



**PLAINVIEW CITY COUNCIL
SPECIAL MEETING
AGENDA**

**Tuesday July 26, 2022 at 5:00 p.m.
Location: City Hall
241 West Broadway, Plainview**

Special meetings are meetings held at a time or place that is different from the regularly scheduled meetings. These are often scheduled to deal with specific items that need to be addressed before the next regular meeting. Generally, any matter that can be addressed at a regular meeting can also be addressed at a special meeting if it has been properly noticed. The clerk must post written notice of the date, time, place, and purpose of the special meeting on the city's principal bulletin board at least three days before the meeting.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. PUBLIC HEARING**
 - A. Easement Vacation – Block 10 Chas Posz Subdivision
 - B. Modification to Skye View Special District
- 4. APPROVAL OF AGENDA**

Because this is a special meeting, no business may be addressed that is not posted (part of the original agenda).
- 5. NEW BUSINESS**
 - A. Easement Vacation – Block 10 Chas Posz Subdivision
 - B. Modification to Skye View Special District
 - C. Skye View Developments Final Plat
 - D. Capital Finance Plan – Mike Bubany
 - E. JPA and Court Services Amendment Renewal – Plainview Police Department
 - F. Additional Pool Hires for 2022
- 6. ADJOURN**

PLAINVIEW

CITY COUNCIL ACTION



Executive Summary

City Council Special Meeting: July 26th, 2022

AGENDA ITEM:	Partial Alley Vacation and Preservation of Utility Easement Chas Posz Subdivision	AGENDA SECTION: New Business
PREPARED BY:	David Todd, City Administrator	AGENDA NO. 5.A.
ATTACHMENTS:	Resolution 2022-18; Survey and Legal Description	APPROVED BY: DT
RECOMMENDED ACTION: Motion to approve Resolution 2022-18 vacating a 10' portion of the alley and reserving a 10' utility easement dedicated as part of the Chas Posz Subdivision.		

SUMMARY

The City has received a request from the property owner of PID# R26.00692.00, Lot 6 Block 10 of the Chas Posz Subdivision to vacate a 10' portion of the alley and reserving the 10' portion of the utility easement that runs concurrent to the north property line as depicted in the attached survey from Bolton and Menk dated April 12th, 2022.

The purpose of the request for the easement vacation is due to the sale of the property and subsequent title transfer to the potential new owners. A portion of the building and/or structure was built atop the easement in question and is delaying the title transfer. The city holds no infrastructure within the easement nor are there any plans to utilize the easement to hold infrastructure or to facilitate any further development. The city will preserve the 10' utility easement to the north starting at lot 11 and ending at outlot B Block 10 that runs east/west along the property line.

Respectfully Submitted,

David Todd
City Administrator

**CITY OF PLAINVIEW
WABASHA COUNTY
STATE OF MINNESOTA**

RESOLUTION 2022-18

**A RESOLUTION VACATING A PORTION OF THE ALLEY AND RESERVATION OF A UTILITY
EASEMENT LOCATED ON LOTS 3 AND 6 OF BLOCK 10 OF CHAS POSZ SUBDIVISION PURSUANT
TO MINNESOTA STATUTES 462.358, SUBD. 7**

WHEREAS, the city council of the city of Plainview (“CITY”) received a request from Bridget Swanson (“OWNER”) of PID# R26.00692.00 (“PROPERTY”) to vacate, pursuant to Minnesota Statute 462.358, subd. 7, a 10-foot-wide portion of the alley and reserving the utility easement, located in Chas Posz Subdivision, and legally described as follows:

VACATION DESCRIPTION

The East 367 feet of the 20-foot alley, Block 10, Chas Posz Subdivision of Outlots, City of Plainview, Wabasha County, Minnesota, as dedicated per the recorded plat of said Chas Posz Subdivision. The West line of the said 367-foot strip is to be parallel to the East line of said Block 10. The 367-foot measurement is to be measured perpendicular to the East line of said Block 10.

EASEMENT RESERVATION DESCRIPTION

The North 10.00 feet of the East 367 feet of the 20-foot alley in Block 10 AND the South 10 feet of the East 60 feet of the 20-foot alley in Block 10, all being in Chas Posz Subdivision of Outlots, City of Plainview, Wabasha County, Minnesota. Said 20-foot alley as dedicated per the recorded plat of said Chas Posz Subdivision. The West line of said 367-foot strip and the West line of the 60-foot strip is to be parallel to the East line of said Block 10. The 367 foot and 60-foot measurement is to be measured perpendicular to the East line of said Block 10.

WHEREAS, the above described area proposed to be vacated is depicted on the survey attached hereto and incorporated herein by reference as Exhibit A; and

WHEREAS, the easement legally described above was dedicated to the city as a public utility and drainage easement pursuant to the recorded plat thereof, CHAS POSZ SUBDIVISION (the “recorded plat”); and

WHEREAS, all property owners within a 350 foot radius of the “PROPERTY” have been notified in writing of the proposed vacation proceedings and have been provided a copy of the attached survey and legal description “Exhibit A” in advance of the scheduled public hearing: and

WHEREAS, a public hearing to consider the vacation of such utility and drainage easement was held on the 26TH day of July, 2022 before the Plainview City Council at City Hall, located at 241

West Broadway, Plainview, Minnesota, 55964 at 5:00 PM, after duly published and posted notice had been given, as well as personal mailed notice to all affected property owners by the City Clerk and all interested and affected persons were given an opportunity to voice their concerns and be heard in the scheduled public hearing: and

WHEREAS, any person, corporation, or public body owning or controlling easements contained upon the property vacated hereby, reserves the right to continue maintaining the same or to enter upon such way or portion thereof vacated to maintain, repair, replace or otherwise attend thereto; and

WHEREAS, the City Council, in its discretion, has determined that the vacation will benefit the public interest because:

1. Notice of the vacation was duly provided to the affected property owner(s)
2. The person(s) identified as receiving the notice of vacation are identified on an Affidavit of Mailing Public Notice signed by the City Clerk
3. The vacation is beneficial to the city in that the city will no longer have to bear the expense of maintaining the vacated portion of the easement
4. The vacation is logical in that the City does not need the portion of the easement proposed to be vacated and the vacation of said portion will, by virtue of the sale and deed transfer of the property, maintain the City tax base; and

WHEREAS, four-fifths of all members of the City Council are required for passage of this resolution.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLAINVIEW, COUNTY OF WABSAHA, MINNESOTA, that such petition for vacation is hereby granted and the portion of the alley is hereby vacated, and utility easement described below is hereby reserved:

VACATION DESCRIPTION

The East 367 feet of the 20-foot alley, Block 10, Chas Posz Subdivision of Outlots, City of Plainview, Wabasha County, Minnesota, as dedicated per the recorded plat of said Chas Posz Subdivision. The West line of the said 367-foot strip is to be parallel to the East line of said Block 10. The 367-foot measurement is to be measured perpendicular to the East line of said Block 10.

EASEMENT RESERVATION DESCRIPTION

The North 10.00 feet of the East 367 feet of the 20-foot alley in Block 10 AND the South 10 feet of the East 60 feet of the 20-foot alley in Block 10, all being in Chas Posz Subdivision of Outlots, City of Plainview, Wabasha County, Minnesota. Said 20-foot alley as dedicated per the recorded plat of said Chas Posz Subdivision. The West line of said 367-foot strip and the West line of the 60-foot strip is to be parallel to the East line of said Block 10. The 367 foot and 60-foot measurement is to be measured perpendicular to the East line of said Block 10.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to sign all documents necessary to effectuate the intent of this resolution.

ADOPTED this 26th day of July 2022

Mayor Aaron Luckstein

Attest:

Carol Kujath, City Clerk

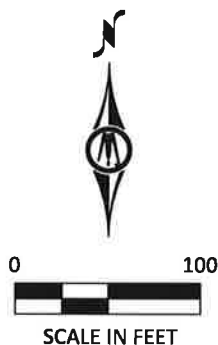
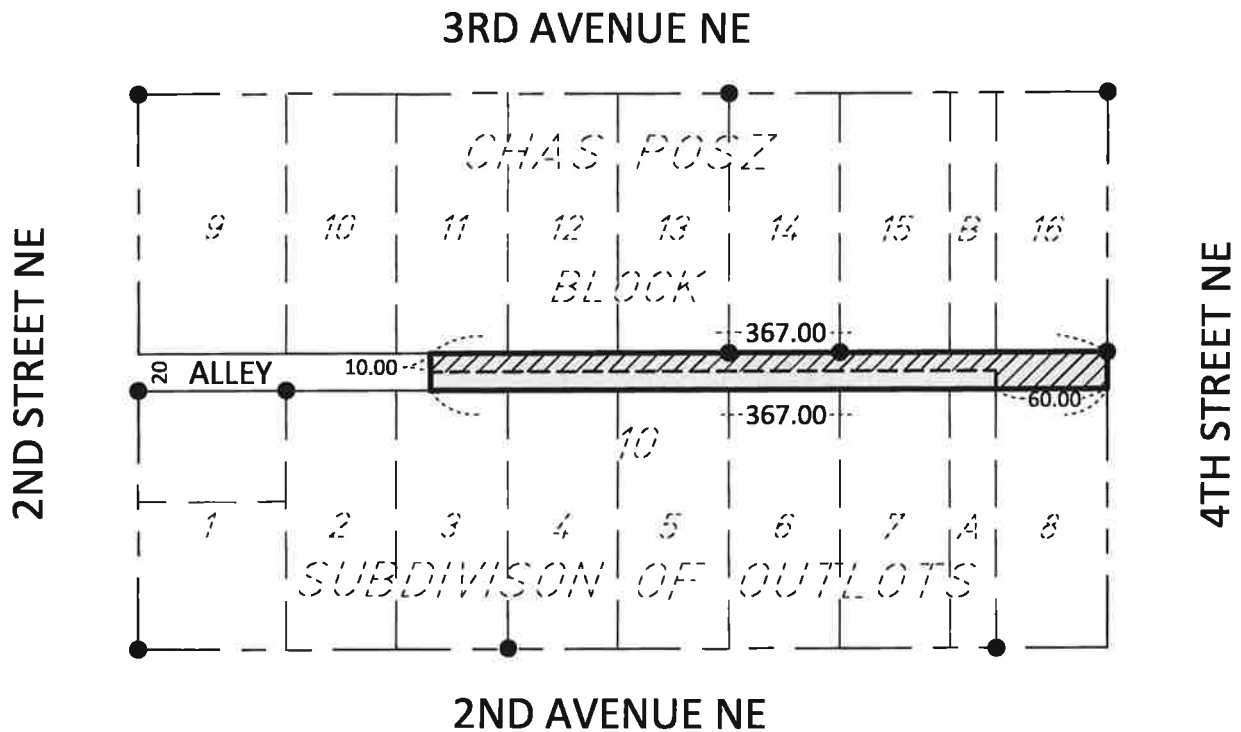
The foregoing resolution was moved by _____, seconded by _____

The following Council members voted in favor:

The following council members voted nay:

The following Council members were absent:

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LEGEND

- MONUMENT FOUND
- DENOTES VACATED ALLEY
- ▨ DENOTES EASEMENT RESERVATION

SURVEYOR'S CERTIFICATION

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.

Janele Fowlds
Janele Fowlds
License Number 26748

4/11/2022
Date

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SHEET 1 OF 2

CERTIFICATE OF VACATION & EASEMENT
CITY OF PLAINVIEW, WABASHA COUNTY, MINNESOTA

BLOCK 10, CHAS POSZ SUBDIVISION



**BOLTON
& MENK**

2900 43RD STREET NW, SUITE 100
ROCHESTER, MINNESOTA 55901
(507) 208-4332

FOR: CITY OF PLAINVIEW

JOB NUMBER: OH1.126323

FIELD BOOK: SEE FILE

DRAWN BY: RK

71.0 S08-T108N-R11W-34

VACATION DESCRIPTION

The East 367.00 feet of the 20.00 foot Alley, Block 10, Chas Posz Subdivision of Outlots, City of Plainview, Wabasha, County, Minnesota, as dedicated per the recorded plat of said Chas Posz Subdivision. The west line of said 367.00 foot strip is to be parallel to the East line of said Block 10. The 367.00 foot measurement is to be measured perpendicular to the East line of said Block 10.

EASEMENT RESERVATION DESCRIPTION

The North 10.00 feet of the East 367.00 feet of the 20.00 foot Alley in Block 10 AND the South 10.00 feet of the East 60.00 feet of the 20.00 foot Alley in Block 10, all being in Chas Posz Subdivision of Outlots, City of Plainview, Wabasha County, Minnesota. Said 20.00 foot Alley as dedicated per the recorded plat of said Chas Posz Subdivision. The west line of said 367.00 foot strip and the west line of the 60.00 foot strip is to be parallel to the East line of said Block 10. The 367.00 foot and 60.00 foot measurement is to be measured perpendicular to the East line of said Block 10.

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SHEET 2 OF 2

CERTIFICATE OF VACATION & EASEMENT **CITY OF PLAINVIEW, WABASHA COUNTY, MINNESOTA**



2900 43RD STREET NW, SUITE 100
ROCHESTER, MINNESOTA 55901
(507) 208-4332

BLOCK 10, CHAS POSZ SUBDIVISION

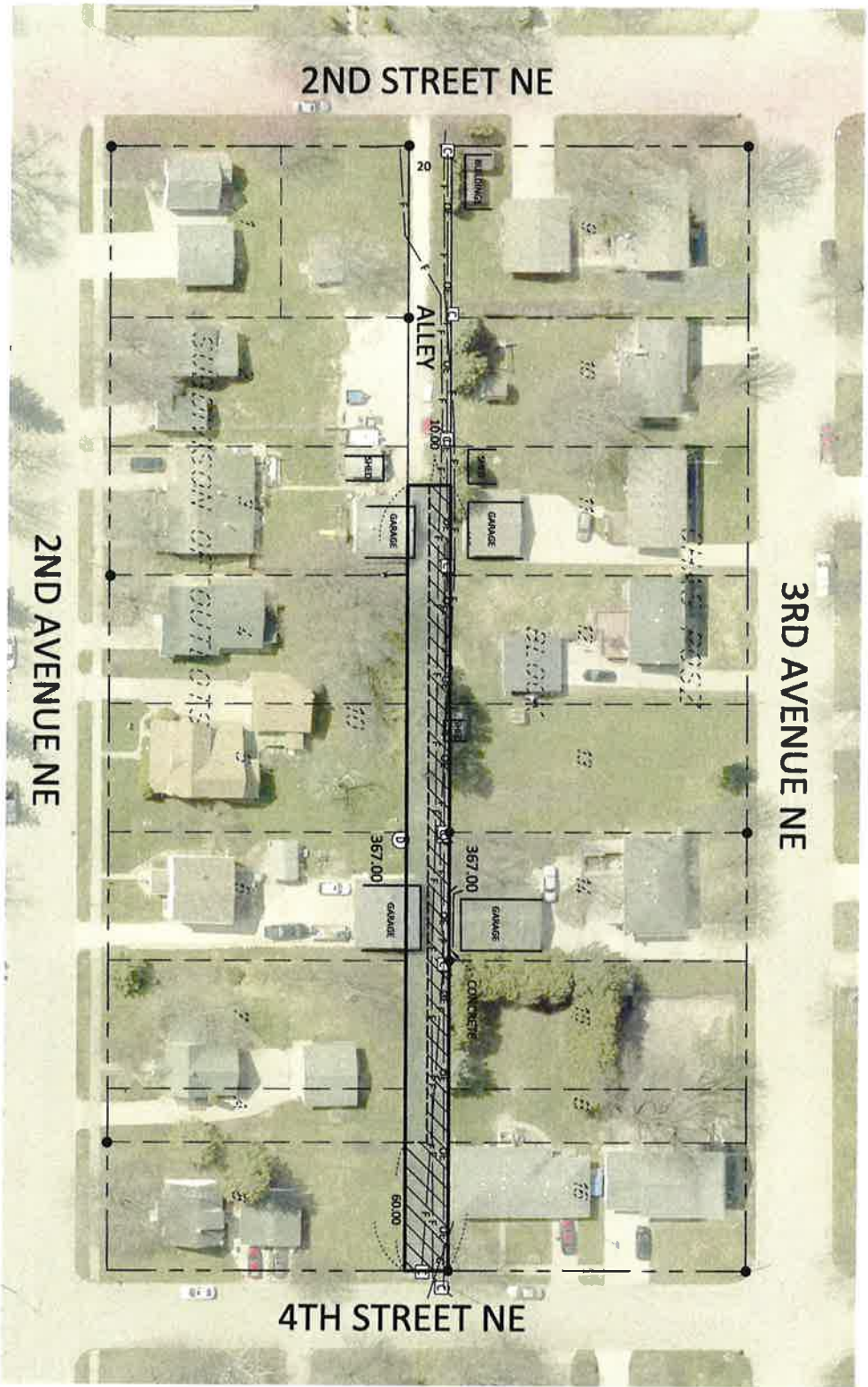
FOR: CITY OF PLAINVIEW

JOB NUMBER: OH1.126323

FIELD BOOK: SEE FILE

DRAWN BY: RK

71.0 S08-T108N-R11W-34



- 0 50
SCALE IN FEET
- LEGEND**
- MONUMENT FOUND
 - ▭ DENOTES VACATED ALLEY
 - ▨ DENOTES EASEMENT
 - ▩ RESERVATION
 - PEDISTAL-COMMUNICATION
 - ⊙ POLE-UTILITY
 - ⊙ MANHOLE-STORM SEWER
 - F — FIBER UNDERGROUND
 - G — GAS UNDERGROUND
 - OU — OVERHEAD UTILITY
 - x — x — FENCE

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JOB NUMBER: 041-126323

FIELD BOOK: SEE FILE

DRAWN BY: RK

71.0 SQM-R21W-34



BOLTON & MENK
2900 43RD STREET NW, SUITE 100
ROCHESTER, MINNESOTA 55901
(507) 208-4332

EXHIBIT OF SURVEY
CITY OF PLAINVIEW, WABASHA COUNTY, MINNESOTA

BLOCK 10, CHAS POSZ SUBDIVISION

FOR: CITY OF PLAINVIEW

**MEMORANDUM**

Date: July 7, 2022 – *Updated July 19, 2022*
To: City of Plainview City Council
From: Harry Davis, AICP
Brian Malm, P.E.
Subject: Skye View Development Special District
City of Plainview

Meeting Date: July 26, 2022

Request:

Applicants: Tom Wiener
Owner: Skye View Development, LLC
Property Location: North of Piper Hills Golf Course and south of Highway 42
Property ID: 26.00116.24 and 14.00109.05

Background:

The subject property is located in the southern part of Plainview, south of Highway 42 and between 255th Ave and 3rd St SW. The property is zoned SD for the Skye View Special District and totals approximately 9.19 acres. Table 1 below shows adjacent land use and zoning.

Table 1

Direction	Land Use	Zoning
North	Developed and undeveloped; Residential	R-2, Residential; R-1, Residential
South	Golf Course	Wabasha County
East	Large Lot Residential	R-1, Residential
West	Undeveloped	Wabasha County

Request:

The request by the applicant is to amend parts of the Skye View Special District development code, approved in December 2021. A summary of proposed changes to the code includes (but is not limited to; updated July 19, 2022):

- Numerous small corrections to improve grammar.
- Numerous small corrections to improve clarity without changing meaning or intent.
- Combining the Commercial Business District code with the Mixed Use District code.
- Removing Commercial Business District designations from the land use district map and replacing them with Mixed Use.
- Codify extensions for completing building permits and issuing building permits prior to the first lift of road surface laid.
- Additional definitions and modifying existing definition for clarity.
- A wide range of small to significant changes to zoning performance standards and density/intensity of uses on a parcel.

- Allowances for eaves, stoops, uncovered patios, at-grade landings, and balconies setbacks.
- The applicant proposed changes to driveway widths.
- Changes for stacking requirements for drive-thru businesses.
- Small changes to building orientations for windows and doors, architectural standards that would break monotonous facades and roof lines, and exterior building finishes.
- Changes to building heights across different districts.

As detailed below and further within this report, the applicant will adhere to new zoning standards. Table 2-5 shows current district requirements, and Tables 6-9 show the proposed district requirements. A full document of proposed changes can be found in the attachments to this report.

Tables 2 – 5: Existing Standards

Table 2 – Low Density Residential

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria:			
			Front Yard	Rear Yard	Side Yard	Sum
Single Family Detached	8,000 SF	70	25	25	8	16
Single Family Attached	6800 SF	60	20	15	8	16
Row House Style Townhouses	3500 SF	18 ⁽¹⁾ 26 ⁽²⁾	20	15	8	16
Zero Lot Line	3000 SF	38	20	15	8/0	8
Table B						
Land Use			Proposed Density/Intensity		Approx. Acres	
Low Density Residential District (Single Family Attached/Row Townhouses)			12-18 Units/Acre		1.8	

Table 3 – Medium Density District

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria:			
			Front Yard	Rear Yard	Side Yard	Sum
Multifamily	15,000 SF	140 ft	25	15	15	30
Condominium	N/A	N/A	25	15	15	30
Open/Recreational Space	N/A	N/A	N/A	N/A	N/A	N/A
Table B						
Land Use			Proposed Density/Intensity		Approx. Acres	
Medium Density Residential District (Multifamily/Condominiums)			16-21 Units/Acre		1.6	

Table 4 – Mixed Use District

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria (Feet):			
			Front Yard (feet)	Rear Yard	Side Yard	Sum
Multi-family	Variable	120	25	20	8	16
Live - Work	Variable	106	25	20	8	16
Multi-family (max. 4 units)	Variable	80	25	20	8	16
Row House Style Townhouses	3500 SF	18 ⁽¹⁾ 26 ⁽²⁾	20	15	8	16

Table B		
Land Use	Proposed Density/Intensity	Approx. Acres
Mixed Use District (Multi-family/Live-Work/ Multi-family (max. 4 units)/Row House Style Townhomes)	19-42 Multi-family Units	1.5
	3+ Live Over Work	
	Multi-family (max. 4 units attached)/8 units maximum	
	Row House Style Townhomes/8 units maximum	

Table 5 – Commercial Business District

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria (Feet):			
			Front Yard (feet)	Rear Yard	Side Yard	Sum
all uses	6,000 SF	80	25	25	10	20
parking lots (associated with the principal structure)	n/a	n/a	8	8	8	n/a
corner lot	6,600 SF	80	25	25	12	N/A
Table B						
Land Use			Proposed Density/Intensity		Approx. Acres	
Commercial District			0.50 FAR ⁽¹⁾		0.56	

Table 6-9: Proposed Standards

Table 6: Low Density Residential

Use	Lot Area	Lot Frontage	Setback Criteria:			
			Front Yard	Rear Yard	Side Yard	Sum
Single Family Detached	8,000 SF	70	25	25	8	16
Single Family Attached	6800 SF	60	20	15	8	16
Row House Style Townhouses	3500 SF	18 ⁽¹⁾ 26 ⁽²⁾	20	15	8	16
Zero Lot Line	3000 SF	38	20	15	8/0	8

Land Use	Proposed Density	Approx. Acres See Exhibit A
Low Density Residential District (Single Family Detached, Single Family Attached, Row Townhouses)	Up to 8 Units/Acre	2.4

Table 7: Medium Density Residential

Use	Lot Area	Lot Frontage	Setback Criteria:			
			Front Yard	Rear Yard	Side Yard	Sum
Multifamily	15,000 SF	140 ft	25	15	10	20
Condominium	N/A	N/A	25	15	10	20
Open/Recreational Space	N/A	N/A	N/A	N/A	N/A	N/A

Land Use	Proposed Density	Approx. Acres See Exhibit A
Medium Density Residential District (Multifamily/Condominiums)	Up to 16 Units/Acre	2.55

Table 8: Mixed Use District

Use	Lot Area	Lot Frontage	Setback Criteria (Feet):			
			Front Yard (feet)	Rear Yard	Side Yard	Sum
Multi-family	Variable	80	25	20	8	16
Live - Work	Variable	106	25	20	8	16
All Commercial Uses	6,000 SF	80	25	25	8	16
Row House Style Townhouses	3,500 SF	18 ⁽¹⁾ 26 ⁽²⁾	20	15	8	16
Parking lots on the same lot as the principal structure/use	N/A	N/A	5	5	5	N/A

Land Use	Density:	Approx. Acres See Exhibit A
Multi-family	Up to 50 Multi-family Units/Acre	4.2
Row House Style Townhouses	Up to 10 Row House Style Townhomes Units/Acre	
Live Over Work	Up to 10 Live Over Work Units/Acre	
All Commercial Uses	0.50 FAR ⁽¹⁾	

Public Comment:

No new public comment was received as of publishing this report.

