



**REGULAR CITY COUNCIL MEETING  
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS  
MAY 8, 2018  
7:00 PM**

**INTRODUCTORY PROCEEDINGS**

Call to order

Open forum (15 minutes maximum)

***Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.***

Pledge of Allegiance

Approval of the minutes of the: (1) Special City Council work session of April 24, 2018; (2) Special joint City Council and Transportation Commission work session; and (3) Regular City Council meeting of April 24, 2018.

**PRESENTATIONS**

1. Richfield STEM/Dual Language School combined 5th Grade Choir

**COUNCIL DISCUSSION**

2. Hats Off to Hometown Hits

**AGENDA APPROVAL**

3. Approval of the Agenda
4. **Consent Calendar contains several separate items, which are acted upon by the City Council in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further Council action on these items is necessary. However, any Council Member may request that an item be removed from the Consent Calendar and placed on the regular agenda for Council discussion and action. All items listed on the Consent Calendar are recommended for approval.**

- A. Consideration of the approval of a resolution appointing Information Technologies Manager Jane Skov as an Alternate Director on the Local Government Information Systems (LOGIS) Board of Directors.

Staff Report No. 75

- B. Consideration of the approval of a maintenance agreement with the Minnehaha Creek Watershed District for the specified culvert within Taft Park.

Staff Report No. 76

- C. Consideration of the approval of a first reading of an ordinance amending sign regulations.

Staff Report No. 77

- D. Consideration of the approval of a resolution amending the Richfield Urban Village Planned Unit Development to allow McDonald's to make minor site modifications and replace all menu board signs with dynamic display signs.

Staff Report No. 78

- E. Consideration of the approval of a resolution amending a conditional use permit and variance to allow an expansion to increase capacity from 28 beds to 32 beds at Progress Valley, 308 78th Street East.

Staff Report No. 79

- F. Consideration of the approval of a resolution for a site plan review and variances for a restaurant at 6600 Penn Avenue.

Staff Report No. 80

5. Consideration of items, if any, removed from Consent Calendar

### **PUBLIC HEARINGS**

6. Public hearing and consideration of the approval of a resolution approving a final plat of "Nora Corner" that will combine four parcels (6529 and 6545 Penn Avenue, and 2208 and 2210 66th Street West) into three parcels, in order to allow construction of a previously approved restaurant (Dunkin Donuts).

Staff Report No. 81

### **RESOLUTIONS**

7. Consideration of the approval of a resolution awarding the sale of \$9,975,000 General Obligation Street Reconstruction Bonds, Series 2018A.

Staff Report No. 82

### **CITY MANAGER'S REPORT**

8. City Manager's Report

### **CLAIMS AND PAYROLLS**

9. Claims and Payrolls

Open forum (15 minutes maximum)

***Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.***

### **CLOSED EXECUTIVE SESSION**

10. Special City Council Closed Executive Session in the Babcock Room regarding the City Manager's annual performance evaluation.

The Closed Executive Session will be convened as permitted to evaluate an employee's performance pursuant to Minn. Stat. 13D.05, subd. 3(a).

11. Summary review of the City Manager's annual performance evaluation for 2017 and consideration of a resolution amending employment agreement between City of Richfield and City Manager Steven L. Devich for 2018.

Staff Report No. 83

12. Adjournment

**Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.**



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Special City Council Work Session

April 24, 2018

### CALL TO ORDER

The work session was called to order by Mayor Elliott at 5:45 p.m. in the Babcock Room.

*Council Members Present:* Pat Elliott, Mayor; Edwina Garcia; Michael Howard; Maria Regan Gonzalez; and Simon Trautmann.

Item #1

### DISCUSSION REGARDING APPOINTMENT TO THE ARTS COMMISSION

Council Member reviewed the application materials and discussed the applicants to fill the vacancy on the Arts Commission.

### ADJOURNMENT

The work session was adjourned by unanimous consent at 5:58 p.m.

Date Approved: May 8, 2018

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Pat Elliott  
Mayor

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Jared Voto  
Executive Aide/Analyst

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Steven L. Devich  
City Manager



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Special Joint City Council and Transportation Commission Work Session

April 24, 2018

### CALL TO ORDER

The work session was called to order by Mayor Elliott at 6:00 p.m. in the Bartholomew Room.

*Council Members Present:* Pat Elliott, Mayor; Edwina Garcia; Michael Howard; Maria Regan Gonzalez; and Simon Trautmann.

*Transportation Commission Members Present:* Ted Weidenbach, Chair; Tim Carter; Gary Ness; Ken Severson; Gerry Charnitz; Brynn Hausz; Paul Chillman; and Wesley Dunser.

*Transportation Commission Members Absent:* Jeffrey Walz; and Jack Wold.

*Staff Present:* Steven L. Devich, City Manager; Pam Dmytrenko, Assistant City Manager/HR Manager; Kristen Asher, Public Works Director; Jeff Pearson, City Engineer; Jack Broz, Transportation Engineer; and Jared Voto, Executive Aide Analyst.

<b>Item #1</b>	<b>LYNDALE AVENUE DESIGN UPDATE</b>
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Transportation Engineer Broz presented information on the history and public outreach for the project including five transportation commission meetings, three open houses, chamber of commerce meeting, and business and resident meetings. He presented what was heard related to concerns from pedestrians, bicyclists, motorists, and general concerns. He presented the project measures related to addressing the concerns/feedback that had been received and used to design the corridor to address these items. He also discussed the design of the corridor with medians in certain areas and compact roundabouts at 67th, 68th, and 70th Streets. Lastly, he asked the Council Members and Commissioners to review the large map showing the design of the corridor and asked if there were any questions or items to discuss.

Council Members and Commissioners asked questions and discussed the area of Lake Shore Drive, the medians in the corridor, and roundabouts. They also discussed concerns about recreational biking and the number of driveways. There was also discussion about the roundabouts on the north end of the corridor and the importance of educating the public on their use as well as asking if there were similar examples nearby. Transportation Engineer Broz mentioned Shakopee and St. James as locations with compact roundabouts.

Chair Weidenbach asked for Council's first impression on the compact roundabouts and what concerns they have heard from residents. He also asked if there were any specific questions the Commission should be asking people to get feedback. Council Members discussed their concerns about pedestrian safety and educating drivers to look for pedestrians; that this corridor is being

planned for 30 years into the future and safety of everyone using the corridor; the importance of communicating the changes to residents and education.

**ADJOURNMENT**

The work session was adjourned by unanimous consent at 6:57 p.m.

Date Approved: May 8, 2018

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Pat Elliott  
Mayor

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Jared Voto  
Executive Aide/Analyst

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Steven L. Devich  
City Manager



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Regular Meeting

**April 24, 2018**

### CALL TO ORDER

The meeting was called to order by Mayor Elliott at 7:00 p.m. in the Council Chambers.

*Council Members Present:* Pat Elliott, Mayor; Edwina Garcia; Michael Howard; Maria Regan Gonzalez; and Simon Trautmann.

*Staff Present:* Pam Dmytrenko, Assistant City Manager/HR Manager; Mary Tietjen, City Attorney; Kristin Asher, Public Works Director; John Stark, Community Development Director; Jeff Pearson, City Engineer; Jennifer Anderson, Support Services Supervisor; and Jared Voto, Executive Aide/Analyst.

### OPEN FORUM

None.

### PLEDGE OF ALLEGIANCE

Mayor Elliott led the Pledge of Allegiance.

### APPROVAL OF MINUTES

M/Trautmann, S/Howard to approval of the minutes of the: (1) Special City Council work session of April 10, 2018; and (2) Regular City Council meeting of April 10, 2018.

Motion carried 5-0.

Item #1	COUNCIL DISCUSSION
	<ul style="list-style-type: none"><li>• Hats Off to Hometown Hits</li></ul>

Council Member Howard spoke regarding the drug giveback program with the Richfield Police Department and Drug Enforcement Agency on April 28; the work session on Lyndale Avenue design update and open house on May 1 from 4-7 pm at Oak Grove Lutheran Church; and 66th Street construction has begun and look to the City and Sweet Streets Facebook page and Hennepin County website for updates.

Council Member Regan Gonzalez spoke regarding an event for International Day of the Child and Book Day on April 29 from 1-3 pm at Richfield Community Center; and Local Roots Café has opened at 817 E 66th St.

Mayor Elliott welcomed Local Roots Café and spoke regarding the National Walkout event and having a chance to speak to the young people from Richfield High School and thanked them for representing the city and school district.

Council Member Trautmann spoke regarding City Pages awarding Richfield the best suburb and noted Star Tribune ranked Richfield as the hottest real estate market for the 2nd year in a row.

Council Member Garcia spoke regarding a forum on adolescent depression on April 25 at Headway, 6425 Nicollet Ave, on adolescent depression; Richfield League of Women Voters annual dinner on April 30 at 6 pm at the VFW; the final indoor farmers market is on May 3 from 4-7 pm at the Richfield Community Center; Lyndale Garden condo open house on May 12 from 1-3 pm at Wood Lake Nature Center; the citywide garage sale from May 17-19 and register with the City by April 30; and Tapestry will have a tenant listening session, sponsored by VEAP, on April 29 from 3-4:30 pm at the Oak Grove Lutheran Church.

Council Member Trautmann also mentioned a new restaurant, Frango, will be going into the old Bruegger's Bagel location.

<b>Item #2</b>	<b>APPROVAL OF THE AGENDA</b>
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M/Garcia, S/Regan Gonzalez to approve the agenda.

Motion carried 5-0.

<b>Item #3</b>	<b>CONSENT CALENDAR</b>
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Mayor Elliott asked to remove Item 3.B. from the consent calendar.

Assistant City Manager/HR Manager Dmytrenko presented the consent calendar.

- A. Consideration of the approval of setting a public hearing to be held on May 22, 2018, for the consideration of the issuance of new On-Sale Wine and 3.2 Malt Liquor licenses for Los Sanchez Taqueria #2, LLC d/b/a Los Sanchez Taqueria, located at 2 West 66th Street. (S.R. No. 69)
- C. Consideration of the approval of comments and support for the Draft Bloomington Local Stormwater Management Plan per the City of Richfield's participation in the Richfield-Bloomington Watershed Management Organization (RBWMO). (S.R. No. 71)
- D. Consideration of the approval of a resolution of support for the METRO D Line Project and the stops within Richfield along Portland Avenue at 66th, 70th, 73rd, and 77th Streets. (S.R. No. 72)

**RESOLUTION NO. 11493  
RESOLUTION OF SUPPORT FOR THE METRO D LINE PROJECT**

This resolution appears as Resolution No. 11493.

- E. Consideration of the approval for the Richfield Parkway Infrastructure Construction Agreement and the Maintenance Parcel Agreement between the City of Richfield and Chamberlain Apartments, LLC. (S.R. No. 73)

M/Garcia, S/Elliott to approve the consent calendar.

Motion carried 5-0.

Council Member Trautmann highlighted Los Sanchez Taqueria #2 as a new restaurant in Richfield, located in the Hub where Rosa's Kitchen was located.

<b>Item #4</b>	<b>CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR</b>
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- B. Consideration of the approval authorizing staff to distribute the draft Richfield 2040 Comprehensive Plan to affected jurisdictions for review. (S.R. No. 70)

Mayor Elliott presented Staff Report No. 70. He also discussed the Planning Commission meeting the previous night and asked Community Development Director Stark to add more information to clarify some misunderstandings.

Community Development Director Stark discussed the outreach efforts of the community-led Comprehensive Plan and the resident steering committee. The Comprehensive Plan is visionary and aspirational for the community.

Council Member Howard discussed the previous work session on the Comprehensive Plan.

M/Elliott, S/Garcia to authorize staff to distribute the draft Richfield 2040 Comprehensive Plan to affected jurisdictions for review and comment.

Council Member Trautmann asked about a comment from a citizen that the change in the comprehensive plan in this area to mixed use only happened in the last few months.

Community Development Director Stark responded he didn't know exactly when it changed but thought it had been in there at least 10 months to one year.

Mayor Elliott commented on the action being considered tonight was to authorize staff to distribute it to affected jurisdiction for six months and would be coming back to the Planning Commission, so if people have comments to let staff or their representatives know.

Motion carried 5-0.

<b>Item #5</b>	<b>CONSIDERATION OF THE APPOINTMENT OF AN ADULT MEMBER TO THE ARTS COMMISSION WITH A TERM EXPIRING JANUARY 31, 2019. (S.R. NO. 74)</b>
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Mayor Elliott presented Staff Report No. 74. Mayor Elliott commented on the quality of the applicants and the difficulty in making a selection.

M/Elliott, S/Howard to appoint Chelsea Knauf to the Arts Commission with a term expiring January 31, 2019.

Motion carried 5-0.

<b>Item #6</b>	<b>CITY MANAGER'S REPORT</b>
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Assistant City Manager/HR Manager Dmytrenko stated he had nothing to report.

<b>Item #7</b>	<b>CLAIMS AND PAYROLLS</b>
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M/Garcia, S/Elliott that the following claims and payrolls be approved:

<b>U.S. Bank</b>	<b>04/24/18</b>
A/P Checks: 267365 - 267760	\$ 1,174,394.37
Payroll: 135810 - 136114; 42796	660,620.16
<b>TOTAL</b>	<b>\$ 1,835,014.53</b>

Motion carried 5-0.

<b>OPEN FORUM</b>
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None.

<b>Item #11</b>	<b>ADJOURNMENT</b>
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The meeting was adjourned by unanimous consent at 7:35 p.m.

Date Approved: May 8, 2018

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Pat Elliott  
Mayor

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Jared Voto  
Executive Aide/Analyst

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Steven L. Devich  
City Manager



AGENDA SECTION:

CONSENT CALENDAR

AGENDA ITEM #

4.A.

**STAFF REPORT NO. 75**  
**CITY COUNCIL MEETING**  
**5/8/2018**

REPORT PREPARED BY: Chris Regis, Finance Manager

DEPARTMENT DIRECTOR REVIEW: Steven L. Devich, City Manager  
5/1/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/1/2018

**ITEM FOR COUNCIL CONSIDERATION:**

Consideration of the approval of a resolution appointing Information Technologies Manager Jane Skov as an Alternate Director on the Local Government Information Systems (LOGIS) Board of Directors.

**EXECUTIVE SUMMARY:**

LOGIS is a Joint Powers, intergovernmental consortium of Minnesota local government units. It offers computer applications for a variety of municipal functions. The City of Richfield has been a full participating member since 2002.

The LOGIS consortium is governed by its members. Each member appoints a director and an alternate director to be on the LOGIS Board of Directors. The Board which governs LOGIS is made up of a variety of member city and county professionals from police chiefs to city managers to finance directors. The Board then elects a five-member executive committee. The Executive Committee, which has fiduciary authority and responsibility, establishes operating policies, sets service charges and approves expenditures.

**RECOMMENDED ACTION:**

By motion: Approve a resolution appointing Information Technologies Manager Jane Skov as an Alternate Director on the LOGIS Board of Directors.

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- The City has been an associate member since 1996 and a full participating member since 2002.
- Chris Regis, Finance Manager, currently serves as the City's Director on the LOGIS board.

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc.):**

- None

C. **CRITICAL TIMING ISSUES:**

- With the retirement of Sally Morton, the current Alternate Director, the City Council needs to appoint a new Alternate Director.

D. **FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- None

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Resolution	Resolution Letter

**RESOLUTION NO.**

**RESOLUTION AUTHORIZING THE APPOINTMENT OF THE INFORMATION TECHNOLOGIES MANAGER AS AN ALTERNATE DIRECTOR ON THE LOGIS BOARD OF DIRECTORS**

**WHEREAS**, the City of Richfield is currently a full participating member of the Local Government Information Systems (LOGIS) consortium; and

**WHEREAS**, due to a staff retirement, the City of Richfield needs to appoint a new Alternate Director to the LOGIS Board of Directors.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Richfield, Minnesota, that:

1. Jane Skov, Information Technologies Manager, is appointed as the City's Alternate Director representative to the LOGIS Board of Directors.

Adopted by the City Council of the City of Richfield, Minnesota this 8<sup>th</sup> day of May, 2018.

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk



AGENDA SECTION:

CONSENT CALENDAR

AGENDA ITEM #

4.B.

**STAFF REPORT NO. 76**  
**CITY COUNCIL MEETING**  
**5/8/2018**

REPORT PREPARED BY: Jeff Pearson, City Engineer

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
5/1/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/1/2018

**ITEM FOR COUNCIL CONSIDERATION:**

Consideration of the approval of a maintenance agreement with the Minnehaha Creek Watershed District for the specified culvert within Taft Park.

**EXECUTIVE SUMMARY:**

In 2017, the City replaced one of the small culverts under the trail on the east side of Taft Lake, as shown in Exhibit A. The previous culvert had deteriorated and it was preventing adequate water flow under the trail resulting in periodic trail flooding.

The culvert is located within the jurisdiction of the Minnehaha Creek Watershed District (MCWD). The MCWD requires a maintenance agreement be put in place for the culvert. Under the agreement, the City agrees to be responsible for maintenance and inspection of the culvert. The City already performs maintenance and inspections as part of the trail maintenance but is now formalizing that with the agreement.

**RECOMMENDED ACTION:**

By motion: Approve a maintenance agreement with the Minnehaha Creek Watershed District for the specified culvert within Taft Park.

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- See Executive Summary

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- Minnesota Statutes Chapters 103B and 103D (MCWD)
  - Stormwater Management Rule, Wetland Protection Rule and the Waterbody Crossings & Structures Rule.

C. **CRITICAL TIMING ISSUES:**

- None

D. **FINANCIAL IMPACT:**

- There will be no additional financial impact as the City already performs the maintenance as described in the agreement.

**E. LEGAL CONSIDERATION:**

- The City Attorney has reviewed the agreement and will be available to answer questions.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Agreement	Contract/Agreement
<input type="checkbox"/> Exhibit A	Exhibit

**MAINTENANCE AGREEMENT**  
**Waterbody Crossings & Structures**

**Between the Minnehaha Creek Watershed District  
and the City of Richfield**

This Maintenance Agreement (Agreement) is made by and between the Minnehaha Creek Watershed District, a watershed district with purposes and powers set forth at Minnesota Statutes chapters 103B and 103D (MCWD), and the City of Richfield, a Minnesota municipal corporation and political subdivision of the State of Minnesota (CITY).

**Recitals and Statement of Purpose**

WHEREAS pursuant to Minnesota Statutes § 103D.345, the MCWD has adopted and implements the Stormwater Management Rule, Wetland Protection Rule and the Waterbody Crossings & Structures Rule;

WHEREAS, under the Waterbody Crossings & Structures Rule, certain land development activity requires the landowner to record a declaration establishing the landowner's perpetual obligation to inspect and maintain waterbody crossings and structures to ensure that the hydraulic and navigational capacity of the associated waterbody are maintained in accordance with approved plans;

WHEREAS in each case, a public landowner, as an alternative to a recorded instrument, may meet the maintenance requirement by documenting its obligations in an unrecorded written agreement with the MCWD;

WHEREAS in accordance with the MCWD rules and as a condition of Permit 17-642, the City's obligation to maintain waterbody crossings must be memorialized by a recorded maintenance declaration or, alternatively, a maintenance agreement establishing the City's perpetual maintenance obligation;

WHEREAS CITY and the MCWD execute this Agreement to fulfill the condition of Permit 17-642, and concur that it is binding and rests on mutual valuable consideration;

THEREFORE CITY and MCWD agree as follows:

1. CITY, at its cost, will inspect and maintain the waterbody crossings as shown in the site plan attached to and incorporated into this Agreement as Exhibit A in perpetuity as follows:

**A. WATERBODY CROSSINGS & STRUCTURES**

Crossings and structures in contact with the bed or bank of a waterbody will be inspected at least once a year and maintained in good repair in perpetuity to ensure continuing adequate hydraulic and navigational capacity is retained in accordance with approved plans, to ensure no net increase in the flood stage beyond that achieved by the approved plans, to prevent adverse effects on water quality, changes to the existing flowline/gradient and increased scour, erosion or sedimentation, and to minimize the potential for obstruction of the waterbody.

2. If CITY conveys into private ownership a fee interest in the property that is the subject of this Agreement, it shall require as a condition of sale, and enforce: (a) that the purchaser record a declaration on the property incorporating the maintenance requirements of this Agreement; and (b) that recordation occur either before any other encumbrance is recorded on the property or, if after, only as accompanied by a subordination and consent executed by the encumbrance holder ensuring that the declaration will run with the land in perpetuity. If CITY conveys into public ownership a fee interest in any property that has become subject to this Agreement, it shall require as a condition of the purchase and sale agreement that the purchaser accept an assignment of all obligations vested under this Agreement.

3. This Agreement may be amended only in a writing signed by the parties.

4. The recitals are incorporated as a part of this Agreement.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

**MINNEHAHA CREEK WATERSHED DISTRICT**

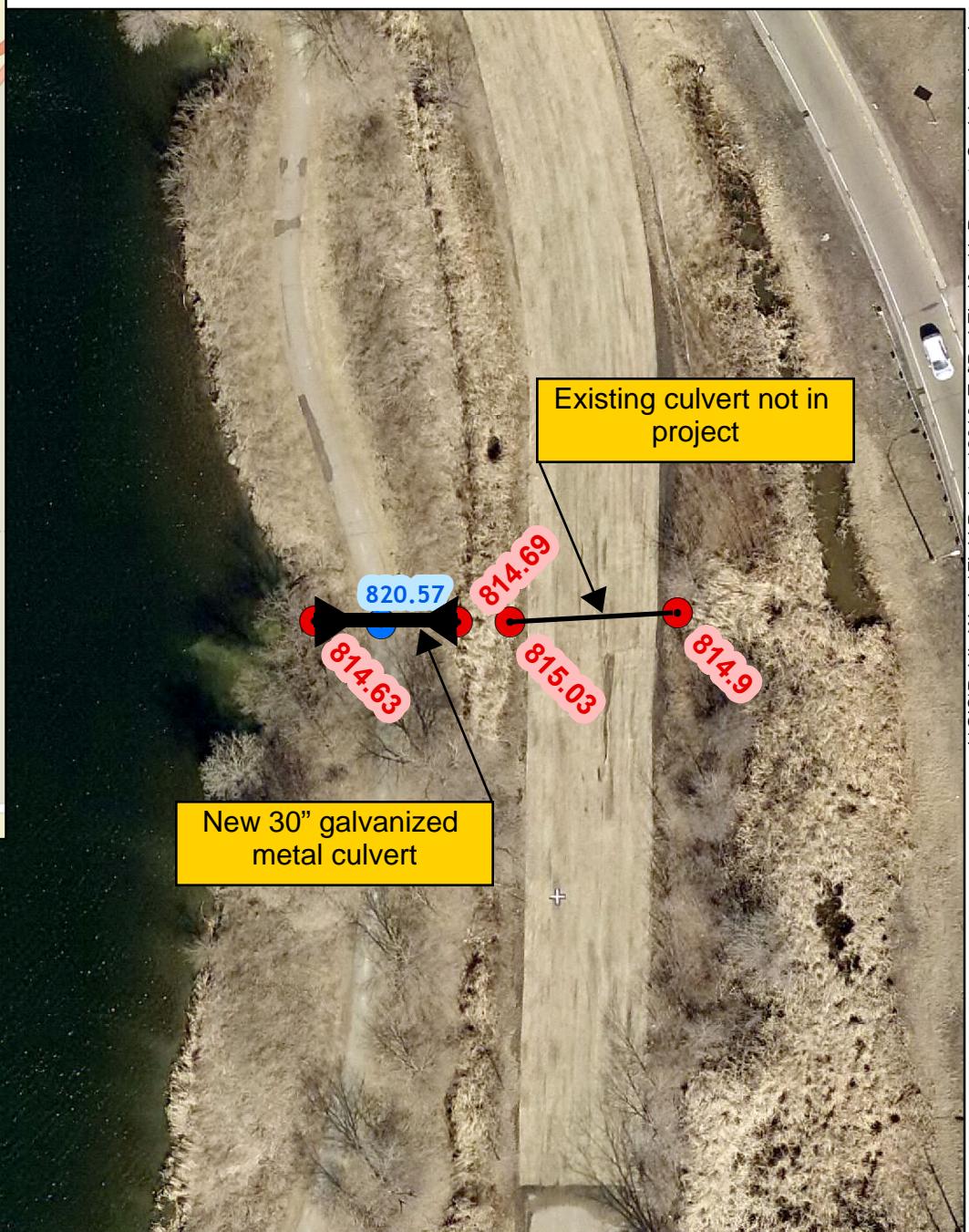
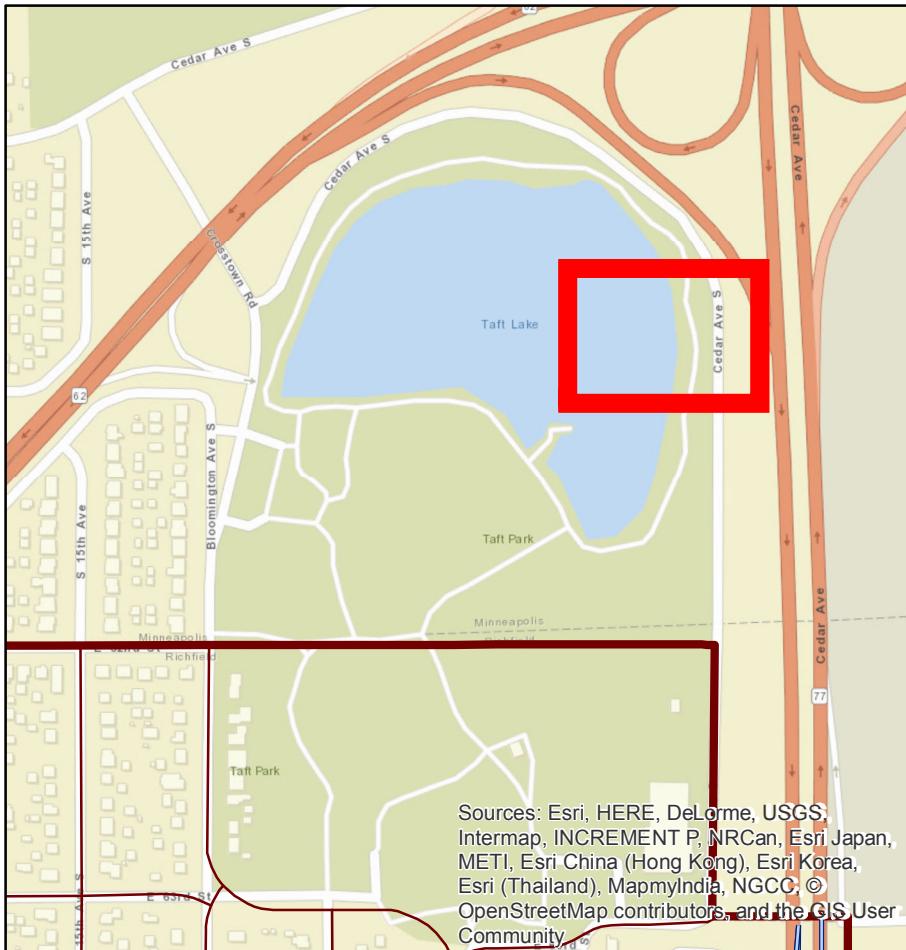
By \_\_\_\_\_ Date: \_\_\_\_\_  
President, Board of Managers

**CITY OF RICHFIELD**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Its Mayor

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Its Manager

# EXHIBIT A



Aerial Photo Date: 2015

Parcel Data Source: Hennepin Co. GIS

The City of Richfield makes no representation or warranties, express or implied, with respect to the reuse of the data provided herewith, regardless of its format or the means of its transmission. There is no guarantee or representation to the user as to the accuracy, currency, suitability, or reliability of this data for any purpose. The user accepts the data "as is", and assumes all risks associated with its use.



0 25 50 100 Feet  
1 inch = 50 Feet

**Taft Lake Culvert Inverts  
Richfield, Minnesota**





AGENDA SECTION:

CONSENT CALENDAR

AGENDA ITEM #

4.C.

**STAFF REPORT NO. 77**  
**CITY COUNCIL MEETING**  
**5/8/2018**

REPORT PREPARED BY: Matt Brillhart, Associate Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
5/2/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/3/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the approval of a first reading of an ordinance amending sign regulations.**

**EXECUTIVE SUMMARY:**

Over the past few months, staff has been researching potential modifications to sign regulations. This study effort began due to requests from the community for the limited use of portable signs, and for greater flexibility in the design and illumination of freestanding signs on Penn Avenue. The goal of this ordinance amendment is to address those issues by providing some flexibility, while simultaneously strengthening regulations related to the height, size, and quantity of signs.

**Portable Signs**

Current regulations prohibit the use of any portable signs, and staff annually receives a small number of complaints regarding this policy. A blanket policy prohibiting all portable signs has been perceived by businesses and community organizations as being too rigid. This blanket policy is also frequently ignored, creating a heavy workload for code enforcement. A side effect of prohibiting all portable signs is that businesses have instead opted to display an unlimited number of small yard signs. The current ordinance does not explicitly define small yard signs as portable signs, and does not include any restrictions on quantity.

