not off 7<sup>th</sup> St NW which is designated as a major collector roadway by the Comprehensive Plan.</li> <li>▪ Curb cut permits may be necessary if dropdown curb is required.</li> </ul>
<b><i>Building Locations:</i></b>	<ul style="list-style-type: none"> <li>▪ Setback requirements in the R-1 zoning district are 30' from property lines abutting right-of-ways, and 5' from side and rear property lines.</li> <li>▪ The existing home and driveway on proposed Lot 1 will be conforming to all setback requirements.</li> <li>▪ Setbacks on proposed Lots 2, 3, and 4 will leave ample room for the construction of future homes.</li> <li>▪ The existing shed on Lot 4 must either be moved to a conforming location on Lot 1, or must be removed from the site altogether prior to an application for final plat being accepted by the City.</li> </ul>
<b><i>Building Heights:</i></b>	<ul style="list-style-type: none"> <li>▪ Future homes cannot exceed 2 ½ stories or 30 feet in height, whichever is less. Building heights will be reviewed when building permit applications are submitted for each of the proposed lots.</li> </ul>
<b><i>Building Materials:</i></b>	<ul style="list-style-type: none"> <li>▪ As this is not a Planned Residential Development, there are no specific standards for building materials that must be followed as new homes are constructed.</li> </ul>
<b><i>Future parcel development:</i></b>	<ul style="list-style-type: none"> <li>▪ The proposed plat would fully divide the land. No further development could occur given the size of each lot and the available amount of frontage on adjacent roads.</li> </ul>
<b><i>Adjacent parcel dev:</i></b>	<ul style="list-style-type: none"> <li>▪ In an ideal world, the land currently proposed for development would be developed concurrently with the parcel to the west (2251 7<sup>th</sup> Street) to maximize the efficiency of land use in this area. It is staff's understanding that the two owners either could not come to agreement on how a subdivision of both parcels would occur, or the adjacent landowner was not interested in participating in development at this time. Notably, the adjacent parcel to the west is <u>currently undevelopable</u> and will remain undevelopable following completion of this subdivision.</li> </ul>

**Easements:**

- Drainage and utility easements (or others), as required by the City Engineer, shall be provided on the future final plat application.

**Resident  
Concerns &  
Feedback:**

- **Ian MacLean (677 Inca Lane)** provided the following comments:

*Hello, I am a current homeowner on Inca Lane. I would like to voice my concern about congestion and traffic concerns with the subdivision of the parcel into 4 lots. This area does not contain adequate sidewalks, traffic controls, or other safety measures. With 2 schools within walking distance of this land, and the addition of a new housing complex at the end of 7th St, I am worried about pedestrian safety. Especially children going to and from the schools.*

*I feel like 4 lots is excessive use of the land. This remains one of the last old homesteads of New Brighton. It provides refuge for a pair of nesting Cooper's Hawks and other local wildlife. I feel that the development would be detrimental to the neighborhood and destroy one of the last remaining natural areas outside of our parks. I feel that this should be taken into consideration by the City of New Brighton. Thank you.*

- **Kari Sue Intveld (691 Inca Lane)** provided the following comments:

*I have just received a notice regarding the upcoming Planning Commission Meeting on June 15, 2021 at 6:30 pm, as well as the City Council Meeting on June 22, 2021 at 6:30 pm. The subject of these meetings is to review a "Request from Ibiza LLC to subdivide the existing parcel at 2221 7th Street NW into four lots meeting R-1 zoning standards - PID 30-30-23-13-0001." It also states that the City Council will take direct public comment on this proposal during their meeting.*

*As a lifelong resident at 691 Inca Lane, New Brighton (directly across the street from the property in question), the impact of these proposed changes will greatly affect me. I would be absolutely devastated to see so many beautiful, mature trees cut down! This lot contains many large trees that have been here for decades. They support much wildlife and are obviously very beneficial to the surrounding environment. I have recently seen hawks nesting there and Great Horned Owls in these trees, as well as Pileated Woodpeckers, and the like. The aesthetics of this neighborhood and the air quality would certainly be negatively impacted if these trees were to be destroyed and the property bulldozed to build several more houses here!*

*There would also be increased traffic and noise pollution, not to mention all the other detrimental effects of such extensive construction activity in this area. This has always been a relatively quiet and peaceful part of New Brighton, and I would definitely hate to see this nice, open, natural area leveled to make way for houses that would be tightly crammed into this once beautiful, serene property.*

(cont.)

*Additionally, this neighborhood contains mainly 1960's-era houses, which are fairly modest in size and style. It would not be welcomed to have new housing here that does not fit in with the surrounding homes. The increased traffic and construction could also create a dangerous situation for the children who walk to and from the nearby Highview Middle School, crossing 7th Street NW right at this corner and walking along Inca Lane each school day.*

*I am truly hoping that this invitation for comments and questions is more than a formality, and that my concerns, as well as those of my neighbors, will be strongly taken into consideration. I most definitely feel that our quality of life would be severely reduced by this proposal! Sincerely, Kari Sue Intveld.*

- **Jack Intveld (691 Inca Lane)** provided the following comments:

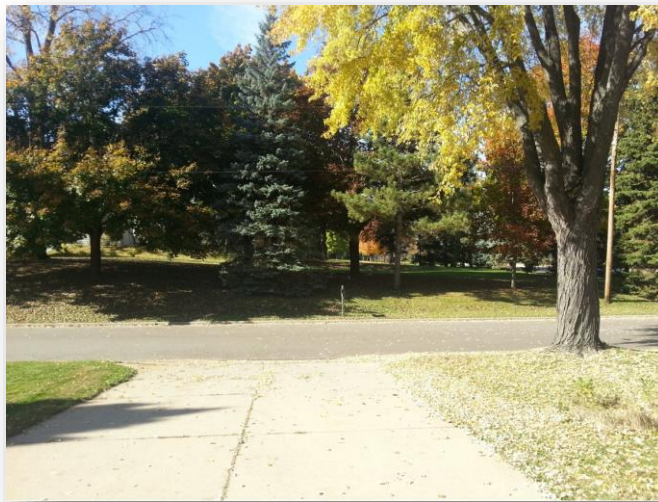
*Dear Mr. Gozola, Thank you for taking the time to speak with me today about the proposed land redevelopment. I've lived at 691 Inca Lane since 1963 (I grew up here) and have always enjoyed the view from across the street. The large yard of many trees and rolling hills is one of the prettiest around here and keeps a sense of the natural world in the midst of the suburb. Changes to it would/will certainly be a great loss to the local atmosphere. The greatest loss by far would be the many very large, very old trees on that property. Some have been around for well over half a century. If those can be preserved, it should surely be done. A few photos...*



*This is the tallest tree and must be pushing 100.*

(cont.)

*A view of the treetops  
from my home:*



*And finally, just looking out  
from the top of my driveway  
— it's a lot to lose.*

## INFRASTRUCTURE:

### ***In General:***

- All public improvements constructed to support the development must be designed and constructed in accordance with the City's Private Development Standards. City Engineer review of all proposed infrastructure is covered herein.

### ***Streets and Transportation:***

- No new streets are proposed as part of this subdivision, and no additional ROW dedications are needed for either Inca Lane or 7<sup>th</sup> St NW.

<p><b>Water System(s):</b></p>	<ul style="list-style-type: none"> <li>▪ As a condition of approval, Engineering comments in the 6/7/21 Engineering Memo (attached) shall be addressed.</li> <li>▪ Main highlights: <ul style="list-style-type: none"> <li>○ New water services will be required for Lots 2 and 3. One common trench should be used for this at the common lot line to avoid multiple street openings.</li> <li>○ Existing water services that are shown for re-use (Lots 1 and 4) must be determined to be operable before they can be used. One or both shall be replaced at the developer's expense if deemed necessary by DCAD.</li> <li>○ Water services to the new lots along Inca Lane shall be in the same trench as the sanitary services to avoid roadway impacts.</li> <li>○ An existing senior deferred assessment for a previously installed water stub (\$993.90) shall be paid prior to acceptance of a final plat application.</li> </ul> </li> </ul>
<p><b>Sanitary System(s):</b></p>	<ul style="list-style-type: none"> <li>▪ As a condition of approval, Engineering comments in the 6/7/21 Engineering Memo (attached) shall be addressed.</li> <li>▪ Main highlights: <ul style="list-style-type: none"> <li>○ The existing sanitary services do not extend to the edge of the right of way. They are capped at the main and will need to be excavated at the main to connect.</li> <li>○ The condition of the existing sewer services will need to be verified and televised before connection can be made to ensure operation/condition of pipe</li> </ul> </li> </ul>
<p><b>Storm water / Grading / Erosion:</b></p>	<ul style="list-style-type: none"> <li>▪ As a condition of approval, Engineering comments in the 6/7/21 Engineering Memo (attached) shall be addressed.</li> <li>▪ Main highlights: <ul style="list-style-type: none"> <li>○ Inlet protection and perimeter control shall be installed before grading on any lot.</li> <li>○ Individual lot grading plans will need to maintain drainage patterns and adequately handle storm water per minimum City standards.</li> <li>○ A permit will be required from the Rice Creek Watershed District</li> </ul> </li> <li>▪ A NPDES permit and project SWPPP will be required.</li> </ul>

- (cont.)
- As is typical with most construction sites, vehicle tracking of dirt into the ROW is likely. Such tracking of dirt into the street shall be monitored and addressed in a timely manner, or the developer must agree to paying for street sweeping services when directed to do so by the City.

**Development  
Phasing:**

- The development would all be completed in a single phase.

**Utilities:**

- All utilities (i.e. telephone, electric, gas service lines, etc) are to be placed underground in accordance with the provisions of all applicable City ordinances.

**Lighting:**

- Lighting on any of the proposed lots shall be directed downward, and installed so as to prevent direct light from being detectable at the lot line of the site on which the source is located. Lighting for each home site will be reviewed with individual building permit applications.
- Lighting shall not shine directly into the public right-of-way or onto any adjacent residential lot.

**Parking:**

- As required by code, each of the proposed lots will be able to accommodate a minimum of two (2.0) parking spaces outside of the right-of-way on each parcel.

**Required  
Signage:**

- No new signage is needed as a result of this subdivision.
- Any future signage on any of the proposed lots will need to adhere to standards for lots in the R-1 zoning district.
- No neighborhood/development monument is proposed for this plat.

**Fire Hydrants /  
Fire Safety:**

- No new fire hydrants are needed to serve these lots.
- The existing fire hydrant on the SW corner of Inca Lane and 7<sup>th</sup> shall be maintained following subdivision of the property.

**Streetlights:**

- Details on street lighting, if determined to be needed at this intersection, shall be worked out with the City Engineer prior to final plan approval.

- Sidewalks:**
- There are currently no sidewalks on either side of Inca Lane which is very common in this area of the City. Only the main thoroughfares in this area (Silver Lake Road, 7<sup>th</sup> Street NW, and Old Highway 8) have dedicated off-road pedestrian facilities. With nothing to connect to and existing sidewalk to the north of 7<sup>th</sup> St NW, there is no reason to require sidewalks as part of this subdivision. Should the neighborhood wish to have sidewalks installed, that would be a conversation to have when Inca or 7<sup>th</sup> Street NW is scheduled for replacement.
  - There is an existing crosswalk over 7<sup>th</sup> Street NW from this subdivision to the sidewalk on the opposite side of 7<sup>th</sup>. Updates to this crosswalk, if needed, will be completed in conjunction with the future reconstruction of 7<sup>th</sup> Street NW.