Neighborhood Notification:

All property owners within 350' feet of this property were notified at least ten days before the public hearings at Planning Commission and City Council to be held on July 25, 2022 and July 26, 2022. A public notice was published in the newspaper for two consecutive weeks before the public hearings. No additional notification is required.

2040 Comprehensive Plan:

One of the land use goals in the comprehensive plan is to “encourage land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state, and utility costs”. A sub-goal under the goal above is to require coordination between growth and utility capacities (sewer, water, etc.). Under the housing goals in the comprehensive plan, there are various goals that address supporting a “variety of housing types and densities”, “encourage a range of housing ... [fitting community] character”, and “maintain and enhance the quality of Plainview’s homes and neighborhoods”.

The Future Land Use Map designates the subject property as Residential and in a Planned Development Area. The Existing Functional Classification and Future Roadways Map indicates future access to Highway 42 just east of the subject property.

Application Criteria:

A petition for establishment of a Special District shall be accompanied by:

1. Two (2) copies of the proposed ordinance language.
Finding: The applicant has provided two copies of the proposed ordinance.
2. A summary letter or booklet of the intent and effect of the proposed special district, with any information required by the City’s planner or engineer.
Finding: The applicant submitted a summary booklet of the proposal with the approved Special District. Any proposed changes that may impact the booklet shall be included upon adoption of the proposed amendment.
3. A scaled and clear concept plan showing the exterior of buildings proposed in the development that will not strictly limit future development.
Finding: The concept plan does include some information on the layout of the development. There is no information on transitions between uses or with adjoining properties.
4. A list of proposed permitted and conditional land uses in the proposed special district.
Finding: The proposal does include a list of permitted uses.
5. Information on the density and intensity of residential units, retail, office, and other land uses.

Finding: The proposal does include information on the density and intensity of land uses.

6. Information regarding parkland dedication or fees in-lieu when this provision is used in conjunction with the subdivision ordinance.

Finding: The proposal does include sufficient information regarding this requirement.

7. Information regarding proposed performance standards as determined by the City Planner or City Engineer, which shall include, but not be limited to, landscaping, buffering, parking, exterior building design, lighting, and drainage.

Finding: The applicant has provided information regarding performance standards. Staff has mostly minor comments regarding changes in this category.

8. A map indicating the boundary of the district and the boundary of the underlying zoning districts.

Finding: A boundary map was submitted that provides guidance in distinguishing district boundaries.

9. An application fee as required by ordinance shall accompany the petition.

Finding: The application included a fee.

Staff Findings:

The purpose of Special Districts is to establish modifications to or supplement existing zoning regulations to accomplish a special public purpose that is supported by the goals and policies of the Comprehensive Plan, including land uses as found in the future land use plan. Specifically, these purposes and conditions supporting the establishment of a Special District are:

1. Areas may exist where there is a desire and need to establish regulatory authority or the administration of land use control at the city level of government.

Finding: Although Plainview already has regulations to administer land within city limits, the existing Special District is located in an area where the City intends to have mixed-use development in the future. This development provides a nuanced approach towards mixed-use development in a Planned Development Area that achieves city goals. The proposed amendments to the Special District do not adversely impact this finding.

2. Areas may exist where substantial public interests require that existing regulations be modified or supplemented to accomplish a special purpose.

Finding: This area is noted as a mixed use residential and commercial neighborhood. A Special District accomplishes the need for a Planned Development Area along Highway 42. The existing district and proposed amendments would modify or supplement the existing regulations to accomplish the goals in Plainview's Comprehensive Plan.

To ensure new development constructed under this provision is of high-quality construction, complimentary to existing neighborhood and City character, and compliant with the goals, policies, and future land use map in the Comprehensive Plan, the following conditions must be met by developments proposed under this provision:

3. Provide for the establishment of Special Districts in appropriate settings and situations, to create or maintain a development pattern that complies with the City's Comprehensive Plan.

Finding: One of the land use goals in the comprehensive plan is to "encourage land uses, densities and regulations that promote efficient development patterns and relatively low municipal,

state, and utility costs”. A subgoal under the goal above is to require coordination between growth and utility capacities (sewer, water, etc.). The existing district and proposed amendments encourage different land uses and densities next to each other, with an efficient street grid and reasonable extensions of water and sewer. The density of the proposal partly offsets the extended infrastructure.

Under the housing goals in the comprehensive plan, there are various goals that address supporting a “variety of housing types and densities”, “encourage a range of housing ... [fitting community] character”, and “maintain and enhance the quality of Plainview’s homes and neighborhoods”. This proposal provides a variety of housing types between attached single-family, multi-family condominiums, apartments, and live/work. The example buildings appear to be of a reasonable quality that would fit within the community and maintain or enhance Plainview’s image.

The Future Land Use Map designates the subject properties as Mixed Use Residential and Commercial and in a Planned Development Area. The existing and proposed provides a range of residential uses with commercial uses. A Special District contributes towards the Planned Development Area designation.

4. Areas may exist where substantial public interests require that existing regulations be modified or supplemented to accomplish a special purpose.

Finding: The future land use map shows mixed-use residential and commercial and a Planned Development Area at this location. The subject property is also a large, undeveloped property in a prominent location along Highway 42. The City should have an interest in regulating development in this area.

In comparing the existing code to the proposed code:

- The applicant proposes numerous small corrections to improve grammar.
Staff supports these changes.
- The applicant proposes numerous small corrections to improve clarity without changing meaning or intent.
Staff supports these changes.
- The applicant proposes removing Commercial Business District designations from the land use district map and replace with Mixed Use. The result is combining the Commercial Business District with the Mixed Use District.
Staff supports the changes. This appears like a big change on the surface, but the applicant has included all of the Commercial District requirements in the Mixed Use district. The result will add some flexibility to the overall development.
- The applicant proposes to codify extensions for completing building permits and issuing building permits prior to the first lift of road surface laid.
Staff doesn't have a huge issue with either concept as long as proper safeguards are in place, but these allowances are usually best addressed in the Developer's Agreement and not detailed in the code. A code provision is included to allow the developer to request the above in the Developer's Agreement, which is created by staff with the applicant, then approved by Council.
- The applicant proposes additional definitions and modifies previous ones for clarity.
Staff rejected some of the additions and amendments as city code already defined them or the amendments did not adequately clarify the definition. The remaining proposed changes are supported by staff.

- The applicant proposed a wide range of small to significant changes to zoning performance standards and density/intensity of uses on a parcel.
Staff generally supported smaller changes and suggested compromises in others. The remaining proposed changes are supported by staff.
- The applicant proposed some allowances for eaves, stoops, uncovered patios, at-grade landings, and balconies within the front and rear setbacks.
Staff generally supports these and worked with the applicant to define the elements and the extent they can protrude into the setback.
- The applicant proposed changes to driveway widths.
Staff worked with the applicant to fine-tune the original request. The remaining proposed changes are supported by staff.
- The applicant proposed changes for stacking requirements for drive-thru businesses.
Staff worked with the applicant to fine-tune the original request. The new request allows the City Engineer to make the call on adequate stacking spaces.
- The applicant proposes some small changes to building orientations for windows and doors, architectural standards that would break monotonous facades and roof lines, and exterior building finishes.
Staff generally supports the proposed changes, with minor amendments.
- The applicant proposes changes to building heights across different districts.
The changes lowered some building height limits and increased others, but staff does not see any particular issues and supports the changes.

For details on the above changes, including any changes not summarized above, please refer to the attachments from the applicant and notes by staff.

5. Provide for variations to the strict application of the land use regulations in this Ordinance to improve site design and operation, while incorporating design elements (e.g., construction materials, landscaping, lighting, etc.) that exceed the City's standards to offset the effect of any variations.

Finding: The existing special district does include some flexibility in the final design of the project as well as performance standards that establish a minimum threshold for development.

Proposed amendments to the existing special district generally support an improved design consistent with the original language.

6. Provide a more creative and efficient approach to land use within the City, while at the same time protecting and promoting the health, safety, comfort, aesthetics, economic viability, and general welfare of the City.

Finding: The mixed-use aspect of the proposal is a more creative and efficient approach to development within the City. Higher density residential has greater efficiencies for infrastructure and includes creative uses like live/work. In regards to the proposed amendments, see above comments in the amendment summary.

7. Preserve and enhance natural features and open spaces for public and private use.

Finding: Natural and open spaces were settled in the approved special district.

8. Maintain or improve the efficiency of public streets and utilities.

Finding: The location of the development along Highway 42, near to existing infrastructure, and very close to the center of Plainview all contribute towards maintaining and improving

the efficiency of public streets and utilities. The proposed amendments to the district code do not impact this finding.

9. Ensure the establishment of appropriate transitions between differing land uses.
Finding: Transitions between land uses were settled in the approved special district.

Engineering Findings:

The City Engineer has the following comments and findings:

1. Exhibits B, C, and D show a 26-ft public street extension in the SW corner of the development within a 38-ft right-of-way and sidewalk within a 10-ft easement. This should be revised to show a 50-ft right-of-way with the street and sidewalk entirely contained within the right-of-way.
2. The proposed street connection to TH 42 shall be formally approved by MnDOT, prior to approval of the final plat.
3. The final plat (or plats, if the proposed subdivision is phased) shall avoid conflicts with existing underlying access easements.
4. Exhibit C shows proposed City utilities and street typical sections. Final approval of city street and utility layout, design, and details shall be based on final engineering plans, as approved by the City Engineer and other appropriate regulatory agencies, and may vary from what is shown on Exhibit C.

Recommendation:

Staff recommends City Council approve the proposed changes to Skye View Special District with the following conditions:

1. Exhibits B, C, and D shall be amended to show a 26-ft public street extension in the SW corner of the development within a 50-ft right-of-way with the street and sidewalk entirely contained within the right-of-way.
2. The proposed street connection to TH 42 shall be formally approved by MnDOT, prior to approval of the final plat.
3. The final plat (or plats, if the proposed subdivision is phased) shall avoid conflicts with existing underlying access easements.
4. Proposed City utilities and typical street sections shown in Exhibit C shall be subject to final approval by the City Engineer and other appropriate regulatory agencies, and may vary from final engineering plans.

Attachments:

- Proposed Skye View Special District Ordinance & Exhibits
 - o Ordinance
 - o Amendments to Skye View District Code
 - o Amended Exhibits
- Zoning Map
- Comprehensive Plan
 - o Future Land Use Map
 - o Environmental Resources Map

ORDINANCE NO. 2022-_____

**AN ORDINANCE AMENDING PLAINVIEW CITY CODE, SECTION 611.7.7 SKYE
VIEW DEVELOPMENT SPECIAL DISTRICT**

THE CITY COUNCIL OF THE CITY OF PLAINVIEW DOES ORDAIN (new material is underlined; deleted material is lined out; sections which are only proposed to be re-numbered are only set forth below as to their number and title):

SECTION 1. Plainview City Code, Section 611 is hereby amended, adding Section 611.7.7 as described and written in Exhibit 1

Subd. 1 Approval of this special district ordinance is made with the following conditions:

- a. Exhibits B, C, and D shall be amended to show a 26-ft public street extension in the SW corner of the development within a 50-ft right-of-way with the street and sidewalk entirely contained within the right-of-way.
- b. The proposed street connection to TH 42 shall be formally approved by MnDOT, prior to approval of the final plat.
- c. The final plat (or plats, if the proposed subdivision is phased) shall avoid conflicts with existing underlying access easements.
- d. Proposed City utilities and typical street sections shown in Exhibit C shall be subject to final approval by the City Engineer and other appropriate regulatory agencies, and may vary from final engineering plans.

SECTION 2. That this ordinance shall take effect from and after its passage and publication.

Passed by the City Council of the City of Plainview, Minnesota this ____ day of _____, 2022.

Aaron Luckstein, Mayor

Attest:

Carol Kujath, City Clerk

VOTE: ____ LUCKSTEIN ____ KIEFFER ____ REEVE ____ JACOBS
 ____ HAMMER-BARTLEY

Published:

Date: _____

EXHIBIT 1

SECTION 611.7.7 SKYE VIEW DEVELOPMENT SPECIAL DISTRICT

611.7.7.1. PURPOSE. The purpose of this Special District is to provide for zoning regulations that will be administrated in the Skye View Development Special District, as required in Section 611.7 of Plainview City Code (600 Construction, Planning, Zoning, and Land use). The following is the special regulations of the Skye View Development Special District.

611.7.7.2. BOUNDARIES OF THE LAND. This ordinance shall apply to the following described property located within the City of Plainview, County of Wabasha, State of Minnesota:

Parcel 1 (PID: 26.00116.24):

A part of the North Half of the Southwest Quarter of Section 17, Township 108 North, Range 11 West, Wabasha County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 17; thence along the north line of said Southwest Quarter for a distance of 861.3 feet; thence, southerly, parallel with the north line of said Southwest Quarter, for a distance of 577.5 feet (35 rods); thence westerly, parallel with the north line of said Southwest Quarter, for a distance of 693.00 feet; thence northerly for a distance of 577.5 feet to the POINT OF BEGINNING. Containing 9.19 acres, more or less.

Above parcel includes the right of access over the following described easement:

A non-exclusive easement for driveway purposes, 8.25 feet on each side of the following described line: That part of the Southwest Quarter of Section 17, Township 108, Range 11, Wabasha County, Minnesota, beginning at a point on the West line of said Southwest Quarter 206.25 feet southerly from the northwest corner of said Southwest Quarter of Section 17 (for purposes of this description bearing of said West line is assumed South 0 degrees 42 minutes 00 seconds East), thence North 90 degrees 00 seconds East, a distance of 495.00 feet and there terminating.

AND ALSO 33 feet on each side of a line beginning at the aforesaid point of termination, thence South 89 degrees 40 minutes 29 seconds East, 365.00 feet; thence South 6 degrees 10 minutes 45 seconds East, 102.65 feet; thence South 23 degrees 43 minutes 42 seconds East, 278.00 feet; thence South 26 degrees 49 minutes 24 seconds East, 88.54 feet; thence South 38 degrees 50 minutes 59 seconds East, 89.28 feet; thence South 61 degrees 40 minutes 43 seconds East, 119.27 feet; thence South 69 degrees 33 minutes 06 seconds East, 93.77 feet; thence South 66 degrees 40 minutes 33 seconds East, 151.09 feet and the re terminating.

611.7.7.3. LEGISLATIVE INTENT AND FINDINGS.

Subd. 1. Skye View Development provides a compelling alternative to single-use zones by offering a dramatically different mixed-use and environmentally, socially, economically, and aesthetically advanced development design.

Subd. 2. This Special District is established to foster the development of a comprehensively planned, mixed

income and mixed-use neighborhood. This is accomplished by promoting a variety of land uses, housing types, and densities, and by requiring skillful architectural and landscape design. The site's unique location, with the TH 42 along the north boundary and adjacent to Piper Hills Golf Course on the South, makes this an ideal place to create a district that avoids the negative impacts of suburban sprawl with an efficient, compact, mixed-use land plan.

Subd. 3. This type of development is consistent with the goals and policies of the ~~city's~~ 2019 Comprehensive Plan, which encourages creating mixed-use, and higher density residential neighborhoods.

611.7.7.4. ESTABLISHMENT OF SKYE VIEW DEVELOPMENT

Subd. 1. Pursuant to Section 611.7 of the Plainview City Code, the City Council hereby creates a special zoning district to be known as the Skye View Development Special District (SD-SK).

The Special District shall be an overlay-zoning district designed to encourage the attractive and innovative development on the Site. As a part of this Special District, the property will be ~~divided into four different use districts (see Exhibit A), guided by its applicable sub-district (See Sections 611.7.5, b-d). Sub-districts are limited to the applicable areas set forth in Exhibit A.~~ The regulations and guidelines set forth in this Special District shall prevail over the regulations of the noted underlying zoning district.

Subd. 2. The determination of the need for the creation of this Special District is based upon the following findings or Land Use Principles:

- a. This Special District is established to foster the development of a comprehensively planned, mixed-use neighborhood. This is accomplished by promoting a variety of land uses, housing types, and densities, and by requiring skillful architectural and landscape design in creating buildings, on an infill site. The Site's unique location, adjacent to TH42 and the Piper Hills Golf Course, makes this an ideal place to create a neighborhood that avoids the negative impacts of suburban sprawl with an efficient, mixed use land plan.
- b. The location of Skye View Development fits within the City's Urban Services Area boundary.
- c. A mix of uses within the development creates opportunities for people to walk and interact. That combined with strong urban and landscape design creates a sense of place. The size and shape of Skye View Development ensures that all destinations are within an easy walk and that the development functions as a mixed-use infill neighborhood.
- d. A range of housing types serves people with different income levels and housing needs while contributing to the vitality of the streetscape.

611.7.7.5. UNDERLYING DEVELOPMENT STANDARDS. Except where otherwise specified, standards for the development of this district will be based upon the following City code, when and where applicable, except where the city Special District language modifies the standards of the City Codes.

- a. No conditional uses are permitted.
- b. ~~Low Density~~ Residential District-
 - ~~b.1.~~ Section 613 – R-1 Low Density Residential District-
- c. Medium Density Residential district – (Single family attached Row House Style Townhomes, zero lot line.)
 - ~~c.1.~~ Section 614 – R-2 Residential District (Multifamily, Condominiums, Apartments)-
- d. ~~Commercial Business District Section 616 C-1 Central Business District~~
- d. Mixed-use District- Residential (Quads, live over work, apartments, row style townhomes)-
 - 1. Section 616 - C-1 Central Business District
- e. The City Engineer has the authority to vary the size and location of Utility and Drainage Easements and what is allowed to encroach in said easements.
- f. The Development Agreements for Skye View shall address:
 - 1. Timing regarding when building permits may be issued surrounding infrastructure construction; and
 - ~~e.2.~~ The length of time allowed before completing a building permit to accommodate the applicant's construction lead times.

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611.7.7.6. DEFINITIONS

- a. Zero Lot Lines: ~~A lot designed for one dwelling unit of an attached one-family dwelling unit, or a detached one-family dwelling unit, with one side yard eliminated~~A lot designed for either one-dwelling unit of an attached one-family dwelling unit or a detached one-family dwelling unit with one side yard reduced or eliminated.
- b. ~~Townhouse:~~ An arrangement of single-family dwellings separate or joined by common walls on not more than two sides with the uppermost story being a portion of the same dwelling location directly beneath at the grade or first floor level and having exclusive individual ownership and occupant rights of each dwelling unit including but not limited to the land area directly beneath the dwelling.
- ~~c. b.~~ Row House Style Townhomes: Three, or more, attached one-family dwelling units having exclusive individual ownership of their dwelling but share common walls on shared lot lines across three or more parcels~~An attached dwelling joined to at least three others in a row by common walls on not more than two sides. Row houses are generally urban housing style, usually on their own lots.~~
- c. Single Family Attached: Two attached one-family dwelling units having exclusive individual ownership of their dwelling but share a common wall located on a shared lot line~~A lot designed to accommodate two individual units that share a common wall on a common lot line.~~
- d. Outlot: A Lot within a recorded plat set aside for purposes other than a building site, or land dedicated to public use. In order for an Outlot to become usable as a building site or land other than dedicated to public use, the outlot must be subdivided through a City platting process in Section 620.
- e. Building Height: The vertical distance from the ground floor to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.
- f. Live Over Work: An arrangement of one or more residential dwellings above a commercial

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(office) use space usually owned as rental property by the commercial entity directly below; the units can be next to each other (side-by-side units) joined by common wall on a shared lot line or be several units on one parcel.

d.

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611.7.7.7. SUBDISTRICT REGULATIONS.

Subd. 1. There are ~~four~~three subdistricts established in this Special District. They are: "Low Density Residential", "Medium Density Residential", "~~Commercial Business District~~", and "Mixed Use District".

~~Subd. 2. The following regulations apply within the area identified as "Low Density Residential" on the Skye View Land Use Plan. This District consists of four land uses: "Single family", "Single family attached", and "Zero lot line", and "Row House Style Townhomes".~~

a. Low Density Residential

1. Unless otherwise specified in this special district, the regulations of the R-1 District shall apply within the Low-Density District.
2. Permitted uses shall include the following
 - a. Single family detached
 - b. Single family attached
 - c. Row House Style Townhouse
 - d. Zero lot line
3. Lot Development Standards.
 - a. Setback and lot criteria:

- The minimum setback and lot criteria for this District is listed in TableA

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria:			
			Front Yard	Rear Yard	Side Yard	Sum
Single Family Detached	8,000 SF	70	25	25	8	16
Single Family Attached	6,800 SF	60	20	15	8	16
Row House Style Townhouses	3,500 SF	18 ⁽¹⁾ 26 ⁽²⁾	20	15	8	16
Zero Lot Line	3,000 SF	38	20	15	8/0	8

(1) Interior Unit

(2) Exterior Unit

- b. ~~The exemptions from setback standards shall be limited to allow the following building elements to protrude into the setback: only exemption from the front, and rear setback standards will be eaves and stoops.~~

	Front (feet)	Rear (feet)	Side (feet)
Balconies	5	5	N/A
At-grade landing place	5	5	N/A
Uncovered patio	5	5	N/A
Eaves	4	4	4
Window wells	4	4	4
Stoops	4	4	4

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- ~~e.~~ ^{b.} The driveway curb cuts will be no greater than 16' in width. Driveways for Row House Style Townhomes will be no greater than 12' from curb cut to the garage width for a 2-car garage and ~~12' for Row House Style Townhomes to the garage.~~
- ~~d.~~ ^{c.} Street trees of a minimum 1-1/2" caliper size are required at approximate 35' intervals in all grass boulevard areas of public streets
- ~~f.~~ ^{e.} The maximum height of any structure is ~~35-30 feet measured from the lowest ground elevation adjacent to the structure to the midpoint of the sloped roof.~~
- ~~g.~~ ^{f.} Density and intensity
- The ~~minimum~~ density and intensity requirements for this District is listed in Table B:
- ~~h.~~ ^{g.} Zero lot line development will require party wall and maintenance agreements.

Table B		
Land Use	Proposed Density/Intensity	Approx. Acres
Low Density Residential District (Single Family Detached/Attached ^{Row} Townhouses)	12-18 Up to 8 Units/Acre	1-82.4

b. Medium Density District

- Unless otherwise specified in this special district, the regulations of the R-2 District shall apply within the Medium Density area.
- Permitted uses shall include all the following
 - Condominiums
 - Multifamily
 - Open space/recreational area
- Lot development standards:
 - Setback and Lot Criteria

- The minimum setback and lot criteria for this District is listed in Table A:

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria:			
			Front Yard	Rear Yard	Side Yard	Sum
Multifamily	15,000 SF	140 ft	25	15	15 10	30 20
Condominium	N/A	N/A	25	15	15 10	30 20
Open/Recreational Space	N/A	N/A	N/A	N/A	N/A	N/A

- ^{b.} The exemptions from setback standards shall be limited to allow the following building elements to protrude into the setback:

	<u>Front (feet)</u>	<u>Rear (feet)</u>	<u>Side (feet)</u>
<u>Balconies</u>	<u>5</u>	<u>5</u>	<u>N/A</u>
<u>At-grade landing place</u>	<u>5</u>	<u>5</u>	<u>N/A</u>
<u>Uncovered patio</u>	<u>5</u>	<u>5</u>	<u>N/A</u>
<u>Eaves</u>	<u>4</u>	<u>4</u>	<u>4</u>

Window wells	4	4	4
Stoops	4	4	4

- b. ~~only exception from the front and rear setback standards will be eaves and stoops~~
- c. The driveway curb cuts will be no greater than 25 feet in width. Driveway curb cuts for individual units shall be no greater than 12 feet and for shared driveways between two units no greater than 16 feet.
- d. Street trees of a minimum 1-1/2" caliper size are required at approximate 35' intervals in all grass boulevard areas of public streets.
- e. Architectural standards. Buildings must incorporate architectural styles, building materials and colors used in surrounding buildings and properties within Skye View. Buildings must be compatible with properties adjacent to Skye View. An Architectural Control Committee (ARC) shall be established to review all proposed building plans for consistency in design and appearance standards.~~A building must incorporate architectural styles, building materials and colors used in surrounding buildings. An Architectural Control Committee has been established to review all proposed building plans for consistency in design and appearance standards.~~
- f. Landscape Plan: Lot landscaping standard requirements for the medium density development shall be provided for each lot consistent with the minimum standards established by the Architectural Control Committee (ARC). The ARC shall review all landscape plans to ensure they are consistent with the minimum standards established by the ARC.
- g. Maximum building height shall be 35 Feet.
- h. Density and intensity
 - The ~~minimum density, range of densities (minimum to maximum),~~ and intensity for this District is listed in Table B:

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Table B		
Land Use	Proposed Density/Intensity	Approx. Acres
Medium Density Residential District (Multifamily/Condominiums)	<u>Up to 16-24</u> Units/Acre	<u>1-62.55</u>

~~c. Commercial Business District~~

- ~~1. Unless otherwise specified in the special district, the regulations of the C-1, Central Business District shall apply within the Commercial Business District.~~
- ~~2. Permitted uses shall include the following~~
 - ~~a. Retail Sales~~
 - ~~b. Sit down and drive thru Restaurants~~
 - ~~c. Entertainment & Drinking~~
 - ~~d. Home Improvement Trades~~
 - ~~e. Appliance Sale and Services~~
 - ~~f. Repair Shops~~
 - ~~g. Banks/Savings/Loans~~
 - ~~h. Offices~~

- i. Personal Services
- j. Hotel/Motel
- k. Animal Hospital/ veterinary clinic
- l. Convenience Retail — with and without gasoline sales
- m. Drive Thru Facilities
- n. Electric vehicle charging stations
- o. Coffee Shops
- p. Live Over Work

3. Lot Development Standards

a. Setback and Lot Criteria

- i. — The Minimum Setback and Lot Criteria for the District is listed in Table A:

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria (Feet):			
			Front Yard (feet)	Rear Yard	Side Yard	Sum
all uses	6,000 SF	80	25	25	10	20
parking lots (associated with the principal structure)	n/a	n/a	8	8	8	n/a
corner lot	6,600 SF	80	25	25	12	N/A

- b. Maximum building height shall be 35 feet.