To remedy those related issues, staff proposes amending the ordinance to allow limited use of portable signs, with restrictions on quantity, size, placement, and hours of display, as follows:

- A-frame "sandwich board" signs, T-frame signs, and small yard signs shall be the only portable signs allowed.
- One portable sign permitted per business, with a maximum of two per lot (large shopping centers would allow a higher number based on street frontage)
- Limited to 4 feet in height and 6 square feet in area.
- Portable signs shall not be displayed between 10:00 p.m. and 6:00 a.m. (small yard signs exempted)
- Existing regulations will continue to apply: signs must be located on private property (not permitted in right-of-way), signs must be located on the premises to which they refer (off-site signage is prohibited) and signs with wheels and/or attached to vehicles or trailers remain prohibited. Freestanding banner signs (including flag or sail type signs) also continue to be prohibited. Temporary banners are only permitted when attached to a structure.

## **Penn Avenue Design Guidelines**

Additional sign regulations apply in the Penn Central area (Crosstown to 68th Street), prohibiting internally lit box signs on building walls and freestanding signs. Staff has interpreted this prohibition to include dynamic displays (electronic changeable message boards). These regulations have made nearly all freestanding signs on Penn Avenue nonconforming in some way, and have been perceived as being too great of a departure from regulations affecting the rest of the City. The Penn Avenue Design Guidelines acknowledged that size and quantity of signs can be a visual blight, but did not propose any specific changes to regulations.

Staff proposes amending the ordinance to allow dynamic display signs and to re-allow internally lit freestanding signs on Penn Avenue, with new restrictions on the height and size of freestanding signs. Freestanding signs including a dynamic display or internal illumination will be limited to 100 square feet in area in the Penn Central area. Freestanding signs greater than 100 square feet in area would be permitted on larger properties, but would remain ineligible for a dynamic display or internal illumination.

## **Reducing Freestanding Sign Height and Size Citywide**

Based on staff's research of peer cities' sign ordinances, a review of many existing signs in the community, and policymaker feedback from the April 10, 2018 Work Session, staff is proposing to introduce new restrictions on sign height, size, and quantity that would apply citywide. The maximum sign height for many commercial properties would be reduced from 27 feet to 20 feet. The maximum area per sign surface would be reduced from the current 200 square feet to a sliding scale based on site acreage, and the cumulative area of all freestanding signs on a site would be reduced as well. Under the current ordinance, there is no specific limit on the number of tall signs per site. Staff proposes amending the ordinance to allow just one sign exceeding 8 feet in height per site. Exceptions to these new regulations would apply to Planned Unit Developments over 2 acres in area (e.g. large shopping centers such as Lyndale Station or The Shops at Lyndale) and properties abutting highways (e.g. car dealerships, hotels). Please refer to the chart in the "Policy" section below for details.

### **Other proposed changes to sign regulations:**

- The Community Development Director shall have the authority to suspend permit fees and time limits on temporary banner signs during major road construction projects. This would make permanent what was permitted through an interim ordinance for 66th Street construction, which has since expired.
- Clarify regulations for fixed temporary ground signs (typically displayed during the development, construction, sale, or leasing of a commercial property).
- Clarify sign setback regulations. The current ordinance states that freestanding signs shall be set back 5 feet from lot lines. Staff proposes to add a clause further clarifying that no freestanding sign shall be located within 14 feet of the curbline, for situations where property lines and right-of-way vary, such as when sidewalks are located on private property with an easement.
- There shall be a minimum distance of 100 feet between any internally illuminated or dynamic display freestanding sign and any residential property. Signs located on a wall that faces an abutting residential property line and within 100 feet of said residential property line shall not be illuminated between 10:00 p.m. and 6:00 a.m.
- Freestanding signs greater than 6 feet in height will be required to provide landscaping around the sign base.

Generally speaking, the proposed changes better reflect the quantity and dimensions of many existing signs throughout the community, and will primarily serve to prevent the addition of new oversized signage in the future. Benefits of limiting the quantity, size and height of freestanding signs include: minimizing visual clutter and distractions to motorists, improving the pedestrian experience by bringing signs closer to a human scale, limiting freeway-scale signage to appropriate locations, and protecting and improving the overall appearance of the community.

## **RECOMMENDED ACTION:**

**By motion: Approve a first reading of a ordinance amending sign regulations.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- Sign regulations were last overhauled in 2007, along with minor amendments made over the past decade. The City Council recently held a work session to discuss sign regulations, as detailed in the attached Council Memo No. 23 and presentation.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

Regarding the proposed changes to freestanding sign height, size, and quantity, the chart in Subsection 549.23, Subdivision 2 is proposed to be amended as follows (revisions underlined, deletions strike-through):

Within commercial, mixed-use neighborhood, mixed-use community, mixed-use regional, and industrial zoning districts, one (1) freestanding sign per site is signs are permitted as follows <sup>1</sup>:

District	Maximum sign area of single sign	Maximum height	Total area of all freestanding signs
SO, C-1, MU-N	60 square feet per surface	15 feet	<u>1-2 square feet per foot of lot frontage</u>
C-2, MU-C Sites <1 acre	<u>100 square feet per surface</u>	<u>20 feet</u> <sup>2</sup>	<u>1 square feet per foot of lot frontage</u>
C-2, MU-C Sites 1-2 acres	<u>150 square feet per surface</u>	<u>20 feet</u> <sup>2</sup>	<u>1 square feet per foot of lot frontage</u>
C-2, MU-C Sites >2 acres	200 square feet per surface	<u>20 feet</u> <sup>2</sup> 27 feet	<u>1-4 square feet per foot of lot frontage</u>
I, MU-R	250 square feet per surface	27 feet	<u>1-4 square feet per foot of lot frontage</u>

<sup>1</sup>Additional freestanding signs on a site shall not exceed 8 feet in height and 50 square feet in area. Planned Unit Development sites greater than 2 acres may request additional signs exceeding 8 feet in height and 50 square feet in area.

<sup>2</sup>On properties abutting an interstate or state highway or the adjacent frontage road, one freestanding sign with a maximum height of 27 feet may be located within 100 feet of the lot line abutting the highway or frontage road.

See the attached Ordinance amending Zoning Code Sections 549 (Sign Regulations) and 541.21 (Penn Avenue Corridor Overlay District) for all proposed changes.

**C. CRITICAL TIMING ISSUES:**

- None

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- A public hearing to consider this ordinance was held before the Planning Commission on April 23, 2018. Notice of the public hearing was published in the *Sun Current* newspaper on April 12, 2018.
- The Planning Commission recommended approval of the attached ordinance (7-0).
- The Council will consider final adoption of the ordinance on May 22, 2018.

**ALTERNATIVE RECOMMENDATION(S):**

- Approve the first reading of the ordinance with modifications.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

Description	Type
Ordinance - Section 549 Sign Regulations	Ordinance
Work Session Memo & Presentation	Backup Material

**BILL NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE RICHFIELD CITY CODE  
TO UPDATE SIGN REGULATIONS**

**THE CITY OF RICHFIELD DOES ORDAIN:**

Section 1        Section 549 of the Richfield City Code relating to sign regulations is amended to read as follows:

**549.01. - Findings, purpose and effect.**

**Subdivision 1. Findings.** The City hereby finds as follows:

- a) Signs have a direct impact on and relationship to the image of the community;
- b) Uncontrolled and unlimited signs adversely impact the image and aesthetic attractiveness of the community and thereby undermine economic value and growth;
- c) The manner of installation, location and maintenance of signs has a substantial impact on the character and quality of the environment;
- d) Signs provide an important medium through which individuals may convey a variety of messages;
- e) Signs help citizens find their way to intended destinations;
- f) The safety of motorists, cyclists, pedestrians and other users of public streets and property is affected by the number, size, location and appearance of signs that unduly divert the attention of drivers;
- g) Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare;
- h) Uncontrolled and unlimited signs, particularly portable signs ~~when which are commonly located within or adjacent to public right-of-way or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians; and~~
- i) The City's zoning regulations have, since as early as 1944, included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would have an adverse impact upon the aesthetics of the community and threaten its health, safety and welfare. The regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.

**Subd. 2. Purpose and intent.** It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this ordinance is to:

- a) Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety and welfare;

- b) Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community;
- c) Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics; and
- d) Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.

**Subd. 3. Effect.** A sign may be erected, mounted, displayed or maintained in the City if it is in conformance with the provisions of this ordinance. The effect of this ordinance, as more specifically set forth herein, is to:

- a) Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this sign ordinance;
- b) Allow signs which are designed, constructed, installed and maintained in a manner that does not adversely impact public safety or unduly distract motorists;
- c) Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this sign ordinance;
- d) Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare; and
- e) Provide for the enforcement of the provisions of this sign ordinance.

#### **549.03. - Severability.**

If any section, subsection, sentence, clause, or phrase of this sign ordinance is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portion of this sign ordinance. The City Council hereby declares that it would have adopted the sign ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one (1) or more section, subsections, sentences, clauses, or phrases be declared invalid.

#### **549.05. - Definitions.**

**Subdivision 1.** The following words and phrases, when used in this Section 549 shall have the following meanings, unless the context clearly indicates otherwise. The definitions set forth in this Section 549.05 are in addition to the definitions set forth in Section 507.07, which shall apply to this Section 549, except that in the event of a conflict between the Sections, the definition in Section 549 shall apply:

**Subd. 2.** "Abandoned sign." Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. ~~S~~igns that are present because of being legally Legally established nonconforming signs or signs that have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

**Subd. 3.** "Awning." A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects

from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning that also projects over a door shall be counted as an awning.

**Subd. 4.** "Awning sign." A sign or graphic printed on or in some fashion attached directly to the awning material.

**Subd. 5.** "Balloon sign." A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than 24 inches in diameter.

**Subd. 6.** "Banner." A sign made of fabric or any nonrigid material with no enclosing framework.

**Subd. 7.** "Canopy." A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

**Subd. 8.** "Canopy sign." Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service station canopy signs that are governed by Section 534.07, Subd. 11 of this Code.

**Subd. 9.** "Changeable message." A message that is not permanently attached to the sign face but that is not a dynamic display.

**Subd. 10.** "Commercial speech." Speech advertising a business, profession, commodity, service or entertainment.

**Subd. 11.** "Dynamic display." Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display or structural element and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

**Subd. 12.** "Erect." Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

**Subd. 13.** "Freestanding sign." Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

**Subd. 14.** "Grade." The average elevation or level of the centerline of the closest street which the sign abuts.

**Subd. 15.** "Height of sign." The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

**Subd. 16.** "Illuminated sign." Any sign that contains an element designed to emanate artificial light internally or externally.

**Subd. 17.** "Legally established nonconforming sign." Any sign and its support structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this section and which does not comply with this section shall be deemed to be a legal nonconforming sign. A sign that was unlawfully erected shall be deemed to be an illegal sign.

**Subd. 18.** "Marquee." Any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

**Subd. 19.** "Marquee sign." Any sign painted, mounted, constructed or attached in any manner, on a marquee.

**Subd. 20.** "Monument sign." Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign.

**Subd. 21.** "Noncommercial speech." Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and information topics.

**Subd. 22.** "On-premise messages." Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

**Subd. 23.** "Outdoor advertising sign." Any sign that is located outdoors and that advertises a product, business, service, event, or any other matter that is not available, or does not take place, on the same premises as the sign (off-premise sign). For the purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such premises and any sign located or proposed to be located in an easement or other appurtenance shall be considered an outdoor advertising sign.

**Subd. 24.** "Owner." In the case of a lot, the legal owner of the lot as officially recorded by Hennepin County, and including fee owners, contract for deed purchasers and ground lessees. In the case of a sign, the owner of the sign including any lessees.

**Subd. 25.** "Portable sign." A sign with or without copy and graphic that is designed or intended to be moved or transported. By way of example and not by limitation, portable signs include:

- a) A- or T-frame signs, including sandwich board signs;
- b) Yard Sandwich board signs anchored only by stakes;
- c) Signs designed to be transported by trailer or on wheels;
- d) Signs mounted on a vehicle for advertising purposes, when the vehicle is parked and visible from public right-of-way, except signs identifying a business when the vehicle is being used in the normal day-to-day operation of that business;

A sign may be a portable sign even if it has wheels removed, was designed without wheels, or is attached temporarily or permanently to the ground, a structure, or other sign.

**Subd. 26.** "Projecting sign." Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than 12 inches beyond the surface or such building or wall face.

**Subd. 27.** "Public right-of-way." Public right-of-way has the meaning given it by Minnesota Statutes, Section 237.162, Subdivision 3.

**Subd. 28.** "Pylon sign." Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

**Subd. 29.** "Roof sign." A sign located above the eave or parapet wall of a building and/or located within the projected roof area.

**Subd. 30.** "Scoreboard Panel." A nonilluminated sign which is affixed to an electric scoreboard at an outdoor sports arena or complex.

**Subd. 31.** "Sign." Any letter, word or symbol, poster picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

**Subd. 32.** "Sign area." The area shall be the area of the smallest rectangle enclosing the extreme limits of the actual sign surface excluding structural elements outside the limits of such sign which do not form an integral part of the display; or in the case of wall signs, figures, symbols, canopy or awning signs, the sign area shall be the area of the smallest rectangle that encloses the sign message or logo. For multi-face signs, the area shall include the maximum number of single display surfaces visible from any ground position at one (1) time. Multi-face signs with display surfaces at an angle to one another shall have an interior angle no greater than thirty-five (35) degrees, unless the total area of both sides does not exceed the maximum allowable sign area for that district.

**Subd. 33.** "Sign face." The surface of the sign upon, against, or through which the message of the sign is exhibited.

**Subd. 34.** "Sign structure." Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

**Subd. 35.** "Site." A lot or combination of contiguous lots that are intended, designated, and/or approved to function as an integrated unit.

**Subd. 36.** "Stringer." A line of string, rope, cording or an equivalent to which is attached a number of pennants, balloons, propellers, banners or similar devices.

**Subd. 37.** "Temporary fixed ground sign." A sign which is supported by posts imbedded in the ground and is designed to not be readily movable.

**Subd. 38.** "Visible." Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

**Subd. 39.** "Wall." Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of 60 degrees or greater with the horizontal plane.

**Subd. 40.** "Wall sign." Any sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

**Subd. 41.** "Window sign." Any building sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

#### **549.07. - Permit required.**

**Subdivision 1.** No sign shall be installed, constructed, erected, altered, revised, reconstructed or relocated in the City without first obtaining a permit and license from the City. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

**Subd. 2. Application.** Application shall be made on forms provided by the City. The form shall include the following information:

- a) The name, address and telephone number of the applicant;
- b) The name, address and telephone number of the person, firm, corporation or other organization erecting the sign;
- c) The name, address, telephone number and written consent of the property owner on which the sign is to be erected;
- d) Site plans indicating the exact location of the sign on the site including its position relative to buildings, structures, streets and property lines;
- e) ~~Two (2) copies of sign~~ Sign plans and specifications with the following information:
  - i. Number of sign faces;
  - ii. Sign colors and construction materials;
  - iii. Sign dimensions;
  - iv. Type, direction, location and intensity of illumination and name of electrical contractor;
  - v. Method of attachment to building or ground; and
  - vi. Stress sheets and calculations showing that the structure is designed to meet the dead load and wind pressure requirements of the Building Code.
- f) If the proposed sign is along interstate highway, the application shall be accompanied by proof that the applicant has obtained a permit from the State for the sign.

**Subd. 3. Review.** The City shall approve or deny the sign permit application within the time period required by State law. If the permit is denied, the issuing authority shall prepare a written notice of denial within 15 days of its decision, describing the applicant's appeal right under Section 547.05, and send it by certified mail, return receipt requested, to the applicant.

**Subd. 4. Additional permits.**

- a) Electrical signs must be installed in accordance with the current electrical code and a separate permit from the building official must be obtained prior to placement; and
- b) Building permits (as required) must be obtained from the building official prior to placement.

**549.09. - Exemptions.**

The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same, unless otherwise noted: (Amended, Bill No. 2008-16)

- a) The changing of a changeable message as defined in Subsection 549.05 or a dynamic display message.
- b) The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building;
- c) Signs six (6) square feet or less in size, including portable signs defined by Section 549.05, Subd. 25 (a) and (b) in accordance with the following:

- i. Portable signs shall be limited to 4 feet in height and 6 square feet in area;
  - ii. No more than one portable sign shall be displayed per business and no more than two portable signs per site. On Planned Unit Development sites greater than two acres, the total number of portable signs shall not exceed one (1) per 200 feet of lot frontage. Portable signs located at building entrances which are more than 100 feet from the right-of-way shall not count towards this total, though the limitation of one portable sign per business still applies;
  - iii. Portable signs other than yard signs shall not be displayed between the hours of 10:00 p.m. and 6:00 a.m.;
- d) Window signs;
  - e) Street identification numbers/address signs;
  - f) Bench signs complying with Subsection 805.19, Subd. 4 of the City Code;
  - g) Signs on vehicles when the vehicle is being used in the normal day-to-day operation of that business as described in Subsection 549.05, Subd. 30; and
  - h) Traffic signs and/or signs erected by public officials in performance of official duties for the purpose of traffic control and public safety. Traffic signs are also exempt from size, setback and dynamic display regulations.

#### **549.11. - Fees.**

The application for a sign permit shall be accompanied by the fee provided in Appendix D of the City Code. The fee required in this paragraph is separate from and in addition to any other fees required by this Code.

#### **549.13. - Variances.**

Requests for a variance from the requirements of this section shall be processed by the Planning Commission~~Board of Adjustments and Appeals~~ in accordance with Section 547.1105.

#### **549.15. - Violations.**

Violation of this section is a misdemeanor. Each day that the violation continues is a separate offense.

#### **549.17. - Enforcement.**

Employees of the Community Development~~Inspections~~ Division of the Department of Public Safety and additional persons designated by the Director are hereby authorized to enforce the provisions of this section in the manner provided in Subsection 115.11 of the City Code.

#### **549.19. - Expiration.**

Sign permits are valid for one (1) year from the permit issuance date.

#### **549.20. - Retroactive effect.**

This sign ordinance shall apply to all sign applications applied for and/or pending prior to its enactment.

#### **549.21. - General regulations.**

**Subd. 1.** The following regulations shall apply to all signs permitted in all districts:

**Subd. 2. Signs prohibited.**

- a) Any sign located, designed or maintained in a manner which is likely to cause confusion or interfere with the visibility of traffic signs, traffic control devices, crossroads, driveways, ~~or crosswalks or pedestrian, bicycle or wheelchair accessible routes;~~
- b) Roof signs;
- c) Portable signs, except those listed exemptions in Section 549.09;
- d) Searchlights, beacons, strobe lights or other illuminated signs emitting a beam consisting of a collection or concentration of rays of light;
- e) Outdoor advertising signs;
- f) Stringers;
- g) Balloon signs; and
- h) Abandoned signs.

**Subd. 3. Required wall signs.** One (1) wall sign containing the street address of the building is required on each building or portion of a building with a separate address. The sign must be of sufficient size and located to be clearly visible from the street on which the address is assigned. These signs do not reduce permitted sign area.

**Subd. 4. Banners and other temporary signs.** Banners and other temporary signs, where permitted, are subject to the following standards: (Amended, Bill No. 2011-13) (Amended, Bill No. 2014-4)

- a) Banners shall be attached to a structure, shall be strongly constructed, and shall be securely attached to their supports;
- b) Banners and other temporary signs shall be removed (including all framework and supports) as soon as damaged or torn;
- c) There shall be no more than one (1) banner per tenant on any building frontage (see Subsection 549.23 for size allowances);
- d) Due to the construction methods of banners and other temporary signs and their tendency toward damage, none may be displayed for more than 28 days. Temporary fixed ground signs are permitted only during the sale, lease, or construction of a property. Temporary fixed ground signs may be displayed for a period not to exceed one year and must be removed within seven days of the sale, lease, or conclusion of construction on the property. One temporary fixed ground sign is permitted for each street upon which a lot has frontage. The area of any one temporary fixed ground sign shall not exceed 32 square feet and 8 feet in height. On sites greater than 2 acres, signs shall not exceed 64 square feet and 10 feet in height. Wherever possible, temporary fixed signs should be attached to an existing freestanding sign on a site; and
- e) No more than four (4) temporary sign permits shall be issued to any business organization or institution within any calendar year; and.

f) During major road construction projects impacting the access or visibility of properties adjacent to the right-of-way under construction, the Director of Community Development may waive the application fee and extend the time limit for display of banners and other temporary signs, not to exceed one year.

**Subd. 5. Setbacks.** Unless specifically noted otherwise, all signs shall maintain a five-foot setback from all lot lines. The City may require a greater or lesser setback because of public safety reasons that may include the following conditions: vehicle sight distance (see Subsection 925.01, Subd. 4), distance from intersection, designation of adjacent right-of-way. In no case shall any part of a freestanding sign be located less than 14 feet behind the curb adjacent to a street. (Amended, Bill No. 2011-13)

**Subd. 6. Changeable messages.** A message that is not permanently attached to the sign face but that is not a dynamic display may occupy no more than 35 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to change messages even if not used.

**Subd. 7. Illumination.** External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property. There shall be a minimum distance of 100 feet between any internally illuminated or dynamic display freestanding sign and any residential property. Signs located on a wall that faces an abutting residential property line and within 100 feet of said residential property line shall not be illuminated between 10:00 p.m. and 6:00 a.m. Illumination of signs in the Penn Avenue Corridor is further restricted by Section 541.21 of this Code.

**Subd. 8. Noncommercial speech.** Any noncommercial message may be substituted for any commercial message on any sign allowed under this Code, subject to the same regulations applicable to such signs. Notwithstanding any provisions of this section to the contrary, all noncommercial signs of any size may be posted in a general election year from a date that is 46 days prior to the state primary election until ten (10) days following the state election. (Amended Bill No. 2010-5)

**Subd. 9. Maintenance.** All signs shall be maintained in a safe, presentable and good state of repair at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of monument signs for a distance of ten (10) feet shall be neatly trimmed and free of weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

**Subd. 10. Landscaping required.** Freestanding signs located in parking areas shall be separated by curb from the traveled portion of the parking lot. Freestanding signs greater than six (6) feet in height shall have landscaping around the base of the sign.

#### **549.23. - Permitted signs by district.**

**Subd. 1. Residential Districts.**

a) Within residential zoning districts, freestanding signs are permitted as follows:

District	Maximum sign area of single sign	Maximum height	Total area of all freestanding signs
R, R-1, MR-1	6 square feet	6 feet	12 square feet
MR-2, MR-3	24 square feet	8 feet	36 square feet

Permitted Nonresidential Uses	50 square feet	<u>2025</u> feet	100 square feet
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- b) Within residential zoning districts, wall signs are permitted as follows:

District	Maximum sign area of single sign
R, R-1, MR-1	Not permitted except as required by Section 549.21, Subd. 3.
MR-2, MR-3	10 percent of total wall area of the wall to which sign is attached
Permitted Nonresidential Uses	<b>1045</b> percent of the total wall area of the wall to which sign is attached

- c) Within residential zoning districts, the following types of signs are prohibited:
- i. Dynamic displays, except for nonresidential uses; and
  - ii. Marquee signs; and
  - iii. Any sign not expressly permitted by this subdivision is prohibited in residential districts.
- d) Scoreboards for public parks and public or private schools are permitted as follows:
- i. One (1) scoreboard not exceeding 18 feet in height or 100 square feet in surface area is allowed per playing field, not including fields used only for practice; and
  - ii. Commercial or noncommercial speech shall be permitted on the scoreboard as follows:
    - 1. Commercial and noncommercial messages shall not comprise more than 25 percent of the area of the scoreboard; and
    - 2. Commercial and noncommercial messages shall not be illuminated.

**Subd. 2. Commercial, Mixed-Use Neighborhood, Mixed-Use Community, Mixed-Use Regional, and Industrial Districts.**

- a) Within commercial, mixed-use neighborhood, mixed-use community, mixed-use regional, and industrial zoning districts, one (1) freestanding sign per site is signs are permitted as follows <sup>1</sup>:

District	Maximum sign area of single sign	Maximum height	Total area of all freestanding signs
SO, C-1, MU-N	60 square feet per surface	15 feet	<u>1-2 square feet per foot of lot frontage</u>
C-2, MU-C Sites <1 acre	<b>100 square feet per surface</b>	<b>20 feet<sup>2</sup></b>	<b>1 square feet per foot of lot frontage</b>
C-2, MU-C Sites 1-2 acres	<b>150 square feet per surface</b>	<b>20 feet<sup>2</sup></b>	<b>1 square feet per foot of lot frontage</b>
C-2, MU-C Sites >2 acres	200 square feet per surface	<b>20 feet<sup>2</sup></b> 27 feet	<b>1-4 square feet per foot of lot frontage</b>
I, MU-R	250 square feet per surface	27 feet	<b>1-4 square feet per foot of lot</b>

			frontage
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<sup>1</sup> Additional freestanding signs on a site shall not exceed 8 feet in height and 50 square feet in area. Planned Unit Development sites greater than 2 acres may request additional signs exceeding 8 feet in height and 50 square feet in area.

<sup>2</sup> On properties abutting an interstate or state highway or the adjacent frontage road, one freestanding sign with a maximum height of 27 feet may be located within 100 feet of the lot line abutting the highway or frontage road.

- b) Within commercial, mixed-use neighborhood, mixed-use community, mixed-use regional, and industrial zoning districts, wall signs may not exceed 15 percent of the total wall area of the wall to which sign is attached. In the case of multiple occupancy, the total area of wall signs which each occupant may display shall not exceed 15 percent of the exterior wall of the portion of the building occupied by that tenant. (Amended, Bill No. 2011-13)
- c) Window signs that do not exceed 30 percent of the window area;
- d) Canopies, marquees, projecting signs and fixed awnings that are an integral part of the structure to which they are attached are allowed in the Commercial, Mixed-Use and Industrial districts if they meet the following requirements:
  - i. An awning, canopy, marquee or projecting sign may not project into the public right-of-way;
  - ii. Awnings, canopies, marquees and projecting signs may have no part of the structure other than supports nearer the ground surface than seven (7) feet;
  - iii. The architectural style on the awning, canopy or marquee must be consistent with the building being served;
  - iv. For the purposes of size limitation calculations, awning, canopy, marquee and projecting signs shall be counted as wall signs; and
  - v. Awnings, canopies or marquees projecting into required yards may not be enclosed; and
  - vi. Awnings or canopies shall not be internally illuminated.
- e) Any sign not expressly permitted by this subdivision is prohibited in commercial, mixed-use and industrial districts.

**Subd. 3. (Repealed, Bill No. 2011-13)**

**549.25. - Dynamic Displays.**

**Subdivision 1. Findings.** Studies show that there is a correlation between dynamic displays on signs and the distraction of highway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Drivers are also distracted by messages that do not tell the full story in one (1) look. People have a natural desire to see the end of the story and will continue to look at the sign in order to wait for the end. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Finally, drivers are generally more distracted by messages that are

too small to be clearly seen or that contain more than a simple message. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent change.

Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in residential districts where signs can adversely impact residential character.

Local spacing requirements could interfere with the equal opportunity to use such technologies and are not included. Without those requirements, however, there is potential for numerous dynamic displays to exist along any roadway. If more than one dynamic display can be seen from a given location on a road, the minimum display time becomes critical. If the display time is too short, a driver could be subjected to a view that appears to have constant movement. This impact would obviously be compounded in a corridor with multiple signs. If dynamic displays become pervasive and there are no meaningful limitations on each sign's ability to change frequently, drivers may be subjected to an unsafe degree of distraction and sensory overload. Therefore, a longer display time is appropriate.

A constant message is typically needed on a sign so that the public can use it to identify and find an intended destination. Changing messages detract from this way-finding purpose and could adversely affect driving conduct through last second lane changes, stops, or turns, which could result in traffic accidents. Accordingly, dynamic displays ~~shall generally~~ should not be allowed to occupy the entire copy and graphic area of a sign.

In conclusion, the City finds that dynamic displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

**Subd. 2. Regulations.** Dynamic displays on signs are allowed subject to the following conditions:

- a) Dynamic displays are allowed only on monument and pylon signs for nonresidential uses in the residential districts and for all uses in other districts. Dynamic displays may occupy no more than 35 percent of the actual copy and graphic area, and must be contiguous to the static copy and graphic area, and must include an enclosing framework of not less than three (3) inches around the dynamic display. The remainder of the sign must not have the capability to have dynamic displays even if not used. Only one (1) contiguous dynamic display area is allowed on a sign face, except when installed as part of a scoreboard for public parks and public or private schools; (Amended, Bill No. 2010-4)
- b) Only one (1) dynamic display sign is permitted on any individual site;
- c) A dynamic display may not change or move more often than once every 60 seconds, except one (1) for which changes are necessary to correct hour-and-minute, date, or temperature information. Time, date or temperature information is considered one (1) dynamic display and may not be included as a component of any other dynamic display. A display of time, date, or temperature must remain for at least 60 seconds before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three (3) seconds; (Amended, Bill No. 2008-16)

- d) The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects;
- e) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign;
- f) (Repealed, Bill No. 2008-16)
- g) Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the City that it is not complying with the standards of this ordinance;
- h) Dynamic displays must comply with the brightness standards contained in subdivision 3 below; and
- i) Dynamic displays existing on the effective date of this ordinance must comply with the operational standards listed above. An existing dynamic display that does not meet the structural requirements in clause a) may continue as a nonconforming structure subject to Section 509.25. An existing dynamic display that cannot meet the minimum size requirements of clause e) must use the largest size possible for one line of copy to fit in the available space.