- Landscaping / Fencing:**
- As this is a standard R-1 subdivision and not a PRD or PUD, there are no requirements for mandatory landscaping or fencing on these new lots. Removal of existing trees

- Monuments:**
- Reference monuments shall be placed in the subdivision as required by state law.

#### ENVIRONMENTAL & OTHER NEIGHBORHOOD IMPACTS:

- Environmental Impacts:**
- By state statute, an Environmental Assessment Worksheet (EAW) is required for subdivisions resulting in **250** or more new unattached single-family dwelling units. With only three (3) new lots proposed by Amberg 1<sup>st</sup> Addition, an EAW is not required.

- Wetlands:**
- There are no suspected wetlands on this site.

- Tree Removal:**
- Per Subdivision Section 26-11(5) **Natural Features**. *“In the subdividing of any land, regard shall be shown for all natural features such as tree growth, water courses, historic spots, or similar conditions which if preserved will add attractiveness and stability to the proposed development.”*
  - Preserving existing tree cover on this site will clearly add attractiveness and stability to this new development, and will allow these changes to better integrate into the existing neighborhood. Because the developer is proposing to sell custom graded lots based on the needs of future buyers, staff would recommend the City require a development agreement be mandated as part of the final plat stipulating that building proposals on Lots 2, 3, and 4 shall demonstrate sensitivity to preserving existing tree cover in as much as possible. Building permits for all lots shall be subject to required

(cont.)

updates including but not limited to grading plan adjustments to preserve trees, required tree protection fencing, agreements to replace threatened trees, etc.

- The proposed subdivision design of creating three lots abutting Inca Lane while maintaining the existing home on a lot abutting 7<sup>th</sup> Street creates a similar side-yard-to-back-yard dynamic found on the opposite side of Inca Lane:



Privacy between properties can become a major concern when this dynamic exists which places more pressure on the preservation of existing tree cover. To lessen this pressure, the developer may wish to consider constructing a privacy fence along the proposed eastern border of Lot 1 to clearly separate the old homestead from its new neighbors. Should a privacy fence be erected, there will be less pressure to push for tree preservation along this new north/south lot line as future building permits are reviewed.

- Any trees removed should be done at the appropriate time of year to avoid the potential spread of disease for the species in question (primarily only a concern if Oak trees are present)

**Shoreland  
 District:**

- The subject property is not in the shoreland district.

- Traffic:**
- Traffic studies are typically required when overall development triggers the need for a formal environmental review (EAW, EIS, or AUAR), or when a large number of units are proposed in a multi-family building and there is ample reason to believe the resulting traffic could have negative impacts on nearby residential lands. The addition of three new lots along Inca Lane at a density consistent with historical development in the area does not trigger the need for a formal traffic study.

- Public Safety:**
- The addition of three new homes in this area of the community will have no impact on the City's ability to provide emergency services throughout the community, to this neighborhood, or to these lots in particular.
  - Final buildings shall comply with all applicable zoning, building, and fire codes.
  - All construction times and activities shall comply with New Brighton City Code especially relating to parking and hours of work.

- Flood Plain & Steep Slopes:**
- There are no flood plains or steep slopes on this site.

- Docks:**
- The project does not include any frontage on open water nor easement rights to such.

- Other Permits:**
- All necessary permits must be provided to the City. (RCWD, NPDES, MDH, etc. as may be applicable).
  - Per RCWD Rule C, 2(a), "A permit is required for subdivision of an area exceeding one acre. This includes subdivision for single-family residential, multi-unit residential, commercial, industrial, or institutional development." Aleksey Derevyanko ([naissurm2@gmail.com](mailto:naissurm2@gmail.com)) reached out in April and was notified that an RCWD permit is required. As of 6/3/21, the RCWD had not yet received a permit application.

## CHARGES, FEES, & RESPONSIBILITIES:

<b>Park Dedication:</b>	<ul style="list-style-type: none"> <li>▪ The City's recently approved <b>2040 Parks and Trail System Plan</b> establishes the goals and objectives of the City's park system for the next twenty years. Per this plan, no new parks are needed in this area of the City. Additionally, based on the City's future plans for parks and overall improvements, a cash-in-lieu of land fee of \$1,825 per new dwelling unit will be required by new development.</li> <li>▪ Chapter 26, Article 4 of the City Code outlines requirements for park dedication at the time of subdivision/new development. Because no new parkland is needed according to our comprehensive planning documents, park dedication for this development shall be satisfied via cash-in-lieu of land: <ul style="list-style-type: none"> <li>○ Three (3) new units * \$1,825 = <b>\$5,475</b></li> </ul> </li> <li>▪ Park dedication shall be paid in full prior to the final plat being signed by the City.</li> </ul>
<b>Sewer and Water Fees:</b>	<ul style="list-style-type: none"> <li>▪ Local and regional sewer access/availability charges (SAC) and water access charges (WAC) will apply to the new lots.</li> <li>▪ The City Sewer Maintenance fee of \$103 new SAC will also apply</li> </ul>

## Conclusion:

	<p>Ibiza LLC is seeking approval of a Preliminary Plat to subdivide 2221 7<sup>th</sup> Street NW into four (4) single-family lots.</p> <p><b><u>Staff Recommendation:</u></b> Per the analysis outlined in the report finding that all minimum standards for new lots are being met, staff is recommending <b>APPROVAL</b> of the proposed preliminary plat with conditions.</p>
<b>Commission Options:</b>	<p>The Planning Commission has the following options:</p> <ul style="list-style-type: none"> <li>A) RECOMMEND APPROVAL OF THE PRELIMINARY PLAT based on the applicant's submittals and findings of fact.</li> <li>B) RECOMMEND DENIAL OF THE PRELIMINARY PLAT based on the applicant's submittals and findings of fact.</li> <li>C) TABLE THE ITEM and request additional information.</li> </ul> <p>Based on a complete application date of 5/14/21, the statutory deadline for making a decision on this plat is 9/11/21, and this date cannot be extended unless agreed to by the developer.</p>

<p><b>Template Denial Motion:</b>  (<u>not</u> recommended)</p>	<ul style="list-style-type: none"> <li>▪ “I move that we recommend the City Council deny the requested preliminary plat based on the following findings of fact:”                             <ul style="list-style-type: none"> <li>○ (You must provide findings to support the conclusion that the proposal does not meet minimum standards as required by code. If the proposal meets all minimum requirements for R-1 subdivisions, it must be approved.)</li> </ul> </li> </ul>
<p><b>Template Approval Motion:</b>  <b>RECOMMENDED</b></p>	<ul style="list-style-type: none"> <li>▪ “I move we recommend the City Council approve the requested preliminary plat for Amburg 1<sup>st</sup> Addition based on the findings of fact listed on page 15 of the report subject to the conditions listed on pages 15 &amp; 16 as may have been amended here tonight.”</li> </ul>
<p><b>Suggested Findings of Fact:</b></p>	<ol style="list-style-type: none"> <li>1. The subject property is guided for Low Density Residential use by the 2040 Comprehensive Plan, and R-1 zoning standards are consistent with this land use classification;</li> <li>2. The subject land is zoned R-1 on the City’s zoning map, and all proposed lots are conforming to the minimum standards of the R-1 zoning district;</li> <li>3. All required easements will be dedicated as part of the future final plat application;</li> <li>4. All proposed lots will have adequate access to the local roadway system;</li> <li>5. All proposed lots can be adequately served by existing municipal services, and the lots as a whole do not pose any public safety concerns</li> <li>6. There are no identified areas within the subdivision that are subject to periodic flooding, nor are there any concerns about future storm water drainage capabilities of the site.</li> <li>7. Identified impacts of the proposed development can be addressed via conditions.</li> </ol>
<p><b>Recommended Conditions:</b></p>	<ol style="list-style-type: none"> <li>1. Engineering comments in the 6/7/21 Engineering Memo shall be addressed.</li> <li>2. Future access to Lots 2, 3, and 4 shall come off of Inca Lane and not off 7th St NW.</li> <li>3. Curb cut permits shall be obtained for each building site if a dropdown curb is required.</li> </ol>

- (cont.)
4. All drainage and utility easements (or others), as required by the City Engineer, shall be provided on the future final plat application.
  5. Existing water services that are shown for re-use (Lots 1 and 4) must be determined to be operable before they can be used. One or both shall be replaced at the developer's expense if deemed necessary by DCAD.
  6. An existing senior deferred assessment for a previously installed water stub (\$993.90) shall be paid prior to acceptance of a final plat application.
  7. A NPDES permit and project SWPPP will be required.
  8. Tracking of dirt into the street shall be monitored and addressed in a timely manner, or the developer must agree to paying for street sweeping services when directed to do so by the City.
  9. All new utilities (i.e. telephone, electric, gas service lines, etc) shall be placed underground in accordance with the provisions of all applicable City ordinances.
  10. Lighting on any of the proposed lots shall be directed downward, and installed so as to prevent direct light from being detectable at the lot line of the site on which the source is located.
  11. Lighting shall not shine directly into the public right-of-way or onto any adjacent residential lot.
  12. Details on street lighting, if determined to be needed at this intersection, shall be worked out with the City Engineer prior to final plan approval.
  13. Reference monuments shall be placed in the subdivision as required by state law.
  14. As part of the Final Plat Approval, a Development Agreement shall be negotiated which mandates that building proposals on Lots 2, 3, and 4 shall demonstrate sensitivity to preserving existing tree cover in as much as possible. Building permits for all lots shall be subject to required updates including but not limited to grading plan adjustments to preserve trees, required tree protection fencing, agreements to replace threatened trees, etc.
  15. Any trees removed should be done at the appropriate time of year to avoid the potential spread of disease for the species in question.

- |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(cont.)</i> | <ol style="list-style-type: none"><li>16. All construction times and activities shall comply with New Brighton City Code especially relating to parking and hours of work.</li><li>17. All necessary permits must be provided to the City. (RCWD, NPDES, MDH, etc. as may be applicable).</li><li>18. Park dedication in the amount of \$5,475 in lieu of a land dedication shall be paid in full prior to the final plat being signed by the City.</li><li>19. Additional soil tests, if deemed necessary by DCAD, shall be submitted to the City prior to a future final plat approval.</li></ol> |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**cc:** *Aleksey Derevyanko, Ibiza, LLC*  
*Eric R. Vickaryous, Acre Land Surveying*



# interoffice

## MEMORANDUM

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**to:** Ben Gozola, Assistant Director of Community Assets and Development/City Planner  
**from:** Dustin Lind, Engineering Supervisor  
**subject:** 2221 7<sup>th</sup> Street NW  
**date:** June 7, 2021

The Engineering Department has reviewed the site plan for the property at 2221 7<sup>th</sup> Street NW and we offer the following comments:

### **Driveway**

- 1) A curb cut permit will be required if a drop down style curb is installed with the driveways.
- 2) The driveway for lot 2 should be installed along Inca Lane.

### **Erosion Control**

- 1) Erosion control measures must be shown on site plan. This shall include perimeter control (silt fence around property) and a rock construction entrance.
- 2) Inlet protection will be required in the catch basins located along 7<sup>th</sup> Street and Inca Lane. Show on site plan.
- 3) Vehicle tracking from construction site shall be monitored and addressed in a timely manner.

### **Sewer and Water**

- 1) The deferred assessment amount of \$993.90 will need to be paid prior to issuance of building permit
- 2) Location and proposed material of sewer and water services shall be shown on the site plan.
- 3) An Outside Sewer and Water Permit will be required prior to sewer and water service installation. Connection to be inspected by New Brighton Public Works.