- c. Minimum parking standards for commercial uses shall be in accordance with Section 609.7 Parking of the Code of Ordinance for the City of Plainview.

d. Density and Intensity

- — The maximum density and intensity for this District is listed in Table B:

Table B		
Land Use	Proposed Density/Intensity	Approx. Acres
Commercial District	0.50 FAR ⁽¹⁾	0.56

(1) Maximum floor area ratio: A sum of the gross horizontal area of the floors of a building measured from the outside faces of wall or the centerline of party walls separating two buildings. This does not include any interior parking spaces, loading spaces, any space where the floor to ceiling height is less than six feet, any space devoted to mechanical equipment, terraces, breezeways, screened porches, basements, other sub-terranean areas not intended for human habitation.

Example: Two-story building with 1,500 S.F. of gross floor area for a total of 3,000 S.F. located on a 6,000 S.F. lot. First floor mechanical room of 30 S.F. and stairwell area of 750 S.F. combined on both floors: 3,000 S.F. — (30 S.F. + 750 S.F.) = 2,220 S.F. of net floor area. FAR = 2,200 S.F. net floor area / 6,000 S.F. gross lot size = 0.37.

- ~~4. Site Development Plan and Site Plan Review: A site Development Plan for all uses in the Commercial Business District shall be prepared and submitted to the City of Plainview for review. The City of Plainview will review the Site Development Plan for consistency with the standards and criteria of the Special District for architecture, signage, parking, and landscaping, including City code, when and where applicable, except where the city Special District language modifies the standards of the City Codes.~~
- ~~5. Convenience retail and drinking and entertainment uses shall have hours of operation as follows:
 - a. Convenience Retail: 24 hours
 - b. Drinking and entertainment: 6am – 12 midnight~~
- ~~6. Stacking Requirements for drive-in facilities shall be reduced to five in-bound and one out-bound space per drive lane.~~
- ~~7. On-street parking in front of the retail uses shall be allowed. On-street parking in front or on the side street of the lot shall count toward fulfilling the parking requirements of the ordinance. On-street parking spaces must be striped for clarity and be at least 22.5' long. On-Street spaces may not conflict with traffic, sight lines, or pedestrian circulation.~~
- ~~8. Limitation on permitted uses:
 - a. Not more than one convenience retail use that includes sales of automotive fuels may be permitted in the Commercial Business District.
 - b. With the exception of transit accommodation (motel/hotels), restaurant uses and grocery stores, individual businesses shall not exceed 20,000 square of floor area on the ground floor.~~
- ~~9. Lot Development Standards:
 - a. Exterior Trash Receptacles shall be constructed to the size and standards of the typical section on Exhibit G of the Special District.
 - b. Utility boxes and water backflow prevention devices shall be located so they are visually unobtrusive and screened with landscaping as allowed.
 - c. Buildings shall be oriented to face the street with entrances and display windows at the street level. Extended awnings, canopies or large umbrellas shall be permitted and located to provide shade. A revocable permit will be required by the City whenever a canopy or awning extends into the public right of way. Restaurants shall be permitted to operate outdoor cafes on sidewalks, including areas within the public right of way provided that pedestrian circulation and access to store entrances are not impaired. Revocable permits are for the private use of the public right of way, either permanent or temporary. The "revocable" designation means that the City may revoke the permit at any time for any reason.~~

- ~~d. Bicycle locking stands are required in each Commercial Use. One stand, which holds a minimum of six bicycles, shall be provided for every 20,000 square feet of gross leasable space. These stands must harmonize with the architectural of the retail area connect to the ground at two points or more.~~
- ~~e. Street trees are required along the public streets of all mixed use buildings at a minimum spacing of 35' on center.~~
- ~~f. Parking~~
 - ~~i. Minimum parking requirements for the Commercial Business District, shall use business center parking standards of Section 609.7 of the Code of Ordinance for City of Plainview.~~
 - ~~ii. In commercial or office uses, which have shop fronts adjacent to sidewalks and streets, on street parking directly in front of the lot shall count toward fulfilling the parking requirement and meet requirements set forth in 611.7.7.c.4.7.~~
 - ~~iii. Parking lot screening~~
 - ~~a. All parking areas containing more than six spaces (if not screened by the building from public roads) must be screened with a hedgerow (42" minimum height), unless there is a minimum 8 front wide landscape use provided. Hedgerows shall be planted at a maximum of 4'-0" on center and shall reach a minimum height of 36" and a maximum height of 6'-0".~~
 - ~~iv. Parking Lot Landscaping:~~
 - ~~a. Parking areas containing more than 15 spaces and containing more than two contiguous or parallel rows of parking shall have internal landscaping within the parking area equal to at least five percent of paved area of the lot (including drive aisles plus driveways).~~
 - ~~b. Paved areas do not include sidewalks, patios, or other paved areas not associated with vehicle parking or circulation. Planting areas must be distributed throughout the parking areas. They must have a minimum width of at least eight feet and be at least 100 square feet in area.~~
 - ~~c. Each 100 square feet of required landscape area must contain at least one canopy tree or two understory trees (minimum size for canopy trees in 1 1/2" caliper and minimum size for understory tree is one inch caliper). The landscape islands shall not be used for snow storage and any planting must be maintained in a healthy condition and appearance. These areas may contain external standard lighting fixtures.~~
- ~~10. Landscape Plan: Lot landscaping standard requirements to the Commercial development shall be provided for each lot consistent with the minimum standards established by the Architectural Control Committee (ARC). The ARC shall review all landscape plans to ensure they are consistent with the minimum standards established by the ARC.~~

a. Signs

- i. ~~Signs should add interest to the street level environment. They can only unify the overall architectural concept of the building or provide unique identity for a commercial space within a larger mixed use structure. Signage shall be appropriate for the scale, character and use of the project and surrounding area. Signs should be oriented and scaled for both pedestrians on sidewalks and vehicles on streets. The following sign types satisfy these requirements:~~
 - a. ~~**Blade Sign** — A sign used to attract pedestrians or drivers who cannot see a storefront. Blade signs are usually illuminated both on the front and back with two faces. They can also be non-illuminated with a cut-out design. They are usually hung from ornate brackets.~~
 - b. ~~**Marquee** — A structure attached to and projecting from a wall of a building, located above an entrance, which is designed to identify a business or use located on the premises or to advertise present or scheduled events on the premises.~~
 - c. ~~**Neon signs** — sized to not exceed 20 square feet.~~
 - d. ~~**Free standing sign** — self supporting sign resting on or supported by means of poles, standards of any other type of base anchored to the ground~~
 - e. ~~**Projecting sign** — A sign, other than a wall sign, which attaches to and projects from a structure or building facade.~~
 - f. ~~**Graphics sign** — A sign which is an integral part of the building facade. The sign is painted directly on, carved in or otherwise permanently imbedded in the facade. Signs in shop windows are included unless they qualify as auxiliary signs.~~
 - g. ~~**Auxiliary sign** — A sign providing information of a special or general nature which does not include information on names, brands or product lines, such as hours of operation, length of special sales, security warnings, directions for parking or entry or general pricing information (such as gas prices at service stations).~~
 - h. ~~**Advertising signs (billboards)** — will be prohibited.~~
 - i. ~~**Wall signage** — A sign mounted parallel to a building facade or other vertical building surface. These signs shall not be mounted more than 18 inches from the wall surface they are attached to and not exceed 10% of the wall surface of the front of the building.~~
- ii. ~~Sign standards shall conform with the following criteria:~~
 - a. ~~**Free standing sign** — maximum height 20" feet.~~
 - b. ~~**Projecting sign** — maximum area — 20 square feet, maximum height — 12 feet.~~
 - c. ~~**Graphics sign** — maximum area of 10% of wall.~~

d-c. Mixed-Use District:

1. The "Mixed Use District" permitted uses are as follows:

a. Multi-family (max. 4 connected units)

b. Live Over Work

c. Multi-family

Row House Style Townhouses

e-d.

e. Commercial uses permitted by this special district:

i. Live Over Work

ii. Retail Sales

iii. Sit-down and drive-thru Restaurants

iv. Entertainment & Drinking

v. Home Improvement Trades

vi. Appliance Sale and Services

vii. Repair Shops

viii. Banks/Savings/Loans

ix. Offices

x. Personal Services

xi. Hotel/Motel

xii. Animal Hospital/ veterinary clinic

xiii. Convenience Retail – with and without gasoline sales

xiv. Drive-Thru Facilities

xv. Electric vehicle charging stations

~~xvi.~~ Coffee Shops

~~e-a.~~ Row House Style Townhouses

2. Limitation on permitted uses:

a. Not more than one convenience retail use that includes sales of automotive fuels may be permitted in the Mixed-Use District.

b. With the exception of transit accommodation (motel/hotels) and grocery stores, individual businesses shall not exceed 20,000 square of floor area on the ground floor.

2-3. Lot Development Standards

a. Setback and Lot Criteria

- The Minimum Setback and Lot Criteria for the District is listed in TableA:

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria (Feet):			
			Front Yard (feet)	Rear Yard	Side Yard	Sum
Multi-family	Variable	120 80	25	20	8	16
Live - Work	Variable	106	25	20	8	16

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Multi-family (max. 4 units) All Commercial Uses	Variable 6,000 SF	80	25	2025	8	16
Row House Style Townhouses	3,500 SF	18 ⁽¹⁾ 26 ⁽²⁾	20	15	8	16
Parking lots on the same lot as the principal structure/use	N/A	N/A	5	5	5	N/A

(1) Interior Unit

(2) Exterior Unit

3.4. Density and Intensity

- The ~~maximum density, range of densities (minimum to maximum),~~ and intensity for this District is listed in Table B:

Table B		
Land Use	Proposed Density/Intensity	Approx. Acres
Mixed Use District (Multi-family/Live Work/ Multi-family (max. 4 units)/Row House Style Townhomes)	19-42 Multi-family Units	1.5
	3+ Live Over Work	
	Multi-family (max. 4 units attached)/8 units maximum	
	Row House Style Townhomes/8 units maximum	

Table B		
Land Use	Density:	Approx. Acres See Exhibit A
Multi-family	Up to 50 Multi-family Units/Acre	4.2
Row House Style Townhouses	Up to 10 Row House Style Townhomes Units/Acre	
Live Over Work	Up to 10 Live Over Work Units/Acre	
All Commercial Uses	0.50 FAR ⁽¹⁾	

Commented [TW1]: Same rationale as Table B changes in other subdistricts

Commented [HD2R1]: Same comments as above. The max total of 150 units (using the above unit types) makes sense in this application.

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(1) Maximum floor area ratio (FAR): A sum of the gross horizontal area of the floors of a building measured from the outside faces of wall or the centerline of party walls separating two buildings. This does not include any interior parking spaces, loading spaces, any space where the floor to ceiling height less than six feet is, any space devoted to mechanical equipment, terraces, breezeways, screened porches, basements, other sub-terranean areas not intended for human habitation.

Example: Two story building with 1,500 S.F. of gross floor area per story, for a total of 3,000 S.F. located on a 6,000 S.F. lot. First floor mechanical room of 30 S.F. and stairwell area of 750 S.F. combined on both floors. $3,000 \text{ S.F.} - (30 \text{ S.F.} + 750 \text{ S.F.}) = 2,220 \text{ S.F.}$ of net floor area. $\text{FAR} = 2,200 \text{ S.F. net floor area} / 6,000 \text{ S.F. gross lot size} = 0.37$.

5. The exemptions from setback standards shall be limited to allow the following building elements to protrude into the setback:

	Front (feet)	Rear (feet)	Side (feet)
Balconies	5	5	5
At-grade landing place	5	5	N/A
Uncovered patio	5	5	N/A

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Eaves	<u>4</u>	<u>4</u>	<u>4</u>
Window wells	<u>4</u>	<u>4</u>	<u>4</u>
Stoops	<u>4</u>	<u>4</u>	<u>4</u>

~~4. Live Over Work: Office and residential uses are allowed on the upper levels. Two off-street parking stalls per residential unit is required and must be reserved.~~

~~5.6.~~ A site Development Plan for all uses in the Mixed-Use District shall be prepared and submitted to the city of Plainview for review. The City of Plainview will review the Site Development Plan for consistency with the standards and criteria of the Special District for architecture, signage, parking, and landscaping, including City code, when and where applicable, except where the city Special District language modifies the standards of the City Codes.

~~7. Parking requirements for the Mixed-Use District shall use standards of Section 609.7 except as follows:~~

~~a. On-street parking shall be allowed. On-street parking in front or on the side street of the lot shall count toward fulfilling the parking requirements of the ordinance. On-street parking spaces must be striped for clarity and be at least 22.5' long. On-Street spaces may not conflict with traffic, sight lines, or pedestrian circulation.~~

~~b. Multi-Family or Row Style: 1 stall for 1 bedroom, 1.5 stalls for 2-bedroom, 2 stalls for 3 bedrooms.~~

~~c. Live over work: Commercial space - 1 stall/ 200 square feet. Residential - 2 stalls per residential unit, with 1 of the 2 stalls being off-street parking.~~

~~8. Parking Lot Screening and Landscaping:~~

~~a. All parking areas containing more than six spaces (if not screened by the building from public roads) must be screened with a hedgerow. These landscaped areas but be a minimum of 4' wide. Hedgerows shall be planted at a maximum of 4' on center and shall reach a minimum height of 3' and a maximum height of 6'.~~

~~b. Parking areas containing more than 15 spaces and containing more than two contiguous or parallel rows of parking shall have internal landscaping within the parking area equal to at least five percent of paved area of the lot (including drive aisles plus driveways).~~

~~c. Paved areas do not include sidewalks, patios, or other paved areas not associated with vehicle parking or circulation.~~

~~d. Each 100 square feet of required landscape area must contain at least one canopy tree or two understory trees (minimum size for canopy trees is 1 – 1/2" caliper and minimum size for understory tree is one inch caliper). The landscape islands shall not be used for snow storage and any planting must be maintained in a healthy condition and appearance. These areas may contain external standard lighting fixtures.~~

~~9. Signs~~

~~a. Signs should add interest to the street-level environment. They can only unify the overall architectural concept of the building or provide unique identity for a commercial space within a larger mixed-use structure. Signage shall be~~

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appropriate for the scale, character and use of the project and surrounding area. Signs should be oriented and scaled for both pedestrians on the sidewalks and vehicles on streets. The following sign types satisfy these requirements:

- b. Blade Sign - A sign used to attract pedestrians or drivers who cannot see a storefront. Blade signs are usually illuminated both on the front and back with two faces. They can also be non-illuminated with a cut-out design. They are usually hung from ornate brackets.
- c. Marquee - A structure attached to and projecting from a wall of a building, located above an entrance, which is designed to identify a business or use located on the premises or to advertise present or scheduled events on the premises.
- d. Neon signs - sized to not exceed 20 square feet.
- e. Free standing sign - self-supporting sign resting on or supported by means of poles, standards of any other type of base anchored to the ground
- f. Projecting sign – A sign, other than a wall sign, which attaches to and projects from a structure or building facade.
- g. Graphics sign – A sign which is an integral part of the building facade. The sign is painted directly on, carved in or otherwise permanently imbedded in the facade. Signs in shop windows are included unless they qualify as auxiliary signs.
- h. Auxiliary sign – A sign providing information of a special or general nature which does not include information on names, brands or product lines, such as hours of operation, length of special sales, security warnings, directions for parking or entry or general pricing information (such as gas prices at service stations).
- i. Advertising signs (billboards) - will be prohibited.
- j. Wall signage - A sign mounted parallel to a building facade or other vertical building surface. These signs shall not be mounted more than 18 inches from the wall surface they are attached to and not exceed 10% of the wall surface of the front of the building.

10. Sign standards shall conform with the following criteria:

- a. Free standing sign – maximum height 20” feet.
- b. Projecting sign – maximum area – 20 square feet, maximum height – 12 feet.
- c. Graphics sign – maximum area of 10% of wall.
- d. Auxiliary sign – maximum height – 6’.
- e. Advertising signs (billboards) will be prohibited.
- f. Wall signage - should be uniform in size.
- g. Signs can be internally lit.

11. Alcohol sales are a permitted use.

12. Convenience retail and drinking and entertainment uses shall have hours of operation as follows:

- a. Convenience Retail: 24 hours
- b. Drinking and entertainment: 6am - 12 midnight

13. Architectural Standards.

- a. Standards for all uses:
 - i. The maximum height allowed shall be 45 feet.
 - ii. Each building shall avoid long, monotonous wall or roof planes. The façade

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and roof of a building should be divided into distinct “modules” no longer than 150 feet by adding corners or breaks in the wall plane and sufficiently changing color or material.

- iii. Mechanical equipment, electrical and communication transformers, cabinets, and services areas shall be located out of public view where feasible or screened from public view with fences, walls, or landscaping.
- iv. Utility boxes and water backflow prevention devices shall be located so they are visually unobtrusive and screened with landscaping as allowed.
- v. Exterior Trash Receptacles shall be constructed to size and standards of the typical section on figure Exhibit F of the Special District.
- vi. Street trees are required along the public streets of all mixed-use buildings at a minimum spacing of 35’ on center.
- vii. All sides of the building façade shall be designed to provide architectural and visual interest.

1. Doorways, windows, and other openings in the façade of a building shall be proportioned to reflect pedestrian scale and movement, and to encourage interest at the street level.

2. Exterior materials may include brick, architecturally treated concrete, stone, tile, stucco, stucco-like panels and other cultured stone, and similar high quality architectural materials such as high-quality LP siding (engineered wood with a wood-like appearance and texture).

3. Buildings shall be oriented to face the street with entrances and display windows at the street level. Extended awnings, canopies or large umbrellas shall be permitted and located to provide shade. A revocable permit will be required by the City whenever a canopy or awning extends into the public right of way. Revocable permits are for the private use of the public right-of-way, either permanent or temporary. The “revocable” designation means that the City may revoke the permit at any time for any reason.

4. Bicycle-locking stands are required for each Commercial Use. One stand, which holds a minimum of six bicycles, shall be provided for every 20,000 square feet of gross space. These stands must harmonize with the architecture of the retail area connect to the ground at two points or more.

b. Standards for Commercial Uses

i. Maximum size for a restaurant use is 7,000 square feet.

1. Restaurants shall be permitted to operate outdoor cafes on sidewalks, including areas within the public right of way provided that pedestrian circulation and access to store entrances are not impaired

ii. Convenience retail uses shall locate automotive fuel service and drive-thru service areas away from residences and toward the perimeter streets.

iii. Light from lighting fixtures and signage, and sound from sound-producing equipment shall be oriented away from residences. Music from sound producing equipment shall be prohibited on the exterior of the building.

iv. Foundation landscaping (4’ minimum planting bed width) and windows

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shall be provided along all building sides that are open to view from public streets.

v. Perimeter landscaping at least four feet in depth shall be provided along public roads between sidewalks and driveway or parking areas.

vi. Pedestrians must be able to safely access the building from public sidewalks on visual prominent crosswalks within drive areas to the building's front door.

vii. All sides of the building façade shall be designed to provide architectural and visual interest.

1. A minimum of 50% of the building along a street right of way at ground level must be clear or lightly tinted windows, doors, or other treatment that are sufficiently transparent to provide pedestrian views into the building.

2. Awnings, covered walkway, open colonnades, or similar weather protection must be provided by at least 50% of the commercial, retail, service, and office uses that front the right of way.

3. Doorways, windows, and other openings in the façade of a building shall be proportioned to reflect pedestrian scale and movement, and to encourage interest at the street level.

4. Exterior materials may include brick, architecturally treated concrete, stone, tile, stucco, stucco-like panels and other cultured stone, and similar high quality architectural materials such as high-quality LP siding (engineered wood with a wood-like appearance and texture).

5. Buildings shall be oriented to face the street with entrances and display windows at the street level. Extended awnings, canopies or large umbrellas shall be permitted and located to provide shade. Restaurants shall be permitted to operated outdoor cafes on sidewalks, including area within the public right of way and in courtyards provided that pedestrian circulation and access to store entrances are not obstructed.

6. Drive-thru:

a. Drive-up facilities shall be permitted.

i. Stacking Requirements for drive-thru facilities shall be subject to approval of the City Engineer during Site Development Plan review and approval.

b. The use of outdoor speaker systems and other audio type equipment shall be limited by the Architectural Control Committee and local noise ordinances.

c. The Site Plan for each drive-thru facility shall minimally include the location of the drive-thru, staging aisle, location of the menu board, and other signage deemed necessary for the operation of the drive-thru.

6. Minimum of two stories above grade is allowed. A story is defined as that portion of a building included between the upper surface of any floor and the upper surface at the next floor above except that the topmost floor shall be that portion of a building included between the upper surface of the topmost floor and ceiling.