**Subd. 3. Brightness standards.**

- a) All signs and dynamic displays must meet the following brightness standards in addition to any other requirements of this Code.
  - i. No sign may be brighter than is necessary for clear and adequate visibility;
  - ii. No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle;
  - iii. No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.
- b) The person owning or controlling the sign must adjust the sign to meet the brightness standards in accordance with the City's instructions. The adjustment must be made immediately upon notice of noncompliance from the City. The person owning or controlling the sign may appeal the City's determination through the appeal procedure set forth in Section 547.05 of this Code.
- c) All signs installed after December 22, 2007, that will have illumination by a means other than natural light must be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must immediately turn off the sign or lighting when notified by the City that it is not complying with the standards in this section.

**549.27. - Nonconforming signs.**

**Subdivision 1.** In addition to the standards established by Section 509.23, the following shall apply to nonconforming signs:

**Subd. 2. Relocation.** Any legally nonconforming sign may be relocated, subject to compliance with the other provisions of this Code and subject to the limitations hereinafter contained, to another location provided that such alternate location is first approved by the Council. The Council may approve relocation if it finds that the relocation will lessen any adverse impact of the sign upon traffic safety and aesthetics. If a conforming location is available, the Council shall not approve relocation to a nonconforming location.

**Subd. 3. Incentives regarding outdoor advertising displays.** Outdoor advertising signs do not need to serve the same way-finding function as do on-premise signs. Further, outdoor advertising signs are no longer allowed in the City, and there is no potential that they will proliferate. Finally, outdoor advertising signs are in themselves distracting and their removal serves public safety. The City is extremely limited in its ability to cause the removal of those signs. This clause is intended to provide incentives for the voluntary and uncompensated removal of outdoor advertising signs in certain settings. This removal results in an overall advancement of one (1) or more of the goals set forth in this section that should more than offset any additional burden caused by the incentives. These provisions are also based on the recognition that the incentives create an opportunity to consolidate outdoor advertising services that would otherwise remain distributed throughout the community.

- a) A person may obtain a permit for an enhanced dynamic display on one (1) face of an outdoor advertising sign if the following requirements are met:
  - i. The applicant agrees in writing to permanently remove, within 15 days after issuance of the permit, at least two (2) other faces of an outdoor advertising sign in the City that are owned or leased by the applicant, each of which must satisfy the criteria of parts ii through iv of this subsection. This removal must include the complete removal of the structure and the foundation supporting each sign face. The applicant must agree that the City may remove the sign if the applicant does not do so within the time frame agreed upon by the applicant and the City, and the application must be accompanied by a cash deposit or letter of credit acceptable to the City Attorney sufficient to pay the City's costs for that removal. The applicant must also agree that it is removing the sign voluntarily and that it has no right to compensation for the removed sign under any law;
  - ii. The City has not previously issued an enhanced dynamic display permit based on the removal of the particular faces relied upon in this permit application;
  - iii. Each removed sign has a copy and graphic area of at least 288 square feet and satisfies two (2) or more of the following additional criteria:
    - 1) The removed sign is located adjacent to a highway with more than two (2) regular lanes and with a general speed limit of 45 miles per hour or greater, but that does not have restrictions on access equivalent to that of an interstate highway;
    - 2) All or a substantial portion of the structure for the removed sign was constructed before 1975 and has not been substantially improved;
    - 3) The removed sign is located in a noncommercial zoning district;
    - 4) The removed sign is located in a special planning area designated in the comprehensive plan; or
    - 5) The removed copy and graphic area is equal to or greater than the area of the copy and graphic area for which the enhanced dynamic display permit is sought.

- iv. If the removed sign face is one (1) for which a state permit is required by state law, the applicant must surrender its permit to the state upon removal of the sign. The sign that is the subject of the enhanced dynamic display permit cannot begin to operate until proof is provided to the city that the state permit has been surrendered.
- b) If the applicant complies with the permit requirements noted above, the city will issue an enhanced dynamic display permit for the designated outdoor advertising sign. This permit will allow a dynamic display to occupy 100 percent of the potential copy and graphic area and to change no more frequently than once every eight (8) seconds. The designated sign must meet all other requirements of this ordinance.

Section 2            Subsection 541.21, Subdivision 3 of the Richfield City Code relating to applicable regulations in the Penn Avenue Corridor Overlay District is amended by adding a letter (e) as follows:

- e) Sign Regulations. All sign regulations applicable in the MU-C District, as found in Section 549 of this Code, shall apply in the PAC District with the following additions, qualifications and/or exceptions:
  - (i) Freestanding signs with an area greater than 100 square feet shall not be internally illuminated or contain a dynamic display.
  - (ii) Wall signs may include internally illuminated individual channel letters, and internally illuminated logos not exceeding 25% of the overall wall sign area. Internally illuminated or backlit box signs are prohibited as wall signs in the PAC District.

Section 3            This Ordinance is effective in accordance with Section 3.09 of the Richfield City Charter.

Passed by the City Council of the City of Richfield, Minnesota this 22nd day of May, 2018.

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk

**CITY OF RICHFIELD, MINNESOTA**  
Office of City Manager

April 5, 2018

Council Memorandum No. 23

The Honorable Mayor  
and  
Members of the City Council

Planning Commission Memorandum No. 2

Members of the Planning Commission  
City of Richfield

Subject: Sign Regulations – Proposed changes to Zoning Code Section 549

Council Members and Commissioners:

On Tuesday, April 10, planning staff will brief policymakers on efforts to update the City's Sign Ordinance, which was last overhauled in 2007. Staff has been considering changes to two sets of regulations – those concerning portable signs and the Penn Avenue Design Guidelines, particularly as they relate to freestanding signs, internally lit signs, and dynamic displays (changeable message signs).

Portable signs – Under the current sign ordinance, portable signs of any kind are prohibited. Staff is looking to gauge policymaker interest in allowing limited types of portable signs, with restrictions on size, placement, and hours of display.

Penn Avenue Design Guidelines – In the Penn Central business district, there are a set of design guidelines that further restrict certain types of signs. These guidelines prohibit internally lit box signs, and staff has interpreted this prohibition to include electronic changeable message signs (also known as dynamic displays). The Penn Avenue Design Guidelines document acknowledges that the size and quantity of signs is perceived to be a visual blight, but these guidelines do not currently include restrictions on height, size or quantity of freestanding signs. Staff is looking to gauge interest in modifying these regulations to allow the use of dynamic displays, while simultaneously introducing stricter limitations on the height, size and quantity of freestanding signs. Staff would also like to discuss if those regulations should apply only in the Penn Central business district, or be applied more broadly to all commercial zoning districts.

Respectfully submitted,



Steven L. Devich  
City Manager

SLD:mrb  
Email: Assistant City Manager  
Department Directors  
Assistant Community Development Director



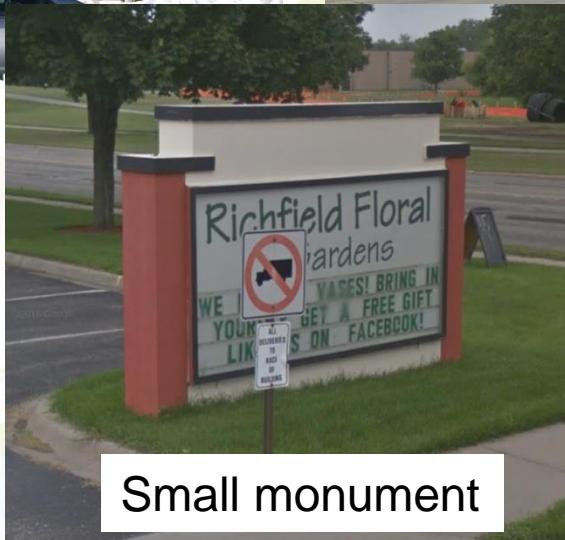
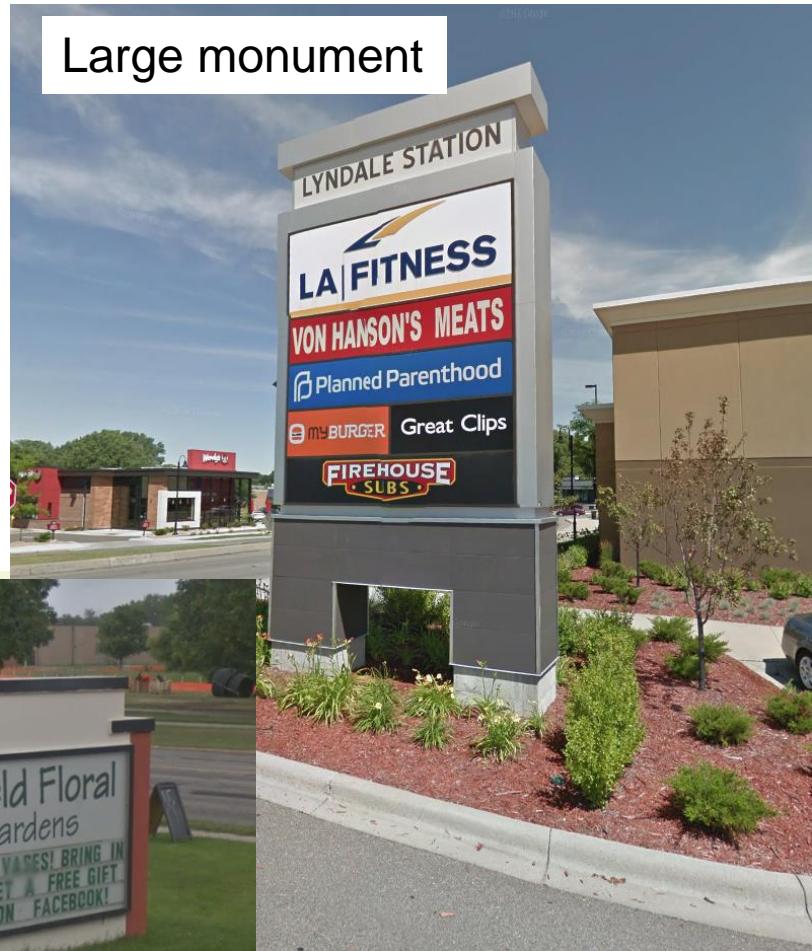
# Sign Regulations Update

Work Session – April 10, 2018

# Table of Contents

- Signs 101 – types of signs
- Current sign regulations
- Proposed portable sign regulations
- Penn Avenue Design Guidelines & proposed changes
- New regulations: citywide vs. districts
- Discussion / questions

# Freestanding signs



# Portable signs are prohibited

- Sandwich board / A-frame signs
- Sail / flag signs
- Businesses and community orgs have requested flexibility in this blanket policy



# Why prohibit portable signs?



# Why prohibit portable signs?



# Side effect of current policies

- Unlimited ground signs are a nuisance
- Propose limit of two ground signs per lot



# Proposed portable sign regulations

- One portable sign permitted per business
- Signs must be located on site of business, no off-premise signs allowed (per current ordinance)
- Signs must be located on private property – Not permitted in public right-of-way (sidewalks, boulevards or medians)
- Signs shall not block any accessible routes for pedestrians/mobility devices, including on private property
- Limited to 4 feet in height and 6 square feet in area, preventing oversized boards or other tall portables (like flag/sail signs, which will remain prohibited)
- Signs shall not be displayed between 10:00pm and 6:00am
- Permit not required

# Penn Avenue Design Guidelines

- Additional sign regulations apply in the Penn Central district (Crosstown to 68<sup>th</sup> St)
- Adopted in 2008
- Internally lit “box” signs are prohibited
- Staff has interpreted this prohibition to include dynamic displays (LED boards)
- Guidelines do not include any limitations on height or size

# Internally lit “box” signs



# Oversized and out of scale



# Proper scale for Penn Avenue



# Adaptation to guidelines

- Internally lit letters
- External lighting



# Possible adverse effects of Penn Avenue Design Guidelines

- Nearly all freestanding signs on Penn were made nonconforming in some way
- Externally lit freestanding signs are perceived to be too dimly lit for businesses open in the evening
- Concerns with uniformity of all future signs using “gooseneck” lamp lighting?  
(i.e. Davanni’s, Fraser, etc.)

# Changes to Penn Guidelines

- Propose to allow dynamic displays (LED boards) with new size restrictions on size
- Re-allow internally lit freestanding signs on Penn Avenue, with restrictions on size



# Reduce sign height

- Maximum height – currently 27 feet is the limit for all commercial property regardless of size
- Propose to reduce height to 20 feet
- Exceptions for Planned Unit Developments (Shops at Lyndale, Southdale Square, Lyndale Station, The Hub, etc.)
- Exceptions for properties adjacent to highway (Honda, Audi, backside of Target/Home Depot)

# Reduce sign size

- Maximum sign area – currently 200 square feet is the limit for most commercial property regardless of lot size
- Propose to reduce sign size:
  - 100 square feet for properties < 1 acre
  - 150 square feet for properties 1-2 acres
  - 200 square feet for properties >2 acres
- Similar exceptions as outlined for sign height

# Reduce quantity of large signs

- There is currently no maximum number of tall freestanding signs
- Propose limit of one tall sign (>8 feet) per lot. No limit on signs below that limit (small monument, directional signs, menu boards, etc.)
- Similar exceptions as outlined for sign height

# CVS on Penn

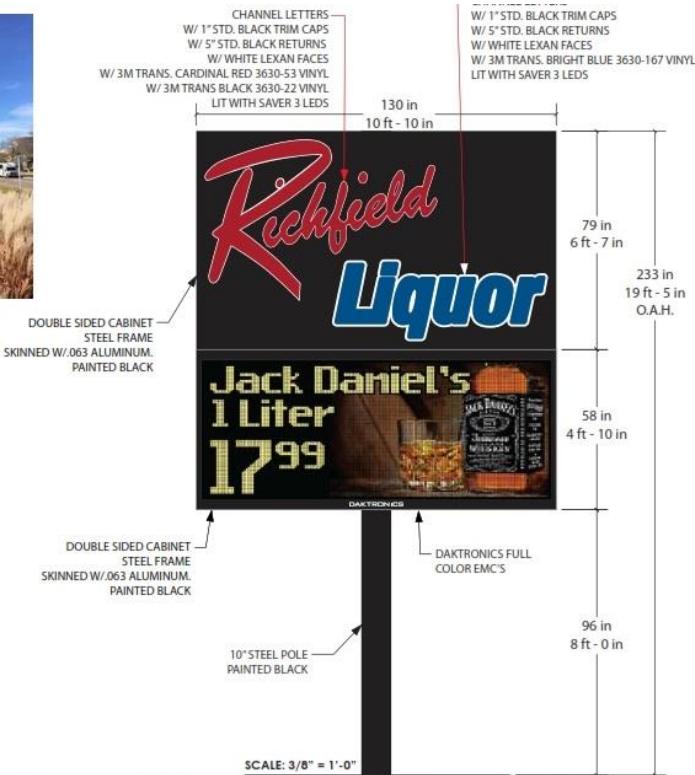


# Example of a recent sign with dynamic display – 20' max height

- Lyndale Liquor – 124 square feet



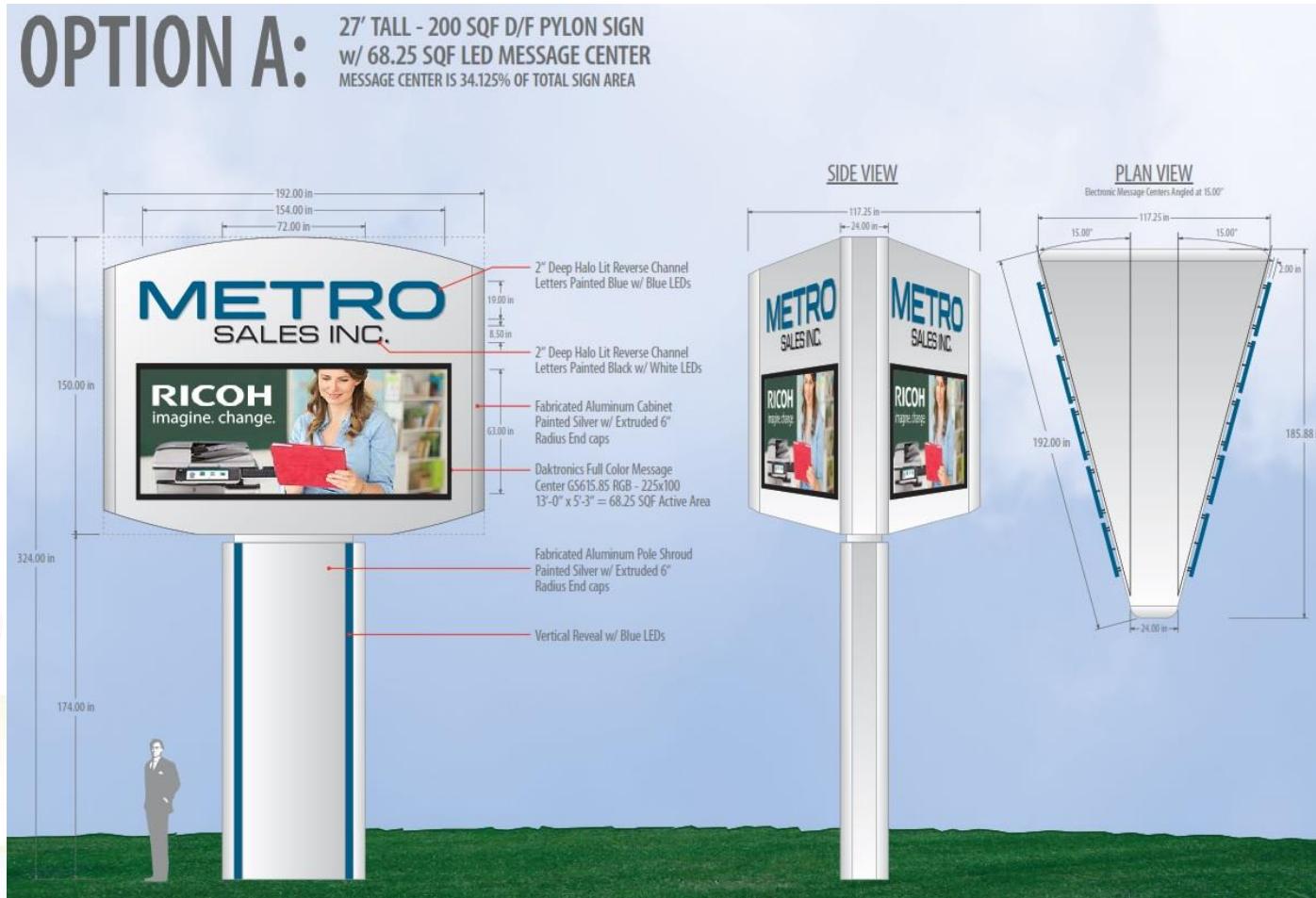
BEFORE - NOT TO SCALE



# Example of a proposed sign with dynamic display – along 494

## OPTION A:

27' TALL - 200 SQF D/F PYLON SIGN  
w/ 68.25 SQF LED MESSAGE CENTER  
MESSAGE CENTER IS 34.125% OF TOTAL SIGN AREA



# Citywide vs. districts

- Staff recommends implementing size and height reductions citywide
- Generally, these updated regulations better reflect the dimensions of most existing signs and avoid the addition of new oversized signage

# Not changing

- Maximum sign height or size on large properties (>2 acres), Planned Unit Developments, shopping centers, and properties along highways
- Prohibition on internally lit “box” signs on buildings
- Prohibition on portable signs other than A-frame/sandwich board signs



AGENDA SECTION:

CONSENT CALENDAR

AGENDA ITEM #

4.D.

**STAFF REPORT NO. 78**  
**CITY COUNCIL MEETING**  
**5/8/2018**

REPORT PREPARED BY: Matt Brillhart, Associate Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
5/1/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/2/2018

**ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the approval of a resolution amending the Richfield Urban Village Planned Unit Development to allow McDonald's to make minor site modifications and replace all menu board signs with dynamic display signs.**

**EXECUTIVE SUMMARY:**

Final development plans for Richfield Urban Village were approved by the City Council in 1999. The Richfield Urban Village Planned Unit Development (PUD) includes the Woodlake Centre complex and parking structure, The Pines and The Oaks residential buildings, and a standalone McDonald's restaurant.

McDonald's proposes to make minor site modifications around the drive-thru and parking lot, and proposes to replace three menu board signs with dynamic displays, also known as electronic message signs. The Zoning Code ordinarily permits only one dynamic display sign per site. The site modifications alone would not have triggered any land use applications. However, the addition of multiple dynamic displays to the property necessitates an amendment to the PUD. The dynamic displays are intended to be used strictly as menu board signage and will change only as often as necessary to reflect menu and price changes. The dynamic displays will be visible only within the drive-thru area of the site and would not be visible from residential properties or public streets.

No changes are proposed to the building exterior, nor are any other changes proposed elsewhere in the Richfield Urban Village development at this time. Finding that the proposal meets requirements, staff recommends approval of the amended PUD, Conditional Use Permit and Final Development Plan.

**RECOMMENDED ACTION:**

**By motion: Approve a resolution amending the Planned Unit Development, Conditional Use Permit and Final Development Plan for Richfield Urban Village**

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- Discussed in Executive Summary.

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**

**Planned Unit Development / Conditional Use Permit / Final Development Plan:** A full discussion of all requirements is included as an attachment to this report.

**The following variations from standard requirements are requested:**

**Zoning Code Section 549.25: Dynamic Display Regulations**

Three dynamic displays are proposed, whereas the Zoning Ordinance ordinarily permits only one dynamic display per site. The dynamic displays are intended to be used strictly as menu board signage and will change only as often as necessary to reflect menu and price changes. The dynamic displays will be visible only within the drive-thru area of the site and would not be visible from residential properties or public streets. Sign Ordinances prohibit the use of flashing, scrolling, and other motion effects on dynamic display signs, and limit the frequency of message changes to no more than once per minute. These regulations will apply to McDonald's menu boards as well.

**C. CRITICAL TIMING ISSUES:**

**60-DAY RULE:** The 60-day clock 'started' when a complete application was received on March 27, 2018. A decision is required by May 26, 2018 or the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- A public hearing was held before the Planning Commission on April 23, 2018. No members of the public spoke at the public hearing.
- Notice of the public hearing was published in the *Sun Current* newspaper and mailed to properties within 350 feet of the site.
- The Planning Commission unanimously recommended approval of the proposal.

**ALTERNATIVE RECOMMENDATION(S):**

- Approve the amended Final Development Plan and Conditional Use Permit with additional and/or modified stipulations.
- Deny the amended Final Development Plan and Conditional Use Permit with a finding that the proposal does not meet requirements.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Kevin Shay, Landform Professional Services

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Resolution	Resolution Letter
<input type="checkbox"/> Requirements attachment	Backup Material
<input type="checkbox"/> Site Plans, Zoning Map	Backup Material

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING AN AMENDED  
FINAL DEVELOPMENT PLAN  
AND CONDITIONAL USE PERMIT  
FOR THE RICHFIELD URBAN VILLAGE  
PLANNED UNIT DEVELOPMENT**

**WHEREAS**, an application has been filed with the City of Richfield which requests approval of an amended final development plan and conditional use permit to allow modifications to an existing restaurant building with a drive thru in the planned unit development known Richfield Urban Village, located at approximately 67th Street West and Lyndale Avenue, property legally described as:

LOT 1 BLOCK 1, RICHLFIELD URBAN VILLAGE, HENNEPIN COUNTY,  
MINNESOTA

**WHEREAS**, the Planning Commission of the City of Richfield held a public hearing and recommended approval of the requested amendment to the final development plan and conditional use permit at its April 23, 2018 meeting; and

**WHEREAS**, notice of the public hearing was mailed to properties within 350 feet of the subject property and published in the Sun Current newspaper on April 12, 2018; and

**WHEREAS**, the requested amendment to the final development plan and conditional use permit meets those requirements necessary, as specified in Richfield's Zoning Code, Section 542.09, Subd. 3 and Section 547.09, Subd. 6, and as detailed in City Council Staff Report No.\_\_\_\_\_; and

**WHEREAS**, the City has fully considered the request for approval of an amended planned unit development, final development plan and conditional use permit; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Richfield, Minnesota, as follows:

1. The City Council adopts as its Findings of Fact the **WHEREAS** clauses set forth above.
2. An amended planned unit development, final development plan and conditional use permit are approved to allow modifications to an existing restaurant building with a drive thru, including the replacement of menu board signage with three (3) dynamic display signs, as described in City Council Report No.\_\_\_\_\_, on the Subject Property legally described above.
3. The approved planned unit development, final development plan and conditional use permit are subject to the following conditions:

- A recorded copy of the approved resolution must be submitted to the City prior to the issuance of a building permit.
  - A pedestrian connection to the existing pedestrian network is required, subject to approval by Community Development and Public Works staff.
  - A minimum of 4 bicycle parking spaces are required near the main entrance. Include on revised plans sufficient parking for a minimum of 4 bikes.
  - The property owner is responsible for the ongoing maintenance and tending of all landscaping in accordance with approved plans.
  - Separate sign permits are required.
  - The applicant is responsible for obtaining all required permits, compliance with all requirements detailed in the City's Administrative Review Committee Report dated April 5, 2018 and compliance with all other City and State regulations.
  - Prior to the issuance of an occupancy permit the developer must submit a surety equal to 125% of the value of any improvements not yet complete.
  - Unless specifically modified by this resolution, all previous conditions of approval remain in place.
4. The approved planned unit development, final development plan and conditional use permit shall expire one year from issuance unless the use for which the permit was granted has commenced, substantial work has been completed or upon written request by the developer, the Council extends the expiration date for an additional period of up to one year, as required by the Zoning Ordinance, Section 547.09, Subd. 9.
  5. The approved planned unit development, final development plan and conditional use permit shall remain in effect for so long as conditions regulating it are observed, and the conditional use permit shall expire if normal operation of the use has been discontinued for 12 or more months, as required by the Zoning Ordinance, Section 547.09, Subd. 10.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of May, 2018.

ATTEST:

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Pat Elliott, Mayor

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Elizabeth VanHoose, City Clerk

## **Required Findings**

**Part 1:** The following findings are necessary for approval of a PUD application (542.09 Subd. 3):

1. *The proposed development conforms to the goals and objectives of the City's Comprehensive Plan and any applicable redevelopment plans.* The Comprehensive Plan guides this area for mixed use development, and the overall Richfield Urban Village PUD is consistent with that designation. The proposed modifications are consistent with the Comprehensive Plan.
2. *The proposed development is designed in such a manner as to form a desirable and unified environment within its own boundaries.* This requirement is met. The proposed modifications are minor and will have no impacts beyond its boundaries.
3. *The development is in substantial conformance with the purpose and intent of the guiding district, and departures from the guiding district regulations are justified by the design of the development.* The development is in substantial compliance with the intent of the guiding C-2 District. Three dynamic displays are proposed, whereas the Zoning Ordinance ordinarily permits only one dynamic display per site. The dynamic displays are intended to be used strictly as menu board signage, and will change only as often as necessary to reflect menu and price changes.
4. *The development will not create an excessive burden on parks, schools, streets or other public facilities and utilities that serve or are proposed to serve the development.* The City's Public Works and Recreation Departments have reviewed the proposal and do not anticipate any issues.
5. *The development will not have undue adverse impacts on neighboring properties.* No undue adverse impacts are anticipated. The dynamic displays will be visible only within the drive-thru area of the site and would not be visible from residential properties or public streets.
6. *The terms and conditions proposed to maintain the integrity of the plan are sufficient to protect the public interest.* This requirement is met; appropriate stipulations have been incorporated into the final resolution.

**Part 2:** All uses are conditional uses in the PC-2 District. The findings necessary to amend a Conditional Use Permit (CUP) are as follows (547.09, Subd. 6)

1. *The proposed use is consistent with the goals, policies, and objectives of the City's Comprehensive Plan.* See above – Part 1, #1.

2. *The proposed use is consistent with the purposes of the Zoning Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.* The use is consistent with the intent of the Planned General Business District and the underlying General Business District. See above – Part 1, #3 and #5 regarding requested deviations from the Zoning Code.
3. *The proposed use is consistent with any officially adopted redevelopment plans or urban design guidelines.* This requirement is met.
4. *The proposed use is or will be in compliance with the performance standards specified in Section 544 of this code.* The proposed development is in substantial compliance with City performance standards, with the following exception: Code requires that buildings be oriented such that at least one primary entrance faces the public street rather than the interior of the site (544.07, Subd. 2.) This requirement is not met. Given the layout of the site and orientation of the building, an entrance facing Lyndale is not feasible. As no changes are proposed to the building exterior, it would be inappropriate to require the applicant to provide an additional door facing Lyndale Avenue at this time. The site does include connections to the pedestrian network within the overall development and a pedestrian connection to the sidewalk along 67th Street.
5. *The proposed use will not have undue adverse impacts on governmental facilities, utilities, services, or existing or proposed improvements.* The City's Public Works and Engineering Departments have reviewed the proposal and do not anticipate any adverse impacts.
6. *The use will not have undue adverse impacts on the public health, safety, or welfare.* Adequate provisions have been made to protect the public health, safety and welfare.
7. *There is a public need for such use at the proposed location.* See above – Part 1, #1.
8. *The proposed use meets or will meet all the specific conditions set by this code for the granting of such conditional use permit.* This requirement is met.