- 4) Sewer Availability Charges (SAC) and Water Availability Charges (WAC) will be determined with the building permit.
- 5) New water and sanitary sewer services will be required for lots 2 and 3. One common trench should be used for services to each lot to minimize impacts to Inca Lane.
- 6) Existing sanitary sewer stubs do not extend to the edge of the right of way. Current stubs are capped at the sanitary main and will need to be excavated at the sewer main to connect.
- 7) Existing water services that are shown for re-use should be checked to ensure they are operable.

#### **Grading and Drainage**

- 1) A grading plan showing proposed drainage paths will be required prior to issuance of building permits. Existing drainage patterns should be maintained.
- 2) Overall site disturbance and hard surface will need to meet Rice Creek Watershed District requirements.
- 3) A NPDES permit and project SWPPP will be required

**RESOLUTION \_\_\_\_\_**  
**CITY COUNCIL**  
**CITY OF NEW BRIGHTON**

**RESOLUTION MAKING FINDINGS OF FACT AND APPROVING A PRELIMINARY PLAT  
FOR AMBERG 1<sup>ST</sup> ADDITION**

**WHEREAS**, the City of New Brighton is a municipal corporation, organized and existing under the laws of the State of Minnesota; and,

**WHEREAS**, the City Council of the City of the New Brighton has adopted a comprehensive plan and corresponding zoning regulations to promote orderly development and utilization of land within the city; and,

**WHEREAS**, Ibiza, LLC, has purchased the property at 2221 7<sup>th</sup> Street NW legally described as:

The easterly 205.00 feet of the northerly 300 feet of the East Half of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 30, Township 30, Range 23, Ramsey County, Minnesota, EXCEPT the east 30.00 feet thereof.

and

That part of the Easterly 205.00 feet of the Northwest Quarter of the Northeast Quarter of Section 30, Township 30, Range 23, Ramsey County, Minnesota, lying south of Cemetery Road, according to the Government Survey thereof.

**WHEREAS**, Ibiza, LLC (the “Applicants”) made application to the City on 5/14/21 for a Preliminary Plat to subdivide the 1.22 acre site into four lots; and

**WHEREAS**, staff fully reviewed the request and prepared a report for consideration by the Planning Commission at their meeting on June 15, 2021; and

**WHEREAS**, the Planning Commission considered the request at their June 15, 2021, meeting and recommended conditional approval of the request based on the applicant’s submittals and findings of fact; and

**WHEREAS**, the City Council held a public hearing on the request at their June 22, 2021, meeting to gain public input on the proposal; and

**WHEREAS**, the City Council considered all public feedback, the recommendations of the Planning Commission and Staff, the Applicant's submissions, the contents of the staff report, and other evidence available to the Council.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of New Brighton hereby approves the requested preliminary plat based on the following findings of fact:

1. The subject property is guided for Low Density Residential use by the 2040 Comprehensive Plan, and R-1 zoning standards are consistent with this land use classification;
2. The subject land is zoned R-1 on the City's zoning map, and all proposed lots are conforming to the minimum standards of the R-1 zoning district;
3. All required easements will be dedicated as part of the future final plat application;
4. All proposed lots will have adequate access to the local roadway system;
5. All proposed lots can be adequately served by existing municipal services, and the lots as a whole do not pose any public safety concerns
6. There are no identified areas within the subdivision that are subject to periodic flooding, nor are there any concerns about future storm water drainage capabilities of the site.
7. Identified impacts of the proposed development can be addressed via conditions.

**BE IT FURTHER RESOLVED**, that approval of the preliminary plat shall be subject to the following conditions:

1. Engineering comments in the 6/7/21 Engineering Memo shall be addressed.
2. Future access to Lots 2, 3, and 4 shall come off of Inca Lane and not off 7th St NW.
3. Curb cut permits shall be obtained for each building site if a dropdown curb is required.
4. All drainage and utility easements (or others), as required by the City Engineer, shall be provided on the future final plat application.
5. Existing water services that are shown for re-use (Lots 1 and 4) must be determined to be operable before they can be used. One or both shall be replaced at the developer's expense if deemed necessary by DCAD.
6. An existing senior deferred assessment for a previously installed water stub (\$993.90) shall be paid prior to acceptance of a final plat application.
7. A NPDES permit and project SWPPP will be required.
8. Tracking of dirt into the street shall be monitored and addressed in a timely manner, or the developer must agree to paying for street sweeping services when directed to do so by the City.
9. All new utilities (i.e. telephone, electric, gas service lines, etc) shall be placed underground in accordance with the provisions of all applicable City ordinances.

10. Lighting on any of the proposed lots shall be directed downward, and installed so as to prevent direct light from being detectable at the lot line of the site on which the source is located.
11. Lighting shall not shine directly into the public right-of-way or onto any adjacent residential lot.
12. Details on street lighting, if determined to be needed at this intersection, shall be worked out with the City Engineer prior to final plan approval.
13. Reference monuments shall be placed in the subdivision as required by state law.
14. As part of the Final Plat Approval, a Development Agreement shall be negotiated which mandates that building proposals on Lots 2, 3, and 4 shall demonstrate sensitivity to preserving existing tree cover in as much as possible. Building permits for all lots shall be subject to required updates including but not limited to grading plan adjustments to preserve trees, required tree protection fencing, agreements to replace threatened trees, etc.
15. Any trees removed should be done at the appropriate time of year to avoid the potential spread of disease for the species in question.
16. All construction times and activities shall comply with New Brighton City Code especially relating to parking and hours of work.
17. All necessary permits must be provided to the City (RCWD, NPDES, MDH, etc. as may be applicable).
18. Park dedication in the amount of \$5,475 in lieu of a land dedication shall be paid in full prior to the final plat being signed by the City.
19. Additional soil tests, if deemed necessary by DCAD, shall be submitted to the City prior to a future final plat approval.

**ADOPTED** this 22<sup>nd</sup> day of June, 2021 by the New Brighton City Council with a vote of \_\_\_ ayes and \_\_\_ nays.

---

Kari Niedfeldt-Thomas, Mayor

---

Devin Massopust, City Manager

ATTEST:

\_\_\_\_\_  
Terri Spangrud, City Clerk

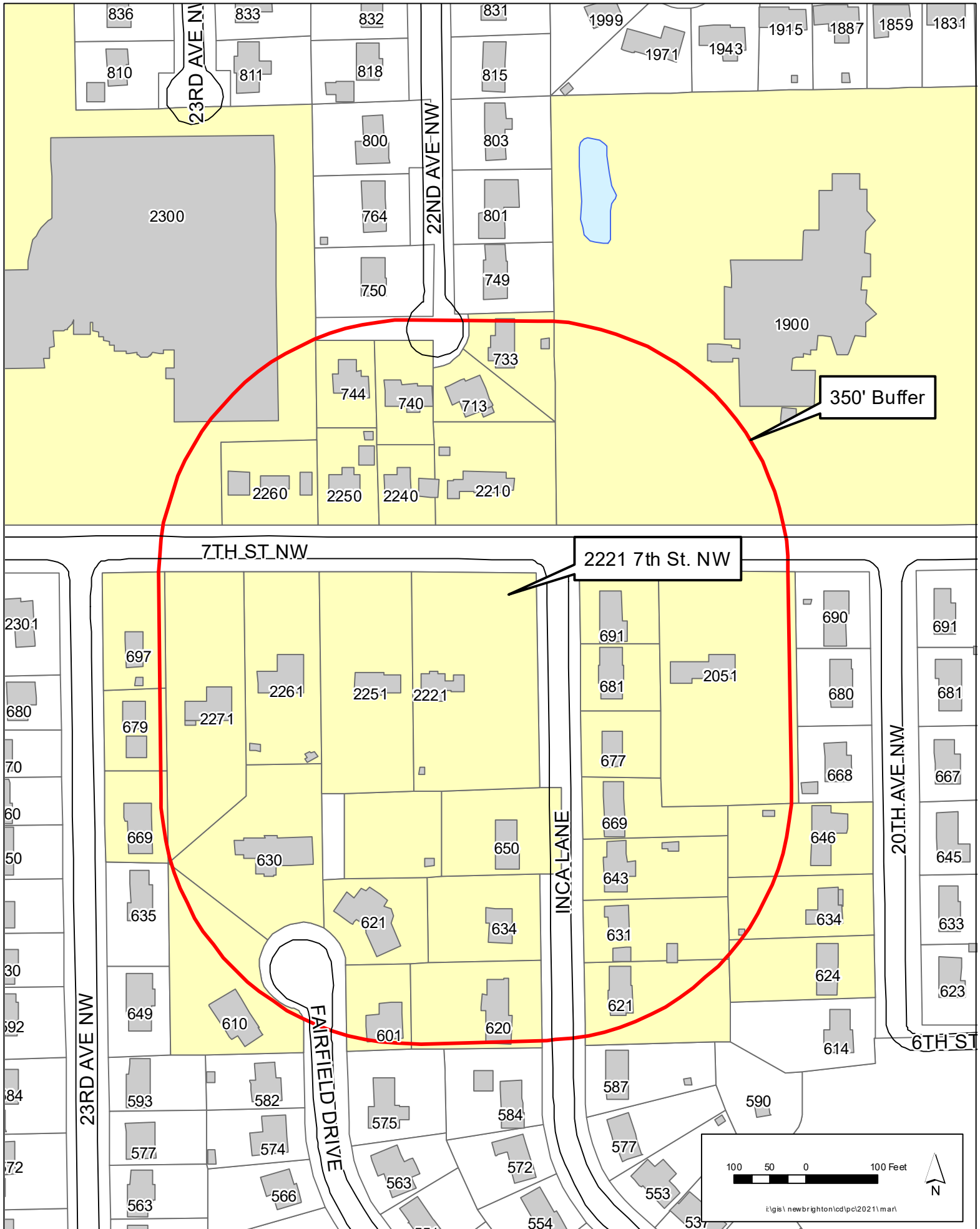
The undersigned Applicants have read, understand and hereby agree to the terms of this resolution and on behalf of himself/herself, his/her heirs, successors and assigns, hereby agree to the conditions set forth above, and to the recording of this resolution and attachments in the chain of title of the property.

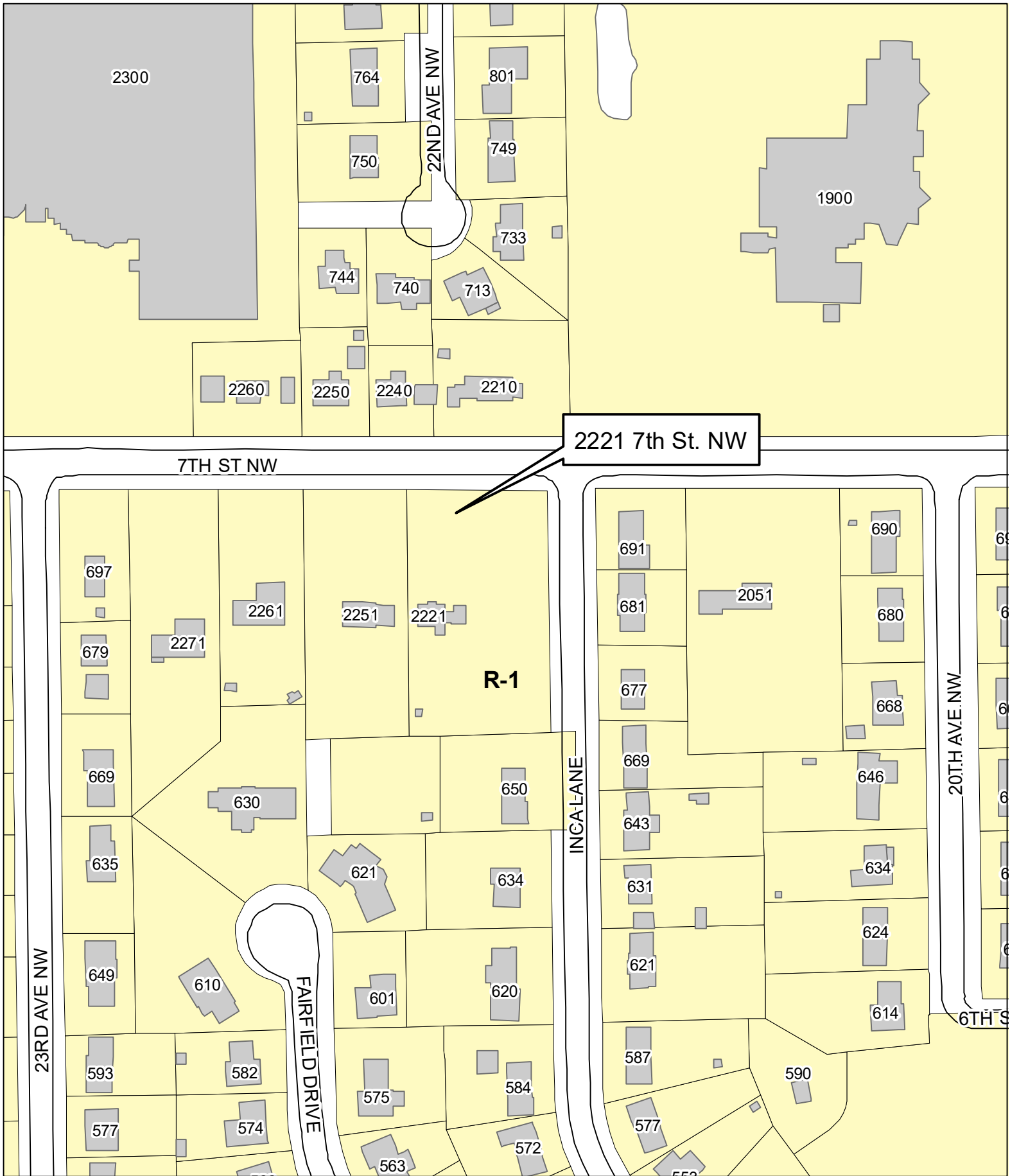
Dated \_\_\_\_\_  
\_\_\_\_\_  
<authorized representative>

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

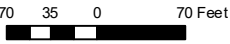
2221 7th St. NW - 350' Mailing Buffer





 R-1, Single Family Residential

  
N

  
70 35 0 70 Feet

  
NEW BRIGHTON  
BETTER PLACES. BETTER PEOPLE.

## Current Zoning

2221 7th St. NW  
R-1, Single Family Residential

(\\gis1\newbrigh\hbm\_data\comm\_dev\pd20211\juni)

May 24, 2021

**Re: 2221 7<sup>th</sup> St NW – Parcel ID 303023130001 – Subdivision**

To Whom It May Concern,

My name is Aleksey Derevyanko and I represent Ibiza LLC, which recently acquired property at 2221 7<sup>th</sup> St NW. We submitted an application for subdivision of the existing lot into 4 separate parcels. The existing site is 1.22 acres and is currently zoned R-1. There is no rezoning being proposed as part of our subdivision application.

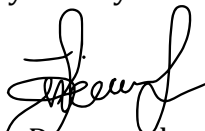
Our plan is to retain the existing house on Lot 1 and create 3 new lots that would be accessed off Inca Ln. Our proposed layout of lots will fit seamlessly into the neighborhood and will follow the same lot structure as homes directly across the street on Inca Ln as well as similarly designed streets throughout the area. All of the 4 lots will meet minimum lot requirements of R-1 district of 10,000sf minimum lot area and 75ft min lot width. Lot 1 with the existing structure will meet setback requirements and 3 newly created lots will have plenty of room to meet setbacks for future homes. No variances are needed for our proposal.

No construction of homes is being proposed on the newly created lots at this time. Potential house pads are shown on survey drawings to illustrate that future houses can be placed on new lots with minimal impact on existing trees and grades. Majority of the exiting trees will be preserved and will provide privacy between future as well as the existing home.

No changes in grade are being proposed as part of our proposal. When houses will be built on Lots 2, 3, and 4 – each lot will be individually graded at the time of construction with minimal changes in grade. No out of ordinary impervious surface would need to be created outside of the house foundation/roof and driveway. Majority of the existing surface will be undisturbed due to Lot 1 one staying as is and Lot 4 being extra deep.

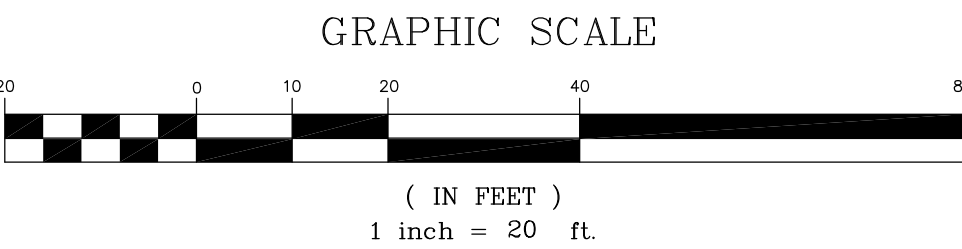
When finalized, our proposal will pave the way to create 3 new construction single family housing units within the city of New Brighton. In addition, the 1 existing single family housing unit will be retained and will serve as a great option for first time home owners looking for an affordable option to buy within the city.

Thank you for your time,

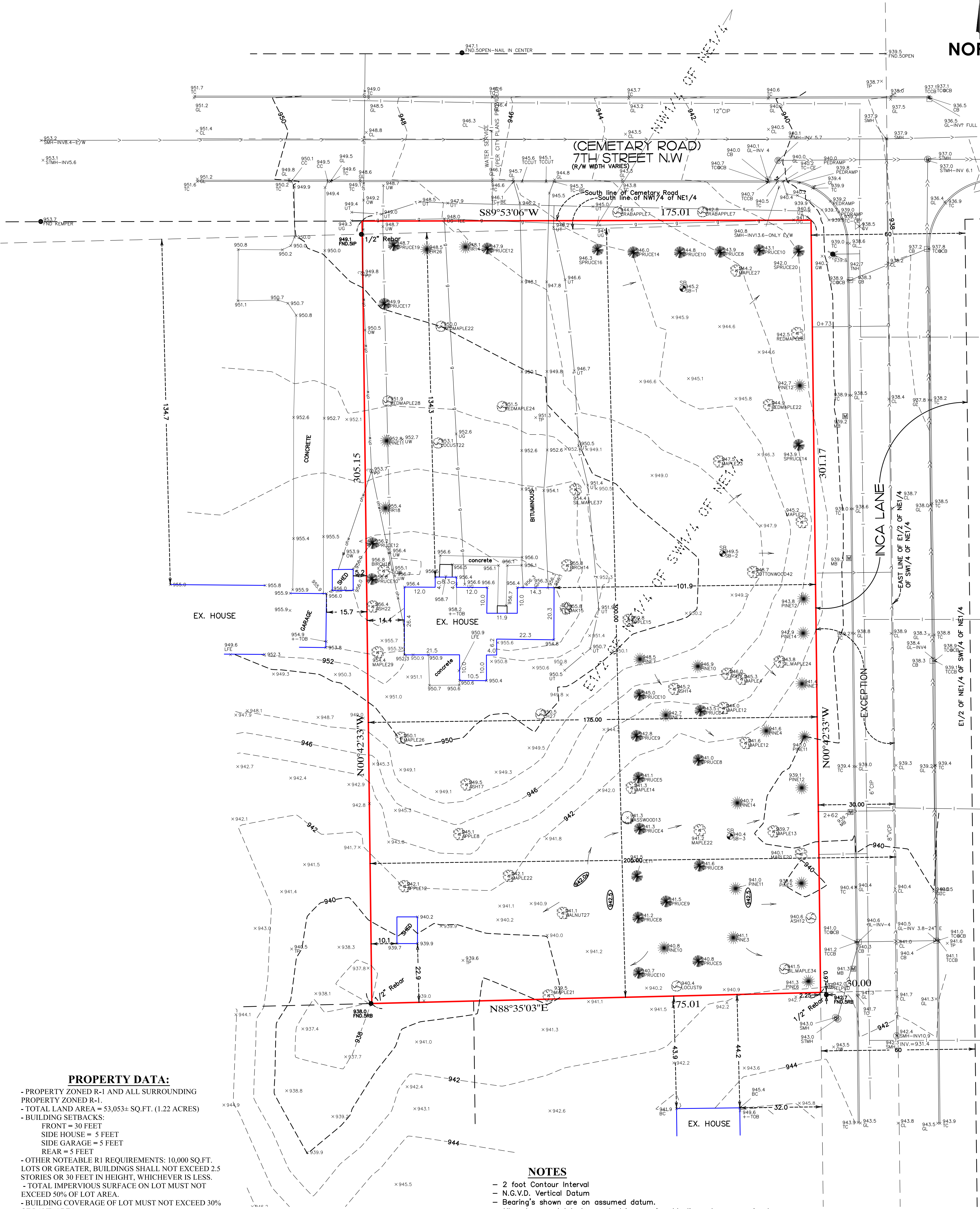
  
Aleksey Derevyanko, Ibiza LLC

BOUNDARY & TOPOGRAPHIC SURVEY ~for~ IBIZA, LLC

Address: #2221 - 7TH ST NW NEW BRIGHTON MN 55112  
PID#303023130001



NORTH



PROPERTY DATA:

- PROPERTY ZONED R-1 AND ALL SURROUNDING PROPERTY ZONED R-1.
- TOTAL LAND AREA = 53.053± SQ.FT. (1.22 ACRES)
- BUILDING SETBACKS:
  - FRONT = 30 FEET
  - SIDE HOUSE = 5 FEET
  - SIDE GARAGE = 5 FEET
  - REAR = 5 FEET
- OTHER NOTEABLE R1 REQUIREMENTS: 10,000 SQ.FT. LOTS OR GREATER, BUILDINGS SHALL NOT EXCEED 2.5 STORIES OR 30 FEET IN HEIGHT, WHICHEVER IS LESS.
- TOTAL IMPERVIOUS SURFACE ON LOT MUST NOT EXCEED 50% OF LOT AREA.
- BUILDING COVERAGE OF LOT MUST NOT EXCEED 30% OF LAND AREA.

BENCHMARK

RAMSEY COUNTY BENCHMARK #9062, ELEVATION = 913.225 (NAVD 88 DATUM).

LEGAL DESCRIPTION

The easterly 205.00 feet of the northerly 300 feet of the East Half of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 30, Township 30, Range 23, Ramsey County, Minnesota, EXCEPT the east 30.00 feet thereof.

and

That part of the Easterly 205.00 feet of the Northwest Quarter of the Northeast Quarter of Section 30, Township 30, Range 23, Ramsey County, Minnesota, lying south of Cemetery Road, according to the Government Survey thereof.

GENERAL NOTES

- Bearings shown hereon are on Ramsey County coordinate system.
- Field survey completed in May, 2021.
- Utilities shown hereon are observed, per above ground field markings by others, and per utility plans furnished by city staff. Excavations were not made during the process of this survey to locate underground utilities and/or structures. The location of underground utilities and/or structures may vary from locations shown hereon and underground utilities and/or structures may be encountered. Contact Gopher State One Call Notification Center at (651) 454-0002 for verification of utility type and field location prior to excavation.

NOTES

- 2 foot Contour Interval
- N.G.V.D. Vertical Datum
- Bearing's shown are on assumed datum.
- All underground telephone, electric, gas & cable lines shown per visual inspection, above ground markings by others or plans utility plans furnished by city. Contact Gopher State One Call prior to commencing and digging onsite.

LEGEND

- DENOTES IRON MONUMENT FOUND
- DENOTES IRON MONUMENT SET
- DENOTES SOIL BORING (BY ITCO ALLIED ENGINEERING)
- DENOTES UTILITY POLE
- DENOTES UTILITY BOX
- DENOTES SANITARY SEWER MANHOLE
- DENOTES STORM SEWER MANHOLE
- DENOTES CATCH BASIN
- DENOTES FIRE HYDRANT
- DENOTES EXISTING CONTOUR
- DENOTES UNDERGROUND ELECTRIC
- DENOTES UNDERGROUND TELEPHONE
- DENOTES UNDERGROUND GAS
- DENOTES WATERMAIN
- DENOTES SANITARY SEWER
- DENOTES STORM SEWER
- DENOTES EXISTING FENCE
- ×1011.2 DENOTES EXISTING ELEVATION.
- DENOTES DIRECTION OF DRAINAGE.

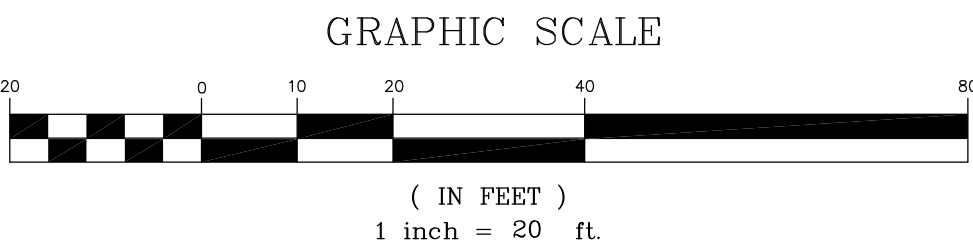
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

ERIC R. VICKARYOUS

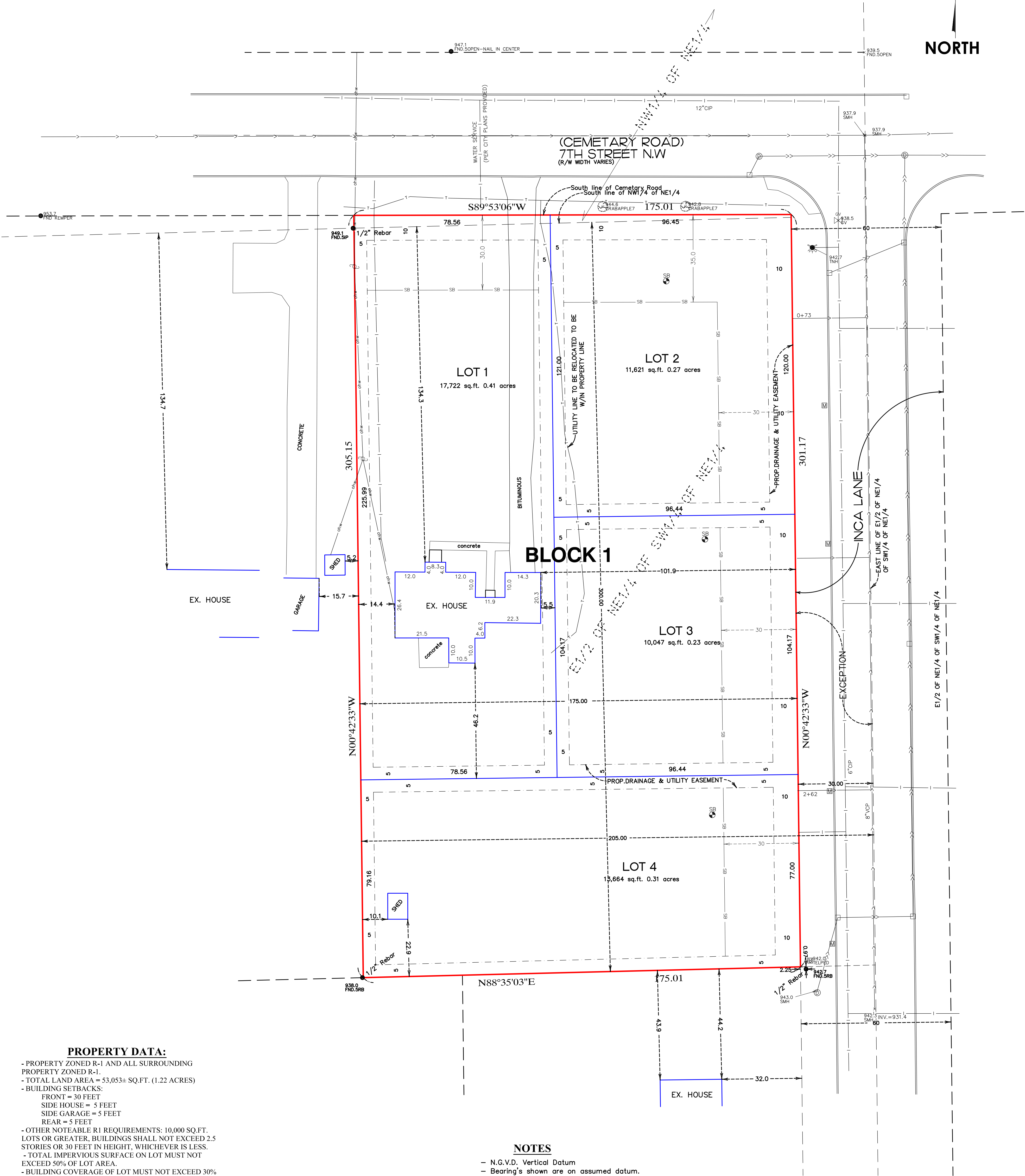
Date: May 14th, 2021 Reg. No. 44125

PRELIMINARY PLAT OF AMBURG FIRST ADDITION ~for~ IBIZA, LLC

Address: #2221 - 7TH ST NW NEW BRIGHTON MN 55112  
PID#303023130001



NORTH



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and

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GENERAL NOTES

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NOTES

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LEGEND

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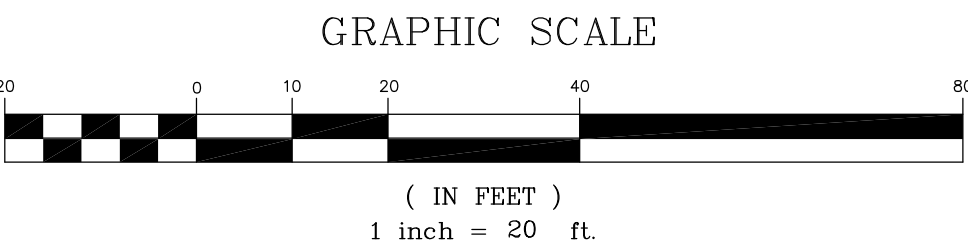
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

ERIC R. VICKARYOUS

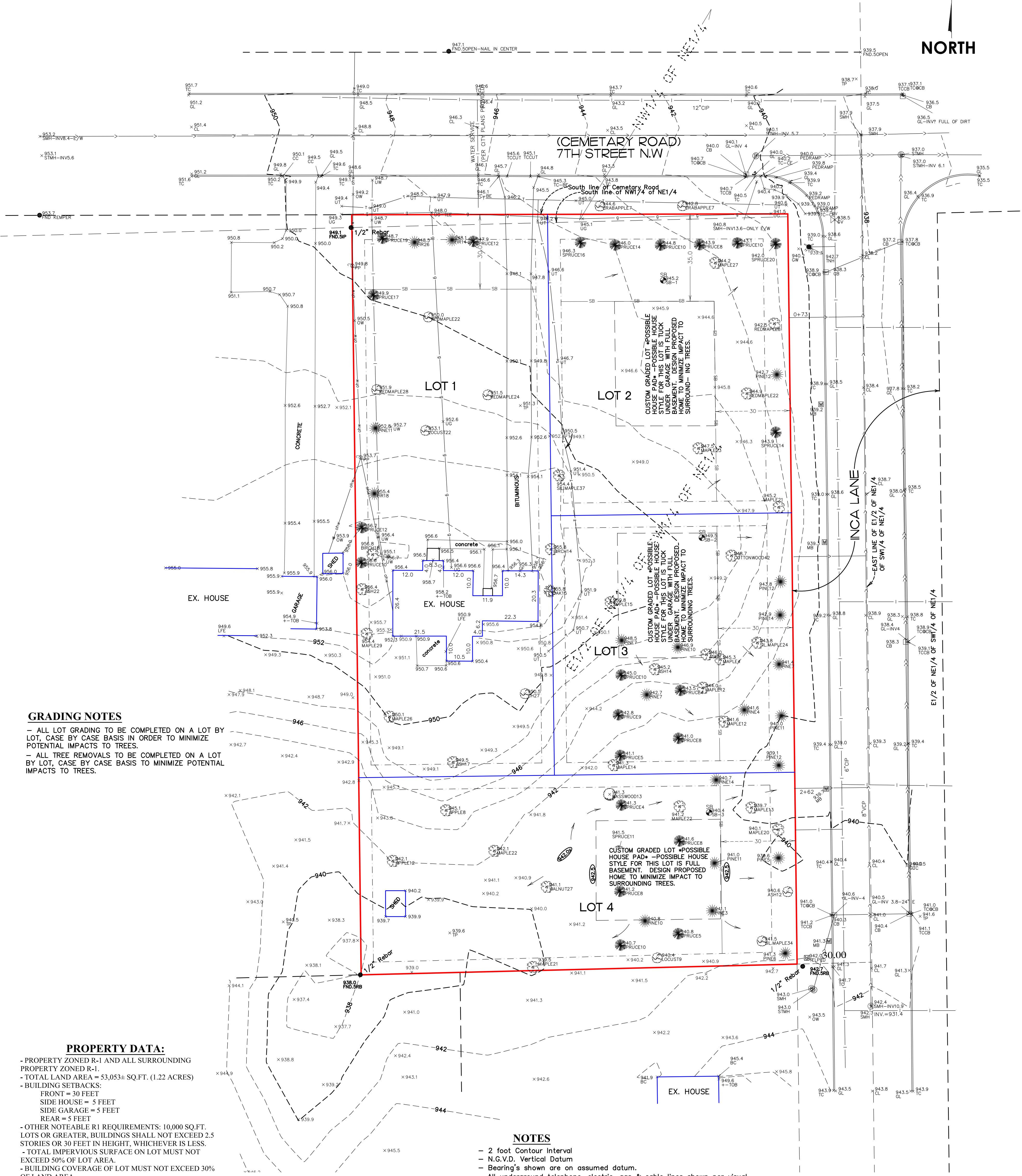
GRADING PLAN OF AMBURG FIRST ADDITION

~for~ IBIZA, LLC

Address: #2221 - 7TH ST NW NEW BRIGHTON MN 55112  
PID#303023130001



NORTH



GRADING NOTES

- ALL LOT GRADING TO BE COMPLETED ON A LOT BY LOT, CASE BY CASE BASIS IN ORDER TO MINIMIZE POTENTIAL IMPACTS TO TREES.
- ALL TREE REMOVALS TO BE COMPLETED ON A LOT BY LOT, CASE BY CASE BASIS TO MINIMIZE POTENTIAL IMPACTS TO TREES.