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~~7. Maximum size for a restaurant use is 7,000 square feet.~~

~~8. Alcohol sales are permitted.~~

~~9. The height allowed for a three-story building shall be 35 feet.~~

~~10. Lot development Standards:~~

~~a. Exterior Trash Receptacles shall be constructed to size and standards of the typical section on figure Exhibit F of the Special District.~~

~~b. Utility boxes and water backflow prevention devices shall be located so they are visually unobtrusive and screened with landscaping as allowed.~~

~~c. Buildings shall be oriented to face the street with entrances and display windows at the street level, except for the storage facilities. Extended awnings, canopies or large umbrellas shall be permitted and located to provide shade.~~

~~d. Street trees are required along the public streets of all mixed-use buildings at a minimum spacing of 35' on center.~~

~~11. Parking requirements for the Mixed-Use District shall use standards of Section 609.7 except as follows:~~

~~• Live over work: Commercial space 1 stall/ 200 square feet~~

~~• Apartments: 1 stall for 1 bedroom, 1.5 stalls for 2 bedroom, 2 stalls for 3 bedrooms.~~

~~a. Parking Lot Screening:~~

~~1. All parking areas containing more than six spaces (if not screened by the building from public roads) must be screened with a hedgerow. These landscaped areas but be a minimum of 4' 0" wide. Hedgerows shall be planted at a maximum of 4' 0" on center and shall reach a minimum height of 36" and a maximum height of 6'0".~~

~~b. Parking Lot Landscaping:~~

~~1. Parking areas containing more than 15 spaces and containing more than two contiguous or parallel rows of parking shall have internal landscaping within the parking area equal to at least five percent of paved area of the lot (including drive aisles plus driveways).~~

~~2. Paved areas do not include sidewalks, patios, or other paved areas not associated with vehicle parking or circulation.~~

~~3. Each 100 square feet of required landscape area must contain at last one canopy tree or two understory trees (minimum size for canopy trees in 1 1/2" caliper and minimum size for understory tree is one inch caliper). The landscape islands shall not be used for snow storage and any planting must be maintained in a healthy condition and appearance. These areas may contain external standard lighting fixtures.~~

~~12. Signs~~

~~a. Signs should add interest to the street level environment. They can only unify the overall architectural concept of the building or provide unique identity for a commercial space within a larger mixed-use structure. Signage shall be appropriate for the scale, character and use of the project and~~

~~surrounding
area. Signs
should be
oriented and
scaled for
both
pedestrians
on the
sidewalks
and vehicles
on streets.
The following
sign types
satisfy these
requirements
:~~

1. ~~**Blade Sign**~~—A sign used to attract pedestrians or drivers who cannot see a storefront. Blade signs are usually illuminated both on the front and back with two faces. They can also be non-illuminated with a cut-out design. They are usually hung from ornate brackets.
 2. ~~**Marquee**~~—A structure attached to and projecting from a wall of a building, located above an entrance, which is designed to identify a business or use located on the premises or to advertise present or scheduled events on the premises.
 3. ~~**Neon signs**~~—sized to not exceed 20 square feet.
 4. ~~**Free standing sign**~~—self-supporting sign resting on or supported by means of poles, standards of any other type of base anchored to the ground
 5. ~~**Projecting sign**~~—A sign, other than a wall sign, which attaches to and projects from a structure or building facade.
 6. ~~**Graphics sign**~~—A sign which is an integral part of the building facade. The sign is painted directly on, carved in or otherwise permanently imbedded in the facade. Signs in shop windows are included unless they qualify as auxiliary signs.
 7. ~~**Auxiliary sign**~~—A sign providing information of a special or general nature which does not include information on names, brands or product lines, such as hours of operation, length of special sales, security warnings, directions for parking or entry or general pricing information (such as gas prices at service stations).
 8. ~~**Advertising signs (billboards)**~~—will be prohibited.
 9. ~~**Wall signage**~~—A sign mounted parallel to a building facade or other vertical building surface. These signs shall not be mounted more than 18 inches from the wall surface they are attached to and not exceed 10% of the wall surface of the front of the building.
- b. Sign standards shall conform with the following criteria:
1. ~~**Free standing sign**~~—maximum height 20' feet.
 2. ~~**Projecting sign**~~—maximum area—20 square feet, maximum height—12 feet.
 3. ~~**Graphics sign**~~—maximum area of 10% of wall.
 4. ~~**Auxiliary sign**~~—maximum height—6'.
 5. ~~**Advertising signs (billboards)**~~ will be prohibited.
 6. ~~**Wall signage**~~—should be uniform in size.
 7. ~~Signs can be internally lit.~~

13. Architectural Standards:

a. Standards for all uses:

1. Each building shall avoid long, monotonous uninterrupted walls or roof planes. The façade of a building should be divided into distinct modules, no longer than 150 feet.
2. Mechanical equipment, electrical and communication transformers, cabinets, and services areas shall be located out of public view.

~~where feasible or screened from public view with fences, walls, or landscaping.~~

~~3. All sides of the building façade shall be designed to provide architectural and visual interest.~~

~~i. Doorways, windows, and other openings in the façade of a building shall be proportioned to reflect pedestrian scale and movement, and to encourage interest at the street level.~~

~~ii. Exterior material may include brick, architectural treated concrete, stone tile, stucco, stucco-like panels and other cultured stone, and similar high quality architectural materials~~

~~iii. Buildings shall be oriented to face the street with entrances and display windows at the street level. Extended awnings, canopies or large umbrellas shall be permitted and located to provide shade.~~

611.7.7.8. PARKLAND DEDICATION REGULATIONS

1. Section 622.9 of the Code of Ordinances for the City of Plainview titled "Parks, Open Space, and Public Use" contains the current policy for parkland dedication or cash in lieu of dedication provision when a park or public area is not shown on the Comprehensive plan. Parkland Dedication Ordinances are granted pursuant to State Statute 462.358. Section 622.9 of the Code of Ordinances provides for a schedule based on density of the development for R-1 and R-2 residentially zoned districts.
2. The Sky View Special District Plan contains ~~four distinct land use districts of which three are land use districts~~ subject to parkland requirements. They are: (1) Low-Density Residential; (2) Medium Density Residential; and (3) a portion of the Mixed-Use for Multifamily, or Live-Over work.
3. The parkland dedication requirement for this Special District will be met via a cash contribution in lieu of land dedication. The cash payment for parkland dedication shall be made prior to recording the Final Plat of each phase of development with land uses that are subject to the parkland dedication per item ~~3.2~~ above.
4. Calculation of parkland dedication: The amount of cash in lieu of dedication of parkland for each land use designation shall be based on the density of each category as noted in ~~the following table~~ Table A:

Table A	
Land Use	Required Dedication
Low Density Residential	8% of total land area
Medium Density Residential	Refer to Table B
Mixed-Use Density Residential	Refer to Table B

Table B: Density calculation for Medium Density and Mixed-Use Density for residential use. The population density chart is pertinent to the land use that potentially increases

demand on parks.

Table B	
Density in Dwelling Units per Gross Acre of Residential Land Area (dwelling units per acre)	Estimated Number of Persons per Dwelling Unit
16-21	2.22
Over 21	1.98

5. The total land dedication requirement in Table A is calculated based on total land area within the low-density residential zone multiplied by the required dedication percentage. The dedication requirement formula is **number of acres within the low-density residential zone x required dedication percentage = Amount of land to be dedicated.**

The total land dedication requirement in Table B is calculated based on need for 8 acres per 1,000 residents. The dedication requirement formula is **0.008 x the number of persons per dwelling unit x number of units = Amount of land to be dedicated.**

The formula for Cash in Lieu of land dedication is as follows: **Fair market value per acre x number of acres required to be dedicated = cash payment in Lieu of land dedication.**

Table A Example:

10 acres low density residential x 0.08 = 0.8 acres

0.8 acres x \$10,000 per acre fair market value = \$8,000.00

Table B Example:

(0.008 x 2.22 persons per dwelling unit) x 20 dwelling units = 0.35 Acres

0.35 acres x \$10,000 per acre fair market value = \$3,552.00

The fair market value of the land before development to be used in calculations for Tables A and B shall be defined by either (1) appraised or (2) negotiated value between the City and Developer.

611.7.7.9. GENERAL DEVELOPMENT STANDARDS

1. Public street section for Skye View Development shall follow the cross-sections shown in Exhibit C.

611.7.7.10. BOUNDARIES

1. The regulations established herein shall apply to the land described in Section 611.7.2 and shall be designated "SD-SV" on the zoning map.

611.7.7.11. EXHIBITS

1. The following documents shall be submitted with the Special District application and included as exhibits of this Ordinance:
 - i. Special District Boundary and Underlying Zone, Exhibit A
 - ii. Concept Plan Exhibit B
 - iii. Street Sections/Utilities, Exhibit C
 - iv. Pedestrian Circulation, Exhibit D
 - v. Building Proto-types Exhibit E
 - vi. Trash enclosure- Exhibit F

611.7.7.12. EFFECTS OF REGULATIONS

1. The Special District ordinance and Exhibits A-F including preliminary or final plats together with the conditions and restrictions imposed, if any, shall govern the use and development of the land.

611.7.7.13. DEVELOPMENT PROCEDURES

Subd. 1. Except as herein described, development procedures for property within the Special District shall be consistent with the requirements of the Plainview Code of Ordinances. Additional plans and information shall be submitted, as necessary, for development within the Special District, as outlined below. If determined necessary by the Zoning Administrator, additional plans, or information necessary for development approvals shall also be submitted.

Subd. 2. Preliminary and Final Plat Application. Preliminary and Final plat applications within the Special District shall include plans and information consistent with the requirements of the Plainview Code of Ordinances. If requested by the Zoning Administrator, additional information needed in order to judge the nature and propriety of the proposal shall also be submitted.

Subd. 3. Site Development Plan A Site Development Plan is required for all developments proposed in the Mixed-Use District. The plan shall be prepared and submitted to the city of Plainview for review and approval by city staff prior to building permit approval. The City of Plainview will review the Site Development Plan for consistency with the standards and criteria of the Special District for architecture, signage, parking, and landscaping, including City code, when and where applicable, except where the city Special District language modifies the standards of the City Codes.

Subd. ~~34~~. Zoning Certification and Building Permit. Applications for building permits and zoning certificates within the Special District shall include submission of a Skye View Development Architectural Review Committee document. This document must verify a review of sitting and plans for the compliance with this Special District's intent, as outlined in the covenants submitted with the final plat.

611.7.7.14. CONDITIONS AND RESCINDING APPROVAL

Subd. 1. Approval of this special district ordinance is made with the following conditions:

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- a. Public roadway connection to Highway 42 shall be required as a part of the first phase of the proposed development.
- b. Formal MnDOT approval for Highway 42 access shall be required prior to final plat approval.
- c. Preliminary and final plat submittals shall show that access to Parcel No.'s 14.00110.00 and 14.00109.06 is maintained through the special district property during construction of the improvements and after the improvements are made.
- d. The preliminary and final plat shall properly identify MnDOT right-of-way for Highway 42.

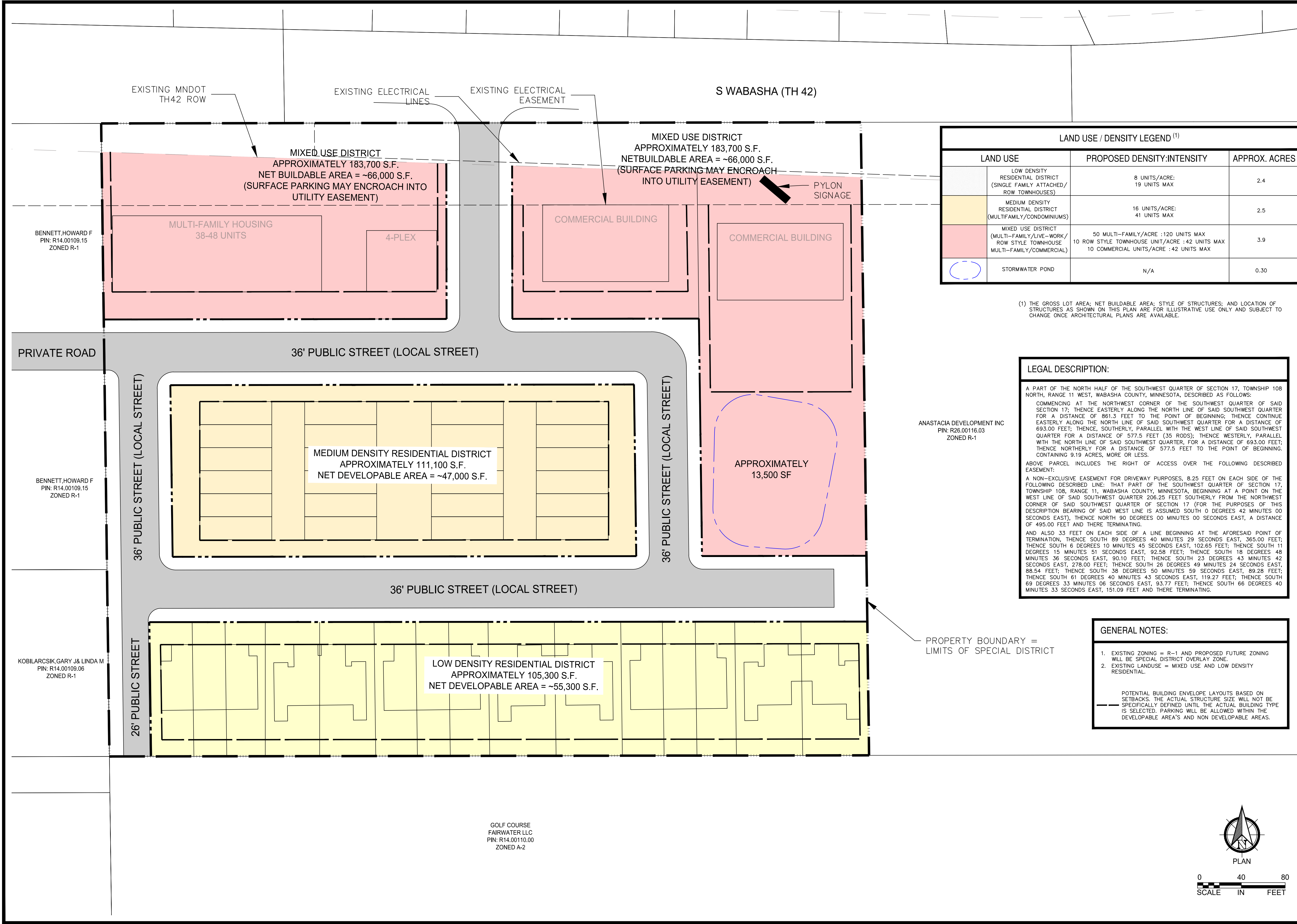
Subd. 2. After two years from the date of approval of the Special District, the Council may, following a public hearing, rescind approval of this Special District upon finding that the conditions in Subd. 1 have not been met, or that no progress has been made in the construction of the development.

**Exhibit A - Special District Boundary &
Underlying Zoning**

Exhibit B - Concept Plan

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LAND USE / DENSITY LEGEND ⁽¹⁾			
LAND USE		PROPOSED DENSITY: INTENSITY	APPROX. ACRES
	LOW DENSITY RESIDENTIAL DISTRICT (SINGLE FAMILY ATTACHED/ ROW TOWNHOUSES)	8 UNITS/ACRE: 19 UNITS MAX	2.4
	MEDIUM DENSITY RESIDENTIAL DISTRICT (MULTIFAMILY/CONDOMINIUMS)	16 UNITS/ACRE: 41 UNITS MAX	2.5
	MIXED USE DISTRICT (MULTI-FAMILY/LIVE-WORK/ ROW STYLE TOWNHOUSE MULTI-FAMILY/COMMERCIAL)	50 MULTI-FAMILY/ACRE : 120 UNITS MAX 10 ROW STYLE TOWNHOUSE UNIT/ACRE : 42 UNITS MAX 10 COMMERCIAL UNITS/ACRE : 42 UNITS MAX	3.9
	STORMWATER POND	N/A	0.30

(1) THE GROSS LOT AREA; NET BUILDABLE AREA; STYLE OF STRUCTURES; AND LOCATION OF STRUCTURES AS SHOWN ON THIS PLAN ARE FOR ILLUSTRATIVE USE ONLY AND SUBJECT TO CHANGE ONCE ARCHITECTURAL PLANS ARE AVAILABLE.

LEGAL DESCRIPTION:

A PART OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 108 NORTH, RANGE 11 WEST, WABASHA COUNTY, MINNESOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 17; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER FOR A DISTANCE OF 861.3 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE EASTERLY ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER FOR A DISTANCE OF 693.00 FEET; THENCE SOUTHERLY, PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER FOR A DISTANCE OF 577.5 FEET (35 RODS); THENCE WESTERLY, PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER, FOR A DISTANCE OF 693.00 FEET; THENCE NORTHERLY FOR A DISTANCE OF 577.5 FEET TO THE POINT OF BEGINNING, CONTAINING 9.19 ACRES, MORE OR LESS.

ABOVE PARCEL INCLUDES THE RIGHT OF ACCESS OVER THE FOLLOWING DESCRIBED EASEMENT:

A NON-EXCLUSIVE EASEMENT FOR DRIVEWAY PURPOSES, 8.25 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE: THAT PART OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 108, RANGE 11, WABASHA COUNTY, MINNESOTA, BEGINNING AT A POINT ON THE WEST LINE OF SAID SOUTHWEST QUARTER 206.25 FEET SOUTHERLY FROM THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 17 (FOR THE PURPOSES OF THIS DESCRIPTION BEARING OF SAID WEST LINE IS ASSUMED SOUTH 0 DEGREES 42 MINUTES 00 SECONDS EAST), THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 495.00 FEET AND THERE TERMINATING.

AND ALSO 33 FEET ON EACH SIDE OF A LINE BEGINNING AT THE AFORESAID POINT OF TERMINATION, THENCE SOUTH 89 DEGREES 40 MINUTES 29 SECONDS EAST, 365.00 FEET; THENCE SOUTH 6 DEGREES 10 MINUTES 45 SECONDS EAST, 102.65 FEET; THENCE SOUTH 11 DEGREES 15 MINUTES 51 SECONDS EAST, 92.58 FEET; THENCE SOUTH 18 DEGREES 48 MINUTES 36 SECONDS EAST, 90.10 FEET; THENCE SOUTH 23 DEGREES 43 MINUTES 42 SECONDS EAST, 278.00 FEET; THENCE SOUTH 26 DEGREES 49 MINUTES 24 SECONDS EAST, 88.54 FEET; THENCE SOUTH 38 DEGREES 50 MINUTES 59 SECONDS EAST, 89.28 FEET; THENCE SOUTH 61 DEGREES 40 MINUTES 43 SECONDS EAST, 119.27 FEET; THENCE SOUTH 69 DEGREES 33 MINUTES 06 SECONDS EAST, 93.77 FEET; THENCE SOUTH 66 DEGREES 40 MINUTES 33 SECONDS EAST, 151.09 FEET AND THERE TERMINATING.

PROPERTY BOUNDARY = LIMITS OF SPECIAL DISTRICT

- GENERAL NOTES:**
- EXISTING ZONING = R-1 AND PROPOSED FUTURE ZONING WILL BE SPECIAL DISTRICT OVERLAY ZONE.
 - EXISTING LANDUSE = MIXED USE AND LOW DENSITY RESIDENTIAL.
- POTENTIAL BUILDING ENVELOPE LAYOUTS BASED ON SETBACKS. THE ACTUAL STRUCTURE SIZE WILL NOT BE SPECIFICALLY DEFINED UNTIL THE ACTUAL BUILDING TYPE IS SELECTED. PARKING WILL BE ALLOWED WITHIN THE DEVELOPABLE AREA'S AND NON DEVELOPABLE AREAS.

PH. NO. 507-634-4505
PLANS@WSE.ENGINEERING
www.wse.engineering

KASSON OFFICE
P.O. BOX 100
33 B E VETERANS
MEMORIAL HIGHWAY
KASSON, MN 55944

PLAINVIEW OFFICE
320 WEST BROADWAY
SUITE 3
PLAINVIEW, MN 55964

ROCHESTER OFFICE
1712 RESTORATION
ROAD SW
ROCHESTER, MN 55902

DESCRIPTION:									
DATE:									
REV:									

SKYE VIEW DEVELOPMENTS
PLAINVIEW, MINNESOTA
SPECIAL DISTRICT CONCEPT PLAN EXHIBIT

EXHIBIT B
CONCEPT PLAN

SCALE: AS SHOWN

DATE: 5/31/22

DRAWN BY: TSW

JOB NUMBER: 14-203293

DWG. FILE: 14-203293_EXHIBIT B.DWG

Exhibit C - Utilities / Street Standards

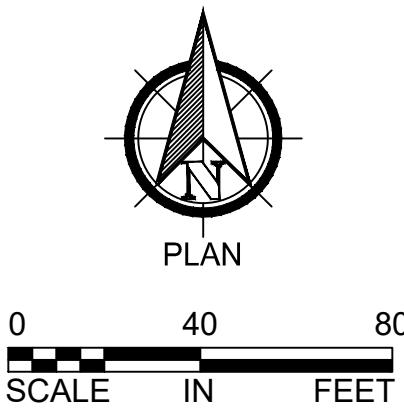
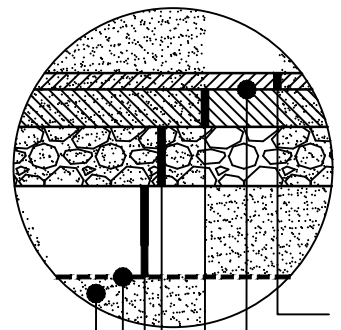
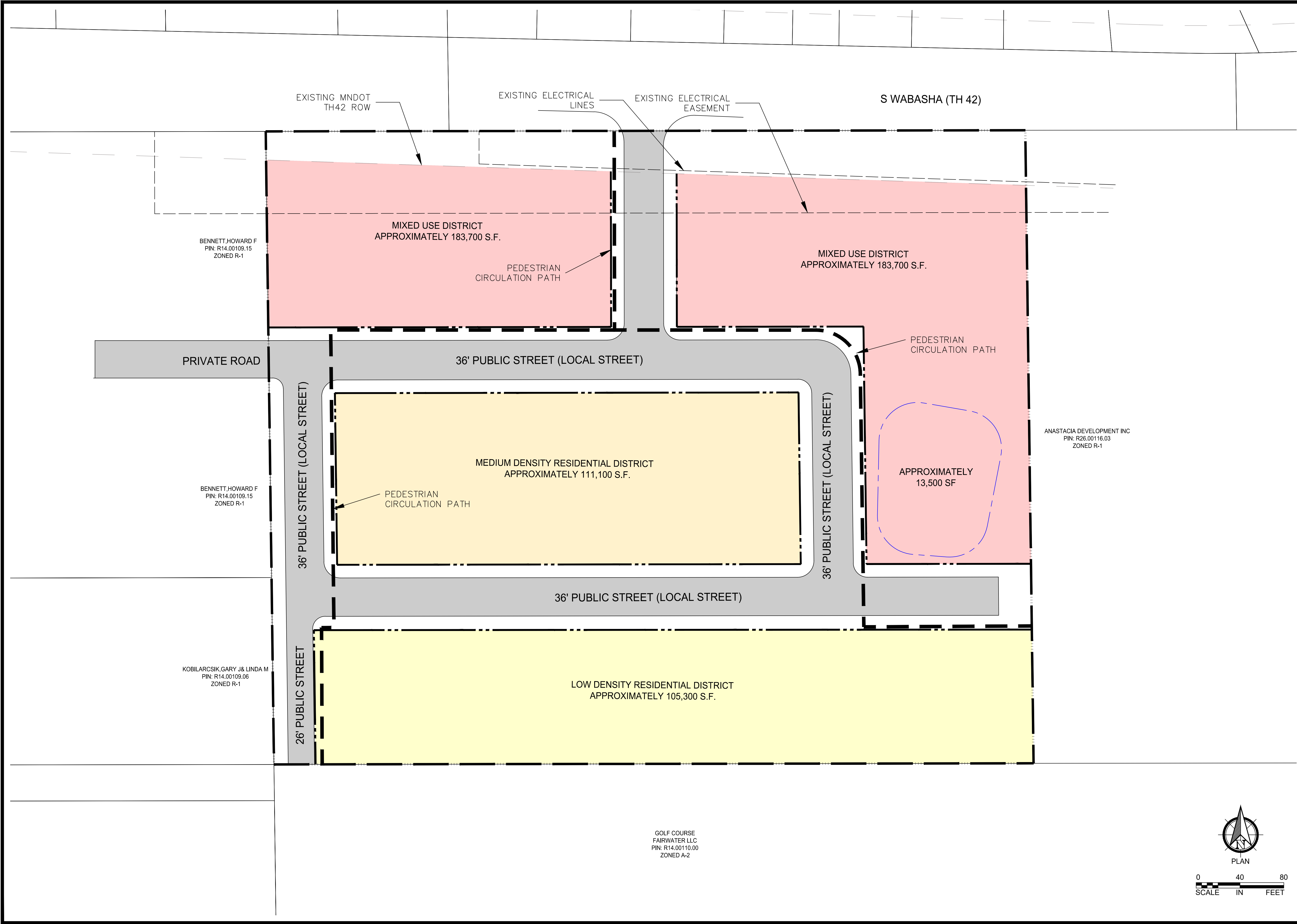


Exhibit D - Pedestrian Circulation

14-203293_ Exhibit D.dwg

6/22/2022 4:11:35 PM



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1712 RESTORATION
ROAD SW
ROCHESTER, MN 55902

REV	DATE	DESCRIPTION

SKYE VIEW DEVELOPMENTS
PLAINVIEW, MINNESOTA
SPECIAL DISTRICT CONCEPT PLAN EXHIBIT

EXHIBIT D
PEDESTRIAN CIRCULATION
PLAN

SCALE: AS SHOWN
DATE: 5/31/22
DRAWN BY: TSW
JOB NUMBER: 14-203293
DWG. FILE: 14-203293_EXHIBIT B.DWG

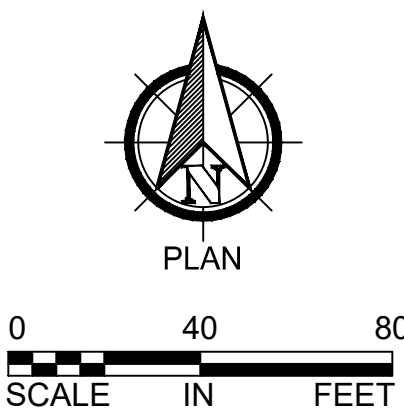


Exhibit E - Building Proto-Types

Single Family Attached

[illegible]