## **Introduction**

On behalf of McDonald's USA, LLC, Landform is pleased to submit this application to allow improvements to the McDonald's at 6645 Lyndale Avenue. The site is a 1.16-acre parcel that is used by the existing McDonald's. The proposed site improvements include minor interior alterations, replacing the drive-through signage elements and ADA modifications. All of the improvements comply with the Zoning Ordinance of the City Code. We are excited about the improvements proposed for this site.

## **PUD Amendment**

McDonalds will be making limited changes to the existing restaurant that will improve the overall appearance of the building and accessibility for its patrons. The improvements will not impact landscaping, the brick building façade, site layout, circulation, or impervious surface on site. McDonalds is requesting approval of the PUD amendment to allow for the proposed improvements.

### **Interior Improvements**

McDonalds will be updating the interior of the building in the customer service and restroom areas. These areas will be updated to comply with ADA standards, as well as receiving finish improvements.

### **Menu Board Updates**

McDonalds is proposing to replace the existing menu boards and order canopies. The new order boards have a digital display that does not rotate, flash or have dynamic elements. Displays would be changed manually to reflect a new menu item or price. However, Section 549.25, Subd. 2 of the Zoning Ordinance limits each lot to one dynamic display per lot. McDonalds USA LLC will be requesting PUD flexibility to allow for one additional dynamic display. Both dynamic displays are intended to be viewed from the drive-through area and not intended for viewing from outside the property.

### **Lighting**

No changes to the existing site lighting are proposed, however, there will be new fixtures on the building. Light fixture details have been included in the submittal.

### **ADA Compliance**

The site will be brought into compliance with federal ADA standards. Accessible stalls will be provided in the parking lot and uneven pavement will be replaced and smoothed.

### **Parking Spaces**

The existing 51 parking stalls will remain with minor modifications to accommodate handicap stall changes. The current zoning ordinance (under Section 544.13) would require 80 parking stalls to be constructed in this location, so the current parking lot is an existing legal nonconforming condition.

## **Summary**

We respectfully request approval of this PUD amendment to allow site improvements to the existing McDonald's at 6645 Lyndale Avenue.

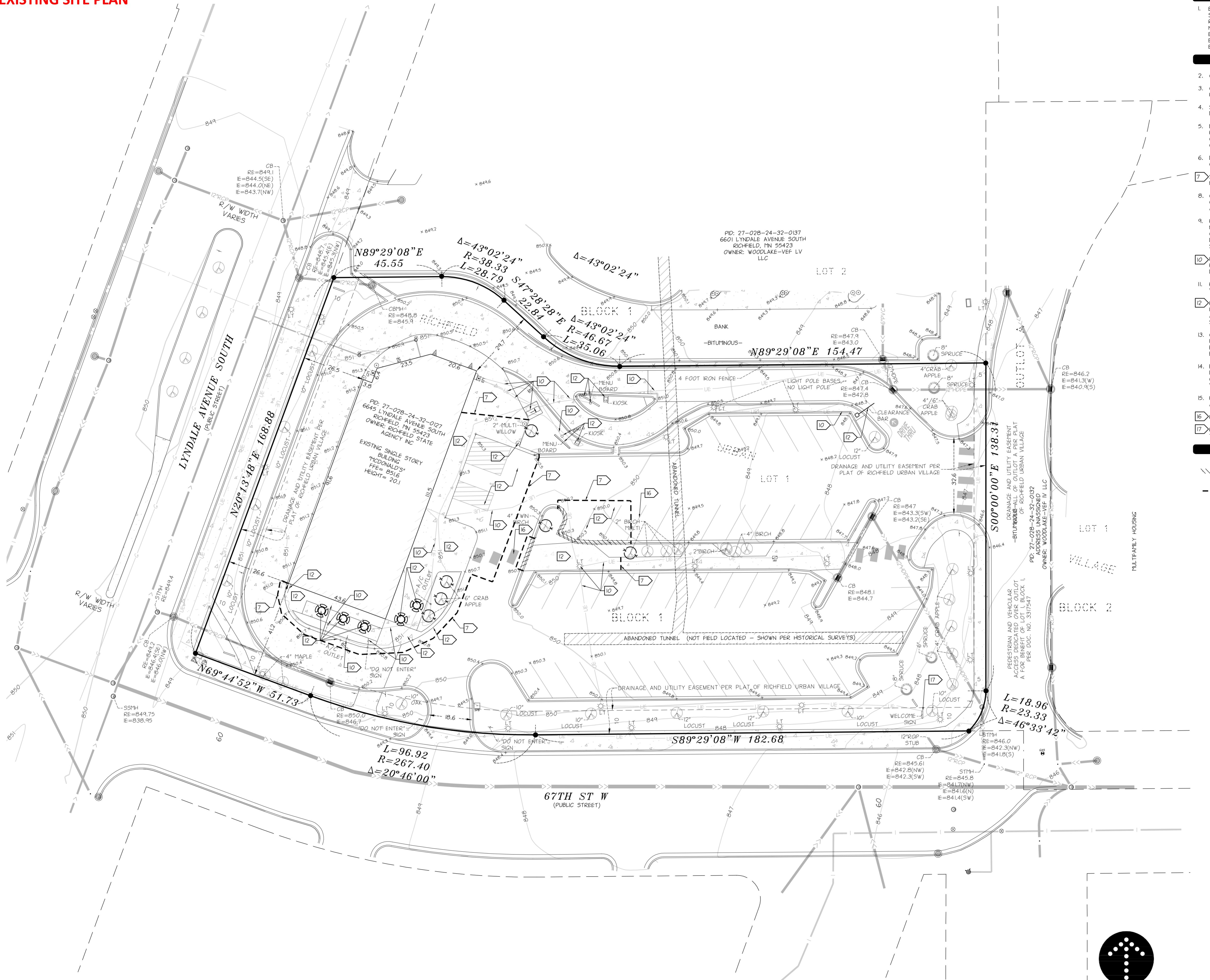
## **Contact Information**

This document was prepared by:

Kevin Shay  
Landform  
105 South Fifth Street, Suite 513  
Minneapolis, MN 55401

Any additional questions regarding this application can be directed to Kevin Shay at [kshay@landform.net](mailto:kshay@landform.net) or 612.638.0228.

## EXISTING SITE PLAN



## EXISTING CONDITIONS

I. BACKGROUND: LANDFORM PROFESSIONAL SERVICES LLC, MINNEAPOLIS, MN, ON JULY 17, 2017, EXPRESSED A LOC PROJECT; RICHFIELD, MN, RECORD DRAWINGS; AND UTILITY SERVICE PROVIDERS. LANDFORM OFFERS NO WARRANTY, EXPRESSED OR WRITTEN, FOR INFORMATION PROVIDED BY OTHERS. EXISTING PROJECT CONDITIONS SHALL BE VERIFIED PRIOR TO BEGINNING CONSTRUCTION. ERRORS, INCONSISTENCIES, OR OMISSIONS DISCOVERED SHALL BE REPORTED TO THE ENGINEER IMMEDIATELY.

## DEMOLITION AND CLEARING NOTES

2. OBTAIN PERMITS FOR DEMOLITION, CLEARING, AND DISPOSAL PRIOR TO BEGINNING.
3. CONTACT UTILITY SERVICE PROVIDERS FOR FIELD LOCATION OF SERVICES 72 HOURS PRIOR TO BEGINNING DEMOLITION AND CLEARING.
4. SEE SHEET C3.1 FOR EROSION PREVENTION AND SEDIMENT CONTROL MEASURES THAT MUST BE IN PLACE PRIOR TO DISTURBANCES TO SITE.
5. BUILDING DEMOLITION: VERIFY WITH OWNER THAT BUILDING HAS BEEN CLEARED OF RE-COLOURED MATERIALS REQUIRING SPECIAL HANDLING OR DISPOSAL AND EXAMINED BY COMPETENT PERSON. REMOVE STRUCTURE, COLONNS, CANOPIES, AND ANY ASSOCIATED CONSTRUCTION IN ITS ENTIRETY. REFER TO ARCHITECTURE.
6. DIMENSIONS SHOWN FOR REMOVAL ARE APPROXIMATE. COORDINATE WITH NEW CONSTRUCTION TO ENSURE APPROPRIATE REMOVAL OF EXISTING FACILITIES.
7. SAWCUT EXISTING PAVEMENT. REMOVE CONCRETE WALKS, SLABS, AND CURBING TO THE NEAREST EXISTING JOINT BEYOND CONSTRUCTION LIMITS.
8. COMPLETE DEMOLITION WITH MINIMAL DISRUPTION OF TRAFFIC. COORDINATE LANE CLOSURES WITH THE REGULATORY AUTHORITY AND PROVIDE ADVANCE NOTIFICATION TO AFFECTED EMERGENCY RESPONSE PROVIDERS.
9. PROVIDE BARRICADES, LIGHTS, SIGNS, TRAFFIC CONTROL AND OTHER MEASURES NECESSARY FOR PROTECTION AND SAFETY OF THE PUBLIC AND WORKERS THROUGHOUT CONSTRUCTION. THE CITY REQUIRES TRAFFIC CONTROL MEASURES TO BE IN PLACE DURING UTILITY INSTALLATION, EXISTING BUILDING DEMOLITION, DRIVEWAY INSTALLATION, SIDEWALK INSTALLATION AND FINAL RESTORATION WITHIN THE RIGHT-OF-WAY.
10. PROTECT STRUCTURES, UTILITIES, TREES, PLANT MATERIAL, SOIL, AND ADJACENT PROPERTY FROM DAMAGE DURING CONSTRUCTION UNLESS NOTED FOR REMOVAL. DAMAGE SHALL BE REPAIRED TO EQUAL OR BETTER CONDITION AT NO ADDITIONAL COST.
11. REMOVE TREES NOTED, INCLUDING ROOT STRUCTURES, FROM THE SITE. COORDINATE WITH OWNER TO MARK TREES TO BE SAVED OR TRANSPLANTED PRIOR TO CLEARING.
12. REMOVE EXISTING SITE FEATURES INCLUDING, BUT NOT LIMITED TO, UNDERGROUND UTILITIES, PAVING, CURBING, WALKWAYS, FENCING, RETAINING WALLS, SCREEN WALLS, APRONS, LIGHTING, RELATED FOUNDATIONS, SIGNAGE, BOLLARDS, LANDSCAPING, AND STAIRWAYS WITHIN THE CONSTRUCTION LIMIT UNLESS NOTED OTHERWISE.
13. COORDINATE REMOVAL, RELOCATION, TERMINATION, AND RE-USE OF EXISTING PRIVATE UTILITY SERVICES AND APPURTENANCES WITH THE UTILITY COMPANIES. RESTORE ELECTRIC HANDHOLES, PULLBOXES, POWERPOLES, GUYLINES, AND STRUCTURES DISTURBED BY CONSTRUCTION IN ACCORDANCE WITH UTILITY OWNER REQUIREMENTS.
14. EXISTING PIPING AND CONDUITS MAY BE ABANDONED IN-PLACE IF FILLED WITH SAND AND IF NOT IN LOCATION OF PROPOSED BUILDING OR IN CONFLICT WITH PROPOSED UTILITIES OR STRUCTURES. TERMINATE EXISTING SERVICES AT THE SUPPLY SIDE IN CONFORMANCE WITH PROVIDER'S STANDARDS.
15. HAUL DEMOLITION DEBRIS OFF-SITE TO A FACILITY APPROVED BY REGULATORY AUTHORITIES FOR THE HANDLING OF DEMOLITION DEBRIS.
16. REMOVE PAVEMENT MARKINGS.
17. REMOVE AND REPLACE FOUNDATION AS NECESSARY FOR NEW DIRECTIONAL SIGN. REFER TO DETAILS C2.4/1 AND C2.4/2. SEE SHEET C2.1 FOR ADDITIONAL NOTES.

## DEMOLITION LEGEND



NOT FOR  
CONSTRUCTION

McDONALD'S USA, LLC.

THESE DRAWINGS AND SPECIFICATIONS ARE THE CONFIDENTIAL AND PROPRIETARY PROPERTY OF MCDONALD'S CORPORATION AND SHALL NOT BE COPIED OR REPRODUCED WITHOUT WRITTEN AUTHORIZATION. THE CONTRACT DOCUMENTS WERE PREPARED FOR USE ON THIS SITE IN CONjunction WITH ITS USE DATE AND ARE NOT SUITABLE FOR USE ON A DIFFERENT SITE OR AT A LATER TIME. USE OF THESE DRAWINGS FOR REFERENCE OR EXAMPLE ON ANOTHER PROJECT REQUIRES THE SERVICES OF A PROPERLY LICENSED ARCHITECT AND ENGINEER. REPRODUCTION OF THE CONTRACT DOCUMENTS FOR USE ON ANOTHER PROJECT IS NOT AUTHORIZED.

SHEET NO.	CITY	STATE	DRAWN BY	REVISION HISTORY
	RICHFIELD	MN	TDP	
	STREET ADDRESS	COUNTY	PROTO. ISSUED	
	6645 LYNDALE AVE	HENNEPIN		
	SHEET NAME		REVIEWED BY	
	EXISTING CONDITIONS & DEMOLITION		CNC	
	NATIONAL NUMBER	STATE NUMBER	DATE REVIEWED	
02690	022-035	02/21/18	02/21/18	
			DATE ISSUED	
			02/21/18	
			OFFICE ADDRESS	
			1650 W. 82ND STREET #100 BLOOMINGTON, MINNESOTA 55431-9898	

FILE NAME: C101MCD360.DWG  
PROJECT NO. MCD17360

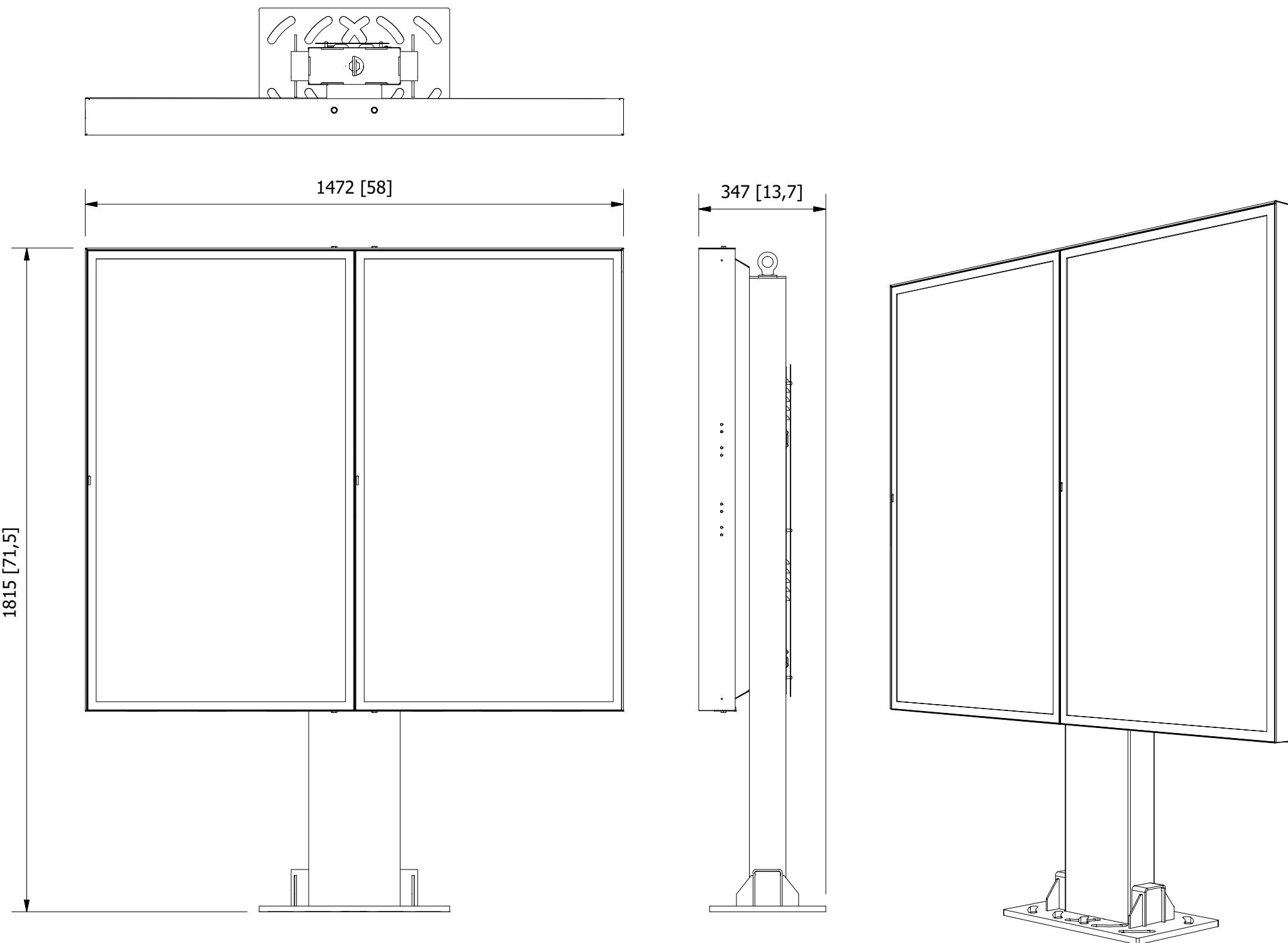


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Minneapolis, MN 55401 Web: landform.net

C1.1





## ODMB 02 DOUBLE

<b>Displays</b>	<b>2 x Samsung OH55F</b>
<b>Hardware</b>	<b>2 x Stratacache Spectra NG</b>
<b>Heating/Cooling</b>	<b>Watlow 100W Heater Sunon 120mm AC Fan</b>
<b>Power Supply Units</b>	<b>2 x 60W DC Media Player Power Supply</b>
<b>Power Cables</b>	<b>2 x IEC Power Cables</b>
<b>Electrical Components</b>	<b>Isolated Ground 2 x IG Receptacles 20A Circuit Breaker</b>
<b>Communication Cables</b>	<b>4 x HDMI 2 x RS232</b>
<b>Certification</b>	<b>UL Certified</b>

# 6645 Lyndale Ave - APUD 4/2018

## Surrounding Zoning and Comp Plan





AGENDA SECTION:

CONSENT CALENDAR

AGENDA ITEM #

4.E.

**STAFF REPORT NO. 79**  
**CITY COUNCIL MEETING**  
**5/8/2018**

REPORT PREPARED BY: Sadie Gannett, Assistant Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
5/1/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/2/2018

**ITEM FOR COUNCIL CONSIDERATION:**

Consideration of the approval of a resolution amending a conditional use permit and variance to allow an expansion to increase capacity from 28 beds to 32 beds at Progress Valley, 308 78th Street East.

**EXECUTIVE SUMMARY:**

A conditional use permit (CUP) and variance for Progress Valley were approved by the City Council in 2014. Progress Valley is a nonprofit organization that has provided chemical health treatment services for adult men and women since 1972. They are requesting to increase capacity for their men's residential program at 308 78th Street East. Currently, they are licensed to house 28 individuals at this location and they would like to increase their capacity to house 32 individuals. This property is in the Mixed-Use Community District and is considered a legally nonconforming use. The City Council may allow expansion of legal nonconforming uses through issuance of a CUP. Expansion may be allowed up to 10 percent provided the expansion meets all other applicable City requirements. The request to increase their capacity is an intensification of use rather than a physical expansion; however, it seems reasonable to apply this same 10 percent standard to the intensification of use.

The property has a total of six rooms that are able to accommodate three clients, but only two of those six rooms are being used in this manner. They are requesting approval to add 1 bed to each of the other 4 rooms, increasing their capacity to accommodate 32 individuals, which is a 14 percent increase. A variance is required for any expansion that exceeds 10 percent. There is no construction or structural change required to the building or grounds in order to accommodate this request.

**RECOMMENDED ACTION:**

By motion: Approve a resolution amending a conditional use permit and variance to allow an expansion to increase capacity from 28 beds to 32 beds at Progress Valley, 308 78th Street East.

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- In 2014, a CUP and variance was granted to allow for an expansion greater than 10 percent of a legally nonconforming use at Progress Valley. This was for a building addition of approximately

6,700 square feet and internal renovation that allowed for an increase in bedroom size (not quantity), additional meeting spaces, office space and ADA improvements.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- In accordance with Subsection 537.13 of the Zoning Code, existing legal nonconforming uses may be maintained according to City Code Subsection 509.25. The City Council may allow expansion of legal nonconforming uses through issuance of a CUP. Expansion may be allowed up to 10 percent of the gross floor area provided the expansion meets all other applicable City requirements. Any expansion larger than 10 percent would require a variance.
- Community Development staff sought the input of the Richfield Police Department, who have responded that they receive very few calls from this location and would have no objection to increasing the capacity of the facility as requested.
- A full discussion of general CUP and variance requirements and required findings is attached to this report.

**C. CRITICAL TIMING ISSUES:**

- **60-DAY RULE:** The 60-day clock started when a complete application was received on March 26, 2018. A decision is required by May 25, 2018 or the council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- A public hearing was held before the Planning Commission on April 23, 2018. No members of the public spoke at the public hearing.
- Notice of this public hearing was published in the Sun Current newspaper and mailed to properties within 350 feet of the site.
- The Planning Commission unanimously recommended approval of the proposal.

**ALTERNATIVE RECOMMENDATION(S):**

- Approve the amended conditional use permit and variance with additional and/or modified stipulations.
- Deny approval of an amended conditional use permit and variance to allow an increase from 28 beds to 32 beds at Progress Valley, 308 78th Street East.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Jared Bostrom, Progress Valley

**ATTACHMENTS:**

Description	Type
❑ Resolution	Cover Memo
❑ Required Findings	Backup Material
❑ Project Narrative	Backup Material
❑ Zoning	Backup Material

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION GRANTING APPROVAL  
OF AN AMENDMENT TO A CONDITIONAL USE PERMIT  
AND VARIANCE AT  
308 78TH STREET EAST**

**WHEREAS**, an application has been filed with the City of Richfield which requests approval of an amendment to a conditional use permit for expansion of a legal nonconforming residential treatment facility/supervised living facility on the parcel of land located at 308 78th Street East (the "Property"), legally described in the attached Exhibit A; and

**WHEREAS**, the Planning Commission of the City of Richfield held a public hearing and recommended approval of the requested amended conditional use permit and variance at its April 23, 2018 meeting; and

**WHEREAS**, notice of the public hearing was published in the Sun Current newspaper and mailed to properties within 350 feet of the subject property; and

**WHEREAS**, the proposed amended conditional use permit includes an expansion or intensification of a legally nonconforming use. The intensification of use will increase capacity of a residential treatment facility/supervised living facility by 14 percent to a total of 32 beds; and

**WHEREAS**, the City Code allows for the expansion of legal nonconforming uses in the Mixed Use Districts by up to 10 percent; and

**WHEREAS**, Minnesota Statutes Section 462.357, Subdivision 6, provides for the granting of variances to the literal provisions of the zoning regulations in instances where their enforcement would cause "practical difficulty" to the owners of the Property under consideration; and

**WHEREAS**, based on the findings below, the Richfield City Council approves the requested variance from Richfield City Code Subsection 537.13, Subdivision 1; and

**WHEREAS**, the City has fully considered the request to amend the conditional use permit; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Richfield, Minnesota, as follows:

1. The City Council makes the following general findings:
  - a. The Property is zoned Mixed Use Community (MU-C).
  - b. The existing use is legally nonconforming and can continue indefinitely.
  - c. The existing building is legally nonconforming and can continue indefinitely.

- d. Code states that the Council can approve the expansion of legally nonconforming uses by up to 10 percent of the gross floor area in the Mixed Use Districts. The proposed expansion or intensification of use will increase capacity by 14 percent. A variance from Subsection 537.13 is required.
  - e. Code states that the Council can approve the expansion of legally nonconforming uses that do not significantly impede implementation of goals and policies of the Comprehensive Plan.
- 2. With respect to the application for a variance to allow the expansion of a legally nonconforming use by more than 10 percent, the City Council makes the following findings:
  - a. Strict enforcement of Richfield Zoning Code Subsections 537.13, Subdivision 1 would cause a practical difficulty in that the facility would not be allowed to be used to its full capacity. The applicant is proposing to use the site in the same manner that it has been used historically. There are six rooms of the same layout that are large enough to accommodate three people, although only two of the rooms are currently functioning in that capacity. No physical changes would be needed to add a third bed to the additional four rooms. It is reasonable to allow improvement of the facilities for the betterment of clients even if this improvement requires an intensification of use that is more than is typically permitted.
  - b. Unique circumstances affect the Property that were not created by the land owner. Supervised living facilities are not currently permitted in any of the City's Zoning Districts. Not only would it be difficult to find an alternative location for the facility, but Progress Valley has been operating their program from this location for 35 years without any significant complaints from neighboring properties. It is reasonable to allow expansion within a neighborhood that has co-existed with the facility for many years.
  - c. Granting the requested variance will not alter the essential character of the neighborhood. The requested variance is not expected to have any impact on the character of the neighborhood.
  - d. The variance requested is the minimum necessary to alleviate the practical difficulty. This will allow the applicant to increase the capacity of their facility without undertaking any remodeling activities and is the minimum necessary to alleviate the practical difficulty.
  - e. The variances are in harmony with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan. The proposed plans are consistent with the general purposes and intents of the Zoning Ordinance and Comprehensive Plan.
- 3. Based upon the above findings, a variance is hereby approved to permit the expansion of a nonconforming use by increasing capacity by 14 percent.
- 4. Based upon the above findings and variance, the amended conditional use permit is hereby approved according to the terms of Richfield City Code Subsection 537.13, with the following additional stipulations:

- All stipulations of Resolution No. 11001 remain in effect unless specifically modified by this approval; and
- Annual rental licensing and inspections by the City of Richfield are required; and
- The recipient of this amended conditional use permit record this Resolution with the County, pursuant to Minnesota Statutes Section 462.36, Subd. 1 and the City's Zoning Ordinance Section 546.05, Subd. 7. Proof of recording must be provided to the City.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of May 2018.

---

Pat Elliott, Mayor

ATTEST:

---

Elizabeth VanHoose, City Clerk

Exhibit A  
Legal Description

Parcel 1:

The East 125.00 feet of the South 174.00 feet of the South Half of the Southwest Quarter of the Southeast Quarter of Section 34, Township 28, Range 24, EXCEPT those parts taken for State Trunk Highway No. 5 and 100 over the South 40 feet thereof, pursuant to Documents No. 1349782 and 1719066.

AND

The West 206.54 feet of the South 120.14 feet of the South Half of the Southeast Quarter of the Southeast Quarter of Section 34, Township 28, Range 24.

AND

The West 28.05 feet of the North 53.86 feet of the South 174.00 feet of the South Half of the Southeast Quarter of the Southeast Quarter of Section 34, Township 28, Range 24.

Parcel 2:

Non-exclusive easement for access and utility purposes created pursuant to Driveway Access and Utility Easement Agreement dated April 16, 2004, recorded January 3, 2005 as Document No. 8501482, over the following described land:

The North 32.18 feet of the South 206.18 feet of the East 155.00 feet of the South Half of the Southwest Quarter of the Southeast Quarter of Section 34, Township 28, Range 24.

AND

That part of the North 30.00 feet of the South 204.00 feet of the South Half of the Southwest Quarter of the Southeast Quarter of Section 34, Township 28, Range 24, lying West of the East 155.00 feet, and lying East of the West 30.00 feet of the East Quarter of said South Half of the Southwest Quarter of the Southeast Quarter.

AND

The North 32.18 feet of the South 206.18 feet of the West 28.05 feet of the South Half of the Southeast Quarter of the Southeast Quarter of Section 34, Township 28, Range 24.

## **Code Requirements / Required Findings**

**Part 1:** The following conditions apply to the expansion of nonconforming uses in the Mixed Use Districts:

*Subdivision 1. Expansion of Nonconforming Uses. Existing legal nonconforming uses may be maintained according to City Code Subsection [509.25](#). The City Council may allow expansion of legal nonconforming uses through issuance of a conditional use permit. Expansion may be allowed up to ten (10) percent of the gross floor area provided the expansion meets all other applicable City requirements. Any expansion or modification of a legal nonconforming use should not significantly impede implementation of goals and policies of the Comprehensive Plan.*

The proposed expansion is not expected to have any significant adverse impact on the implementation of the goals and policies of the Comprehensive Plan. The request to increase their capacity is an intensification of use rather than a physical expansion, however, the 10% standard is being applied to the intensification of use.