PROPERTY DATA:

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- TOTAL LAND AREA = 53.053± SQ.FT. (1.22 ACRES)
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- DENOTES WATERMAIN
- DENOTES SANITARY SEWER
- DENOTES STORM SEWER
- DENOTES EXISTING FENCE
- 1011.2 DENOTES EXISTING ELEVATION.
- DENOTES DIRECTION OF DRAINAGE.
- DENOTES MAILBOX
- 4444 DENOTES PROPOSED ELEVATION.

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.

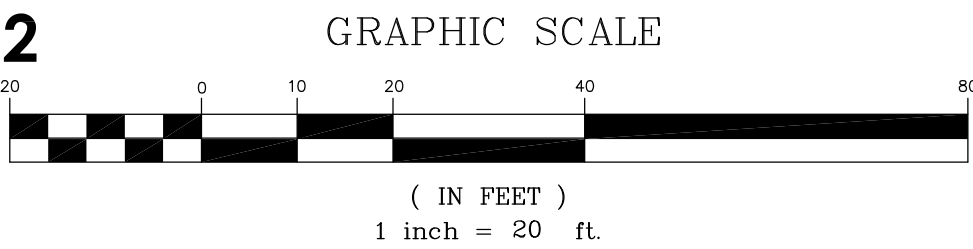
ERIC R. VICKARYOUS

Date: May 14th, 2021 Reg. No. 44125

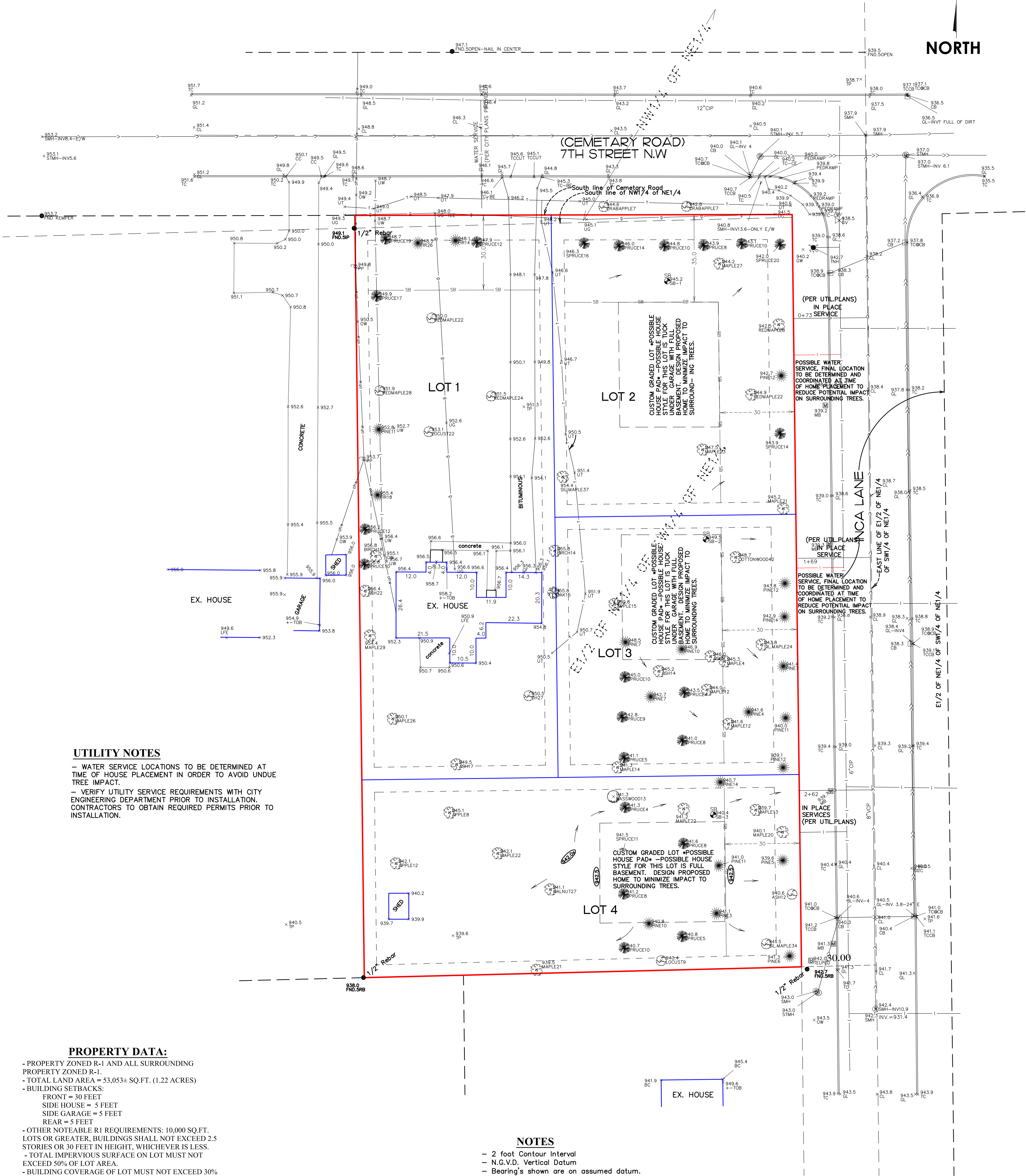
UTILITY PLAN OF AMBURG FIRST ADDITION

~for~ IBIZA, LLC

Address: #2221 - 7TH ST NW NEW BRIGHTON MN 55112  
PID#303023130001



NORTH



**UTILITY NOTES**

— WATER SERVICE LOCATIONS TO BE DETERMINED AT TIME OF HOUSE PLACEMENT IN ORDER TO AVOID UNDUE TREE IMPACT.

— VERIFY UTILITY SERVICE REQUIREMENTS WITH CITY ENGINEERING DEPARTMENT PRIOR TO INSTALLATION. CONTRACTORS TO OBTAIN REQUIRED PERMITS PRIOR TO INSTALLATION.

**PROPERTY DATA:**

- PROPERTY ZONED R-1 AND ALL SURROUNDING PROPERTY ZONED R-1.

- TOTAL LAND AREA = 53,053± SQ.FT. (1.22 ACRES)

- BUILDING SETBACKS:  
FRONT = 30 FEET  
SIDE HOUSE = 5 FEET  
SIDE GARAGE = 5 FEET  
REAR = 5 FEET

- OTHER NOTEABLE R1 REQUIREMENTS: 10,000 SQ.FT. LOTS OR GREATER, BUILDINGS SHALL NOT EXCEED 2.5 STORIES OR 30 FEET IN HEIGHT, WHICHEVER IS LESS.

- TOTAL IMPERVIOUS SURFACE ON LOT MUST NOT EXCEED 50% OF LOT AREA.

- BUILDING COVERAGE OF LOT MUST NOT EXCEED 30% OF LAND AREA.

**BENCHMARK**

RAMSEY COUNTY BENCHMARK #9062, ELEVATION = 913.225 (NAVD 88 DATUM).

**LEGAL DESCRIPTION**

The easterly 205.00 feet of the northerly 300 feet of the East Half of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 30, Township 30, Range 23, Ramsey County, Minnesota, EXCEPT the east 30.00 feet thereof.

and

That part of the Easterly 205.00 feet of the Northwest Quarter of the Northeast Quarter of Section 30, Township 30, Range 23, Ramsey County, Minnesota, lying south of Cemetary Road, according to the Government Survey thereof.

**GENERAL NOTES**

— Bearings shown hereon are on Ramsey County coordinate system.

— Field survey completed in May, 2021.

— Utilities shown hereon are observed, per above ground field markings by others, and per utility plans furnished by city staff. Excavations were not made during the process of this survey to locate underground utilities and/or structures. The location of underground utilities and/or structures may vary from locations shown hereon and underground utilities and/or structures may be encountered. Contact Gopher State One Call Notification Center at (651) 454-0002 for verification of utility type and field location prior to excavation.

**NOTES**

— 2 foot Contour Interval

— N.G.V.D. Vertical Datum

— Bearing's shown are on assumed datum.

— All underground telephone, electric, gas & cable lines shown per visual inspection, above ground markings by others or plans utility plans furnished by city. Contact Gopher State One Call prior to commencing and digging onsite.

- LEGEND**
- DENOTES IRON MONUMENT FOUND
  - DENOTES IRON MONUMENT SET
  - DENOTES SOIL BORING (BY ITCO ALLIED ENGINEERING)
  - DENOTES UTILITY POLE
  - DENOTES UTILITY BOX
  - DENOTES SANITARY SEWER MANHOLE
  - DENOTES STORM SEWER MANHOLE
  - DENOTES CATCH BASIN
  - DENOTES FIRE HYDRANT
  - DENOTES EXISTING CONTOUR
  - DENOTES UNDERGROUND ELECTRIC
  - DENOTES UNDERGROUND TELEPHONE
  - DENOTES UNDERGROUND GAS
  - DENOTES WATERMAIN
  - DENOTES SANITARY SEWER
  - DENOTES STORM SEWER
  - DENOTES EXISTING FENCE
  - DENOTES EXISTING ELEVATION.
  - DENOTES DIRECTION OF DRAINAGE.
  - DENOTES MAILBOX
  - DENOTES PROPOSED ELEVATION.

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.

ERIC R. VICKARYOUS

Date: May 14th, 2021 Reg. No. 44125

## COMMITMENT FOR TITLE INSURANCE

### NOTICE

**IMPORTANT - READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

### COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, Old Republic National Title Insurance Company, a(n) Minnesota corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within 6 months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

### COMMITMENT CONDITIONS

#### 1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.

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- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
  - (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
  - (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
  - (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
  - (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
  - (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
  - (h) "Title": The estate or interest described in Schedule A.
2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
3. The Company's liability and obligation is limited by and this Commitment is not valid without:
- (a) the Notice;
  - (b) the Commitment to Issue Policy;
  - (c) the Commitment Conditions;
  - (d) Schedule A;
  - (e) Schedule B, Part I—Requirements; [and]
  - (f) Schedule B, Part II—Exceptions; and
  - (g) a counter-signature by the Company or its issuing agent that may be in electronic form].

#### 4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

#### 5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
  - (i) comply with the Schedule B, Part I - Requirements;
  - (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
  - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.

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- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

#### **6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing [and authenticated by a person authorized by the Company].
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

#### **7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

#### **8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

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**Transaction Identification Data for reference only:**

Issuing Agent: Title Specialists, Inc.  
Issuing Office: 12725 43rd St NE, Ste. 102, Saint Michael, MN 55376  
Issuing Office's ALTA® Registry ID: 1029982  
Loan ID No.:  
Commitment No.: 211054-1  
Issuing Office File No.: 211054  
Property Address: 2221 7th Street NW, New Brighton, MN 55112

**SCHEDULE A**

1. Commitment Date: March 30, 2021 at 12:00 AM
2. Policy to be issued:
  - a. ALTA Owners Policy (06/17/06)  
Proposed Insured: Ibiza, LLC  
Proposed Policy Amount:
  - b.  
Proposed Insured:  
Proposed Policy Amount: \$0.00
3. The estate or interest in the Land described or referred to in this Commitment is Fee Simple.
4. The Title is, at the Commitment Date, vested in:  
  
Darwin O. Taylor, Dolores E. Taylor and Dayna Peterson, or their successors, as Trustees of the Darwin O. Taylor and Dolores E. Taylor Trust U/A dated February 10, 2012, as amended
5. The Land is described as follows:  
  
SEE SCHEDULE C ATTACHED HERETO

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DeAn Schoepke

Authorized Signature or Signatory

Dede Schoepke


Title Specialists, Inc.