Row House Style Townhomes



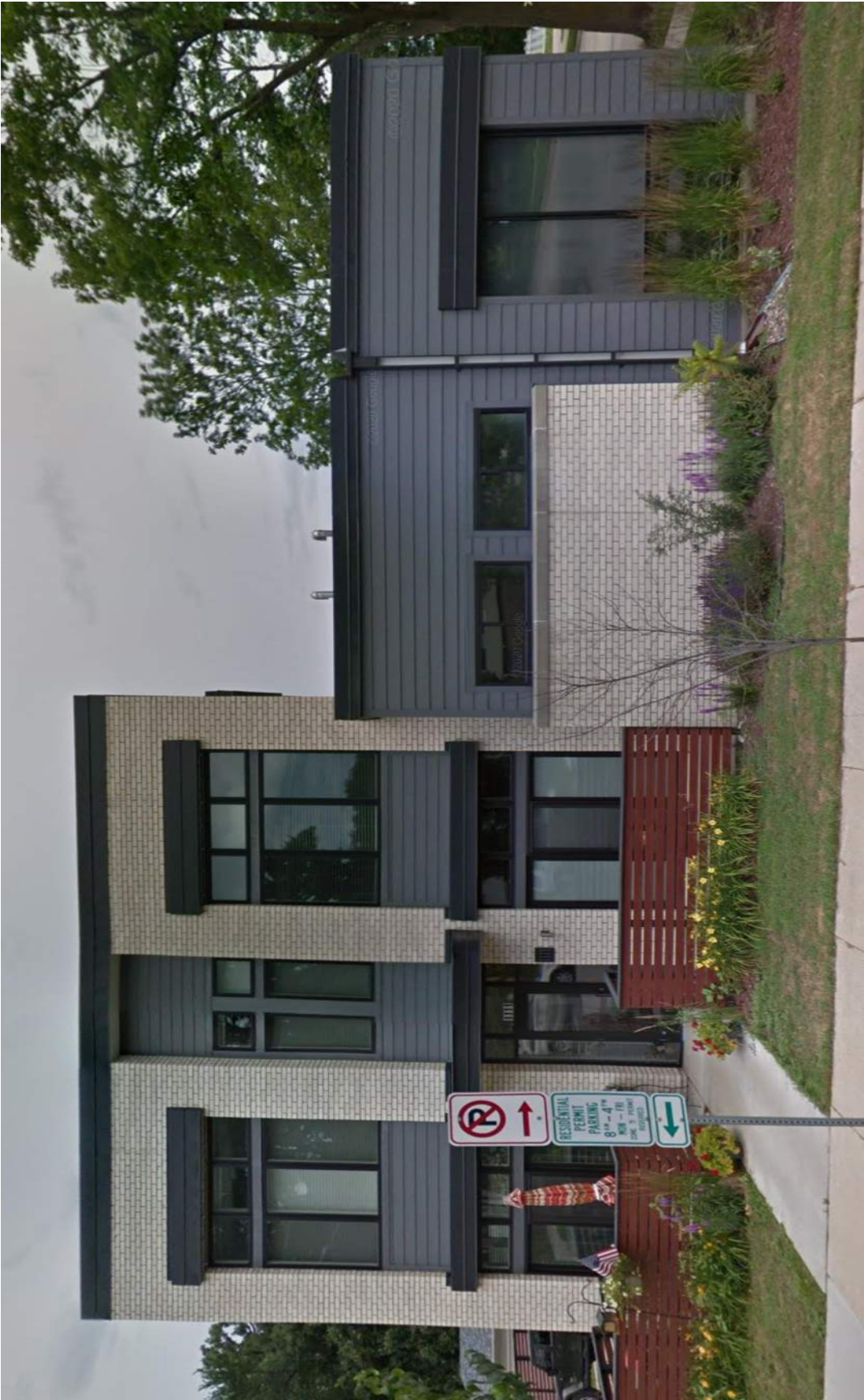
Multi-Family / Condominium



Residential Quads



Live Over Work



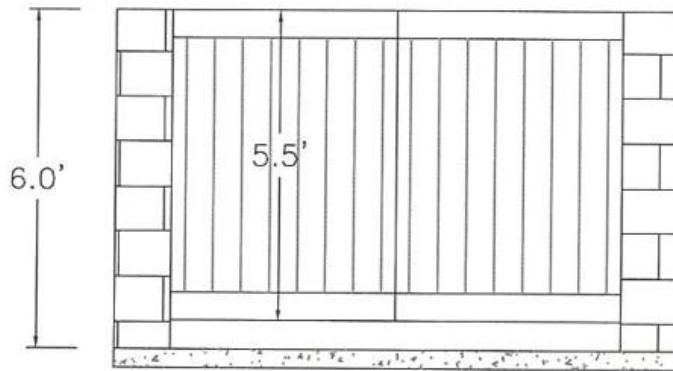
Apartment Structures



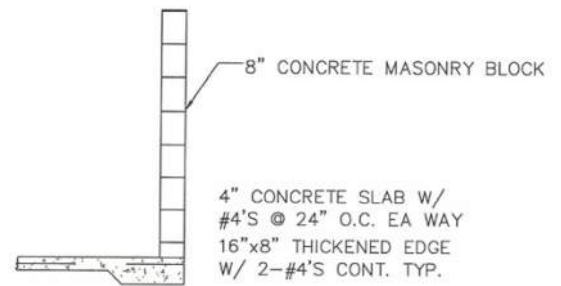
Commercial Building



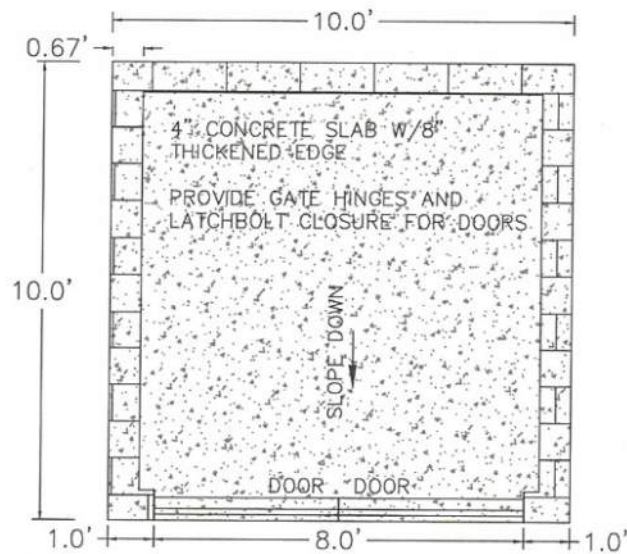
Exhibit F - Trash Enclosure



ELEVATION

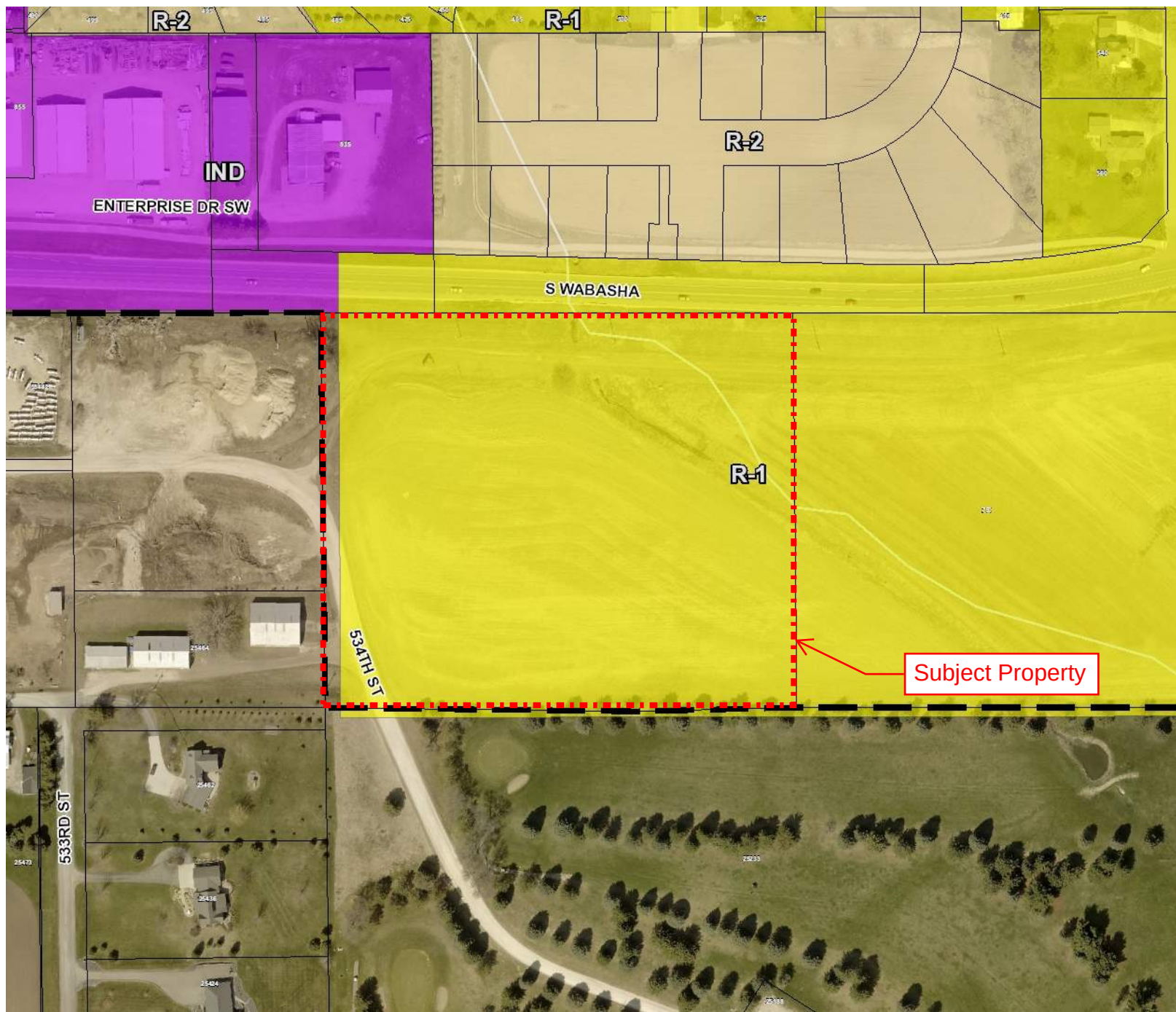


TRASH ENCLOSURE SECTION



TRASH ENCLOSURE DETAIL

Zoning Map



Legend

- City Limits
- Parcels (11/1/2020)
- Parcels

- Zoning
- AG (Agricultural District)
- C-1 (Central Business District)
- C-2 (Service Commercial District)
- IND (Industrial District)
- R-1 (One-Family Dwelling)
- R-2 (Two-Family Dwelling)
- T (Transition District)
- Protected Waters - Watercoul

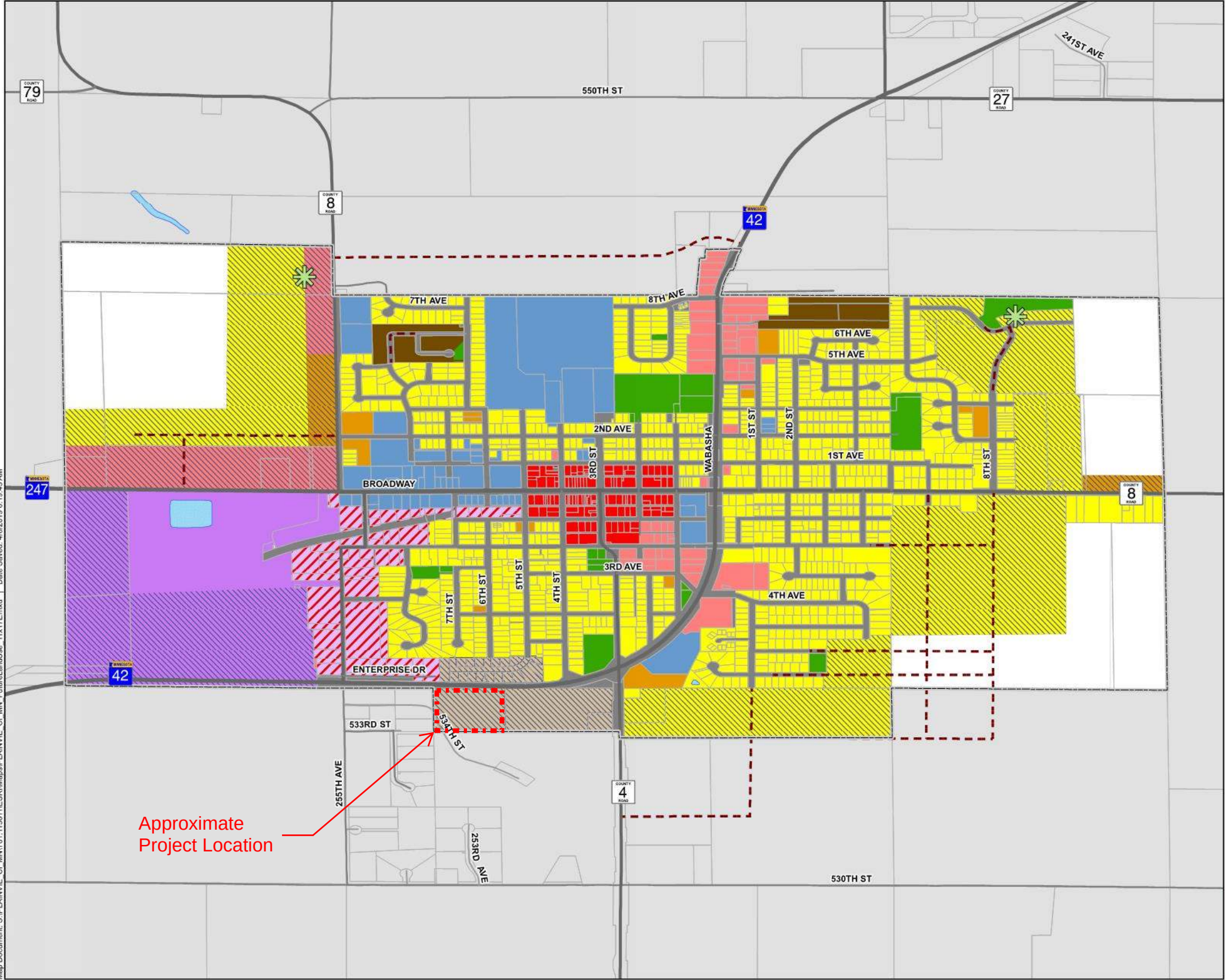
Zoning



Disclaimer:
This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of Plainview is not responsible for any inaccuracies herein contained.

0 200 Feet

Comprehensive Plan Maps



Map #3: Future Land Use

2040 Comprehensive Plan
Plainview, Minnesota

Legend

- City Limits
- Parcels
- Waterbodies
- Future Roadways
- Planned Development Areas
- Future Park Areas

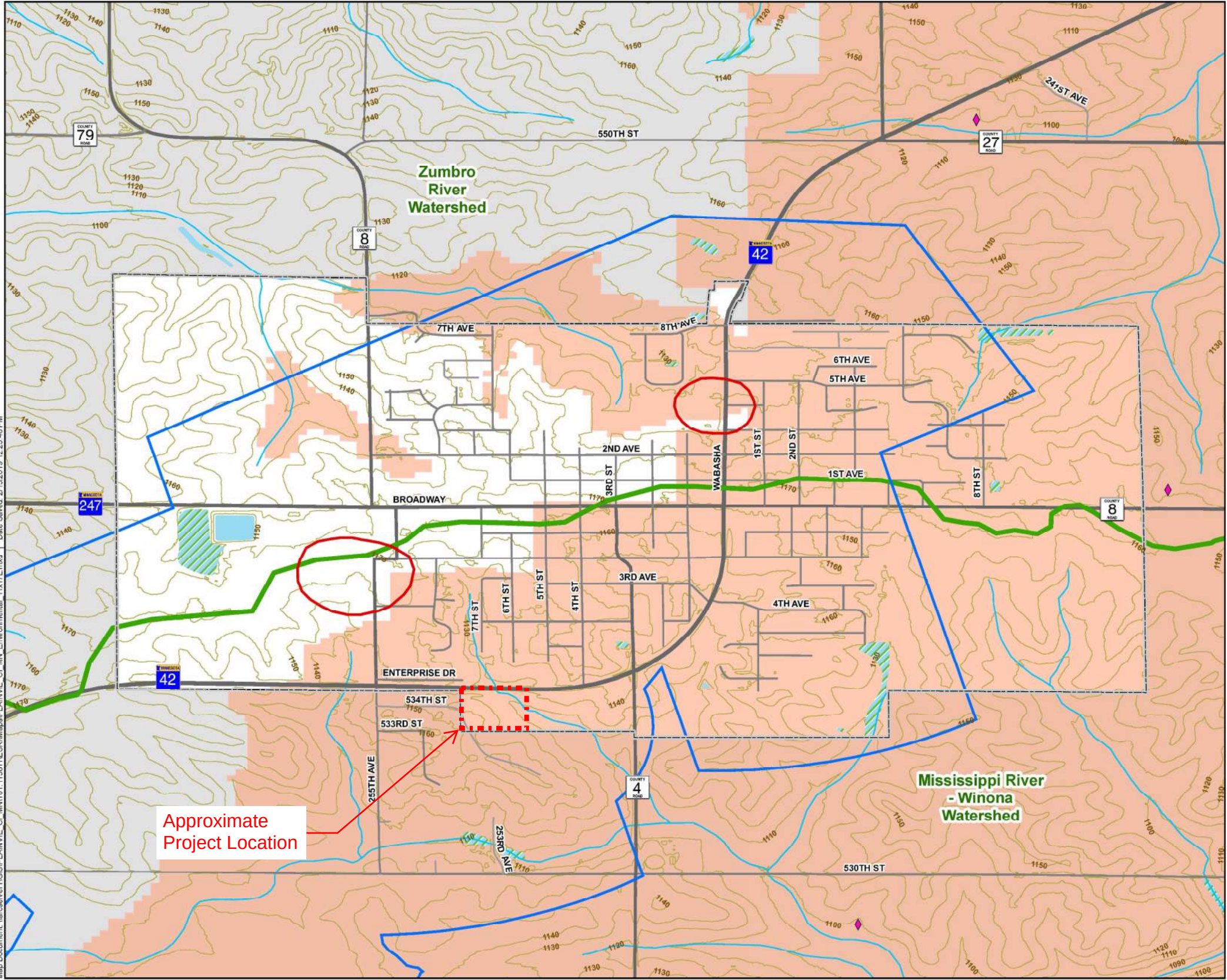
Future Land Uses

- Agricultural
- Central Business
- Service Commercial
- Commercial/Industrial
- Industrial and Utilities
- Institutional
- Mixed Residential / Commercial
- Residential
- Multi-Family Residential
- Manufactured Housing Park
- Parks, Open Space, and Recreational Areas
- Road and Railway Right of Way

0 0.5 Miles
Source: Wabasha County, MnGeo



April 2019



Map #13: Environmental Resources

2040 Comprehensive Plan
Plainview, Minnesota

Legend

- City Limits
- Environmental Resources
 - Waterbodies
 - Streams and Ditches
 - National Wetland Inventory
 - Watershed Boundary
 - ERA: Emergency Response Area
 - WPA: Wellhead Protection Area
 - Prone to Surface Karst Feature Development: Carbonate and Sandstone
 - Karst Feature: Sinkhole
 - 10ft Contours (LiDAR)

0 0.5 Miles

Source: Wabasha County, MnDNR, MnGeo, USFWS



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February 2019



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN to the Public that on **July 26, 2022** the Plainview City Council will hold a public hearing to consider an application submitted by Les Conway from WSE Engineering on behalf of Skye View Development for a modification to the Skye View Special District. The modification includes changes to the establishment of the district, development and performance standards, definitions, zoning and land use requirements, and land use district map. The project is located in the NW corner of Section 17, Township 108 North, Range 11 West at Parcel ID # R26.00116.24.

This public hearing will take place at a special meeting of the Plainview City Council which will be held at Plainview City Hall, 241 West Broadway, Plainview, MN 55964. **This meeting begins at 5:00 p.m.**

Additional information on the project is available through City Administration at City Hall. All interested parties are urged to attend the public hearing or submit comment via mail to: 241 W Broadway, Plainview, MN 55964, by phone at 507-534-2229, or via email: c.kujath@plainviewmn.com

Harry Davis, AICP
City Planner
952-529-0053
Harry.davis@bolton-menk.com



PLAINVIEW CITY COUNCIL NOTICE TO ADJOINING PROPERTY OWNERS

An application has been received from Les Conway from WSE Engineering on behalf of Skye View Development for a modification to the Skye View Special District. The modification includes changes to the establishment of the district, development and performance standards, definitions, zoning and land use requirements, and land use district map. The project is located in the NW corner of Section 17, Township 108 North, Range 11 West at Parcel ID # R26.00116.24. Under state statute and the local zoning ordinance, all property owners within 350 feet of the special district must be sent a notice.

The Plainview Planning Commission and City Council will hold two public hearings, respectively, on the following dates: **July 25, 2022** at **5:00 p.m.**, and **July 26, 2022** at **5:00 PM**, at Plainview City Hall, 241 West Broadway, Plainview, MN 55964. At which time you may appear if you so desire, either in person or by agent or attorney, in support of or in opposition to the request. All interested parties are urged to attend the public hearing or submit comments via mail to: 241 W Broadway, Plainview, MN 55964, by phone at 507-534-2229, or via email: c.kujath@plainviewmn.com

Additional information on the proposed amendments to the Skye View Special District is available through City Administration at City Hall.

Respectfully,

Harry Davis, AICP
City Planner
952-529-0053
Harry.davis@bolton-menk.com



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MEMORANDUM

Date: July 21, 2022
To: City of Plainview Planning Commission and City Council
From: Harry Davis, AICP
Brian Malm, P.E.
Subject: Skye View –Final Plat Application
City of Plainview

Meeting Date: Planning Commission - July 25, 2022
City Council – July 26, 2022

Request:

Applicant: Les Conway (WSE)
Owner: Tom Weiner (Skye View Development LLC)
Property Location: North of Piper Hills Golf Course and south of Highway 42
Property ID: 26.00116.24

Background:

The subject property is in the southern part of Plainview, south of Highway 42 and between 255th Ave and 3rd St SW. The property is zoned SD for the Skye View Special District and overlay. The property totals approximately 9.19 acres. Table 1 below shows adjacent land use and zoning.

Table 1

Direction	Land Use	Zoning
North	Undeveloped; Residential	R-2, Residential; R-1, Residential
South	Golf Course	Wabasha County
East	Large Lot Residential	R-1, Residential
West	Commercial/Industrial	Wabasha County

Request:

The request by the applicant is for approval of a final plat for 11 parcels and 5 outlots, with one outlot dedicated for stormwater management. Block 1, Lot 1 will allow for an apartment building. Block 2 of the plat includes 10 parcels for attached single-family homes and townhomes. Outlots A-D are set aside for possible future development, which would require future replatting. Outlot E is for stormwater management purposes. The lot sizes will be between 3,600 square feet and 65,000 square feet with a range of lot widths (street frontage) between 30 feet and 423 feet.

The property is currently zoned SD for the Skye View Special District under City Code 611.7.7. The proposed final plat does not conform to the current City Code requirements for the Special District, primarily in that the proposed street and lot layout is different and that the land use boundaries do not match the proposed lot layout. However, the applicant has requested modifications to the Skye View Special District in City Code to address the non-conformities. This report has been prepared evaluating the proposed final plat against those proposed modifications, and the staff recommendation section of this

report includes a recommendation that if the final plat is approved, it should be conditioned on subsequent approval of the modifications to the Special District in City Code.

Following are the proposed Special District limits for each land use area (see attachments for SD Skye View land use map):

Table 2 – Low Density Residential

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria:			
			Front Yard	Rear Yard	Side Yard	Sum
Single Family Detached	8,000 SF	70	25	25	8	16
Single Family Attached	6800 SF	60	20	15	8	16
Row House Style Townhouses	3500 SF	18 ⁽¹⁾ 26 ⁽²⁾	20	15	8	16
Zero Lot Line	3000 SF	38	20	15	8/0	8

Table B		
Land Use	Proposed Density/Intensity	Approx. Acres
Low Density Residential District (Single Family Detached/Attached; Row Townhouses)	Up to 8 Units/Acre	2.4

Table 3 – Medium Density District

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria:			
			Front Yard	Rear Yard	Side Yard	Sum
Multifamily	15,000 SF	140 ft	25	15	10	20
Condominium	N/A	N/A	25	15	10	20
Open/Recreational Space	N/A	N/A	N/A	N/A	N/A	N/A

Table B		
Land Use	Proposed Density/Intensity	Approx. Acres
Medium Density Residential District (Multifamily/Condominiums)	Up to 16 Units/Acre	2.55

Table 4 – Mixed Use District

Table A						
Use	Lot Area	Lot Frontage	Setback Criteria (Feet):			
			Front Yard (feet)	Rear Yard	Side Yard	Sum
Multi-family	Variable	80	25	20	8	16
Live - Work	Variable	106	25	20	8	16
All Commercial Uses	6,000 SF	80	25	25	8	16
Row House Style Townhouses	3,500 SF	18 ⁽¹⁾ 26 ⁽²⁾	20	15	8	16
Parking lots on the same lot as the principal structure/use	N/A	N/A	5	5	5	N/A

Table B		
Land Use	Density:	Approx. Acres See Exhibit A
Multi-family	Up to 50 Multi-family Units/Acre	4.2
Row House Style Townhouses	Up to 10 Row House Style Townhomes Units/Acre	
Live Over Work	Up to 10 Live Over Work Units/Acre	
All Commercial Uses	0.50 FAR ⁽¹⁾	

Public Comment:

No public comment was received as of publishing this report.

Neighborhood Notification:

No notification is required for a final plat.

Infrastructure:**Streets:**

The subject parcel has access to an unimproved, gravel private roadway known as 534th St via an unimproved, gravel township road (255th Ave). Both of these roads are outside of Plainview's City limits and 534th St exists in a private access easement. The property abuts Highway 42, however, access to Highway 42 is controlled by MnDOT and would not be allowed without MnDOT approval. No other public street or roadway access is currently available for this property.

Water:

Public water is not readily available to the subject property. A watermain extension will be required to provide water service to the property.

Sewer:

Public sanitary sewer is available to serve the subject property.

Drainage: The property includes a waterway that serves as the drainage outlet for an upstream area of approximately 102 acres that includes developed areas of the City and MnDOT right-of-way. The project proposes to impact this waterway by replacing it with a storm sewer pipe. A hydraulic analysis will need to be completed to determine impacts to upstream and downstream properties. Since the proposed storm sewer system connects to MnDOT drainage infrastructure, MnDOT review and approval will also be required. Stormwater management for the project will need to comply with City and MPCA NPDES Construction Stormwater Permit requirements. This will need to be completed prior to final plat approval.

Environmental: This property is within a Wellhead Protection Area. Stormwater management for the project will need to comply with the City's wellhead protection plan and MPCA NPDES Construction Stormwater Permit requirements for wellhead protection areas. A BWSR approved wetland delineation has been submitted. The applicant will need to complete proper permitting through the Wetland Conservation Act and Section 404 of the Clean Water Act for proposed wetland impacts prior to final plat approval.

2040 Comprehensive Plan:

One of the land use goals in the comprehensive plan is to "encourage land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state, and utility costs". A sub-goal under the goal above is to require coordination between growth and utility capacities (sewer, water, etc.). Under the housing goals in the comprehensive plan, there are various goals that address supporting a "variety of housing types and densities", "encourage a range of housing ... [fitting community] character", and "maintain and enhance the quality of Plainview's homes and neighborhoods".

The Future Land Use Map designates the subject property as Residential and in a Planned Development Area. The Existing Functional Classification and Future Roadways Map indicates future access to Highway 42 just east of the subject property.

Staff Findings:

1. A determination of whether the proposed final plat meets zoning and overlay requirements.

Finding: The lots in the proposed Skye View Final Plat generally meet zoning requirements.

2. A determination of whether the proposed final plat meets subdivision development standards.

Finding: Easements: The applicant has proposed easements and right-of-way in the final plat that satisfy code requirements.

Street and Easement Dedication: The applicant has dedicated streets and easements to the public on the plat.

Parkland Dedication: The applicant has proposed to pay fees in-lieu of parkland dedication, as allowed and specified in the Skye View Special District. A final amount will be calculated in the development agreement and paid along with other city fees.

Variances: The applicant has not submitted any variances.

Lot Configurations: The applicant has proposed lot configurations that generally meet code requirements and the Special District layout.

Block and Street Configuration/Design: The applicant has proposed block lengths and configurations that meet code and the Special District layout.

Required Improvements: The proposed streets of the subdivision meet the City's roadway section requirements.

Other Jurisdictional Approvals: This development is subject to all local, county, and state requirements for development. Failure to receive necessary approvals will render any plat approval null and void.

Denial of Plan and/or Plat: In the case of all subdivisions, the Planning Commission shall recommend denial of, and the City Council may deny, approval of a general development plan, preliminary or final plat if it makes any of the following findings:

- a) That the proposed subdivision, including the design, is in conflict with any adopted component of the Plainview Comprehensive Plan, Land Management Ordinance, Storm Water Pollution Control Ordinance, or any other provision of the City Code;
- b) That the physical characteristics of this site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site is not suitable for the type of development or use contemplated;
- c) That the site is not physically suitable for the proposed density of development;
- d) That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage;
- e) That the design of the subdivision or the type of improvements is likely to cause serious public health problems;
- f) That the design of the subdivision or the type of improvements will conflict with easements of record;
- g) That the design will create a significantly higher density than the surrounding areas;
- h) That the design will create an undue burden on the City's traffic system or water/wastewater infrastructure.

3. A determination of whether the proposed final plat meets the conditions of preliminary plat approval required in City Council resolution 2022-01.

Findings:

Following are the conditions of preliminary plat approval with staff findings for each condition:

- a. The applicant shall make the following revisions to be compliant with code:

- Adjust Lots 1 and 2 to be at least 60 feet in width.
- Adjust Lots 3, 6, and 9 to have correct setbacks for an exterior townhouse.

Finding- All lots have been adjusted to meet the proposed amended special district requirements.

- b. A determination that the proposed preliminary plat does not conflict with any conditions listed in Section 620.4 of the Plainview City Code, and thus approval of the preliminary plat is appropriate.

Finding- This condition was satisfied at the time of approval of the preliminary plat.

- c. The preliminary plat shall generally be consistent with the Skye View Special District.

Finding- This condition was satisfied at the time of approval of the preliminary plat.

- d. Public roadway connection to Highway 42 shall be required as a part of the first phase of the proposed development.

Finding- The final plat shows a public roadway connection to Highway 42 and the construction plans and development agreement for the public improvements will require construction of this roadway connection.

- e. Formal MnDOT approval for Highway 42 access shall be required prior to final plat approval.

Finding- Formal MnDOT approval for the Highway 42 access has not been received at the time of writing of this report. If the final plat is approved, it should include a condition that formal MnDOT approval is obtained prior to the City's execution of the final plat.

- f. Highway 42 right-of-way shall be dedicated to MnDOT as a part of the Final Plat.

Finding- The final plat shows Highway 42 right-of-way being dedicated to MnDOT.

- g. Final plat and construction plans shall show that access to Parcel No.'s 14.00110.00 and 14.00109.06 is maintained through the special district property during construction of the improvements and after the improvements are made.

Finding- The final plat and construction plans submitted by the applicant satisfy this requirement in that they do not propose any improvements on Outlot C as a part of the first phase of development. The development agreement for the subdivision will include a provision that does not allow for development on any of the platted outlots without going through a future replatting process. This ensures that the existing private access easement allowing for access to the referenced parcels will not be impacted by the subdivision improvements being proposed as a part of this final plat.

- h. A traffic impact study shall be completed prior to approval of the Final Plat.

Finding- A traffic impact study has been completed by the applicant. The traffic study indicated that turn lanes are required on Highway 42 for the proposed subdivision street connection. The applicant has submitted construction plans for the required turn lanes and the development agreement will require construction of the turn lanes as a part of the proposed improvements.

- i. A method for accomplishing the needed watermain extension for the development will need to be determined, including cost allocation, prior to approval of the Final Plat.

Finding- The developer has submitted construction plans for a watermain extension serving the proposed development and the development agreement will require construction of the watermain extension as a part of the proposed improvements.

- j. Plans and specifications and all applicable permits for the required infrastructure improvements shall be submitted for City review and shall be approved by the City prior to Final Plat approval.

Finding- Plans and specifications for the proposed improvements have been submitted for review but have not been approved at the time of writing of this report. Permits for the required infrastructure improvements have not been submitted for City

review and have not been approved at the time of writing of this report.

- k. A Development Agreement to install the required infrastructure improvements necessary to support development on lots within the proposed subdivision will be required as a condition of Final Plat approval in accordance with City Code.

Finding- A draft development agreement has been prepared and submitted to the applicant for review.

- l. Easements included on the final plat shall conform with those shown on the preliminary plat, as well as any adjustments or additions determined to be needed by the City during preparation and review of final plans and specifications for the proposed subdivision improvements.

Finding- Since final construction plans have not been fully reviewed and approved, easement adjustments on the final plat may still be necessary to accommodate drainage or utility infrastructure.

- m. The parkland dedication cash in lieu of land amount shall be determined and finalized as a part of the development agreement.

Finding- This is in process with the development agreement.

- n. All other comments or conditions from city departments, franchise service and utility providers, or other authorities with jurisdiction over this development shall apply to this development.

Finding- The final plat and construction plans have been submitted to MnDOT for review, but final comments have not been received from MnDOT at the time of writing of this report.

Recommendation:

Staff provides two options to consider, as follows:

Option 1 – Denial of the final plat with the following findings:

1. The Applicant has not met condition 2(e) of Preliminary Plat approval, which is copied below in bold. The City has not received any documents demonstrating that MnDOT has given formal approval for the development property to access Highway 42.

“Formal MnDOT approval for Highway 42 access shall be required prior to final plat approval.”

2. The Applicant has not met condition 2(j) of Preliminary Plat approval, which is copied below in bold. The City has not received complete plans, specifications, and permits for required infrastructure improvements from the Applicant, and therefore the City Engineer has not approved the same. Specifically, the Applicant has not provided the following required permits: MDH watermain plan review, MPCA sanitary sewer extension permit, MnDOT work in right-of-way permit, and MPCA NPDES Construction Stormwater Permit; and has not provided complete plans and specifications and supporting information.

“Plans and specifications and all applicable permits for the required infrastructure improvements shall be submitted for City review and shall be approved by the City prior to Final Plat approval.”

3. The Applicant has not met condition 2(l) of Preliminary Plat approval, which is copied below in bold, because Applicant has not provided complete plans and specifications and supporting information, which is necessary for the City Engineer to determine whether any adjustments or additions to easements on the final plat are needed.

“Easements included on the final plat shall conform with those shown on the preliminary plat, as well as any adjustments or additions determined to be needed by the City during preparation and review of final plans and specifications for the proposed subdivision improvements.”

4. The Applicant has not met condition 2(c) of Preliminary Plat approval, which is copied below in bold, because the Final Plat conflicts with the Sky View Special District, Plainview City Code Section 217.7.7 in that the boundaries depicted on the Final Plat do not conform to the boundaries described and depicted within the Sky View Special District section of the City Code.

“The preliminary plat shall generally be consistent with the Skye View Special District.”

Option 2 – Approval of the final plat with the following conditions:

1. The Final Plat shall comply with the provisions of all state statutes and standard procedures for platting in Wabasha County.
2. Prior to the City's execution of the Final Plat, the Applicant must enter into an agreement, with the City and in a form acceptable to the City for the installation of all required improvements, which shall be referred to as the "Development Agreement" and the Applicant shall provide the required security.
3. The requirements and conditions of the Development Agreement shall be incorporated as conditions of the City's execution of the Final Plat.
4. Prior to the City's execution of the Final Plat, the Applicant must provide formal approval from the Minnesota Department of Transportation (MnDOT) allowing highway access from the development property to Trunk Highway 42 consistent with the Final Plat, as required by paragraph 2(e) of City Council Resolution 2022-01. Final Plat approval was expressly conditioned on such formal approval being provided to the City, which a MnDOT representative has informed the City can be provided in the form of a contract between the Applicant and MnDOT, and which the Applicant has not provided to the City as of the date of this resolution.
5. Prior to the City's execution of the Final Plat, the Applicant shall make any adjustments to the plat required by MnDOT related to Trunk Highway 42 right-of-way and controlled access.
6. Prior to the City's execution of the Final Plat, final plans and specifications and all applicable permits for the required infrastructure improvements shall be submitted by the Applicant and shall be approved by the City Engineer, as required by paragraph 2(j) of City Council Resolution 2022-01.
7. Prior to the City's execution of the Final Plat, the Applicant shall adjust and/or add drainage and utility easements to the final plat as determined by the City during review of final plans and specifications for the required infrastructure improvements, as required by paragraph 2(l) of City Council Resolution 2022-01.
8. Prior to the City's execution of the Final Plat, Section 611.7.7 of the Plainview City Code, the Sky View Development Special District Ordinance, must be amended so that the language and depictions of the special district boundaries conform with the Final Plat. Paragraph 2(c) of Resolution 2022-01 approving the Preliminary Plat expressly conditioned Final Plat approval on the Final Plat being consistent with the Sky View Special District.
9. The Final Plat shall be recorded within 180 days of approval or the City's approval shall be deemed null and void.
10. The Applicant shall pay all fees.

Attachments:

-Skye View Final Plat

-Special District Zoning Boundaries Exhibit

INSTRUMENT OF DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS: That Skye View Developments, LLC, a Minnesota limited liability company, owner of the following described property:

A part of the North Half of the Southwest Quarter of Section 17, Township 108 North, Range 11 West, Wabasha County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 17; thence easterly along the north line of said Southwest Quarter for a distance of 861.3 feet to the POINT OF BEGINNING; thence continue easterly along the north line of said Southwest Quarter for a distance of 693.00 feet; thence southerly, parallel with the west line of said Southwest Quarter for a distance of 577.5 feet (35 rods); thence Westerly, parallel with the north line of said Southwest Quarter, for a distance of 693.00 feet; thence northerly for a distance of 577.5 feet to the POINT OF BEGINNING.

Has caused the same to be surveyed and platted as SKYE VIEW 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 Skye View Developments, LLC, a Minnesota limited liability company, has caused these present to be signed by its proper officer set this _____ day of, 20____.

Signed: Skye View Developments, LLC

Tom Wiener
Registered Agent

STATE OF MINNESOTA
COUNTY OF WABASHA

This instrument was acknowledged before me this _____ day of _____, 20____ by Tom Wiener, Registered Agent of Skye View Developments, LLC, a Minnesota limited liability company.

Notary Printed Name Notary Public, Wabasha County, MN
My Commission Expires _____

SURVEYOR'S CERTIFICATE

I Reinhold W. Ziemann do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been or will be correctly set within one year of the recording of this plat; 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____.

Reinhold W. Ziemann, Licensed Land Surveyor
Minnesota License No. 59823

STATE OF MINNESOTA
COUNTY OF DODGE

This instrument was acknowledged before me on this _____ day of _____, 20____ by Reinhold W. Ziemann.

Rebecca M. Ziemann
Notary Printed Name Notary Public, Dodge County, MN
My Commission Expires _____

COUNTY RECORDER

I hereby certify that this plat of SKYE VIEW was filed in the Office of the County Recorder for public record on this _____ day of _____, 20____, at _____ o'clock ____M., and was duly filed as Document Number _____.

WABASHA COUNTY RECORDER

WABASHA COUNTY AUDITOR/TREASURER

Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, taxes payable in the year 20____ on the land hereinbefore described have been paid. Also, pursuant to Minnesota Statutes, Section 272.12, there are no delinquent taxes and transfer entered this _____ day of _____, 20____.

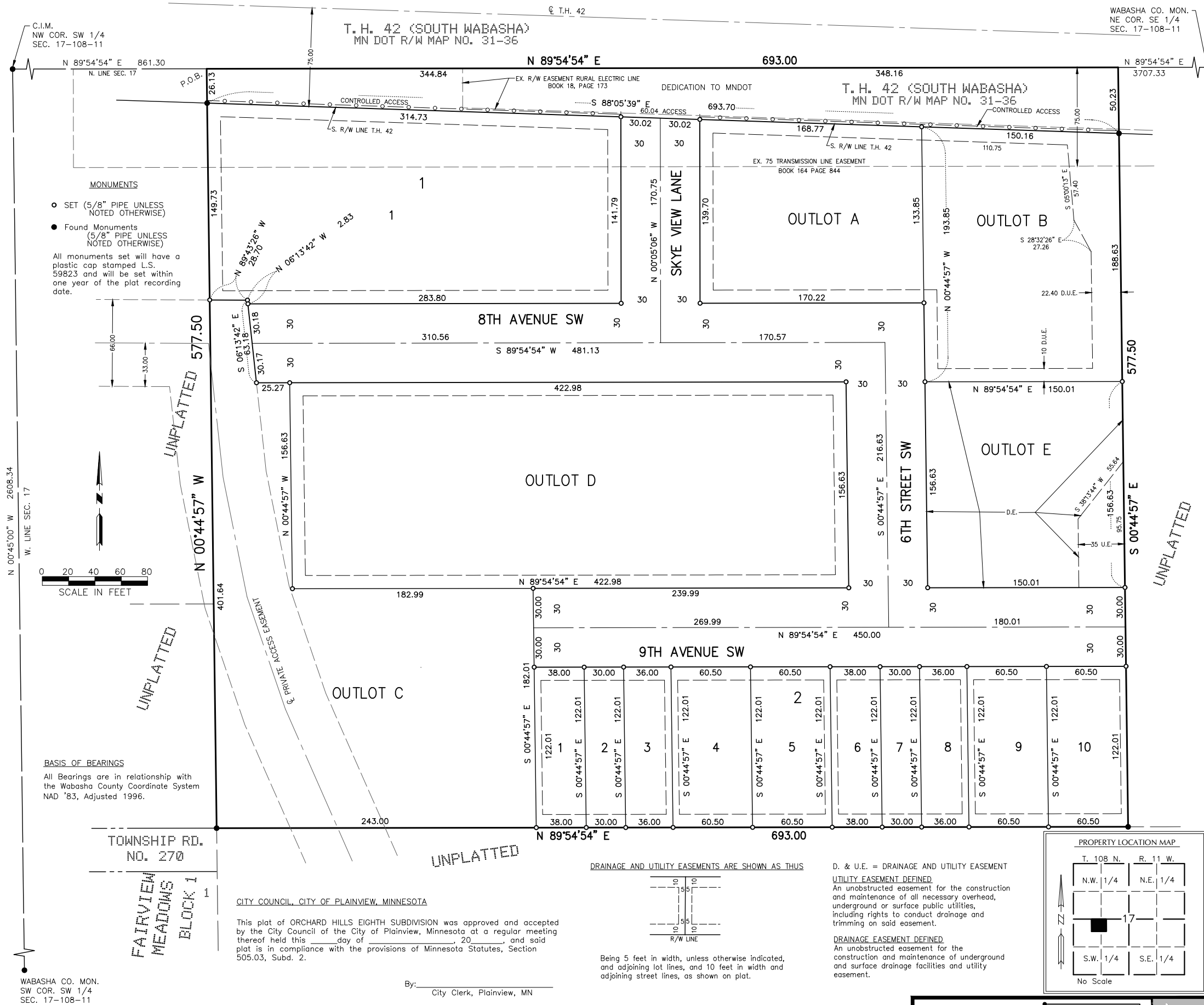
WABASHA COUNTY AUDITOR/TREASURER

COUNTY SURVEYOR

I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this _____ day of _____, 20____.

Marcus S. Johnson
Wabasha County Surveyor

SKYE VIEW

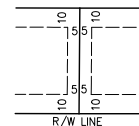


CITY COUNCIL, CITY OF PLAINVIEW, MINNESOTA

This plat of ORCHARD HILLS EIGHTH SUBDIVISION was approved and accepted by the City Council of the City of Plainview, Minnesota at a regular meeting thereof held this _____ day of _____, 20____, and said plat is in compliance with the provisions of Minnesota Statutes, Section 505.03, Subd. 2.

By: _____
City Clerk, Plainview, MN

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN AS THUS



Being 5 feet in width, unless otherwise indicated, and adjoining lot lines, and 10 feet in width and adjoining street lines, as shown on plat.

D. & U.E. = DRAINAGE AND UTILITY EASEMENT
UTILITY EASEMENT DEFINED
An unobstructed easement for the construction and maintenance of all necessary overhead, underground or surface public utilities, including rights to conduct drainage and trimming on said easement.

DRAINAGE EASEMENT DEFINED
An unobstructed easement for the construction and maintenance of underground and surface drainage facilities and utility easement.

WSE + MASSEY
ENGINEERING & LAND SURVEYING^{INC.}
P.O. BOX 100, KASSON, MN 55944
PH. NO. 507-634-4505, EMAIL SURVEY@WSE.ENGINEERING



AND ALSO 33 FEET ON EACH SIDE OF A LINE BEGINNING AT THE AFORESAID POINT OF TERMINATION, THENCE SOUTH 88 DEGREES 40 MINUTES 29 SECONDS EAST, 365.00 FEET; THENCE SOUTH 88 DEGREES 40 MINUTES 29 SECONDS EAST, 102.65 FEET; THENCE SOUTH 18 DEGREES 15 MINUTES 51 SECONDS EAST, 92.98 FEET; THENCE SOUTH 18 DEGREES 48 MINUTES 36 SECONDS EAST, 90.10 FEET; THENCE SOUTH 23 DEGREES 43 MINUTES 42 SECONDS EAST, 278.00 FEET; THENCE SOUTH 26 DEGREES 49 MINUTES 24 SECONDS EAST, 88.50 FEET; THENCE SOUTH 38 DEGREES 50 MINUTES 59 SECONDS EAST, 89.28 FEET; THENCE SOUTH 40 DEGREES 40 MINUTES 43 SECONDS EAST, 100.00 FEET; THENCE SOUTH 69 DEGREES 33 MINUTES 06 SECONDS EAST, 93.77 FEET; THENCE SOUTH 66 DEGREES 40 MINUTES 33 SECONDS EAST, 151.09 FEET AND THERE TERMINATING.

7. 42



CITY OF PLAINVIEW, MN
CITY COUNCIL RESOLUTION 2022-20

APPROVAL OF THE FINAL PLAT OF THE SKYE VIEW DEVELOPMENTS

- WHEREAS, Skye View Developments, LLC, (“Applicant”) has submitted an application for Final Plat approval for the Skye View Plat, located on Trunk Highway 42 in the City of Plainview, and legally described on Exhibit A, which is attached hereto and incorporated herein by reference; and
- WHEREAS, the City Council of the City of Plainview may hear requests for Final Plat approval pursuant to Plainview City Code Section 620.15 through 620.18, which provides that a Final Plat must conform to the approved Preliminary Plat and any required modifications as determined through the Preliminary Plat process; and
- WHEREAS, the Planning Commission considered the Applicant’s request for a Preliminary Plat at a duly noticed Public Hearing, which took place on January 4, 2022 and recommended approval to the City Council with conditions; and
- WHEREAS, the City Council of the City of Plainview considered and approved the Preliminary Plat of the Skye View Developments at its regular City Council meeting held on January 10, 2022 by adopting Resolution No. 2022-01, which resolution is incorporated herein by reference; and
- WHEREAS, a Development Agreement has been prepared between the City of Plainview and Skye View Developments, LLC, which outlines the responsibilities of Skye View Developments, LLC to install the required street and infrastructure improvements necessary to support development on lots within the Skye View Developments subdivision; and
- WHEREAS, Public hearings regarding the Final Plat Application were held on July 25, 2022 before the Plainview Planning Commission and on July 26, 2022 before the Plainview City Council; and
- WHEREAS, the City Council of the City of Plainview has reviewed the proposed Final Plat of the Skye View Developments for compliance with the City Code of the City of Plainview, and statutes of the State of Minnesota.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT, the Final Plat of the Skye View Developments Addition is hereby approved.

BE IT FURTHER BE IT RESOLVED THAT, the following conditions of approval of the Final Plat shall be met:

1. The Final Plat shall comply with the provisions of all state statutes and standard procedures for platting in Wabasha County.

2. Prior to the City's execution of the Final Plat, the Applicant must enter into an agreement, with the City and in a form acceptable to the City for the installation of all required improvements, which shall be referred to as the "Development Agreement" and the Applicant shall provide the required security.
3. The requirements and conditions of the Development Agreement shall be incorporated as conditions of the City's execution of the Final Plat.
4. Prior to the City's execution of the Final Plat, the Applicant must provide formal approval from the Minnesota Department of Transportation (MnDOT) allowing highway access from the development property to Trunk Highway 42 consistent with the Final Plat, as required by paragraph 2(e) of City Council Resolution 2022-01. Final Plat approval was expressly conditioned on such formal approval being provided to the City, which a MnDOT representative has informed the City can be provided in the form of a contract between the Applicant and MnDOT, and which the Applicant has not provided to the City as of the date of this resolution.
5. Prior to the City's execution of the Final Plat, the Applicant shall make any adjustments to the plat required by MnDOT related to Trunk Highway 42 right-of-way and controlled access.
6. Prior to the City's execution of the Final Plat, final plans and specifications and all applicable permits for the required infrastructure improvements shall be submitted by the Applicant and shall be approved by the City Engineer, as required by paragraph 2(j) of City Council Resolution 2022-01.
7. Prior to the City's execution of the Final Plat, the Applicant shall adjust and/or add drainage and utility easements to the final plat as determined by the City during review of final plans and specifications for the required infrastructure improvements, as required by paragraph 2(l) of City Council Resolution 2022-01.
8. Prior to the City's execution of the Final Plat, Section 611.7.7 of the Plainview City Code, the Skye View Development Special District Ordinance, must be amended so that the language and depictions of the special district boundaries conform with the Final Plat. Paragraph 2(c) of Resolution 2022-01 approving the Preliminary Plat expressly conditioned Final Plat approval on the Final Plat being consistent with the Skye View Special District.
9. The Final Plat shall be recorded within 180 days of approval or the City's approval shall be deemed null and void.
10. The Applicant shall pay all fees.

PASSED by the City Council of the City of Plainview on this 26th day of July, 2022.

ATTEST

City Clerk

Mayor

VOTE: ___ LUCKSTEIN ___ KIEFFER ___ REEVE ___ JACOBS
 ___ HAMMER BARTLEY

EXHIBIT A

LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

A part of the North Half of the Southwest Quarter of Section 17, Township 108 North, Range 11 West, Wabasha County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 17; thence easterly along the north line of said Southwest Quarter for a distance of 861.3 feet to the POINT OF BEGINNING; thence continue easterly along the north line of said Southwest Quarter for a distance of 693.00 feet; thence, southerly, parallel with the west line of said Southwest Quarter for a distance of 577.5 feet (35 rods); thence Westerly, parallel with the north line of said Southwest Quarter, for a distance of 693.00 feet; thence northerly for a distance of 577.5 feet to the POINT OF BEGINNING.

CITY OF PLAINVIEW, MN
CITY COUNCIL RESOLUTION 2022-20

DENIAL OF THE FINAL PLAT OF THE SKYE VIEW DEVELOPMENTS

WHEREAS, Skye View Developments, LLC, (“Applicant”) has submitted an application for Final Plat approval for the Skye View Final Plat, located on Trunk Highway 42 in the City of Plainview, and legally described on Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, the City Council of the City of Plainview may hear requests for Final Plat approval pursuant to Plainview City Code Section 620.15 through 620.18, which provides that a Final Plat must conform to the approved Preliminary Plat and any required modifications as determined through the Preliminary Plat process; and

WHEREAS, the Planning Commission considered the Applicant’s request for a Preliminary Plat at a duly noticed Public Hearing, which took place on January 4, 2022 and recommended approval to the City Council with conditions; and

WHEREAS, the City Council of the City of Plainview considered and approved the Skye View Preliminary Plat at its regular City Council meeting held on January 10, 2022 by adopting Resolution No. 2022-01, which resolution is incorporated herein by reference; and

WHEREAS, Public hearings regarding the Final Plat Application were held on July 25, 2022 before the Plainview Planning Commission and on July 26, 2022 before the Plainview City Council; and

WHEREAS, the City Council of the City of Plainview has reviewed the proposed Final Plat of the Skye View Developments for compliance with the City Code of the City of Plainview, and statutes of the State of Minnesota.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT, based on the evidence contained in the record of the proceedings of both the Preliminary Plat and Final Plat applications, Plainview City Council Resolution 2022-01, the properly noticed public hearings in this matter, the Application, and all submittals made by the Applicant to the City in conjunction with the Application, Final Plat application of Skye View Developments, LLC is hereby DENIED.

BE IT FURTHER BE IT RESOLVED THAT, the following FINDINGS constitute the factual basis for denial of the Final Plat Application:

1. The Applicant has not met condition 2(e) of Preliminary Plat approval, which is copied below in bold. The City has not received any documents demonstrating that MnDOT has given formal approval for the development property to access Highway 42.

“Formal MnDOT approval for Highway 42 access shall be required prior to final plat approval.”

2. The Applicant has not met condition 2(j) of Preliminary Plat approval, which is copied below in bold. The City has not received complete plans, specifications, and permits for required infrastructure improvements from the Applicant, and therefore the City Engineer has not approved the same. Specifically, the Applicant has not provided the following required permits: MDH watermain plan review, MPCA sanitary sewer extension permit, MnDOT work in right-of-way permit, and MPCA NPDES Construction Stormwater Permit; and has not provided complete plans and specifications and supporting information.

“Plans and specifications and all applicable permits for the required infrastructure improvements shall be submitted for City review and shall be approved by the City prior to Final Plat approval.”

3. The Applicant has not met condition 2(l) of Preliminary Plat approval, which is copied below in bold, because Applicant has not provided complete plans and specifications and supporting information, which is necessary for the City Engineer to determine whether any adjustments or additions to easements on the final plat are needed.

“Easements included on the final plat shall conform with those shown on the preliminary plat, as well as any adjustments or additions determined to be needed by the City during preparation and review of final plans and specifications for the proposed subdivision improvements.”

4. The Applicant has not met condition 2(c) of Preliminary Plat approval, which is copied below in bold, because the Final Plat conflicts with the Skye View Special District, Plainview City Code Section 217.7.7 in that the boundaries depicted on the Final Plat do not conform to the boundaries described and depicted within the Skye View Special District section of the City Code.

“The preliminary plat shall generally be consistent with the Skye View Special District.”

PASSED by the City Council of the City of Plainview on this 26th day of July, 2022.

ATTEST

City Clerk

Mayor

VOTE: ___ LUCKSTEIN ___ KIEFFER ___ REEVE ___ JACOBS
 ___ HAMMER BARTLEY

EXHIBIT A

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A part of the North Half of the Southwest Quarter of Section 17, Township 108 North, Range 11 West, Wabasha County, Minnesota, described as follows:

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CITY OF PLAINVIEW

APPLICATION FOR REVIEW

DATE: 5-31-2022

PROJECT NAME: Skye View Developments, LLC.

REQUEST REVIEW (please check):

- ☐ Plat, General Development Plan (\$200.00 filing fee):
- ☐ Plat, Preliminary Subdivision Plat (\$350.00 filing fee plus \$10 per lot):
- ☒ Plat, Final Subdivision Plat (\$600 filing fee plus \$10 per lot): $600 + 13 \times 10 = 730$
- ☐ Rezoning (\$200 filing fee):
- ☐ Annexation Petition Filing (\$100 filing fee)
- ☐ Condition Use Permit (\$200)
- ☐ Quick Plat Subdivision Plan (\$200 filing fee plus \$10 per lot)
- ☐ Resubdivision (\$100 filing fee)
- ☒ Special District Permit (\$200)

PROJECT LOCATION & LEGAL DESCRIPTION:

See Plat

EXISTING USE(S) OF PROPERTY:

Farm Land

PROJECT TYPE/INTENDED USE OF PROPERTY (residential, commercial, industrial, etc.):

See Special District

PROJECT DESCRIPTION:

See Special District



CITY OF PLAINVIEW
APPLICATION FOR REVIEW
PAGE TWO

PROPERTY OWNER (name, address, and phone number):

Skye View Developments, LLC

c/o Tom Wiener

320 West Broadway

507/272-6447

APPLICANT (contact person, business name, address and phone number):

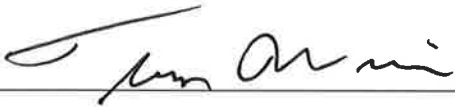
WSE Missoy Engineering & Surveying, Ltd.

33B E. Veterans Rd.

Kasson 55944

507/634-4505

PROPERTY OWNER'S SIGNATURE:



DATE: 5-31-2022

DATE: _____

APPLICANT'S SIGNATURE (if different than property owner):

DATE: _____

DATE: _____

This application shall be submitted with all required supporting documentation.

*City of Plainview
241 West Broadway
Plainview, MN 55964*



Executive Summary

City Council Special Meeting: July 26, 2022

AGENDA ITEM: Capital Finance Plan	AGENDA SECTION: New Business
PREPARED BY: Vicki Axley, Finance Director	AGENDA NO. 5.D.
ATTACHMENTS: NONE	APPROVED BY: DT
RECOMMENDED ACTION: NONE	

SUMMARY

Mike Bubany, Municipal Financial Advisor from David Drown Associates will be here to review our capital financial planning process and present the updated Capital Finance Plan.

PLAINVIEW

CITY COUNCIL ACTION



Executive Summary

City Council Special Meeting: July 26th, 2022

AGENDA ITEM:	State of Minnesota Joint Powers Agreement	AGENDA SECTION:	New Business
PREPARED BY:	David Todd, City Administrator	AGENDA NO. 5. E.	
ATTACHMENTS:	Resolution 2022-19, Fee Structure, JPA Master Document and Plainview PD Court Amendment	APPROVED BY:	DT
RECOMMENDED ACTION: Motion to approve Resolution 2022-19 Approving State of Minnesota Joint Powers Agreement Between the City of Plainview Police Department and the State Bureau of Criminal Apprehension			

SUMMARY

The City of Plainview, MN, along with the State of Minnesota Bureau of Criminal Apprehension, hereby enter into a joint powers agreement (JPA) to allow the Plainview Police to utilize tools and systems over the State's criminal justice data information systems, for which the City is eligible (see attached fee schedule).

The JPA is for a term of five years and can be renewed for subsequent terms with approval of the City Council. Police Chief Jason Timm, the authorized representative for the City of Plainview, is the designated authority for the City and is authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the city's connection to the system and tools offered by the State.

Respectfully Submitted,

David Todd, City Administrator

**CITY OF PLAINVIEW
WABASHA COUNTY, MINNESOTA**

RESOLUTION NO. 2022-19

**RESOLUTION APPROVING STATE OF MINNESOTA JOINT POWERS
AGREEMENTS WITH THE CITY OF PLAINVIEW ON BEHALF OF ITS CITY
ATTORNEY AND POLICE DEPARTMENT**

WHEREAS, the City of Plainview on behalf of its Prosecuting Attorney and Police Department desires to enter into Joint Powers Agreements with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension to use systems and tools available over the State's criminal justice data communications network for which the City is eligible. The Joint Powers Agreements further provide the City with the ability to add, modify and delete connectivity, systems and tools over the five-year life of the agreement and obligates the City to pay the costs for the network connection.

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

1. That the State of Minnesota Joint Powers Agreements by and between the State of Minnesota acting through its Department of Public Safety, Bureau of Criminal Apprehension and the City of Plainview on behalf of its Prosecuting Attorney and Police Department, are hereby approved.
2. That the Chief of Police-, Jason Timm, or his successor, is designated the Authorized Representative for the Police Department. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.
3. That the Wabasha County Attorney, Karrie S. Kelly, or her successor, is designated the Authorized Representative for the Prosecuting Attorney. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.
4. That Aaron Luckstein, the Mayor for the City of Plainview, and Carol Kujath, the City Clerk, are authorized to sign the State of Minnesota Joint Powers Agreements.

Passed and Adopted by the Council on this 26th day of July, 2022.

CITY OF PLAINVIEW

By: Aaron Luckstein
Its Mayor

ATTEST: _____
By: Carol Kujath
Its City Clerk

CJDN Fee Structure

Effective July 2018

Statements:

All agencies receiving data from the BCA or through the BCA will be charged at least \$50 per-month. (Regardless if they are connected directly to us or not)

Current paying agencies will continue to pay their current monthly fee regardless of the method of connection. (Exception: See VPN agency charges below)

New agencies will pay \$50 per-month.

Agencies that are currently not paying any fees will be charged \$50 per-month.

VPN agencies will pay \$50 per-month plus \$15.00 per-fob p/m (for CJA & Private Law Firm) or \$35 per-fob p/m (for NCJA).

\$100 one-time charge plus \$100.00 fob replacement charge (fobs have a 4-5 year renewal cycle).

* BCA Master Agreement with Agency will have language added to reflect Agency/PLF arrangement. Agreement will also allow PLF to support multiple agencies with single connection.

Connection types:

- 1. VPN – Site-Site Connection directly to BCA**
- 2. Direct (CJDN connection)**
(Additional MN-IT billing is direct to agency upon BCA approving MN-IT CJDN WAN Agreement
Agency shall have an appropriate agreement (Management Control Agreement with MN.IT))
- 3. Shared – Agency shares connection with another BCA connected agency**
(Agencies are advised to put in place an interagency Agreement (sometimes referred to as downstream agency or agency sitting behind another agency agreement).)
- 4. Extended – Extending a network connection from a BCA connected agency to an existing agency.**
(Agencies are advised to put in place an interagency Agreement (sometimes referred to as downstream agency or agency sitting behind another agency agreement).)



State of Minnesota Joint Powers Agreement

This Agreement is between the State of Minnesota, acting through its Department of Public Safety on behalf of the Bureau of Criminal Apprehension ("BCA"), and the City of Plainview on behalf of its Police Department ("Governmental Unit"). The BCA and the Governmental Unit may be referred to jointly as "Parties."

Recitals

Under Minn. Stat. § 471.59, the BCA and the Governmental Unit are empowered to engage in agreements that are necessary to exercise their powers. Under Minn. Stat. § 299C.46, the BCA must provide a criminal justice data communications network to benefit political subdivisions as defined under Minn. Stat. § 299C.46, subd. 2 and subd. 2(a). The Governmental Unit is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in this Agreement. In addition, BCA either maintains repositories of data or has access to repositories of data that benefit authorized political subdivisions in performing their duties. The Governmental Unit wants to access data in support of its official duties.

The purpose of this Agreement is to create a method by which the Governmental Unit has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access.

Agreement

1 Term of Agreement

- 1.1 **Effective Date.** This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2.
- 1.2 **Expiration Date.** This Agreement expires five years from the date it is effective.

2 Agreement Between the Parties

- 2.1 **General Access.** BCA agrees to provide Governmental Unit with access to the Minnesota Criminal Justice Data Communications Network (CJDN) and those systems and tools which the Governmental Unit is authorized by law to access via the CJDN for the purposes outlined in Minn. Stat. § 299C.46.
- 2.2 **Methods of Access.**

The BCA offers three (3) methods of access to its systems and tools. The methods of access are:

 - A. **Direct access** occurs when individual users at the Governmental Unit use the Governmental Unit's equipment to access the BCA's systems and tools. This is generally accomplished by an individual user entering a query into one of BCA's systems or tools.
 - B. **Indirect Access** occurs when individual users at the Governmental Unit go to another Governmental Unit to obtain data and information from BCA's systems and tools. This method of access generally results in the Governmental Unit with indirect access obtaining the needed data and information in a physical format like a paper report.
 - C. **Computer-to-Computer System Interface** occurs when the Governmental Unit's computer exchanges data and information with BCA's computer systems and tools using an interface. Without limitation, interface types include: state message switch, web services, enterprise service bus and message queuing.

For purposes of this Agreement, Governmental Unit employees or contractors may use any of these methods to use BCA's systems and tools as described in this Agreement. Governmental Unit will select a

method of access and can change the methodology following the process in Clause 2.10.

- 2.3 Federal Systems Access.** In addition, pursuant to 28 CFR §20.30-38 and Minn. Stat. §299C.58, BCA may provide Governmental Unit with access to the Federal Bureau of Investigation (FBI) National Crime Information Center.
- 2.4 Governmental Unit Policies.** Both the BCA and the FBI's Criminal Justice Information Systems (FBI-CJIS) have policies, regulations and laws on access, use, audit, dissemination, hit confirmation, logging, quality assurance, screening (pre-employment), security, timeliness, training, use of the system, and validation. Governmental Unit has created its own policies to ensure that Governmental Unit's employees and contractors comply with all applicable requirements. Governmental Unit ensures this compliance through appropriate enforcement. These BCA and FBI-CJIS policies and regulations, as amended and updated from time to time, are incorporated into this Agreement by reference. The policies are available at <https://bcanextest.x.state.mn.us/launchpad/>.
- 2.5 Governmental Unit Resources.** To assist Governmental Unit in complying with the federal and state requirements on access to and use of the various systems and tools, information is available at <https://sps.x.state.mn.us/sites/bcaservicecatalog/default.aspx>. Additional information on appropriate use is found in the Minnesota Bureau of Criminal Apprehension Policy on Appropriate Use of Systems and Data available at <https://bcanextest.x.state.mn.us/launchpad/cjisdocs/docs.cgi?cmd=FS&ID=795&TYPE=DOCS>.
- 2.6 Access Granted.**
- A. Governmental Unit is granted permission to use all current and future BCA systems and tools for which Governmental Unit is eligible. Eligibility is dependent on Governmental Unit (i) satisfying all applicable federal or state statutory requirements; (ii) complying with the terms of this Agreement; and (iii) acceptance by BCA of Governmental Unit's written request for use of a specific system or tool.
 - B. To facilitate changes in systems and tools, Governmental Unit grants its Authorized Representative authority to make written requests for those systems and tools provided by BCA that the Governmental Unit needs to meet its criminal justice obligations and for which Governmental Unit is eligible.
- 2.7 Future Access.** On written request from the Governmental Unit, BCA also may provide Governmental Unit with access to those systems or tools which may become available after the signing of this Agreement, to the extent that the access is authorized by applicable state and federal law. Governmental Unit agrees to be bound by the terms and conditions contained in this Agreement that when utilizing new systems or tools provided under this Agreement.
- 2.8 Limitations on Access.** BCA agrees that it will comply with applicable state and federal laws when making information accessible. Governmental Unit agrees that it will comply with applicable state and federal laws when accessing, entering, using, disseminating, and storing data. Each party is responsible for its own compliance with the most current applicable state and federal laws.
- 2.9 Supersedes Prior Agreements.** This Agreement supersedes any and all prior agreements between the BCA and the Governmental Unit regarding access to and use of systems and tools provided by BCA.
- 2.10 Requirement to Update Information.** The parties agree that if there is a change to any of the information whether required by law or this Agreement, the party will send the new information to the other party in writing within 30 days of the change. This clause does not apply to changes in systems or tools provided under this Agreement.

This requirement to give notice additionally applies to changes in the individual or organization serving the Governmental Unit as its prosecutor. Any change in performance of the prosecutorial function must be provided to the BCA in writing by giving notice to the Service Desk, BCA.ServiceDesk@state.mn.us.

- 2.11 Transaction Record.** The BCA creates and maintains a transaction record for each exchange of data utilizing its systems and tools. In order to meet FBI-CJIS requirements and to perform the audits described in Clause 7, there must be a method of identifying which individual users at the Governmental Unit conducted a

particular transaction.

If Governmental Unit uses either direct access as described in Clause 2.2A or indirect access as described in Clause 2.2B, BCA's transaction record meets FBI-CJIS requirements.

When Governmental Unit's method of access is a computer-to-computer interface as described in Clause 2.2C, the Governmental Unit must keep a transaction record sufficient to satisfy FBI-CJIS requirements and permit the audits described in Clause 7 to occur.

If a Governmental Unit accesses data from the Driver and Vehicle Services Division in the Minnesota Department of Public Safety and keeps a copy of the data, Governmental Unit must have a transaction record of all subsequent access to the data that are kept by the Governmental Unit. The transaction record must include the individual user who requested access, and the date, time and content of the request. The transaction record must also include the date, time and content of the response along with the destination to which the data were sent. The transaction record must be maintained for a minimum of six (6) years from the date the transaction occurred and must be made available to the BCA within one (1) business day of the BCA's request.

- 2.12 Court Information Access.** Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Governmental Unit if the Governmental Unit completes the Court Data Services Subscriber Amendment, which upon execution will be incorporated into this Agreement by reference. These BCA systems and tools are identified in the written request made by the Governmental Unit under Clause 2.6 above. The Court Data Services Subscriber Amendment provides important additional terms, including but not limited to privacy (see Clause 8.2, below), fees (see Clause 3 below), and transaction records or logs, that govern Governmental Unit's access to and/or submission of the Court Records delivered through the BCA systems and tools.
- 2.13 Vendor Personnel Screening.** The BCA will conduct all vendor personnel screening on behalf of Governmental Unit as is required by the FBI CJIS Security Policy. The BCA will maintain records of the federal, fingerprint-based background check on each vendor employee as well as records of the completion of the security awareness training that may be relied on by the Governmental Unit.

3 Payment

The Governmental Unit currently accesses the criminal justice data communications network described in Minn. Stat. §299C.46. The bills are sent annually for a total annual cost of Six Hundred Dollars (\$600.00).

The Governmental Unit will identify its contact person for billing purposes, and will provide updated information to BCA's Authorized Representative within ten business days when this information changes.

If Governmental Unit chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, additional fees, if any, are addressed in that amendment.

4 Authorized Representatives

The BCA's Authorized Representative is the person below, or her successor:

Name:	Dana Gotz, Deputy Superintendent
Address:	Minnesota Department of Public Safety; Bureau of Criminal Apprehension 1430 Maryland Avenue Saint Paul, MN 55106
Telephone:	651.793.1007

Email Address: Dana.Gotz@state.mn.us

The Governmental Unit's Authorized Representative is the person below, or his/her successor:

Name: Jason Timm, Chief
Address: 241 W Broadway
Plainview, MN 55964
Telephone: 507.534.2441
Email Address: jtimm@plainviewpolice.com

5 Assignment, Amendments, Waiver, and Agreement Complete

- 5.1 Assignment.** Neither party may assign nor transfer any rights or obligations under this Agreement.
- 5.2 Amendments.** Any amendment to this Agreement, except those described in Clauses 2.6 and 2.7 above must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, their successors in office, or another individual duly authorized.
- 5.3 Waiver.** If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or the right to enforce it.
- 5.4 Agreement Complete.** This Agreement contains all negotiations and agreements between the BCA and the Governmental Unit. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

6 Liability

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern the BCA's liability. The Minnesota Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws, governs the Governmental Unit's liability.

7 Audits

- 7.1** Under Minn. Stat. § 16C.05, subd. 5, the Governmental Unit's books, records, documents, internal policies and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA, the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

Under Minn. Stat. § 6.551, the State Auditor may examine the books, records, documents, and accounting procedures and practices of BCA. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to this Agreement.

- 7.2** Under applicable state and federal law, the Governmental Unit's records are subject to examination by the BCA to ensure compliance with laws, regulations and policies about access, use, and dissemination of data.
- 7.3** If the Governmental Unit accesses federal databases, the Governmental Unit's records are subject to examination by the FBI and BCA; the Governmental Unit will cooperate with FBI and BCA auditors and make any requested data available for review and audit.
- 7.4** If the Governmental Unit accesses state databases, the Governmental Unit's records are subject to examination by the BCA; the Governmental Unit will cooperate with the BCA auditors and make any requested data available for review and audit.
- 7.5** To facilitate the audits required by state and federal law, Governmental Unit is required to have an inventory of the equipment used to access the data covered by this Agreement and the physical location of each.

8 Government Data Practices

- 8.1 BCA and Governmental Unit.** The Governmental Unit and BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data accessible under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Governmental Unit under this Agreement. The remedies of Minn. Stat. §§ 13.08 and 13.09 apply to the release of the data referred to in this clause by either the Governmental Unit or the BCA.
- 8.2 Court Records.** If Governmental Unit chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, the following provisions regarding data practices also apply. The Court is not subject to Minn. Stat. Ch. 13 but is subject to the *Rules of Public Access to Records of the Judicial Branch* promulgated by the Minnesota Supreme Court. All parties acknowledge and agree that Minn. Stat. § 13.03, subdivision 4(e) requires that the BCA and the Governmental Unit comply with the *Rules of Public Access* for those data received from Court under the Court Data Services Subscriber Amendment. All parties also acknowledge and agree that the use of, access to or submission of Court Records, as that term is defined in the Court Data Services Subscriber Amendment, may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. All parties acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

9 Investigation of Alleged Violations; Sanctions

For purposes of this clause, "Individual User" means an employee or contractor of Governmental Unit.

- 9.1 Investigation.** The Governmental Unit and BCA agree to cooperate in the investigation and possible prosecution of suspected violations of federal and state law referenced in this Agreement. Governmental Unit and BCA agree to cooperate in the investigation of suspected violations of the policies and procedures referenced in this Agreement. When BCA becomes aware that a violation may have occurred, BCA will inform Governmental Unit of the suspected violation, subject to any restrictions in applicable law. When Governmental Unit becomes aware that a violation has occurred, Governmental Unit will inform BCA subject to any restrictions in applicable law.
- 9.2 Sanctions Involving Only BCA Systems and Tools.**
The following provisions apply to BCA systems and tools not covered by the Court Data Services Subscriber Amendment. None of these provisions alter the Governmental Unit internal discipline processes, including those governed by a collective bargaining agreement.
- 9.2.1** For BCA systems and tools that are not covered by the Court Data Services Subscriber Amendment, Governmental Unit must determine if and when an involved Individual User's access to systems or tools is to be temporarily or permanently eliminated. The decision to suspend or terminate access may be made as soon as alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. Governmental Unit must report the status of the Individual User's access to BCA without delay. BCA reserves the right to make a different determination concerning an Individual User's access to systems or tools than that made by Governmental Unit and BCA's determination controls.
- 9.2.2** If BCA determines that Governmental Unit has jeopardized the integrity of the systems or tools covered in this Clause 9.2, BCA may temporarily stop providing some or all the systems or tools under this Agreement until the failure is remedied to the BCA's satisfaction. If Governmental Unit's failure is continuing or repeated, Clause 11.1 does not apply and BCA may terminate this Agreement immediately.
- 9.3 Sanctions Involving Only Court Data Services**
The following provisions apply to those systems and tools covered by the Court Data Services Subscriber Amendment, if it has been signed by Governmental Unit. As part of the agreement between the Court and the BCA for the delivery of the systems and tools that are covered by the Court Data Services Subscriber

Amendment, BCA is required to suspend or terminate access to or use of the systems and tools either on its own initiative or when directed by the Court. The decision to suspend or terminate access may be made as soon as an alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. The decision to suspend or terminate may also be made based on a request from the Authorized Representative of Governmental Unit. The agreement further provides that only the Court has the authority to reinstate access and use.

9.3.1 Governmental Unit understands that if it has signed the Court Data Services Subscriber Amendment and if Governmental Unit's Individual Users violate the provisions of that Amendment, access and use will be suspended by BCA or Court. Governmental Unit also understands that reinstatement is only at the direction of the Court.

9.3.2 Governmental Unit further agrees that if Governmental Unit believes that one or more of its Individual Users have violated the terms of the Amendment, it will notify BCA and Court so that an investigation as described in Clause 9.1 may occur.

10 Venue

Venue for all legal proceedings involving this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

11 Termination

11.1 Termination. The BCA or the Governmental Unit may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party's Authorized Representative.

11.2 Termination for Insufficient Funding. Either party may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written notice to the other party's authorized representative. The Governmental Unit is not obligated to pay for any services that are provided after notice and effective date of termination. However, the BCA will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Neither party will be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. Notice of the lack of funding must be provided within a reasonable time of the affected party receiving that notice.

12 Continuing Obligations

The following clauses survive the expiration or cancellation of this Agreement: Liability; Audits; Government Data Practices; 9. Investigation of Alleged Violations; Sanctions; and Venue.

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The Parties indicate their agreement and authority to execute this Agreement by signing below.

1. GOVERNMENTAL UNIT

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

3. COMMISSIONER OF ADMINISTRATION

As delegated to the Office of State Procurement

By: _____

Date: _____

COURT DATA SERVICES SUBSCRIBER AMENDMENT TO CJDN SUBSCRIBER AGREEMENT

This Court Data Services Subscriber Amendment (“Subscriber Amendment”) is entered into by the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension, (“BCA”) and the City of Plainview on behalf of its Police Department (“Agency”), and by and for the benefit of the State of Minnesota acting through its State Court Administrator’s Office (“Court”) who shall be entitled to enforce any provisions hereof through any legal action against any party.

Recitals

This Subscriber Amendment modifies and supplements the Agreement between the BCA and Agency, SWIFT Contract number 212470, of even or prior date, for Agency use of BCA systems and tools (referred to herein as “the CJDN Subscriber Agreement”). Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes this Subscriber Amendment. The Agency desires to use one or more BCA systems and tools to access and/or submit Court Records to assist the Agency in the efficient performance of its duties as required or authorized by law or court rule. Court desires to permit such access and/or submission. This Subscriber Amendment is intended to add Court as a party to the CJDN Subscriber Agreement and to create obligations by the Agency to the Court that can be enforced by the Court. It is also understood that, pursuant to the Master Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA, the BCA is authorized to sign this Subscriber Amendment on behalf of Court. Upon execution the Subscriber Amendment will be incorporated into the CJDN Subscriber Agreement by reference. The BCA, the Agency and the Court desire to amend the CJDN Subscriber Agreement as stated below.

The CJDN Subscriber Agreement is amended by the addition of the following provisions:

1. **TERM; TERMINATION; ONGOING OBLIGATIONS.** This Subscriber Amendment shall be effective on the date finally executed by all parties and shall remain in effect until expiration or termination of the CJDN Subscriber Agreement unless terminated earlier as provided in this Subscriber Amendment. Any party may terminate this Subscriber Amendment with or without cause by giving written notice to all other parties. The effective date of the termination shall be thirty days after the other party's receipt of the notice of termination, unless a later date is specified in the notice. The provisions of sections 5 through 9, 12.b., 12.c., and 15 through 24 shall survive any termination of this Subscriber Amendment as shall any other provisions which by their nature are intended or expected to survive such termination. Upon termination, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

2. **Definitions.** Unless otherwise specifically defined, each term used herein shall have the meaning assigned to such term in the CJDN Subscriber Agreement.

a. **“Authorized Court Data Services”** means Court Data Services that have been authorized for delivery to CJDN Subscribers via BCA systems and tools pursuant to an Authorization Amendment to the Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA.

b. **“Court Data Services”** means one or more of the services set forth on the Justice Agency Resource webpage of the Minnesota Judicial Branch website (for which the current address is www.courts.state.mn.us) or other location designated by the Court, as the same may be amended from time to time by the Court.

c. **“Court Records”** means all information in any form made available by the Court to Subscriber through the BCA for the purposes of carrying out this Subscriber Amendment, including:

- i. **“Court Case Information”** means any information in the Court Records that conveys information about a particular case or controversy, including without limitation Court Confidential Case Information, as defined herein.
- ii. **“Court Confidential Case Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that conveys information about a particular case or controversy.
- iii. **“Court Confidential Security and Activation Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that explains how to use or gain access to Court Data Services, including but not limited to login account names, passwords, TCP/IP addresses, Court Data Services user manuals, Court Data Services Programs, Court Data Services Databases, and other technical information.
- iv. **“Court Confidential Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access, including without limitation both i) Court Confidential Case Information; and ii) Court Confidential Security and Activation Information.

d. **“DCA”** shall mean the district courts of the state of Minnesota and their respective staff.

e. **“Policies & Notices”** means the policies and notices published by the Court in connection with each of its Court Data Services, on a website or other location designated by the Court, as the same may be amended from time to time by the Court. Policies & Notices for each Authorized Court Data Service identified in an approved request form under section 3, below, are hereby made part of this Subscriber Amendment by this reference and provide additional terms and conditions that govern Subscriber’s use of Court Records accessed through such services, including but not limited to provisions on access and use limitations.

f. **“Rules of Public Access”** means the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time, including without limitation lists or tables published from time to time by the Court entitled *Limits on Public Access to Case Records* or *Limits on Public Access to Administrative Records*, all of which by this reference are made a part of this Subscriber Amendment. It is the obligation of Subscriber to check from time to time for updated rules, lists, and tables and be familiar with the contents thereof. It is contemplated that such rules, lists, and tables will be posted on the Minnesota Judicial Branch website, for which the current address is www.courts.state.mn.us.

g. **“Court”** shall mean the State of Minnesota, State Court Administrator's Office.

h. **“Subscriber”** shall mean the Agency.

i. **“Subscriber Records”** means any information in any form made available by the Subscriber to the Court for the purposes of carrying out this Subscriber Amendment.

3. REQUESTS FOR AUTHORIZED COURT DATA SERVICES. Following execution of this Subscriber Amendment by all parties, Subscriber may submit to the BCA one or more separate requests for Authorized Court Data Services. The BCA is authorized in the Master Authorization Agreement to process, credential and approve such requests on behalf of Court and all such requests approved by the BCA are adopted and incorporated herein by this reference the same as if set forth verbatim herein.

a. **Activation.** Activation of the requested Authorized Court Data Service(s) shall occur promptly following approval.

b. **Rejection.** Requests may be rejected for any reason, at the discretion of the BCA and/or the Court.

c. **Requests for Termination of One or More Authorized Court Data Services.** The Subscriber may request the termination of an Authorized Court Data Services previously requested by submitting a notice to Court with a copy to the BCA. Promptly upon receipt of a request for termination of an Authorized Court Data Service, the BCA will deactivate the service requested. The termination of one or more Authorized Court Data Services does not terminate this Subscriber Amendment. Provisions for termination of this Subscriber Amendment are set forth in section 1. Upon termination of Authorized Court Data Services, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

4. SCOPE OF ACCESS TO COURT RECORDS LIMITED. Subscriber's access to and/or submission of the Court Records shall be limited to Authorized Court Data Services identified in an approved request form under section 3, above, and other Court Records necessary for Subscriber to use Authorized Court Data Services. Authorized Court Data Services shall only be used according to the instructions provided in corresponding Policies & Notices or other materials and only as necessary to assist Subscriber in the efficient performance of Subscriber's duties

required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body. Subscriber's access to the Court Records for personal or non-official use is prohibited. Subscriber will not use or attempt to use Authorized Court Data Services in any manner not set forth in this Subscriber Amendment, Policies & Notices, or other Authorized Court Data Services documentation, and upon any such unauthorized use or attempted use the Court may immediately terminate this Subscriber Amendment without prior notice to Subscriber.

5. GUARANTEES OF CONFIDENTIALITY. Subscriber agrees:

a. To not disclose Court Confidential Information to any third party except where necessary to carry out the Subscriber's duties as required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body.

b. To take all appropriate action, whether by instruction, agreement, or otherwise, to insure the protection, confidentiality and security of Court Confidential Information and to satisfy Subscriber's obligations under this Subscriber Amendment.

c. To limit the use of and access to Court Confidential Information to Subscriber's bona fide personnel whose use or access is necessary to effect the purposes of this Subscriber Amendment, and to advise each individual who is permitted use of and/or access to any Court Confidential Information of the restrictions upon disclosure and use contained in this Subscriber Amendment, requiring each individual who is permitted use of and/or access to Court Confidential Information to acknowledge in writing that the individual has read and understands such restrictions. Subscriber shall keep such acknowledgements on file for one year following termination of the Subscriber Amendment and/or CJDN Subscriber Agreement, whichever is longer, and shall provide the Court with access to, and copies of, such acknowledgements upon request. For purposes of this Subscriber Amendment, Subscriber's bona fide personnel shall mean individuals who are employees of Subscriber or provide services to Subscriber either on a voluntary basis or as independent contractors with Subscriber.

d. That, without limiting section 1 of this Subscriber Amendment, the obligations of Subscriber and its bona fide personnel with respect to the confidentiality and security of Court Confidential Information shall survive the termination of this Subscriber Amendment and the CJDN Subscriber Agreement and the termination of their relationship with Subscriber.

e. That, notwithstanding any federal or state law applicable to the nondisclosure obligations of Subscriber and Subscriber's bona fide personnel under this Subscriber Amendment, such obligations of Subscriber and Subscriber's bona fide personnel are founded independently on the provisions of this Subscriber Amendment.

6. APPLICABILITY TO PREVIOUSLY DISCLOSED COURT RECORDS. Subscriber acknowledges and agrees that all Authorized Court Data Services and related Court Records disclosed to Subscriber prior to the effective date of this Subscriber Amendment shall be subject to the provisions of this Subscriber Amendment.

7. LICENSE AND PROTECTION OF PROPRIETARY RIGHTS. During the term of this Subscriber Amendment, subject to the terms and conditions hereof, the Court hereby grants to Subscriber a nonexclusive, nontransferable, limited license to use Court Data Services Programs and Court Data Services Databases to access or receive the Authorized Court Data Services identified in an approved request form under section 3, above, and related Court Records. Court reserves the right to make modifications to the Authorized Court Data Services, Court Data Services Programs, and Court Data Services Databases, and related materials without notice to Subscriber. These modifications shall be treated in all respects as their previous counterparts.

a. Court Data Services Programs. Court is the copyright owner and licensor of the Court Data Services Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the Court Data Services Programs, and all information contained in documentation pertaining to the Court Data Services Programs, including but not limited to manuals, user documentation, and passwords, are trade secret information of Court and its licensors.

b. Court Data Services Databases. Court is the copyright owner and licensor of the Court Data Services Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the Court Data Services Databases and their structure, sequence and organization, including without limitation data schemas such as the Court XML Schema, are trade secret information of Court and its licensors.

c. Marks. Subscriber shall neither have nor claim any right, title, or interest in or use of any trademark used in connection with Authorized Court Data Services, including but not limited to the marks "MNCIS" and "Odyssey."

d. Restrictions on Duplication, Disclosure, and Use. Trade secret information of Court and its licensors will be treated by Subscriber in the same manner as Court Confidential Information. In addition, Subscriber will not copy any part of the Court Data Services Programs or Court Data Services Databases, or reverse engineer or otherwise attempt to discern the source code of the Court Data Services Programs or Court Data Services Databases, or use any trademark of Court or its licensors, in any way or for any purpose not specifically and expressly authorized by this Subscriber Amendment. As used herein, "trade secret information of Court and its licensors" means any information possessed by Court which derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of Court and its licensors" does not, however, include information which was known to Subscriber prior to Subscriber's receipt thereof, either directly or indirectly, from Court or its licensors, information which is independently developed by Subscriber without reference to or use of information received from Court or its licensors, or information which would not qualify as a trade secret under Minnesota law. It will not be a violation of this section 7, sub-section d, for Subscriber to make up to one copy of training materials and configuration documentation, if any, for each individual authorized to access, use, or configure Authorized Court Data Services, solely for its own use in connection with this Subscriber Amendment. Subscriber will take all steps reasonably necessary to protect the copyright, trade secret, and trademark rights of Court and its licensors and Subscriber will advise its bona fide personnel who are permitted access to any of the Court Data Services Programs and Court Data Services Databases, and trade secret information of Court and its licensors, of the restrictions upon duplication, disclosure and use contained in this Subscriber Amendment.

e. Proprietary Notices. Subscriber will not remove any copyright or proprietary notices included in and/or on the Court Data Services Programs or Court Data Services Databases, related documentation, or trade secret information of Court and its licensors, or any part thereof, made available by Court directly or through the BCA, if any, and Subscriber will include in and/or on any copy of the Court Data Services Programs or Court Data Services Databases, or trade secret information of Court and its licensors and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to Subscriber by Court directly or through the BCA, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

f. Title; Return. The Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration material, if any, and logon account information and passwords, if any, made available by the Court to Subscriber directly or through the BCA and all copies, including partial copies, thereof are and remain the property of the respective licensor. Except as expressly provided in section 12.b., within ten days of the effective date of termination of this Subscriber Amendment or the CJDN Subscriber Agreement or within ten days of a request for termination of Authorized Court Data Service as described in section 4, Subscriber shall either: (i) uninstall and return any and all copies of the applicable Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration materials, if any, and logon account information, if any; or (2) destroy the same and certify in writing to the Court that the same have been destroyed.

8. INJUNCTIVE RELIEF. Subscriber acknowledges that the Court, Court's licensors, and DCA will be irreparably harmed if Subscriber's obligations under this Subscriber Amendment are not specifically enforced and that the Court, Court's licensors, and DCA would not have an adequate remedy at law in the event of an actual or threatened violation by Subscriber of its obligations. Therefore, Subscriber agrees that the Court, Court's licensors, and DCA shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violations or breaches by Subscriber or its bona fide personnel without the necessity of the Court, Court's licensors, or DCA showing actual damages or that monetary damages would not afford an adequate remedy. Unless Subscriber is an office, officer, agency, department, division, or bureau of the state of Minnesota, Subscriber shall be liable to the Court, Court's licensors, and DCA for reasonable attorneys fees incurred by the Court, Court's licensors, and DCA in obtaining any relief pursuant to this Subscriber Amendment.

9. LIABILITY. Subscriber and the Court agree that, except as otherwise expressly provided herein, each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. Liability shall be governed by applicable law. Without limiting the foregoing, liability of the Court and any Subscriber that is an office, officer, agency, department, division, or bureau of the state of Minnesota shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, section 3.376, and other applicable law. Without limiting the foregoing, if Subscriber is a political subdivision of the state of Minnesota, liability of the Subscriber shall be governed by the provisions of Minn. Stat. Ch. 466 (Tort Liability, Political Subdivisions) or other applicable law. Subscriber and Court further acknowledge that the liability, if any, of the BCA is governed by a separate agreement between the Court and the BCA dated December 13, 2010 with DPS-M -0958.

10. AVAILABILITY. Specific terms of availability shall be established by the Court and communicated to Subscriber by the Court and/or the BCA. The Court reserves the right to terminate this Subscriber Amendment immediately and/or temporarily suspend Subscriber's Authorized Court Data Services in the event the capacity of any host computer system or legislative appropriation of funds is determined solely by the Court to be insufficient to meet the computer needs of the courts served by the host computer system.

11. [reserved]

12. ADDITIONAL USER OBLIGATIONS. The obligations of the Subscriber set forth in this section are in addition to the other obligations of the Subscriber set forth elsewhere in this Subscriber Amendment.

a. Judicial Policy Statement. Subscriber agrees to comply with all policies identified in Policies & Notices applicable to Court Records accessed by Subscriber using Authorized Court Data Services. Upon failure of the Subscriber to comply with such policies, the Court shall have the option of immediately suspending the Subscriber's Authorized Court Data Services on a temporary basis and/or immediately terminating this Subscriber Amendment.

b. Access and Use; Log. Subscriber shall be responsible for all access to and use of Authorized Court Data Services and Court Records by Subscriber's bona fide personnel or by means of Subscriber's equipment or passwords, whether or not Subscriber has knowledge of or authorizes such access and use. Subscriber shall also maintain a log identifying all persons to whom Subscriber has disclosed its Court Confidential Security and Activation Information, such as user ID(s) and password(s), including the date of such disclosure. Subscriber shall maintain such logs for a minimum period of six years from the date of disclosure, and shall provide the Court with access to, and copies of, such logs upon request. The Court may conduct audits of Subscriber's logs and use of Authorized Court Data Services and Court Records from time to time. Upon Subscriber's failure to maintain such logs, to maintain accurate logs, or to promptly provide access by the Court to such logs, the Court may terminate this Subscriber Amendment without prior notice to Subscriber.

c. Personnel. Subscriber agrees to investigate, at the request of the Court and/or the BCA, allegations of misconduct pertaining to Subscriber's bona fide personnel having access to or use of Authorized Court Data Services, Court Confidential Information, or trade secret information of the Court and its licensors where such persons are alleged to have violated the provisions of this Subscriber Amendment, Policies & Notices, Judicial Branch policies, or other security requirements or laws regulating access to the Court Records.

d. Minnesota Data Practices Act Applicability. If Subscriber is a Minnesota Government entity that is subject to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, Subscriber acknowledges and agrees that: (1) the Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court; (2) Minn. Stat. section 13.03, subdivision 4(e) requires that Subscriber comply with the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court for access to Court Records provided via the

BCA systems and tools under this Subscriber Amendment; (3) the use of and access to Court Records may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law; and (4) these applicable restrictions must be followed in the appropriate circumstances.

13. FEES; INVOICES. Unless the Subscriber is an office, officer, department, division, agency, or bureau of the state of Minnesota, Subscriber shall pay the fees, if any, set forth in applicable Policies & Notices, together with applicable sales, use or other taxes. Applicable monthly fees commence ten (10) days after notice of approval of the request pursuant to section 3 of this Subscriber Amendment or upon the initial Subscriber transaction as defined in the Policies & Notices, whichever occurs earlier. When fees apply, the Court shall invoice Subscriber on a monthly basis for charges incurred in the preceding month and applicable taxes, if any, and payment of all amounts shall be due upon receipt of invoice. If all amounts are not paid within 30 days of the date of the invoice, the Court may immediately cancel this Subscriber Amendment without notice to Subscriber and pursue all available legal remedies. Subscriber certifies that funds have been appropriated for the payment of charges under this Subscriber Amendment for the current fiscal year, if applicable.

14. MODIFICATION OF FEES. Court may modify the fees by amending the Policies & Notices as provided herein, and the modified fees shall be effective on the date specified in the Policies & Notices, which shall not be less than thirty days from the publication of the Policies & Notices. Subscriber shall have the option of accepting such changes or terminating this Subscriber Amendment as provided in section 1 hereof.

15. WARRANTY DISCLAIMERS.

a. WARRANTY EXCLUSIONS. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED HEREIN, COURT, COURT'S LICENSORS, AND DCA MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, NOR ARE ANY WARRANTIES TO BE IMPLIED, WITH RESPECT TO THE INFORMATION, SERVICES OR COMPUTER PROGRAMS MADE AVAILABLE UNDER THIS AGREEMENT.

b. ACCURACY AND COMPLETENESS OF INFORMATION. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING PARAGRAPH, COURT, COURT'S LICENSORS, AND DCA MAKE NO WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THE COURT RECORDS.

16. RELATIONSHIP OF THE PARTIES. Subscriber is an independent contractor and shall not be deemed for any purpose to be an employee, partner, agent or franchisee of the Court, Court's licensors, or DCA. Neither Subscriber nor the Court, Court's licensors, or DCA shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

17. NOTICE. Except as provided in section 2 regarding notices of or modifications to Authorized Court Data Services and Policies & Notices, any notice to Court or Subscriber

hereunder shall be deemed to have been received when personally delivered in writing or seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at the address set forth on page one of this Agreement or at such other address of which notice has been given in accordance herewith.

18. NON-WAIVER. The failure by any party at any time to enforce any of the provisions of this Subscriber Amendment or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, remedy or option or in any way affect the validity of this Subscriber Amendment. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

19. FORCE MAJEURE. Neither Subscriber nor Court shall be responsible for failure or delay in the performance of their respective obligations hereunder caused by acts beyond their reasonable control.

20. SEVERABILITY. Every provision of this Subscriber Amendment shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Subscriber Amendment so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Subscriber Amendment, and all other provisions shall remain in full force and effect.

21. ASSIGNMENT AND BINDING EFFECT. Except as otherwise expressly permitted herein, neither Subscriber nor Court may assign, delegate and/or otherwise transfer this Subscriber Amendment or any of its rights or obligations hereunder without the prior written consent of the other. This Subscriber Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including any other legal entity into, by or with which Subscriber may be merged, acquired or consolidated.

22. GOVERNING LAW. This Subscriber Amendment shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States and of the State of Minnesota.

23. VENUE AND JURISDICTION. Any action arising out of or relating to this Subscriber Amendment, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. Subscriber hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

24. INTEGRATION. This Subscriber Amendment contains all negotiations and agreements between the parties. No other understanding regarding this Subscriber Amendment, whether written or oral, may be used to bind either party, provided that all terms and conditions of the CJDN Subscriber Agreement and all previous amendments remain in full force and effect except as supplemented or modified by this Subscriber Amendment.

IN WITNESS WHEREOF, the Parties have, by their duly authorized officers, executed this Subscriber Amendment in duplicate, intending to be bound thereby.

1. SUBSCRIBER (AGENCY)

Subscriber must attach written verification of authority to sign on behalf of and bind the entity, such as an opinion of counsel or resolution.

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

3. COMMISSIONER OF ADMINISTRATION delegated to Materials Management Division

By: _____

Date: _____

4. COURTS

Authority granted to Bureau of Criminal Apprehension

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with authorized authority)

Date: _____

PLAINVIEW

CITY COUNCIL ACTION



Executive Summary

City Council Special Meeting: July 26, 2022

AGENDA ITEM:	Additional 2022 Pool Employee Hires	AGENDA SECTION:	New Business
PREPARED BY:	Michelle Olig, Pool Manager Carol Kujath, City Clerk	AGENDA NO.	5.F.
ATTACHMENTS:	None	APPROVED BY:	mo
RECOMMENDED ACTION: 1. Motion to approve the hiring of additional pool employees as listed for the 2022 pool season.			

SUMMARY

Pool Manager, Michelle Olig has received an additional two applications for pool employment. With the late opening of the pool this year, some of the pool hires found different jobs, and can only work part time at the pool. The hire of the additional employees will allow management to staff the pool for the rest of the season. All hires are pending drug screens and background checks.

Additional 2022 Pool Employees:

WSI Guards/\$12.50

Ellie Eidenschink

Lifeguards/\$11.50

Alex Bedsted**

**Contingent on passing Lifeguard Training

July 31-August 3.