**Part 2:** The findings necessary to approve a variance are as follows (Subd. 547.11):

1. *There are “practical difficulties” that prevent the property owner from using the property in a reasonable manner.*
2. *There are usual or unique circumstances that apply to the property which were not created by the applicant and do not apply generally to other properties in the same zone or vicinity.*
3. *The variance would not alter the character of the neighborhood or the locality.*
4. *The variance is the minimum necessary to alleviate the practical difficulty.*
5. *The variance is in harmony with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan.*

The applicant has requested a variance from the following requirement: Legal nonconforming uses may be allowed to expand by up to 10 percent of the gross floor area (537.13, Subd. 1). The applicant is requesting a variance to increase capacity from 28 beds to 32 beds at Progress Valley, 308 78th St East. The request to increase their capacity is an intensification of use rather than a physical expansion, however, the 10% standard is being applied to the intensification of use.

Criteria 1: Strict enforcement of this requirement would cause a practical difficulty in that the facility would not be allowed to be used to its full capacity. This property is currently approved to house 28 residents; however, it is equipped to accommodate 32 residents. There are six rooms of the same layout that are

large enough to accommodate three people, all though only two of the rooms are currently functioning in that capacity. No physical changes would be needed to add a third bed to the additional four rooms.

Criteria 2: There are unique circumstances in that supervised living facilities are not currently permitted in any of the City's Zoning Districts. Not only would it be difficult to find an alternative location for the facility, but Progress Valley has been operating their program from this location for 35 years without any significant complaints from neighboring properties. The applicant is proposing to use the site in the same manner that is has been used historically. All changes are related to improving the services offered to the residents.

Criteria 3: Granting the requested variance will not alter the character of the neighborhood or locality. There would be no changes to the character of the building or the neighborhood, as there are no proposed changes to the building or grounds. An increase of 4 additional residents is unlikely to result in any significant change in traffic or activity around the facility. It is reasonable to allow expansion within a neighborhood that has co-existed with the facility for many years.

Criteria 4: The requested variance is the minimum necessary to alleviate the practical difficulty. This will allow the applicant to increase the capacity of their facility without undertaking any remodeling activities and is the minimum necessary to alleviate the practical difficulty.

Criteria 5: The proposed plan is in keeping with the intent of both the Zoning Ordinance and the Comprehensive Plan.



WHERE RECOVERY BECOMES REALITY.

## Progress Valley: Proposed Project Narrative

### **Progress Valley-History and Mission**

Progress Valley, Inc. is a nonprofit organization providing chemical health treatment services for adult men and women since 1972. We provide integrated, comprehensive and gender specific services offering individuals opportunities for personal change and growth. We believe the process of recovery begins with personal accountability and responsibility to others, and is fostered through the unique and individualized programs we offer. <http://progressvalley.org>

### **Request for Capacity Increase to 308 East 78<sup>th</sup> Street, Richfield, MN Treatment Site**

We are currently licensed to house 28 individuals at this location. We have a total of 6 rooms that are of the space and layout to accommodate 3 clients, but only two of those rooms are currently being used in this manner. We are requesting approval to add one bed to each of the other 4 rooms, which would increase our maximum capacity to 32 beds. There is no construction or structural change required to the building or grounds in order to accommodate this request.

### **Background on Request for Increase**

As you may recall, Progress Valley was intentional in not requesting an increase in maximum capacity when submitting the proposal for facility renovation in 2014. There have been some important industry, regulatory, and social changes since that time that have prompted us to reconsider and make this request now:

1. **The Opioid Epidemic:** While Substance Use Disorders of all types continue to be a significant problem, opioid use and related harms in particular have reached epidemic proportions. In 2015, Hennepin County alone had a record 144 opioid-related deaths, which is a number that been exceeded in 2016 (153) and again in 2017 (162). This 47% increase from 2015 to 2017 took place despite increasing prevalence and availability of medications to reverse opioid overdose (naloxone), and medication treatment options that can reduce risk of relapse and overdose, such as buprenorphine and methadone. According to a report released by the Center of Disease Control and Prevention, data on fatal drug overdoses from 2015 to 2016 indicate that drug overdoses are the leading cause of death for people under 50 in America. Although addiction has long been a “life and death” matter for many, this true in a sense that is more literal and imminent than ever before.
2. **Reform of the Substance Use Disorder Treatment System in Minnesota:** In response to the changing needs of our communities, in January of 2016, the Alcohol and Drug Abuse Division of the Minnesota Department of Human Services submitted a report to the Minnesota legislature, which took part in prompting a reform of the SUD service system in our state. These changes reflect national trends and recommendations for best practices in SUD treatment, and aim to increase the availability, access, and quality of treatment services in a cost effective manner. This request relates directly to one of the pillars of the SUD reform package, which is to “ensure timely access to treatment and improve access to treatment” (MN DHS, 2017).
3. **Continually Increasing Demand:** Progress Valley has a long history and strong reputation for providing quality treatment for SUD’s, and continues to be a preferred provider for many. Since 2014, we have seen our demand continue to increase, resulting in long wait lists and the need to turn people away or direct them to other services. In March of 2018, our Richfield program was near capacity and had almost 40 people listed that had been referred and had expressed interest in our program.

### **Intended Use and Outcomes for Proposed Increase**

We recognize that approval of this request will not entirely solve any of the aforementioned problems, which are complex and multifaceted. We are certain, however, that if approved, this relatively small measure would be a very significant step in responding to the challenges our communities and clients are facing. We have learned this first hand after seeing the positive outcomes from proper management of 4 additional beds at our women's facility in Bloomington after increasing from 28 to 32 beds in the Fall of 2015.

Some explanation on the rationale and benefit of these beds is as follows:

- We are constantly balancing the needs of our clients that we are transitioning out of the program and back to the community, with those who are waiting to come in and are in need of treatment.
- In addition to having developed clinical stability, a stable living environment and social support are critical aspects of sustained recovery and a continuing care plan. Clients often have barriers, or changes to these plans before they are solidified, which means we are working to resolve these problems. When appropriate, we will keep them in our program until this stability is achieved and they have a safe, sober place to live
- As discussed in the previous section, many people are desperate for treatment, and are living in dangerous or life-threatening circumstances. Trying to evaluate and prioritize these needs, and get people into treatment as quickly as possible is critical
- Many people coming in have life circumstances that need to be arranged prior to, and in conjunction with, coming to treatment. We try to let people know what they can expect for admission dates to the best of our ability, but this depends on the status of people who are leaving the program
- Since these variables are unpredictable, we strive for flexibility in our processes and treatment model wherever we can. For example, we budget our occupancy at each site between 85-87% per year. While we exceed this at times, it has been our desired practice to keep some margin between occupancy and capacity in case anyone needs to be extended in treatment, or we urgently need to get somebody in
- Although census varies by circumstance, this also means that an approved increase of 4 beds would often mean 1-2 more clients in residence
- With the growing demands of the wait list, we recently have not had the margin we historically did, which has impinged upon services for people coming in and/or transitioning out
- Although this proposed increase would not allow us to serve significantly more people, it would afford us more flexibility to serve people more quickly, comprehensively, and effectively

### **Additional**

- Although this proposal is a critical step, it is only part of a comprehensive and multifaceted response plan by the organization
- Progress Valley has recently completed a strategic plan, which identified and executed a variety of measures to respond to changing needs, and has advanced practices in a variety of areas, including response to the opioid crisis
- A new strategic plan is currently being developed that includes implementation of SUD reform items, and exploration of clinical, housing, and other support services that can expand our continuum of care and services for those in need
- Progress Valley has developed a Community Education and Outreach Committee that has shared our expertise, knowledge, and resources with community groups. Our current strategic plan will contain initiatives that advance this support as well
- Progress Valley, Richfield operates with 24/7/365 awake staff coverage

## In Closing

As can be seen in our vision, mission, and guiding principles, we believe in promoting lifelong recovery, and have a unique commitment to community and developing personal responsibility through employment, education, or volunteer work. Our vision is that recovery happens within, and contributes to, healthy communities, and we are committed to remaining a good partner and presence in our communities. We believe that this request would be of significant benefit to the community, our organization, and the clients we serve.

Thank you again for your consideration of this request. Please do not hesitate to contact me with any further questions.

## References

Minnesota Department of Human Services, Alcohol and Drug Abuse Division (2016). Drug and Alcohol Abuse in Minnesota: A Biennial Report to the Legislature. MN DHS. Retrieved from: <http://www.mndental.org/files/Drug-and-Alcohol-Abuse-in-Minnesota-A-Biennial-Report-to-the-Legislature.pdf>

Minnesota Department of Human Services, Alcohol and Drug Abuse Division (2017). Substance Use Disorder Reform: Report and Recommendations. MN DHS. Retrieved from: [https://mn.gov/dhs/assets/2017-01-substance-use-disorder-system-reform-report\\_tcm1053-275362.pdf](https://mn.gov/dhs/assets/2017-01-substance-use-disorder-system-reform-report_tcm1053-275362.pdf)

*New York Times Magazine* online (November, 2017). “C.D.C Reports a Record Jump in Drug Overdose Deaths Last Year.” Retrieved from: <https://www.nytimes.com/2017/11/03/health/deaths-drug-overdose-cdc.html>

*Minnesota Spokesman Recorder: News Online* (February, 2018). “Hennepin County has new record high for opioid-related deaths during 2017.” Retrieved from: <http://spokesman-recorder.com/2018/02/02/hennepin-county-has-new-record-high-for-opioid-related-deaths-during-2017/>



The Commission on Accreditation of Rehabilitation Facilities (CARF)  
(Accreditation Since 1989)

An organization receiving Accreditation has put itself through rigorous peer review processes and has demonstrated to a team of surveyors through on-site visits that its programs and services are of the highest quality, measurable, and accountable.

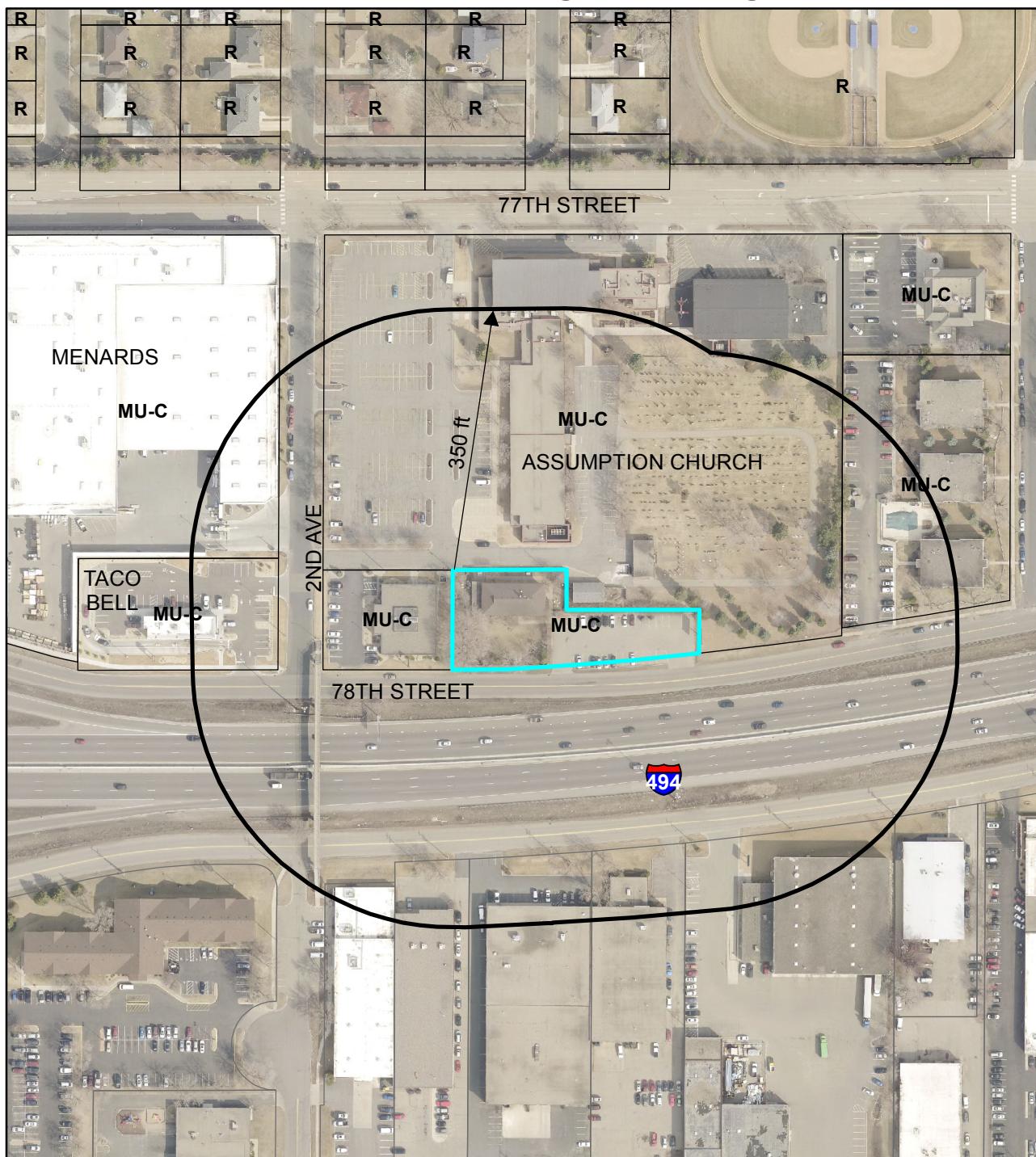


Charity Review Council Seal (Since 2012)

Ensures an organization's operations, structure and policies meet widely accepted standards for accountability and transparency. The awarded "Meets Standards" seal demonstrates an organization's commitment to accountable and ethical practices.

# 308 78TH ST E - 10/2014 ACUP & VAR

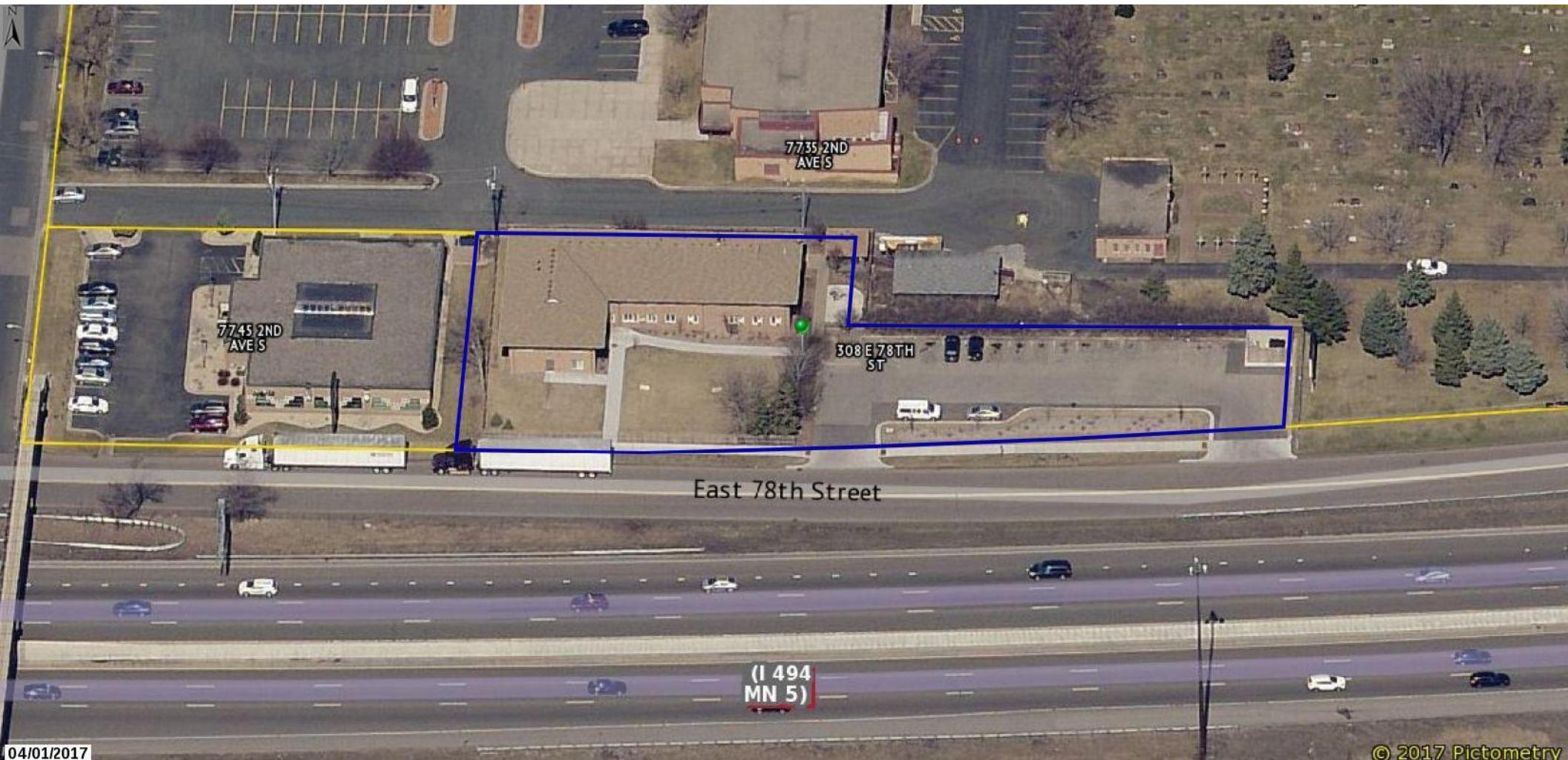
## Surrounding Zoning



MU-C - Mixed-Use Community

0 100 200 300 400 500 600 700 800 Feet







AGENDA SECTION:

CONSENT CALENDAR

AGENDA ITEM #

4.F.

**STAFF REPORT NO. 80**  
**CITY COUNCIL MEETING**  
**5/8/2018**

REPORT PREPARED BY: Sadie Gannett, Assistant Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
5/1/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/2/2018

**ITEM FOR COUNCIL CONSIDERATION:**

Consideration of the approval of a resolution for a site plan review and variances for a restaurant at 6600 Penn Avenue.

**EXECUTIVE SUMMARY:**

The property at 6600 Penn Avenue was previously occupied by Bruegger's Bagels but has been vacant since July of 2014. The applicant has the property under contract and is proposing to open a restaurant. Traditional/cafeteria (Class II) restaurants are a permitted use in the Mixed Use Community (MU-C) District. In addition to the site plan review, the applicant is requesting approval of multiple variances. The extended vacancy of the property means that its legally non-conforming status has lapsed; therefore a number of variances related to the existing conditions are necessary. The applicant is requesting variances from parking lot setbacks, off-street parking requirements, building setbacks, impervious surface regulations, and landscaping requirements.

Parking requirements are based on square footage and the parking requirements for Class II restaurants is 10 spaces per 1,000 square feet. This building is approximately 2243 square feet, which would require 23 parking spaces. After factoring in a 10 percent reduction for proximity to public transit service, the total parking requirement is 21 spaces. Currently, 17 spaces are available on the property and no space exists to create additional parking. A full discussion of general site plan requirements and additional information related to the variances to building setbacks, parking lot setbacks, and impervious surface regulations and the required findings can be found as an attachment to this report.

Several unique factors exist to justify granting the variances. This site has historically operated in a similar capacity under the existing conditions and there is limited opportunity to make changes. Much of the building is used as kitchen, office, storage, and bathroom facilities, with only a small portion of the space available for customer seating. This location is in close proximity to a concentration of residences and businesses and it is reasonable to assume that some percentage of customers and employees will choose to walk, bike, or take public transportation rather than drive. Lastly, this site is not required to have odor control mitigation, but the building is in a mixed-use district where residential development could occur in the future. Plans have been submitted for a professionally-

designed odor control remedy, including a statement by a structural engineer that the building could accommodate the planned odor control equipment and associated screening in the future, if necessary.

Finding that the proposal meets requirements, staff recommends approval of the site plan and variances.

**RECOMMENDED ACTION:**

**By motion: Approve a resolution for a site plan and variances for a restaurant at 6600 Penn Avenue.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- While the existing building is currently vacant, a restaurant had existed on this site for many years.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- Class II restaurants are a permitted use in the MU-C District. The applicant is requesting variances from Subsections 544.13, 537.07, and 544.03 for parking lot setbacks, off-street parking requirements, building setbacks, impervious surface regulations, and landscaping requirements as described above in the Executive Summary.
- A full discussion of general Site Plan requirements and additional information related to the requested variances and required findings are attached to this report.

**C. CRITICAL TIMING ISSUES:**

- 60-DAY RULE: The 60-day clock 'started' when a complete application was received on March 22, 2018. A decision is required by May 21, 2018 or the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- A public hearing was held before the Planning Commission on April 23, 2018. One member of the public spoke in favor of the project. Staff received one phone call from a nearby business owner concerned that this would create an overflow parking problem for them.
- Notice of the public hearing was published in the Sun Current newspaper and mailed to properties within 350 feet of the site.
- The Planning Commission unanimously recommended approval of this proposal.

**ALTERNATIVE RECOMMENDATION(S):**

- Approve the site plan and variances for a restaurant at 6600 Penn Avenue with additional and/or modified stipulations.
- Deny the site plan and/or variances with a finding that the proposal does not meet requirements.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Sam Kerim, applicant

**ATTACHMENTS:**

Description	Type
❑ Resolution	Resolution Letter
❑ Required Findings	Backup Material
❑ Site Plans, Photos	Backup Material

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION GRANTING APPROVAL  
OF A SITE PLAN AND VARIANCES AT  
6600 PENN AVENUE**

**WHEREAS**, an application has been filed with the City of Richfield which requests approval of site plans for a Class II (traditional/cafeteria) restaurant on the parcel of land located at 6600 Penn Avenue (the "Property"), legally described as:

Lots 1 and 2, Block 1, Tingdale Bros. Lincoln Hills, Hennepin County, Minnesota

**WHEREAS**, the Planning Commission of the City of Richfield held a public hearing and recommended approval of the requested site plan and variances at its April 23, 2018 meeting; and

**WHEREAS**, notice of the public hearing was published in the Sun Current newspaper and mailed to properties within 350 feet of the subject property; and

**WHEREAS**, the existing building at 6600 Penn Avenue does not meet various building setback requirements specified in the Mixed Use Community (MU-C) District and impervious surfaces cover 91.25 percent of the site, exceeding the maximum coverage of 80 percent; and

**WHEREAS**, the site does not meet general landscaping and screening requirements, as described in Zoning Code Subsection 544.03; and

**WHEREAS**, the Zoning Code requires a minimum parking lot setback of 8 feet from the right-of-way, while the proposed site plan provides parking lot setbacks of 3 feet along the north property line; and

**WHEREAS**, the Zoning Code requires 21 parking spaces based on the square footage of the building, while the proposed site plan provides 17 spaces; and

**WHEREAS**, Minnesota Statutes Section 462.357, Subdivision 6, provides for the granting of variances to the literal provisions of the zoning regulations in instances where their enforcement would cause "practical difficulty" to the owners of the Property under consideration; and

**WHEREAS**, based on the findings below, the Richfield City Council approves the requested variances from Richfield City Code Subsection 544.13, Subdivision 5 and 6, Subsection 537.07, Subdivision 1, and Subsection 544.03; and

**WHEREAS**, the City has fully considered the request for approval for the site plan with variances; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of

Richfield, Minnesota, as follows:

1. The City Council makes the following general findings:
  - a. The Property is zoned Mixed Use Community (MU-C) and is located in the Penn Avenue Corridor (PAC) overlay.
  - b. Restaurant Class II uses are permitted in the MU-C District. The Penn Avenue Corridor District provides for a balanced mix of commercial, office and residential uses that together create a cohesive and pedestrian-friendly area.
  - c. The site and building are existing and were previously used as a Bruegger's Bagels restaurant from 1996 to 2014. Reuse of this building on this site in any fashion will require variances.
  - d. Code states that the maximum front setback shall not exceed 15 feet and side and rear setbacks for a principal building shall not be less than 5 feet. The existing setbacks are 23.5 feet, 67 feet, and 1 foot, respectively. Code states that the maximum impervious surface area shall not exceed 80%. The proposed impervious surface area is 91.25%. Variances from Subsection 537.07, Subd. 1 are required.
  - e. Proposed landscaping and screening plans do not meet several requirements. A variance from Subsection 544.03 is required.
  - f. Code states that the minimum parking lot setback is 8 feet from the right-of-way. A variance from Subsection 544.13, Subd. 5 is required.
  - g. Code states that the minimum number of off-street parking spaces required for a Class II Restaurant is 10 per 1,000 square feet of gross floors area. A variance from Subsection 544.13, Subd. 6 is required.
2. With respect to the application for variances from the above-listed requirements, the City Council makes the following findings:
  - a. Strict enforcement of the Richfield Zoning Code Subsections listed above would cause a practical difficulty. The existing property cannot be used in any fashion without variances. It is reasonable to allow the reuse of an existing building on an existing lot. 17 spaces are available on the property and no space exists to create additional parking.
  - b. Unique circumstances affect the Property that were not created by the land owner. The building was constructed in 1951 and expanded in 1996, prior to the adoption of current Codes. These circumstances were not created by the land owner.
  - c. Granting the requested variances will not alter the essential character of the neighborhood. The requested variances will allow for the reuse and improvement of a vacant building. The improvements proposed will benefit the surrounding neighborhood by improving the aesthetics of the site, particularly along Penn Avenue. No negative impacts are expected.
  - d. The variances requested are the minimum necessary to alleviate the practical difficulty. The proposed variances are the minimum necessary to reuse this property.
  - e. The variances are in harmony with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan. The proposed plans are consistent with the general purposes and intents of the Zoning Ordinance and Comprehensive Plan.

3. With respect to the proposed site plan, the City Council finds that it will adequately serve the purpose for which it is proposed and will not have adverse effect upon the public safety or general welfare.
4. Based upon the above findings, variances to the above-specified requirements are hereby approved.
5. Based upon the above findings and variances, the proposed site plan is hereby approved according to the terms of Richfield City Code Subsection 547.13 with the following additional stipulations:
  - That the recipient of this approval record this Resolution with Hennepin County, pursuant to Minnesota Statutes Section 462.36, Subd. 1 and Richfield Zoning Ordinance Section 547.11, Subd. 7. Proof of recording is required prior to the issuance of a building permit;
  - The customer entrance(s) shall be covered by awning or alternative covered entrance approved by the Community Development Director. All existing awnings and exterior building lighting shall be replaced or repaired.
  - The applicant shall submit a final landscaping plan to be approved by the Community Development Department, including further detail of the proposed landscaping areas along the east and north property lines. Required plantings must be maintained to meet the intent of the Penn Avenue Design Guidelines.
  - The building exterior shall be repaired and repainted as necessary, including the trash enclosure. Bicycle parking must be provided.
  - Any new rooftop or ground mechanical equipment must be screened, per Zoning Code Section 544.05.
  - The applicant is responsible for obtaining all required permits, compliance with all requirements detailed in the City's Administrative Review Committee Report dated April 5, 2018, and compliance with all other City and State regulations. Permits are required prior to commencement of any work.
  - Prior to the issuance of an occupancy permit, the applicant shall submit a surety equal to 125% of the value of any improvements not yet complete (based on two bids including labor cost).
  - This approval shall expire one year from the date of approval unless the use has commenced or a building permit has been obtained and construction begun.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of May 2018.

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk

## **Code Requirements / Required Findings**

**Part 1 - Site Plan Approval (Subsection 547.13)** In evaluating a site plan, the Planning Commission and Council shall consider its compliance with the following:

- a) *Consistency with the various elements and objectives of the City's long range plans including, but not limited to, the Comprehensive Plan.* In the Penn Avenue Corridor, the Mixed Use District is intended to be a vibrant, pedestrian-oriented neighborhood center. The District can accommodate a variety of uses. The proposed use of the property as a Class II restaurant is in keeping with these intentions.
- b) *Consistency with the purposes of the Zoning Code.* The purposes of the Zoning Code include: assisting in the implementation of the Comprehensive Plan; creating harmonious and workable relationships among land uses; enhancing and protecting the physical appearance of the City and more. The proposal is consistent with these purposes of the Zoning Code.
- c) *Preservation of the site in its natural state, insofar as practicable, by minimizing tree and soil removal, and designing any grade changes so as to be in keeping with the general appearance of neighboring developed or developing areas.* The site is already fully developed and is over 80 percent impervious. No major changes are proposed to the building exterior or site. The proposed site plan will maintain the existing landscaping and improve as possible. A landscape plan is required prior to the issuance of a Certificate of Occupancy.
- d) *Creation of a harmonious relationship of buildings and open spaces with the terrain and with existing and future buildings having a visual relationship to the proposed development.* The existing building façade is complimentary to the adjacent properties. The proposed improvements to the site, particularly the repair of the trash enclosure and replacing the awnings, will further enhance the visual appearance.
- e) *Creation of a functional and harmonious design for structures and site features including:*
  - i. *Creation of an internal sense of order for the various functions and buildings on the site and provision of a desirable environment for occupants, visitors and the general community;*
  - ii. *Appropriateness of the amount and arrangement of open space and landscaping to the design and function of the development;*
  - iii. *Appropriateness of the materials, textures, colors and details of construction as an expression of the design concept of the project and the compatibility of the same with the adjacent and neighboring structures and functions; and*
  - iv. *Adequacy of vehicular, cycling and pedestrian circulation, including walkways, interior drives and parking, in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian, cycling and vehicular traffic and arrangement and amount of parking so as to be safe, convenient and, insofar as practicable, compatible with the design of proposed buildings, structures and neighboring properties.*

This site has historically been used as a restaurant and the 17 existing parking stalls were adequate. This site does qualify for a 10 percent reduction in required parking due to the proximity to public transit service. The striping of accessible parking spaces brings the property into compliance with ADA requirements. A stair connection to the Penn Avenue

sidewalk is provided near the front building entrance and a bike rack will be required. Landscaping areas facing Penn Avenue and 66<sup>th</sup> St will be maintained from the previous tenant and improved as possible to screen the parking lot and the improve curb appeal of the building. Along the west and south property lines, there is limited opportunity to improve the site further given the placement and size of the building.