**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

*A Stock Company*

400 Second Avenue South, Minneapolis, Minnesota 55401

(612) 371-1111

By  President  
Attest  Secretary

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## SCHEDULE B, PART I Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. WE REQUIRE a Deed from Darwin O. Taylor, Dolores E. Taylor and Dayna Peterson, or their successors, as Trustees of the Darwin O.Taylor and Dolores E. Taylor Trust U/A dated February 10, 2012, as amended to Ibiza, LLC.
6. An Affidavit of Trustee and certified copy of the trust or Certificate of Trust must accompany the deed. If this is torrens property the documents will require pre-approval.
7. A Certificate of Real Estate Value for Land is required to accompany each deed for recording.
8. A completed Well Disclosure Certificate must accompany each deed or conveyance which is to be recorded; or, the deed must certify that there are no wells on the property.
9. WE REQUIRE the standard form of Affidavit by Seller executed by Darwin O. Taylor, Dolores E. Taylor and Dayna Peterson, or their successors, as Trustees of the Darwin O.Taylor and Dolores E. Taylor Trust U/A dated February 10, 2012, as amended.
10. There are no open mortgages of record. If there are any mortgages to be paid, notify the closing company for further requirements
11. We REQUIRE confirmation that there are no outstanding water and utility bills prior to closing.
12. If the property is subject to any private assessments for association dues or otherwise, we must be provided with a current statement showing all sums paid or the amount of any outstanding charges.
13. WE REQUIRE the standard form of Affidavit by Purchaser and/or Mortgagor executed by Ibiza, LLC.

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14. We should be provided with our standard form of indemnity (GAP Indemnity) for defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the Commitment Date but prior to the date of recording of the instruments under which the Proposed Insured acquires the estate or interest or mortgage covered by this commitment. Note: Due to office closures related to covid-19 we may be temporarily unable to record documents in the normal course of business.
15. Any Letter of Indemnity and/or Letter of Undertaking given to Title Specialists, Inc. to satisfy any requirement in Schedule B-Section 1, should be issued to Title Specialists, Inc. and Old Republic National Title Insurance Company. All Letters of Indemnity and/or Letter of Undertaking must be approved by a qualified agent of Title Specialists, Inc. prior to closing and the original signed letter mailed in a reasonable amount of time from its issue.
16. WE REQUIRE all funds received to be in the form of Certified Checks, Cashier's Checks or Wire Transfers. Due to cell phone technology, we require all certified/cashiers check be made payable to Title Specialists, Inc.

FOR INFORMATIONAL PURPOSES ONLY:

17. Title is vested in Darwin O. Taylor, Dolores E. Taylor and Dayna Peterson, or their successors, as Trustees of the Darwin O. Taylor and Dolores E. Taylor Trust U/A dated February 10, 2012, as amended who acquired title by Limited Warranty Deed dated 02/12/12, recorded 02/15/12, as Doc No. 2164843.
18. Gap coverage will be issued if file is closed by Title Specialists, Inc. only.
19. This commitment for title insurance is being issued based on a search of the public records in the county which the property is located. The abstract for the property herein insured has not been received by Title Specialists, Inc.
20. Please be advised that the Tax Reform Act of 1986 requires that the following information be provided at closing:  
  
Sellers Tax Identification Number or Social Security Number and full address after closing.
21. Identification will be required from all parties required to sign documents at closing.
22. If there are any questions concerning this Commitment, please call 763-493-2224.

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## SCHEDULE B, PART II Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.
2. Rights or claims of parties in possession not recorded in the public records.
3. Easements or claims of easements not recorded in the public records.
4. Rights or claims of parties in possession and easements or claims of easements not shown by the public records, boundary line disputes, overlaps, encroachments, and any matters not of record which would be disclosed by an accurate survey and inspection of the land.
5. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Taxes or special assessments which are not shown as existing liens by the public records.
7. NOTE: Our owner's Policy when issued DOES NOT insure that fees or charges for municipal services such as water, sewer, hookups, boardups, grass or weed cutting, garbage pickup or debris removal, nuisance abatement or any other municipal fee has been paid.
8. Real Estate Taxes payable in 2021 are \$3,786.00 and are unpaid. Base tax \$3,786.00  
  
Property is currently: non-Homestead  
Delinquent taxes: none  
Property ID No: 303023130001  
  
Note: Real Estate Taxes are due semi-annually on May 15th and October 15th.
9. A plat drawing has been ordered, but not yet received.
10. There are no levied or pending assessments now a lien against subject property.

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11. Subject to the restrictions contained in the Quit Claim Deed recorded as Doc. No. 456735

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## SCHEDULE C

The Land is described as follows:

The Easterly 205 feet of the Northerly 300 feet of the East Half of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 30 Township 30 Range 23, save and except therefrom the East 30 feet thereof.

That part of the Easterly 205 feet of the Northwest Quarter of the Northeast Quarter of Section 30, Township 30, Range 23, lying South of Cemetery Road according to the Government Survey thereof.

Ramsey County, Minnesota  
TORRENS PROPERTY  
Certificate No. 588441

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**Report of Geotechnical Exploration**

**2221 7<sup>th</sup> Street NW**

**New Brighton, Minnesota**

**May 3, 2021**

**Allied Project 21021**

**ITCO Allied Engineering Company**

**4029 125<sup>th</sup> Street West  
Savage, Minnesota 55378**

**Ph: 952-890-5909**

**Fax: 952-890-5883**

## **SUBGRADE EXPLORATION**

### **FOR**

**2221 7<sup>TH</sup> STREET NW**

**New Brighton, Minnesota**

**Allied Project No. 21021**

**May 3, 2021**

### **INTRODUCTION**

This report presents the results of subgrade exploration performed by our firm for a residential property. This work was requested by Mr. Aleksey Derevyanko on April 22, 2021 and authorized by the same also on April 26, 2021. Our work was done in accordance with our proposal dated April 22, 2021.

### **PROJECT INFORMATION**

The project site consists of a large 1.22-acre residential lot located at 2221 7<sup>th</sup> Street NW, New Brighton, Ramsey County, Minnesota. The lot will be subdivided into four smaller lots, with the existing residence remaining on one of the smaller lots. New residences are proposed for each of the three other smaller lots and they will also be provided separate addresses. One soil boring was done on each of the three other smaller lots.

### **BORING LOCATIONS AND ELEVATIONS**

The borings were located as shown on the site plan included in the appendix. The boring locations were staked in the field by ITCO Allied Engineering Co. and Aleksey Derevyanko. The top nut of a hydrant located on 7th Street NW was used as a benchmark. An arbitrary elevation of 100.0 feet was assumed for the benchmark elevation. Elevations listed on the boring logs are in accordance with this assumed benchmark elevation.

## **FIELD EXPLORATION**

Three Standard Penetration Test (SPT) borings were each put down to a depth of 16 feet. The borings were augered to 14.5 feet of depth and the split spoon sampler was driven to 16 feet for the last 1.5 feet of samples. The borings were put down in accordance with ASTM 1586-99: "Standard Method for Penetration Test and Split-Barrel Sampling of Soils". Using this procedure, a 2" O.D. split barrel sampler is driven into the soil by a 140-lb weight falling a distance of 30 inches. After an initial set of 6", the number of blows required to drive the sampler an additional 12 inches is known as the standard penetration resistance or N-value. The N-value provides an indication of the relative density of cohesionless (coarse grained) soils or of the consistency of cohesive (fine-grained) soils.

As the samples were obtained in the field, they were visually and manually classified. Representative portions of the samples were then sealed in clean glass soil jars and returned to the laboratory for further examination and verification of the field classification. The recovered soil samples were classified in accordance with the Unified Soil Classification System, ASTM D: 2488-00. A chart illustrating this classification method is included in the appendix to this report. Logs of the test borings indicating the depth and identification of the various strata, measured penetration resistances, soil classifications and the results of water level checks are included in the appendix to this report.

## **SUBSURFACE CONDITIONS**

### Boring B-1

Boring B-1 consisted of 6 inches of topsoil, underlain by sandy clay to 2.75 feet of depth, fine to medium sand with some silt to 5 feet of depth, fine to medium sand to 7.5 feet of depth, moist fine sand to 10 feet of depth, sand with gravel to 12.5 feet of depth, fine sand with silt to 14.5 feet of depth, and sand with gravel to 16 feet of depth.

### Boring B-2

Boring B-2 consisted of 5 inches of topsoil, underlain by moist sandy clay to 2.5 feet of depth, sandy clay to 7.75 feet of depth, fine sand with some gravel to at least 9 feet of depth, no sample return at 10-11.5 feet of depth, fine sand from at least 12.5 feet to 14.5 feet of depth, and fine sand with some silt to 16 feet of depth.

### Boring B-3

Boring B-3 consisted of 5 inches of clayey topsoil, underlain by sandy clay to 2.5 feet of depth, sandy clay with some small gravel to 10 feet of depth, sandy clay to at least 11.5 feet of depth, clayey sand from at least 12.5 feet to at least 14 feet of depth, and no sample return at 14.5-16 feet of depth.

N-values ranged from 8 to 75, indicating that the soils ranged from medium to very dense in consistency. N-values below 6 are considered low for residential structures. There were no N-values below 6. The two N-values above 50 with no sample return were most likely due to the sampler being on a rock rather than actual readings.

Groundwater was not encountered in any of the borings. Groundwater conditions may vary both seasonally and annually based on precipitation amounts, patterns, and both surface and subsurface drainage in the local area.

Included in the appendix to this report are logs of the test borings, which describe the conditions, encountered at each drilling location. The depth of the individual strata of soil may vary at and between the drilling locations due to unsampled intervals, the occurrence of transitions between soil layers and the natural variability of the subsurface conditions.

### **CONCLUSIONS AND RECOMMENDATIONS**

Organic topsoil, peat, organic soils, and any soft soil layers, which may be encountered, should not be relied upon for support of the proposed residential footings, slabs or controlled fills that will support these elements. These materials should be removed and replaced below the proposed structure. A qualified soil technician should examine the excavated areas before suitable fill material is placed. ITCO Allied Engineering Co. can provide this service during construction.

It should be possible to provide support for the planned structure with a conventional spread footing foundation system. If unsuitable soils are encountered, these can be corrected by using excavation and controlled refilling procedures together with an observational approach. This would require excavation in order to prepare for the placement of controlled fill to make grade for concrete for footings or slabs.

The non-root infested and inorganic on-site soils would generally be suitable for reuse as controlled and compacted fill material. The topsoil or other materials, which would not be suitable for use as controlled fill, may be able to be used as surface fill in the lawn and landscaping areas. Additional recommendations are presented in the following sections.

The Department of Housing & Urban Development (D-HUD), which underwrites F.H.A. mortgages, requires a separation of 4.0 feet between the highest observed groundwater elevation and the lowest basement slab. Although this may or may not be a requirement in the City of New Brighton, the City should be contacted to determine their requirements.

## 1. EXCAVATION

In general, grubbing and stripping operations should remove all significantly organic or root infested soils from the areas to be worked. Frozen material, soft consistency clays or otherwise unsuitable soil and debris should be removed. Where undocumented fill or otherwise unsuitable soils are exposed in the base of excavations, which will support slabs, pavements or footings, these materials should also be removed. Frozen soils resulting from frost penetration may turn soft upon thawing and would need to be removed.

For the support of fill sequences, slabs, or footings it will be important to remove unsuitable soils prior to the placement of the controlled and compacted fill to make grade for concrete foundations and slabs. Once the organic topsoil layers and otherwise unsuitable materials have been removed, the completed excavations should be observed by an experienced soil engineer or technician and the conditions judged to be suitable prior to the placement of controlled and compacted fill to make grade for concrete footings or slabs.

## 2. FOUNDATIONS

It should be possible to provide support for spread footing foundations systems using excavation and controlled filling procedures. As mentioned previously, the topsoil, peat, organic silt, organic clay, soft clay, and any uncontrolled fill encountered during the excavation work should not be relied upon for support of footings, slabs or controlled fills which will support these elements. It will be important to monitor the conditions exposed in the excavations during the grading work prior to the placement of fill to make grade for concrete for footings or slabs. Hand auger borings

and Dynamic Cone Penetrometer (DCP) tests should be done in the completed excavations and the exposed conditions judged suitable by an experienced soil engineer or technician prior to the placement of footings or fill. ITCO Allied Engineering Co. is capable of and available to do this work.

Once the recommendations presented in this report have been implemented, a net allowable bearing pressure of 2000 pounds per square foot may be utilized for the proportioning of individual footings. In designing the footings, it is recommended that they be designed to exert approximately equal pressures to the bearing strata. This should limit total and differential settlements to 1" and ½" respectively.

For frost protection, we recommend that footings in unheated areas be placed at a depth of 48 inches below finished grade. For decks and porches it is recommended that this be increased to 60 inches if the soil is frost susceptible. In heated portions of the building, a depth of 42 inches would be adequate. Where full or partial basements are utilized, frost depths for garage areas and porch structures should be maintained as outlined above.

### 3. FILL PLACEMENT

In the event that unsuitable soils are encountered and need to be replaced, the fill material should be mineral soil, preferably granular, and free of debris, boulders and organic material. The non-organic on-site soils would be suitable for reuse as controlled fill material provided that they are dry enough to meet compaction requirements. It may be difficult to dry wet soils sufficiently and it may be necessary to replace some of this material with off site material.

Fill should be placed and compacted in a manner that will allow complete compaction of the entire fill layer to a minimum of 95% of the Standard Proctor Density according to ASTM D: 698 in the building pad area. Required compaction should be increased to 98% below all footings. For roadway construction, the top 3 feet of roadway subgrade should be compacted to 100%. A minimum of one representative field density test should be performed for each two feet of fill placed at a time in a given work area. Density tests in mass fill areas should be performed at a rate judged sufficient to represent the fill sequence as a whole. Where sand fills are to be compacted, smooth "drum" type vibratory equipment would be preferred, however, a sheepfoot roller with

short wide pads may provide adequate compaction.

Fill areas should be properly oversized to provide for adequate distribution of the imposed loads. The fill supporting structural elements should extend at least one foot horizontally beyond the structure, slab or edge of the footing. Fill surfaces should extend downward and outward on a 1:1 slope to competent soil. If the fill slope is unconfined by other soils, the downward and outward slope should be flattened and stabilized. Also, no unremediated excavations should be carried out within the fill oversize area

#### 4. FOUNDATION DRAINAGE

Although groundwater wasn't found in any of the borings, groundwater elevations can fluctuate throughout the year, so foundation drains should still be considered if a below grade slab is included. Also, some communities require that foundation drains be installed regardless of site conditions. The City of New Brighton should be contacted to determine their requirements. If included, the recommendations in the next paragraph should be followed for installing the foundation drains.

In planning backfill zone drain tile installation, the invert elevation should be below the level of the lowest floor slab. The drain line should be adequately protected from blockage prior to backfilling by a suitable encapsulation of gravel, (such as Mn/Dot spec 3149.2 H; "coarse filter aggregate"), and geotextile separation fabric. In the backfill zones above the drain tile the use of granular material is recommended. Sand for this purpose should contain less than 12% passing the number 200 sieve, (MnDot "select granular borrow"; spec 3149.2 B). Care should be taken during the backfilling operations to ensure that the drainage materials are not crushed or deformed. Fill installation in these areas should be initiated with a two-foot lift of the granular backfill. A two to three foot thick compacted clay cap, with a positive slope away from the structure, may be placed at the top of the backfill zone to aid in reducing the infiltration of groundwater into this area which would need to be carried by the drain tile system. It should be noted that the construction of the backfill zone drainage system should be performed with the same level of care as the foundation wall itself.

#### 5. FINAL SITE TOPOGRAPHY

The final soil surfaces should be graded to provide adequate drainage away from structures and

pavements in order to minimize deleterious effects associated with water infiltration. The areas adjacent to footing walls should be adequately compacted (not loosely placed) and provided with drainage outlets to avoid this zone acting as a "sump" and creating nuisance water conditions. Compliance with the building code provision for positive surface drainage away from the structure should also aid in reducing the quantity of infiltration into the backfill zones adjacent to foundation walls.

#### **STANDARD OF CARE**

The recommendations contained in this report are professional opinions. These opinions were arrived at in accordance with generally accepted engineering practices currently in use at this time, location and for projects of this type. Other than this, no warranty is implied or intended. Soil samples recovered from the test borings will be retained in our offices for a period of thirty days from the date of this report. After that time they will be discarded unless prior written instructions to the contrary are received.

I hereby certify that this report and/or specification has been prepared by me or under my direct supervision and that I am a duly registered Professional Engineer under the laws of the State of Minnesota. If you have any further questions or we can be of any further assistance, please do not hesitate to phone or write.

ITCO ALLIED ENGINEERING COMPANY



Robert Sullentrop, P.E.

Minnesota Registration No. 17823

## **APPENDIX A**

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### Boring Locations

7th Street Northwest

330.42

36.38

32.34  
5.7

13

5ft set back from  
existing property to  
be maintained

B-1

LOT 2

.87 AC.

1.22 AC.

(2)

(1)

2251

2221

B-2

LOT 3

LOT 1 (existing  
house)

B-3

LOT 4

(-205)

125

175

30

135.12

165.3

.37 AC.

.45 AC.  
650

0

(3)

(4)

119.19+

119.19+

657.59

Inca Lane

100

93

93

85.4

5.4

205.35

228.59

## **APPENDIX B**

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Boring Logs

## REMARKS:

# ITCO ALLIED ENGINEERING CO.

Project: 2221 7th Street NW

LOG OF BORING B-2

Sheet 2 of 3

DRILLER Mike  
TECHNICIAN Tom

BORING NO. / LOCATION

B-2

DRY ON COMPLETION ?

Yes

DATE April 29, 2021

SURFACE ELEV. 107.0 FT.

REFUSAL: No DEPTH FT.

ELEV. FT.

SAMPLED 16.0 FT. 4.9 M

BORING TIME: 11:30 AM

BOTTOM OF HOLE DEPTH 14.5 FT.

ELEV. 92.5 FT.

BORING ADVANCED BY:

POWER AUGERING X

## WATER LEVEL DATA (IF APPLICABLE)

DRILLING: DEPTH FT.  
ELEV. FT.

After 24 Hrs DEPTH FT.

ELEV. FT.

Cave-in DEPTH 10.0 FT.

STRATUM DEPTH FT.     ELEV.	SAMPLE DEPTH		SAMPLE NUMBER	SAMPLE TYPE	FIELD RESULTS		LABORATORY RESULTS			STRATUM DESCRIPTION
	FROM FT.	TO FT.			N-Value	Qp	LL	PI	%M	
0.0 107.0	0.0	2.0	1	Grab						5" Dark Brown Clayey Topsoil Moist Brown Sandy Clay, CL
2.5 104.5	2.5	4.0	2	SS	12					Brown Sandy Clay, CL
5.0 102.0	5.0	6.5	3	SS	14					
7.5 99.5	7.5	9.0	4	SS	22					3" Brown Sandy Clay, CL Reddish Brown Fine Sand W/Some Gravel, SP
10.0 97.0	10.0	11.5	5	SS	51					No Sample Return
12.5 94.5	12.5	14.0	6	SS	8					Brown Fine Sand, SP
14.5 92.5	14.5	16.0	7	SS	14					Brown Fine Sand W/Some Silt, SP

REMARKS:

REMARKS:

## **APPENDIX C**

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### **Soil Classification**

# ALLIED TEST DRILLING COMPANY SOIL CLASSIFICATION SYSTEMS

## Unified Soil Classification System ASTM: D 2488-84

Unified Soil Classification System ASTM: D 2488-84				
Major Divisions			Group Symbol	Typical Group Names
COARSE-GRAINED SOILS  Granular soils  More than 50% retained on the No. 200 sieve	GRAVELS  More than 50% of coarse fraction retained on No. 4 sieve	Clean gravels < 5% passing No. 200 sieve	GW	Well-graded gravels, Well-grade gravel with sand <sup>1</sup>
			GP	Poorly-graded gravel, Poorly-graded gravel with sand <sup>1</sup>
		Gravel with fines >12% passing No. 200 sieve	GM	Silty gravel, Silty gravel with sand <sup>1</sup>
			GC	Clayey gravel, Clayey gravel with sand <sup>1</sup>
	SANDS  50% or more of coarse fraction passes No. 4 sieve	Clean sands < 5% passing No. 200 sieve	SW	Well-graded sand, Well-graded sand with gravel <sup>2</sup>
			SP	Poorly-graded sand, Poorly graded sand with gravel <sup>2</sup>
		Sand with fines >12% passing No. 200 sieve	SM	Silty sand, Silty sand with gravel <sup>2</sup>
			SC	Clayey sand, Clayey sand with gravel <sup>2</sup>
FINE-GRAINED SOILS  Cohesive soils  50% or more passes the No. 200 sieve	SILTS AND CLAYS  Liquid limit less than 50		ML	Silt, Silt with sand <sup>3</sup> , Sandy silt <sup>4</sup>
			CL	Lean clay, Lean clay with sand <sup>3</sup> , Sandy lean clay <sup>4</sup>
			OL	Organic silt, Organic clay
	SILTS AND CLAYS  Liquid limit more than 50		MH	Elastic silt, Elastic silt with sand <sup>3</sup> , Sandy elastic silt <sup>4</sup>
			CH	Fat clay, Fat clay with sand <sup>3</sup>
			OH	Organic clay, Organic silt
HIGHLY ORGANIC SOILS			PT	Peat
Boundary classifications are designated by dual group symbols. For example, (SP-SM) for Poorly-graded sand with silt. <sup>1</sup> More than 15% sand <sup>2</sup> More than 15% gravel <sup>3</sup> 15% to 30% retained on No. 200 sieve <sup>4</sup> 30% retained on No. 200 sieve				

## AASHTO Soil Classification System

AASHTO Soil Classification System												
	Granular Materials (35% or less passing No. 200 sieve)							Silt-Clay Materials (>35% passing No. 200 sieve)				
	A-1		A-3	A-2				A-4	A-5	A-6	A-7	
	A-1-a	A-1-b		A-2-4	A-2-5	A-2-6	A-2-7					
Sieve Analysis: Percent Passing												
No. 10	50 max											
No. 40	30 max	50 max	51 min									
No.200	15 max	25 max	10 max	35 max	35 max	35 max	35 max	36 min	36 min	36 min	36 min	
Characteristics of Fraction Passing No. 40:												
Liquid limit				40 max	41 min	40 max	41 min	40 max	41 min	40 max	41 min	
Plastic limit	6 max		NP	10 max	10 max	11 min	11 min	10 max	10 max	11 min	11 min	
Usual Types of Significant Constituents	stone fragments gravel and sand		fine sand	silty or clayey gravel and sand				silty soils		clayey soils		Peat, highly organic soils
General Subgrade Rating	Excellent to good					Fair to poor					Unsatisfactory	