- f) *Creation of an energy-conserving design through design location, orientation and elevation of structures, the use and location of glass in structures, and the use of landscape materials and site grading.* The proposal will not worsen conditions.
- g) *Protection of adjacent and neighboring properties through reasonable provisions for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses.* No changes to surface water drainage, sound and/or sight impacts, views, etc. are anticipated. Plans have been submitted for a professionally-designed odor control remedy and a statement by a structural engineer that the building design could accommodate the planned odor control and associated screening in the future, if necessary.

## **Part 2 - Variances:**

The proposed site plan will improve upon existing conditions, allowing for reuse and aesthetic improvements to a site that has struggled with long-term vacancy. The extended vacancy of the property means that legally non-conforming status has lapsed; therefore a number of variances related to the existing conditions are necessary. The applicant is requesting variances from parking lot setbacks, off-street parking requirements, building setbacks, impervious surface regulations, and landscaping requirements.

### Subsection 544.13, Subd. 5; Subd. 6:

- Parking lot setback – Parking lots must be set back eight (8) feet from the right-of-way. (proposed/existing – 3 feet)
- Off-street spaces required—21 spaces required. (proposed/existing – 17)

### Subsection 537.07, Subd. 1:

- Front, side, and rear building setbacks – 15 feet maximum for front, 5 feet minimum for side and rear  
(proposed/existing – 23.5 feet, 67 feet, 1 foot, and 1 foot, respectively)
- Impervious surface regulations – 80% maximum (proposed – 91.25%)

### Subsection 544.03:

- Landscaping and requirements – no major changes to existing conditions are proposed and several requirements will not be met. The site includes landscaped planting areas facing Penn Avenue. These plantings must be maintained to meet the intent of the Penn Avenue Design Guidelines. A landscape plan for this area is required.

The findings necessary to approve variances are as follows (Subsection. 547.11):

- a) *There are “practical difficulties” that prevent the property owner from using the property in a reasonable manner.* The existing property cannot be used in any fashion without variances. It is reasonable to allow the reuse of an existing building on an existing lot.
- b) *There are usual or unique circumstances that apply to the property which were not created by the applicant and do not apply generally to other properties in the same zone*

*or vicinity.* The building was constructed in 1951, prior to the adoption of current Codes. These circumstances were not created by the land owner.

- c) *The variance would not alter the character of the neighborhood or the locality.* The requested variances will allow for the reuse and improvement of a vacant building. The improvements proposed will benefit the surrounding neighborhood by improving the aesthetics of the site and bring new customers to the Penn Avenue Corridor. No negative impacts are expected.
- d) *The variance is the minimum necessary to alleviate the practical difficulty.* The proposed variances are the minimum necessary to reuse this property.
- e) *The variance is in harmony with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan.* The proposed plans are consistent with the general purposes and intents of the Zoning Ordinance and Comprehensive Plan as discussed further in Part 1 of this document.





**EQUIPMENT LIST**

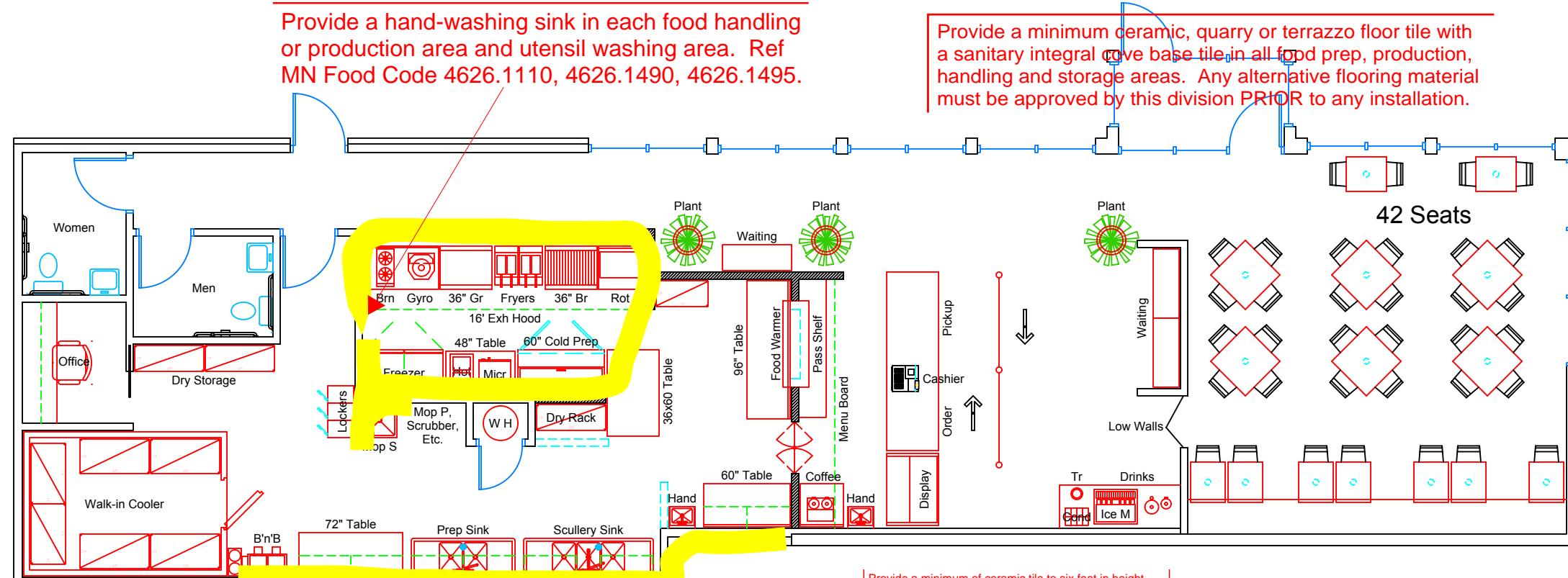
ITEM	QTY	DESCRIPTION	REMARKS
01	1		
02	Lot	Banquette / Booth Seat	
03	Lot	Dining Table w/ Base	
04	Lot	Dining Chair	
05		Spare Number	
06	1	Cash Register / P.O.S.	By Owner
07		Open Shelf Utility Stand	72"
08		Open Shelf Utility Stand	48"
09	1	Coffee Brewer / Dispenser	
10	1	Tea Brewer / Dispenser	
11	2	Soap / Towel Dispensers	
12		Spare Number	
13	2	Hand Sink w/Side Shields	
14		Spare Number	
15		Spare Number	
16		Food Warmer	
17	1	Steam Table	
18	1	Worktop Freezer	
19	1	Microwave Oven	
20	1	Refr Prep Table	
21	1	Stainless Steel Overshelf	
22		Spare Number	
23	1	Canopy Exhaust Hood	
24	1	Range w/ Conv Oven	
25		Spare Number	
26	1	Griddle	
27	1	Equipment Stand	
28	1	Char Broiler	
29		Spare Number	
30	2	Deep Fryer	
31		Spare Number	
32	1	Rotisserie Oven	
33		Stainless Steel Worktable	
34		Spare Number	
35		Spare Number	
36		Stainless Steel Worktable	
37		Rice Cooker	
38		Spare Number	
39	1	2-Compartment Prep Sink	Tell-Tale Drain
40	Lot	Wall-Mtd Shelf Unit	
41	1	3-Comp Scullery Sink	Tell-Tale Drain
42	2	Spray Rinse w/ Faucet	
43		Spare Number	
44	2	Stainless Steel Worktable	
45	1	Stainless Steel Worktable	
46		Spare Number	
47	1	Reach-in Freezer	
48	1	Walk-in Cooler	
49	Lot	Walk-in Shelf Unit	
50	Lot	Wire Shelf Unit	
51	Lot	Pallet / Dunnage Rack	
52	1	Bag 'n' Box System	
53		Spare Number	
54		Spare Number	
55		Disposer	
56		Spare Number	
57		Spare Number	
58		Spare Number	
59		Spare Number	
60		Spare Number	
61	1	Ice Machine	
62	1	Floor-Mtd Mop Sink	
63	1	Mop Rack w/ Shelf	
64		Spare Number	
65		Spare Number	
66		Spare Number	
67		Spare Number	
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78		Spare Number	
79		Spare Number	
80		Spare Number	

Walk-in cooler/freezer must be NSF approved to include all components (compressor and condenser). Walls and ceiling must be a minimum of aluminum finish. Floor must be quarry tile or stainless steel. Seal area from the top of the cooler to ceiling or room (egg crate type of material may be used). Shelving must be NSF approved for coolers/freezers. Exterior walls must be stainless steel or approved equal where food preparation occurs against the cooler/freezer wall. Ref. MN Food Code 4626.0505

Provide Environmental Health Plan Review application with submittal

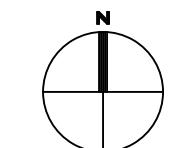
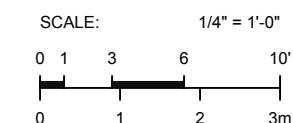
Provide specifications for all proposed equipment

Provide 2 complete sets of plans, including Plumbing, Electrical and HVAC to the Environmental Health Division for review

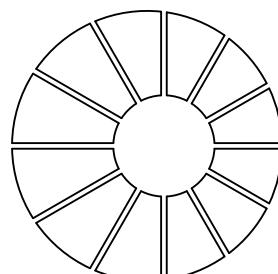

**NOTES:**

01. All work must be performed in compliance with State and Local Codes and Ordinances.
02. Mechanical and Electrical work shall be performed on a Design-Build basis. Any engineering required to obtain permits shall be provided by the Mechanical and Electrical Subcontractors at their expense.
03. All food service equipment must be NSF approved (or equivalent) and bear the NSF seal.
04. Any used equipment items must be in like-new condition, field inspected and approved by the Health Department prior to use.
05. All new food service equipment will be furnished to the job site by the Owner unless otherwise noted.
06. All new food service equipment shall be unpacked, set in place and connected by the Contractor unless otherwise noted.
07. Verify all finishes and colors with the Owner.
08. All food preparation areas shall have 6x6 quarry tile flooring with INTEGRAL coved base.
09. All walls in food preparation areas shall be finished with 'Kemlite Glasbord-P' FRP panels, # BES385PI White, from quarry tile base to suspended ceiling.
10. Suspended ceiling in food preparation areas shall be 'U.S. Gypsum' # 3270, 2x4' vinyl-wrapped gypsum panels. Color: White Stipple finish with matching grid system.
11. All lights in food preparation areas shall be 2x4' recessed fluorescent fixtures with acrylic lenses.
12. Custom cabinets with laminate finish shall have all surfaces and edges finished. All cabinet interiors shall have # S-463 Antique White Melamine finish, including edges, slots and holes for plumbing and electrical connections and switches.
13. Verify all finishes and colors with the Owner.

Although every effort is made to provide accurate drawings and specifications for the Project, some discrepancies may occur or conditions be discovered that change the dimensions as shown. Field verify the accuracy of all space dimensions and report any discrepancies in the plans and specifications to DISENOS for correction or clarification.



PROJECT  
6600 PENN AVENUE SOUTH  
RICHFIELD, MINNESOTA  
PIN: PROJECT AREA:  
YEAR CONSTRUCTED:  
**K 101**



**DISEÑOS**

P O BOX 26455

ST. LOUIS PARK , MN 55426

T 612.309.1234

DISENOS@ParkAtelier.com

J W Mc ELMURY © 2017

PROJECT NO:

ISSUE DATE:

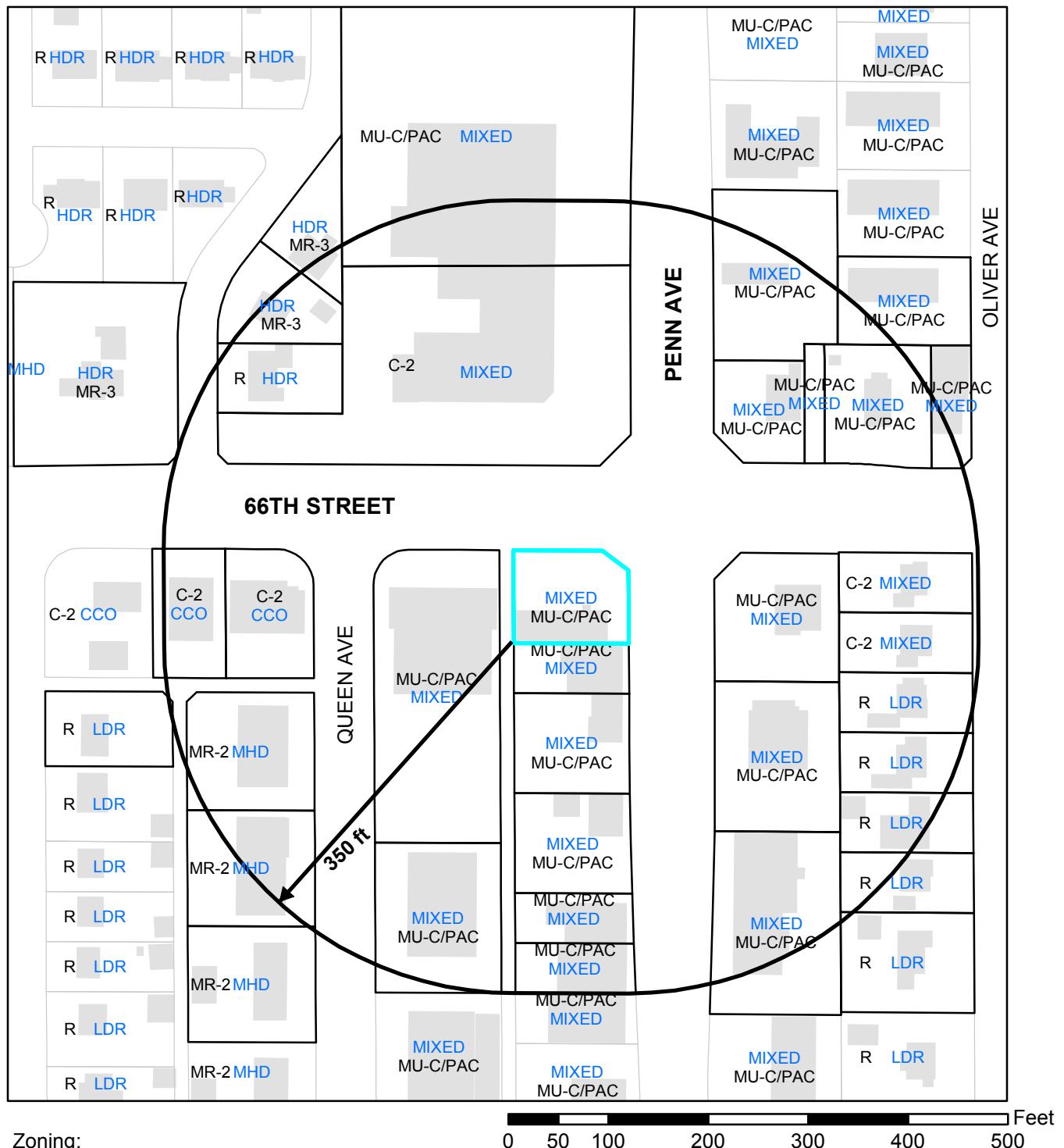
18 DEC 17

16 JAN 18

18 JAN 18

# 6600 Penn Avenue SP & VAR - 04/2018

## Surrounding Zoning & Comprehensive Plan



Zoning:  
 MU-C - Mixed-Use Community  
 PAC - Penn Avenue Corridor Overlay  
 C-2 - General Commercial  
 MR-3 - High-density residential  
 MR-2 - Multi-family residential  
 R - Single Family Residential

Comp Plan:  
 MIXED - Mixed-Use  
 CCO - Community Commercial/Office  
 MHD - Medium Density Residential  
 LDR - Low Density Residential



AGENDA SECTION: PUBLIC HEARINGS  
AGENDA ITEM #: 6.

**STAFF REPORT NO. 81**  
**CITY COUNCIL MEETING**  
**5/8/2018**

REPORT PREPARED BY: Matt Brillhart, Associate Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
5/1/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/2/2018

**ITEM FOR COUNCIL CONSIDERATION:**

Public hearing and consideration of the approval of a resolution approving a final plat of "Nora Corner" that will combine four parcels (6529 and 6545 Penn Avenue, and 2208 and 2210 66th Street West) into three parcels, in order to allow construction of a previously approved restaurant (Dunkin Donuts).

**EXECUTIVE SUMMARY:**

The City Council approved land use plans for a Dunkin Donuts restaurant at 6529 Penn Avenue, including improvements to the adjacent property at 6545 Penn Avenue, on October 24, 2017. The applicant (Penn Avenue Partners II, LLC) owns four contiguous parcels at the northeast corner of 66th Street and Penn Avenue, all of which are unplatteable land. They are now proposing to plat and combine that land into three parcels. These parcels would correspond to the Dunkin Donuts at 6529 Penn Avenue, the former Flowerama building at 6545 Penn Avenue, and the Aida restaurant at 2208 66th Street West.

All comments from the City Attorney's Office, Richfield Public Works, and Hennepin County have been addressed or included as stipulations in the resolution.

**RECOMMENDED ACTION:**

Conduct and close a public hearing and by motion: Approve a resolution granting approval of final plat of "Nora Corner" that will combine four parcels (6529 and 6545 Penn Avenue, and 2208 and 2210 66th Street West) into three parcels, in order to allow construction of a previously approved restaurant (Dunkin Donuts).

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- None

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- All plats or subdivisions of land must be approved by City Council resolution, pursuant to the provisions of Minnesota State Statutes 462.357.

C. **CRITICAL TIMING ISSUES:**

- Per State Statute, the City has 120 days from the date of submittal of a complete application to issue a decision regarding plat unless the applicant agrees to an extension.

- A complete application was received on April 23, 2018. The Council must render a decision by August 21, 2018.

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- Notice of this public hearing was published in the Richfield Sun Current newspaper.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Karla Carlson, Capital Real Estate, Inc.

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Resolution	Resolution Letter
<input type="checkbox"/> Plat	Backup Material

**RESOLUTION NO.**

**RESOLUTION GRANTING PRELIMINARY APPROVAL  
OF A PLAT FOR NORA CORNER**

**WHEREAS**, Penn Avenue Partners II, LLC ("Applicant") has requested final approval of a plat that combines and resubdivides properties located at 6529 Penn Avenue, 6545 Penn Avenue, 2208 66th Street West and 2210 66th Street West, legally described in the attached Exhibit A; and

**WHEREAS**, the proposed subdivision is to be known as NORA CORNER; and

**WHEREAS**, a public hearing was held on the proposed final plat of NORA CORNER on Tuesday, May 8, 2018 at which all interested persons were given the opportunity to be heard; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Richfield, as follows:

1. The proposed plat of NORA CORNER satisfies the requirements of the City's subdivision ordinances.
2. Final approval of the plat of NORA CORNER is granted with the following conditions:
  - a. Satisfaction (subject to City Attorney approval) of all items identified in the City Attorney's plat opinion letter dated March 1, 2018.
  - b. Compliance with any other applicable requirements of the Richfield City Code.
  - c. Compliance with the requirements of the Hennepin County plat review letter dated March 7, 2018.
  - d. The Applicant must submit two mylar copies of the plat for signature by the City.
  - e. The Applicant must file the final plat with the Hennepin County Recorder or Registrar of Titles within 30 days of the approval of this resolution.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of May, 2018.

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk

## EXHIBIT A

### DESCRIPTION OF PROPERTY SURVEYED

(Per Certificate of Title No. 1195401)

Parcel 1:

That part of the West 166 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, lying North of the South 175 feet thereof; and

The North 17 feet of the South 175 feet of the West 133 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, in the Village of Richfield, Hennepin County, Minnesota.

Parcel 2:

The East 20 feet of the West 153 feet of the South 175 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, in the Village of Richfield, Hennepin County, Minnesota.

Parcel 3:

The South 158 feet of the West 133 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24.

Subject to the right of way of Penn Avenue South over the Westerly 33 feet thereof, as shown in deed Doc. No. 851523; (as to Parcel 1)

Subject to the right of way of West 66th Street over the Southerly 33 feet thereof, as shown in deed Doc. No. 851523; (as to Par 2)

AND

(Per Certificate of Title No. 1195402)

That part of the South 175 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, lying East of the West 153 feet thereof and lying West of the East 70 feet thereof, in the Village of Richfield, Hennepin County, Minnesota.

Subject to the right of way of West 66th Street over the Southerly 33 feet of the premises, as shown in deed Doc No. 1089259;

# NORA CORNER

R.T. DOC. NO. \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS: That Penn Avenue Partners II, LLC, a Delaware limited liability company, owner and proprietor of the following described property situated in the County of Hennepin, State of Minnesota, to wit:

That part of the West 166 feet of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, lying North of the South 175 feet thereof;

AND

The North 17 feet of the South 175 feet of the West 133 feet of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, in the Village of Richfield, Hennepin County, Minnesota.

AND

The East 20 feet of the West 153 feet of the South 175 feet of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, in the Village of Richfield, Hennepin County, Minnesota.

AND

The South 158 feet of the West 133 feet of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24.

AND

That part of the South 175 feet of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, lying East of the West 153 feet thereof and lying West of the East 70 feet thereof, in the Village of Richfield, Hennepin County, Minnesota.

Has caused the same to be surveyed and platted as NORA CORNER and does hereby dedicate to the public, for public use the public ways and the drainage and utility easements as created by this plat.

In witness whereof said Penn Avenue Partners II, LLC, a Delaware limited liability company, has caused these presents to be signed by its proper officer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SIGNED: \_\_\_\_\_ its \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ the \_\_\_\_\_, of Penn Avenue Partners II, LLC, a Delaware limited liability company, on behalf of said company.

\_\_\_\_\_

Notary Public, \_\_\_\_\_ County, \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Arlee J. Carlson, Licensed Land Surveyor  
Minnesota License No. 44900

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Arlee J. Carlson.

\_\_\_\_\_

Notary Public, \_\_\_\_\_ County, Minnesota  
My Commission Expires \_\_\_\_\_

RICHFIELD, MINNESOTA

This plat of NORA CORNER was approved and accepted by the City Council of Richfield, Minnesota, at a regular meeting thereof held this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. If applicable, the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the City or the prescribed 30 day period has elapsed without receipt of such comments and recommendations, as provided by Minn. Statutes, Section 505.03, Subd. 2.

CITY COUNCIL OF RICHFIELD, MINNESOTA

BY: \_\_\_\_\_ Mayor

BY: \_\_\_\_\_ Manager

RESIDENT AND REAL ESTATE SERVICES, Hennepin County, Minnesota

I hereby certify that taxes payable in 20\_\_\_\_ and prior years have been paid for land described on this Plat, dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Mark V. Chapin, Hennepin County Auditor

BY: \_\_\_\_\_ Deputy

SURVEY DIVISION, Hennepin County, Minnesota

Pursuant to Minnesota Statutes, Sec. 383B.565 (1969), this plat has been approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Chris F. Mavis, County Surveyor

BY: \_\_\_\_\_

REGISTRAR OF TITLES, Hennepin County, Minnesota

I hereby certify that the within plat of NORA CORNER was filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock M.

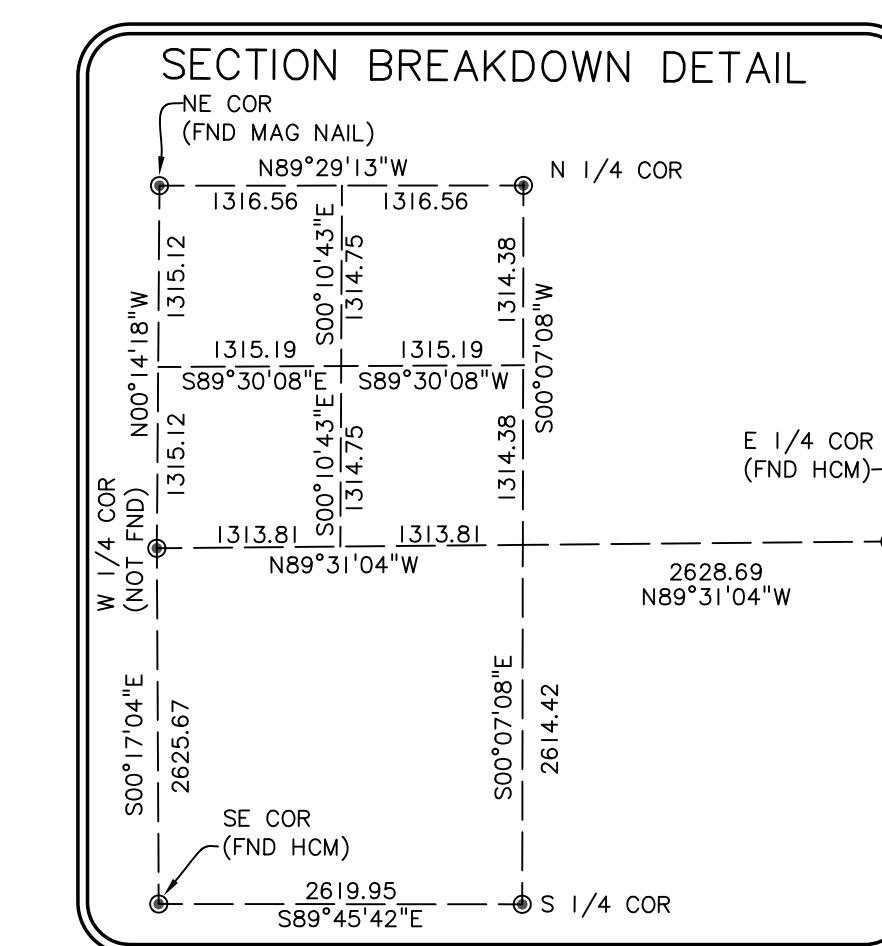
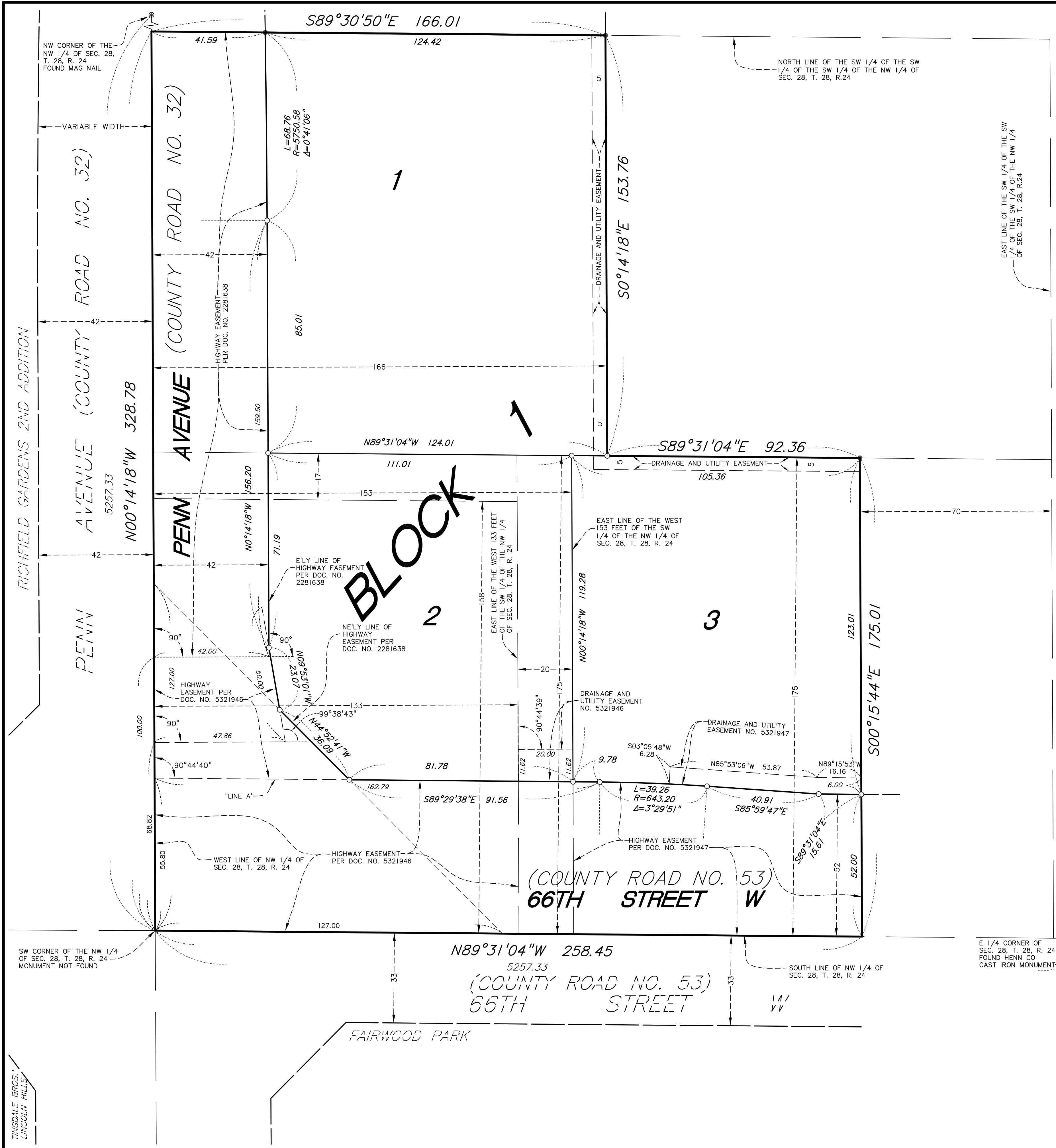
Martin McCormick, Registrar of Titles

BY: \_\_\_\_\_ Deputy

# *NORA CORNER*

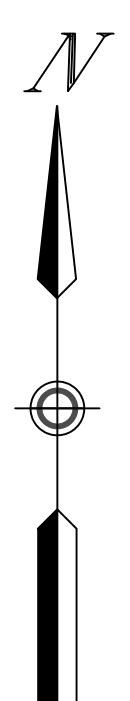
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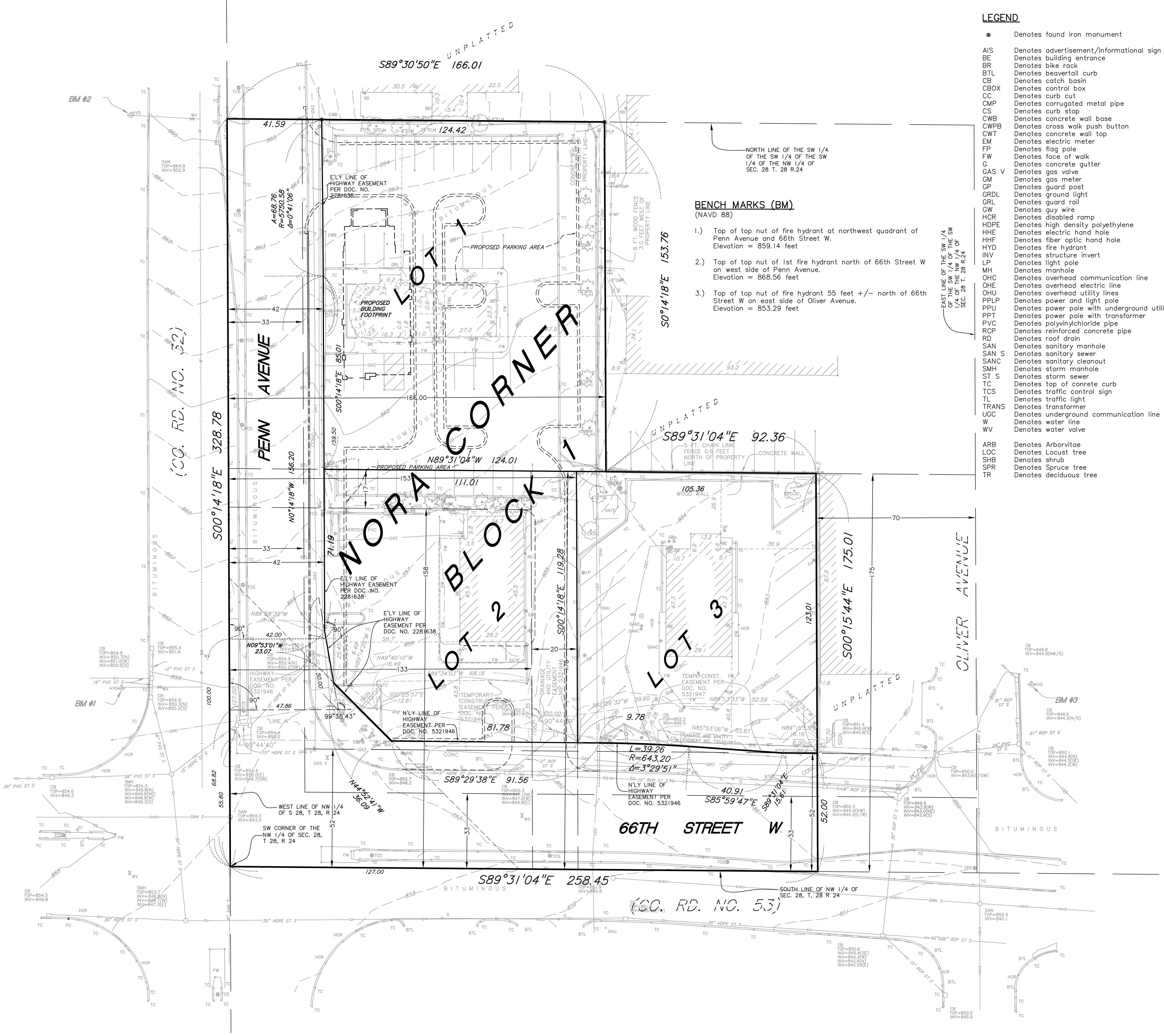
R.T. DOC. NO.



- Denotes iron monument set, marked with PLS 44900.
  - Denotes iron monument found.

FOR THE PURPOSES OF THIS PLAT, THE SOUTH LINE OF  
THE NW 1/4 OF SEC. 28, T. 28, R. 24 IS ASSUMED TO  
BEAR N89°31'04" W





## LEGEND

- |       |   |   |
|-------|---|---|
|       | ● | Denotes found iron monument                 |
| AIS   |   | Denotes advertisement/informational sign    |
| BE    |   | Denotes building entrance                   |
| BR    |   | Denotes bike rack                           |
| BTL   |   | Denotes beavertail curb                     |
| CB    |   | Denotes catch basin                         |
| CBOX  |   | Denotes control box                         |
| CC    |   | Denotes curb cut                            |
| CMP   |   | Denotes corrugated metal pipe               |
| CS    |   | Denotes curb stop                           |
| CWB   |   | Denotes concrete wall base                  |
| CWPB  |   | Denotes cross walk push button              |
| CWT   |   | Denotes concrete wall top                   |
| EM    |   | Denotes electric meter                      |
| FP    |   | Denotes flag pole                           |
| FW    |   | Denotes face of walk                        |
| G     |   | Denotes concrete gutter                     |
| GAS V |   | Denotes gas valve                           |
| GM    |   | Denotes gas meter                           |
| GP    |   | Denotes guard post                          |
| GRDL  |   | Denotes ground light                        |
| GRL   |   | Denotes guard rail                          |
| GW    |   | Denotes guy wire                            |
| HCR   |   | Denotes disabled ramp                       |
| HDPE  |   | Denotes high density polyethylene           |
| HHE   |   | Denotes electric hand hole                  |
| HHF   |   | Denotes fiber optic hand hole               |
| HYD   |   | Denotes fire hydrant                        |
| INV   |   | Denotes structure invert                    |
| LP    |   | Denotes light pole                          |
| MH    |   | Denotes manhole                             |
| OHC   |   | Denotes overhead communication line         |
| OHE   |   | Denotes overhead electric line              |
| OHU   |   | Denotes overhead utility lines              |
| PPLP  |   | Denotes power and light pole                |
| PPU   |   | Denotes power pole with underground utility |
| PPT   |   | Denotes power pole with transformer         |
| PVC   |   | Denotes polyvinylchloride pipe              |
| RCP   |   | Denotes reinforced concrete pipe            |
| RD    |   | Denotes roof drain                          |
| SAN   |   | Denotes sanitary manhole                    |
| SAN S |   | Denotes sanitary sewer                      |
| SANC  |   | Denotes sanitary cleanout                   |
| SMH   |   | Denotes storm manhole                       |
| ST S  |   | Denotes storm sewer                         |
| TC    |   | Denotes top of concrete curb                |
| TCS   |   | Denotes traffic control sign                |
| TL    |   | Denotes traffic light                       |
| TRANS |   | Denotes transformer                         |
| UGC   |   | Denotes underground communication line      |
| W     |   | Denotes water line                          |
| WV    |   | Denotes water valve                         |
| ARB   |   | Denotes Arborvitae                          |
| LOC   |   | Denotes Locust tree                         |
| SHB   |   | Denotes shrub                               |
| SPR   |   | Denotes Spruce tree                         |
| TR    |   | Denotes deciduous tree                      |

DESCRIPTION OF PROPERTY SURVEYED

(Per Certificate of Title No. 1195401)

## Parcel I:

That part of the West 166 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, lying North of the South 175 feet thereof; and  
The North 17 feet of the South 175 feet of the West 133 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, in the Village of Richfield, Hennepin County, Minnesota.

## Parcel 2:

The East 20 feet of the West 153 feet of the South 175 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, in the Village of Richfield, Hennepin County, Minnesota.

### Parcel 3:

The South 158 feet of the West 133 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24.

Subject to the right of way of Penn Avenue South over the Westerly 33 feet thereof, as shown in deed Doc. No. 851523; (as to Parcel 1)

Subject to the  
deed Doc. No.

AND

(Per Certificate of Title No. 1195402)

That part of the South 175 feet of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, lying East of the West 153 feet thereof and lying West of the East 70 feet thereof, in the Village of Richfield, Hennepin County, Minnesota.

Subject to the right of way of West 66th Street over the Southerly 33 feet of the premises, as shown in deed Doc No. 1089259;

## TITLE COMMITMENT

This survey was prepared without the benefit of current title work. Easements, appurtenances, and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a current title insurance commitment or attorney's title opinion.

## GENERAL NOTES

- 1.) Survey coordinate basis: Hennepin County Coordinate System NAD 83 (1986)
  - 2.) There were no wetland delineation markers observed in the process of conducting the fieldwork

## UTILITY NOTES

- 1.) Utility information from plans and markings was combined with observed evidence of utilities to develop a view of the underground utilities shown hereon. However, lacking excavation, the exact location of underground features cannot be accurately, completely and reliably depicted. In addition, Gopher State One Call locate requests from surveyors may be ignored or result in an incomplete response. Where additional or more detailed information is required, excavation and/or a private utility locate request may be necessary.
  - 2.) Other underground utilities of which we are unaware may exist. Verify all utilities critical to construction or design.
  - 3.) Some underground utility locations are shown as marked onsite by those utility companies whose locators responded to our Gopher State One Call, ticket numbers 173351277, 173351280, 173351287 & 173351293.
  - 4.) Contact GOPHER STATE ONE CALL at 651-454-0002 (800-252-1166) for precise onsite location of utilities prior to any excavation.

## AREAS

Proposed Lot 1 = 19,076 square feet or 0.438 acres  
Proposed Lot 2 = 12,774 square feet or 0.293 acres  
Proposed Lot 3 = 12,745 square feet or 0.293 acres  
Right of Way = 26,152 square feet or 0.600 acres  
Gross Area = 70,747 square feet or 1.624 acres

## OWNER AND SUBDIVIDER

Penn Avenue Partners II LLC  
50 South Sixth Street, Suite 1480  
Minneapolis MN 55402

Contact: Karla R. Carlson  
Phone: 612-313-0129

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.

dated this 29th day of December 2017

INDE LAND-SURVEYING LTD

y: Arlee J. Carlson Minn. Lic. No. 44900

<i>Revision</i>	<i>By</i>	<i>Date</i>
<b>MAP</b>		
<i>Drawing Title:</i>		
<p><b>PRELIMINARY PLAT OF NORA CORNER</b></p>		
 <b>SUNDE</b> <b>LAND SURVEYING</b> <a href="http://www.sunde.com">www.sunde.com</a>		
<b>Main Office:</b> 9001 East Bloomington Freeway (35W) • Suite 118 Bloomington, Minnesota 55420-3435 952-881-2455 (Fax: 952-888-9526)		
<i>Project:</i> 2017-227	<i>Bk/Pg:</i> 650/61	<i>Date:</i> 12/29/2017
<i>Township:</i> 28	<i>Range:</i> 24	<i>Section:</i> 28
<i>File:</i> 2017227001.dwg		<i>Sheet:</i> 1 of 1



AGENDA SECTION:

RESOLUTIONS

AGENDA ITEM #

7.

## STAFF REPORT NO. 82 **CITY COUNCIL MEETING**

**5/8/2018**

REPORT PREPARED BY: Chris Regis, Finance Manager

DEPARTMENT DIRECTOR REVIEW: Steven L. Devich, City Manager  
5/2/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/2/2018

### **ITEM FOR COUNCIL CONSIDERATION:**

**Consideration of the approval of a resolution awarding the sale of \$9,975,000 General Obligation Street Reconstruction Bonds, Series 2018A.**

### **EXECUTIVE SUMMARY:**

Included within the City's 5-Year Street Reconstruction Plan, adopted by the City Council on April 12, 2016, are two projects, the reconstruction of 66th Street and the six year Mill and Overlay project.

The 66th Street project is a county road project and 2018 will be year two of construction. The project is estimated to cost \$61,292,000. The City's cost share includes 25% of road construction, 66% of storm sewer, 100% of water/sewer utility replacement, and any additional streetscape elements not cost shared by the County. The project includes reconstruction of failing pavement, the replacement of City utilities, undergrounding of parallel overhead utility lines, and improved bicycle and pedestrian accommodations. The project also addresses safety and traffic flow concerns through the use of additional medians and roundabouts. Funding for the 66th Street project is to be provided by the combination of the issuance of street reconstruction bonds, Municipal State Aid, Federal grants, County and local funding and utility rate payers.

The six year residential mill & overlay project will be entering the fourth year of the project in 2018. The overall project is estimated to cost \$19,500,000 over the six year project period.

The City previously issued the \$9,130,000 G.O. Street Reconstruction Bonds, Series 2017A for the 66th Street project and the \$9,100,000 G.O. Street Reconstruction Bonds, Series 2015A, of which \$5,085,000 was the Mill & Overlay project portion.

The debt service on the \$9,975,000 Series 2018A bonds will be split between a debt service tax levy and gas and electric franchise fees. \$4,070,000 of the bonds will be paid by debt service tax levies, while the remaining \$5,905,000 of the bonds will be repaid by gas and electric franchise fees. The term of the bonds will be twenty (20) years.

The estimated annual increase in taxes from the \$4,070,000 portion of the Series 2018A bonds, for a residential property valued at \$200,000 will be approximately \$17.68.

The annual amount paid by a residential home in Richfield for gas and electric franchise fees is \$98.40.

Bids on the 2018A General Obligation Improvement Bonds are due in the offices of Ehlers & Associates, Inc. on Tuesday May 8, 2018. A representative from Ehlers & Associates, Inc. will be at the City Council meeting to recommend the successful bidder and review attached documents, and provide information that is absent from the resolution and available only after the bidding on the bonds has closed.

Following Ehlers & Associates, Inc. recommendation it would be appropriate for the City Council to award the bond sale to the qualified buyer and undertake other related actions as necessary as delineated in the approving resolution. The anticipated closing on the 2018A Bonds is scheduled for May 31, 2018.

### **RECOMMENDED ACTION:**

**By motion: Approve a resolution awarding the sale of General Obligation Street Reconstruction Bonds, Series 2018A, in the original aggregate principal amount of \$9,975,000; fixing their form and specifications; directing their execution and delivery; and providing for their payment.**

### **BASIS OF RECOMMENDATION:**

#### **A. HISTORICAL CONTEXT**

- The call for the sale of the bonds was approved by the City Council at the April 10, 2018 City Council meeting.
- The mill & overlay program is an initiative to perform major maintenance on the City's residential roads, which were originally constructed in the mid 1970's.
- Eight-five (85) miles of residential roads will be completed over the six year project period.
- The project also includes utility and concrete curb and gutter repairs and maintenance.

#### **B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The 66th Street Reconstruction project and the Mill & Overlay project are part of the 5-Year Street Reconstruction Plan approved by the City Council on April 12, 2016.

#### **C. CRITICAL TIMING ISSUES:**

- Construction for the 66th Street project is expected to resume mid-April, 2018, while the Mill & Overlay program will resume in May of 2018. Therefore, it is important to have the necessary financing in place.

#### **D. FINANCIAL IMPACT:**

- The estimated total cost of the six year mill & overlay program is \$19,500,000.
- Funding for the program is to be provided by street reconstruction bonds and gas and electric franchise fees. Estimated funding and costs is as follows:

2015A Street Reconstruction Bonds (Net of Par)	\$5,000,000
2018A Street Reconstruction Bonds (Net of Par)	5,800,000
Gas and Electric Franchise Fees	8,700,000
<b>Total Funding</b>	<b>\$19,500,000</b>
Mill & Overlay	\$14,800,000
Utility	4,700,000
<b>Total Project Cost</b>	<b>\$19,500,000</b>

- The estimated total cost of the 66th Street Reconstruction Project is \$61,292,000.
- Funding for the project will be provided as follows:

Street Reconstruction Bonds (Net of Par)	\$15,200,000
Municipal State Aid	8,200,000
Federal Funds	9,632,000
Hennepin County	26,500,000
Overhead Utility Rate Payers	1,325,000

Other	435,000
<b>Total Funding</b>	<b>\$61,292,000</b>

- The par amount of the Series 2018A bonds to be issued is \$9,975,000.
- The debt service on the Mill & Overlay portion of the bonds will be paid from gas and electric franchise fee collections, while the 66th Street Reconstruction portion will be provided from an annual debt service tax levy.
- The average annual estimated tax levy will be \$293,392.
- The estimated annual increase in taxes due to the issuance of these bonds for a residential property valued at \$200,000 will be approximately \$17.68.
- The annual amount paid by a residential home in Richfield for gas and electric franchise fees is \$98.40.
- The final bonding for the 66th Street Reconstruction project will occur in 2019.

**E. LEGAL CONSIDERATION:**

- Legal counsel has been involved in the bond sale transactions as bond counsel to the City.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Rebecca Kurtz, Ehlers & Associates, Inc.

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Resolution Series 2018A Bonds	Resolution Letter
<input type="checkbox"/> S&P Rating Report	Exhibit

Extract of Minutes of Meeting  
of the City Council of the City of  
Richfield, Hennepin County, Minnesota

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Richfield, Minnesota, was duly held in the Municipal Center in said City on Tuesday, May 8, 2018, commencing at 7:00 P.M.

The following members were present:

and the following were absent:

\* \* \*                    \* \* \*                    \* \* \*

The Mayor announced that the next order of business was consideration of the proposals which had been received for the purchase of the City's General Obligation Street Reconstruction Bonds, Series 2018A, to be issued in the aggregate principal amount of \$9,975,000.

The City Manager presented a tabulation of the proposals that had been received in the manner specified in the Terms of Proposal for the Bonds. The proposals were as set forth in EXHIBIT A attached.

After due consideration of the proposals, Mayor \_\_\_\_\_ then introduced the following written resolution, the reading of which was dispensed with by unanimous consent, and moved its adoption:

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AWARDING THE SALE OF GENERAL OBLIGATION STREET RECONSTRUCTION BONDS, SERIES 2018A, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$9,975,000; FIXING THEIR FORM AND SPECIFICATIONS; DIRECTING THEIR EXECUTION AND DELIVERY; AND PROVIDING FOR THEIR PAYMENT**

BE IT RESOLVED By the City Council of the City of Richfield, Hennepin County, Minnesota (the "City") as follows:

Section 1. Sale of Bonds.

1.01. Authority.

(a) Pursuant to Minnesota Statutes, Chapter 475, as amended, specifically Section 475.58, subdivision 3b (the "Act"), the City is authorized to finance all or a portion of the cost of street reconstruction projects by the issuance of general obligation bonds of the City payable from ad valorem taxes.

(b) On April 12, 2016, following a duly noticed public hearing, the City Council of the City adopted a five-year street reconstruction plan (the "Plan") describing the streets to be reconstructed, estimated costs, and any planned reconstruction of other streets in the City and approved the issuance of obligations by vote of all of the members thereof, all pursuant to the Act.

(c) Expenditures described in the Plan for 2018 include, among other projects, the reconstruction of 66<sup>th</sup> Street and residential mill and overlay projects (the "Street Reconstruction"). The City estimates that the total cost of the Street Reconstruction for 2018 is \$9,975,000, including capitalized interest, costs of issuance, and bond discount.

(d) The City Council has determined that, within thirty (30) days after the hearing, no petition for a referendum on the issuance of bonds to pay costs of the Street Reconstruction was received by the City in accordance with the Act.

(e) The City Council finds it necessary and expedient to the sound financial management of the affairs of the City to issue its General Obligation Street Reconstruction Bonds, Series 2018A (the "Bonds"), in the original aggregate principal amount of \$9,975,000, pursuant to the Act, to provide financing for the Street Reconstruction.

(f) The City is authorized by Section 475.60, subdivision 2(9) of the Act to negotiate the sale of the Bonds, it being determined that the City has retained an independent municipal advisor in connection with such sale. The actions of the City staff and municipal advisor in negotiating the sale of the Bonds are ratified and confirmed in all aspects.

1.02. Award to the Purchaser and Interest Rates. The proposal of \_\_\_\_\_ (the "Purchaser") to purchase the Bonds is hereby found and determined to be a reasonable offer and is hereby accepted, the proposal being to purchase the Bonds at a price of \$\_\_\_\_\_ (par amount of \$9,975,000, plus original issue premium of \$\_\_\_\_\_),] [less original issue discount \$\_\_\_\_\_] less

underwriter's discount of \$ \_\_\_\_\_), plus accrued interest to date of delivery, if any, for Bonds bearing interest as follows:

Year	Interest Rate	Year	Interest Rate
2020	%	2030	%
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	
2029		2039	

True interest cost: \_\_\_\_\_%

1.03. Purchase Contract. The sum of \$ \_\_\_\_\_, being the amount proposed by the Purchaser in excess of \$9,875,250, shall be credited to the Debt Service Fund hereinafter created or deposited in the Construction Fund hereinafter created, as determined by the Finance Manager of the City in consultation with the City's municipal advisor. The Finance Manager is directed to retain the good faith check of the Purchaser, pending completion of the sale of the Bonds, and to return the good faith checks of the unsuccessful proposers. The Mayor and City Manager are directed to execute a contract with the Purchaser on behalf of the City.

1.04. Terms and Principal Amounts of the Bonds. The City will forthwith issue and sell the Bonds pursuant to the Act, in the total principal amount of \$9,975,000, originally dated May 31, 2018, in the denomination of \$5,000 each or any integral multiple thereof, numbered No. R-1, upward, bearing interest as above set forth, and maturing serially on February 1 in the years and amounts as follows:

Year	Amount	Year	Amount
2020	\$	2030	\$
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	
2029		2039	

1.05. Optional Redemption. The City may elect on February 1, 2027, and on any day thereafter to prepay Bonds due on or after February 1, 2028. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify DTC (as defined in Section 7 hereof) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

**[TO BE COMPLETED IF TERM BONDS ARE REQUESTED:** 1.06. Mandatory Redemption; Term Bonds. The Bonds maturing on February 1, 20\_\_\_\_ and February 1, 20\_\_\_\_ shall hereinafter be referred to collectively as the “Term Bonds.” The principal amount of the Term Bonds subject to mandatory sinking fund redemption on any date may be reduced through earlier optional redemptions, with any partial redemptions of the Term Bonds credited against future mandatory sinking fund redemptions of such Term Bonds in such order as the City shall determine. The Term Bonds are subject to mandatory sinking fund redemption and shall be redeemed in part at par plus accrued interest on February 1 of the following years and in the principal amounts as follows:]

Sinking Fund Installment Date

February 1, 20\_\_\_\_ Term Bond

Principal Amount

\* Maturity

February 1, 20\_\_\_\_ Term Bond

Principal Amount

\* Maturity

Section 2. Registration and Payment.

2.01. Registered Form. The Bonds will be issued only in fully registered form. The interest thereon and, upon surrender of each Bond, the principal amount thereof, is payable by check or draft issued by the Registrar described herein.

2.02. Dates; Interest Payment Dates. Each Bond will be dated as of the last interest payment date preceding the date of authentication to which interest on the Bond has been paid or made available for payment, unless (i) the date of authentication is an interest payment date to which interest has been paid or made available for payment, in which case the Bond will be dated as of the date of authentication, or (ii) the date of authentication is prior to the first interest payment date, in which case the Bond will be dated as of the date of original issue. The interest on the Bonds is payable on February 1 and August 1 of each year, commencing February 1, 2019, to the registered owners of record thereof as of the close of business on the fifteenth day of the immediately preceding month, whether or not such day is a business day.

2.03. Registration. The City will appoint a bond registrar, transfer agent, authenticating agent and paying agent (the “Registrar”). The effect of registration and the rights and duties of the City and the Registrar with respect thereto are as follows:

(a) Register. The Registrar must keep at its principal corporate trust office a bond register in which the Registrar provides for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender for transfer of a Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated

transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the fifteenth day of the month preceding each interest payment date and until that interest payment date.

(c) Exchange of Bonds. When Bonds are surrendered by the registered owner for exchange the Registrar will authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity as requested by the registered owner or the owner's attorney in writing.

(d) Cancellation. Bonds surrendered upon transfer or exchange will be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When a Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the Bond until the Registrar is satisfied that the endorsement on the Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name a Bond is registered in the bond register as the absolute owner of the Bond, whether the Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Bond and for all other purposes, and payments so made to a registered owner or upon the owner's order will be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. The Registrar may impose a charge upon the owner thereof for a transfer or exchange of Bonds sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. If a Bond becomes mutilated or is destroyed, stolen or lost, the Registrar will deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar an appropriate bond or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the City and the Registrar must be named as obligees. Bonds so surrendered to the Registrar will be cancelled by the Registrar and evidence of such cancellation must be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it is not necessary to issue a new Bond prior to payment.

(i) Redemption. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Registrar and by publishing the notice if required by law. Failure to give notice by publication or by mail to any registered owner, or any defect therein, will not affect the validity of the proceedings for the redemption of Bonds. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

2.04. Appointment of Initial Registrar. The City appoints Bond Trust Services Corporation, Roseville, Minnesota, as the initial Registrar. The Mayor and the City Manager are authorized to execute and deliver, on behalf of the City, a contract with the Registrar. Upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, the resulting corporation is authorized to act as successor Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed. The City reserves the right to remove the Registrar upon thirty (30) days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar must deliver all cash and Bonds in its possession to the successor Registrar and must deliver the bond register to the successor Registrar. On or before each principal or interest due date, without further order of the City Council, the Finance Manager must transmit to the Registrar moneys sufficient for the payment of all principal and interest then due.

2.05. Execution, Authentication and Delivery. The Bonds will be prepared under the direction of the Finance Manager and executed on behalf of the City by the signatures of the Mayor and the City Manager, provided that those signatures may be printed, engraved or lithographed facsimiles of the originals. If an officer whose signature or a facsimile of whose signature appears on the Bonds ceases to be such officer before the delivery of a Bond, that signature or facsimile will nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery. Notwithstanding such execution, a Bond will not be valid or obligatory for any purpose or entitled to any security or benefit under this resolution unless and until a certificate of authentication on the Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on a Bond is conclusive evidence that it has been authenticated and delivered under this resolution. When the Bonds have been so prepared, executed and authenticated, the Finance Manager will deliver the same to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Purchaser is not obligated to see to the application of the purchase price.

2.06. Temporary Bonds. The City may elect to deliver in lieu of printed definitive Bonds one or more typewritten temporary Bonds in substantially the form set forth in EXHIBIT B attached hereto with such changes as may be necessary to reflect more than one maturity in a single temporary bond. Upon the execution and delivery of definitive Bonds the temporary Bonds will be exchanged therefor and cancelled.

Section 3.       Form of Bond.

3.01. Execution of the Bonds. The Bonds will be printed or typewritten in substantially the form set forth in EXHIBIT B.

3.02. Approving Legal Opinion. The City Manager is authorized and directed to obtain a copy of the proposed approving legal opinion of Kennedy & Graven, Chartered, Minneapolis, Minnesota, and cause the opinion to be printed on or accompany each Bond.

Section 4. Payment; Security; Pledges and Covenants.

4.01. Debt Service Fund. The Bonds will be payable from the General Obligation Street Reconstruction Bonds, Series 2018A Debt Service Fund (the “Debt Service Fund”) hereby created. The Debt Service Fund shall be administered and maintained by the Finance Manager as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The Finance Manager shall timely deposit in the Debt Service Fund the ad valorem taxes levied herein (the “Taxes”), which Taxes are pledged to the Debt Service Fund. There is also appropriated to the Debt Service Fund (i) capitalized interest financed from the proceeds of the Bonds, if any; and (ii) amounts over the minimum purchase price paid by the Purchaser, to the extent designated for deposit in the Debt Service Fund in accordance with Section 1.03 hereof.

4.02. Construction Fund. The City hereby creates the General Obligation Street Reconstruction Bonds, Series 2018A Construction Fund (the “Construction Fund”). Proceeds of the Bonds, less the appropriations made in Section 4.01 hereof, together with the Taxes and any other funds appropriated for the Street Reconstruction collected during construction, will be deposited in the Construction Fund to be used solely to defray expenses of the Street Reconstruction and the payment of principal and interest on the Bonds prior to the completion and payment of all costs of the Street Reconstruction. When the Street Reconstruction is completed and the cost thereof paid, the Construction Fund is to be closed and any funds remaining may be deposited in the Debt Service Fund.

4.03. General Obligation Pledge. For the prompt and full payment of the principal of and interest on the Bonds, as the same respectively become due, the full faith, credit and taxing powers of the City will be and are hereby irrevocably pledged. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds and any other bonds payable therefrom, the deficiency will be promptly paid out of monies in the general fund of the City which are available for such purpose, and such general fund may be reimbursed with or without interest from the Debt Service Fund when a sufficient balance is available therein.

4.04. Pledge of Tax Levy. For the purpose of paying the principal of and interest on the Bonds, there is levied a direct annual irrepealable ad valorem tax upon all of the taxable property in the City, which will be spread upon the tax rolls and collected with and as part of other general taxes of the City. The Taxes will be credited to the Debt Service Fund above provided and will be in the years and amounts as attached hereto as EXHIBIT C.

4.05. Certification to Taxpayer Services Division Manager as to Debt Service Fund Amount. It is hereby determined that the estimated collections of Taxes will produce at least five percent (5%) in excess of the amount needed to meet when due the principal and interest payments on the Bonds. The tax levy herein provided is irrepealable until all of the Bonds are paid, provided that at the time the City makes its annual tax levies the Finance Manager may certify to the Taxpayer Services Division Manager of Hennepin County, Minnesota (the “Taxpayer Services Division Manager”) the amount available in the Debt Service Fund to pay principal and interest due during the ensuing year, and the Taxpayer Services Division Manager will thereupon reduce the levy collectible during such year by the amount so certified.

4.06. Registration of Resolution. The City Manager is authorized and directed to file a certified copy of this resolution with the Taxpayer Services Division Manager and to obtain the certificate required by Section 475.63 of the Act.

Section 5. Authentication of Transcript.

5.01. City Proceedings and Records. The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the Bonds, certified copies of proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other certificates, affidavits and transcripts as may be required to show the facts within their knowledge or as shown by the books and records in their custody and under their control, relating to the validity and marketability of the Bonds, and such instruments, including any heretofore furnished, will be deemed representations of the City as to the facts stated therein.

5.02. Certification as to Official Statement. The Mayor, the City Manager, and the Finance Manager are authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as of the date of the Official Statement.

5.03. Other Certificates. The Mayor, the City Manager, and the Finance Manager are hereby authorized and directed to furnish to the Purchaser at the closing such certificates as are required as a condition of sale. Unless litigation shall have been commenced and be pending questioning the Bonds or the organization of the City or incumbency of its officers, at the closing the Mayor, the City Manager, and the Finance Manager shall also execute and deliver to the Purchaser a suitable certificate as to absence of material litigation, and the Finance Manager shall also execute and deliver a certificate as to payment for and delivery of the Bonds.

5.04. Payment of Costs of Issuance. The City authorizes the Purchaser to forward the amount of Bond proceeds allocable to the payment of issuance expenses to KleinBank, Chaska, Minnesota on the closing date for further distribution as directed by the City's municipal advisor, Ehlers & Associates, Inc.

Section 6. Tax Covenant.

6.01. Tax-Exempt Bonds. The City covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder, in effect at the time of such actions, and that it will take or cause its officers, employees or agents to take, all affirmative action within its power that may be necessary to ensure that such interest will not become subject to taxation under the Code and applicable Treasury Regulations, as presently existing or as hereafter amended and made applicable to the Bonds.

6.02. Rebate. The City will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income of the interest on the Bonds under Section 103 of the Code, including without limitation requirements relating to temporary periods for investments, limitations on amounts invested at a yield greater than the yield on the Bonds, and the rebate of excess investment earnings to the United States.

6.03. Not Private Activity Bonds. The City further covenants not to use the proceeds of the Bonds or to cause or permit them or any of them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

6.04. **Qualified Tax-Exempt Obligations.** In order to qualify the Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code, the City makes the following factual statements and representations:

- (a) the Bonds are not “private activity bonds” as defined in Section 141 of the Code;
- (b) the City designates the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code;
- (c) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds that are not qualified 501(c)(3) bonds) which will be issued by the City (and all subordinate entities of the City) during calendar year 2018 will not exceed \$10,000,000; and
- (d) not more than \$10,000,000 of obligations issued by the City during calendar year 2018 have been designated for purposes of Section 265(b)(3) of the Code.

6.05. **Procedural Requirements.** The City will use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designations made by this section.

#### Section 7. **Book-Entry System; Limited Obligation of City.**

7.01. **DTC.** The Bonds will be initially issued in the form of a separate single typewritten or printed fully registered Bond for each of the maturities set forth in Section 1.04 hereof. Upon initial issuance, the ownership of each Bond will be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, and its successors and assigns (“DTC”). Except as provided in this section, all of the outstanding Bonds will be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC.

7.02. **Participants.** With respect to Bonds registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, the City, the Registrar and the Paying Agent will have no responsibility or obligation to any broker dealers, banks and other financial institutions from time to time for which DTC holds Bonds as securities depository (the “Participants”) or to any other person on behalf of which a Participant holds an interest in the Bonds, including but not limited to any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person (other than a registered owner of Bonds, as shown by the registration books kept by the Registrar), of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other person, other than a registered owner of Bonds, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The City, the Registrar and the Paying Agent may treat and consider the person in whose name each Bond is registered in the registration books kept by the Registrar as the holder and absolute owner of such Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bonds, and for all other purposes. The Paying Agent will pay all principal of, premium, if any, and interest on the Bonds only to or on the order of the respective registered owners, as shown in the registration books kept by the Registrar, and all such payments will be valid and effectual to fully satisfy and discharge the City’s obligations with respect to payment of principal of, premium, if any, or interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner of Bonds, as shown in the registration books kept by the Registrar, will receive a certificated Bond evidencing the obligation of this resolution. Upon delivery by DTC to the City Manager of a written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the words “Cede & Co.” will refer to such new nominee of DTC; and upon receipt of such a notice, the City Manager will promptly deliver a copy of the same to the Registrar and Paying Agent.

7.03. Representation Letter. The City has heretofore executed and delivered to DTC a Blanket Issuer Letter of Representations (the “Representation Letter”) which will govern payment of principal of, premium, if any, and interest on the Bonds and notices with respect to the Bonds. Any Paying Agent or Registrar subsequently appointed by the City with respect to the Bonds will agree to take all action necessary for all representations of the City in the Representation Letter with respect to the Registrar and Paying Agent, respectively, to be complied with at all times.

7.04. Transfers Outside Book-Entry System. In the event the City, by resolution of the City Council, determines that it is in the best interests of the persons having beneficial interests in the Bonds that they be able to obtain Bond certificates, the City will notify DTC, whereupon DTC will notify the Participants, of the availability through DTC of Bond certificates. In such event the City will issue, transfer and exchange Bond certificates as requested by DTC and any other registered owners in accordance with the provisions of this resolution. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. In such event, if no successor securities depository is appointed, the City will issue and the Registrar will authenticate Bond certificates in accordance with this resolution and the provisions hereof will apply to the transfer, exchange and method of payment thereof.

7.05. Payments to Cede & Co. Notwithstanding any other provision of this resolution to the contrary, so long as a Bond is registered in the name of Cede & Co., as nominee of DTC, payments with respect to principal of, premium, if any, and interest on the Bond and all notices with respect to the Bond will be made and given, respectively in the manner provided in DTC’s Operational Arrangements, as set forth in the Representation Letter.

#### Section 8. Continuing Disclosure.

8.01. Execution of Continuing Disclosure Certificate. “Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the Mayor and City Manager and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

8.02. City Compliance with Provisions of Continuing Disclosure Certificate. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this resolution, failure of the City to comply with the Continuing Disclosure Certificate is not to be considered an event of default with respect to the Bonds; however, any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this section.

Section 9. Defeasance. When all Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the Bonds will cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds will remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

The motion for the adoption of the foregoing resolution was duly seconded by Member

\_\_\_\_\_, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Passed and adopted this 8<sup>th</sup> day of May, 2018.

---

Mayor

Attest:

---

City Clerk

**EXHIBIT A**  
**PROPOSALS**

**EXHIBIT B**  
**FORM OF BOND**

No. R-\_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF HENNEPIN  
CITY OF RICHFIELD

\$\_\_\_\_\_

**GENERAL OBLIGATION STREET RECONSTRUCTION BOND  
SERIES 2018A**

<u>Rate</u>	<u>Maturity</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, 20____	May 31, 2018	

Registered Owner: Cede & Co.

The City of Richfield, Minnesota, a duly organized and existing municipal corporation in Hennepin County, Minnesota (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the Registered Owner specified above or registered assigns, the principal sum of \$\_\_\_\_\_ on the maturity date specified above, with interest thereon from the date hereof at the annual rate specified above (calculated on the basis of a 360-day year of twelve 30 day months), payable February 1 and August 1 in each year, commencing February 1, 2019, to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the immediately preceding month. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by check or draft by Bond Trust Services Corporation, Roseville, Minnesota, as Bond Registrar, Paying Agent, Transfer Agent and Authenticating Agent, or its designated successor under the Resolution described herein. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged.

The City may elect on February 1, 2027, and on any day thereafter to prepay Bonds due on or after February 1, 2028. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify The Depository Trust Company ("DTC") of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

This Bond is one of an issue in the aggregate principal amount of \$9,975,000 all of like original issue date and tenor, except as to number, maturity date, redemption privilege, and interest rate, all issued pursuant to a resolution adopted by the City Council on May 8, 2018 (the "Resolution"), for the purpose of providing money to defray the expenses incurred and to be incurred in making certain street reconstruction improvements, pursuant to and in full conformity with the home rule charter of the City and the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Chapter 475, as amended, specifically, Section 475.58, subdivision 3b. The principal hereof and interest hereon are payable from ad valorem taxes, as set forth in the Resolution to which reference is made for a full

statement of rights and powers thereby conferred. The full faith and credit of the City are irrevocably pledged for payment of this Bond and the City Council has obligated itself to levy additional ad valorem taxes on all taxable property in the City in the event of any deficiency in taxes pledged, which additional taxes may be levied without limitation as to rate or amount. The Bonds of this series are issued only as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof of single maturities.

The City Council has designated the issue of Bonds of which this Bond forms a part as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code") relating to disallowance of interest expense for financial institutions and within the \$10 million limit allowed by the Code for the calendar year of issue.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Bond Registrar, by the registered owner hereof in person or by the owner's attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or the owner's attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Bond Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Bond Registrar will be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the home rule charter of the City and the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done, do exist, have happened and have been performed as so required, and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, charter, or statutory limitation of indebtedness.

This Bond is not valid or obligatory for any purpose or entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon has been executed by the Bond Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Richfield, Hennepin County, Minnesota, by its City Council, has caused this Bond to be executed on its behalf by the facsimile or manual signatures of the Mayor and City Manager and has caused this Bond to be dated as of the date set forth below.

Dated: May 31, 2018

**CITY OF RICHLFELD, MINNESOTA**

---

(Facsimile)  
\_\_\_\_\_  
Mayor

---

(Facsimile)  
\_\_\_\_\_  
City Manager

## CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned within.

**BOND TRUST SERVICES CORPORATION**

By \_\_\_\_\_  
Authorized Representative

---

## ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this Bond, will be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common

UNIF GIFT MIN ACT

Custodian \_\_\_\_\_

TEN ENT -- as tenants by entireties

(Cust) \_\_\_\_\_ (Minor)

under Uniform Gifts or Transfers to Minors  
Act, State of \_\_\_\_\_

JT TEN -- as joint tenants with right of  
survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

---

## ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and all rights thereunder, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration of the within Bond, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Signature Guaranteed:

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NOTICE: Signature(s) must be guaranteed by a financial institution that is a member of the Securities Transfer Agent Medallion Program ("STAMP"), the Stock Exchange Medallion Program ("SEMP"), the New

York Stock Exchange, Inc. Medallion Signatures Program (“MSP”) or other such “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STEMP, SEMP or MSP, all in accordance with the Securities Exchange Act of 1934, as amended.

The Registrar will not effect transfer of this Bond unless the information concerning the assignee requested below is provided.

Name and Address: \_\_\_\_\_

(Include information for all joint owners if this Bond is held by joint account.)

Please insert social security or other identifying number of assignee

#### **PROVISIONS AS TO REGISTRATION**

The ownership of the principal of and interest on the within Bond has been registered on the books of the Registrar in the name of the person last noted below.

Date of Registration

Registered Owner

Signature of  
Officer of Registrar

Cede & Co.  
Federal ID #13-2555119

**EXHIBIT C**  
**TAX LEVY SCHEDULE**

YEAR *	TAX LEVY
2019	
2020	
2021	
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	
2036	
2037	
2038	

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*\* Year tax levy collected.*

STATE OF MINNESOTA      )  
                              )  
COUNTY OF HENNEPIN    ) SS.  
                              )  
CITY OF RICHFIELD     )

I, being the duly qualified and acting City Clerk of the City of Richfield, Hennepin County, Minnesota (the "City"), do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of the City Council of the City held on May 8, 2018 with the original minutes on file in my office and the extract is a full, true and correct copy of the minutes insofar as they relate to the issuance and sale of the City's General Obligation Street Reconstruction Bonds, Series 2018A, in the original aggregate principal amount of \$9,975,000.

WITNESS My hand officially as such City Clerk and the corporate seal of the City this \_\_\_\_\_ day of May, 2018.

(SEAL)

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City Clerk  
City of Richfield, Minnesota

# RatingsDirect®

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## **Summary:**

### **Richfield, Minnesota; General Obligation; Non-School State Programs**

#### **Primary Credit Analyst:**

Cora Bruemmer, Chicago + 1 (312) 233 7099; cora.bruemmer@spglobal.com

#### **Secondary Contact:**

Daniel E Hughes, Chicago + (303) 721-4272; daniel.hughes@spglobal.com

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Rationale

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## Summary:

# Richfield, Minnesota; General Obligation; Non-School State Programs

Credit Profile		
US\$9.975 mil GO str reconstruction bnds ser 2018A dtd 05/31/2018 due 02/01/2039		
Long Term Rating	AA+/Stable	New
Richfield GO street reconst bnds		
Long Term Rating	AA+/Stable	Affirmed

## Rationale

S&P Global Ratings assigned its 'AA+' long-term rating to Richfield, Minn.'s series 2018A general obligation (GO) bonds. At the same time, we affirmed our 'AA+' long-term rating on the city's previously issued GO debt. The outlook is stable.

The series 2018A bonds are secured by the city's full faith, credit, and taxing powers pledge benefiting from a dedicated ad valorem property tax levy without limitation as to rate or amount. Several of the city's outstanding GO bonds are also secured by additional revenue pledges, such as special assessments, tax-increment financing (TIF), or water sewer revenues, but we rate all of the bonds based on its GO pledge.

Proceeds of the series 2018A bonds will fund street reconstruction projects as outlined in the city's five-year street reconstruction plan.

The rating reflects our assessment of the following factors for the city, specifically its:

- Strong economy, with access to a broad and diverse metropolitan statistical area (MSA);
- Very strong management, with "strong" financial policies and practices under our Financial Management Assessment (FMA) methodology;
- Adequate budgetary performance, with balanced operating results in the general fund but an operating deficit at the total governmental fund level in fiscal 2016;
- Very strong budgetary flexibility, with an available fund balance in fiscal 2016 of 27% of operating expenditures;
- Very strong liquidity, with total government available cash at 103.5% of total governmental fund expenditures and 10.7x governmental debt service, and access to external liquidity we consider strong;
- Adequate debt and contingent liability position, with debt service carrying charges at 9.7% of expenditures and net direct debt that is 152.7% of total governmental fund revenue, as well as rapid amortization, with 66.5% of debt scheduled to be retired in 10 years; and
- Strong institutional framework score.

## **Strong economy**

We consider Richfield's economy strong. The city, with an estimated population of 37,221, is in Hennepin County in the Minneapolis-St. Paul-Bloomington MSA, which we consider to be broad and diverse. It has a projected per capita effective buying income of 106.2% of the national level and per capita market value of \$91,660. Overall, market value grew by 10.0% over the past year to \$3.4 billion in 2017. The county unemployment rate was 3.4% in 2016.

Best Buy Co. Inc., a consumer electronics retailer, has its headquarters in Richfield. It is the city's largest taxpayer, making up 7.0% of the net tax capacity, and its largest employer with an estimated 6,000 employees. The city has a minimum assessment agreement in place with Best Buy, but the company has appealed its taxable valuation above that amount in the past. The city budgets conservatively for the revenue that Best Buy generates to insulate it from potential appeals. Best Buy's percentage of the city's tax capacity has decreased recently due to growth in rest of the city's valuation, as well as a reduction in Best Buy's value.

Management reports that there are several new developments currently under construction, including a new condominium/apartment project, a new townhome development, senior housing, mixed-use developments, and several restaurants. The city is a fully built-out suburb, so single-family home development is limited, but management reports there are six-to-seven tear-down redevelopments of single-family homes each year, which results in increased valuation. Given recent trends, we believe the city's valuations will exhibit modest growth over the next two years.

## **Very strong management**

We view the city's management as very strong, with "strong" financial policies and practices under our FMA methodology, indicating financial practices are strong, well embedded, and likely sustainable.

The city uses three years of historical trends to help make the revenue and expenditure assumptions in its budget, and management provides the council with monthly budget-to-actual reports except for three months of the year. Management annually updates the city's five-year capital improvement plan (CIP), which identifies funding sources. Officials also maintain an annually updated eight-year financial plan. The city has its own investment policy and provides the council with monthly reports on investment holdings and performance except for three months of the year. Richfield has a comprehensive debt management policy that includes specific limitations and guidelines that go beyond the state statutes. It has a reserve policy to maintain at least 40% of general fund revenue in reserves (including interfund receivables), in part for cash flow purposes, which it is currently meeting.

## **Adequate budgetary performance**

Richfield's budgetary performance is adequate, in our opinion. The city had balanced operating results in the general fund of 0.1% of expenditures, but a deficit result across all governmental funds of negative 8.6% in fiscal 2016.

We have adjusted the city's revenues to account for recurring budgeted transfers in from its liquor enterprise and capital funds, and we've adjusted expenditures to account for recurring budgeted transfers out to its ice arena, swimming pool, and special facilities funds for operations. We've also removed one-time expenses related to capital projects supported by bond proceeds.

Fiscal 2016 posted an essentially break-even result, with a \$13,000 surplus after all budgeted transfers. The city consistently budgets for break-even general fund operations (including transfers from its liquor enterprise and from

several capital funds). However, if the year is expected to end with a surplus, as occurred in 2014 and 2015, the city will reduce the transfers from the capital funds. In 2016, it did not reduce the transfers because of an unexpected reduction in revenues related to a property tax appeal. Due to this conservative budgeting practice, the city was able to maintain balanced general fund operations despite the revenue reduction. Across total governmental funds, there was a deficit result due to capital spending that was not supported by bond proceeds.

Fiscal 2017 audited results are not yet available, but management reports that the year closed with a \$53,000 surplus. Across total governmental funds, there will be some minor changes in fund balances related to payment of advanced refundings and remaining bond proceeds from capital projects, but management is not expecting any significant changes across total governmental funds. Management reports that fund balances in its utility and liquor funds are expected to increase.

The fiscal 2018 budget also calls for break-even general fund operations, including a \$1.5 million of transfers in. Given the city's history of outperforming the budget, we expect it is likely that it will be able to reduce the transfers into the general fund in 2018 as well. Although total governmental fund performance might fluctuate based on the timing of projects, management does not anticipate any significant changes in total governmental fund operations. Given these projections and recent historical results, we anticipate the city will maintain at least adequate budgetary performance.

### **Very strong budgetary flexibility**

Richfield's budgetary flexibility is very strong, in our view, with an available fund balance in fiscal 2016 of 27% of operating expenditures, or \$5.8 million.

We include the city's cash and cash equivalents in its municipal liquor fund as available reserves, but we have excluded \$3.3 million of interfund receivables related to deficit cash balances in the ice arena and swimming pool funds.

Management expects the deficit cash balances to slowly decrease over time, but does not have a set timeframe. The ice arena posted a \$55,000 operating surplus before transfers, but the swimming pool posted a \$68,000 operating deficit in 2016. The city transferred \$70,000 to each fund from the general fund to help support operations and reduce the deficit cash balances. Management expects these transfers to continue or increase in coming years to help eliminate the deficit cash balances.

We expect break-even general fund operations in fiscal years 2017 and 2018. City management reports the municipal liquor fund balance increased by \$470,000 in 2017 and will be at least break-even in 2018. We anticipate the city will maintain very strong budgetary flexibility, though it will likely remain below 30% of expenditures depending on the performance of the ice arena, swimming pool, and municipal liquor funds.

### **Very strong liquidity**

In our opinion, Richfield's liquidity is very strong, with total government available cash at 103.5% of total governmental fund expenditures and 10.7x governmental debt service in 2016. In our view, the city has strong access to external liquidity if necessary.

We have adjusted the city's total government available cash to remove cash held for a refunding the next fiscal year. Management anticipates no major changes in available cash levels during fiscal years 2017 and 2018, and we expect the city will maintain very strong liquidity. We have based our assessment of the city's access to external liquidity on

its history of GO debt issuances and stable credit profile. We do not view its investment practices as a credit risk as it primarily investments in U.S. government securities and money market accounts.

### **Adequate debt and contingent liability profile**

In our view, Richfield's debt and contingent liability profile is adequate. Total governmental fund debt service is 9.7% of total governmental fund expenditures, and net direct debt is 152.7% of total governmental fund revenue.

Approximately 66.5% of the direct debt is scheduled to be repaid within 10 years, which is, in our view, a positive credit factor. The city plans to issue approximately \$19.2 million in GO debt over the next two years for various street projects.

Richfield's combined required pension and actual other postemployment benefit (OPEB) contributions totaled 4.6% of total governmental fund expenditures in 2016. The city made its full annual required pension contribution in 2016. It participates in two cost-sharing multiemployer defined-benefit pension plans, the General Employees Retirement Fund (GERF) and the Public Employees Police and Fire Fund (PEPFF), both administered by the Public Employees Retirement Association of Minnesota (PERA). Required pension contributions to these plans are determined by state statute. Statutory contributions rates have generally not kept pace with actuarially determined contribution (ADC) rates, indicating potential for future payment acceleration.

The GERF and PEPFF were 75.9% and 85.4% funded, respectively, in fiscal 2017. The combined net pension liabilities for these plans totaled \$39.2 million in fiscal 2016, the most recent year of data we have available for the city's proportionate share. While we consider plan funding levels somewhat weak, and we believe that the history of pension contributions below ADC increases the risk of payment acceleration, we believe the city has sufficient taxing and operational flexibility to manage future increases in pension contributions. However, in the future, if pension contributions absorb a larger share of the city's budget, our view of its debt and contingent liability profile could weaken.

The city does not provide explicit OPEB benefits, but allows retirees to remain on its plan at their own cost, thereby benefiting from an implicit rate subsidy. The city funds this cost on a pay-as-you-go basis. As of Jan. 1, 2016, the most recent actuarial valuation date, its unfunded actuarial accrued liability was \$1.8 million.

### **Strong institutional framework**

The institutional framework score for Minnesota cities with a population greater than 2,500 is strong.

## **Outlook**

The stable outlook reflects our expectation that Richfield will maintain very strong budgetary flexibility despite potential pressures from the ice arena and swimming pool funds. We anticipate the city will maintain very strong liquidity and financial management policies and procedures and will continue to benefit from its access to the broad and diverse Minneapolis-St. Paul MSA. We do not expect to change over the two-year outlook horizon.

### **Upside scenario**

We could consider a higher rating if the city's per capita effective buying income and market value per capita improved significantly; however, we view this as unlikely during the two-year parameter of the outlook.

## Downside scenario

We could consider lowering the rating if the ice arena or swimming pool funds begin to significantly weaken the city's budgetary flexibility or performance. Additionally, we could lower the rating if the city's debt and contingent liability profile deteriorates significantly due to additional debt issuances.

## Related Research

- S&P Public Finance Local GO Criteria: How We Adjust Data For Analytic Consistency, Sept. 12, 2013
- Incorporating GASB 67 And 68: Evaluating Pension/OPEB Obligations Under Standard & Poor's U.S. Local Government GO Criteria, Sept. 2, 2015

### Ratings Detail (As Of May 1, 2018)

Richfield GO		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Richfield GO		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Richfield GO		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Richfield GO		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
<i>Unenhanced Rating</i>	NR(SPUR)	
<i>Underlying Rating for Credit Program</i>	AA+/Stable	Affirmed
Richfield GO bndls wtr rev bndls		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
<i>Unenhanced Rating</i>	NR(SPUR)	
<i>Underlying Rating for Credit Program</i>	AA+/Stable	Affirmed
Richfield GO rfdg bndls ser 2015B due 02/01/2027		
<i>Long Term Rating</i>	AA+/Stable	Affirmed
Richfield GO street reconstruction bndls ser 2017A dtd 04/20/2017 due 02/01/2038		
<i>Long Term Rating</i>	AA+/Stable	Affirmed

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at [www.standardandpoors.com](http://www.standardandpoors.com) for further information. Complete ratings information is available to subscribers of RatingsDirect at [www.capitaliq.com](http://www.capitaliq.com). All ratings affected by this rating action can be found on S&P Global Ratings' public website at [www.standardandpoors.com](http://www.standardandpoors.com). Use the Ratings search box located in the left column.

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AGENDA SECTION:	CLOSED EXECUTIVE
	SESSION
AGENDA ITEM #	11.

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**STAFF REPORT NO. 83**  
**CITY COUNCIL MEETING**  
**5/8/2018**

REPORT PREPARED BY: Steven L. Devich, City Manager

DEPARTMENT DIRECTOR REVIEW: Steven L. Devich, City Manager  
5/1/2018

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich, City Manager  
5/1/2018

**ITEM FOR COUNCIL CONSIDERATION:**

Summary review of the City Manager's annual performance evaluation for 2017 and consideration of a resolution amending employment agreement between City of Richfield and City Manager Steven L. Devich for 2018.

**EXECUTIVE SUMMARY:**

Each year the City Council conducts a review of the City Manager's performance for the previous year. The review considers the performance of the City Manager and the organization as measured against the goals and expectations of the City Council. Such performance evaluations are conducted in closed session pursuant to MN State Statutes and summarized in an open meeting. Both the closed session and the open meeting summary are scheduled for this evening's meeting.

In addition to the performance evaluation, the City Council also takes this opportunity to review the City Manager's salary and benefits to make any adjustments that may be warranted.

**RECOMMENDED ACTION:**

- Provide a summary review of the City Manager's performance evaluation for 2017; and
- By motion: Adopt a resolution amending the employment agreement between the City of Richfield and City Manager Steven L. Devich for 2018.

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- The City Council has conducted a performance review of the City Manager for 2017 and must now, per State Statute, make a summary report of the outcome of that evaluation.
- In addition, the City Council has reviewed the compensation of the City Manager and has made a conclusion concerning the City Manager's employment agreement.

B. **POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The City Manager is given an evaluation by the City Council each year as part of the City Manager's contract.
- As part of the evaluation process, a review of the City Manager's compensation package is also performed each year.

- As compensation comparisons, salaries of City Managers in comparable cities are considered, as is the base salary structure adjustments of other City employees.

**C. CRITICAL TIMING ISSUES:**

- City Manager Devich's annual performance evaluation has previously been scheduled to be conducted in the first quarter of each year.

**D. FINANCIAL IMPACT:**

- The City Manager's base pay adjustment has historically been the same as those given to other City employee groups.
- Other City employee groups received a 3.00% base pay adjustment that was effective the first full pay period of January 2018.

**E. LEGAL CONSIDERATION:**

- The City Manager's contract with the City requires that an annual performance evaluation be conducted.

**ALTERNATIVE RECOMMENDATION(S):**

- The City Council may defer the compensation portion of this review to a future meeting.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

N/A

**ATTACHMENTS:**

Description	Type
❑ Resolution	Resolution Letter

**RESOLUTION NO.**

**RESOLUTION AMENDING THE EMPLOYMENT AGREEMENT  
BETWEEN THE CITY OF RICHFIELD AND STEVEN L. DEVICH, CITY MANAGER**

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Richfield, Minnesota as follows:

1. The following section of the Employment Agreement between the City of Richfield, Minnesota and Steven L. Devich, City Manager, dated February 22, 2005, is amended as follows:

Section 5. Salary.

- A. Employer agrees to increase the City Manager's total base annual salary of \$166,504.00 to \$\_\_\_\_\_, effective January 1, 2018.

Adopted by the City Council of the City of Richfield, Minnesota this 8th day of May, 2018.

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Pat Elliott, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk