

**CITY OF SHOREWOOD  
CITY COUNCIL REGULAR MEETING  
MONDAY, OCTOBER 23, 2023**

**5755 COUNTRY CLUB ROAD  
COUNCIL CHAMBERS  
7:00 P.M.**

For those wishing to listen live to the meeting, please go to [ci.shorewood.mn.us/current\\_meeting](https://ci.shorewood.mn.us/current_meeting) for the meeting link. Contact the city at 952.960.7900 during regular business hours with questions.

## **AGENDA**

### **1. CONVENE CITY COUNCIL MEETING**

A. Pledge of Allegiance

B. Roll Call

Mayor Labadie\_\_\_  
Callies\_\_\_  
Maddy\_\_\_  
Sanschagrin\_\_\_  
Zerby\_\_\_

C. Review and Adopt Agenda

### **Attachments**

**2. CONSENT AGENDA** The Consent Agenda is a series of actions which are being considered for adoption this evening under a single motion. These items have been reviewed by city council and city staff and there shall be no further discussion by the council tonight on the Consent Agenda items. Any council member or member of city staff may request that an item be removed from the Consent Agenda for separate consideration or discussion. If there are any brief concerns or questions by council, we can answer those now.

Motion to approve items on the Consent Agenda & Adopt Resolutions Therein:

- |   |  |
|---|--|
| A. City Council Work Session Minutes of October 10, 2023    | Minutes  |
| B. City Council Regular Meeting Minutes of October 10, 2023 | Minutes  |
| C. Approval of the Verified Claims List                     | Claims List                                      |
| D. Accept Resignation of SCEC Attendant                     | City Clerk/HR Director Memo                      |
| E. Approve Promotion to Public Works Utility Lead           | City Clerk/HR Director Memo                      |
| F. Designate 2024 Polling Place Locations                   | City Clerk/HR Director Memo<br>Resolution 23-104 |
| G. Approve Independent Contractor Agreement with Tenicity   | Parks/Rec Director Memo                          |

- H. Approve Release Agreement with Alex and Elena Ugorets City Administrator Memo

**3. MATTERS FROM THE FLOOR** This is an opportunity for members of the public to bring an item, which is not on tonight's agenda, to the attention of the Council. Anyone wishing to address the Council should raise their hand, or if attending remotely please use the "raise hand" function on your screen and wait to be called on. Please make your comments from the podium and identify yourself by your first and last name and your address for the record. Please limit your comments to three minutes. No discussion or action will be taken by the Council on this matter. If requested by the Council, City staff will prepare a report for the Council regarding the matter and place it on the next agenda.

**4. REPORTS AND PRESENTATIONS**

- A. Chief Tholen, SLMPD - Flock Camera and Approval of Allocation City Administrator Memo

**5. PARKS**

**6. PLANNING**

- A. Report by Commissioner Holker on 10-03-23 Planning Commission Meeting Minutes
- B. Conditional Use Permit for fill over 100 cubic yards Planning Director Memo  
Applicant: JK Landscaping Construction Resolution 23-106  
Location: 4800 Spray Island
- C. Comprehensive Plan Amendment and Concept and Planning Director Memo  
Development Stage PUD for a Paddle Sports Club Resolution 23-107  
Applicant: Admark LLC Resolution 23-108  
Location: 24560 Smithtown Road

**7. ENGINEERING/PUBLIC WORKS**

**8. GENERAL/NEW BUSINESS**

**9. STAFF AND COUNCIL REPORTS**

- A. Staff
  - 1. 3<sup>rd</sup> Quarter 2023 General Fund Budget Report Finance Director Memo
  - 2. 3<sup>rd</sup> Quarter 2023 Investment Report Finance Director Memo
- B. Mayor and City Council

**10. ADJOURN**

CITY OF SHOREWOOD  
CITY COUNCIL WORK SESSION MEETING  
TUESDAY, OCTOBER 10, 2023

5755 COUNTRY CLUB ROAD  
COUNCIL CHAMBERS  
6:20 P.M.

## MINUTES

### 1. CONVENE CITY COUNCIL WORK SESSION MEETING

Mayor Labadie called the meeting to order at 6:21 P.M.

#### A. Roll Call

Present: Mayor Labadie; Councilmembers Callies, Sanschagrín, and Zerby, and City Administrator Nevinski.

Absent: Councilmember Maddy

#### B. Review Agenda

Sanschagrín moved, Callies seconded, approving the agenda as presented. Motion passed 5/0.

### 2. PARKS COMMISSION INTERVIEW

#### A. Michelle DeGruttolo

City Administrator Nevinski reviewed the current scheduled for term expirations and outlined options for these appointments and ways to keep the appropriate staggering of term lengths.

The Council discussed appointing this position through the end of February 2024 and a new, three year term, would begin at that time and expire in February of 2027

Michelle DeGruttolo introduced herself and shared some of her background, experience, and interest in serving on the Parks Commission.

Mayor Labadie reviewed the usual Park Commission meeting schedule and events throughout the year where they encourage attendance.

The Council asked various questions of Ms. DeGruttolo and how she would address various issues throughout the City.

**Callies moved, Labadie seconded to appoint Michelle DeGruttolo to serve on the Parks Commission.**

City Administrator Nevinski explained that because this is a Work Session, the Council could not formally take any action but staff would bring this item to a regular meeting consent agenda at the next meeting.

Councilmember Callies suggested that the Council add it to the agenda for this evening rather than wait for the next meeting.

3. ADJOURN

Zerby moved, Sanschagrin seconded, Adjourning the City Council Work Session Meeting of October 10, 2023, at 6:35 P.M. Motion passed 5/0.

ATTEST:

\_\_\_\_\_  
Jennifer Labadie, Mayor

\_\_\_\_\_  
Sandie Thone, City Clerk

DRAFT

CITY OF SHOREWOOD  
CITY COUNCIL REGULAR MEETING  
TUESDAY, OCTOBER 10, 2023

5755 COUNTRY CLUB ROAD  
COUNCIL CHAMBERS  
7:00 P.M.

## MINUTES

### 1. CONVENE CITY COUNCIL REGULAR MEETING

Mayor Labadie called the meeting to order at 7:02 P.M. and announced that the City was having a problem with their Zoom video connection.

- A. Pledge of Allegiance
- B. Roll Call

Present: Mayor Labadie; Councilmembers Callies, Maddy, Sanschagrín, and Zerby; City Attorney Shepherd; City Administrator Nevinski; City Clerk/HR Director Thone; Finance Director Rigdon; Planning Director Darling; Park and Recreation Director Crossfield; and, City Engineer Budde

Absent: None

- C. Review Agenda

Councilmember Sanschagrín asked to add an item under New Business – Appointment of Parks Commissioner.

**Maddy moved, Zerby seconded, approving the agenda, as amended.**

**Motion passed.**

### 2. CONSENT AGENDA

Mayor Labadie reviewed the items on the Consent Agenda.

City Administrator Nevinski explained that there was a typographical error on item D and should state 'to not waive'. He noted that related to item G, within the quote there is a hyperlink that would take them to the Master Services Agreement, which he did not feel was very clear in the staff memo. He explained that he wanted to call that out in case it was not clear and noted that they had also provided copies of it for the Council.

Councilmember Sanschagrín asked to remove items D and F for separate discussion.

Councilmember Callies asked to remove item G for separate discussion.

**Sanschagrín moved, Callies seconded, Approving the Motions Contained on the Consent Agenda and Adopting the Resolutions Therein.**

- A. City Council Work Session Minutes of September 25, 2023
- B. City Council Regular Meeting Minutes of September 25, 2023

- C. Approval of the Verified Claims List
- ~~D. LMCIT Liability Coverage Waiver (moved to 8.B)~~
- E. Approve Retail Tobacco License Renewals, Adopting RESOLUTION NO. 23-098, "A Resolution Approving Annual Retail Tobacco License Renewal."
- ~~F. Approve Resolution of Support Mill Street Trail and Watermain Capital Bonding Request (moved to 8.C)~~
- ~~G. Approve Website Contract with CivicPlus (moved to 8.D)~~
- H. Approve Recruitment for Seasonal Rink Attendants
- I. Approve WAC Assessment Agreement for 26370 Peach Circle, Adopting RESOLUTION NO. 23-101, "A Resolution Approving and Adopting a Special Assessment."
- J. Encroachment Agreement for 5880 Prestwick Court, Adopting RESOLUTION NO. 23-102, "A Resolution Approving an Encroachment Agreement with Property at 5880 Prestwick Court"
- K. Approve HVAC Maintenance Agreement

Motion passed.

### 3. MATTERS FROM THE FLOOR

Patricia Arnst, 5480 Teal Circle, explained that she was here tonight to discuss Indigenous People's Day. She noted that the State legislator had recently passed a law that eliminates Columbus Day and noted that the City website has a few references still in place and asked that they make the necessary changes to follow the correct terminology for this holiday.

Mayor Labadie directed staff to ensure that the City's information matches the State information and terminology.

### 4. REPORTS AND PRESENTATIONS

### 5. PARKS

### 6. PLANNING

- A. Review Agreements Related to Lake Park Villas  
Applicant: TSML Properties  
Location: 24250 and 24320 Smithtown Road

Planning Director Darling gave an overview of the proposed Development and PUD Agreement; Joint Service Agreement; Stormwater Maintenance Agreement; and the Private Street and

Encroachment Agreement. She reviewed proposed changes to the language in various parts of the agreement.

Councilmember Zerby noted that he would also like to proposed some language changes under the Development and PUD agreement and explained that he would like to see daily clean-up of the roads during the excavation process.

Councilmember Callies referenced paragraph 18 where she believes there was a discrepancy and a typographical error. She stated that many of the plans are listed within the approvals, but then time goes on and no one is able to find the plans and asked that the work to ensure that somewhere in the City there is a whole document that has all this information in one place. She stated that she does not want it to be a situation where those plans disappear ten years down the road when someone wants to make an amendment.

Planning Director Darling stated that she agreed with Councilmember Callies and explained that she usually puts them in permanent storage immediately following their approval.

Councilmember Sanschagrín asked about the process of deciding which city would provide which utility service.

Planning Director Darling explained that there were extensive discussions between the two cities and noted, for example, that Tonka Bay has a watermain within a few feet of the property. She outlined some of the other factors in determining the utility choices and clarified that they were simply working towards efficiency.

Mayor Labadie confirmed that the City of Tonka Bay was also reviewing these agreements at their city council meeting tonight.

**Zerby moved, Maddy seconded, Adopting RESOLUTION NO. 23-103, “A Resolution Approving the Agreements Related to Lake Park Villas at 24250 and 24320 Smithtown Road”, with the modifications as discussed during the meeting, and authorizing the Mayor and city to execute them in a form approved by the city attorneys. Motion passed.**

## **7. ENGINEERING/PUBLIC WORKS**

### **A. Eureka Road Open House Report**

City Engineer Budde explained that on September 21, 2023 the City held an Open House for proposed improvements on Eureka Road which was scheduled for 2025 construction within the CIP. He noted that in March of 2023 a petition was received by the City which had been signed by about forty residents informing the City that they wanted the roadway resurfaced in 2024 due to its poor condition. He stated that they also communicated that they did not want other work such as curb and gutter or widening to occur. He explained that based on this feedback the Council had directed staff to pause on completion of the scoping study for this project until they could engage in additional public engagement. He stated that for the Open House, staff prepared two options for consideration: Option One – Reclamation with addition of curb and sidewalk on the east side or Option Two – Mill and overlay and no curb or sidewalk. He noted that about three-fourths of the feedback from the Open House was in favor of not adding a sidewalk, not removing trees, and were generally in support of Option Two. He noted that there was some discussion at the open house of some type of ‘middle of the road’ option that would provide a bit



## CITY OF SHOREWOOD REGULAR COUNCIL MEETING MINUTES

OCTOBER 10, 2023

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more robust of a fix for the roadway than a mill and overlay. He reviewed some of the feedback they received about drainage issues in the area and the desire for a presentation on the information and explained that staff was looking for direction from the Council on this project.

Councilmember Zerby stated that he would like to move forward with the option presented that updates the online engagement tools and provide additional open house with a presentation in November 2023. He stated that he feels they owe it to the residents to have a better presentation and does not want the City to simply spin their wheels without getting this additional feedback from the residents.

Mayor Labadie noted that it was a well-attended open house and in addition to residents all five Councilmembers as well as many staff members were present. She noted that there was a large portion of individuals who felt strongly about the desire for another presentation or Open House. She noted that she feels there is time to examine this more closely and noted that the Open House got heated at times and thinks that resetting and starting over may be beneficial. She noted that included in the packet was fifteen pages of comments, so the online, interactive method of communication appears to be working. She stated that the City also received several letters and emails that were also included in the packet.

Councilmember Sanschagrín stated that some of the specific feedback he heard was that they would have liked to have some time of presentation in the beginning and that the start time may have been a bit too early.

Councilmember Callies stated that she agreed with the idea of having a more formal presentation but feels that City Engineer Budde is asking for additional guidance from the Council on the specific things outlined in his report. She stated that she thinks they need to hone in a bit on what it is they want at the presentation and not just expect him to come up with an infinite number of possibilities.

Councilmember Zerby noted that he thinks some of this information can just be done generically, for example, show pictures of roads in the City that have the hybrid or curb and gutter and still have bituminous edge without actually drilling down and looking at it address by address or be able to show what a dedicating biking/walking lane would look like on a road. He stated that he thinks there needs to be more of a presentation made, but that it also include more information. He gave the example of the terms reclamation versus reconstruction that the Council may be familiar with, but may not be things that the general public would immediately be able to understand what the difference would be which could be explained during the presentation. He reiterated that he did not think they needed to dig into each individual address and decide how the individual drainage issues would be addressed.

Mayor Labadie stated that she agreed and noted that they had received a request for this work to be done in the summer of 2024 however the City has put together its budget and this project was not included. She stated that information should be explained to the residents so they understand the planning and budget process and timeline.

Councilmember Callies stated that she likes the idea of exploring a rural type pathway to help address safety concerns without having to have a huge sidewalk.

City Engineer Budde stated that whatever direction the Council gives, they are prepared to hold another Open House in November.

Councilmember Maddy explained that what he would like to see is a list of generic options, for example, reclaim with a sidewalk, only mill and overlay, or a dedicated non-auto lane which rough life-cycle costs attached to each option.

Councilmember Zerby noted that he did not think the term 'Open House' was the correct one to be used in this instance and referenced other communities who have called this a 'Street Improvement Neighborhood Meeting' and suggested that may be something the City considers as well.

Mayor Labadie stated that she liked that terminology much better than 'open house' and asked if they could make that change.

The Council discussed the possible format and expectations for a street improvement neighborhood meeting.

City Engineer Budde stated that the direction he felt the Council was giving was to do everything outlined in the staff report except for the focus on the drainage issues. He stated that he would suggest that they push this information out online prior to the meeting in order for people to have time to absorb the information before the meeting.

The Council discussed changing the time to be slightly later to begin at 6:00 p.m. rather than 5:00 p.m.

## **8. GENERAL/NEW BUSINESS**

### **A. Appointment of Park Commissioner**

Councilmember Sanschagrín explained that the Council had interviewed Michelle DeGruttulo during the earlier Work Session meeting and noted that they had found her to be a strong candidate who they felt would be a strong asset for the Park Commission. He explained the discussion of appointing her to serve a term that would end on February of 2027.

**Sanschagrín moved, Callies seconded, Appointing Michelee DeGruttulo to serve as Park Commissioner with a term to expire February 2027, as discussed. Motion passed.**

### **B. LMCIT Liability Coverage Waiver**

City Administrator Nevinski explained that as staff was in the process of doing the annual insurance renewal, one of the things that needs to come directly to the Council is the decision on whether or not to waive the statutory tort limits. He explained that generally, cities do not waive those limits and clarified that staff is recommending that the City not waive the statutory limits. He noted that they were also recommending that they consider purchasing excess liability insurance coverage.

Mayor Labadie sked City Attorney Shepherd to weigh in on this issue.

City Attorney Shepherd explained that the reason for this recommendation as around the idea is that if the City waives those limits, someone could come in and bring a suit and get more than the

statutory limits and reiterated that as City Administrator Nevinski stated, almost all cities choose not to waive those limits, which is what they are recommending as well.

Councilmember Sanschagrín stated that he agrees that the City should choose not to waive those limits but noted that he would like to know the cost of the additional liability coverage that was being recommended.

City Administrator Nevinski stated that if the City waived the tort limits and purchase additional liability insurance, the premium would increase by about three point five percent (3.5%) but noted that he was still waiting for a quote on adding additional liability.

Councilmember Maddy asked if the Council was being asked to make a decision on additional liability coverage tonight.

City Administrator Nevinski stated that he was working under the assumption that the cost for this increased coverage will be nominal and the plan, unless the Council said not to do it, would be to move forward and incorporate it into the budget.

**Callies moved, Maddy seconded, that the City not waive the statutory tort limits related to the LMCIT Liability Coverage. Motion passed.**

Councilmember Sanschagrín stated that he was not sure that he felt that he had enough information regarding the recommended additional liability coverage.

City Administrator Nevinski noted that the City has typically purchased excess liability coverage and noted that the only question is whether they want to increase it from one million to two million. He reiterated that his expectation was that making this change will fall within the existing budget and that they would look for the advice of their counsel and insurance agent.

Councilmember Sanschagrín stated that with the idea of potential cost savings, he would like to have the option of not getting the additional coverage, if it doesn't make sense financially. He stated that he understands that City Administrator Nevinski is saying that it probably will make financial sense, but it is hard to make that determination without having the information in front of him.

Councilmember Maddy asked if those final numbers could be brought back before the Council at a future meeting.

City Administrator Nevinski stated that he believed the policy expires sometime in November.

Councilmember Callies asked about the history of this issue and if the City had used the excess liability coverage.

City Administrator Nevinski explained that the budgets and operations have been increasing, so having some additional coverage probably makes sense. He noted that he thinks they can bring this information back for Council consideration.

Councilmember Callies stated that she did not want the Council to end up being penny wise and pound foolish and explained that staff had looked into this and were recommending some additional insurance.

City Administrator Nevinski clarified that this issue was not really before the Council for a decision tonight and was intended as something that staff was informing the Council about looking into.

The Council agreed to have this information come back to the Council for review when the quotes are received.

**C. Approve Resolution of Support Mill Street Trail and Watermain Capital Bonding Request,**

Planning Director Darling explained that staff had submitted a request to the Capital Bonding project in order to help fund the Mill Street Trail and Watermain project. She noted that the bonding is for fifty percent of the cost of the project, including inflation. She stated that required, as part of this request, is a resolution of support from the City Council.

Councilmember Sanschagrín stated that he wanted to point out an issue that he was made aware of that could impact the City's approach on water projects. He read aloud language that stated that if an improvement is ordered by the Council, benefitting properties shall be assessed pursuant to the procedures put forth under Minn. Statute Section 429. He stated that his question is, given this language, whether the City was able to fund water projects through debt and if they would be required to assess the properties that are benefitting.

City Administrator Nevinski stated that within City code, it does appear that there is language that says that if improvements are made, they 'shall' be assessed. He stated that they need to look into this more closely and take a look at what has happened because the City has, historically not assessed for projects. He noted that it seemed a bit odd that the City would 'handcuff' itself that way without giving some options on how they fund a project.

Councilmember Maddy asked if this was taking about the water access charge or something more related to the construction.

City Administrator Nevinski stated that he thought it was talking about the actual improvement and not just the connection.

City Attorney Shepherd referenced City Code 903.18 Water Improvement Process. He noted that he has not seen anything like this before and while he felt it was confusing, he was not sure it would hamstring the City's ability to enact the resolution in front of the Council tonight, but noted that they did think they should look into this moving forward.

Planning Director Darling explained that without this resolution, the City would essentially be tossed out of consideration for this project.

**Maddy moved, Callies seconded, to Approve Resolution of Support for Mill Street Trail and Watermain Capital Bonding Request, Adopting RESOLUTION NO. 23-100, "A Resolution of Support for the Mill Street Trail Corridor and Watermain Project." Motion passed.**

Mayor Labadie noted that staff had been directed to look at this portion of the City Code and bring it back to the Council for further discussion.

**D. Approve Website Contract with CivicPlus**

City Clerk/HR Director Thone stated that the Council, at their September 25, 2023 meeting had supported moving forward with CivicPlus for the new City website. She explained that this item is the actual contract with CivicPlus and noted that the City Attorney has reviewed the contract and has recommended approval, as it has been presented. She noted one area that the city attorney's office highlighted in the contract and that was explained in the staff report was regarding Section 48 and noted that they had highlighted it because they wanted staff to be aware of this section because it includes a timeline to respond and although they stated it would unlikely that CivicPlus would remove this language, it should be noted so staff is aware of it. Thone noted that if this contract is approved, there was a tentative timeline of what the City can expect moving forward that was included in the packet. She explained that it is a pretty aggressive timeline because the City's current contract with the current provider expires in March.

Councilmember Callies explained that she had asked that this item be removed from the Consent Agenda because she had a number of questions. She stated that she understands that what is presented appears to be CivicPlus' standard contract but asked if anyone had asked them about this section and the included language.

City Attorney Shepherd stated that he was not sure because Amy Schmidt in his office was working on this contract.

City Clerk/HR Director Thone clarified that Ms. Schmidt's message to the City was that this language would typically not be removed and reiterated that she just wanted staff to be aware of it.

City Attorney Shepherd stated that it appears as though the question was not asked, but they can go back and ask. He stated that he would agree that if there is a master agreement such as this, they are usually not inclined to make changes. He noted that he does believe that there was one that happened within Public Works that was along these same kind of lines and they were able to make a few tweaks to it.

Councilmember Callies stated that the other point she noticed in that paragraph there is a provision that the City would have to notify CivicPlus within ten days and if the City continues to use the service following the updates, which they will not know about right away, would be considered acceptance, which seems to be outside of the ten day time period. She stated that this seems like an onerous provision in her opinion.

City Attorney Shepherd stated that he understood her concerns but suspects that they would interpret it to be after the ten days, but agrees that this has not been particularly artfully drafted.

Councilmember Sanschagrín asked if staff had spoken with other cities that may have had issues with this clause.

City Clerk/HR Director Thone stated that they had not heard about any issues from other cities. She noted that it does say that they will give the City written notice.

Councilmember Maddy expressed concern that it could just be a pop up in an end user licensing agreement update that says 'do you agree' as it gives you thirty pages of material to read, because nobody ever actually reads it. He noted that he did not like the company for pushing this particular

item on the City, but understood it was probably fairly common. He stated that perhaps if they end up doing something malicious to the City, then they will just have to let every other city know what they have done. He stated that while he does not like this, he understand that this is how it works.

City Clerk/HR Director Thone stated that CivicPlus has a good reputation, and a lot of major cities use their services. She stated they have a good reputation to maintain and doubts they would abuse this. Councilmember Zerby agreed, stating he has no concerns regarding this contract.

**Callies moved, Sanschagrín seconded, to approve the Website Contract with CivicPlus, as presented. Motion passed.**

## **9. STAFF AND COUNCIL REPORTS**

### **A. Staff**

Park and Recreation Director Crossfield stated that the CivicRec program is up and running for activity and shelter registration. She noted that they hosted the Oktoberfest activities last weekend where they had about four hundred people in attendance and noted that the Excelsior Rotary Club estimates were for about two-thousand people for their portion of the event.

Mayor Labadie stated that she felt the Oktoberfest event was a really nice event for the City and people from many age groups and thanked staff for their efforts.

City Engineer Budde stated that the water filter portion of the Smithtown Pond project was being constructed this week. He stated that curb is down for the Birch Bluff project and plans are to pave this week, weather permitting. He noted that curb and gutter were placed today for Strawberry Lane and they hope to have most of the concrete finished by the end of the week.

Councilmember Callies noted that she had seen a sign indicating that Radisson Road would be closed next week.

City Administrator Nevinski noted that the City had just received word earlier today about that closure and explained that it was due to Lift Station #11. He noted that he believes information will be distributed door to door about this planned closure.

Planning Director Darling stated that the Met Council has accepted the City's Comprehensive Plan as a complete document and began their review. She stated that thus far, it has passed their review and she anticipates that it will be an item on their consent agenda later in the month. She stated that the first deer management hunt will be held this coming weekend to assist in culling the City's herd.

City Clerk/HR Director Thone gave an update on the meeting technology plans to address staffing and technical issues. She noted that the annual audit for Laserfiche will occur next week and stated that there will also be some additional training for staff. She stated that annual benefits open enrollment meeting for City staff is in about a week. She stated that the City will be having its first BCA audit on November 1.

City Administrator Nevinski stated that there is a buckthorn removal meeting at Eddy Station on October 17, 2023 at 5:00 p.m.

**B. Mayor and City Council**

Councilmember Zerby attended the Excelsior Fire District Fire Prevention Open House and noted that he enjoyed his interaction with the SLMPD.

Councilmember Sanschagrin stated that he had also attended the Fire Prevention Open House and the Oktoberfest festivities. He thanked staff for all their work putting together such a great event.

Councilmember Maddy stated that he was able to attend a portion of the Oktoberfest activities as well as the Open House.

Councilmember Callies noted that she also attended the Fire Prevention Open House which is always a great event. She stated that she was able to stop in at Oktoberfest and feels that there was a good turn out and people enjoyed themselves. She noted that she had also attended the Planning Commission meeting last week.

Mayor Labadie stated that girl scouts who were donating a compost bin to the community garden have completed their project and noted that they had it on display at Oktoberfest. She stated that every Friday she does something called Shorewood Friday Focus on Facebook. She explained that it was recently brought to her attention that Ryan Brant from the Public Works Department had recently participated in two divisions of the Minnesota Recreation Park Association Annual Maintenance Rodeo. She stated that Mr. Brant took second place in the zero turn mower agility course and placed in the top five of the skid steer skills course. She stated that Mr. Brant is the youngest member in the department.

**10. CLOSED SESSION**

*Pursuant to Minnesota Statutes, section 13D. 05, subdivision 3(b), as permitted by Attorney Client Privilege, the City Council will be moving into a Closed Session to discuss Alex and Elena Ugorets v. City of Shorewood, et al.*

Maddy moved, Zerby seconded, to move into Closed Session, Pursuant to Minnesota Statutes, section 13D. 05, subdivision 3(b), as permitted by Attorney Client Privilege, the City Council will be moving into a Closed Session to discuss Alex and Elena Ugorets v. City of Shorewood, et al. Motion passed.

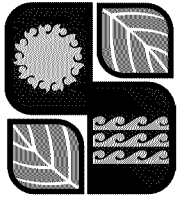
**11. ADJOURN**

Maddy moved, Labadie seconded, Adjourning the City Council Regular Meeting of October 10, 2023, at 9:13 P.M. Motion passed.

ATTEST:

\_\_\_\_\_  
Jennifer Labadie, Mayor

\_\_\_\_\_  
Sandie Thone, City Clerk



# City Council Meeting Item

Item  
2C

**Title/Subject:** Verified Claims  
**Meeting Date:** October 23, 2023  
**Prepared by:** Michelle Nguyen, Senior Accountant  
**Reviewed by:** Joe Rigdon, Finance Director  
**Attachments:** Claims Lists

**Background:**

Council is asked to verify payment of the attached claims. The claims include compensation, operational or contractual expenditures anticipated in the current budget, or otherwise approved by the Council. Funds will be distributed following approval of the claims list.

**Claims for Council authorization:**

Payroll – 10-09-2023	\$51,153.56
AP-Payroll-10-09-2023	\$42,871.05
AP-10-23-2023	\$399,983.95

<b>Total Claims: Checks No. 68328 – 68346 &amp; ACH</b>	<b>\$494,008.56</b>
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**Financial or Budget Considerations:**

The expenditures have been reviewed and determined to be reasonable, necessary, and consistent with the City's budget.

**Action Requested:**

Motion to approve the claims list as presented.

**Connection to Vision/Mission:** Consistency in providing residents quality public services, a healthy environment, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.



# Clearing House

## Distribution Report

User: mnguyen  
Printed: 10/09/2023 - 2:17PM  
Batch: 00009.10.2023

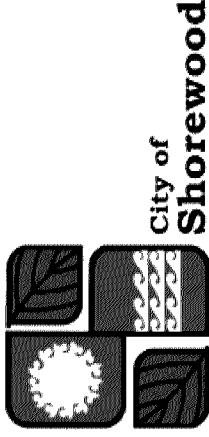


Account Number	Debit	Credit	Account Description
700-00-1010-0000	0.00	51,153.56	CASH AND INVESTMENTS
700-00-2170-0000	51,153.56	0.00	GROSS PAYROLL CLEARING
	<u>51,153.56</u>	<u>51,153.56</u>	
Report Totals:	<u>51,153.56</u>	<u>51,153.56</u>	

# Accounts Payable

## Computer Check Proof List by Vendor

User: mnguyen  
 Printed: 10/09/2023 - 2:48PM  
 Batch: 00002.10.2023 - PR-10-09-2023



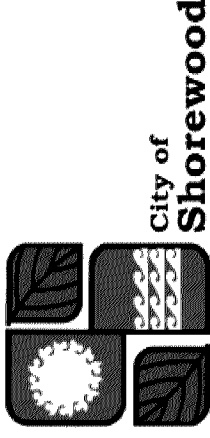
Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 12	AFSCME MN COUNCIL 5 - UNION DUES				
October-2023	PR Batch 00001.10.2023 Union Dues	327.96	10/09/2023	700-00-2182-0000	ACH Enabled: True PR Batch 00001.10.2023 Union Dues
October-2023	PR Batch 00001.10.2023 Union Dues-Time Kos	54.66	10/09/2023	700-00-2182-0000	PR Batch 00001.10.2023 Union Dues
	Check Total:	382.62			
Vendor: 5	EFTPS - FEDERAL W/H				
PR-10-09-2023	PR Batch 00001.10.2023 Federal Income Tax	7,684.05	10/09/2023	700-00-2172-0000	ACH Enabled: True PR Batch 00001.10.2023 Federal Income T
PR-10-09-2023	PR Batch 00001.10.2023 FICA Employee Portio	4,848.14	10/09/2023	700-00-2174-0000	PR Batch 00001.10.2023 FICA Employee
PR-10-09-2023	PR Batch 00001.10.2023 FICA Employer Portio	4,848.14	10/09/2023	700-00-2174-0000	PR Batch 00001.10.2023 FICA Employer J
PR-10-09-2023	PR Batch 00001.10.2023 Medicare Employee Pc	1,133.83	10/09/2023	700-00-2174-0000	PR Batch 00001.10.2023 Medicare Emplo;
PR-10-09-2023	PR Batch 00001.10.2023 Medicare Employer Po	1,133.83	10/09/2023	700-00-2174-0000	PR Batch 00001.10.2023 Medicare Emplo;
	Check Total:	19,647.99			
Vendor: 1165	FIDELITY SECURITY LIFE INSURANCE COMPANY				
October-2023	PR Batch 00001.10.2023 Vision-Avesis	213.33	10/09/2023	700-00-2186-0000	ACH Enabled: True PR Batch 00001.10.2023 Vision-Avesis
October-2023	PR Batch 00001.10.2023 Vision-Avesis-Tim Kos	7.23	10/09/2023	700-00-2186-0000	PR Batch 00001.10.2023 Vision-Avesis
	Check Total:	220.56			
Vendor: 2	ICMA RETIREMENT TRUST-302131-457				
PR-10-09-2023	PR Batch 00001.10.2023 Deferred-MissionSq-Pr	91.99	10/09/2023	700-00-2176-0000	ACH Enabled: True PR Batch 00001.10.2023 Deferred-Missior
PR-10-09-2023	PR Batch 00001.10.2023 Deferred-MissionSq-FI	1,578.84	10/09/2023	700-00-2176-0000	PR Batch 00001.10.2023 Deferred-Missior
	Check Total:	1,670.83			
Vendor: 686	KANSAS CITY LIFE INSURANCE COMPANY				
October-2023	PR Batch 00001.10.2023 Long Term Disability	761.83	10/09/2023	700-00-2181-0000	ACH Enabled: True PR Batch 00001.10.2023 Long Term Disat
October-2023	PR Batch 00001.10.2023 Short Term Disability	846.54	10/09/2023	700-00-2181-0000	PR Batch 00001.10.2023 Short Term Disat
October-2023	PR Batch 00001.10.2023 Long Term Disability-1	30.67	10/09/2023	700-00-2181-0000	PR Batch 00001.10.2023 Long Term Disat
October-2023	PR Batch 00001.10.2023 Short Term Disability-2	37.27	10/09/2023	700-00-2181-0000	PR Batch 00001.10.2023 Long Term Disat

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	1,676.31			
Vendor: 11	MINNESOTA DEPARTMENT OF REVENUE				ACH Enabled: True
PR-10-09-2023	PR Batch 00001.10.2023 State Income Tax	3,390.41	10/09/2023	700-00-2173-0000	PR Batch 00001.10.2023 State Income Tax
	Check Total:	3,390.41			
Vendor: 7	MINNESOTA LIFE INSURANCE COMPANY				ACH Enabled: True
October-2023	PR Batch 00001.10.2023 Life Insurance	972.82	10/09/2023	700-00-2180-0000	PR Batch 00001.10.2023 Life Insurance
October-2023	PR Batch 00001.10.2023 Life Insurance--Tim K	16.35	10/09/2023	700-00-2180-0000	PR Batch 00001.10.2023 Life Insurance
	Check Total:	989.17			
Vendor: 1091	MSRS-MN DEFERRED COMP PLAN 457				ACH Enabled: True
PR-10-09-2023	PR Batch 00001.10.2023 Deferred Comp-MSRS	2,579.00	10/09/2023	700-00-2176-0000	PR Batch 00001.10.2023 Deferred Comp-1
	Check Total:	2,579.00			
Vendor: 10	NCBERS GROUP LIFE INSURANCE				ACH Enabled: True
October-2023	PR Batch 00001.10.2023 PERA Life	192.00	10/09/2023	700-00-2180-0000	PR Batch 00001.10.2023 PERA Life
October-2023	PR Batch 00001.10.2023 PERA Life--Tim Kosek	16.00	10/09/2023	700-00-2180-0000	PR Batch 00001.10.2023 PERA Life
	Check Total:	208.00			
Vendor: 665	OPTUM BANK				ACH Enabled: True
PR-10-09-2023	PR Batch 00001.10.2023 HSA-OPTUM BANK	871.15	10/09/2023	700-00-2183-0000	PR Batch 00001.10.2023 HSA-OPTUM B.
	Check Total:	871.15			
Vendor: 9	PERA				ACH Enabled: True
PR-10-09-2023	PR Batch 00001.10.2023 MN-PERA Deduction	5,216.25	10/09/2023	700-00-2175-0000	PR Batch 00001.10.2023 MN-PERA Dedu
PR-10-09-2023	PR Batch 00001.10.2023 MN PERA Benefit Em	6,018.76	10/09/2023	700-00-2175-0000	PR Batch 00001.10.2023 MN PERA Benef
	Check Total:	11,235.01			
	Total for Check Run:	42,871.05			
	Total of Number of Checks:	11			

# Accounts Payable

## Computer Check Proof List by Vendor

User: mnguyen  
 Printed: 10/18/2023 - 2:45PM  
 Batch: 00003.10.2023 - CP-10-23-2023



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 677	BOLTON & MENK, INC.				ACH Enabled: True
321850	Mill & Overlay-2022	142.00	10/23/2023	416-00-4303-0000	Check Sequence: 1
321851	Pond Maintenance	2,713.00	10/23/2023	631-00-4303-0000	
321852	Sanitary Sewer Cleaning 2022	915.00	10/23/2023	611-00-4303-0000	
321853	2023 Drainage Repairs	3,126.25	10/23/2023	631-00-4303-0000	
321854	General Engineering	10,647.50	10/23/2023	101-31-4303-0000	
321855	Birch Bluff St-Utility Imprvmt	57,417.54	10/23/2023	414-00-4303-0000	
321856	Covington Road Watermain	498.00	10/23/2023	601-00-4303-0000	
321857	Eureka Road Street & Utility	11,046.38	10/23/2023	418-00-4303-0000	
321858	Freeman Park Trail Improvement	12,157.08	10/23/2023	402-00-4400-0000	
321859	GIS-Utilities-Street	687.50	10/23/2023	101-31-4303-0000	
321859	GIS-Utilities-Stormwater	833.00	10/23/2023	631-00-4303-0000	
321859	GIS-Utilities-Water	286.00	10/23/2023	601-00-4303-0000	
321859	GIS-Utilities-Sewer	1,405.00	10/23/2023	611-00-4303-0000	
321860	Lake Park Villas-24250 Smithtown Rd-TSML Pr	1,878.25	10/23/2023	101-00-3414-0000	
321864	Lift Station 10 Rehabilitation	356.00	10/23/2023	611-00-4303-0000	
321865	Lift Station 11 Rehabilitation	89.00	10/23/2023	611-00-4303-0000	
321866	Lift Station 7 Rehabilitation	178.00	10/23/2023	611-00-4303-0000	
321867	Lift Station 9 Rehabilitation	178.00	10/23/2023	611-00-4303-0000	
321868	Maple Shores Development	1,488.00	10/23/2023	101-00-3414-0000	
321869	Mill Street Trail	786.00	10/23/2023	417-00-4303-0000	
321870	MS4 Administration	1,305.25	10/23/2023	631-00-4302-0009	
321871	Sanitary Cleaning & Televising	740.00	10/23/2023	611-00-4303-0000	
321872	Shady Island Bridge Forecmain	486.10	10/23/2023	611-00-4303-0000	
321873	Shorewood Ln Ravine Restore	3,640.50	10/23/2023	631-00-4303-0000	
321874	Smithtown Pond Engineering/PM	1,355.50	10/23/2023	631-00-4303-0000	
321875	Strawberry Ln St Reconst & Trl	68,967.00	10/23/2023	409-00-4303-0000	
321876	Walnut Grove Villas	1,264.00	10/23/2023	101-00-3414-0000	
321877	Water System Improvement	1,931.50	10/23/2023	601-00-4303-0000	
Check Total:		186,517.35			

Vendor: UB\*00571 John & Rebecca Boone      Check Sequence: 2      ACH Enabled: False

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Refund Check 009478-000, 5350 St Albans Bay	14.73	10/18/2023	601-00-2010-0000	
	Refund Check 009478-000, 5350 St Albans Bay	17.20	10/18/2023	611-00-2010-0000	
	Refund Check 009478-000, 5350 St Albans Bay	7.36	10/18/2023	631-00-2010-0000	
	Refund Check 009478-000, 5350 St Albans Bay	7.37	10/18/2023	621-00-2010-0000	
	<b>Check Total:</b>	<b>46.66</b>			
Vendor: 125 098P2528	BOYER FORD TRUCKS Equipment Part	77.16	10/23/2023	Check Sequence: 3 101-32-4221-0000	ACH Enabled: True
	<b>Check Total:</b>	<b>77.16</b>			
Vendor: 1221	CAMPBELL KNUITSON P.A.			Check Sequence: 4	ACH Enabled: True
3526-0000G-21	General Matters/Administration	3,029.00	10/23/2023	101-16-4304-0000	
3526-0001G-21	Planning & Zoning-TSML Property-Lake Park V	157.50	10/23/2023	101-00-3414-0000	
3526-0002G-18	Public Works	87.50	10/23/2023	101-16-4304-0000	
3526-0004G-20	Ugerots Litigation	35.00	10/23/2023	101-16-4304-0000	
3526-0008G-11	Strawberry Lane Condemnation	783.43	10/23/2023	409-00-4304-0000	
3526-0009G-9	Code Enforcement-5815 Club Lane	1,831.50	10/23/2023	101-00-3414-0000	
3526-0010G-3	Code Enforcement-5880 Prestwick Court	229.00	10/23/2023	101-00-3414-0000	
3526-0999G-24	Prosecution	4,952.69	10/23/2023	101-16-4304-0000	
	<b>Check Total:</b>	<b>11,105.62</b>			
Vendor: 915	CINTAS			Check Sequence: 5	ACH Enabled: False
5154305817	PWs-First Aid Supplies	154.51	10/23/2023	101-32-4400-0000	
5162508677	PWs-First Aid Supplies	95.45	10/23/2023	101-32-4400-0000	
5177861479	PWs-First Aid Supplies	17.53	10/23/2023	101-32-4400-0000	
5178874721	City Hall-First Aid Supplies	72.04	10/23/2023	101-19-4245-0000	
	<b>Check Total:</b>	<b>339.53</b>			
Vendor: 144	CITY OF EXCELSIOR			Check Sequence: 6	ACH Enabled: True
3rd Qtr-2023-Water	Quarterly Water Usage	12,669.85	10/23/2023	601-00-4261-0000	
	<b>Check Total:</b>	<b>12,669.85</b>			
Vendor: 149	CITY OF TONKA BAY			Check Sequence: 7	ACH Enabled: False
2023-45	2023-Crescent Beach Expenses	1,041.75	10/23/2023	101-52-4400-0000	
2023-46	1/3 Cost of Vector Truck Insurance -08/15/2022	213.67	10/23/2023	611-00-4360-0000	
3rd Qtr-2023-SW	Quarterly Sewer Service	2,503.00	10/23/2023	611-00-4400-0000	
3rd Qtr-2023-WA	Quarterly Water Service	1,551.67	10/23/2023	601-00-4260-0000	
	<b>Check Total:</b>	<b>5,310.09</b>			

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 1361 09-19-2023-Bren	COSTCO-CITI CARDS Air Buds - Wade	161.28	10/23/2023	Check Sequence: 8 101-18-4200-0000	ACH Enabled: True
	Check Total:	161.28			
Vendor: UB*00572	William & Rosemary Everett Refund Check 006675-000, 5615 Covington Rd Refund Check 006675-000, 5615 Covington Rd Refund Check 006675-000, 5615 Covington Rd	97.25 41.67 41.68	10/18/2023 10/18/2023 10/18/2023	Check Sequence: 9 611-00-2010-0000 631-00-2010-0000 621-00-2010-0000	ACH Enabled: False
	Check Total:	180.60			
Vendor: 656 29328	FLEXIBLE PIPE TOOLS & EQUIPMENT Annual Jet/Vac Truck MTCE	284.52	10/23/2023	Check Sequence: 10 611-00-4221-0000	ACH Enabled: False
	Check Total:	284.52			
Vendor: 757 20820RadissonRd	GONYEA HOMES, INC Escrow Refund - 20820 Radisson Road	26,550.00	10/23/2023	Check Sequence: 11 880-00-2200-0000	ACH Enabled: False
	Check Total:	26,550.00			
Vendor: UB*00573	Kyler & Lauren Harder Refund Check 008945-000, 5940 Lk Linden Ct Refund Check 008945-000, 5940 Lk Linden Ct Refund Check 008945-000, 5940 Lk Linden Ct Refund Check 008945-000, 5940 Lk Linden Ct	67.51 78.75 33.76 33.75	10/18/2023 10/18/2023 10/18/2023 10/18/2023	Check Sequence: 12 601-00-2010-0000 611-00-2010-0000 631-00-2010-0000 621-00-2010-0000	ACH Enabled: False
	Check Total:	213.77			
Vendor: 211 6602236	HAWKINS, INC. Chemical Tank Rental	140.00	10/23/2023	Check Sequence: 13 601-00-4400-0000	ACH Enabled: True
	Check Total:	140.00			
Vendor: 861 09-25-2023 10-05-2023	CHRISTOPHER HEITZ Mileage - Denver Mileage - St. Cloud - MN Fall Expo	387.76 73.36	10/23/2023 10/23/2023	Check Sequence: 14 101-32-4331-0000 101-32-4331-0000	ACH Enabled: True
	Check Total:	461.12			
Vendor: 985 1000213193	HENNEPIN COUNTY ACCOUNTS RECEIVABLE REC0001086-View Recorded Documents	12.50	10/23/2023	Check Sequence: 15 101-18-4400-0000	ACH Enabled: False RecordEase Payment

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	12.50			
Vendor: 215 1000213077	HENNEPIN COUNTY INFORMATION TECHNOLOGY DEPARTMENT Monthly Radio Fleet & MESB	215.92	10/23/2023	Check Sequence: 16 101-32-4321-0000	ACH Enabled: True
	Check Total:	215.92			
Vendor: 1308 11072303	HI-LINE INC. Misc. Hardware for Equipment	547.32	10/23/2023	Check Sequence: 17 101-32-4240-0000	ACH Enabled: False
	Check Total:	547.32			
Vendor: 896 20264471	HUEBSCH SERVICES SCEC - Mats	97.83	10/23/2023	Check Sequence: 18 201-00-4400-0000	ACH Enabled: True
	Check Total:	97.83			
Vendor: 1075 INV044632	LAKE RESTORATION, INC. Manor Pond Treatment	432.00	10/23/2023	Check Sequence: 19 101-52-4400-0000	ACH Enabled: False
	Check Total:	432.00			
Vendor: 1343 22027-00000M-5	LEVANDER GILLEN & MILLER P.A. ATTORNEYS AT LAW 22027-00000 Land Use Permit-ADMARK-2456	112.50	10/23/2023	Check Sequence: 20 101-00-3414-0000	ACH Enabled: False
	Check Total:	112.50			
Vendor: 1362 ROW#248637 ROW#248660	METRO FIBERNET LLC Security Escrow Deposit Refund-ROW#248637- Security Escrow Deposit Refund-ROW#248660-	2,000.00 2,000.00	10/23/2023 10/23/2023	Check Sequence: 21 880-00-2200-0000 880-00-2200-0000	ACH Enabled: False
	Check Total:	4,000.00			
Vendor: 1063 ROW#239553 ROW#239659 ROW#241997	RYAN LaPOINTE Security Deposit Refund-ROW Permit#239553-; Security Deposit Refund-ROW Permit#239659-; Security Deposit Refund-ROW Permit#241997-;	2,000.00 2,000.00 2,000.00	10/23/2023 10/23/2023 10/23/2023	Check Sequence: 22 880-00-2200-0000 880-00-2200-0000 880-00-2200-0000	ACH Enabled: False
	Check Total:	6,000.00			
Vendor: UB*00574	Michael & Kimberly Sexton Refund Check 007056-000, 5685 Howards Pt R; Refund Check 007056-000, 5685 Howards Pt R; Refund Check 007056-000, 5685 Howards Pt R;	107.69 46.16 46.15	10/18/2023 10/18/2023 10/18/2023	Check Sequence: 23 611-00-2010-0000 631-00-2010-0000 621-00-2010-0000	ACH Enabled: False

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	200.00			
Vendor: 1363	SKYLINE SALT SOLUTIONS			Check Sequence: 24	ACH Enabled: False
2595	Road Salt	15,345.89	10/23/2023	101-33-4245-0000	
	Check Total:	15,345.89			
Vendor: 360	SOUTH LAKE MINNETONKA POLICE DEPARTMENT			Check Sequence: 25	ACH Enabled: False
November-2023-OB	Monthly-Operating Budget Exp	123,434.83	10/23/2023	101-21-4400-0000	
	Check Total:	123,434.83			
Vendor: 1181	SPLIT ROCK MANAGEMENT, INC.			Check Sequence: 26	ACH Enabled: True
90748	Window Washing-SCEC	475.00	10/23/2023	201-00-4400-0000	
	Check Total:	475.00			
Vendor: 1101	SPRINGBROOK HOLDING COMPANY LLC			Check Sequence: 27	ACH Enabled: True
INV-014739	Springbrook-CivicPay Fees	10.75	10/23/2023	621-00-4450-0000	
INV-014739	Springbrook-CivicPay Fees	10.75	10/23/2023	631-00-4450-0000	
INV-014739	Springbrook-CivicPay Fees	10.75	10/23/2023	611-00-4450-0000	
INV-014739	Springbrook-CivicPay Fees	10.75	10/23/2023	601-00-4450-0000	
	Check Total:	43.00			
Vendor: UB*00570	Clayton & Jennifer Tessness			Check Sequence: 28	ACH Enabled: False
	Refund Check 007816-001, 23100 Summit Ave	98.65	10/18/2023	611-00-2010-0000	
	Refund Check 007816-001, 23100 Summit Ave	42.28	10/18/2023	631-00-2010-0000	
	Refund Check 007816-001, 23100 Summit Ave	42.28	10/18/2023	621-00-2010-0000	
	Check Total:	183.21			
Vendor: 1199	THE GREENER BLADE			Check Sequence: 29	ACH Enabled: False
86602	Turf Maintenance-Freeman Park	825.00	10/23/2023	101-52-4400-0000	
86872	Turf Maintenance-Manor Park	275.00	10/23/2023	101-52-4400-0000	
	Check Total:	1,100.00			
Vendor: 694	TIMESAVER OFF SITE SECRETARIAL, INC.			Check Sequence: 30	ACH Enabled: True
M28601	Council Meeting	456.00	10/23/2023	101-13-4400-0000	
M28642	Council Meeting	538.00	10/23/2023	101-13-4400-0000	
M28642	Planning Meeting	343.00	10/23/2023	101-18-4400-0000	



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	1,337.00			
Vendor: 1348	TOSHIBA AMERICA BUSINESS SOLUT			Check Sequence: 31	ACH Enabled: True
5026614582	SCEC - Printer Lease-Acct#450-0107118-000	130.07	10/23/2023	201-00-4400-0000	
5027024870	SCEC - Printer Lease-Acct#450-0107118-000	130.07	10/23/2023	201-00-4400-0000	
5027116432	PWs - Printer Lease-Acct#450-0104647-000	145.74	10/23/2023	101-32-4400-0000	
	Check Total:	405.88			
Vendor: 386	TWIN CITY WATER CLINIC			Check Sequence: 32	ACH Enabled: True
19728	Monthly Water Testing	150.00	10/23/2023	601-00-4400-0000	
	Check Total:	150.00			
Vendor: 421	VERIZON WIRELESS			Check Sequence: 33	ACH Enabled: False
9945807147	612-292-2968/7023/1196 & 612-368-0176	81.03	10/23/2023	601-00-4321-0000	Acct #842017386-00001
9945807147	612-292-2968/7023/1196 & 612-368-0176	81.03	10/23/2023	611-00-4321-0000	Acct #842017386-00001
9945807147	612-292-2968/7023/1196 & 612-368-0176	81.03	10/23/2023	631-00-4321-0000	Acct #842017386-00001
9945807147	612-581-4949-Sandie Thone	46.23	10/23/2023	101-13-4321-0000	Acct #842017386-00001
9945807147	612-581-2856-Eric Wilson	41.23	10/23/2023	101-13-4321-0000	Acct #842017386-00001
9945807147	612-581-4018-Jason Carlson	41.23	10/23/2023	101-18-4321-0000	Acct #842017386-00001
9945807147	612-581-6609-Wade Woodward	41.23	10/23/2023	101-24-4321-0000	Acct #842017386-00001
9945807147	612-581-3780-Marie Darling	41.23	10/23/2023	101-18-4321-0000	Acct #842017386-00001
9945807147	612-581-3931-Marc Nevinski	41.23	10/23/2023	101-13-4321-0000	Acct #842017386-00001
9945807147	612-581-5835-Janelle Crossfield	41.23	10/23/2023	201-00-4321-0000	Acct #842017386-00001
	Check Total:	536.70			
Vendor: 415	WARNER CONNECT			Check Sequence: 34	ACH Enabled: True
29941837	Council Chambers-PC- 7YN8G-Latitude 3540-It	1,108.40	10/23/2023	403-00-4640-0000	
	Check Total:	1,108.40			
Vendor: 408	WM MUELLER & SONS INC			Check Sequence: 35	ACH Enabled: True
294025	Road Maint	96.72	10/23/2023	101-32-4250-0000	
	Check Total:	96.72			
Vendor: 411	XCEL ENERGY, INC.			Check Sequence: 36	ACH Enabled: True
848523706	5655 Merry Lane	33.45	10/23/2023	101-52-4380-0000	5655 Merry Lane
848660609	5500 Old Market Rd	58.25	10/23/2023	601-00-4398-0000	5500 Old Market Rd
	Check Total:	91.70			

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Total for Check Run:	399,983.95			
	Total of Number of Checks:	36			



Item  
2D

## City Council Meeting Item

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**Title/Subject:** Accept Resignation of Community Center Attendant  
**Meeting Date:** October 23, 2023  
**Prepared by:** Sandie Thone, City Clerk/Human Resources Director  
**Reviewed by:** Janelle Crossfield, Park/Recreation Director  
**Attachments:** None

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**Background:** Staff received the resignation of Part-Time Community Center Attendant Ethan Palm on October 9, 2023. Ethan has worked in the capacity of Community Center Attendant since May 16, 2023. Ethan has been an exemplary employee for the Shorewood Community Center and the City in general. Staff at the Community Center said “he was one of the most helpful” employees they had ever hired. Staff stated he was especially thoughtful in opening doors and carrying things for the seniors at the center. He will be missed. Ethan has accepted a full-time position in his chosen field. We wish him the best in his new career!

The Community Center has historically employed up to four community center attendants who perform various duties including receptionist duties, opening/closing the center, administrative responsibilities, and assistance with city/community events. The hours for the position vary depending on the center’s scheduled activities and do include evenings and weekends. The center currently employs two part-time attendants and one recreation specialist. A typical work week for part-time community center attendants is 12-15 hours per week. The position is classified on the city’s compensation schedule as Grade 1 with a 2023 pay range of \$13.23 to \$19.84 per hour.

As previously approved by the city council, Staff is actively recruiting for the position and is hopeful to add additional staff soon and will bring back recommendations for hire. Activities and rentals are both up at the Center. We continue to strive to keep our staffing levels up to support this positive uptick in business.

**Action Requested:** Staff respectfully recommends the city council accept Ethan Palm’s resignation. Motion, second and simple majority vote required.

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**Mission Statement:** *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*



## City Council Meeting Item

Item  
2E

**Title/Subject:** Approve Promotion of Luke Weber to Lead Utility LEO  
**Meeting Date:** October 23, 2023  
**Prepared by:** Sandie Thone, City Clerk/Human Resources Director  
**Reviewed by:** Marc Nevinski, City Administrator  
Matt Morreim, Public Works Director  
**Attachments:** None

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**Background:** As presented at the September 25<sup>th</sup> City Council meeting, the Comp Study process revealed that additional duties that were being routinely performed by utility operators aligned more with the Utility Lead position. The additional duties were included in a council memo presented and discussed by Public Works Director Morreim to the city council, in consideration for their approval of an internal recruitment to fill the position of the Utility Lead position as a promotion. Shorewood City Council approved the recruitment for the Utility Lead position at its September 25<sup>th</sup> regular meeting.

Staff posted and recruited for the position internally only for the 10-day period as prescribed in the AFSCME union contract. Two current Shorewood LEO's in the utility department applied for the position. Both applicants met the minimum licensure requirements for the Utility Lead position. Interviews were conducted on October 10 and 12, 2023.

While both candidates were extremely strong, staff unanimously agreed to offer the position to Luke Weber. Luke has been performing many of the duties related to this position and has a proven track record of leadership and due diligence in his work. Luke has worked in the capacity of LEO-Utility for the City of Shorewood since April of 2020 and came to us with 15 years of experience in the field with the City of Carver.

**Financial Considerations:** Staff is recommending Luke's compensation rate be set at the "After 5 Year Rate" of the AFSCME union contract for the Utility Lead position of \$39.22 per hour. The position will be reviewed at the 6-month probationary period and considered for permanent appointment and a step increase at that time.

**Action Requested:** Staff recommends the city council approve the promotion of Luke Weber to fill the position of Light Equipment Operator – Utility Lead.

Motion, second and simple majority vote required.

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**Mission Statement:** *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*



## City Council Meeting Item

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**Title/Subject:** Designate 2024 Polling Place Locations  
**Meeting Date:** October 23, 2023  
**Prepared by:** Sandie Thone, City Clerk/Human Resources Director  
**Reviewed by:** Brenda Pricco, Deputy City Clerk  
**Attachments:** Resolution 23-104

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**Background:** State law effective January 1, 2018, requires the governing body of each municipality and each county in the State of Minnesota to designate by ordinance or resolution a polling place for each election precinct.

The law requires each city and school district to designate polling places for the following year no later than December 31<sup>st</sup>. The law requires that a resolution be passed each year, regardless of polling place changes and even when the jurisdiction does not have a scheduled election in the coming year.

**Action Requested:** Staff respectfully recommends the city council approve Resolution 23-104 Designating the 2024 Polling Precinct Locations for the City of Shorewood pursuant to MN statute §204B.16 as follows:

Precinct 1: Minnewashta Church, 26710 West 62<sup>nd</sup> Street, Shorewood

Precinct 2: Shorewood Community & Event Center, 5735 Country Club Road, Shorewood

Precinct 3: Excelsior Covenant Church, 19955 Excelsior Blvd, Shorewood

Precinct 4: Westwood Community Church, 3121 Westwood Drive, Chanhassen

Motion, second and simple majority vote required.

**CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**RESOLUTION 23-104**

**A RESOLUTION DESIGNATING 2024 POLLING  
PRECINCT LOCATIONS FOR THE CITY OF SHOREWOOD**

**WHEREAS**, the City Council of the City of Shorewood, pursuant to Minnesota State Statute §204B.16, is required to designate election precinct polling locations by resolution or ordinance within the municipality by December 31<sup>st</sup> of each year; and

**WHEREAS**, the polling places designated in the resolution apply to the following calendar year; and

**WHEREAS**, if the situation arises in the following year that the City of Shorewood needs to change a polling place location in the event of an emergency or if the polling place becomes unavailable MN State Statute §204B.16, subdv.1 allows the city to change a polling place following the required process to do so.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Shorewood does hereby designate the 2024 Polling Precinct Locations as follows:

Precinct 1: Minnewashta Church located at 26710 West 62<sup>nd</sup> Street, Shorewood

Precinct 2: Shorewood Community & Event Center, 5735 Country Club Road, Shorewood

Precinct 3: Excelsior Covenant Church, 19955 Excelsior Blvd, Shorewood

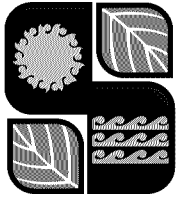
Precinct 4: Westwood Community Church (Cathcart Park), 3121 Westwood Drive, Chanhassen

**ADOPTED** by the City Council of the City of Shorewood on this 23rd day of October 2023.

**ATTEST:**

\_\_\_\_\_  
**Jennifer Labadie, Mayor**

\_\_\_\_\_  
**Sandie Thone, City Clerk**



City of Shorewood

## City Council Meeting Item

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**Title/Subject:** Contractor Agreement with Tenicity, LLC.  
**Meeting Date:** Monday, October 23, 2023  
**Prepared by:** Janelle Crossfield, Parks and Recreation Director  
**Reviewed by:** Mark Nevinski, City Administrator  
**Attachments:** Parks and Recreation Independent Contractor Agreement

Item 2G
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### Background:

Founder and Head Coach, Harsh Mankad's passion and leadership has created a successful tennis program in the North and South metro. Tenicity, in partnership with City of Shorewood Parks and Recreation, is looking to expand to the West metro. Tenicity offers a coaching team that works cohesively with a shared methodology and development path guiding each player's training. They offer development, performance, and match play programs as well as private lessons. Their coaching methods include principles of positive youth development via sports with a longer-term view of emphasizing joy, learning and development at each stage.

Coach Harsh Mankand is an NCAA Division 1 National Singles Champion (University of Minnesota) and a No. 1 ranked singles player in US college tennis. Harsh played professional tennis including appearances at Wimbledon, Davis Cup and other major events. In 2023, Harsh received the USTA Junior Development Award recognizing his impact in the Northern US region.

Approval of the agreement includes any future addenda executed between the contractor and Parks and Recreation Director through December 2024. Addenda outlines program logistics such as location, dates, times, program fees and no class days, and program descriptions.

**Financial or Budget Considerations:** Tenicity will receive 80% of the program revenue collected by City of Shorewood.

### Action Requested:

Motion to approve the independent contractor agreement with Tenicity, LLC. A simple majority vote is required.



**City of Shorewood  
Parks and Recreation Independent  
Contractor Agreement**

**Parties and Terms**

This Contractor Agreement (Agreement) dated October, 23, 2023 is by and between the City of Shorewood (City) and Tenicity, LLC (Contractor). This Agreement is in effect from January 1, 2024 until December 31, 2024.

**I. Services to be Performed**

The Contractor will perform the services outlined in the addendum to this Agreement and any future addenda executed between the Contractor and the Parks and Recreations Director. By signing the addendum and any future addenda, the Contractor agrees to the terms indicated including dates, times and payment agreement, as if fully incorporated herein.

**II. Independent Contractor**

This Agreement shall not render the Contractor an employee, partner, or agent of the City for any purpose. The Contractor is and will remain an independent Contractor in (his/her) relationship to the City. The City shall not be responsible for withholding taxes with respect to the Contractor's compensation hereunder. The Contractor shall have no claim against the City hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employment benefits of any kind.

The Contractor will be responsible for the hiring, training, supervision, and conduct of any staff utilized in the above-listed services. *All staff, working directly with children, are subject to background checks. All background checks must be completed prior to the start of the above-listed services. Proof that background checks are conducted by the Contractor must be provided to the City in the form of an official letter.*

The Contractor will determine the method, details and means of performing the services outlined.

**III. Services Provided by the Contractor**

It is understood that the Contractor is experienced and trained to provide the services listed in the addendum and that the City requires such services. Therefore, it is hereby agreed that the Contractor will provide the following services.

1. Supplies: Any necessary supplies will be supplied by the Contractor.
2. Equipment: Any necessary equipment will be supplied by the Contractor.
3. American Disabilities Act (ADA): The City is mandated by law to provide reasonable accommodations for people with disabilities which include contracted recreation services. Contractors are expected to work with the City in order to provide for reasonable accommodations.



#### **IV. Services Provided by the City**

It is understood that the City will provide the following services to facilitate and support the contracted services listed above.

1. Promotion: The City will promote the above-listed services in Shorewood publications and by any other means deemed necessary.
2. Facility Use: The City will provide and maintain an appropriate space for the activities and arrange for its use at no cost to the Contractor.
3. Registration/Refunds: The City will be responsible for participant registration and fee collection for the above-listed services. Participant withdrawals: Participant withdrawals made seven (7) days prior to the start of the above-listed services will receive a full refund. After that time, no refunds will be provided except for withdrawals made due to illnesses/injury, with a doctor's note, unless agreed upon by both the City and the Contractor. The City will not pay the Contractor for refund requests granted due to unsatisfactory services provided by the Contractor.

The City will be responsible for providing a participant list to the Contractor, one (1) week prior to the start date of the above-listed services. All participant lists will remain the property of the City.

4. ADA/Inclusion: The City will provide the Contractor with information on any participant with special needs and will work with the Contractor to make any necessary accommodations that are reasonable.

#### **V. Compensation**

The City will pay the Contractor a portion of the net program revenue (specified in the addendum). Upon the successful completion of the specified services, the Contractor shall bill the City for services provided.

#### **VI. Business Expenses**

Any expenses incurred by the Contractor pursuant to providing the services including, but not limited to, travel and phone expenses are the sole responsibility of the Contractor.

#### **VII. Insurance**

The Contractor, at its expense, shall procure and maintain in force for the duration of this Agreement the following minimum insurance coverages:

1. General Liability: The Contractor agrees to maintain commercial general liability insurance in a minimum amount of \$1,000,000 per occurrence; \$2,000,000 annual aggregate. The policy shall cover liability arising from premises, operations, products completed operations, personal injury, advertising injury, and contractually assumed liability. The City shall be endorsed as an additional insured.
2. Automobile Liability: If the Contractor operates a motor vehicle in performing the services under this Agreement, the Contractor shall maintain commercial automobile liability insurance, including owned, hired, and non-owned automobiles, with a minimum liability limit of \$1,000,000 combined single limit.

3. Workers' Compensation: The Contractor agrees to provide workers' compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota. The Contractor shall also carry employer's liability coverage with minimum limits are as follows:

- \$500,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$500,000 – Bodily Injury by Accident

The Contractor shall, prior to commencing the services, deliver to the City a Certificate of Insurance as evidence that the above coverages are in full force and effect.

The insurance requirements may be met through any combination of primary and umbrella/excess insurance.

The Contractor's policies shall be the primary insurance to any other valid and collectible insurance available to the City with respect to any claim arising out of Contractor's performance under this Agreement.

The Contractor's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days advanced written notice to the City.

Acceptance of the insurance by the City shall not relieve, limit or decrease the liability of the Contractor. Any policy deductibles or retention shall be the responsibility of the Contractor. The Contractor shall control any special or unusual hazards and be responsible for any damages that result from those hazards. The City does not represent that the insurance requirements are sufficient to protect the Contractor's interest or provide adequate coverage. All policies of insurance shall provide that the insurance company will notify the City at least *thirty (30) days* prior to the effective date of any policy cancellation, modification, or non-renewal prior to the date on which the Contractor, or its consultants, commences performance of its part of the work, evidence of coverage is to be provided to the City. The City may direct that copies of the actual insurance policies, or renewals or replacements thereof, be submitted to the City.

### **VIII. Property Damage Waiver**

The Contractor waives all its rights against the City for damages covered by property insurance. The Contractor shall require a similar waiver from all its consultants. The Contractor waives all of its rights of recovery against the City because of deductible clauses in, or inadequacy of limits in, any policies of insurance that are in any way related to the work and that are secured and maintained by the Contractor. The Contractor waives any of its rights of recovery against the City because of a lack of insurance coverage. The Contractor shall require similar waivers from all of its consultants. The Contractor shall waive all of its rights of recovery against the City for loss or damage to any of its equipment, machinery, tools or property that is used in connection with this Agreement. The Contractor shall require a similar waiver from all its consultants.

### **IX. Indemnification**

To the fullest extent permitted by law, the Contractor agrees to defend, indemnify, and hold harmless the City and its employees, officials, and agents from and against all claims, actions, damages, losses, and expenses, including reasonable attorney fees, arising out of the Contractor's negligence or the Contractor's performance or failure to perform its obligations under this Agreement. The Contractor's indemnification obligation shall apply to the Contractor's subcontractor(s), or anyone directly or indirectly employed or hired by the Contractor, or anyone for whose acts the Contractor may be liable. The Contractor agrees this indemnity obligation shall survive the completion or termination of this Agreement.

## **X. Compliance with Statutes**

The Contractor shall abide by all applicable state and federal laws, rules and regulations that govern City activities and the activities provided for in this Agreement, including but not limited to the Data Practices Act, records retention guidelines, non-discrimination and disability accommodation laws and guidelines, and Minn. Stat. § 121A.38 (concussion procedures).

## **XI. Government Data/Privacy**

Contractor agrees to abide by the applicable provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, HIPAA requirements, and all other applicable state or federal rules, regulations, or orders pertaining to data privacy or confidentiality. The Contractor understands that all of the data created, collected, received, stored, used, maintained, or disseminated by the Contractor in performing those functions that the City would perform is subject to the requirements of Chapter 13, and the Contractor must comply with those requirements as if it were a government entity. This does not create a duty on the part of the Contractor to provide the public with access to public data if the public data is available from the City, except as required by the terms of this Agreement. In the event the Contractor receives a formal request to release data pursuant to the Minnesota Government Data Practices Act, the Engineer will immediately notify the City. The City will give Contractor instructions concerning the release of data to the requesting party before the data is released. Contractor agrees to defend, indemnify, and hold City, its officials, officers, agents, employees, and volunteers harmless from any claims resulting from Contractor's officers', agents', owners', partners', employees', volunteers', assignees', or subcontractors' unlawful disclosure and/or use of protected data. The terms of this section shall survive the cancellation and termination of this Agreement.

## **XII. Audits**

Pursuant to Minnesota Statutes, § 16C.05, Subdivision 5, the Contractor agrees that the City, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the City, and involve transactions relating to this Agreement. The Contractor agrees to maintain these records for a period of six (6) years from the date of termination of this Agreement.

## **XIII. Governing Law**

The laws of the State of Minnesota shall govern all interpretations of this Agreement, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in and under those courts located within the County of Hennepin, State of Minnesota, regardless of the place of business, residence or incorporation of the Contractor.

## **XIV. Program Termination**

If a contracted program fails to meet the required minimum number of participants set by the Contractor and the City, the service may be cancelled at no penalty to either the Contractor or the City.

## **XV. Contract Termination, Cancellation and Default**

Either party to this Agreement may terminate this Agreement upon thirty (30) days written notice, except that if the Contractor fails to fulfill its obligations under this Agreement in a proper and timely manner, or otherwise violates the terms of this Agreement, the City shall have the right to immediately suspend the

contracted services and to then terminate this Agreement, if the Contractor has not cured the default upon ten (10) days written notice.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City as a result of any breach of this Agreement by the Contractor. The City may, in such event, withhold payments due to the Contractor for the purpose of set-off until such time as the exact amount of damages due to the City is determined. The rights or remedies provided for herein shall not limit the City, in case of any default by the Contractor, from asserting any other right or remedy allowed by law, equity, or by statute.

**XVI. Third Parties**

This Agreement does not create any rights, claims or benefits inuring to any person that is not a party hereto nor create or establish any third party beneficiary.

**XVII. Modification or Amendment**

No amendment, change or modification of this Agreement shall be valid unless in writing and signed by the parties hereto.

**XVIII. Entire Understanding**

This Agreement and any exhibit/addendum attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings and representations are hereby terminated and cancelled in their entirety and are of no further force and effect.

**XIX. Unenforceability of Provisions**

If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall remain in full force and effect.

**XX. Service Suspension and Cancellation**

1. If a contracted service fails to meet the required minimum number of participants, the service will be cancelled at no penalty to either the Contractor or the City.
2. Severe weather policy: in the event of severe weather, the City and the Contractor will make a determination on whether or not to cancel the above-listed services for that day. If the above-listed services are cancelled prior to half of the session being held, a refund will be provided to the participants or a makeup date will be scheduled. If a refund is provided, contract fees will be adjusted accordingly.
3. If at any time the actions of the Contractor and/or their staff compromise the physical, mental or emotional safety of a participant, the City shall have the right to immediately suspend services until the issue has been resolved or the contract terminated (see Termination and Default section of the Independent Contractor Agreement).

**XXI. Offsite Programs**

The Contractor agrees to provide the City with a copy of a Certificate of Liability Insurance for services offered off of City property. The City must be listed as an additional insured.

**XXII. Service/Program Addendum**

A service or program addendum, as contemplated in Section I, will be sent and approved by the City for each service or program indicating service details including class schedule and pay arrangement. The Contractor agrees to review, sign and return the addendum before services are provided.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the day and year first written above.

**City of Shorewood**

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

By \_\_\_\_\_  
\_\_\_\_\_  
Its City Clerk

**Contractor:**

\_\_\_\_\_  
[Name of Contractor]

By \_\_\_\_\_  
\_\_\_\_\_  
Its \_\_\_\_\_ [print name]  
\_\_\_\_\_ [title]

**Service Addendum**

**Program Location:** Badger Park Tennis Courts

**Program Seasons:** Spring, Summer, Fall

**Min/Max:** Ages 5-8: 8/16, Ages 9-12 and Ages 13-16: 8/12

**Revenue Split:** Tenicity: 80%, City of Shorewood: 20%

**City of Shorewood**

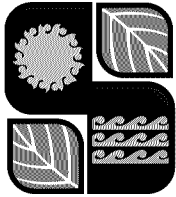
By: \_\_\_\_\_  
\_\_\_\_\_  
Its Parks and Recreation Director

Signed: \_\_\_\_\_, 2023.

**Contractor:**

\_\_\_\_\_  
[Name of Contractor]  
  
By \_\_\_\_\_  
\_\_\_\_\_ [print name]  
Its \_\_\_\_\_ [title]

Signed: \_\_\_\_\_, 2023.



City of Shorewood

## City Council Meeting Item

**Title/Subject:** Approve Release Agreement with Alex and Elena Ugorets  
**Meeting Date:** October 23, 2023  
**Prepared by:** Marc Nevinski, City Administrator  
**Reviewed by:** Jared Shepherd, City Attorney  
**Attachments:** Release Agreement

Item  
2H

### Background:

The City of Shorewood was sued in Federal Court over the placement of bollards within the Timber Lane right of way adjacent to property located in the City of Tonka Bay. The plaintiffs claimed the City inappropriately denied access to their property when it installed the bollards. Unfortunately, despite the City's arguments, including that it had the right to manage access to its right of way, the judge ruled in favor of the plaintiffs. Following consultation with its attorneys, the City decided not to appeal the judge's ruling.

The ruling ordered the City to remove the bollards by October 19, 2023. The bollards most directly impeding access to the plaintiff's property were removed on Tuesday October 17, 2023, and the remaining bollards will be removed by the end of the month.

Additionally, because this is a takings claim and the judge ruled in favor of the plaintiffs, the City would ultimately be required to plaintiff's reasonable attorney's fees. Included in the Release Agreement is a settlement amount of \$80,000 as well as agreement by the parties not to seek damages in the case, thereby avoiding further litigation.

### Financial or Budget Considerations:

The City's defense costs are covered by its insurance. However, the settlement amount for the plaintiff's attorney's fees will be funded from reserves.

### Action Requested:

Motion to approve the Release Agreement with Alex and Elena Ugorets. A simple majority vote is required.

## RELEASE AGREEMENT

This Release Agreement (the “Agreement”) is entered into by and between the City of Shorewood, a Minnesota municipal corporation (the “City”), and Alex and Elena Ugorets, married to each other (the “Plaintiffs”). The City and the Plaintiffs shall be referred to collectively herein as the “Parties.”

### RECITALS

**WHEREAS**, the Plaintiffs are fee owners of certain real property located at 175 Brentwood Avenue in the City of Tonka Bay, Hennepin County, Minnesota and legally described on the attached Exhibit A (the “Property”).

**WHEREAS**, the City alleged that the Property is wholly within the Brentwood Plat, which is a plat lying wholly within the City of Tonka Bay, and, although adjacent to it, not part of nor benefitted by the Timber Lane Plat, a plat lying wholly within the City of Shorewood.

**WHEREAS**, the City alleged that Timber Lane is a plat dedicated public road, pursuant to Minn. Stat. sec. 505.01 in the Timber Lane Plat located in the City of Shorewood, serving those property owners within the Timber Lane Plat. Timber Lane, as platted, currently terminates in pertinent part at the mutual boundary and eastern property line of Plaintiff’s property. Timber Lane, however, is not developed with bituminous pavement and for regular vehicular access to its fullest length and width, in particular in the area adjacent to the Property where approximately 30 square feet of grassland serves as a ditch, snow storage, and other use area between the paved right of way and the Plaintiff’s eastern property and boundary line.

**WHEREAS**, Plaintiffs have used Timber Lane, on occasion, for access to the rear of the Property which right of access and use is the subject of litigation in the United States District Court for the District of Minnesota, Case No. 0:21-cv-01446-JRT-ECW (the “Lawsuit”).

**WHEREAS**, the United States District Court for the District of Minnesota, Case No. 0:21-cv-01446-JRT-ECW has entered an order, a copy of which is attached as Exhibit B hereto, concluding that Plaintiffs have a right of access to Timber Lane and the court has, amongst other things, ordered the removal of the bollards that presently block Plaintiffs access to Timber Lane.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties hereby agree as follows:

### AGREEMENT

1. **Recitals.** The Parties agree that the foregoing Recitals are true and correct and are fully incorporated into this Agreement.



2. **The Lawsuit.** Upon the payment of Eighty-thousand 00/100 dollars (\$80,000.00) by the City to Plaintiffs and the removal of the bollards as ordered by the court, the Parties will stipulate to dismissal of the Lawsuit with prejudice, and with each party responsible for its own costs, disbursements, and attorneys fees. No party will be responsible for, nor seek, any damage award. The Parties further agree to waive any right to appeal from dismissal of the Lawsuit.

3. **General Provisions.** This Agreement represents the entire agreement between the Parties and supersedes in all respects all prior agreements of the Parties, whether written or otherwise, with respect to the Property and Timber Lane. No change, modification or waiver of any provisions of this Agreement will be binding unless it is in writing and signed by both Parties. This Agreement shall be construed according to the laws of the state of Minnesota.

4. **Execution in Counterparts.** This Agreement may be executed and delivered in multiple counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument and agreement.

5. **Severability.** If any term, provision, or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision, or condition to persons or circumstances other than those in respect to which it is invalid or unenforceable) shall not be affected, and each term, provision, or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6. **Compliance with Laws and Regulations.** In performing all obligations contained herein, the Parties must abide by all applicable federal, state, and local statutes, ordinances, rules, and regulations. This Agreement is neither a substitute for, nor a waiver of, the City's zoning regulations.

**THE PLAINTIFFS:**

By: *Alex Ugorets*  
Alex Ugorets

By: *Elena Ugorets*  
Elena Ugorets (Oct 18, 2023 14:17 CDT)  
Elena Ugorets

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed in their names and on their behalf on or as of the dates indicated herein.

**THE CITY:**

By: \_\_\_\_\_

By: \_\_\_\_\_

STATE OF MINNESOTA            )  
  ) ss.  
COUNTY OF HENNEPIN        )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2023, by, respectively, of the City of Shorewood, a Minnesota municipal corporation, on behalf of the City.

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

**EXHIBIT A**

Legal Description of the Property and Survey

# ASBUILT SURVEY

for  
ALEX UGORETS

Call 48 Hours before digging  
**GOPHER STATE ONE CALL**  
Twin Cities Area 651-454-0002  
MN. Toll Free 1-800-252-1166

## LEGEND

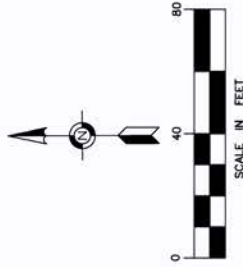
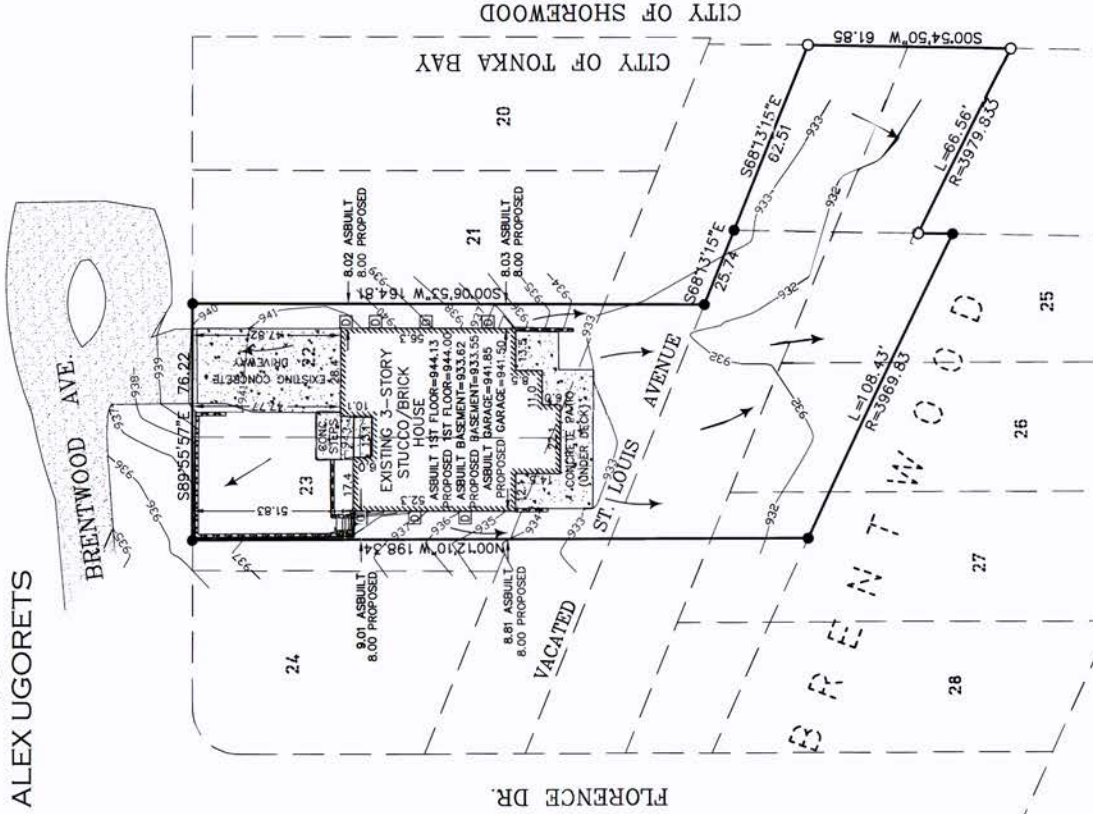
- DENOTES FOUND PROPERTY IRON
- DENOTES SET 1/2" X 18" REBAR WITH PLASTIC CAP "PLS 25105"
- ▨ DENOTES CONCRETE SURFACE
- ▧ DENOTES BITUMINOUS SURFACE
- ↘ DENOTES DRAINAGE FLOW
- x99999 DENOTES EXISTING SPOT ELEVATION
- DENOTES BOUNDARY LINE
- DENOTES LOT LINE
- DENOTES DRAIN TILE INLET
- DENOTES EXISTING CONTOUR LINE
- DENOTES KEYSTONE RETAINING WALL

## BENCHMARK

ASSUMED EL. 937.71 TOP OF NUT OF HYDRANT AT NORTH SIDE OF CALDESAC ACROSS FROM PROPERTY 165 BRENTWOOD AVE.

## LEGAL DESCRIPTION

Lot 22, Brentwood and that part of St. Louis Avenue vacated lying in front of an adjacent to said Lot and Northernly of the center line of said Avenue, being the Northernly Half of that part of said Avenue in front of said Lot; ALSO all that part of Lots 25, 26, 27 and 28, Brentwood lying Northernly of a line drawn across said Lots parallel to and distant 100 feet Northernly from the Northernly line of the original right of way of the Minneapolis and St. Louis Railway, which last named line is coincident with the Southernly line of vacated lying between the center line of said Avenue and the front line of said lots and between the Westernly line of Lot 28 and the Easternly line of Lot 25, extended Northernly to said center line; ALSO Lots 23 and 24, also Half of St. Louis Avenue vacated, adjacent to said Lots, ALSO all that part of St. Louis Avenue vacated, lying easterly of Easternly line of Lot 25 and its northern extension to centerline of St. Louis Avenue and between said centerline and the line parallel to and distant 110 feet Northernly from the Northernly line of the original right of way of the Minneapolis and St. Louis Railway, all according to the plat thereof on file or of record in the office of the Register of Deed in and for Hennepin County. Which lies east of a line and its northernly and southernly extensions, said line being parallel to and 69 feet east of the most westerly line of said Lot 24 as measured at right angles to said most westerly line.



## HARDCOVER

EXISTING PATIO 571.40 SQ. FT.  
EXISTING DRIVEWAY 1,248.60 SQ. FT.  
EXISTING HOUSE 3,526.89 SQ. FT.  
TOTAL IMPERVIOUS AREA 5,346.89 SQ. FT.  
TOTAL AREA OF LOT 21,683.11 SQ. FT.  
HARDCOVER OF LOT 24.66 %

## NOTES

1. THE BASIS OF THE BEARING SYSTEM IS ASSUMED.
2. CONTRACTOR MUST VERIFY PROPOSED ELEVATIONS.
3. NO SPECIFIC SOIL INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY THE SURVEYOR.
4. NO TITLE COMMITMENT WAS PROVIDED FOR THIS SURVEY. THIS SURVEY DOES NOT PURPORT TO SHOW ALL EASEMENTS OF RECORD.
5. THE TOTAL AREA OF THE PARCEL IS 21707 SQ. FT. (0.5 AC.) MORE OR LESS.
6. EXISTING UTILITIES AND SERVICES SHOWN HEREON OWNER LOCATED EITHER PHYSICALLY ON THE GROUND DURING THE SURVEY OR FROM EXISTING RECORDS MADE AVAILABLE TO US OR BY RESIDENT TESTIMONY. OTHER UTILITIES AND SERVICES MAY BE PRESENT. VERIFICATION AND LOCATION OF UTILITIES AND SERVICES SHOULD BE OBTAIN FROM THE OWNERS OF RESPECTIVE UTILITIES BY CONTACTING GOPHER STATE ONE CALL AT (651) 454-0002 PRIOR TO ANY DESIGN, PLANNING OR EXCAVATION.

NO.	DATE	DESCRIPTION	BY

I HEREBY CERTIFY THAT THIS SURVEY 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.

*Wendy S. Uggren*  
LAND SURVEYOR L.S. NO. 25105      DATED: 11/13/08

JOB NAME: ALEX UGORETS      FIELD WORK DATE: 11/10/2008      DRAWN BY: BN      PROJ. NO. EDS 7-18  
LOCATION: 175 BRENTWOOD AVE.      FIELD BOOK NO.: EDS-2      CHECKED BY: UGORETS 152 OF 1

**EDS**  
ENGINEERING DESIGN & SURVEYING

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**EXHIBIT B**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Alex Ugorets and Elena Ugorets,

Civ. No. 21-1446 (JWB/ECW)

Plaintiffs,

v.

**ORDER ON CROSS-MOTIONS  
FOR SUMMARY JUDGMENT**

City of Shorewood,

Defendant.

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Boris Parker, Esq., and Jordan W. Anderson, Esq., Parker & Wenner, P.A., counsel for Plaintiffs.

Jessica E. Schwie, Esq., and Joshua Phillip Devaney, Esq., Kennedy & Graven, Chartered, counsel for Defendant.

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This Fifth Amendment takings dispute presents cross-motions for summary judgment. (Doc. Nos. 38, 43.) Plaintiffs Alex and Elena Ugorets seek redress from Defendant City of Shorewood for blocking public street access to the rear of their residential property. Shorewood contends that the Ugorets never had a right to the access and that the City was entitled to block access if it so chose. The central questions are whether the Ugorets (who are not Shorewood residents) have a right to access the rear of their property via an abutting street indisputably located in Shorewood, whether the City's blocking of that access amounts to an unconstitutional taking, and whether the Ugorets have established their right to a remedy.

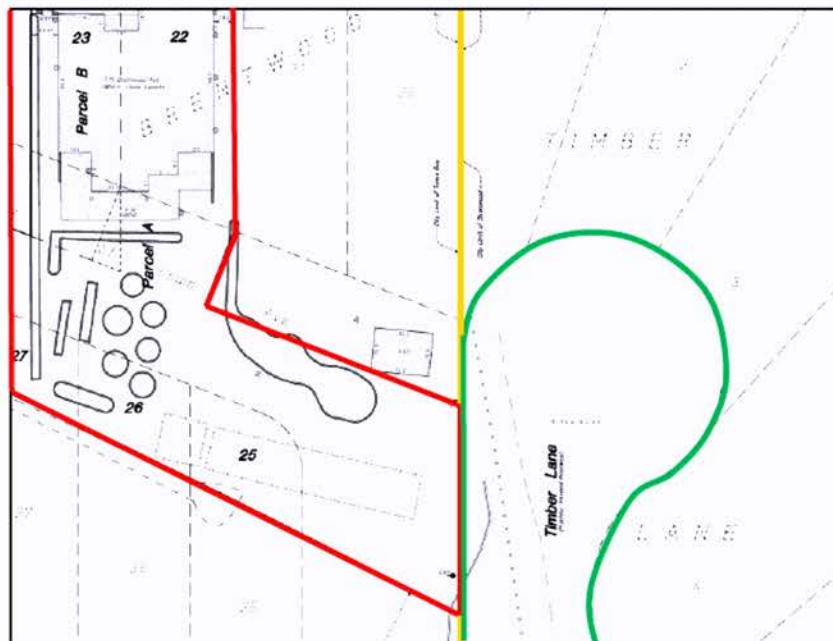
**BACKGROUND**

In his 1914 poem "Mending Wall," poet laureate Robert Frost gave us a now well-

worn aphorism: “Good fences make good neighbors.” This dispute may prove him wrong.

Meet Alex and Elena Ugorets, who live on a unique property near Lake Minnetonka in Minnesota. Their lot lies entirely on the Brentwood Plat within the City of Tonka Bay. The front of their house faces north, where a paved driveway connects to Brentwood Avenue. The rear of their L-shaped property sits at a lower elevation and extends east until it reaches the western edge of a street called Timber Lane. Timber Lane is a public street that lies entirely on the Timber Lane Plat within the City of Shorewood.

The scene of the present dispute is where the eastern edge of the Ugorets property (outlined in red below) meets the western edge of the Timber Lane right of way (outlined in green). Those property lines also mark the borderline separating Tonka Bay from Shorewood (outlined in yellow). Within the Timber Lane right of way area, Timber Lane’s paved surface lies 30 feet east of the Ugorets property line, across a stretch of grassy turf.



(Doc. No. 41-1 at 313 (coloration added).)

The Ugorets typically accessed their property from the front, using Brentwood Avenue. The rear access off Timber Lane was for occasional use, such as the winter storage of a vehicle or boat in the backyard garage, access for contractors, or completing home improvement projects. (*See id.* at 142–44.) Leading up to the current dispute, occasional backyard access off Timber Lane had been the Ugorets’ practice for 13 years, since purchasing the property and building their home on it in 2007 (including building an underground garage accessible by vehicle only from the rear of the property). (*Id.*)

Though residents of Tonka Bay, the Ugorets applied to Shorewood for an incidental use zoning permit in 2016 to protect their occasional use of the Timber Lane rear access. (*Id.* at 122, 132–33.) Shorewood’s City Engineer drafted conditions under which the permit could be approved. (*Id.*) But at the Shorewood City Council meeting to consider the permit, Mr. Ugorets expressed concerns that the proposed conditions for Timber Lane access were overly restrictive. (*Id.*) Some neighbors from the Shorewood side of Timber Lane voiced opposition and concerns over the Ugorets’ use of the access at all, while others understood the Ugorets’ need for the access and thought a solution could be found. (*Id.* at 133–35.) Seeing no way to revise the draft conditions during the meeting, and then citing zoning and other issues, the City simply denied the application. (*Id.* at 135–36.)

This tale of two cities then grew more dramatic in July 2020. The same neighbors who had opposed the Ugorets’ permit request in 2016 petitioned the City to go a step further, to physically block vehicular access to the rear of the Ugorets property along Timber Lane completely, claiming the Ugorets had begun routinely using the access. (*Id.*)



at 228, 240–41.)

Before the petition was filed, one neighbor petitioner had put up a sign near the access that read “Timber Lane Guest Parking” to stop the Ugorets’ purportedly wrongful use. (*Id.* at 240.) That sign disappeared. (*Id.*) In its place appeared a sign of the Ugorets’ own making: “Please Do Not Block Our Driveway.” (*See id.*) This dueling signage in 2020 echoed escalations over signage and access going back to 2016, when Mr. Ugorets twice had installed a pair of “no parking” signs on either side of the access point. (*Id.* at 133.) According to Mr. Ugorets, that first set of signs promptly disappeared too. (*Id.*) The replacement set fared no better, getting torn out and thrown onto his property. (*Id.*)

The escalating kerfuffle reached its peak at the August 24, 2020 Shorewood City Council meeting, where the council weighed whether to grant the neighbors’ petition to block access. (*See* Doc. No. 20-7 at 15–23.) Citing various considerations, from traffic control (albeit in a cul-de-sac) to aesthetics, the City fashioned a resolution: install wooden bollards—fencing—along the west side of Timber Lane, blocking vehicular access to the Ugorets property from Timber Lane. (*Id.* at 22–23.) Bollards, pictured below, were placed at the point of access in May 2021.



(Doc. No. 46-2 at 13.)

The Ugorets filed suit in June 2021, asserting violation of a constitutional right of access to the rear of their property via Timber Lane. They contend that the City's actions amount to an unconstitutional taking. Shorewood responds that the Ugorets have no such right of access via Timber Lane and that it has legal rights to manage access to and off of Timber Lane. Only the Fifth Amendment claim for relief under 42 U.S.C. § 1983 remains in this matter. (*See* Doc. No. 28 at 14.) Both sides seek summary judgment.

## DISCUSSION

### I. Legal Standard

Summary judgment is proper if the record establishes that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). A genuine issue of material fact exists when “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). If the evidence is sufficient to permit a reasonable jury to return a verdict in favor of the nonmoving party, summary judgment is inappropriate. *Krenik v. Cnty. of Le Sueur*, 47 F.3d 953, 957 (8th Cir. 1995). On summary judgment, evidence is considered in the light most favorable to the nonmoving party, drawing all reasonable inferences in that party's favor. *See Windstream Corp. v. Da Gragnano*, 757 F.3d 798, 802–03 (8th Cir. 2014).

### II. Analysis

The Takings Clause of the Fifth Amendment provides that private property shall not be taken for public use without just compensation and applies to the States through

the Fourteenth Amendment. U.S. Const. Amend. V; *Chicago, B. & Q. R. Co. v. City of Chicago*, 166 U.S. 226, 239 (1897). A Fifth Amendment taking only occurs if there is a protected property interest at issue. *See Minneapolis Taxi Owners Coal., Inc. v. City of Minneapolis*, 572 F.3d 502, 507 (8th Cir. 2009). “Property interests are created and their dimensions are defined by existing rules or understandings . . . [including] relevant state law.” *Id.* (citing *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972)). While state law helps define what constitutes a property interest compensable under the Fifth Amendment, measuring the amount of compensation is a matter of federal law. *Cf. United States v. Mahowald*, 209 F.2d 751, 752 (8th Cir. 1954) (“What constitutes just compensation in a federal condemnation proceeding is a question of federal law.”); *State of Neb. v. United States*, 164 F.2d 866, 868 (8th Cir. 1947) (“[T]he question of what is just compensation under the Fifth Amendment . . . does not turn in any manner upon the compensation standards or prescriptions of state law.”).

Property can be taken in a “nearly infinite variety of ways.” *Ark. Game and Fish Comm’n v. United States*, 568 U.S. 23, 31 (2012). There is no “magic formula” to determine “whether a given government interference with property is a taking” but rather should be determined on a case-by-case basis. *Id.* at 31–32 (noting that the Supreme Court “has recognized few invariable rules in this area”).

One variety of taking is “inverse condemnation,” for which a landowner “can recover the value of property which has been taken in fact by the governmental defendant.” *Knick v. Twp. of Scott, Pennsylvania*, 139 S. Ct. 2162, 2168 (2019). “[A] property owner has a Fifth Amendment entitlement to compensation as soon as the

government takes his property without paying for it.” *Id.* at 2170 (citing *Jacobs v. United States*, 290 U.S. 13 (1933)). An inverse condemnation action seeks to compel the state to compensate a landowner for its interference with a private property interest. *Matter of Kuk*, No. A22-0180, 2022 WL 4682932, at \*2 (Minn. App. Oct. 3, 2022) (citing *Oliver v. State ex rel. Comm’r of Transp.*, 760 N.W.2d 912, 915 (Minn. App. 2009)).

The summary judgment inquiry under a Fifth Amendment taking analysis begins with two questions: first, whether a property right exists; and second, whether the circumstances of the case amount to a taking of that right. If the answer to both questions is “yes,” the next step is to consider the proper remedy.

**A. The Ugorets Possess an Easement Right to Access Timber Lane as Abutting Landowners**

The first step in analyzing whether a taking occurred is to determine whether the government interfered with a protected property interest. *See Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1000 (1984). There is no dispute that the Ugorets’ backyard frontage runs along the Timber Lane right of way. The legal question under Minnesota law is what access rights belong to owners of a property that abuts a public street.

**1. The “center line” ownership presumption does not apply here**

The parties’ briefing and argument on this question mostly focused on whether the Ugorets have a property right of access to Timber Lane through “the well-understood doctrine that in case of a conveyance of a lot or block abutting on a street the purchaser is presumed to take the title to the middle of the street.” *See Gilbert v. Emerson*, 61 N.W. 820, 822 (Minn. 1895). With this “center line” legal presumption, the Ugorets laid claim

and ownership to one half of the land beneath Timber Lane, to the center line of the street nearest to their property line.

Both sides argued extensively over whether the center line presumption should apply here. For instance, Shorewood argues that the presumption does not apply because the properties meet at a plat border. The Ugorets contend that the presumption ends the inquiry (because their property physically abuts the Timber Lane right of way) and establishes a legal entitlement that cannot be undone by the presence of a city or plat border. The parties' long and winding contest over the effects of plat lines, city borders, and legal presumptions has arrived at an analytical dead end: the center line presumption is inapposite and does not decide the issues in this case.<sup>1</sup>

When the Minnesota Supreme Court recognized the center line presumption in 1885, it explained the reason for the rule: “the adjoining owners are presumed to have originally furnished the land in equal proportions for the sole purpose of a highway.” *In re Robbins*, 24 N.W. 356, 356 (Minn. 1885). The court clarified, however: “This

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<sup>1</sup> Shorewood also argues that the Ugorets are not abutting owners because their property line does not abut the *surface* of the Timber Lane roadway, even if it does abut the right of way containing Timber Lane. (See Doc. No. 40 at 11–12.) Shorewood cites no authority in support of this notion, and the argument plainly fails. “When determining whether property abuts the right-of-way, the relevant demarcation is the land as platted, not the land as constructed or paved.” *Howell v. City of Minneapolis*, No. A12-1761, 2013 WL 1707759, at \*4 (Minn. App. Apr. 22, 2013) (citing *Kooreny v. Dampier-Baird Mortuary, Inc.*, 291 N.W. 611, 612 (Minn. 1940)); cf. *State by Spannaus v. Nw. Airlines, Inc.*, 413 N.W.2d 514, 518 (Minn. App. 1987) (“An abutting owner . . . is one whose property abuts the right of way, whether or not the edge of the traveled portion of the highway is also the right-of-way line.”). Shorewood admits the Ugorets property “is physically adjacent to the western edge of the platted Timber Lane” (Doc. No. 50 at 2) because as platted, Timber Lane’s right of way touches the Ugorets’ property line.

presumption . . . yields when a different intention is clearly manifested, or when the evidence shows there could be no foundation for it, as where the grantor at the time owned no part of the street, the same being laid wholly on the land of another.” *Id.* at 357.

Modern decisions reaffirm the underlying limitation on the center line presumption, even deciding how it applies to streets located entirely within one plat, as Timber Lane is here. *See Edgewater Cottage Ass'n v. Watson*, 387 N.W.2d 216, 218 (Minn. App. 1986) (“The court in *Robbins* explains the one-half ownership rule is based on the presumption that adjoining landowners furnished land for the roadway use. However, this rule does not apply where evidence shows the street was laid out wholly on another’s land.”); *Petition of Bldg. D, Inc.*, 502 N.W.2d 406, 408 (Minn. App. 1993) (“When a street is located at the margin between two plats, but entirely within one plat, as here, the owners of the properties within the plat and abutting the street own the entire street.”) (citing *Edgewater*, 387 N.W.2d at 218).

Here, it is not disputed that all of the land used to create Timber Lane was dedicated as a public right of way by a single grantor who filed the Timber Lane plat. Timber Lane is located at the margin between two plats but since inception has been entirely within the Timber Lane Plat in Shorewood. Thus, there is no foundation to apply the center line presumption here. Accordingly, any presumption that the Ugorets own title to the center line of Timber Lane and derive a resulting right of access is rejected.

## **2. Property owners derive an easement right of access to abutting streets**

The analysis does not end there, however. The center line presumption is not the

only source from which a landowner can derive a protectible right of access to an abutting public street. Four years before *Robbins* recognized the center line presumption, the Minnesota Supreme Court stated that “it is well settled that the owner of lots abutting on a public street, whether he owns the soil to the center of the street or not, has a special interest in the street different from that of the general public.” *Brakken v. Minneapolis & St. L. R. Co.*, 11 N.W. 124, 125 (Minn. 1881); *see also Gustafson v. Hamm*, 57 N.W. 1054, 1055–56 (Minn. 1894) (“It is the settled doctrine of this court that the owner of a lot abutting on a public street has, as appurtenant to the lot, and independently of the ownership of the fee in the street, an easement in the street, to its full width, in front of his lot, for the purposes of access, light, and air, which constitutes property.”); *Lamm v. Chicago, St. P., M. & O. Ry. Co.*, 47 N.W. 455, 459 (1890) (“[T]he abutting owner has, in the opposite half of the street, not the fee, but an easement for access, light, and air for the benefit of his premises.”). Under Minnesota law, an owner of a property abutting on a public street possesses a property interest in the form of an easement for access, light, and air that reaches across to the other side of the abutting street, regardless of whether the owner also owns any of the land under the street.

Shorewood’s arguments that the City possesses some greater authority to manage access to a platted public road do not alter the rule establishing an easement right. “It is settled law in Minnesota that, when a street is dedicated by plat, a city may choose its own time to occupy, open, and use the street.” *Village of Medford v. Wilson*, 230 N.W.2d 458, 459 (Minn. 1975). That is, when a platted roadway is dedicated to a municipality, the municipality is not immediately required to open, develop, or maintain the street;

rather, the municipality holds authority over when and how to begin development and use of the street. *See Zimmer v. Pine Lake Twp.*, 991 N.W.2d 886, 888 (Minn. App. 2023) (collecting cases). Timber Lane was developed as a public street, and not a private, gated, or otherwise limited-access street. Shorewood cites no authority for it to retain *ongoing* authority to block access to a plat-dedicated right of way long after it has been developed into a public street.

Under settled Minnesota law, owners of property abutting a public street possess an easement to the opposite side of the street for access, air, and light, independent of who owns the land under the street. Therefore, the Ugorets have an easement right of access to Timber Lane as abutting landowners, independent of whether they own title to any of the real estate underneath it.

### **B. Shorewood’s Installation of the Bollards Constitutes a Taking**

Depriving landowners of the right to access their land from an abutting street generally is a taking that requires compensation. *See Underwood v. Town Bd. of Empire*, 14 N.W.2d 459, 461 (Minn. 1944). The right to compensation does not depend on “the fact of or extent of the use of the road for access; the availability of the road for such use establishes the right.” *Id.* at 462. “Like other property rights, the right of reasonable access can be infringed or ‘taken’ by the state, giving the property owner a constitutional right to compensation.” *Johnson v. City of Plymouth*, 263 N.W.2d 603, 605–06 (Minn. 1978) (citations omitted).

Whether through regulation or by making physical changes to a roadway, government action constitutes a taking if it deprives a property owner of “reasonable or



reasonably convenient and suitable access.” *See Universal Marine & RV, Inc. v. State ex rel. Molnau*, No. A05-757, 2006 WL 9612, at \*3 (Minn. App. Jan. 3, 2006) (quoting *Johnson*, 263 N.W.2d at 605). Whether reasonable access exists depends on “the unique circumstances of each case, including the character of the property involved.” *Id.* (citing *Johnson*, 263 N.W.2d at 607). Although the existence of reasonably convenient access has been called a fact question, “in inverse condemnation actions, whether a change in access constitutes a taking is determined as a matter of law.” *Oliver*, 760 N.W.2d at 916 (citing *Chenoweth v. City of New Brighton*, 655 N.W.2d 821, 824 (Minn. App. 2003)).

At first glance, the taking analysis might seem simple: the Ugorets had vehicular access to their property from Timber Lane, Shorewood physically blocked it, and now the Ugorets are barred vehicular access. But such a simplistic analysis would not sufficiently consider the circumstances that are unique to this case.

Determining whether government action crosses the line into a violation of rights does not lend itself to standardized rules or a formulaic analysis—a lesson previous courts have long understood. *See, e.g., State ex rel. Lachtman v. Houghton*, 158 N.W. 1017, 1019 (Minn. 1916) (“The dividing line between restrictions which may be lawfully imposed under the police power and those which invade the rights secured to the property owner . . . has never been distinctly marked out, and probably cannot be. As different cases arise, the courts determine from the facts and circumstances of the particular case whether it falls upon one side or the other of the line.”); *Kaje v. Chicago, St. P., M. & O. R. Co.*, 59 N.W. 493, 493 (1894) (“No general rule can be laid down which can be readily applied to every case. Where to draw the line between cases where the injury is more

general or more equally distributed and cases where it is not . . . is often a difficult task.”).

The particular circumstances present and bearing on the taking analysis here fall into three categories: (1) the nature of the Ugorets property in relation to the access that was blocked; (2) the remaining property access without vehicular access from Timber Lane; and (3) Shorewood’s claim that the bollards were placed for a valid public purpose.<sup>2</sup> Each consideration will be addressed in order.

### 1. Nature of the property

Perhaps the most analogous property right akin to the circumstances here is an urban residential property with a public street in the front and an alley in the back. Although there are dissimilarities—an alley generally provides access to multiple residences, for example—what is relatable is that removing the back alley is especially impactful to that property:

To say that the abutting owner is not specially damaged by obstructing access to his lot in the rear when he has access to it by a street in the front is much the same as saying that he is not damaged by obstructing the back door to his house when he has a front door. The rear entrance to the lot is generally used for different purposes from the front entrance. Besides, a public alley is generally used more by the abutting owners, and less by the public, than an ordinary street. As held in *Aldrich v. Wetmore*, 53 N.W. 1072 (Minn. 1893), it is not necessary that access to the street be wholly and completely cut off to cause the abutting owner special damage.

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<sup>2</sup> Shorewood also argues that Tonka Bay has already “taken” the Ugorets’ Timber Lane access through a city ordinance that limits single family dwellings to one driveway per property. (*See* Doc. No. 40 at 11–12.) The question of whether Tonka Bay’s driveway ordinance (which Tonka Bay has not enforced against the Ugorets) constitutes a taking is not at issue in this case, and it is unclear how Shorewood has standing to raise it. Even so, enforcement of that ordinance would not equate to placing a physical barrier blocking all vehicular access to the Ugorets property off of Timber Lane. Tonka Bay prohibits using a second access “principally” for vehicular access and does not block all vehicular access as Shorewood has done.

*Kaje*, 59 N.W. at 493. Effectively removing the rear access to the Ugorets property is no small matter; it altered a defining feature that was both unique and useful. The dual access is integral to the property's character and, in turn, its value, which the Ugorets capitalized on by building an underground backyard garage used for overwintering boats and vehicles that is only accessible from the rear access.

Dual access is also useful for providing emergency responders two ways to reach distinct parts of the property. With the bollards in place, responders no longer have the option to get a vehicle to the Ugorets' back yard from Timber Lane; they must now either walk from Timber Lane or navigate a vehicle between homes and down an elevation change from the front yard to the back yard. Sections at the back of the house or rear garage may be entirely inaccessible for emergency or rescue vehicles. Reducing access options for first responders or those providing other services diminishes the nature of the property's utility and safety.

This consideration favors finding a taking.

## **2. Reasonable remaining access**

The next consideration is whether the Ugorets are left with reasonable access to their property in the front without the rear Timber Lane access. The reasonable access consideration turns on the landowner's intended use and focuses on "[t]he convenience and suitability of ingress and egress . . . between the abutting road and the parcel's perimeter." See *Matter of Kuk*, 2022 WL 4682932, at \*3 (quoting *Oliver*, 760 N.W.2d at 917). Depending on the circumstances, it is possible that even "substantial

inconvenience” might *not* constitute a denial of reasonable access. *See Johnson*, 263 N.W.2d at 607.

Viewing the record in a light favorable to Shorewood, the bollards preclude vehicular access from the rear of the property entirely. This is not a matter of simple physical inconvenience. The Ugorets claim that they can no longer have contractors use the Timber Lane access for large equipment or to deliver project materials. Access from the front is much more challenging, time consuming, costly, and in some instances, impossible (as is the case for the rear garage, which is inaccessible from the front of the house). The challenges for emergency responders were previously addressed. The Ugorets do not have a mere preference to use the Timber Lane access; their intended use and enjoyment of their property either significantly benefits from or requires the Timber Lane access point.

This consideration also favors finding a taking.

### **3. Proper public improvement**

The final circumstance for consideration is whether Shorewood’s stated justifications for blocking the access constitute a proper public use or improvement of Timber Lane. A city government is permitted to exercise its police powers to improve public streets in the interest of public safety and welfare. *Johnson*, 263 N.W.2d at 606. However, it becomes a taking if it has the effect of denying abutting property owners the right of reasonable access to their property. *See id.*; *see also State ex rel. Lachtman v. Houghton*, 158 N.W. 1017, 1021 (Minn. 1916) (“[W]hen the legislative power attempts to forbid the owner from making a use of his property which is not harmful to the public

and does not interfere with the rightful use and enjoyment of their own property by others, it invades property rights secured to the owner by both the state and federal Constitutions.”).

This consideration starts with reviewing the public entity’s proffered justifications for its actions. *Cf. Kelo v. City of New London, Conn.*, 545 U.S. 469, 478 (2005) (stating that city government would not be permitted to take property via condemnation “under the mere pretext of a public purpose”); *Franco v. Nat’l Cap. Revitalization Corp.*, 930 A.2d 160, 169 (D.C. 2007) (“The government will rarely acknowledge that it is acting for a forbidden reason, so a property owner must in some circumstances be allowed to allege and to demonstrate that the stated public purpose for the condemnation is pretextual.”).

Shorewood offered various justifications for placing the bollards—namely preserving parking space, regulating traffic, and maintaining emergency accessibility on Timber Lane. Even viewing the justifications in a light most favorable to Shorewood, the justifications lack rational factual support. For example, it is not obvious and not explained in the record how placing obstructive bollards off the pavement and in the grassy area of the Timber Lane right of way facilitates parking, or how blocking a single, infrequently used access to private property regulates traffic in a cul-de-sac. If anything, the bollards *reduce* the available parking space and potentially require vehicles to park *further* into the street than before. This potential for less road space also cuts against maintaining emergency vehicle access—not only for the Shorewood residents but also for the Ugorets, should the need arise for an emergency response to a fire, health, or other incident addressable from the rear of their property.

Additionally, the evidence reveals that City staff were first directed to develop an “aggressive plan” to halt the access by the Ugorets, without any mention of a public improvement rationale. (Doc. No. 46-7 at 59; *see also* Doc. No. 41-1 at 241.) Shorewood points to no other evidence in the record justifying the bollard-blocking as part of a wider public safety initiative.

Finally, Shorewood analogizes the bollards to telephone lines next to a public street or sound barriers next to an interstate highway, both of which have been found to be valid public improvements. (*See* Doc. No. 67 at 1, 4–5.) The paramount public need for communications justifies the telephone lines, and the sound barriers have an obvious purpose of dampening the unavoidable noise caused by vehicles driving on the interstate (to the benefit of the abutting landowners). *See Cater v. Nw. Tel. Exch. Co.*, 63 N.W. 111, 114 (Minn. 1895); *Haeussler v. Braun*, 314 N.W.2d 4, 9 (Minn. 1981). Shorewood’s analogies beg the question. No similar overriding public improvement need is obvious here, and it is not apparent how the bollards meaningfully address effects from traffic on Timber Lane.

The public purposes that may have legitimized the bollards as improvements to Timber Lane are not sufficiently present here, where the purported “improvement” only amounts to interference with one family’s access to their private property.

This consideration favors finding a taking.

#### **4. Conclusion**

Considering the totality of circumstances, Shorewood’s placement of bollards obstructing vehicular access to the Ugorets property amounts to a taking of their right to

access Timber Lane.

### **C. Remedies**

Having found that the Ugorets possess a right of access to Timber Lane, and that Shorewood's actions took away that right, the analysis next addresses whether the Ugorets are entitled to a remedy, either in the form of money damages or an injunction.

#### **1. Fact issues preclude summary judgment on money damages**

Regarding money damages, both sides contend that the undisputed facts warrant summary judgment in their favor. The Ugorets argue that their damages expert conclusively establishes the expected costs they must incur as a result of the lost access, in the form of storage fees, increased home improvement project fees, and other additional costs for uses made less accessible without the backyard access. (*See* Doc. No. 45 at 13; Doc. No. 46-2 at 2, 10.) Shorewood, on the other hand, contends that any lost value or increased costs are far outweighed by the property's \$345,000 increase in assessed value from 2021 to 2022. (Doc. No. 41-1 at 140.) Material factual disputes preclude summary judgment for either side.

The proper measure of damages in a partial-takings case is the fair market value of the property before and after the alleged taking. *See United States v. 9.20 Acres of Land*, 638 F.2d 1123, 1126–27 (8th Cir. 1981) (collecting cases). While Shorewood appears correct that increased costs for unique property uses cannot be independently *recovered*, it does not establish that evidence of those increased costs cannot be *considered* by a jury solely for its potential effect on fair market value. The fact finder is allowed to consider all factors of value that would affect the market value of the property. *See United States*

*v. 91.90 Acres of Land*, 586 F.2d 79, 86–87 (8th Cir. 1978).

On the record here, a reasonable jury could consider *both* evidence of the property’s fair market value before and after the taking *and* evidence of increased use costs and determine that the Ugorets do not enjoy the full increase in their property’s fair market value (because their out-of-pocket costs have increased). Or the jury could consider that evidence and determine that the increased value simply exceeds the claimed increased costs and award nothing. That is a material fact issue that precludes summary judgment on damages.<sup>3</sup>

## **2. Injunctive relief**

In an earlier motion to dismiss order, Judge Tunheim precluded the Ugorets’ § 1983 claim for injunctive relief, finding “no indication that money damages would not be sufficient to remedy the potential harm here.” (Doc. No. 28 at 7–8.) This Court has since had the benefit of reviewing a fully developed factual record and the parties’ subsequent extensive briefing.

A defendant that violates an individual’s constitutional rights while acting under color of law “shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . .” 42 U.S.C. § 1983. Indeed, equitable relief is ordinarily not available if another adequate remedy is available to a Fifth Amendment claimant, such as a state’s inverse condemnation cause of action. *See Knick v. Twp. of*

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<sup>3</sup> Because the Court awards the Ugorets their requested injunctive relief, any question on money damages that proceeds to trial will be limited to alleged damages incurred during the period that the bollards were in place.



*Scott, Pennsylvania*, 139 S. Ct. 2162, 2176 (2019). But the rule is not ironclad. See *Pharmaceutical Research and Manufacturers of America v. Williams*, 64 F.4th 932, 941–42 (8th Cir. 2023) (recognizing that “*Knick* does not hold that every state’s compensation remedy is adequate in a particular situation” and examining the adequacy of Minnesota inverse condemnation remedy for standing purposes).

The Supreme Court has long held that “a suit in equity does not lie where there is a plain adequate and complete remedy at law . . . . But the legal remedy must be as complete, practical[,] and efficient as that which equity could afford.” *Id.* at 942 (quoting *Terrace v. Thompson*, 263 U.S. 197, 214 (1923)). Whether that rule applies depends on the circumstances of each case. See *id.* (quoting *United States v. Union Pac. Ry. Co.*, 160 U.S. 1, 51 (1895)).

Issuing equitable relief requires more than a “theoretical inadequacy” of the legal remedy. *Id.* (quoting *Equitable Life Assur. Soc. of U.S. v. Wert*, 102 F.2d 10, 15 (8th Cir. 1939)). The record must show a sufficient “practical inadequacy” in the legal remedy, such that the plaintiff’s rights will be substantially and adversely affected if equitable relief is not granted. *Id.* (quoting *Equitable Life*, 102 F.2d at 15). Put differently, equitable relief is barred only if the legal relief is “so complete that it attains the full end and justice of the case, reaching the whole mischief and securing the whole right of the party in a perfect manner at the present time and in the future.” *Id.* (quotation omitted).

Based on the summary judgment record, money damages do not constitute a complete, practical, and efficient remedy for the Ugorets here.

Because the Ugorets used the Timber Lane access only occasionally and for

specific uses, the bollards blocking that access impose what the Minnesota Supreme Court calls a “constantly recurring grievance.” *Gustafson v. Hamm*, 57 N.W. 1054, 1056 (Minn. 1894) (“The legal right being clear, and the trespass or nuisance, whichever it be, being a continuing one, he is not confined to successive actions for damages, but may maintain an action to enjoin the constantly recurring grievance; and, where a clear legal right is thus violated, the fact that the actual damages, if substantial, are comparatively small, is not important.”).

So long as the bollards are in the way, the harm recurs each time the Ugorets wish to use the access but cannot. In addition, the nature of each recurring injury varies depending on the desired usage of the access and the burdensomeness of alternative solutions. The nature, extent, and amount of each harm changes depending on precisely how, when, and why the Ugorets need access. Such a variable and forward-looking injury is not amenable to present specific identification or compensability. Therefore, while Minnesota state law generally provides a monetary remedy through an inverse condemnation cause of action, the circumstances render that remedy inadequate here to address the valuation of future harms, though such future harms are inevitable.

Accordingly, the Ugorets are not precluded from seeking or receiving the injunctive relief they claim in their Complaint. (*See* Doc. No. 1 at 6.) Because the Ugorets possess the right to access Timber Lane from their abutting property, and because Shorewood’s placement of bollards interfering with that right of access amounts to an unconstitutional taking, the Ugorets are entitled to injunctive relief.

**ORDER**

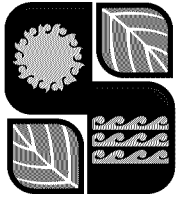
**IT IS HEREBY ORDERED** that Defendant's Motion for Summary Judgment (Doc. No. 38) is **DENIED** in its entirety, and Plaintiffs' Motion for Summary Judgment (Doc. No. 43) is **GRANTED** as to the existence and taking of a property right and **DENIED** as to money damages. As explained above, the question of money damages is left for trial.

**IT IS HEREBY FURTHER ORDERED** that Defendant must remove the bollards obstructing the Ugorets property's access to Timber Lane within twenty days of this Order. Any future interference with the Ugorets property's access to Timber Lane must comply with the letter and spirit of this Order as well as all federal, state, and local laws.

Date: September 29, 2023

*s/ Jerry W. Blackwell*

\_\_\_\_\_  
JERRY W. BLACKWELL  
United States District Judge



## City Council Meeting Item

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**Title/Subject:** SLMPD Presentation - Flock Camera System  
**Meeting Date:** October 23, 2023  
**Prepared by:** Marc Nevinski, City Administrator  
**Attachments:** Powerpoint

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Item 4A
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### **Background:**

The South Lake Minnetonka Police Department has received a grant to install four Flock cameras within its service area. SLMPD plans to install one camera in each member community for a two year period. Detective Protivinsky and Officer Allie Weinmann, along with Chief Tholen, will provide a presentation about the Flock camera system at the Council meeting.

### **Financial or Budget Considerations:**

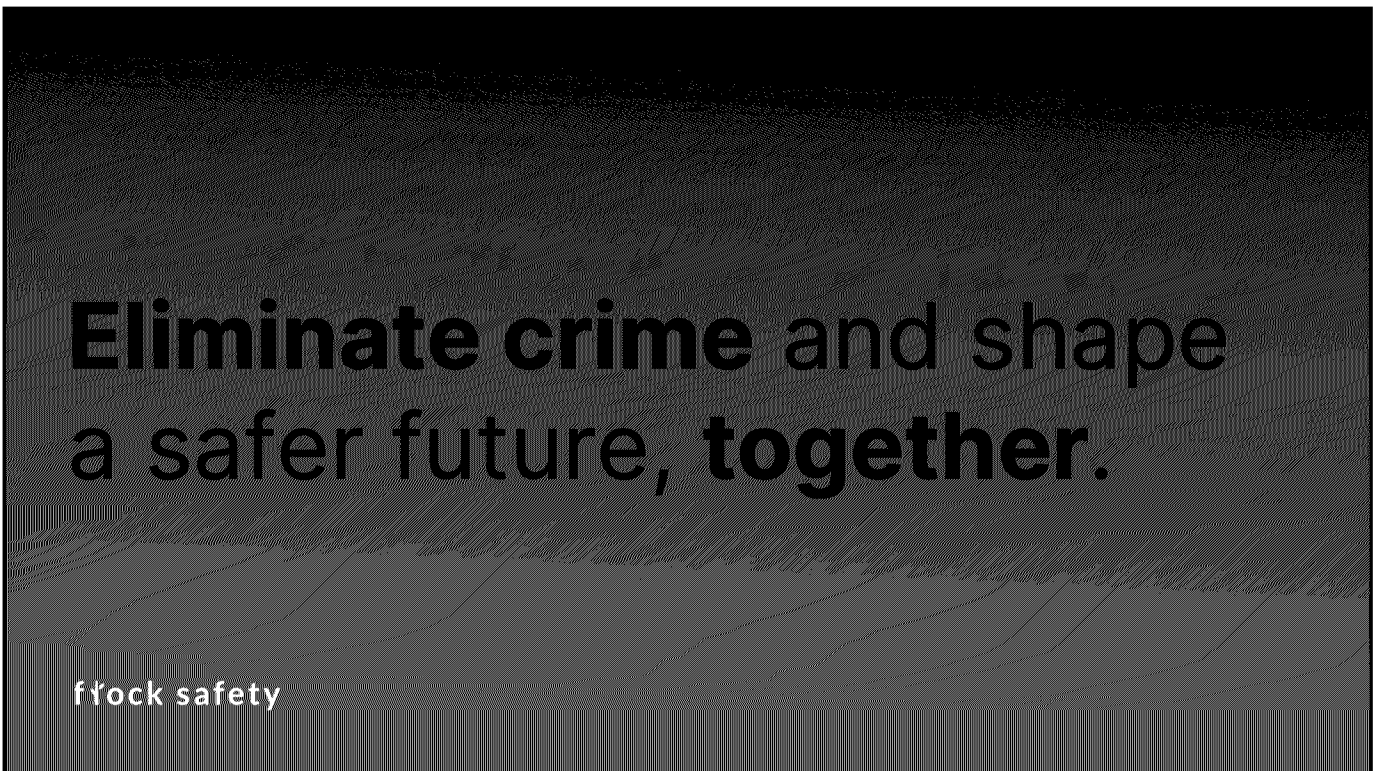
The installation of the Flock camera system increased slightly after the grant award, and each community is asked to contribute \$800 towards the installation of its camera. It is recommended that the Public Safety Aid funding awarded to cities in the 2023 legislative session be used to fund the camera system.

### **Action Requested:**

Motion to approve the installation of the Flock camera in Shorewood and authorize the expenditure of \$800 from the City's Public Safety Aid allocation.



1



2



3

flock safety

What we observe

## The current reality

- Limited Police Resources
- Crime is on the rise
- Trust is needed more than ever

What we believe

## The opportunity

- Technology multiplies the force
- Protect first responders and the community using technology
- Capture and distribute objective evidence to the right user
- Engage community to support and grow
- A Police staffing Multiplier

4

# How does the technology work?

flock safety

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## With flock Safety, you get:

flock safety provides your police department with discriminate evidence from fixed locations. We provide all of the maintenance so that your police department and city staff can focus on keeping your city safe and prosperous.



### INFRASTRUCTURE-FREE

Reduce time to value and utility costs with full-service deployment.



### 24/7 COVERAGE

Capture objective vehicle data around the clock to multiply your force.



### REAL-TIME ALERTS

- NCIC
- NCMEC (Amber Alert)
- Custom Hot Lists



### Ethically Made

- No people
- No facial recognition
- No traffic enforcement
- Indiscriminate evidence

6

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## What this is:

- License Plate Recognition (LPR)
- Gathers objective evidence and facts about vehicles, not people
- Alerts police of wanted vehicles
- Used to solve crime
- Adheres to all state laws

## What this is not:

- Not facial recognition
- **Not tied to Personally Identifiable Information**
- Not used for traffic enforcement
- **Data not stored beyond 30 days**  
→ *automatically deletes every 30 days*

7

## How does this technology deter and eliminate crime?

- Proactive:** Real time Alerts when stolen or wanted vehicles enter your city
- Investigative:** As clearance Rates increase, crime rates decrease
- Flock cameras serve as a **deterrent**

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# Mitigating Risk

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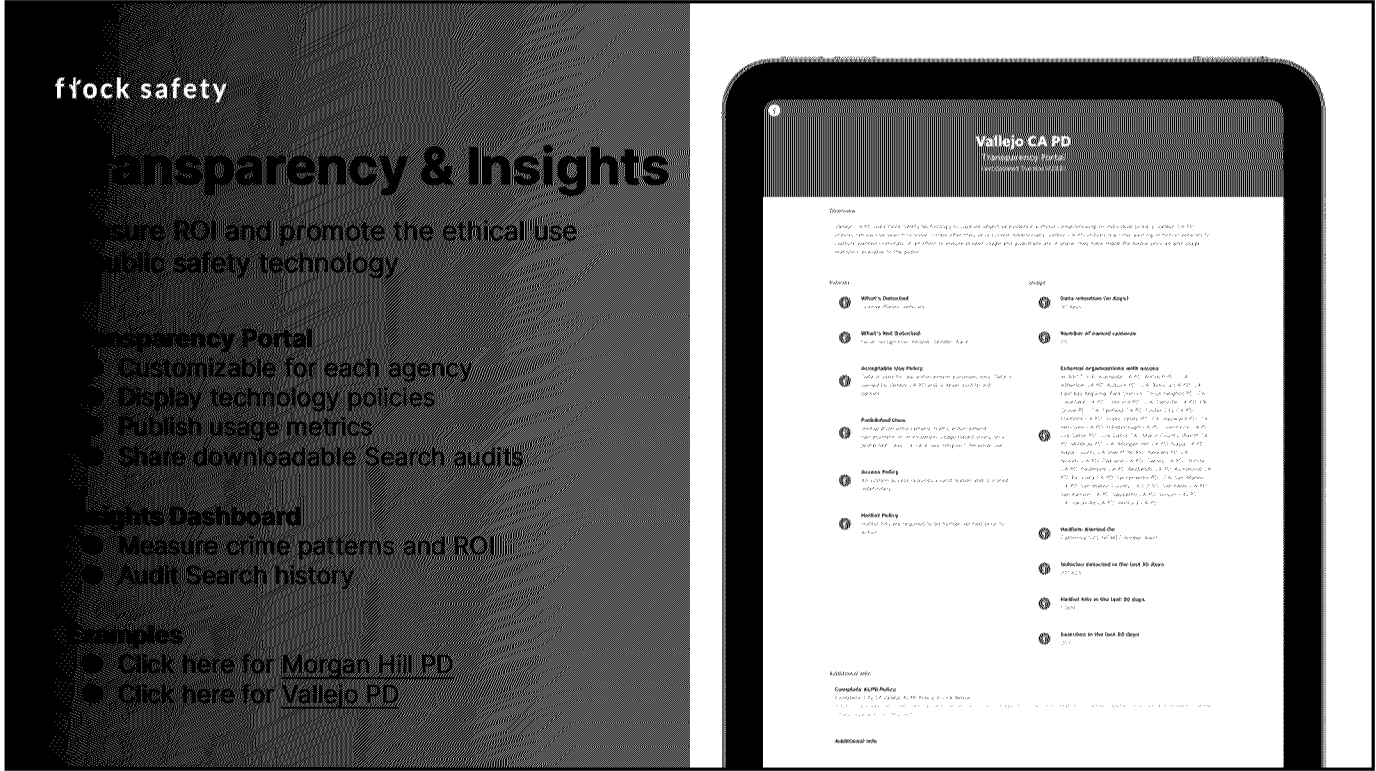
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## Protecting Privacy

- Footage owned by Agency/City and will never be sold or shared by Flock
- 30 day data retention, then deleted
- Short retention period ensures that all data not associated with a crime is automatically deleted & unrecoverable
- Takes human bias out of crime-solving by detecting objective data, and detecting events that are objectively illegal (ex. Stolen vehicles)
- All data is stored securely in AWS Cloud with end to end encryption of all data
- Search reason is required for audit trail
- NOT facial recognition software
- NOT predictive policing
- **NO Personally Identifiable Information is contained in Flock**
- NOT used for traffic enforcement
- Not connected to registration data or 3rd party databases (Carfax, DMV)
- Transparency Portal (optional)

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# Flock Safety In Minnesota

Plus, many more commercial and private customers

- Woodbury PD
- University of Minnesota
- Campus PD
- Saint Louis Park PD
- Wayzata PD
- Edina PD
- St Louis County SO
- NADG/SG Riverdale Village LP
- Orono PD
- City of St. Mary's Point
- Three Rivers Park Dist Public Safety
- Maple Grove PD
- Centennial School District 12
- Long Lake

12

# Already solving and preventing crime

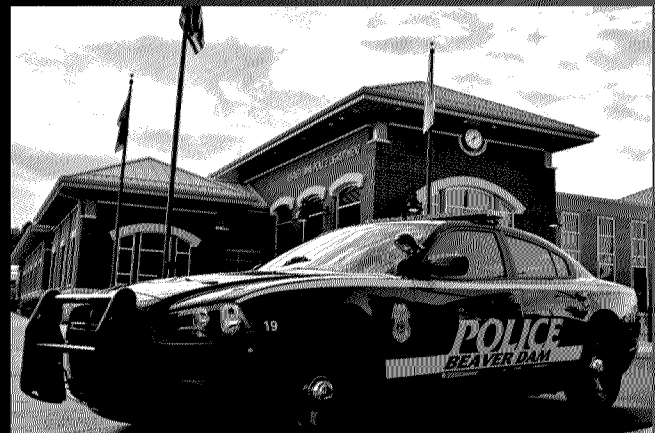
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## Attempted Homicide Charge

 Beaver Dam PD - Beaver Dam, WI

- A 17-year-old Fall River boy, who faces first degree attempted homicide charges stemming from running over a Beaver Dam girl on Saturday night, allegedly told police after being taken into custody that he had bad thoughts about murdering people.
- Beaver Dam Police responded to the parking lot of the Walmart Supercenter, 120 Frances Lane, on Saturday at 9 p.m. after a 17-year-old girl had been run over in the parking lot and the driver had fled the scene.
- **An officer accessed the FLOCK camera system**, which are cameras used to obtain information on vehicles when they pass certain locations, and was able to determine the vehicle was a 2009 Pontiac Vibe. **The license plate number led the police to Lenz's home.**



**Dylan Lenz could face up to 40 years in prison and 20 years of extended supervision if convicted of the felony charges against him.**

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## Silver Alert

 Port Washington PD - Port Washington, WI


- Town of Brookfield PD issued a silver alert at 2:43PM
- Crime analyst in Grafton entered the missing person's vehicle information into the Flock system database via a search and noticed the vehicle had been in their city.
- At 2:58 PM the vehicle passed a Flock Camera in Port Washington and a notification was immediately sent to officers who were able to locate the vehicle and reunite the person with their family.
- 15 Minutes from Alert to location of Vehicle associated with Silver Alert.



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## Flock LPR

 Michigan State Police - Murfreesboro, TN & Dearborn, MI

- Dearborn police received a Flock alert for a vehicle associated with a missing endangered person out of Murfreesboro, Tennessee.
- Officers then identified the vehicle and attempted a traffic stop, but the driver fled and then crashed the vehicle. After a gunfire exchange, one of the suspects was deceased, and another was transported to the hospital.
- In searching the trunk, officers found the body of Eleni Kassa, who had been reported missing after not picking up her 6 year old from school.

## Body of missing Tennessee mother found in trunk of car after Michigan police chase, crash






*Eleni Kassa, 31 (Courtesy of Murfreesboro Police Department)*

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**flock safety**

**Case Study: Auto Theft**

 Chamblee PD  Chamblee, GA



**Stranger on Stranger Abduction**  
August, 28 2020

### When every second matters, Flock Safety's Machine Vision is Critical

- 12:33 PM ● Amber Alert Issued
- 1:01 PM ● Search Conducted with Flock Safety
- 2:30 PM ● Suspect Vehicle Located
- 5:03 PM ● Felony Stop + Arrest
- 6:00 PM ● Baby Reunited with Mother

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## Funding:

- Recieved a State Auto Theft Prevention grant for \$21,400 to fund 4 cameras for two years. (\$5,350 per city).
- Pricing increased to \$24,600 mid-year. \$3,000 lease for each camera / \$150 one time set-up cost. Additional \$800 per city.

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CITY OF SHOREWOOD  
PLANNING COMMISSION MEETING  
TUESDAY, OCTOBER 3, 2023

COUNCIL CHAMBERS  
5755 COUNTRY CLUB ROAD  
7:00 P.M.

**DRAFT MINUTES**

**CALL TO ORDER**

Chair Gorham called the meeting to order at 7:00 P.M.

**ROLL CALL**

Present: Chair Gorham; Commissioners Eggenberger, Huskins, Holker and Johnson; Planning Director Darling; and, Council Liaison Callies

Absent: None

**1. APPROVAL OF AGENDA**

Chair Gorham noted that there had been a request by one of the applicants to reverse the order of items 4A and 4B.

**Huskins moved, Johnson seconded, approving the agenda for October 3, 2023, as amended, to reverse the order of items 4A and 4B. Motion passed 5/0.**

**2. APPROVAL OF MINUTES**

- **September 5, 2023**

Commissioner Huskins pointed out three small corrections that were needed in the minutes on page 3 and page 7.

Planning Director Darling stated that she will go back and check on those items and make the appropriate changes.

**Huskins moved, Holker seconded, approving the Planning Commission Meeting Minutes of September 5, 2023, as amended. Motion passed 5/0.**

**3. MATTERS FROM THE FLOOR - NONE**

**4. PUBLIC HEARINGS**

Chair Gorham explained the Planning Commission is comprised of residents of the City of Shorewood who are serving as volunteers on the Commission. The Commissioners are appointed by the City Council. The Commission's role is to help the City Council in determining zoning and planning issues. One of the Commission's responsibilities is to hold public hearings and to help develop the factual record for an application and to make a non-binding recommendation to the City Council. The recommendation is advisory only.

**A. PUBLIC HEARING – CONDITIONAL USE PERMIT FOR IMPORT OF FILL IN EXCESS OF 100 CUBIC YARDS**

**Applicant: JK Landscape Construction**

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**Location: 4800 Spray Island**

Planning Director Darling gave an overview of the request to import 250 cubic yards of fill to Spray Island. She noted that because it is not accessible by roadways, the material would need to be brought in by barge and explained that they were proposing to bring in the fill to even out the lawn space around some of the buildings. She gave an overview of the proposed erosion control efforts, inspections, and noted that staff recommended approval, subject to the conditions outlined in the report.

Commissioner Eggenberger referenced the staff report that stated that the fill was going to be used to fill 'homes'.

Planning Director Darling stated that was an error and should have stated 'holes', not 'homes'. She noted that she would make sure that was corrected before this moves onto the City Council.

Commissioner Eggenberger stated that if the request was for 100 cubic yards or less what would keep someone from just continuing to do it in smaller segments. He asked if there was a time limit or some other limiting factor.

Planning Director Darling stated that there is an element of trust with any application. She explained that the City would be asking for two inspections and noted that they were not anticipating that this work would take more than a few days and is really just the logistics of getting the dirt out to the site that is more complicated.

Commissioner Johnson noted that Planning Director Darling had shared that this application would not be subject to the tree preservation policy and asked about wetland protection.

Planning Director Darling explained that they cannot fill anything in the wetlands because that would be a violation of the Wetland Conservation Act (WCA) and noted that there will be required permits from the Minnehaha Creek Watershed District.

Connie Golat, JK Landscape, outlined the wetland area on the island and explained that none of the work would be performed near the wetlands. She stated that they are planning to use the double silt fence to wrap around the edge of the affected area and described the permits that they have already received from various agencies.

Commissioner Holker asked if the City would require there to be any planting or seeding of the fill.

Planning Director Darling stated that it has to be restored within 7 days after the grading is finished.

Commissioner Huskins asked Ms. Golat if they had any issues with the proposed conditions.

Ms. Golat stated that they were in agreement with all of the proposed conditions and clarified that this project is only filling in depressions in the lawn and would not even be bringing in enough fill to change the topography.

Chair Gorham opened the Public Hearing at 7:20 p.m. There being no comment, he closed the public hearing.



Holker moved, Johnson seconded, recommending approval of the Conditional Use Permit for import of fill in excess of 100 cubic yards for JK Landscape Construction for property located at 4800 Spray Island, subject to the conditions included in the staff report. Motion passed 5/0.

**B. PUBLIC HEARING – SHOREWOOD PADDLE CLUB – COMPREHENSIVE PLAN AMENDMENT, PUD CONCEPT AND DEVELOPMENT STAGE PLANS (Continued from the September 5, 2023 meeting)**

**Applicant: Admark, LLC**

**Location: 24560 Smithtown Road**

Planning Director Darling gave an overview of the request from Admark, LLC to re-guide this property from residential to commercial and also to review a concept and development stage plan PUD for the property. She reviewed the surrounding land uses and details of the lot. She noted that this item had been continued from the September 5, 2023 Planning Commission meeting, so the public hearing that was begun that night was still open. She reviewed details of the applicant's proposal for hybrid use of the property that would function as a club with indoor pickle ball and self-storage. She explained that each club member would purchase a storage unit as a condo and would use it for personal storage and each other would have access to the pickleball court. She reviewed the proposed plans and the request for a Comprehensive Plan amendment as well as the application. She noted that when analyzing this, staff took a look at the land use, traffic, public services, and the transition between commercial and residential properties. She explained that this property had previously been re-guided from commercial to residential following a land use study and reviewed the details of what staff took into consideration. She stated that the most concerning issue, from a staff perspective, is the lack of transition proposed between commercial use and residential use and reviewed details of what was being proposed. She explained that the applicant was asking for flexibility in a number of areas including two principal buildings on one site, setbacks, height, hours of operation, screening, impervious surface coverage, and parking/loading. She shared concerns staff had with some of the requests with hours of operations, height of the building, and impervious surface requests. She noted that one of the site requirements for self-storage facilities would be a caretaker apartment, and noted that because of the size of this application, she would encourage the Commission to waive that requirement. She explained that staff feels that this proposal is poorly suited to the size of the parcel because it is so narrow and does not allow for buffering between the residential and commercial uses. She stated that staff is recommending denial of both the Comprehensive Plan amendment and the PUD concept and development plans.

Commissioner Huskins stated that at the September 5, 2023 meeting he had indicated that he had concerns about exiting from the residential property to the west through the driveway. He asked if the proposed plans would provide a safety hazard or people exiting through the driveway onto Smithtown Road.

Planning Director Darling reviewed the proposed driveway location and noted that it would be up to, but not in, the public right-of-way. She stated that she did not see this as being a safety concern because this particular property is a low traffic generator but noted that she could have the consulting engineer take a closer look though prior to Council review.

Commissioner Huskins stated that he would like there to be greater review by the City Engineer because of the normal traffic along Smithtown Road and reiterated that he wanted to ensure that there was not a visibility issue for the resident wanting to exit their driveway.

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Chair Gorham stated that he believes that in previous renderings there was some sort of half wall proposed.

Commissioner Eggenberger stated that even if there was a half wall proposed, they would have to meet the setback requirements from the road.

Planning Director Darling suggested that they may want to ask the applicant what they were proposing in this area.

Commissioner Holker asked if the retaining wall was included in the calculations for the proposed height of the building.

Planning Director Darling explained that she would measure the southerly building to be 23 feet in height and the northerly building would be about 48 feet the way it is currently shown in the plans. She stated that the applicant had offered to make modifications and pull the retaining wall away from the building, that would drop the height of the building to 36 feet in height.

Chair Gorham asked for clarification on the planned uses for each of the buildings.

Planning Director Darling stated that the first floor of one of the buildings would be self-storage units and the upper floor would be where the pickleball court and lounge area.

Chair Gorham asked if the building would exceed the height limitation without the pickleball court.

Planning Director Darling explained that a private club could meet the 40 foot maximum limit for the building, but a mini-storage facility is limited to 15 feet in height. She stated that if they did not move the retaining wall away, then the proposed building would exceed the height requirement.

Chair Gorham asked if 24/7 hours of operation were common for boat storage facilities.

Planning Director Darling stated that many storage places around the metro have access 24/7. However, this property is in close proximity to residential property.

Commissioner Johnson stated that her understanding of this request is that it is a private club but they want commercial stuff happening there so it would essentially be kind of a mixed use. She asked if the only thing that would stop someone from operating a gift shop out of one of these units would be the HOA/CIC paperwork.

Planning Director Darling stated that typically these would not be designed to allow businesses uses within them, so the building code would also preclude that type of use. She noted that the Commission could include a condition that there would be no commercial uses, if they ended up recommending approval.

Commissioner Huskins asked if the City had established that they would be prohibited from using the facility in a rental capacity.

Planning Director Darling stated that there would need to be some constraints on the use for events in the private pickleball court because they were only proposing 13 parking spaces. She stated that if they wanted to hold tournaments or birthday parties, there would not be enough parking.

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Commissioner Huskins stated that they may be able to have them park elsewhere and then bus them to the site.

Planning Director Darling reiterated that if the Commission decided to recommend approval they may want to include conditions that would prevent events.

Chair Gorham asked if the parcels to the west that were currently guided for medium density in the Comprehensive Plan were not currently medium density.

Planning Director Darling stated that was correct and noted that there was one single family home to the west, a parcel owned by the City, and individual homeowners as you move further west.

Mark Kaltsas, 6015 Cathcart Drive, stated that he owns this property along with his wife and Kim Schultz. He reviewed the site lines for the driveway access that were asked earlier and noted that there is about 22-23 feet of City right-of-way from the edge of the bituminous to where he would start with his landscaping plans. He stated that he did not think his plans would impact the site line in any way. He clarified that the side wall of the southern building 16 feet with a 4x12 pitched roof on a 38 foot deep building. He noted that the building is about 18 feet tall and noted that he could easily but it down to 15 feet, if required, but then he would have a flat roof which he did not think that would have the same residential character as the peaked roof with dormers. He stated that they do not have hours that they need to operate by, but do want to be able to play pickleball at night. He reminded the Commission that this was being proposed for a bunch of people who live in the neighborhood and noted that he felt they could limit the hours of operation for people bringing trailers in. He explained that they are proposing that this is a secure gated entrance that would be made of ornamental iron materials and stated that they would strictly regulate that there be no business use of the property. He stated that they have no interest in using the property for business or rental usage and would like to build it for personal use as a private club and not any kind of revenue generator. He explained that the membership in the private club would be limited to about 15 members. He stated that they are just a group of people who want to be able to play pickleball in town in their own facility without having to drive elsewhere. He stated that they were also looking to find someplace to house other items they own, such as boats. He clarified that these are not rental storage units and noted that he sees this as a new category of land use that does not yet exist within the City's designation. He stated that he thinks it would be better for them to be referred to as 'lifestyle condominiums' because the spaces are purchased and are outfitted accordingly for their hobbies. He stated that it could be thought of as a 'man cave' or 'she shed' type space that is located outside of their homes where they can do things related to their hobby. He shared some history of the parcel, and when it was last examined, and its current guidance within the Comprehensive Plan. He noted that he had previously presented concept plans that supported the 6-8 units per acre as outlined in the Comprehensive Plan guidance, but noted that there was not a ton of support from the City for those plans.

Commissioner Huskins asked why he felt those plans were not supportive.

Mr. Kaltsas stated that there were about 20 residents from the surrounding area that came out and shared their concerns about additional traffic and having multi-family residential in the area. He explained that his interpretation of the feedback from the City Council was that they did not seem to think that it was a great land use and were generally not supportive of what they had proposed. He stated that they went back to the drawing board after that feedback to try to find something that worked for the community. He reiterated that he owns this property and when they looked at it they saw the need for a transition between commercial and residential property which he feels this proposal can do. He gave an overview of the nearby commercial uses and

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the difficulty in placing a multi-family home project there. He stated that they had discussions with staff about providing a 50 foot buffer between residential and commercial, however that would be half of his property. He stated that if he were to develop this as a multi-family project, he would not have to have a buffer. He explained that he feels what he has proposed would actually act as a buffer. He stated that he is also offering to plant over 60 trees on the site along with a really high quality landscape design that he also feels would be a significant buffer. He stated that he is proposing to stay back 38 feet from the property line and noted that he cannot get it to 50 feet and still be able to get a pickleball court in the building. He explained that they had their traffic engineers take a look at a high level at mini-warehouse which is as close as they could come to the lifestyle condo spaces as well as multi-family residential. He stated that the biggest distinguishing factor is that residential causes 'peak' trips and what he is proposing will have less traffic, in general, and will not cause peak traffic trips. He noted that the slope in the area does not provide a way to develop without retaining walls or significant earth movement being necessary. He noted that he had met with the neighbors and they are comfortable with what is being proposed. He encouraged the Commission to take the time to go walk his property and take a look at it more closely, especially the border with the My Car Guy business. He reviewed renderings of what the private club aspect would look like and explained that it will look and feel residential inside. He described the storage spaces and noted that when they are done, they are a step up from a typical garage with nicer finishes. He stated that there would not be any overnight stays allowed and explained that they want this to look like a country club with high quality materials. He stated that would include a stone wall with an ornamental iron fencing but noted that they are open to whatever architectural materials the City would like to see for the building themselves. He stated that they have also offered to make a sidewalk connection between this parcel and the American Legion.

Commissioner Johnson noted that he had mentioned other communities that had this type of lifestyle condos. She stated that she has heard about Waconia and asked what other communities that looked at and how this use would compare.

Mr. Kaltsas stated that examples of cities that have this type of notable lifestyle condo would be Chanhassen, Medina, Waconia, Delano, and Watertown. He stated that what he feels is different and unique about what they are proposing is that they want it right in their neighborhood and be able to walk a few blocks from their homes to get there. He stated that they are not proposing a 'car club' kind of culture which has been seen at the other facilities. He stated that they are made up of car enthusiasts, but are also much larger with 50-100 units. He stated that their proposal is much more of a boutique or niche product that they feel fits the neighborhood.

Commissioner Huskins asked how much fill would be required for their project.

Mr. Kaltsas stated that he was not sure, but noted that it would most likely be more than the 100 cubic yards allowed without a CUP. He noted that he would bring those details with him at the Final Plat stage.

Chair Gorham asked how the other cities who had the lifestyle condos were navigating their city codes.

Mr. Kaltsas explained that they were being done with PUDs and CUPs and noted that they were not being done as mini-storage units because these are different and not rentals. He reiterated that he sees this as an accessory building in their backyard where they would put their boat, but also couches, t.v., pool table, and a golf simulator. He stated that he feels this use will be a low intensity use and he feels it will significantly increase property values in the area.

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Commissioner Johnson asked if the PUDs for the other cities were heavily conditioned.

Mr. Kaltsas stated that they are heavily conditioned and noted that their proposed use does not fit mini-storage or a club, exactly.

Commissioner Holker asked if the rooflines of the two buildings would line up.

Mr. Kaltsas stated that they would not line up and gave an overview of the view from the roadway.

Commissioner Holker confirmed that these units would all be self-contained.

Mr. Kaltsas stated that was correct and noted that they would all be individually owned and secure.

Chair Gorham explained that part of the trouble he was having is that the handout distributed by Mr. Kaltsas was very different from what was submitted to the Commission for review. He stated that there wasn't anything in the application that indicated that it was going to be an extension of someone's home.

Mr. Kaltsas explained that their intent has always been this facility with the private club that has lifestyle type units, which was his best description for the units. He stated that they have agreed to the proposed conditions of no overnights stays, rentals or business uses. He stated that the internal use of whether they truly just store a boat or create a room for them to use their golf simulator would not change the overall number of members or parking spaces required. He stated that he feels that they will be able to further define some of the things called out in the bullet points by staff by the time they come back for final approvals.

Commissioner Eggenberger asked what kind of lighting they had planned.

Mr. Kaltsas stated that they have submitted a lighting plan and noted that they were planning copper gooseneck lights that would come off the building and have zero cut-off. He noted that they would be a high end LED, dark-sky compliant light.

Commissioner Huskins stated that he felt it would be helpful if the Commission could go item by item on the staff report recommendations and get input from Mr. Kaltsas.

Mr. Kaltsas read aloud the bullet-point list on page 8 of the staff report. He stated that he could not limit the height of both buildings to a maximum of 15 feet in height, but could limit the south building to that height with a flat roof; meet the 50 foot setback, but stated that he could put in additional fencing and/or landscape screening.

Chair Gorham asked about alcohol consumption.

Planning Director Darling stated that even if alcohol is consumed in the individual units, based on the State's interpretation, they will need to have a liquor license.

Mr. Kaltsas continued reading aloud the bullet pointed list on page 8 of the staff report and stated that they would plan to tie into the existing board on board fencing that My Car Guy already has and have a discussion with the motel about fencing versus landscaping.

Commissioner Johnson asked if the City had looked at other PUDs that had to do with this kind of project and noted that they appear to be popping up all over.

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Planning Director Darling explained that she had not taken a look at what other communities were doing.

Mr. Kaltsas stated that he has looked at other PUDs and noted that he had actually written several of the ordinances for other communities. He noted that they can vary pretty widely depending on what the community is trying to do. He explained that he is planning for this to be rated as an S2 building which is not a high occupancy rated building but noted that the upstairs area would have a different occupancy rating.

Commissioner Eggenberger cautioned the Commission not to be too quick to look at prohibition of events because he did not think someone having an occasional birthday party would cause a problem.

Commissioner Huskins explained that his original concern was not based on the owner's use for a celebration, but if they were going to use that facility to rent out for events.

Commissioner Johnson stated that she feels that there can be some restrictions on events, even for members, and gave the example of the Yacht Club.

Commissioner Eggenberger agreed, but noted that he feels that may be something that falls more under their ownership agreement.

Commissioner Huskins asked if the Commission would have the opportunity in the future, to add additional conditions.

Planning Director Darling explained that the Council could add conditions up to the point of approval the PUD and noted that this is the opportunity for the Commission to add additional conditions for the Council to consider.

Chair Gorham re-opened the continued Public Hearing at 8:49 P.M. noting the procedures used in a Public Hearing.

Tara Kaltsas, 6015 Cathcart Drive, stated that she would echo most of what her husband had already stated but explained that she wanted to touch on their previous proposal. She stated that she had sort of pushed for the villa homes because she wanted her parents to be able to live in them. She stated that she attended the Council meeting where there was a whole room full of neighbors who were not at all happy with the multi-family proposal, which is how they ended up changing to the current proposal. She noted that there was nobody here tonight to complain to the Commission about their proposal.

Amanda Isaacson, 5960 Afton Road, stated that she and her husband are members of the American Legion and have been in the community for almost 20 years. She stated that they have had club experience in the past as members of the Yacht Club and noted that the ability to have a safe, secure place to store their boat is appealing because they have had things stolen from their property at the Yacht Club. She stated that this proposal speaks to their needs for safety and a place to have a safe place to store their boat which also means she will be able to park her car in her garage at home. She stated that whether they see this as an extension of their home or a lifestyle condo, she has seen this type of thing popping up more frequently in other parts of the United States.

Heather McGowan, 3070 Dartmouth Drive, Excelsior, stated that according to her monthly bills, she lives in Excelsior, Chanhassen, and Shorewood. She stated that they would love to have

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something like this on this parcel and explained that her husband is an avid pickleball player. She explained that with the cold Minnesota winters they struggle to find space to play and gave the example of how difficult it is to book a court at Lifetime Fitness. She stated that they also like the idea of having a place to store their boat as well.

Chris Isaacson, 5960 Afton Road, explained that he has lived here since 2005 and has driven by this parcel for a long time. He stated that he thinks that this proposal would be a great 'buffer' between the properties. He stated that he supports this proposal even though he isn't sure right now whether he will actually be part of it as a member. He stated that he thinks what they are proposing looks beautiful and Mr. Kaltsas does very good landscape work.

There being no additional comments, Chair Gorham closed the public hearing at 8:54 P.M.

Commissioner Eggenberger stated that following the presentation, he was in support of this proposal. He stated that he feels there are limitations with the site as to what can be done with it and believes that this is a great plan.

Chair Gorham stated that he feels like what they are actually proposing was not really noticed to the public. He explained that he feels what they are proposing is something different than what the Commission had previously seen and from what was sent out to the public. He asked if the material Mr. Kaltsas had handed out would eventually become part of the record. He stated that he also feels like staff had not fully vetted local PUDs. He explained that he feels that if Planning Director Darling understood that this was what they would be talking about he feels she would have thoroughly taken a look in this area and presented that information to the Commission. He stated that the Commission is tasked with interpreting the City's code and he feels in this case rather than doing that, they are responding to a persuasive argument. He referenced the Smithtown Crossing intersection and explained that why there is essentially piecemeal type development of this site. He stated that he agreed that what is being proposed will look very nice, but it really will just benefit a few people and asked if that would be the best use for the site. He explained that it is essentially extending property for a few residents at a very visible site of a visible intersection. He noted that he understands that the applicant had come before the Council in 2021 with a proposed multi-family project that resulted in an outcry from the community, but noted that the Comprehensive Plan says that the City wants that type of development.

Planning Director Darling noted that the plan that was proposed in 2021 was a sketch plan and not an official application.

Chair Gorham stated that the biggest thing for him, from a procedural standpoint, is that he did not feel that this had been adequately noticed.

Commissioner Holker asked if he was suggesting that a more accurate description be published in order to garner additional public comment.

Chair Gorham stated that he was not making that suggestion but wanted it noted for the record. He stated that he was not prepared to discuss a lifestyle condo and did not believe that this was presented as a lifestyle condo.

Commissioner Huskins asked what would prevent the Commission from tabling this item.

Planning Director Darling explained that if the Commission continued this item without an extension from the property owner, they would automatically be approving the application

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because it would be beyond 120 day limit. She stated that staff would essentially have to move this forward to the City Council without the Commission recommendation.

Commissioner Johnson stated that she wasn't sure that she was comfortable with the conditions that staff listed because they don't know what other PUDs have done in other cities. She explained that because this is sort of a new idea, she would like to have more information on this topic prior to making any recommendation.

Planning Director Darling stated that she is aware of this type of lifestyle condo use and can provide that information to the Commission. She stated that, in her professional opinion, they are proposing a substantial amount of impact on the property. She explained that she felt this particular application was inappropriate for the property and reminded the Commission that staff was recommending denial of the application.

Commissioner Holker stated that she was a bit torn and agrees with comments made by Commissioner Eggenberger. She noted that this is an odd strip of land that is not very pleasing to the eye, but also agrees with the comments made about what it will actually be used for and the size concerns for what is being proposed that Planning Director Darling has shared but does think what they are proposing looks nice.

Commissioner Johnson stated that she assumed that if the Commission liked what was being proposed they would recommend approval or not, despite what may happen to the other parcels.

Chair Gorham apologized if he had implied that Planning Director Darling had not been thorough enough in her report and understands the point she made on why staff was recommending denial of the application. He stated that, to him, the list of conditions for recommending approval was too large and reiterated that he was not comfortable moving forward because of his lack of knowledge about lifestyle condos.

Mr. Kaltsas clarified that he had submitted this plan in May of 2023 and had submitted a seven-page narrative along with pictures. He explained that lifestyle condos were described in that narrative. He stated that he met with the HOA of the Minnetonka Country Club, neighboring property owners, as well as friends and family and it has been described exactly as the presentation was. He stated that the comment made that this application was not presented that way, he feels came from staff because they wanted to recommend denial. He stated that he was told that when he first submitted the plans and does not feel that the Commission has been presented with any information that would support approving their request. He stated that he feels the report mischaracterizes their proposal and simply recommends denial. He stated that he had never characterized this as a storage building because he did not feel it fell into that category. He stated that he would like it on the record that he had never characterized it in that manner and explained that what he presented in his presentation tonight was in order to provide clearer context to what was being proposed. He stated that he feels he has been super patient throughout the process, but noted that he really wants to do something this property. He stated that when he came to the City with a concept plan in 2021 he asked if the City would sell him their property so he could put together some sort of master plan for the area and there was not an appetite for that proposal either. He stated that he would like to do something other than just pay taxes on this property. He noted that the assessor had appraised this parcel at over \$700,000 for a piece of ground with a bunch of fill, most of the neighbor's wood pile, and a lot of garbage from the motel. He stated that he believes their request is reasonable and is a reasonable use of the property. He stated that he can come back with a multi-family project but when they had brought that forward last time, both the City and the surrounding residents did not like their idea. He



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noted that if he brought back a project that had seven townhomes, he believes the massing would be similar to what is proposed for this project.

Chair Gorham stated that he was not aware of lifestyle condos and feels the pictures tell a different story than the narrative.

Mr. Kaltsas stated that he thinks the conditions noted in the staff report are applicable. He noted that he is a planning consultant that represents a handful of cities around the metro area. He explained that was why he had been involved in writing some of the ordinances and knows what they say.

Commissioner Johnson stated that she understands Mr. Kaltsas' frustration as well as the frustrations expressed by the Commissioners. She stated that Planning Director Darling had included that if the property owner decided to provide an extension of a month in order to allow them time to iron out some of these issues, that would be acceptable. She asked if Mr. Kaltsas would agree to give the City additional time.

Mr. Kaltsas stated that he wants to work with the City, but giving an extension would kick his construction potential out even further and explained that he would be losing money on this property if he doesn't move ahead and do something with it. He stated that he would prefer that the Commission make a recommendation and reiterated his willingness to work with them on the proposed conditions that were listed. He stated that there had already been two noticed public hearings on this items and people have not turned up.

Chair Gorham stated that the point made by Planning Director Darling was that it was not really about lifestyle condos versus storage and was more about the accumulation of factors on this site that make it incompatible with the Comprehensive Plan.

Commissioner Johnson stated that she understood that but questioned the possible additional conditions that could be imposed beyond what was listed in the staff report. She stated that she feels a bit ill-equipped at this point because she does not know what other cities have done with the lifestyle condo units.

Commissioner Eggenberger stated that there are still 3 weeks before this item will be presented to the Council.

Commissioner Huskins stated that he came away from the presentation on September 5, 2023 thinking of these more along the lines of storage units because there had been mention of boats and other items. He stated that he understands that the phrase lifestyle condos was used in the narrative but noted that he did not recall hearing that terminology at the initial presentation. He stated that it was helpful to hear Mr. Kaltsas' feedback about the conditions spelled out in the staff report. He stated that, in his opinion, it nets out to the potential conflicts in the setbacks, landscaping/buffering, and the building height. He stated that one thing Mr. Kaltsas stated in his presentation which he feels is significant is the concept of buffering between residential and commercial use. He stated that he kind of likes the idea behind the concept and is not bothered that it is private. He explained that he cannot think of an alternative buffered use that would work right next door to heavy commercial use. He stated that he did not think what was being proposed would damage the area and would actually add to the area, but wished the lot was a bit wider. He stated that he wasn't sure what the Commission would do with a recommendation and explained that he felt the Council was going to have to look really hard at these issues with this proposal. He noted that he was inclined to support this request in order to take it to the next step for Council consideration, unless there was a way to delay this in order to gain additional

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information and perhaps make it clearer to the community exactly what his proposal is. He stated that if it cannot be tabled or postponed, then he would vote in order for it to be placed before the Council.

Commissioner Johnson stated that she disagreed that this proposal was just limited to the three things mentioned by Commissioner Huskins. She stated that there are still things like a specified number of people and the uses that are not accurately set forth within the proposed conditions. She stated that she feels they should ensure that the conditions express that there is no intended business, rental, overnight stays, or partying uses.

Commissioner Huskins stated that he had just called out those three things as what he perceived as potential sticking points.

Commissioner Holker asked what Planning Director Darling had intended when she said that they may want to have a broader discussion about the second bullet point related to the number of people.

Planning Director Darling explained that they could limit it either based on the amount of parking available or based on occupancy of the buildings, but noted that building code occupancy can be liberal in the number of persons permitted.

Chair Gorham asked if the Commission was leaning towards a recommendation of approval depending on the specifics included in the conditions. He explained that if they were leaning in that direction he felt they should spend time focusing on the conditions.

Commissioner Eggenberger stated that he was more than leaning towards yes and noted that Mr. Kaltsas has already agreed to almost all of the conditions that have been set in front of him.

Commissioner Johnson stated that she was also leaning towards approval just so they can iron out more of the conditions.

Commissioner Huskins stated that he has been persuaded with what is in front of him that he could support a recommendation of approval. He reiterated that he would prefer to delay a decision on this until they can get additional information regarding other similar PUDs.

Chair Gorham stated that Mr. Kaltsas has already stated that he would not be in support of a delay.

Mr. Kaltsas stated that he was not the only owner of this property and reiterated that he was in complete support of working with the City on various conditions and was agreeable to almost everything that has been proposed such as limiting the number of people, restricted uses, and restricted hours. He stated that he wanted this process to keep moving so they can do something with this property.

Chair Gorham stated that Planning Director Darling has made it pretty clear that staff did not think it was about other PUDs but everything else.

Commissioner Holker explained that she was also leaning towards a recommendation of approval. She stated that she was not ignoring the issues that have been brought up by Planning Director Darling, but is okay with them. She stated that she was also concerned about potential conditions. She asked if the Commission can make a recommendation to the Council, but have

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more information by the time it goes before them so they are more informed about what some of the other communities have done.

Planning Director Darling stated that she can do some research on what other communities have. She explained that she understood exactly what the applicant was proposing for this application and her proposed conditions were solely put there in case the Commission did want to recommend approval that there would be a way to protect the City. She stated that the recommendation on the heights of the building was in order to blend this use with the closest use that they have within the ordinance. She stated that she did not think they can deny that there is a firm connection between what they are proposing and what a storage unit is, regardless of how it is owned, because they are still a storage facility, even if they are 'fancy' storage.

Commissioner Eggenberger asked if the City had to approve the agreement they would have with the owners.

Planning Director Darling explained that the City approves the initial agreement and stated that she looks them over to ensure that they include any conditions that the City may apply. She stated that the issue with a Common Interest Community (CIC) documents is after the fact they make changes to those documents, the City has no review authority. She stated that she would recommend that they put conditions within the PUD in order to reflect the uses that they do not want.

The Commission discussed details for potential inclusion in the conditions.

**Eggenberger moved, Johnson seconded, recommending approval of the Shorewood Paddle Club – Comprehensive Plan Amendment, PUD Concept And Development Stage Plans for property located at 24560 Smithtown Road, subject to the conditions as discussed and amended by the Commission. Motion passed 4/1 (Gorham opposed).**

Planning Director Darling stated that this item would come before the Council on October 23, 2023.

**5. OTHER BUSINESS**

**6. REPORTS**

- **Liaison to Council**

Council Liaison Callies reported on matters considered and actions taken during the Council's recent meetings.

- **Draft Next Meeting Agenda**

Planning Director Darling stated there are no current applications so she would be working on things like code updates.

Commissioner Huskins stated that he may still be out of town for the November Planning Commission meeting date.

Chair Gorham stated that he would also be out of town on November 21, 2023.

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Planning Director Darling stated that if anyone else has a conflict with that meeting date she needs to know as soon as possible.

Commissioner Johnson commended Planning Director Darling for her hard work and thoughtfulness on the work she put into potential conditions for the Shorewood Paddle Club proposal.

The Commission discussed assigning members to present to the Council:

November – Commissioner Eggenberger

December – Commissioner Huskins

January – Commissioner Johnson

February – Chair Gorham

**7. ADJOURNMENT**

**Huskins moved, Johnson seconded, adjourning the Planning Commission Meeting of October 3, 2023, at 9:55 P.M. Motion passed 5/0.**



City of Shorewood

## City Council Meeting Item

**Title/Subject:** CUP to allow import of fill over 100 cubic yards  
**Meeting Date:** October 23, 2023  
**Prepared by:** Marie Darling, Planning Director  
**Attachments:** Planning Commission Memo  
Resolution

Item  
6B

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### Background:

**Location:** 4800 Spray Island  
**Applicant:** JK Landscaping  
**Review Deadline:** December 20, 2023

See attached planning memorandum for detailed background on this request. At their October 3, 2023 meeting, the Planning Commission unanimously recommended approval of the CUP to allow 250 cubic yards to be imported to Spray Island were 100 cubic yards is allowed without a CUP, subject to the conditions in the attached resolution.

**Summary of Public Engagement:** A legal notice was published in the official newspaper at least 10 days prior to the public hearing. No properties are located within 500 feet of the property. The applicant was present at the meeting and spoke in favor of the application. No one from the public requested to speak at the meeting or submitted any letters.

**Action Requested:** Staff and the Planning Commission recommend approval of the conditional use permit request, subject to the conditions in the attached resolution.

**Proposed motion:** Move to adopt the attached resolution approving a conditional use permit to allow the import of 250 cubic yards of material for JK Landscape Construction for property located at 4800 Spray Island, as recommended by the Planning Commission.

Any action on this request would require a majority of Councilmembers.

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**Mission Statement:** *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*



# Planning Commission Meeting Item

Item  
4B

**Title/Subject:** Conditional Use Permit to Import Fill  
**Meeting Date:** October 3, 2023  
**Prepared by:** Marie Darling, Planning Director  
**Attachments:** Location map  
 Applicant’s narrative and plans

**APPLICANT:** JK Landscape Construction  
**LOCATION:** 4800 Spray Island  
**REVIEW DEADLINE:** December 20, 2023  
**COMPREHENSIVE PLAN:** Low Density Residential  
**ZONING:** R-1A/S  
**FILE NO.:** 23.11

### REQUEST

The applicants request a conditional use permit to import 250 cubic yards of fill to Spray Island, where 100 cubic yards is permitted without a conditional use permit. Because the island is inaccessible by roads, the material would need to be brought to the site by barge.

Under the plan, the fill would be used to fill holes in the uneven lawn on the west side of the island..

Notice of this application and the public hearing was published in the official newspapers. The zoning ordinance requires notice of all public hearings for conditional use permits to be mailed to all property owners within 500 feet of the property at least 10 days prior to the meeting. In this case, there are no properties within 500 feet of the island.



### BACKGROUND

Context: The property consists of the entire island (Spray Island). Some of the buildings were constructed in the early 70’s and others may have been constructed prior, but we have no record of building permits. The property is within the shoreland district for Lake Minnetonka and contains wetlands. The property contains mature trees but the proposal is not subject to the tree preservation policy.

### Applicable Code Sections:

Chapter 1201.03 Subd. 8. of the zoning regulations specifies that land reclamation includes depositing of 100 cubic yards or more of fill on any lot or parcel but does not include moving fill from one portion of a

lot to another. The regulations also include requirements that the CUP include language on the type of fill, program for general maintenance of the site, controls of vehicular ingress and egress and for the control of material disbursed from wind or hauling of material to or from the site.

Impervious Surface Coverage: There is no change proposed to the amount of impervious surface coverage of the island with this application.

## **APPLICANT'S PROPOSAL**

The applicant's narrative is attached and indicates that the property owners propose to import the fill to level the yard for easier maintenance, which would require 250 cubic yards of material. See their narrative and plans for more information. They identify the haul route from the dock to the property.

## **ANALYSIS**

Conditional use permit applications for fill are subject to both the general conditions in 1201.04 Subd. d. (1) of the zoning regulations as well as the specific requirements listed in 1201.03 Subd. 8, which include the following:

- The proposed action has been considered in relation to the specific policies and provisions of the Comprehensive Plan
- The proposed use is or will be compatible with present and future land uses in the area and would not tend to depreciate the area
- The proposed action must promote and enhance the general public welfare and not be detrimental to the public health and safety
- The proposed use can be accommodated with existing public services and will not overburden the city's service capacity
- The proposed action must conform to applicable regulations of city code. For this type of application, that would include 1) requiring a plan for finished grade that would not adversely affect the surrounding land, 2) identifying the haul route for moving the material to and from the site, 3) regulating the type of fill permitted, 4) providing control for dust/wind and 5) general maintenance of the site.

## **FINDINGS**

Staff finds that the standards above would be met with the following conditions:

- The applicant shall restore all disturbed portions of the property with slopes no steeper than 3:1 (as shown)
- The applicant shall install a double row of silt fence to protect the downslope portion of the lot (as shown)
- The applicant shall restore ground cover within seven days after grading is completed
- The applicant shall request an inspection of the erosion control methods prior to beginning any work on the property and an inspection when the project is completed

- During the initial delivery of fill and in dry periods, the exposed dirt shall be sprayed with water to control dust
- The haul route shall be as indicated on the plans

## **RECOMMENDATION**

Staff recommends approval, subject to the conditions listed above. Staff acknowledge that the conditional use permit criteria are open to interpretation. Consequently, the Planning Commission could reasonably find otherwise.

Should the Planning Commission recommend approval of the conditional use permit, staff recommends that the applicant be required to:

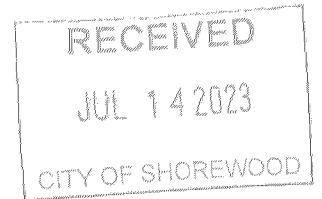
- 1) Acquire all necessary permits prior to any grading activity.
- 2) Remain in conformance with the conditions listed above.



# 4800 Spray Island Location Map



JK Landscape Construction  
19512 Hubble Road  
Clearwater, MN 55320



Tuesday, July 11, 2023

City of Shorewood  
5755 Country Club Road  
Shorewood, MN 55331

To Whom It May Concern:

**Project Description:** To fill in the holes in the lawn with topsoil for ease of mowing lawn. The approximately 80,000 SF lawn will be brilliant seeded. Project duration will be 2 days.

**Ingress:** Barge will be launched from the Spring Park Boat launch. This address is 4141 Shoreline Drive, Spring Park, MN 55384. The topsoil/equipment/materials will be loaded from this access. If it becomes congested an alternative access will be used: Phelps Bay, Tuxedo Road, Mound, MN 55364. Barge will carry needed materials to site and drop off at Spray Island's access located on the central west side.

**Egress:** Barge will haul equipment back to the Spring Park Boat launch.

1201.03, Subd. 8., b:

There will be insignificant changes to the grade. Topsoil will infill depressions in the lawn to create a smooth surface.

In the event wind disturbs topsoil during the hauling process water will be sprayed.

Standards contained in the zoning regulations:

1. The proposed use, and its related construction, would be consistent with the consistent with the polices and provisions of the comprehensive plan. Yes, it is just filling holes in the lawn.
2. The proposed use would be compatible with present and future land uses in the area and would not tend to or actually depreciate the area in which it is proposed. Yes, the project is on an island.
3. The proposed use would not overburden the city's service capacity and would be accommodated with existing public services including public streets. Yes, work is to be performed on a private island.

4. The establishment, maintenance or operation of this proposed conditional use would promote and enhance the general public welfare and would not be detrimental to or endanger the public health and safety. Yes, the improved lawn will enhance the appearance of the island.
5. This proposed use conforms to the applicable regulations of city code. Yes, just filling in the holes for mowing ease on the existing lawn.

Sincerely,

Connie Golat  
Architectural Landscape Designer  
JK Landscape Construction  
320.290.9262  
connie@jklandscape.com





APPROXIMATE WETLAND AREA  
 APPROXIMATE AREA = 20 ACRES



APPROXIMATE ISLAND BOUNDARY

FIELD CREW	NO.	BY	DATE	REVISION
DRAWN				
CMT				
CHECKED				
DATE				

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**PRELIMINARY EXHIBIT**



**SATHRE-BERGQUIST, INC.**  
 150 SOUTH BROADWAY WAYZATA, MN 55391 (952) 476-6000  
 WWW.SATHRE.COM

TWP:117-RGE:25-SEC:30  
 Hennepin County

**SHOREWOOD, MINNESOTA**

**SPRAY ISLAND EXHIBIT**  
 PREPARED FOR:  
**SPRAY ISLAND LLC**





**RESOLUTION 23-106  
CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT  
TO ALLOW THE IMPORT OF 250 CUBIC YARDS  
OF FILL AT 4800 SPRAY ISLAND**

**WHEREAS**, JK Landscape Construction (the “Applicant”), has applied to import 250 cubic yards of material to Spray Island to fill holes in the lawn area on the property legally described as:

Government lot six (6) Section Thirty (30), Township One Hundred Seventeen (117), Range Twenty-Three (23), west of the fifth principal meridian, Hennepin County, MN; (the “Property”) and

**WHEREAS** the applicant proposes to import the material by barge to the island; and

**WHEREAS**, after required notice, a public hearing was held and the application reviewed by the Planning Commission at a regular meeting held on October 3, 2023, the minutes of the meeting are on file at City Hall; and

**WHEREAS**, the City Council considered the application at its regular meeting on October 23, 2023, at which time the Planning Director’s memorandum and the Planning Commission’s recommendations were reviewed and comments were heard by the City Council from the Applicant and City staff.

**NOW, THEREFORE, BE IT RESOLVED** BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA FINDS AS FOLLOWS:

**FINDINGS OF FACT**

1. The subject property is located in a R-1A/S Single Family district.
2. Section 1201.03 Subd. 8 allows fill over 100 cubic yards subject to the approval of a conditional use permit.
3. The applicant’s proposal is identified on plans and materials submitted to the City on July 14 and 22, 2023 (the “Plans”).
4. Conditional Use Permits are reviewed subject to section 1201.04 of City Code.



## CONCLUSIONS

1. The Plans have been considered in relation to the specific policies and provisions of the Comprehensive Plan and found to be consistent.
2. The request would not overburden the city's service capacity and existing public services and streets.
3. As the property is an island, the request would be compatible with the neighborhood and would not tend to depreciate the area.
4. As the application has been found to adhere to the standards in the Shoreland regulations, the request would not be detrimental to public health and safety.
5. The proposed use conforms to the applicable regulations of the district in which it is located and otherwise conforms to the applicable regulations of city code.
6. The Applicant's plans have satisfied the criteria for the grant of conditional use permits to import 250 cubic yards of material, subject to the following conditions:
  - a. The haul route to bring the fill into the property shall be into the island by barge and as shown crossing the island on the Plans..
  - b. The applicant shall install and maintain a double row of silt fence through the entirety of the project.
  - c. The applicant shall restore ground cover within seven days after grading is completed.
  - d. Prior to approval of the grading permit permit, the applicant shall submit all copies of permits required by other jurisdictions (the MCWD and NDPEs).
  - e. Disturbed portions of the property must be restored with slopes no steeper than 3:1.
  - f. The applicant shall schedule inspections of the erosion control methods prior to the import of fill and at the completion of the project.
7. The City Clerk is hereby authorized and directed to record a certified copy of this resolution with Hennepin County.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA** this 23<sup>rd</sup> day of October, 2023.

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**Jennifer Labadie, Mayor**

**ATTEST:**

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**Sandie Thone, City Clerk**



## City Council Meeting Item

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**Title/Subject:** Request for Comprehensive Plan Amendment and PUD Concept and Development Stage Plans

**Meeting Date:** October 23, 2023

**Prepared by:** Marie Darling, Planning Director

Item 6C
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**Attachments:** Applicant's expanded narrative  
Planning Commission memo and attachments  
Resolution denying a comprehensive plan amendment and PUD  
Resolution approving a comprehensive plan amendment  
Resolution approving a PUD Concept and Development Stage Plan

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**Background:**

**Location:** 24560 Smithtown Road

**Applicant:** Admark, LLC

**Review Deadline:** November 4, 2023

See attached planning memorandum for detailed background on this request. At their October 3, 2023, meeting, the Planning Commission voted four in favor, and one opposed to recommend approval of the request to allow the private club, subject to the conditions in the attached resolution. Chair Gorham voted against the motion as he found the use as presented inconsistent with the plans submitted, sees the proposal as an insular use in an active/visible location, the improvements have too much impact on the neighborhood with little community benefit, and it is not consistent with the Comprehensive Plan. Primary issues discussed and the issues raised at the meeting are addressed below.

Staff recommended denial of this application as the application includes no transitions/buffer to the adjacent residential property and the applicant has requested too much flexibility to allow over-development of this about 103-foot-wide site.

**Summary of Public Engagement:** Notice of the application was published in the official newspaper at least 10 days prior to the 1<sup>st</sup> public hearing at the Planning Commission meeting (September 5, 2023). Notice for the public hearing was mailed to all properties within 750 feet of the development. At the September 5, 2023, meeting, the Planning Commission continued the public hearing to the October 3, 2023, meeting. The applicant was present and spoke in favor of the request at both meetings. At the September 5, 2023 meeting, a potential unit buyer spoke in favor of the application and an adjacent property owner expressed concerns regarding drainage and bringing fill into the property. All the speakers at the

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**Mission Statement:** *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*

second meeting were in favor of the project and were investors in the project or likely purchasers of the project.

**Primary issues discussed:**

Use:

The Planning Commission discussed continuing the application to a future meeting so they could get additional information on similar developments approved in other communities including the conditions that were applied to other similar storage condominium uses. However, due to the proximity of the end of the city's 120-day review period and the applicant's unwillingness to grant additional time, the Planning Commission could not continue the application and elected to recommend approval. The applicant pointed out that several were approved in other communities.

The applicant's proposed use is a mixed-use with both luxury self-storage condos and a private pickleball court and kitchen/lounge. Essentially, the applicant will complete the site improvements and construct shell buildings much like a strip commercial building. Members buy into the club by purchasing a storage unit, some of which will have mezzanine areas. The buyers complete the interior finishes, which could include the mezzanine level finished off as a party space/lounge area. Most of these storage condos are used for the storage of expensive cars, boats, and other toys. Purchase of the units also gives them and their guests rights to use the club house which would be finished with a shared lounge/kitchen and a pickle ball court. Although a unique combination, the concept of mixed uses within luxury storage facilities is not new. The applicant submitted some additional narrative with photos from other projects (see the attached).

Staff contacted other communities for more information on storage condominiums. Staff looked at storage condominium projects in Chanhassen, Medina, Watertown and Independence and our findings are summarized below.

The projects in the adjacent communities had a few primary design features in common.

- 1) They contain a mix of uses. The Chanhassen project includes a club house for events,; the Watertown project includes some units reserved for small business incubators, Medina has commercial retail, and Independence has a commercial building as well as large-lot residential element with lot sizes between 3.25 to 4.5 acres.



*Watertown project*

- 2) The projects are generally located in agricultural, commercial or industrial areas or had a substantial buffer or transition from residential properties.

The Watertown project property is about 250 feet away from the adjacent residential property and the developer used a water-quality pond as a transition/buffer from the residential uses. (See aerial photo to the right).



Chanhasen project

The Chanhasen project is also separated from residential by over 430 feet across wetlands. (See aerial photo to the right.)

The Independence project has not yet been constructed (aerial photo of the site to the right with existing treed/wetland area circled). The adjacent properties to the east, west and south (closest to the auto storage areas) are currently agricultural and guided for future urban commercial uses. The closest storage building in the project to the residential is set back 40 feet from the property line and that 40 feet is landscaped (with 17 overstory oak and pine trees). The residential properties show a minimum of a 100-foot setback to the storage property and the spaces include a heavily treed area and wetland/wetland buffers. Staff finds the landscaping combined with a minimum of 140 feet of separation to be a very strong transition between the residential and the commercial.



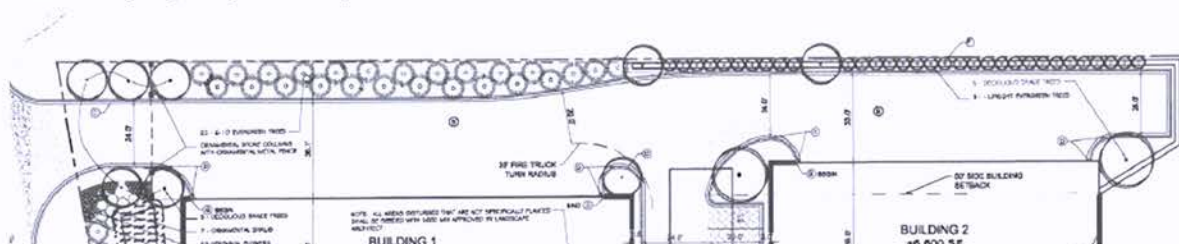
Independence project site

The Medina project is bordered by business/light industrial uses, a warehouse building, the Hennepin County public works campus and a recently approved religious institution. (See photo to the right.)



Medina project

In contrast, the applicant has proposed a 14-foot landscaping strip that tapers down to seven feet at the north end. The seven-foot-wide



area includes a 14 to 16-foot-tall gabion retaining wall, would be required to include a fence or guard rail on top similar to the photo to the right and include a row of arborvitae. A transition area of this size is not consistent with the transitions other communities have required, the direction in the Comprehensive Plan, nor the requirement by the zoning ordinance to provide a 50-foot landscaped buffer between commercial uses and residential properties.



The applicant has stated that he can't provide the required transition to the site because it would reduce the developable portion of the property. Staff concludes that this site is too narrow for commercial uses for this reason. The applicant has also stated that he would not have to provide a 50-foot landscape transition if he develops the site with townhouses. Staff agree and further conclude that residential uses on the site are the more appropriate use for the property.



*Examples of gabion walls provided by the applicant*

- 3) Each of the other communities required parking for the additional uses commensurate with the use and each allows overflow parking for events in designated areas, along their private driveway or in off-site locations. Some also limit event sizes. For example, Medina's PUD was written to limit events on the property and required off-site parking for large events including their car shows, as well as spaced the buildings apart to allow for some angled parking between the buildings. Chanhassen has private drives that allow for event parking.

Shorewood's zoning ordinance requires six spaces for self-storage uses, six spaces for courts in racquet clubs and additional spaces for other club areas such as the lounge/kitchen area. The applicant has not provided detailed information on their plans for the lounge area and has provided 13 parking spaces for the potential demand for events on the property. The zoning regulations require clubs that serve food (but not alcohol) provide five parking spaces plus one for each two seats of seating capacity. The applicant has not provided the potential seating, but has discussed couches, chairs, and a countertop bar through and submitted pictures of one potential example layout at the Planning Commission meeting.

Assuming the lounge could have seating for 20 people, the applicant would be required to provide an additional 10 spaces. However, as the applicant has resisted providing any layout for the lounge/kitchen area, staff can only estimate the parking required based on likely layouts. If 20 people could be accommodated in the lounge area, the total requirement would be 27 spaces for the property.

Additionally, staff note that seven of the provided parking spaces are compromised and block access into the units both in front of the pedestrian doors and the overhead doors. The compromised parking spaces are located in front of the southerly building. The applicant has reviewed other options for parking spaces but can't provide either angled parking spaces or 90-degree parking spaces without blocking the fire lane.

As part of their discussion, the Planning Commission recommended allowing reduced parking as shown on the plans subject to a limit on events so that no event or events would exceed the amount of parking on the site. As a result, if the City Council approves the project, staff recommend the following conditions regarding events and parking and included them in the attached resolution:

- Events shall be limited to the number of vehicles that may be parked on site
- All parking spaces must be shown on the plans prior to issuance of any building permits and shall be striped on the site consistent with the plans and zoning regulations
- No parking or parking spaces may be shown that block the fire lane, hydrants, fire department connections, other required fire department equipment, the pedestrian doors into the buildings, on the grass, over the curbs, on Smithtown Road or on any other off-site property

At the Planning Commission meeting, the applicant indicated that if there is a parking problem they would work out an agreement with the American Legion to use their parking for overflow. However, joint or off-site parking requires council review and typically such agreements would be with properties that have opposite peak parking demand. The American Legion has the same peak parking demand times as the proposed development. Prior to any use of any adjacent property, the applicant must submit the details of any such agreements to the Council through a PUD amendment and the agreement must be consistent with the requirements in the zoning regulations.

Driveway Visibility: A commissioner raised a concern that the proposed driveway connection to Smithtown Road is close to the existing driveway on the neighboring property. He was concerned as the narrative includes a graphic showing a solid wall along the front property line and asked that staff review the site visibility for exiting vehicles on the neighbor's property. After the meeting, the City Engineer (for this project) reviewed the situation and found that there is a limited likelihood of conflicts as the fence/wall would be about 30 feet from the edge of Smithtown Road and the driveway is a semi-circle with the garage on the opposite (west) side of the house. Staff included a condition in the attached resolution that the required security fence be constructed of ornamental metal that is designed to be non-climbable instead of a solid wall and that the gate be subject to the approval by the Fire Marshall.

Sidewalks/Trails: The applicant proposed to construct a trail connecting their driveway to the American Legion within the public right-of-way. Staff has included a condition to this effect in the attached resolution for approval.

Conditions of Approval: The Planning Commission and the applicant discussed each condition of approval. They included most of the conditions of approval from the planning commission memo, however they elected not to limit the heights of the proposed buildings. The applicant stated that he could reduce the height of the buildings to 18 feet and 35 feet by providing a flat roof, but the Planning Commission didn't support a design change.

Staff notes that although the applicant indicated he would need to construct a flat-roofed structure in order to provide the reduced height, the City Council could limit the building height and would not be obligated to approve a substantial design change without revised plans.

The Planning Commission also recommended including a condition that the owners could not rent their units to someone else. After the meeting, the City Attorney reviewed their recommendation and cautions against such a condition as it is outside the scope of a zoning approval. The applicant may include such a condition in their CIC documents.

**Financial or Budget Considerations:** Developers are required to pay utility connection and park dedication fees and pay for constructing the driveway, stormwater facilities and utilities. The application fees and escrows were established to cover the cost of reviewing the application.

**Action Requested:** The Planning Commission recommends approval of the request for a Comprehensive Plan Amendment and PUD concept and development stage plan subject to the conditions listed in the attached resolution.

Staff recommended denial of the project (and continues to do so) based on the lack of transition/buffering from residential, the volume of variances needed (the amount of PUD flexibility) requested, the narrowness of the property and the potential impact on the neighborhood and the existing and future uses as outlined in the attached memo to the Planning Commission.

Because the review deadline doesn't permit additional meetings to reconsider the application, staff has attached resolutions providing two options:

- 1) Either a resolution that denies both the Comprehensive Plan Amendment and the PUD requests, or
- 2) two resolutions for approval (one for the Comprehensive Plan Amendment request and one for the PUD Concept and Development Stage application request).

**Proposed motion:**

Staff has provided two alternatives for the Council for either denial or approval of the application.

Alternative 1:

If the Council chooses to deny the application, one motion to adopt the resolution of denial would be required:

Move to adopt the attached resolution denying a request for a Comprehensive Plan Amendment and PUD Concept and Development Stage PUD subject to the findings and conclusion listed in the resolution.

Action on this alternative would require a majority of the City Council.

Alternative 2:

If the Council chooses to recommend approval of the application, they would need to adopt the attached two resolutions approving the requests (one for the Comprehensive Plan and one for the PUD Concept and Development Stage Plan).

1. Move to adopt the resolutions approving a Comprehensive Plan Amendment to amend the land use for Admark LLC on property addressed as 24560 Smithtown Road from Medium Density Residential to Commercial to allow development of a Paddle Club and luxury storage facility subject to the findings in the attached resolution.
2. Move to adopt the resolution approving a PUD Concept and Development Stage Plan for a development of a Paddle Club and luxury storage facility for Admark LLC for property addressed as 24560 Smithtown Road subject to the findings and conditions in the attached resolutions.

Action on this alternative would require a supermajority of City Council members (4/5).

The City Council may add, delete, or amend any of the conditions of approval. Should the City Council choose another course of action, they would need to provide the appropriate findings and conditions so that a resolution may be drafted at the meeting.

**Next Steps:** If City Council approves the application, the City would need to submit the application to the Metropolitan Council. The applicant would need to submit the following applications:

1. A request to rezone the site from C-1 to PUD
2. A conditional use permit for fill exceeding 100 cubic yards.
3. A PUD final plan.

A development and PUD agreement for the development is also required and would be combined with the PUD final plan and would be reviewed by the City Council.



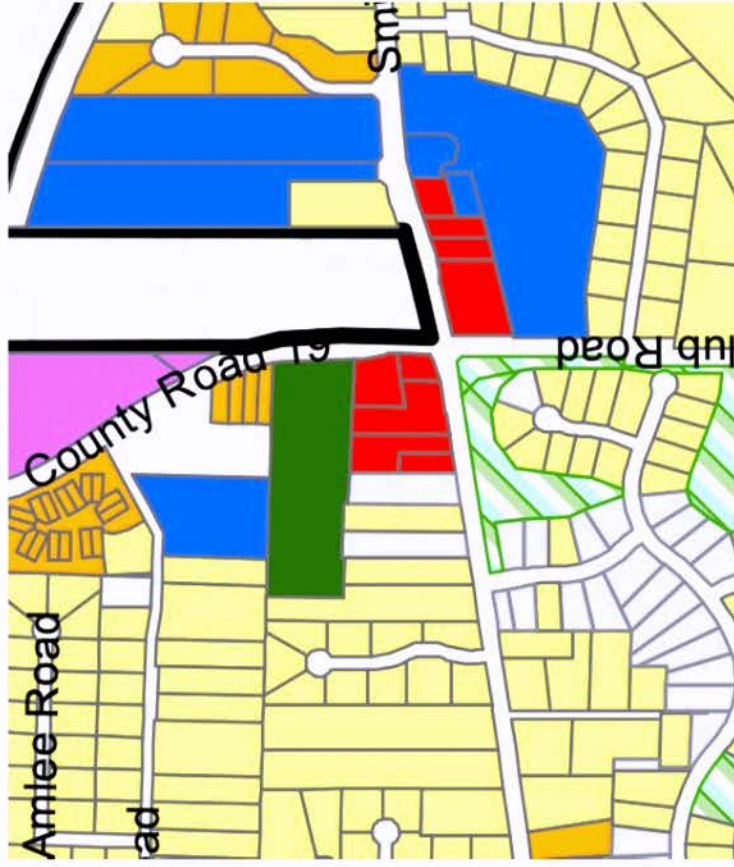
# SHOREWOOD PADDLE CLUB



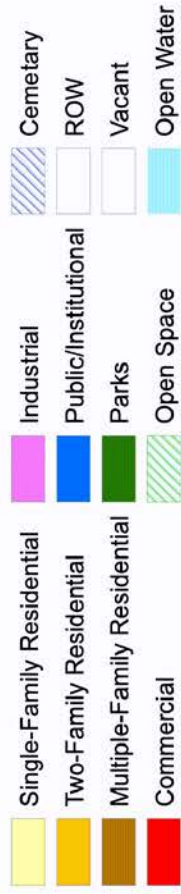




### Existing Land Use



### Existing Land Use



### •LAND USE

- Comprehensive Plan – Promotes land use transitions.
- Commercial to East
- Low Density Residential to West and South
- Private Club – Shorewood Paddle Club is a group of local residents.
- Recreational component – Pickleball Court
- Private use “lifestyle” condominiums

## ITE Trip Generation

Land Use	ITE Code	AM Peak Hour		PM Peak Hour		Daily Trips
		Enter	Exit	Enter	Exit	
Int Warehouse (12,000 SF)	151	1 Trip	0 Trips	1 Trip	2 Trips	30
Residential	220/210	2-3 Trips	2-3 Trips	3-5 Trips	3-5 Trips	53-77

## •Traffic

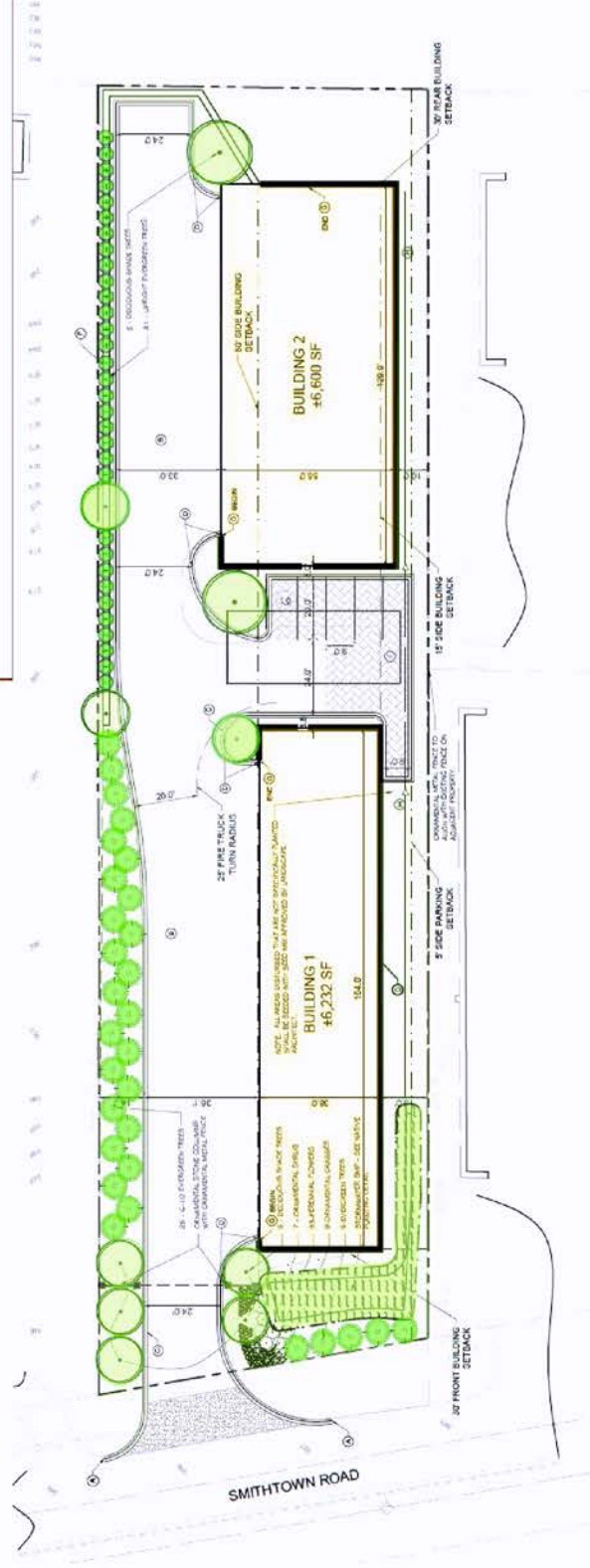
- Multi-family Residential:
  - 53-77 trips per day
  - Trips are typically at peak times
  - All day, every day
- Private Club:
  - 12-15 members
  - Less than 30 trips per day
  - Trips are not at peak times
  - Very sporadic
  - Not every day

**•Site/Layout/Transitions**

- Site Conditions
  - Property slopes 22 feet from south to north
- Multi-family Residential:
  - 15' foot setback from adjacent residential
  - 35' maximum height

**•Private Club:**

- 38' setback from adjacent residential
- 10' setback from adjacent commercial
- 15' setback from adjacent multi-family

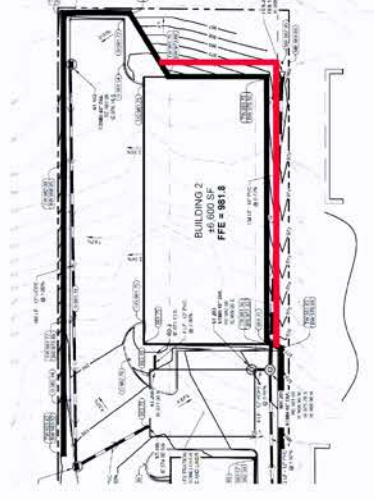


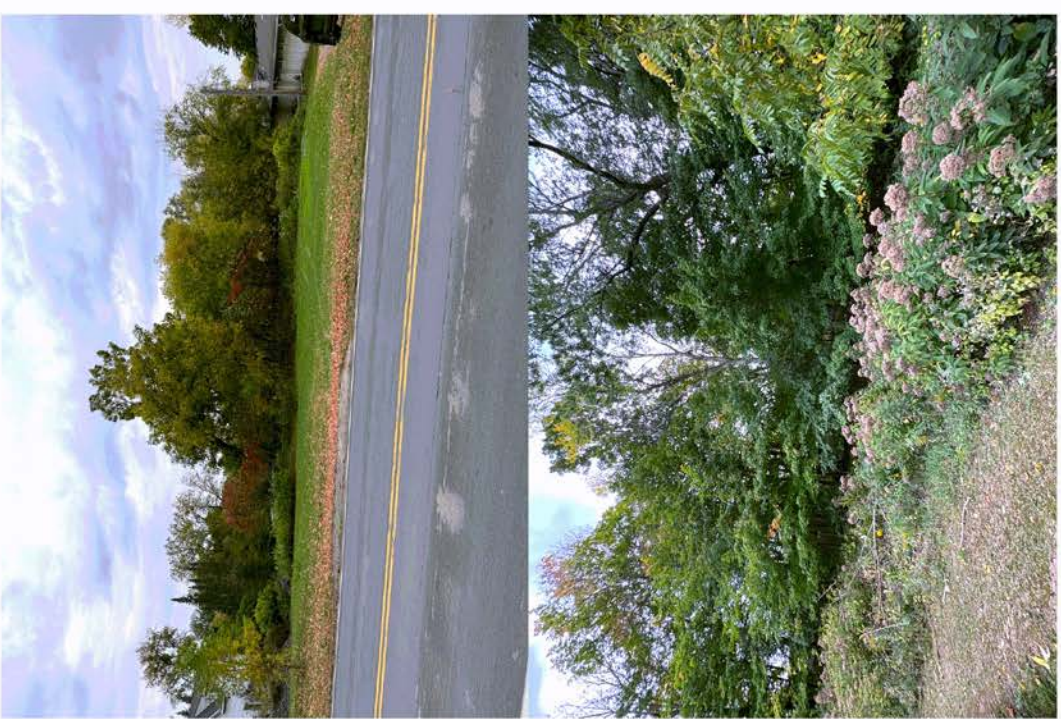
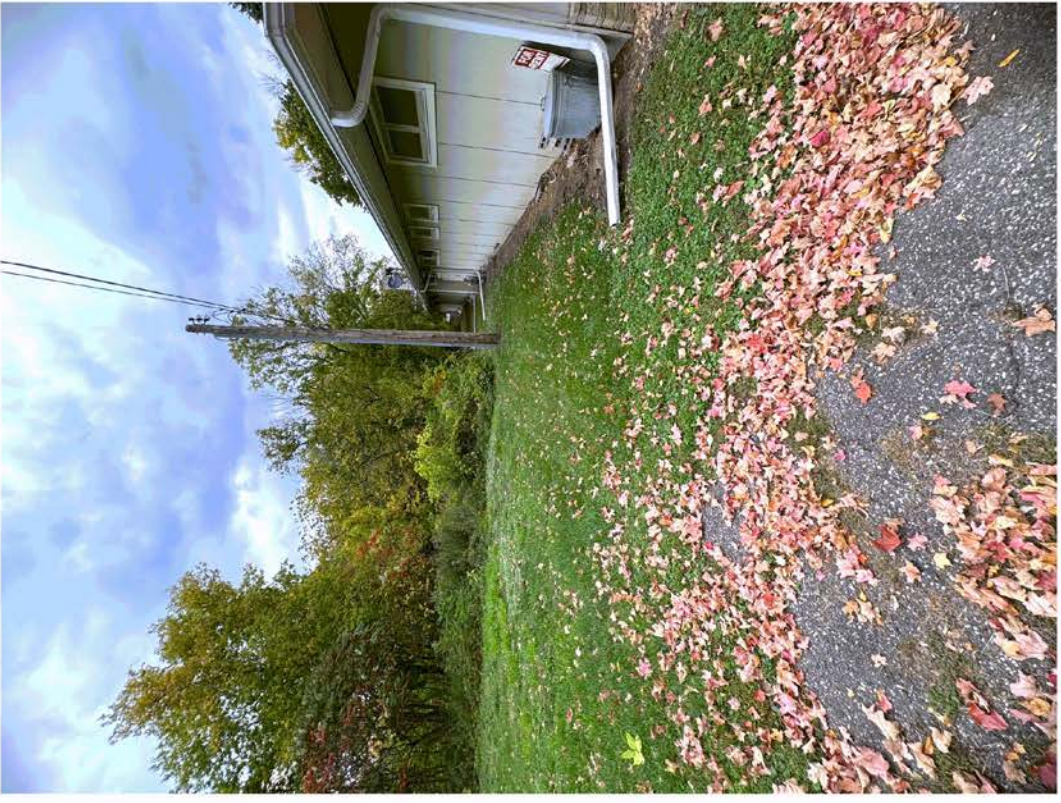
## Retaining Wall



## •Site Conditions:

- Retaining Wall:
  - Along a portion of the western property line
  - Can be any material
  - Gabion wall depicted
  - Any site development in this area will require retaining walls
- Building Height:
  - Clubhouse Building – less than 40' in height
  - Adjacent wall will be more than 5' from base of building





Site Pictures



# Interior Images





# Planning Commission Meeting Item

Item  
4A

**Title/Subject:** Shorewood Paddle Club – Comprehensive Plan Amendment and PUD Concept and Development Stage Plans

**Meeting Date:** October 3, 2023

**Prepared by:** Marie Darling, Planning Director

**Attachments:** Location Map  
Engineer’s Memo  
Applicant’s Narrative and Plans

**APPLICANT:** Admark LLC

**LOCATION:** 24560 Smithtown Road

**REVIEW DEADLINE:** November 4, 2023

**COMPREHENSIVE PLAN:** Medium Density Residential (6-8 units per acre)

**ZONING:** C-1 (General Commercial)

**FILE NO.:** 23.07

### REQUEST

This application is a request for the following to allow construction of a private paddle club. Required to approve the application are:

- A comprehensive plan amendment from Medium Density Residential to Commercial
- PUD concept and development stage plans

The proposal is to allow construction of a private club offering its members shared access to an indoor pickleball court and an individual storage unit, which may be used for storage or for other recreational equipment, such as golf simulators.



### PUBLIC NOTICE

Notice of the application was published in the official newspaper at least 10 days prior to the public hearing on September 5, 2023. Mailed notice of the public hearing was sent to all property owners within 750 feet of the subject property and an additional notice was sent prior to this meeting.

### BACKGROUND

Property Information: The lot was created as part of the Auditors Subdivision No.133 recorded in 1924. The lot was part of a lot that was further subdivided prior to modern record-keeping. The city has no history of structures on the property except the accessory structure that will be removed. The

parcel is just under 1 acre (.95 acres or 41,548 square feet). There are no wetlands, 100-year floodplain, or shoreland overlay district on the property. The site contains mature trees and is subject to tree preservation.

Neighborhood: The property to the north is Gideon Glen, a public park. The parcels to the east are guided and zoned for commercial uses (C-1) and are developed with a small apartment building and a car repair business. The properties to the south are within the Minnetonka Country Club PUD and subdivision and are developed with single family homes. The property to the west is guided for medium density residential, currently zoned R-1C (which would be amended after the comprehensive plan is approved) and contains a single-family home.

Application Discretion: Requests to re-guide and for custom PUD zoning districts are part of the legislative role for the Planning Commission and City Council. These types of requests have rules that apply broadly and have the most discretionary review.

## **APPLICANT'S PROPOSAL**

The applicant's proposal is for a paddle sports club that is partly a private pickleball club and partially a self-storage facility. Each member of the club would own a storage unit and have access rights to the private court. The project would be divided into two buildings, both of which would contain self-storage units, and the northerly building would have a club house on the second floor. The clubhouse building would contain the pickleball court, a lounge/kitchen area, and restrooms. The zoning ordinance requires private clubs to serve food and drink and the applicant has indicated that they will have prepackaged snacks and beverages. The members would have access to the storage units 24/7, similar to a self-storage facility.

The applicant has indicated that the club's HOA documents would be designed to allow the individual units to be used only for private storage and leisure uses, with no residential, business, or commercial activities or overnight stays allowed. The pickleball court would be able to be accessed by the members and their guests. For leisure uses, the applicant has indicated that the individual members could furnish their units as they like for storage or recreational uses, like golf simulators, etc. Each unit would contain its own restroom. Staff has no information on whether these leisure activities would include large media rooms where gatherings could occur.

The property would be fully enclosed with an ornamental metal fence and an entry gate. The property has the highest grade closest to Smithtown Road and drops off to the north. The northern end of the property would be raised so that the applicant could construct the northerly building level and retained with a wall. The northwest side of the site would include a 14-16 foot retaining wall.

The applicant provided no information on the impact of the building height on the solar access for the apartments to the east of the site nor has he provided information on the amount of fill necessary for the proposed development. Any fill proposed to be imported over 100 cubic yards will require a separate conditional use permit.

## ANALYSIS

### Comprehensive Plan Amendment

After the Smithtown Road redevelopment study was completed in 2012, the property was guided Low-to-Medium density residential in the 2030 Comprehensive Plan. The 2040 Comprehensive Plan has re-guided this property and two parcels to the west to medium density residential (6-8 units per acre) and the parcel would be rezoned after the Metropolitan Council completes their review. The higher density land use on the site functions as a transition and buffer between the higher traffic commercial areas and County Road 19 to the east and the lower density residential properties to west.



The applicant has proposed to re-guide the parcel to a commercial land use designation, similar to the parcels to the east, to allow their proposed commercial use of the property.

Land Use: The proposed commercial land use amendment would remove an additional parcel guided medium density residential. The Metropolitan Council directed the City to provide adequate land guided for five units per acre or greater to produce 56 dwellings. The resulting reduction in the amount of land (.95 acres) for five units or greater would not result in the amount of land below that the Metropolitan Council directed the City to provide. However, with each loss of parcels guided for medium density and higher, the property left to provide a residential development is reduced.

Traffic: Both the traffic from medium density residential uses and the proposed uses could be accommodated on Smithtown Road. The applicant has provided some basic information on traffic generation (for a self-storage facility, without the pickleball court) and a residential development. Both uses are low traffic generators. The applicant believes that the proposed uses would be lower than residential, but staff believes that if the pickleball court were included in the traffic counts, the two uses would be similar generators.

Transitions: The Comprehensive Plan also states that transitions between distinctly differing types of land uses shall be accomplished in an orderly fashion which does not create a negative impact on adjoin developments; and that residential development must be protected from adverse environmental impacts, including noise, air and visual pollution.

To implement this direction, section 1201.22 Subd. 5 d (4) of the zoning regulations requires a greater setback for commercial buildings from residentially guided and zoned residential properties, 50 feet. The setback would apply to the west side of the 103-foot property. Additionally, section 1201.03 (g) (2) (b) of the zoning regulations also requires the nonresidential use to provide screening along the boundary of the residential property and that the screening shall consist of landscaping at least as

deep as the required setback for the subject site and of sufficient density to provide a visual screen and reasonable buffer. Fences are allowed in addition to, but not as substitute for landscaping.

The applicant has proposed a landscaped buffered area of 14 feet wide for the south ½ of the west side of the property, where the adjacent home is located. The buffer area then tapers to about seven feet in width for the north ½ of the property. The southern half of the property would contain landscaping. The northerly half would contain a 14–16-foot gabion retaining wall with a fence and landscaping on top. The applicant has not provided an example of how he would design the wall to look. Gabion walls are typically wire cages with large stones. On top, they have preserved a narrow area for planting and to install the ornamental metal security fence. That planting area would be only a couple of feet wide, which is adequate for smaller shrubs and perennials but not for trees.

Staff concludes that this arrangement does not provide the transition needed and that the parcel is too narrow to adequately buffer the adjacent residential uses from commercial uses. The areas proposed for vegetation are too narrow to provide lasting, mature vegetative screening to buffer the existing or future residential development. Consequently, staff concludes the commercial guiding is not an appropriate land use on the property. If the property were developed for residential uses, the wider screening area would not be required, and the site could be developed with a lower level of screening.

### **Planned Unit Development**

The applicant is proposing to rezone the property to Planned Unit Development (PUD), although the rezoning request will be combined with the PUD final plan. A PUD is a custom zoning district which would allow innovations in design, higher standards of site and building design, preservation, and enhancement of desirable site characteristics, and allow for variations in setbacks, lot area and yards within the project.

Rezoning the property to PUD would allow the applicant to propose flexibility that is not possible under a standard zoning district (for example the existing C-1 zoning district on which the applicant proposes to base the development.) For this development, the flexibility requests include the following requests:

- Two principal buildings on one site:

Section 1201.03 Subd. 2 c. of the zoning regulations prohibits multiple principal buildings on the same parcel, except through the use of a planned unit development. The applicant has proposed a total of about 20,400 square feet of buildings. The northerly building is about 13,200 square feet on two levels and contains self-storage on the lower level with the pickleball court and kitchen/lounge on the upper floor. The building would be 36 feet in height but when adding the lowest adjacent land grade, the height would increase to 48 feet (due to the 11-foot retaining wall at the northeast corner of the building and the adjacent drop in grade). The southerly building has about 7,200 square feet in the self-storage units and the mezzanine levels. It would be about 23 feet in height. A shared restroom would be available for the northerly building, but each unit in the south building would contain its own restroom. The northerly building functions as the principal building as it is tallest, largest, and more of the proposed uses.

Multiple buildings are typical for self-storage facilities, which are conditional uses in the C-1 zoning district. However, the impact on adjacent properties is controlled using setbacks and height restrictions.

- Height/Setbacks

Setback (in feet)	C-1	Proposed for self-storage use	Proposed
Front	30*	50 (over 15 ft in height)	30
Side	15		10 (closest)
Rear	30		30
From residential	50		38
Buildings over 15 feet in height	NA		10 (closest)

\*Note: The applicant would need to modify their plan to show they meet this distance, as the line weight on the graphic appears to show a minor encroachment.

A building for most uses in the C-1 zoning district is permitted to be 40 feet in height. A private club, would be able to propose this height; self-storage facilities in the C-1 district could not as this is a specifically listed condition.

Section 1201.22 Subd 4. j. contains specific regulations for self-storage facilities which includes a provision that all structures within 50 feet of a property line are limited to one story or 15 feet, whichever is less. As the applicant’s parcel is 103 feet in width, they are proposing flexibility on this issue.

Without a planned unit development, property is too small to accommodate the required setbacks for a self-storage use. With the hybrid use (private club and mini storage) and a PUD application, the City could entertain the lesser setbacks and proposal for taller buildings. The policy question is whether the use/setback flexibility provides a benefit to the greater community or provides a lesser impact to the adjacent properties. The applicant has stated that if they were to build a residential building on the property, the height would be allowed to be 35 feet within 10 feet of the property line. They state that the impact on the adjacent property would be similar.

Staff concludes that the applicant’s proposal for two buildings, the increased height and the reduced setbacks is too great an impact on the neighborhood. The northerly building is adjacent to a building used as the car repair shop, but with 10 feet to the property line, the impact seems greater with this proposal than a residential use.

- Hours of operation

Section 1201.22 Subd. 4. j. provides hours of operation that self-storage facilities must adhere: 7 am to 10 pm Sunday to Thursday and 7 am to 12 am Friday and Saturday. The applicant has proposed to allow their members access to their individual units 24/7 so that they could bring their boats back at any time. That means that the headlights and noise from trucks pulling vehicles, the noise from large storage doors opening and closing, lights from the units, etc. could occur at all hours. The grade at the back of the property would be brought up to level the site for the buildings, resulting in the north side of the property being 14-16 feet higher than the grades to the west. Staff concludes that with little or no vegetative screening the impact to the adjacent properties would be excessive.

- Required landscaping and screening

As mentioned previously, the applicant has not provided the required screening/buffering/transition. What they are proposing is about five trees between the southerly building and Smithtown Road and a narrow, landscaped strip of land between the drive-aisles and the east property line. The narrow strip of land tapers to about seven feet on the north end of the property, contains a retaining wall and a security fence and a row of arborvitae which leaves little room for the arborvitae to mature and survive.

On the east side of the site, there is no screening required except the buildings. The parking areas are proposed as close as 10 feet to the property line with no screening. Staff recommends that if the Planning Commission moves forward with a positive recommendation, they include a condition that the applicant provide a solid fence at the top of the retaining wall to provide some protection to the residents in the small apartment building to the east. Because the apartments are guided and zoned for commercial, no buffering and transitions would be required by the Comprehensive Plan; however, the greater setbacks imposed by the zoning ordinance would allow room to screen the apartments. As the applicant is proposing a lesser setback, staffs find the privacy fence is warranted.

- Impervious surface coverage over 66 percent

Section 1201.03 Subd. 2 u. allows commercial properties to have a maximum of 66 percent impervious surface coverage. The applicant's proposal is about 70 percent which is allowed to be approved through the PUD. The applicant has proposed to use pervious pavers for the amount over 66 percent and has proposed volume and rate control and storm water treatment using a combination of an infiltration basin, underground stormwater vault. The proposed private system would outlet toward the City's park property. With standard conditions outlined in the engineer's memo, the applicant can meet the City's requirements for storm water management even with the additional impervious surface coverage. Staff recommends requiring a maintenance agreement for the pervious pavers and the other elements of the private stormwater system.

- Parking/loading areas

Section 1201.03 Subd. 5 requires a minimum of six spaces for the self-storage facility, six spaces for the pickleball court and additional spaces based on the area for the lounge/kitchen area of the club space. The applicant maintains that this is more than adequate as the storage space owners are the only users of the court and they can park within their units if necessary. However, the owners are not obligated to preserve space in their units for parking and the applicant has proposed no restrictions to this effect. The applicant has submitted a revised site plan that provides 13 parking spaces (and one handicapped access aisle) to include both the small parking area and spaces in front of the units. Staff notes that the parallel parking spaces would block pedestrian entry into their unit. Additionally, the applicant has not provided the amount of square footage in the lounge/kitchen area, which would increase the required parking for the site. Staff recommends a condition that the applicant provide the required additional parking spaces and identify how loading and unloading for the individual units will be accommodated without dedicated loading areas.

Additionally, section 1201.03 subd. 6 of the zoning regulations requires two loading spaces and each loading space must be a minimum of 50 feet from property lines and from residential property lines. The applicant has provided turning spaces for large vehicles (fire trucks, loading vans, etc.) but no spaces dedicated to loading and unloading, except in the drive-aisle or over the parking spaces.

The applicant maintains that because they are owned units, there would be limited loading/unloading and parking would not be heavily demanded. However, if some of the owners are having guests into their units at the same time others are playing pickleball with friends, the competing uses may overwhelm the provided parking.

Additionally, the applicant has proposed parking within 10 feet of the property line on the east side and staff previously recommended a privacy fence to be installed at the top of the retaining wall if the Commission recommends approval.

**Other site requirements for either self-storage or elsewhere in the zoning ordinance:**

Complete enclosure with a security gate: The C-1 zoning district has specific conditions for self-storage facilities and requires the site be fully enclosed with security fence with gated entry. Staff recommends including a condition that the applicant provide the required security fencing and an entrance gate approved by the Fire Marshal and that exceptions to allow full privacy fencing around the east parking spaces be permitted.

Lighting: The applicant proposes an exterior light fixture attached to the wall over each doorway. The lights appear to be full-cutoff fixtures and would have a correlated color temperature of 3,000k, where 4,100k is permitted. The mounting height must be below 10 feet above grade or have side-shields installed to protect the adjacent residential properties.

Exterior storage: The conditions for self-storage facilities specifically prohibit any exterior storage of items. Staff recommends a condition to this effect.

Caretaker apartment: The conditions for self-storage facilities require a caretaker apartment. Due to the size of the project, staff recommends waiving the caretaker apartment.

Tree preservation: There are 14 trees on the site and the applicant proposes to remove all of them. They propose to provide nine deciduous trees and 61 conifers, including 30 arborvitae. Tree preservation policy would require a maximum of eight trees on the site based on its size. The abundance of trees is required to provide screening of the use, rather than what's required by the tree preservation policy.

Utilities: The sewer and water in Smithtown Lane are adequate to serve the site, but the applicant is required to acquire right-of-way permits to construct the connections.

**FINDINGS/RECOMMENDATION**

Staff concludes that the proposal is ill-suited for the size of the property, it can provide too few of the typical requirements for self-storage facilities and has too great an impact on the surrounding properties. The applicant is unable to provide the necessary transition/buffering/screening or separation from property lines. Consequently, staff recommends denial of both the comprehensive plan amendment and the PUD concept and development stage plan.



Staff acknowledges that the application has an element of subjectivity, and the Planning Commission may find otherwise. Should the Commission choose to recommend approval of the application, staff has provided the following conditions of approval that they may consider. The Commission may add, delete or modify the conditions at their discretion.

- A prohibition on residential uses, permanent or temporary, and outdoor storage of any vehicles or other items.
- A prohibition on events, such as weddings, birthday parties or other events that would allow more than a specified number of people in each of the units or within the club space.
- Limit one or both buildings to a maximum of 15 feet in height.
- Revise the plans for the club area which provide the necessary dimensions for the lounge/kitchen area.
- Revise the plans to provide the dimensions for the parallel parking spaces and provide access to the individual units.
- Revise the landscaping plans to provide the required distance between the trees and the adjacent property line.
- Change the line width at the front setback and add a dimension from the building to the front property line.
- Provide revised drawings showing the additional parking spaces and consistent with the revised site plan submitted September 15, 2023.
- Identify how loading and unloading will occur for the individual storage units without dedicated loading/unloading areas or using Smithtown Road for maneuvering or unloading.
- Provide the covenants or owner association documents, which must reflect the prohibition on residential uses.
- Execute and record a stormwater maintenance agreement for the private stormwater maintenance agreement.
- Provide construction agreements for disturbance of other properties to construct the retaining walls and other improvements proposed.
- Pay the following fees prior to issuance of any building permits: park dedication, water connection fees, local sanitary sewer connection fees.
- Prohibit any outdoor storage of garbage cans or dumpsters unless screened and located as required by the zoning regulations.
- Provide permits from the Minnehaha Creek Watershed District, Hennepin County Environmental Services, and as outlined in the engineer's memo.
- Execute a development agreement and provide the required financial guarantees.
- Revise the remaining plans to be consistent with the revised site plan.
- Provide the mounting height for all wall mounted fixtures. Fixtures greater than 10 feet above grade must incorporate side-shields to protect the adjacent residential property.
- Provide a screening fence on the east side of the parking area at the top of the retaining wall.
- If the applicant will be importing more than 100 cubic yards of material to the site, a separate conditional use permit would be required.
- If any alcohol is consumed or displayed on the site, a liquor license is required.

# 24560 Smithtown Road Location Map



## Memorandum

**To:** Marie Darling, Planning Director, City of Shorewood  
**From:** Josh Phillips and Jen Koehler, Barr Engineering Co.  
**Subject:** Shorewood Paddle Club – Preliminary Plat Review  
**Date:** August 3, 2023  
**Project:** 23271987.00

The following documents were submitted for review of compliance with the City of Shorewood's Local Surface Water Management Plan and Engineering Standards:

- Shorewood PUD Application and Formal Comprehensive Plan Amendment, signed 6/16/2023
- Site Development Plans including cover sheet, ALTA survey, general notes, site plan, grading plan, and utility plan, dated 6/10/2023

This review included the documents listed above and additional prior PUD Application materials, primarily dealing with grading, parking, utilities, and stormwater management.

### General

1. The development shall be designed and constructed according to the City Standard Specifications and Details.
2. Prior to the start of any construction, permits shall be secured with the following at a minimum:
  - a. Minnehaha Creek Watershed District
  - b. MPCA Construction General Permit
  - c. Minnesota Department of Health
  - d. Metropolitan Council Environmental Services
  - e. City of Shorewood
3. Geotechnical investigations and reporting need to be performed for the retaining wall design and to evaluate the potential for stormwater infiltration. This geotechnical analysis needs to be submitted for review.
4. Retaining wall heights range from 0-16 ft, are within 5 feet of the property line, and a note on the plans indicates that the retaining wall will be constructed "by others". Any walls greater than 30 inches will require a guard rail fence or other safety barrier and walls greater than four feet will require design by a professional engineer. Details of the retaining wall design and fencing need to be submitted for review. No work is allowed on adjacent properties without prior written authorization from the adjacent property owner.
5. Additional general comments may be forthcoming in future plan submittals.

### Streets, Parking, and Pedestrian Access

1. Vehicle access for the site is from Smithtown Road. Smithtown Road is a two lane road at this location with no turn lanes or shoulders. This parcel was historically used as overflow parking for the American Legion. The anticipated traffic and daily use for this facility is unclear and difficult to predict, please submit a summary of anticipated daily use and/or estimated traffic/turns per day to the site.
2. A existing sidewalk is located on the south side of Smithtown Road at this location. No sidewalk exists on the north side of Smithtown Road at this location and no sidewalk is proposed in the north right of way as part of this development.
3. No sidewalks are proposed on the development site. Pedestrian access to doors and vehicles will be through the driveway and drive lanes of the site.
4. The project narrative indicates that the proposed development provides 6 exterior parking stalls plus up to 15 private spaces inside the club units. A minimum of one van accessible parking space with aisle needs to be provided for the exterior parking stalls. The anticipated daily use for this facility is unclear and depending on use, additional parking spaces may be needed.
5. The parking layout with parking immediately adjacent to the retaining wall (and required fencing) does not currently appear to allow for vehicles in the furthest east parking spaces to be able to back out and leave the parking spots. A space to back into for exiting these parking spaces needs to be provided. Additionally, applicant shall confirm whether drivers could reasonably open doors to access vehicles in the furthest east parking spaces due to the retaining wall (and required fencing) in this location.
6. Truck loading/unloading areas need to be noted on the plans.
7. The transition from full height curb and gutter at the proposed development driveway access to the rural street section at Smithtown Road needs to be clarified.
8. Traffic control plans, including any detours, will need to be submitted for the closure of Smithtown Road to perform utility connections in the street.
9. Additional comments on streets, parking, and pedestrian access may be forthcoming in future plan submittals.

### Sanitary Sewer and Watermain

1. A minimum of ten feet (10') of horizontal separation is required between water mains and sanitary sewer lines. 12 feet of separation is provided, which meets this requirement.
2. A minimum of 18 inches of vertical separation is required at all utility crossings. Profile views of the proposed utilities need to be submitted to verify this vertical separation is provided.
3. Water main needs to be ductile iron pipe, Class 52 and fully encased in polyethylene film of 8 mil minimum nominal thickness or 4 mil high-density cross-laminated per AWWA C105.
4. The utility plan needs to be updated to show the locations of all fire lanes and fire lane signage, in addition to the already shown: turn arounds and dead ends (with turning radius calculations), the hydrant, and any above or below ground storage tanks already shown, post indicator valves, and below ground storage tanks. The plan also needs to be modified to be in compliance with fire lane requirements as provided by the Fire Marshal. Documentation that the below ground storage tanks provide sufficient structural support for fire truck loading need to be submitted for review.
5. Water and sewer connection fees will be required in accordance with the latest version of the City of Shorewood's Master Fee schedule.

6. Additional comments on sanitary and watermain may be forthcoming in future plan submittals.

#### Stormwater Management and Grading

1. The property must meet the City of Shorewood Surface Water Management Plan Regulations (Section 5.3) and should be summarized in a report in future submittals. The stormwater models reflecting the current design need to be submitted for review as part of the submittal.
2. Work in the Smithtown Road right of way needs to be included in the drainage areas, stormwater modeling, and calculations.
3. Peak discharge rates for a 1-year, 10-year, and 100-year storm events need to be summarized separately for each location where runoff leaves the site in existing and proposed conditions. Proposed peak discharge rates shall not exceed existing peak discharge rates at all points where runoff leaves the site.
4. The proposed surface filtration basin and underground sand filtration shall be sized to accommodate a 100-year storm event.
5. New storm sewer systems shall be sized to convey flows from a 10-year storm event. Calculations for storm sewer sizing need to be submitted for review and approval.
6. List the 100-year high water level (HWL) of all stormwater management features on the plans or a drainage exhibit. The minimum building opening elevation shall be three feet (3') above the projected 100-year high water elevation for the area. If this three-foot building opening freeboard requirement is considered a hardship, the standard could be lowered, in accordance with Section 5.3 of the City of Shorewood Surface Water Management Plan Regulations, if certain conditions are met.
7. An emergency spillway (emergency outlet) from ponding areas and low points shall be installed a minimum of one foot (1') below the lowest building opening and shall be designed to have a capacity to overflow water at an elevation below the lowest building opening at a rate not less than three times the 100-year peak discharge rate from the basin or the anticipated 100-year peak inflow rate to the basin, whichever is higher. This emergency spillway or outlet needs to be shown on the plans.
8. Abstraction of one inch of rainfall times the net new impervious of the site is required, where feasible. If the soil characteristics are not suitable for infiltration and other abstraction methods are not feasible, the same volume will be required to be treated through filtration practices. Soil borings need to be provided to demonstrate why filtration is proposed with a liner for the surface filtration basin and underground sand filtration system rather than providing abstraction through infiltration.
9. If abstraction is not feasible, consider implementing iron-enhanced sand or other enhanced filtration methods to increase water quality treatment.
10. For the proposed surface filtration basin, the drain tile should extend through the basin rather than ending in the side slope of the grading on the east side of Building 1.
11. The implementation of low impact development (LID) techniques shall be considered for the proposed project to the extent practical and feasible.
12. An operations and maintenance plan for the proposed stormwater management system needs to be included with future submittals. Owners of private stormwater facilities will need to enter into an agreement with the City describing responsibility for the long-term operation and maintenance of the stormwater facilities and shall be executed and recorded with the final plat.

To: Marie Darling, Planning Director, City of Shorewood  
From: Josh Phillips and Jen Koehler, Barr Engineering Co.  
Subject: Shorewood Paddle Club – Preliminary Plat Review  
Date: August 3, 2023  
Page: 4

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13. As-builts of all ponding areas and designated emergency overflows will be required as part of project closeout.
14. Additional comments on stormwater management and grading may be forthcoming in future plan and stormwater management plan submittals.



SHOREWOOD PADDLE CLUB

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24560 SMITHTOWN ROAD

SEPTEMBER 2023

# Shorewood Paddle Club

## BACKGROUND

Admark, LLC acquired the subject property located at 24560 Smithtown Road from the American Legion Post #259 several years ago. Admark previously presented several concept plans to the City for the development of this property as multi-family residential, consistent with the City's Comprehensive Plan. The City Council discussed the concept plans and noted that multi-family residential may not be the best use for this property. There were also several community members that spoke against multi-family development in this area. Admark met with several key stakeholders in the community relating to this parcel and identified a commercial use of the property that is consistent with the existing C-1 zoning. Admark is interested in developing the property in a manner consistent with the City of Shorewood's current zoning designation by utilizing a planned unit development. This property is currently zoned C-1 General Commercial. Within the C-1 General Commercial zoning district "Private clubs or lodges serving food and beverages" are a permitted use.

## PROPOSAL

Admark is proposing to develop the property as the Shorewood Paddle Club. The Shorewood Paddle Club is a private club developed by and specifically for enthusiasts of both paddle sports (pickleball, tennis) and marine recreation (boating and water-oriented sports). Club members will purchase one of the 12-15 individual member spaces and pay annual dues for use of the common clubhouse facilities. The clubhouse will include a singular paddle sport court (pickle ball), bathrooms and a small gathering lounge and patio area.

This property presents several development challenges as a result of its proximity to single-family residential properties on the south and west, multi-family property to the east and a commercial auto repair facility to the east. Admark identified an underserved market for a local, private, paddle sports club within proximity to most Shorewood residents. This interest is both personal and to accommodate similar local residents is offering an indoor paddle sports facility. Due to the limited number of members, this club would generate minimal traffic (lower than similar and permitted commercial uses as well as any multi-family residential uses), establish an elegant ornamental metal entrance gate



and stone wall and high-quality building architecture and landscaping. We are looking to develop our property in a manner that complements the surrounding properties, provides a reasonable transition between the heavy commercial and high density residential (to the east) and lower density residential properties (to the west and south) and captures the geographic advantage of this property which is centrally located and within close proximity to many Shorewood residents. The facility would be professionally managed and maintained.

### DEVELOPMENT DATA

*Clubhouse:* The proposed clubhouse would accommodate a tournament level paddle sports court. This space would accommodate one (1) full size pickleball court. The clubhouse would also include a club member lounge/kitchen and bathrooms. In order to accommodate a full-size court, the building is proposed to be 55' wide by 120' long or 6,600 SF.



*Private Member Units:* Twelve to fifteen individual member units would be provided for members. Individual member units would allow private, individual storage, practice areas (i.e., golf simulator) and a potential lounge/recreation area.



*Building Architecture:* The buildings will be constructed using a combination of Stone, LP SmartSide (or similar) board and batten, wooden accents and standing seam metal roofs. The clubhouse will have a plethora of windows on the west, east and north sides. The individual member units will allow for an internal loft/lounge area.

*Lot Data:*

Zoning:	C-1, General Commercial
Lot Size:	41,548 SFF (.95 AC)
Building Area:	12,832 SF
Setbacks:	

<u>Required</u>	<u>Proposed</u>
Front Yard: 30'	30'
Rear Yard 30'	30'
Side Yard: 15'/50' (from res.)	15' (S. Bldg./10' N. Bldg.)

*Parking:*

Requirement:	6 spaces per court (1 court)
Proposed:	13 public spaces (1 ADA), plus 15 private spaces (2 indoor spaces per unit)

*Landscaping/  
Tree  
Preservation:*

Based on a review of aerial photographs and an on-site tree survey of the 24560 Smithtown property, there are only a few significant trees that occupy the property. This property was mostly cleared (used as an overflow parking lot for the Legion) as late as the early 2000's (see attached historic aerial imagery). The neighboring properties located to the east and west, cleared (within the last 30-50 years) a similar portion of their lots to accommodate development and or use of the property. Many of the existing trees on the property are leaning, dying or damaged or an inferior tree species and would not warrant saving and are at risk of causing potential damage to adjacent structures. It is proposed that the development would meaningfully supplement this property with new, high quality and healthy landscaping and buffering. Landscaping would include an opaque evergreen planting that would buffer neighboring residential properties to the west and an earthen berm, decorative and ornamental planting and stone wall and ornamental metal fence along Smithtown Road. The proposed development would comply with all tree removal and planting requirements.



*Other Key Points:*

Admark is interested in connecting this development to surrounding amenities and would work with the City to extend sidewalk/trail connections where feasible.

*PUD Requested:*

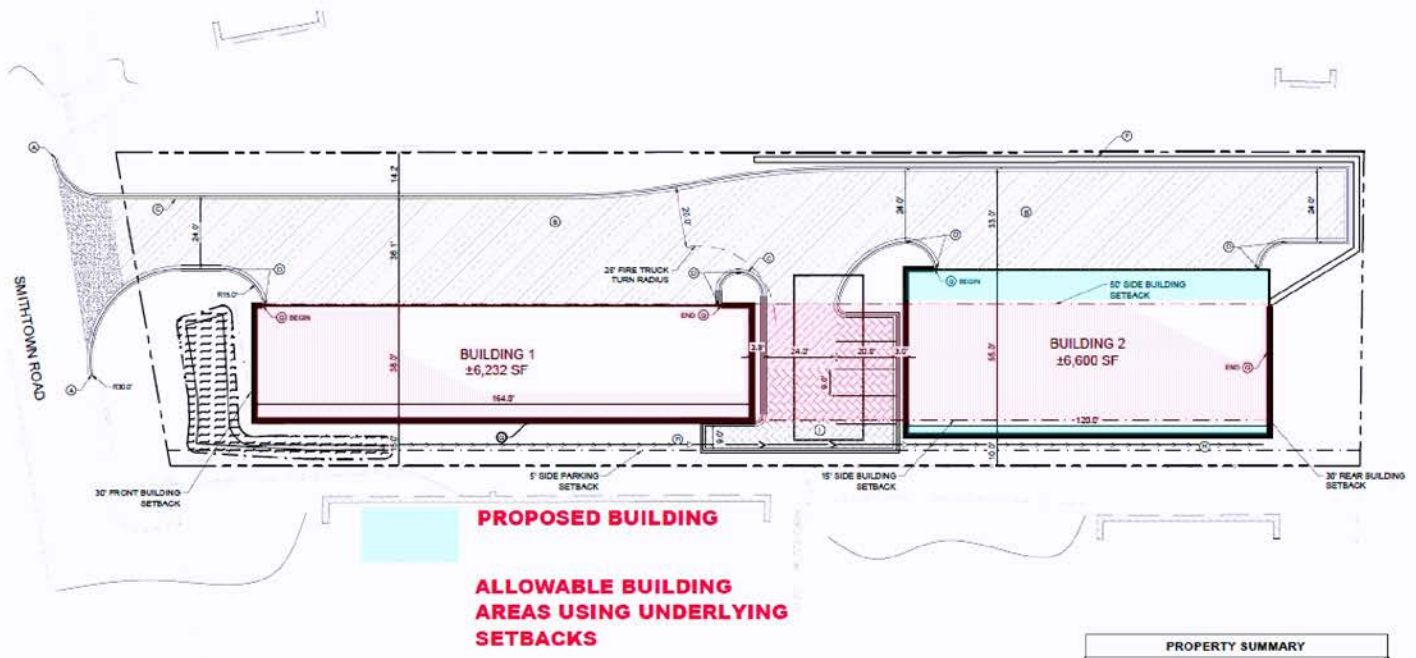
Admark is interested in developing this property in a reasonable manner and as a transition between existing residential land uses to the west and south and heavy commercial and high density uses to the east. The City's current zoning ordinance contemplates that a transition and buffer between residential uses and commercial uses is necessary. In order to accommodate a reasonable and permitted use on the subject property, we are proposing to utilize a planned unit development (PUD). The City of Shorewood Zoning Ordinance notes the following:

Specifically, P.U.D. is intended to encourage:

- a. Innovations in residential development to the end that the growing demands for housing at all economic levels may be met by greater variety in tenure, type, design and siting of dwellings and by the conservation and more efficient use of land in the developments;
- b. Higher standards of site and building design through the use of trained and experienced land planners, architects and landscape architects;
- c. More convenience in location of commercial and service areas within a given project or area, allowing more efficient and desirable transitions between residential and nonresidential land uses;
- d. The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion;
- e. A creative use of land and related physical development which allows a phased and orderly transition of land from rural to urban uses;
- f. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering housing costs and public investments;
- g. A development pattern in harmony with the objectives of the City Comprehensive Plan;
- h. A more desirable environment than would be possible through the strict application of zoning and subdivision regulations of the city;

- i. To give the landowner and developer reasonable assurance of ultimate approval before expending complete design monies while providing city officials with assurances that the project will retain the character envisioned at the time of concurrence;
- j. To allow variation from the provisions of this chapter, including setbacks, height, lot area, width and depth, yards and the like internally within the project. Provisions of this chapter shall generally be maintained at the periphery of the project area.

Admark is proposing to develop this site in a manner that incorporates higher design standards, architecture, landscape, gates, lighting and aesthetics than existing and or regulated ordinances (b), a more efficient and desirable transition between the existing residential and commercial uses adjacent to the subject property (c), an efficient use of private infrastructure rather than the extension of public infrastructure therefore lowering the costs of public investment (f), and to allow variation from the provisions of the City's zoning ordinance which unreasonable restrict the buildable area of the subject property to less than 50% of the total lot width.



The proposed PUD would allow the use of the property in a reasonable manner that is permitted by the current zoning ordinance for C-1 properties. The PUD would allow enhancement and preservation of the essential character of

the of the locality. It should be noted that the adjacent property is guided for medium density residential. In order to buffer and or mitigate the proposed buildings from adjacent visibility, we are proposing to fully buffer and screen the use from the adjacent residential property. It is anticipated that the proposed paddle club would establish a high quality and desirable transition between the heavy commercial C-1 uses to the east and residential use to the west and south. The use of high-quality materials, landscaping and architectural design would elevate the quality and aesthetic of the existing buildings, streetscape and uses to the west. The proposed use would generate less traffic than the surrounding commercial and residential properties due to the limited membership and non-permanent or regular use/hours of operation. It is anticipated that the proposed use will generate significantly less traffic than a similar scaled multi-family development. Please note that the development of high-quality multi-family development directly adjacent to the existing high intensity commercial development would be difficult due to the type of use, condition of the property and general proximity of the existing buildings to the property line.

*Comprehensive Plan Amendment:* The property has been guided for multi-family development since adoption of the 2030 Comprehensive Plan in the early 2000's. The property is still zoned C-1 Commercial and the City has not rezoned the property to align with the Comprehensive Plan. Admark does not believe that the Comprehensive Plan needs to be amended to accommodate the proposed PUD but is making application to move the project forward. The subject property and two properties to the west feel a little bit like they are "spot" guided by the Comprehensive Plan. It appears that they were guided multi-family residential to provide a transition between the commercial properties to the east and large lot (low density) residential property to the west and north. The issue that we have noted is the proposed guidance of 6-8 units per acre is likely in conflict with the adjacent residential properties that are

closer to .75-1.0 units per acre. In addition, the proximity of the existing commercial buildings to this property, lack of buffering or transition, condition and the use of the commercial property would make the development of the subject property into high quality multi-family difficult.



#### Future Land Use

	Minimum Density Residential		High Density Residential
	Low Density Residential		Commercial
	Low to Medium Residential		Commercial-Mixed Use
	Medium Density		Public/ Semi- Public; Public/Semi-Public

### Trip Generation Report

Land Use	ITE Code	AM Peak Hour		PM Peak Hour		Daily Trips
		Enter	Exit	Enter	Exit	
Mini Warehouse (12,000 SF)	151	1 Trip	0 Trips	1 Trip`	2 Trips	30
Residential	220/210	2-3 Trips	2-3 Trips	3-5 Trips	3-5 Trips	53-77



# SITE DEVELOPMENT PLANS FOR SHOREWOOD PADDLE CLUB

SECTION 33, TOWNSHIP 117, RANGE 23  
SHOREWOOD, COUNTY, MN

**PROJECT TEAM:**

ENGINEER  
KIMLEY-HORN AND ASSOCIATES, INC.

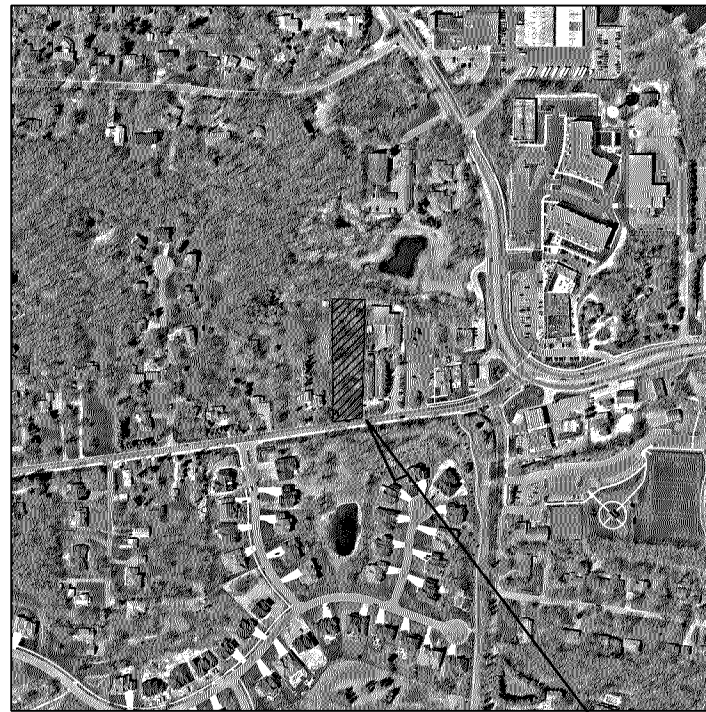


PREPARED BY: MATTHEW J. SORENSON  
767 EUSTIS STREET, SUITE 100  
ST. PAUL, MN 55114  
TELEPHONE (651) 645-4197

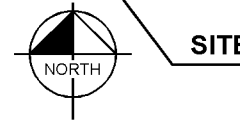
LANDSCAPE ARCHITECT  
TERRAMARK  
PO BOX 193  
EXCELSIOR, MN 55331  
TELEPHONE: (612) 567-8786  
CONTACT: MARK KALTSAS, PLA

OWNER / DEVELOPER  
ADMARK, LLC  
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EXCELSIOR, MN 55331  
TELEPHONE: (612) 567-8786  
CONTACT: MARK KALTSAS

SURVEYOR  
EGAN, FIELD & NOWAK, INC  
475 OLD HIGHWAY 8 NW, SUITE 200  
NEW BRIGHTON, MN 55112  
TELEPHONE: (612) 466-3300  
CONTACT: ERIC ROESER, PLS



**VICINITY**  
N.T.S.



**SITE**

DRAWING INDEX	
SHEET NO.	SHEET TITLE
C000	COVER SHEET
V100	ALTA SURVEY
C100	GENERAL NOTES
C400	SITE PLAN
C500	GRADING PLAN
C600	UTILITY PLAN

**NOTES:**

1. CONTRACTOR SHALL CONFIRM THAT THE EXISTING CONDITIONS FOR THE SITE MATCH WHAT IS SHOWN ON THE DRAWINGS INCLUDED PRIOR TO CONSTRUCTION.
2. IF REPRODUCED, THE SCALES SHOWN ON THESE PLANS ARE BASED ON A ANSI full bleed D (34.00 x 22.00 Inches) SHEET.
3. ALL NECESSARY INSPECTIONS AND/OR CERTIFICATIONS REQUIRED BY CODES AND/OR UTILITY SERVICES COMPANIES SHALL BE PERFORMED PRIOR TO ANNOUNCED BUILDING POSSESSION AND THE FINAL CONNECTION OF SERVICES.
4. ALL GENERAL CONTRACTOR WORK TO BE COMPLETED (EARTHWORK, FINAL UTILITIES, AND FINAL GRADING) BY THE MILESTONE DATE IN PROJECT DOCUMENTS.

**BENCHMARKS**

SITE BENCHMARKS:  
(LOCATIONS SHOWN ON SURVEY)

SBM #1 TOP NUT OF HYDRANT LOCATED NEAR THE SOUTHERLY SIDE OF SMITHTOWN ROAD ELEVATION=988.14 (NAVD 88)



Know what's below.  
Call before you dig.

PRELIMINARY - NOT FOR CONSTRUCTION

SHOREWOOD  
PADDLE CLUB  
PREPARED FOR  
ADMARK, LLC

COVER SHEET

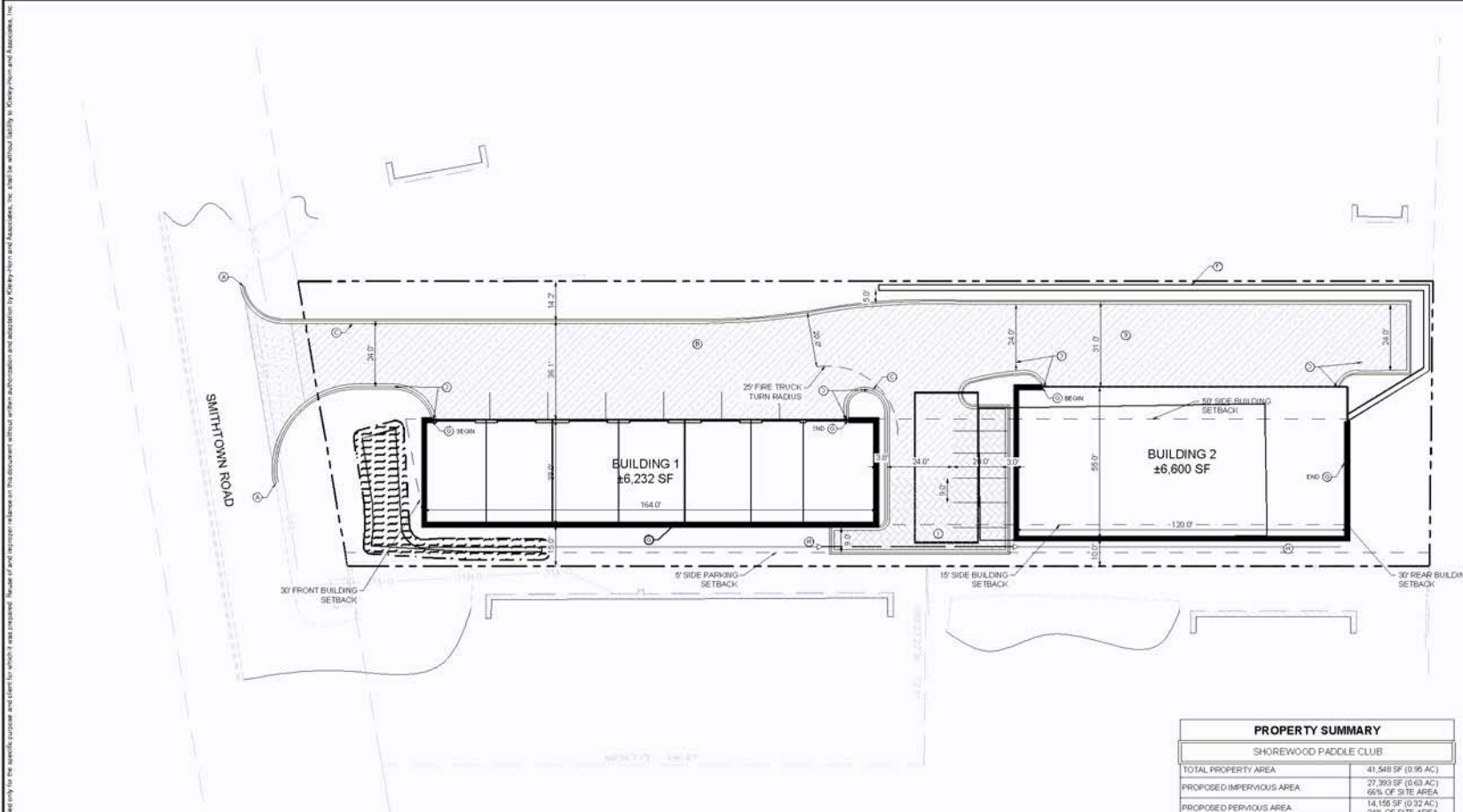
KHA PROJECT  
160437000  
DATE  
05/16/2023  
SCALE AS SHOWN  
DESIGNED BY MJS  
DRAWN BY JTL  
CHECKED BY WDM

Kimley-Horn  
2018 KIMLEY-HORN AND ASSOCIATES, INC.  
767 EUSTIS STREET, SUITE 100, ST. PAUL, MN 55114  
PHONE 651-645-4197  
WWW.KIMLEY-HORN.COM

No.	REVISIONS	DATE	BY

SHEET NUMBER  
C000





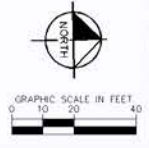
**LEGEND**

[Symbol]	PROPERTY LINE
[Symbol]	PROPOSED FENCE
[Symbol]	SETBACK LINE
[Symbol]	RETAINING WALL
[Symbol]	EXPOSED FOUNDATION
[Symbol]	PROPOSED CURB AND GUTTER
[Symbol]	PROPOSED HEAVY DUTY ASPHALT
[Symbol]	PROPOSED CONCRETE PAVEMENT
[Symbol]	GEORUNNER SCOUR MAT
[Symbol]	PERMEABLE PAVERS

- SITE PLAN NOTES**
- ALL WORK AND MATERIALS SHALL COMPLY WITH ALL CITY/COUNTY REGULATIONS AND CODES AND O.S.H.A. STANDARDS.
  - CONTRACTOR SHALL REFER TO THE ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF VESTIBULES, SLOPE PAVING, SIDEWALKS, 14" FT. BENCHES, PROX. DOCKS, PROPOSED BUILDING DIMENSIONS AND 5' XACT BUILDING UTILITY ENTRANCE LOCATIONS.
  - ALL INNER-CURVED RADII ARE TO BE 10' AND OUTER CURBED RADII ARE TO BE 10' UNLESS OTHERWISE NOTED. STREPPED RADII ARE TO BE 5'.
  - ALL DIMENSIONS AND PAVES ARE TO THE FACE OF CURB UNLESS OTHERWISE NOTED.
  - EXISTING STRUCTURES WITHIN CONSTRUCTION LIMITS ARE TO BE ABANDONED, REMOVED, OR RELOCATED AS NECESSARY. ALL COST SHALL BE INCLUDED IN BASE BID.
  - CONTRACTOR SHALL BE RESPONSIBLE FOR ALL RELOCATIONS, UNLESS OTHERWISE NOTED IN PLANS INCLUDING BUT NOT LIMITED TO: ALL UTILITIES, STORM DRAINAGE, SIGNS, TRAFFIC SIGNALS & POLES, ETC. AS REQUIRED. ALL WORK SHALL BE IN ACCORDANCE WITH GOVERNING AUTHORITY'S REQUIREMENTS AND PROJECT SITE WORK SPECIFICATIONS AND SHALL BE APPROVED BY SUCH. ALL COST SHALL BE INCLUDED IN BASE BID.
  - SITE BOUNDARY, TOPOGRAPHY, UTILITY AND ROAD INFORMATION TAKEN FROM A SURVEY BY EGAN, FIELD & HOWE, DATED 03/19/2022. KIMLEY-HORN ASSUMES NO LIABILITY FOR ANY ERRORS, INACCURACIES, OR OMISSIONS CONTAINED THEREIN.
  - TOTAL LAND AREA IS 50.36 ACRES.
  - PYLON/MONUMENT SIGNS SHALL BE CONSTRUCTED BY OTHERS. SIGNS ARE SHOWN FOR GRAPHICAL & INFORMATIONAL PURPOSES ONLY. CONTRACTOR TO VERIFY SIGN LOCATION AND ANY REQUIRED PERMITS NECESSARY FOR THE CONSTRUCTION OF THE PYLON/MONUMENT SIGN.
  - CONTRACTOR SHALL REFERENCE ARCH. AMP PLANS FOR SITE LIGHTING AND ELECTRICAL PLAN.
  - NO PROPOSED LANDSCAPING SUCH AS TREES OR SHRUBS, ABOVE AND BELOWGROUND STRUCTURES OR OTHER OBSTRUCTIONS SHALL BE LOCATED WITHIN EXISTING OR PROPOSED UTILITY EASEMENTS AND RIGHTS OF WAY UNLESS SPECIFICALLY NOTED ON PLANS OTHERWISE.
  - REFER TO FINAL PLAT OR ATLAS SURVEY FOR EXACT LOT AND PROPERTY BOUNDARY DIMENSIONS.
  - ALL AREAS ARE ROUNDED TO THE NEAREST SQUARE FOOT.
  - ALL DIMENSIONS ARE ROUNDED TO THE NEAREST TENTH FOOT.

- KEYNOTE LEGEND**
- (A) MATCH EXISTING EDGE OF PAVEMENT/CURB & GUTTER
  - (B) HEAVY DUTY ASPHALT PAVEMENT
  - (C) 36" CURB & GUTTER (1" W.)
  - (D) TRANSITION CURB
  - (E) 3" ANGLE SHALE, REFERENCE SHEET C500
  - (F) RETAINING WALL (BY OTHERS)
  - (G) EXPOSED BUILDING FOUNDATION
  - (H) LANDSCAPE AREA, REFERENCE LANDSCAPE PLANS
  - (I) PERMEABLE PAVERS

PROPERTY SUMMARY	
SHOREWOOD PADDLE CLUB	
TOTAL PROPERTY AREA	41,548 SF (0.95 AC)
PROPOSED IMPERVIOUS AREA	27,393 SF (0.63 AC) 66% OF SITE AREA
PROPOSED PERVIOUS AREA	14,155 SF (0.32 AC) 34% OF SITE AREA
TOTAL DISTURBED AREA	41,528 SF (0.95 AC)
ZONING SUMMARY	
EXISTING ZONING	C-1, GENERAL COMMERCIAL
PROPOSED ZONING	C-1, GENERAL COMMERCIAL
BUILDING SETBACKS	FRONT = 30' REAR = 30' ADU SIDE = 15' TO RESIDENTIAL = 50'
BUILDING DATA SUMMARY	
AREAS	
PROPOSED PROPERTY	41,548 SF (0.95 AC)
BUILDING AREA	12,680 SF (31% OF TOTAL PROPERTY AREA)
PARKING	
REQUIRED PARKING	6 SPACES
PROPOSED PARKING	6 SPACES



**PRELIMINARY - NOT FOR CONSTRUCTION**  
**SHOREWOOD PADDLE CLUB**  
 PREPARED FOR  
**ADMARK, LLC**  
 SHOREWOOD, MN

PROJECT NUMBER	220200203
DATE	02/02/2023
SCALE	AS SHOWN
DESIGNED BY	M.J.D.
DRAWN BY	J.T.L.
CHECKED BY	W.D.M.

**Kimley-Horn**  
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NO.	REVISIONS	DATE	BY
1	ISSUED FOR C&A COMMENTS	9/13/2023	ME

SHEET NUMBER  
**C400**

GENERAL CONSTRUCTION NOTES

- 1. THE CONTRACTOR AND SUBCONTRACTORS SHALL OBTAIN A COPY OF THE MN DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION" (LATEST EDITION) AND BECOME FAMILIAR WITH THE CONTENTS PRIOR TO COMMENCING WORK, AND, UNLESS OTHERWISE NOTED, ALL WORK SHALL CONFORM AS APPLICABLE TO THESE STANDARDS AND SPECIFICATIONS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR FURNISHING ALL MATERIAL AND LABOR TO CONSTRUCT THE FACILITY AS SHOWN AND DESCRIBED IN THE CONSTRUCTION DOCUMENTS IN ACCORDANCE WITH THE APPROPRIATE APPROVING AUTHORITIES' SPECIFICATIONS AND REQUIREMENTS.
3. THE EXISTING SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS QUALITY LEVEL "D" UNLESS OTHERWISE NOTED. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF C/ACSE 38/02, ENTITLED STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF SUBSURFACE QUALITY DATA BY THE F.H.A. EXISTING UTILITIES SHOWN ARE LOCATED ACCORDING TO THE INFORMATION AVAILABLE TO THE ENGINEER AT THE TIME OF THE TOPOGRAPHIC SURVEY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR THE ENGINEER. GUARANTEE IS NOT MADE THAT ALL EXISTING UNDERGROUND UTILITIES ARE SHOWN OR THAT THE LOCATION OF THOSE SHOWN ARE ENTIRELY ACCURATE. FINDING THE ACTUAL LOCATION OF ANY EXISTING UTILITIES IS THE CONTRACTOR'S RESPONSIBILITY AND SHALL BE DONE BEFORE COMMENCING ANY WORK IN THE VICINITY. FURTHERMORE, THE CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES DUE TO THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES. THE OWNER OR ENGINEER WILL ASSUME NO LIABILITY FOR ANY DAMAGES SUSTAINED OR COST INCURRED BECAUSE OF THE OPERATIONS IN THE VICINITY OF EXISTING UTILITIES OR STRUCTURES, NOR FOR TEMPORARY BRACING AND SHORING OF SAME. IF IT IS NECESSARY TO SHORE, BRACE, SWING OR RELOCATE A UTILITY, THE UTILITY COMPANY OR DEPARTMENT AFFECTED SHALL BE CONTACTED AND THEIR PERMISSION OBTAINED REGARDING THE METHOD TO USE FOR SUCH WORK.
4. IT IS THE CONTRACTOR'S RESPONSIBILITY TO CONTACT THE VARIOUS UTILITY COMPANIES WHICH MAY HAVE BURIED OR AERIAL UTILITIES WITHIN OR NEAR THE CONSTRUCTION AREA BEFORE COMMENCING WORK. THE CONTRACTOR SHALL PROVIDE 48 HOURS MINIMUM NOTICE TO ALL UTILITY COMPANIES PRIOR TO BEGINNING CONSTRUCTION.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL REQUIRED CONSTRUCTION PERMITS AND BONDS IF REQUIRED PRIOR TO CONSTRUCTION.
6. THE CONTRACTOR SHALL HAVE AVAILABLE AT THE JOB SITE AT ALL TIMES ONE COPY OF THE CONSTRUCTION DOCUMENTS INCLUDING PLANS, SPECIFICATIONS, GEOTECHNICAL REPORT AND SPECIAL CONDITIONS AND COPIES OF ANY REQUIRED CONSTRUCTION PERMITS.
7. ANY DISCREPANCIES ON THE DRAWINGS SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE OWNER AND ENGINEER BEFORE COMMENCING WORK. NO FIELD CHANGES OR DEVIATIONS FROM DESIGN ARE TO BE MADE WITHOUT PRIOR APPROVAL OF THE OWNER AND NOTIFICATION TO THE ENGINEER.
8. ALL COPIES OF COMPACTION, CONCRETE AND OTHER REQUIRED TEST RESULTS ARE TO BE SENT TO THE OWNER DIRECTLY FROM THE TESTING AGENCY.
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DOCUMENTING AND MAINTAINING AS-BUILT INFORMATION WHICH SHALL BE RECORDED AS CONSTRUCTION PROGRESSES OR AT THE COMPLETION OF APPROPRIATE CONSTRUCTION INTERVALS AND SHALL BE RESPONSIBLE FOR PROVIDING AS-BUILT DRAWINGS TO THE OWNER FOR THE PURPOSE OF CERTIFICATION TO JURISDICTIONAL AGENCIES AS REQUIRED. ALL AS-BUILT DATA SHALL BE COLLECTED BY A STATE OF MN PROFESSIONAL LAND SURVEYOR WHOSE SERVICES ARE ENGAGED BY THE CONTRACTOR.
10. ANY WELLS DISCOVERED ON SITE THAT WILL HAVE NO USE MUST BE PLUGGED BY A LICENSED WELL DRILLING CONTRACTOR IN A MANNER APPROVED BY ALL JURISDICTIONAL AGENCIES. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ANY WELL ABANDONMENT PERMITS REQUIRED.
11. ANY WELL DISCOVERED DURING EARTH MOVING OR EXCAVATION SHALL BE REPORTED TO THE APPROPRIATE JURISDICTIONAL AGENCIES WITHIN 24 HOURS AFTER DISCOVERY IS MADE.
12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THAT THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS DO NOT CONFLICT WITH ANY KNOWN EXISTING OR OTHER PROPOSED IMPROVEMENTS. IF ANY CONFLICTS ARE DISCOVERED, THE CONTRACTOR SHALL NOTIFY THE OWNER PRIOR TO INSTALLATION OF ANY PORTION OF THE SITE WORK THAT WOULD BE AFFECTED. FAILURE TO NOTIFY OWNER OF AN IDENTIFIABLE CONFLICT PRIOR TO PROCEEDING WITH INSTALLATION RELIEVES OWNER OF ANY OBLIGATION TO PAY FOR A RELATED CHANGE ORDER.
13. SHOULD CONTRACTOR ENCOUNTER ANY DEBRIS LADEN SOIL, STRUCTURES NOT IDENTIFIED IN THE DOCUMENTS, OR OTHER SOURCE OF POTENTIAL CONTAMINATION, THEY SHALL IMMEDIATELY CONTACT THE ENGINEER AND OWNER.

EROSION CONTROL MAINTENANCE

ALL MEASURES STATED ON THE EROSION AND SEDIMENT CONTROL PLAN, AND IN THE STORM WATER POLLUTION PREVENTION PLAN, SHALL BE MAINTAINED IN FULLY FUNCTIONAL CONDITION AS REQUIRED BY ALL JURISDICTIONS UNTIL NO LONGER REQUIRED FOR A COMPLETED PHASE OF WORK OR FINAL STABILIZATION OF THE SITE. ALL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE CHECKED BY A CERTIFIED PERSON AT LEAST ONCE EVERY 7 CALENDAR DAYS AND WITHIN 24 HOURS OF THE END OF A 0.5" RAINFALL EVENT, AND CLEANED AND REPAIRED IN ACCORDANCE WITH THE FOLLOWING:

- INLET PROTECTION DEVICES AND BARRIERS SHALL BE REPAIRED OR REPLACED IF THEY SHOW SIGNS OF UNDERMINING, OR DETERIORATION.
1. ALL SEEDED AREAS SHALL BE CHECKED REGULARLY TO SEE THAT A GOOD STAND IS MAINTAINED. AREAS SHOULD BE FERTILIZED, WATERED AND RESEEDED AS NEEDED. FOR MAINTENANCE REQUIREMENTS REFER TO THE STANDARD SPECIFICATIONS.
2. SILT FENCES SHALL BE REPAIRED TO THEIR ORIGINAL CONDITIONS IF DAMAGED. SEDIMENT SHALL BE REMOVED FROM THE SILT FENCES WHEN IT REACHES ONE-THIRD THE HEIGHT OF THE SILT FENCE.
3. THE CONSTRUCTION ENTRANCE(S) SHALL BE MAINTAINED IN A CONDITION WHICH WILL PREVENT TRACKING OR FLOW OF MUD ONTO PUBLIC RIGHTS-OF-WAY. THIS MAY REQUIRE PERIODIC TOP DRESSING OF THE CONSTRUCTION ENTRANCES AS CONDITIONS DEMAND.
4. THE TEMPORARY PARKING AND STORAGE AREA SHALL BE KEPT IN GOOD CONDITION (SUITABLE FOR PARKING AND STORAGE). THIS MAY REQUIRE PERIODIC TOP DRESSING OF THE TEMPORARY PARKING AS CONDITIONS DEMAND.
5. ALL MAINTENANCE OPERATIONS SHALL BE DONE IN A TIMELY MANNER BUT IN NO CASE LATER THAN 2 CALENDAR DAYS FOLLOWING THE INSPECTION.

TYPICAL OWNER/ENGINEER OBSERVATIONS

CONTRACTOR SHALL NOTIFY OWNER AND/OR ENGINEER 48 HOURS IN ADVANCE OF THE FOLLOWING ACTIVITIES:

- PRE-CONSTRUCTION MEETING, SUBGRADE PREPARATION, BASE INSTALLATION ASPHALT INSTALLATION, UNDERGROUND PIPING AND UTILITIES INSTALLATION, INSTALLATION OF STRUCTURES, CHECK VALVES, HYDRANTS, METERS, ETC., SIDEWALK INSTALLATION, CONNECTIONS TO WATER AND SEWER MAINS, TESTS OF UTILITIES

EROSION CONTROL NOTES

- 1. THE STORM WATER POLLUTION PREVENTION PLAN ("SWPPP") IS COMPRISED OF THE EROSION CONTROL PLAN, THE STANDARD DETAILS, THE PLAN NARRATIVE, ATTACHMENTS INCLUDED IN THE SPECIFICATIONS OF THE SWPPP, PLUS THE PERMIT AND ALL SUBSEQUENT REPORTS AND RELATED DOCUMENTS.
2. ALL CONTRACTORS AND SUBCONTRACTORS INVOLVED WITH STORM WATER POLLUTION PREVENTION SHALL OBTAIN A COPY OF THE STORM WATER POLLUTION PREVENTION PLAN AND THE STATE OF MN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT (NPDES PERMIT) AND BECOME FAMILIAR WITH THEIR CONTENTS.
3. BEST MANAGEMENT PRACTICES (BMP'S) AND CONTROLS SHALL CONFORM TO FEDERAL, STATE, OR LOCAL REQUIREMENTS OR MANUAL OF PRACTICE, AS APPLICABLE. THE CONTRACTOR SHALL IMPLEMENT ADDITIONAL CONTROLS AS DIRECTED BY THE PERMITTING AGENCY OR OWNER.
4. SITE ENTRY AND EXIT LOCATIONS SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT THE TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC ROADWAYS. ALL SEDIMENT SPILLED, DROPPED, WASHED, OR TRACKED ON A PUBLIC ROADWAY MUST BE REMOVED IMMEDIATELY. WHEN WASHING IS REQUIRED TO REMOVE SEDIMENT PRIOR TO ENTRANCE ONTO A PUBLIC ROADWAY, IT SHALL BE DONE IN AN AREA STABILIZED WITH CRUSHED STONE WHICH DRAINS INTO AN APPROVED SEDIMENT BASIN. ALL FINES IMPOSED FOR DISCHARGING SEDIMENT ONTO PUBLIC AREAS SHALL BE PAID BY THE CONTRACTOR.
5. TEMPORARY SEEDING OR OTHER APPROVED METHODS OF STABILIZATION SHALL BE INITIATED WITHIN 7 DAYS OF THE LAST DISTURBANCE ON ANY AREA OF THE SITE.
6. THE CONTRACTOR SHALL MINIMIZE CLEARING TO THE MAXIMUM EXTENT PRACTICAL OR AS REQUIRED BY THE GENERAL PERMIT.
7. CONTRACTOR SHALL DENOTE ON PLAN THE TEMPORARY PARKING AND STORAGE AREA WHICH SHALL ALSO BE USED AS THE EQUIPMENT MAINTENANCE AND CLEANING AREA, EMPLOYEE PARKING AREA, AND AREA FOR LOCATING PORTABLE FACILITIES, OFFICE TRAILERS, AND TOILET FACILITIES.
8. ALL WASH WATER (CONCRETE TRUCKS, VEHICLE CLEANING, EQUIPMENT CLEANING, ETC.) SHALL BE DETAINED AND PROPERLY TREATED OR DISPOSED.
9. SUFFICIENT OIL AND GREASE ABSORBING MATERIALS AND FLOTATION BOOMS SHALL BE MAINTAINED ON SITE OR READILY AVAILABLE TO CONTAIN AND CLEAN-UP FUEL OR CHEMICAL SPILLS AND LEAKS.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DUST CONTROL ON SITE. THE USE OF MOTOR OILS AND OTHER PETROLEUM BASED OR TOXIC LIQUIDS FOR DUST SUPPRESSION OPERATIONS IS PROHIBITED.
11. RUBBISH, TRASH, GARBAGE, LITTER, OR OTHER SUCH MATERIALS SHALL BE DEPOSITED INTO SEALED CONTAINERS. MATERIALS SHALL BE PREVENTED FROM LEAVING THE PREMISES THROUGH THE ACTION OF WIND OR STORM WATER DISCHARGE INTO DRAINAGE DITCHES OR WATERS OF THE STATE.
12. ALL STORM WATER POLLUTION PREVENTION MEASURES PRESENTED ON THE PLAN SHALL BE INITIATED AS SOON AS IS PRACTICABLE.
13. ALL STAGING AREAS, STOCKPILES, SPOILS, ETC. SHALL BE LOCATED SUCH THAT THEY WILL NOT ADVERSELY AFFECT STORM WATER QUALITY, OTHERWISE, COVERING OR ENCRICLING THESE AREAS WITH SOME PROTECTIVE MEASURE WILL BE NECESSARY.
14. CONTRACTOR SHALL BE RESPONSIBLE FOR RE-ESTABLISHING ANY EROSION CONTROL DEVICE WHICH THEY DISTURB. EACH CONTRACTOR SHALL NOTIFY THE OWNER'S REPRESENTATIVE OF ANY DEFICIENCIES IN THE ESTABLISHED EROSION CONTROL MEASURES THAT MAY LEAD TO UNAUTHORIZED DISCHARGE OR STORM WATER POLLUTION, SEDIMENTATION, OR OTHER POLLUTANTS. UNAUTHORIZED POLLUTANTS INCLUDE (BUT ARE NOT LIMITED TO) EXCESS CONCRETE DUMPING OR CONCRETE RESIDUE, PAINTS, SOLVENTS, GREASES, FUEL AND LUBRICANT OIL, PESTICIDES, AND ANY SOLID WASTE MATERIALS.
15. EROSION CONTROL DEVICES SHOWN ON THESE PLANS SHALL BE INSTALLED PRIOR TO THE START OF LAND-DISTURBING ACTIVITIES ON THE PROJECT.
16. ALL EROSION CONTROL DEVICES ARE TO BE INSTALLED IN ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS FOR THIS PROJECT. CHANGES ARE TO BE APPROVED BEFORE CONSTRUCTION BY THE DESIGN ENGINEER AND THE CITY OF SHOREWOOD ENGINEERING DIVISION.
17. IF THE EROSION CONTROL PLAN AS APPROVED CANNOT CONTROL EROSION AND OFF-SITE SEDIMENTATION FROM THE PROJECT, THE EROSION CONTROL PLAN WILL HAVE TO BE REVISED AND/OR ADDITIONAL EROSION CONTROL DEVICES WILL BE REQUIRED ON SITE. ANY REVISIONS TO THE EROSION CONTROL PLAN MADE BY THE CONTRACTOR MUST BE APPROVED BY THE ENGINEER.

PAVING AND STRIPING NOTES

- 1. ALL PAVING, CONSTRUCTION, MATERIALS, AND WORKMANSHIP WITHIN JURISDICTION'S RIGHT-OF-WAY SHALL BE IN ACCORDANCE WITH LOCAL OR COUNTY SPECIFICATIONS AND STANDARDS (LATEST EDITION) OR MN/DOT SPECIFICATIONS AND STANDARDS (LATEST EDITION) IF NOT COVERED BY LOCAL OR COUNTY REGULATIONS.
2. ALL SIGNS, PAVEMENT MARKINGS, AND OTHER TRAFFIC CONTROL DEVICES SHALL CONFORM TO MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (M.U.T.C.D) AND CITY STANDARDS.
3. CONTRACTOR SHALL FURNISH ALL PAVEMENT MARKINGS FOR FIRE LANES, ROADWAY LANES, PARKING STALLS, ACCESSIBLE PARKING SYMBOLS, ACCESS AISLES, STOP BARS AND SIGNS, AND MISCELLANEOUS STRIPING WITHIN THE PARKING LOT AS SHOWN ON THE PLANS.
4. ALL EXPANSION JOINTS SHALL EXTEND THROUGH THE CURB.
5. THE MINIMUM LENGTH OF OFFSET JOINTS AT RADIUS POINTS SHALL BE 2 FEET.
6. ALL JOINTS, INCLUDING EXPANSION JOINTS WITH REMOVABLE TACK STRIPS, SHALL BE SEALED WITH JOINT SEALANT.
7. THE MATERIALS AND PROPERTIES OF ALL CONCRETE SHALL MEET THE APPLICABLE REQUIREMENTS IN THE A.C.I. (AMERICAN CONCRETE INSTITUTE) MANUAL OF CONCRETE PRACTICE.
8. CONTRACTOR SHALL APPLY A SECOND COATING OVER ALL PAVEMENT MARKINGS PRIOR TO ACCEPTANCE BY OWNER FOLLOWED BY A COAT OF GLASS BEADS AS APPLICABLE PER THE PROJECT DOCUMENTS.
9. ANY EXISTING PAVEMENT, CURBS AND/OR SIDEWALKS DAMAGED OR REMOVED WILL BE REPAIRED BY THE CONTRACTOR AT HIS EXPENSE TO THE SATISFACTION OF THE ENGINEER AND OWNER.
10. BEFORE PLACING PAVEMENT, CONTRACTOR SHALL VERIFY SUITABLE ACCESSIBLE ROUTES (PER A.D.A). GRADING FOR ALL SIDEWALKS AND ACCESSIBLE ROUTES INCLUDING CROSSING DRIVEWAYS SHALL CONFORM TO CURRENT ADA STATE/NATIONAL STANDARDS. IN NO CASE SHALL ACCESSIBLE RAMP SLOPES EXCEED 1 VERTICAL TO 12 HORIZONTAL. IN NO CASE SHALL SIDEWALK CROSS SLOPES EXCEED 2%. IN NO CASE SHALL LONGITUDINAL SIDEWALK SLOPES EXCEED 5%. IN NO CASE SHALL ACCESSIBLE PARKING STALLS OR AISLES EXCEED 2% (1.5% TARGET) IN ALL DIRECTIONS. SIDEWALK ACCESS TO EXTERNAL BUILDING DOORS AND GATES SHALL BE ADA COMPLIANT. CONTRACTOR SHALL NOTIFY ENGINEER IMMEDIATELY IF ADA CRITERIA CANNOT BE MET IN ANY LOCATION PRIOR TO PAVING. NO CONTRACTOR CHANGE ORDERS WILL BE ACCEPTED FOR A.D.A COMPLIANCE ISSUES.
11. MAXIMUM JOINT SPACING IS TWICE THE DEPTH OF THE CONCRETE PAVEMENT IN FEET.

GRADING AND DRAINAGE NOTES

- 1. GENERAL CONTRACTOR AND ALL SUBCONTRACTORS SHALL VERIFY THE SUITABILITY OF ALL EXISTING AND PROPOSED SITE CONDITIONS INCLUDING GRADES AND DIMENSIONS BEFORE START OF CONSTRUCTION. THE ENGINEER SHALL BE NOTIFIED IMMEDIATELY OF ANY DISCREPANCIES.
2. THE CONTRACTOR SHALL GRADE THE SITE TO THE ELEVATIONS INDICATED AND SHALL ADJUST BMP'S AS NECESSARY AND REGRADE WASHOUTS WHERE THEY OCCUR AFTER EVERY RAINFALL UNTIL A GRASS STAND IS WELL ESTABLISHED OR ADEQUATE STABILIZATION OCCURS.
3. CONTRACTOR SHALL ENSURE THERE IS POSITIVE DRAINAGE FROM THE PROPOSED BUILDINGS SO THAT SURFACE RUNOFF WILL DRAIN BY GRAVITY TO NEW OR EXISTING DRAINAGE OUTLETS. CONTRACTOR SHALL ENSURE NO PONDING OCCURS IN PAVED AREAS AND SHALL NOTIFY ENGINEER IF ANY GRADING DISCREPANCIES ARE FOUND IN THE EXISTING AND PROPOSED GRADES PRIOR TO PLACEMENT OF PAVEMENT OR UTILITIES.
4. CONTRACTOR SHALL PROTECT ALL MANHOLE COVERS, VALVE COVERS, VAULT LIDS, FIRE HYDRANTS, POWER POLES, GUY WIRES, AND TELEPHONE BOXES THAT ARE TO REMAIN IN PLACE AND UNDISTURBED DURING CONSTRUCTION. EXISTING CASTINGS AND STRUCTURES TO REMAIN SHALL BE ADJUSTED TO MATCH THE PROPOSED FINISHED GRADES.
5. BACKFILL FOR UTILITY LINES SHALL BE PLACED PER DETAILS, STANDARDS, AND SPECIFICATIONS SO THAT THE UTILITY WILL BE STABLE. WHERE UTILITY LINES CROSS THE PARKING LOT, THE TOP 6 INCHES SHALL BE COMPACTED SIMILARLY TO THE REMAINDER OF THE LOT. UTILITY DITCHES SHALL BE VISUALLY INSPECTED DURING THE EXCAVATION PROCESS TO ENSURE THAT UNDESIRABLE FILL IS NOT USED.
6. CONTRACTOR IS RESPONSIBLE FOR THE REMOVAL AND REPLACEMENT OF 4" OF TOPSOIL AT COMPLETION OF WORK. ALL UNPAVED AREAS IN EXISTING RIGHTS-OF-WAY DISTURBED BY CONSTRUCTION SHALL BE REGRADED AND SODDED.
7. AFTER PLACEMENT OF SUBGRADE AND PRIOR TO PLACEMENT OF PAVEMENT, CONTRACTOR SHALL TEST AND OBSERVE PAVEMENT AREAS FOR EVIDENCE OF PONDING. ALL AREAS SHALL ADEQUATELY DRAIN TOWARDS THE INTENDED STRUCTURE TO CONVEY STORM RUNOFF. CONTRACTOR SHALL IMMEDIATELY NOTIFY OWNER AND ENGINEER IF ANY DISCREPANCIES ARE DISCOVERED.
8. WHERE EXISTING PAVEMENT IS INDICATED TO BE REMOVED AND REPLACED, THE CONTRACTOR SHALL SAW CUT FULL DEPTH FOR A SMOOTH AND STRAIGHT JOINT AND REPLACE THE PAVEMENT WITH THE SAME TYPE AND DEPTH OF MATERIAL AS EXISTING OR AS INDICATED.
9. THE CONTRACTOR SHALL INSTALL PROTECTION OVER ALL DRAINAGE STRUCTURES FOR THE DURATION OF CONSTRUCTION AND UNTIL ACCEPTANCE OF THE PROJECT BY THE OWNER. ALL DRAINAGE STRUCTURES SHALL BE CLEANED OF DEBRIS AS REQUIRED DURING AND AT THE END OF CONSTRUCTION TO PROVIDE POSITIVE DRAINAGE FLOWS.
10. IF DEWATERING IS REQUIRED, THE CONTRACTOR SHALL OBTAIN ANY APPLICABLE REQUIRED PERMITS. THE CONTRACTOR IS TO COORDINATE WITH THE OWNER AND THE DESIGN ENGINEER PRIOR TO ANY EXCAVATION.
11. FIELD DENSITY TESTS SHALL BE TAKEN AT INTERVALS IN ACCORDANCE WITH THE LOCAL JURISDICTIONAL AGENCY OR TO MN/DOT STANDARDS. IN THE EVENT THAT THE CONTRACT DOCUMENTS AND THE JURISDICTIONAL AGENCY REQUIREMENTS ARE NOT IN AGREEMENT, THE MOST STRINGENT SHALL GOVERN.
12. ALL SLOPES AND AREAS DISTURBED BY CONSTRUCTION SHALL BE GRADED AS PER PLANS. THE AREAS SHALL THEN BE SODDED OR SEEDD AS SPECIFIED IN THE PLANS, FERTILIZED, MULCHED, WATERED AND MAINTAINED UNTIL HARDY GRASS GROWTH IS ESTABLISHED IN ALL AREAS. ANY AREAS DISTURBED FOR ANY REASON PRIOR TO FINAL ACCEPTANCE OF THE JOB SHALL BE CORRECTED BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE OWNER. ALL EARTHEN AREAS WILL BE SODDED OR SEEDD AND MULCHED AS SHOWN ON THE LANDSCAPING PLAN.
13. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CONTROL OF DUST AND DIRT RISING AND SCATTERING IN THE AIR DURING CONSTRUCTION AND SHALL PROVIDE WATER SPRINKLING OR OTHER SUITABLE METHODS OF CONTROL. THE CONTRACTOR SHALL COMPLY WITH ALL GOVERNING REGULATIONS PERTAINING TO ENVIRONMENTAL PROTECTION.
14. SOD, WHERE CALLED FOR, MUST BE INSTALLED AND MAINTAINED ON EXPOSED SLOPES WITHIN 48 HOURS OF COMPLETING FINAL GRADING, AND AT ANY OTHER TIME AS NECESSARY, TO PREVENT EROSION, SEDIMENTATION OR TURBID DISCHARGES.
15. THE CONTRACTOR SHALL ENSURE THAT LANDSCAPE ISLAND PLANTING AREAS AND OTHER PLANTING AREAS ARE NOT COMPACTED AND DO NOT CONTAIN ROAD BASE MATERIALS. THE CONTRACTOR SHALL ALSO EXCAVATE AND REMOVE ALL UNDESIRABLE MATERIAL FROM ALL AREAS ON THE SITE TO BE PLANTED AND PROPERLY DISPOSED OF IN A LEGAL MANNER.
16. THE CONTRACTOR SHALL INSTALL ALL UNDERGROUND STORM WATER PIPING PER MANUFACTURER'S RECOMMENDATIONS AND MN/DOT SPECIFICATION.
17. ALL CONCRETE/ASPHALT SHALL BE INSTALLED PER GEOTECH REPORT, CITY OF SHOREWOOD AND MN/DOT SPECIFICATIONS.
18. SPOT ELEVATIONS ARE TO FLOWLINE OF CURB UNLESS OTHERWISE NOTED.
19. LIMITS OF CONSTRUCTION ARE TO THE PROPERTY LINE UNLESS OTHERWISE SPECIFIED ON THE PLAN.
20. IMMEDIATELY REPORT TO THE OWNER ANY DISCREPANCIES FOUND BETWEEN ACTUAL FIELD CONDITIONS AND CONSTRUCTION DOCUMENTS.
21. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING AND PROTECTING EXISTING UTILITIES, AND SHALL REPAIR ALL DAMAGE TO EXISTING UTILITIES THAT OCCUR DURING CONSTRUCTION WITHOUT COMPENSATION.
22. BLEND NEW EARTHWORK SMOOTHLY TO TRANSITION BACK TO EXISTING GRADE.
23. ALL PROPOSED GRADES ONSITE SHALL BE 3:1 OR FLATTER UNLESS OTHERWISE INDICATED ON THE PLANS. ANY SLOPES STEEPER THAN 4:1 REQUIRE EROSION AND SEDIMENT CONTROL BLANKET.
24. ADHERE TO ALL TERMS AND CONDITIONS AS NECESSARY IN THE GENERAL N.P.D.E.S. PERMIT AND STORMWATER POLLUTION PREVENTION PLAN FOR STORMWATER DISCHARGE ASSOCIATED WITH CONSTRUCTION ACTIVITIES.
25. ADJUST AND/OR CUT EXISTING PAVEMENT AS NECESSARY TO ASSURE A SMOOTH FIT AND CONTINUOUS GRADE.
26. CONTRACTOR SHALL ENSURE MINIMUM GRADES ARE MET WITHIN PAVED AREAS, 1.2% FOR ASPHALT PAVING AND 0.8% FOR CONCRETE PAVING.

3RD PARTY TEST REPORTS REQ'D

TEST REPORTS REQUIRED FOR CLOSE OUT INCLUDE, BUT ARE NOT LIMITED TO:

- DENSITY TEST REPORTS
- BACTERIOLOGICAL TESTS OF WATER SYSTEM
- PRESSURE TEST OF WATER/SEWER
- LEAK TESTS ON SEWER SYSTEM AND GREASE TRAPS
- ANY OTHER TESTING REQUIRED BY THE AGENCY/MUNICIPALITY

WATER STORM SEWER & SANITARY SEWER NOTES

- 1. THE CONTRACTOR SHALL CONSTRUCT GRAVITY SEWER LATERALS, MANHOLES, GRAVITY SEWER LINES, AND DOMESTIC WATER AND FIRE PROTECTION SYSTEM AS SHOWN ON THESE PLANS. THE CONTRACTOR SHALL FURNISH ALL NECESSARY MATERIALS, EQUIPMENT, MACHINERY, TOOLS, MEANS OF TRANSPORTATION AND LABOR NECESSARY TO COMPLETE THE WORK IN FULL AND COMPLETE ACCORDANCE WITH THE SHOWN, DESCRIBED AND REASONABLY INTENDED REQUIREMENTS OF THE CONTRACT DOCUMENTS AND JURISDICTIONAL AGENCY REQUIREMENTS. IN THE EVENT THAT THE CONTRACT DOCUMENTS AND THE JURISDICTIONAL AGENCY REQUIREMENTS ARE NOT IN AGREEMENT, THE MOST STRINGENT SHALL GOVERN.
2. ALL EXISTING UNDERGROUND UTILITY LOCATIONS SHOWN ARE APPROXIMATE. THE CONTRACTOR SHALL COMPLY WITH ALL REQUIREMENTS FOR UTILITY LOCATION AND COORDINATION IN ACCORDANCE WITH THE NOTES CONTAINED IN THE GENERAL CONSTRUCTION SECTION OF THIS SHEET.
3. THE CONTRACTOR SHALL RESTORE ALL DISTURBED VEGETATION IN KIND, UNLESS SHOWN OTHERWISE.
4. DEFLECTION OF PIPE JOINTS AND CURVATURE OF PIPE SHALL NOT EXCEED THE MANUFACTURER'S SPECIFICATIONS. SECURELY CLOSE ALL OPEN ENDS OF PIPE AND FITTINGS WITH A WATERTIGHT PLUG WHEN WORK IS NOT IN PROGRESS. THE INTERIOR OF ALL PIPES SHALL BE CLEAN AND JOINT SURFACES WIPED CLEAN AND DRY AFTER THE PIPE HAS BEEN LOWERED INTO THE TRENCH. VALVES SHALL BE PLUMB AND LOCATED ACCORDING TO THE PLANS.
5. ALL PIPE AND FITTINGS SHALL BE CAREFULLY STORED FOLLOWING MANUFACTURER'S RECOMMENDATIONS. CARE SHALL BE TAKEN TO AVOID DAMAGE TO THE COATING OR LINING IN ANY D.I. PIPE FITTINGS. ANY PIPE OR FITTING WHICH IS DAMAGED OR WHICH HAS FLAWS OR IMPERFECTIONS WHICH, IN THE OPINION OF THE ENGINEER OR OWNER, RENDERS IT UNFIT FOR USE, SHALL NOT BE USED. ANY PIPE NOT SATISFACTORY FOR USE SHALL BE CLEARLY MARKED AND IMMEDIATELY REMOVED FROM THE JOB SITE, AND SHALL BE REPLACED AT THE CONTRACTOR'S EXPENSE.
6. WATER FOR FIRE FIGHTING SHALL BE MADE AVAILABLE FOR USE BY THE CONTRACTOR PRIOR TO COMBUSTIBLES BEING BROUGHT ON SITE.
7. ALL UTILITY AND STORM DRAIN TRENCHES LOCATED UNDER AREAS TO RECEIVE PAVING SHALL BE COMPLETELY BACK FILLED IN ACCORDANCE WITH THE GOVERNING JURISDICTIONAL AGENCY'S SPECIFICATIONS. IN THE EVENT THAT THE CONTRACT DOCUMENTS AND THE JURISDICTIONAL AGENCY REQUIREMENTS ARE NOT IN AGREEMENT, THE MOST STRINGENT SHALL GOVERN.
8. UNDERGROUND LINES SHALL BE SURVEYED BY A STATE OF MN PROFESSIONAL LAND SURVEYOR PRIOR TO BACK FILLING.
9. CONTRACTOR SHALL PERFORM, AT HIS OWN EXPENSE, ANY AND ALL TESTS REQUIRED BY THE SPECIFICATIONS AND/OR ANY AGENCY HAVING JURISDICTION. THESE TESTS MAY INCLUDE, BUT MAY NOT BE LIMITED TO, INFILTRATION AND EXFILTRATION, TELEVISION INSPECTION AND A MANDREL TEST ON GRAVITY SEWER. A COPY OF THE TEST RESULTS SHALL BE PROVIDED TO THE UTILITY PROVIDER, OWNER AND JURISDICTIONAL AGENCY AS REQUIRED.
10. CONTRACTOR SHALL PROVIDE FOR A MINIMUM HORIZONTAL CLEARANCE OF 10' AND A VERTICAL CLEARANCE OF 18" BETWEEN WATER AND SANITARY SEWER MANHOLES AND LINES.
11. IF ANY EXISTING STRUCTURES TO REMAIN ARE DAMAGED DURING CONSTRUCTION IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO REPAIR AND/OR REPLACE THE EXISTING STRUCTURE AS NECESSARY TO RETURN IT TO EXISTING CONDITIONS OR BETTER.
12. ALL STORM PIPE ENTERING STRUCTURES SHALL BE GROUDED TO ASSURE CONNECTION AT STRUCTURE IS WATERTIGHT UNLESS OTHERWISE STATED BY CITY AND STATE DESIGN STANDARDS AND SPECIFICATIONS.
13. UNLESS OTHERWISE STATED IN CITY AND STATE DESIGN STANDARDS AND SPECIFICATIONS, ALL STORM SEWER MANHOLES IN PAVED AREAS SHALL BE FLUSH WITH PAVEMENT, AND SHALL HAVE TRAFFIC BEARING RING & COVERS. MANHOLES IN UNPAVED AREAS SHALL BE 6" ABOVE FINISH GRADE. LIDS SHALL BE LABELED "STORM SEWER". EXISTING CASTINGS AND STRUCTURES WITHIN PROJECT LIMITS SHALL BE ADJUSTED TO MEET THESE CONDITIONS AND THE PROPOSED FINISHED GRADE.
14. TOPOGRAPHIC INFORMATION IS TAKEN FROM A TOPOGRAPHIC SURVEY BY LAND SURVEYORS. IF THE CONTRACTOR DOES NOT ACCEPT EXISTING TOPOGRAPHY AS SHOWN ON THE PLANS, WITHOUT EXCEPTION, THEN THE CONTRACTOR SHALL SUPPLY, AT THEIR EXPENSE, A TOPOGRAPHIC SURVEY BY A REGISTERED LAND SURVEYOR TO THE OWNER FOR REVIEW.
15. CONSTRUCTION SHALL COMPLY WITH ALL APPLICABLE GOVERNING CODES AND BE CONSTRUCTED TO SAME.
16. ALL STORM STRUCTURES SHALL HAVE A SMOOTH UNIFORM POURED MORTAR FROM INVERT IN TO INVERT OUT.
17. ROOF DRAINS SHALL BE CONNECTED TO STORM SEWER BY PREFABRICATED WYES OR AT STORM STRUCTURES. ROOF DRAINS AND TRUCK WELL DRAIN SHALL RUN AT A MINIMUM 1% SLOPE, UNLESS NOTED OTHERWISE, AND TIE IN AT THE CENTERLINE OF THE STORM MAIN.
18. ALL ROOF AND SANITARY SEWER DRAINS SHALL BE INSULATED IF 7" OF COVER CANNOT BE PROVIDED.
19. THE CONTRACTOR SHALL PROTECT EXISTING UNDERGROUND UTILITIES AND APPURTENANCES THAT ARE TO REMAIN FROM DAMAGE DURING CONSTRUCTION OPERATIONS.
20. THE LOCATION OF EXISTING UTILITIES, STORM DRAINAGE STRUCTURES AND OTHER ABOVE AND BELOW-GRADE IMPROVEMENTS ARE APPROXIMATE AS SHOWN. IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE EXACT LOCATION, SIZE AND INVERT ELEVATIONS OF EACH PRIOR TO THE START OF CONSTRUCTION.
21. A MINIMUM OF 5' SEPARATION IS REQUIRED BETWEEN UTILITIES AND TREES UNLESS A ROOT BARRIER IS UTILIZED.
22. GAS, PHONE AND ELECTRIC SERVICES SHOWN FOR INFORMATIONAL PURPOSES ONLY. DRY UTILITY COMPANIES MAY ALTER THE DESIGN LAYOUT DURING THEIR REVIEW. CONTRACTOR TO COORDINATE FINAL DESIGN AND INSTALLATION WITH UTILITY COMPANIES.
23. COORDINATE UTILITY INSTALLATION WITH IRRIGATION DESIGN AND INSTALLATION.
24. ALL DIMENSIONS ARE TO FLOW LINE OF CURB UNLESS OTHERWISE NOTED. PERIMETER WALL DIMENSIONS ARE TO INSIDE WALL FACE. REFERENCE ARCHITECTURAL PLANS FOR EXACT WALL WIDTH AND SPECIFICATIONS.
25. REFERENCE ARCHITECTURAL PLANS (BY OTHERS). FOR EXACT BUILDING DIMENSIONS, AND MATERIALS SPECIFICATIONS.
26. REFERENCE M.E.P. PLANS (BY OTHERS) FOR MECHANICAL EQUIPMENT DIMENSIONS AND SPECIFICATIONS.
27. CONTRACTOR SHALL REFERENCE STRUCTURAL PLANS (BY OTHERS) FOR MECHANICAL EQUIPMENT DIMENSIONS AND PAD PREPARATION SPECIFICATIONS.
28. CONTRACTOR SHALL REFERENCE M.E.P PLANS (BY OTHERS) FOR LIGHT POLE WRING.

Table with columns for No., REVISIONS, and DATE.



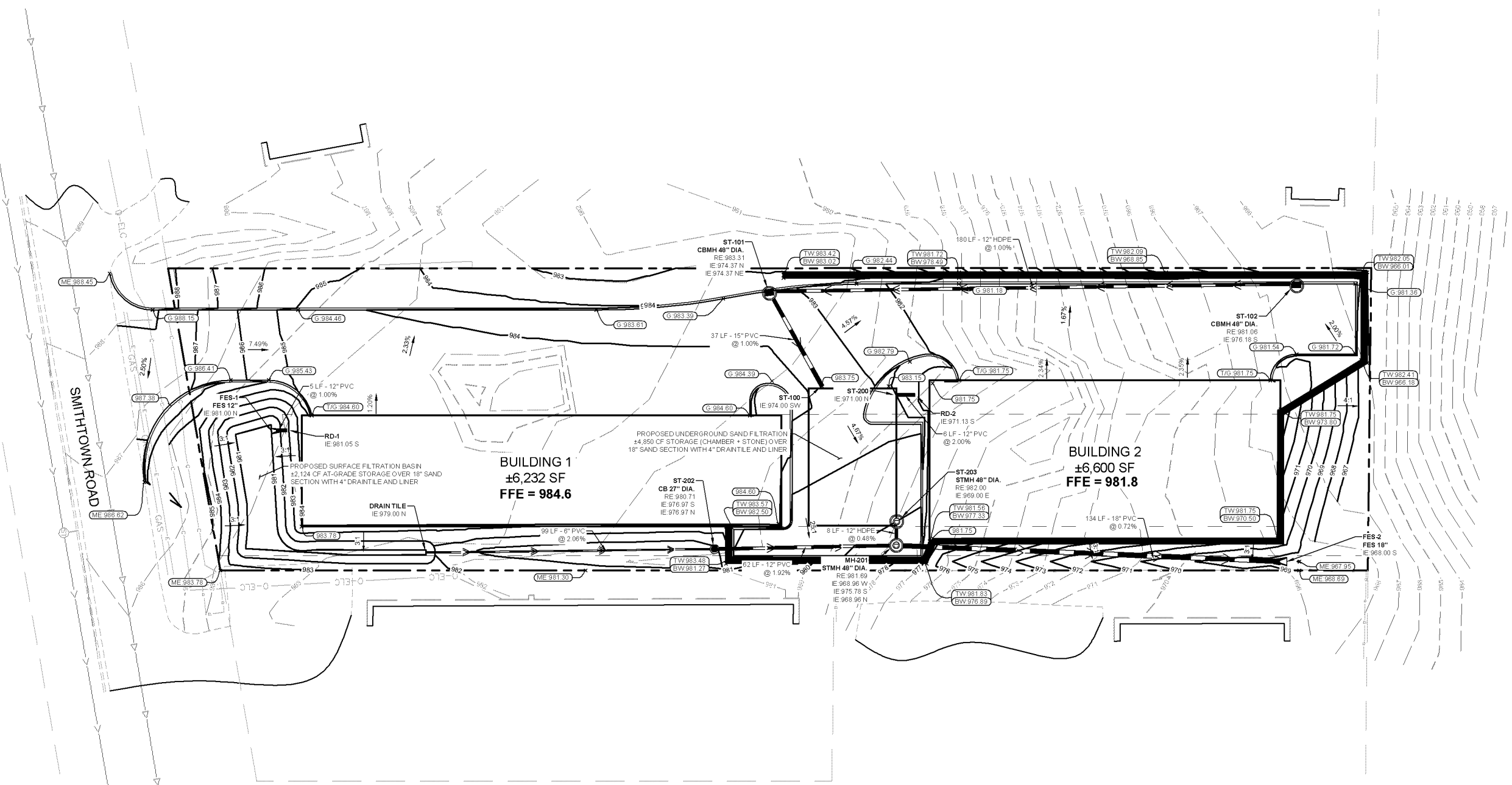


**LEGEND**

	PROPERTY LINE
	EXISTING CONTOUR
	PROPOSED CONTOUR
	PROPOSED STORM MANHOLE (SOLID CASTING)
	PROPOSED STORM MANHOLE (ROUND INLET CASTING)
	PROPOSED STORM MANHOLE/CATCH BASIN (CURB INLET CASTING)
	PROPOSED STORM SEWER CLEANOUT
	PROPOSED FLARED END SECTION
	PROPOSED RIPRAP
	PROPOSED STORM SEWER
	PROPOSED STORM SEWER
	PROPOSED SPOT ELEVATION
	PROPOSED HIGH POINT ELEVATION
	PROPOSED LOW POINT ELEVATION
	PROPOSED GUTTER ELEVATION
	PROPOSED TOP OF CURB ELEVATION
	PROPOSED FLUSH PAVEMENT ELEVATION
	MATCH EXISTING ELEVATION
	PROPOSED EMERGENCY OVERFLOW
	PROPOSED DRAINAGE DIRECTION
	PROPOSED ADA SLOPE

**GRADING PLAN NOTES**

- ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE CITY OF SHOREWOOD, SPECIFICATIONS AND BUILDING PERMIT REQUIREMENTS.
- CONTRACTOR TO CALL GOPHER STATE CALL ONE @ 1-800-252-1166 AT LEAST TWO WORKING DAYS PRIOR TO EXCAVATION/CONSTRUCTION FOR UTILITY LOCATIONS.
- STORM SEWER PIPE SHALL BE AS FOLLOWS:  
RCP PER ASTM C-76  
HDPE 0" - 10" PER AASHTO M-252  
HDPE 12" OR GREATER PER ASTM F-2306  
PVC SCH 40 PER ASTM D-1785  
STORM SEWER FITTINGS SHALL BE AS FOLLOWS:  
RCP PER ASTM C-76, JOINTS PER ASTM C-361, C-990, AND C-443  
HDPE PER ASTM D-3034, JOINTS PER ASTM D-3212
- CONTRACTOR TO FIELD VERIFY THE LOCATIONS AND ELEVATIONS OF EXISTING UTILITIES AND TOPOGRAPHIC FEATURES PRIOR TO THE START OF SITE GRADING. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE PROJECT ENGINEER OF ANY DISCREPANCIES OR VARIATIONS.
- SUBGRADE EXCAVATION SHALL BE BACKFILLED IMMEDIATELY AFTER EXCAVATION TO HELP OFFSET ANY STABILITY PROBLEMS DUE TO WATER SEEPAGE OR STEEP SLOPES. WHEN PLACING NEW SURFACE MATERIAL ADJACENT TO EXISTING PAVEMENT, THE EXCAVATION SHALL BE BACKFILLED PROMPTLY TO AVOID UNDERMINING OF EXISTING PAVEMENT.
- CONTRACTOR SHALL BE RESPONSIBLE FOR ALL HORIZONTAL AND VERTICAL CONTROL.
- CONTRACTOR SHALL EXCAVATE DRAINAGE TRENCHES TO FOLLOW PROPOSED STORM SEWER ALIGNMENTS.
- GRADES SHOWN ARE FINISHED GRADES. CONTRACTOR SHALL ROUGH GRADE TO SUBGRADE ELEVATION AND LEAVE STREET READY FOR SUBBASE.
- ALL EXCESS MATERIAL, BITUMINOUS SURFACING, CONCRETE ITEMS, ANY ABANDONED UTILITY ITEMS, AND OTHER UNSTABLE MATERIALS SHALL BECOME THE PROPERTY OF THE CONTRACTOR AND SHALL BE DISPOSED OFF THE CONSTRUCTION SITE.
- REFER TO THE UTILITY PLAN FOR SANITARY SEWER MAIN, WATER MAIN SERVICE LAYOUT AND ELEVATIONS AND CASTING / STRUCTURE NOTATION.
- CONTRACTOR IS RESPONSIBLE FOR CONSTRUCTION OF PAVEMENTS AND CURB AND GUTTER WITH SMOOTH UNIFORM SLOPES TO PROVIDE POSITIVE DRAINAGE.
- INSTALL A MINIMUM OF 4" CLASS 5 AGGREGATE BASE UNDER CURB AND GUTTER AND CONCRETE SIDEWALKS.
- UPON COMPLETION OF EXCAVATION AND FILLING, CONTRACTOR SHALL RESTORE ALL STREETS AND DISTURBED AREAS ON SITE. ALL DISTURBED AREAS SHALL BE RE-VEGETATED WITH A MINIMUM OF 4" OF TOPSOIL.
- ALL SPOT ELEVATIONS/CONTOURS ARE TO GUTTER / FLOW LINE UNLESS OTHERWISE NOTED.
- GRADING FOR ALL SIDEWALKS AND ACCESSIBLE ROUTES INCLUDING CROSSING DRIVEWAYS SHALL CONFORM TO CURRENT ADA STATE/NATIONAL STANDARDS. IN NO CASE SHALL ACCESSIBLE RAMP SLOPES EXCEED 1 VERTICAL TO 12 HORIZONTAL. IN NO CASE SHALL SIDEWALK CROSS SLOPES EXCEED 2%. IN NO CASE SHALL LONGITUDINAL SIDEWALK SLOPES EXCEED 5%. IN NO CASE SHALL ACCESSIBLE PARKING STALLS OR AISLES EXCEED 2% (1.5% TARGET) IN ALL DIRECTIONS. SIDEWALK ACCESS TO EXTERNAL BUILDING DOORS AND GATES SHALL BE ADA COMPLIANT. CONTRACTOR SHALL NOTIFY ENGINEER IMMEDIATELY IF ADA CRITERIA CANNOT BE MET IN ANY LOCATION PRIOR TO PAVING. NO CONTRACTOR CHANGE ORDERS WILL BE ACCEPTED FOR A.D.A. COMPLIANCE ISSUES.
- MAINTAIN A MINIMUM OF 0.5% GUTTER SLOPE TOWARDS LOW POINTS.
- CONTRACTOR TO PROVIDE 3" INSULATION BY 5" WIDE CENTERED ON STORM PIPE IF LESS THAN 4" OF COVER IN PAVEMENT AREAS AND LESS THAN 3" OF COVER IN LANDSCAPE AREAS.
- REFERENCE MEP PLANS FOR ROOF DRAIN CONNECTION.
- ALL STORM SEWER CONNECTIONS SHALL BE GASKETED AND WATER TIGHT INCLUDING MANHOLE CONNECTIONS.
- ALL STORM SEWER PIPE SHALL BE AIR TESTED IN ACCORDANCE WITH THE CURRENT PLUMBING CODE.
- MAINTAIN A MINIMUM OF 1.25% SLOPE IN BITUMINOUS PAVEMENT AREAS, 0.5% SLOPE IN CONCRETE PAVEMENT AREAS.
- CONTRACTOR SHALL REVIEW PAVEMENT GRADIENT AND CONSTRUCT "INFALL CURB" WHERE PAVEMENT DRAINS TOWARD GUTTER, AND "OUTFALL" CURB WHERE PAVEMENT DRAINS AWAY FROM GUTTER.



PRELIMINARY - NOT FOR CONSTRUCTION

SHOREWOOD  
**SHOREWOOD  
 PADDLE CLUB**  
 PREPARED FOR  
**ADMARK, LLC**

**GRADING PLAN**

KHA PROJECT	160437000
DATE	05/16/2023
SCALE	AS SHOWN
DESIGNED BY	MJLS
DRAWN BY	JTL
CHECKED BY	WDM

LIBRARY CENTER PLANS BY AN ENGINEER OR ARCHITECT AS SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

MATTHEW J. SORPSON  
 M.N. LIC. NO. 59721

**Kimley»Horn**

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 PHONE: 651-445-4197  
 WWW.KIMLEY-HORN.COM

No.	REVISIONS	DATE	BY

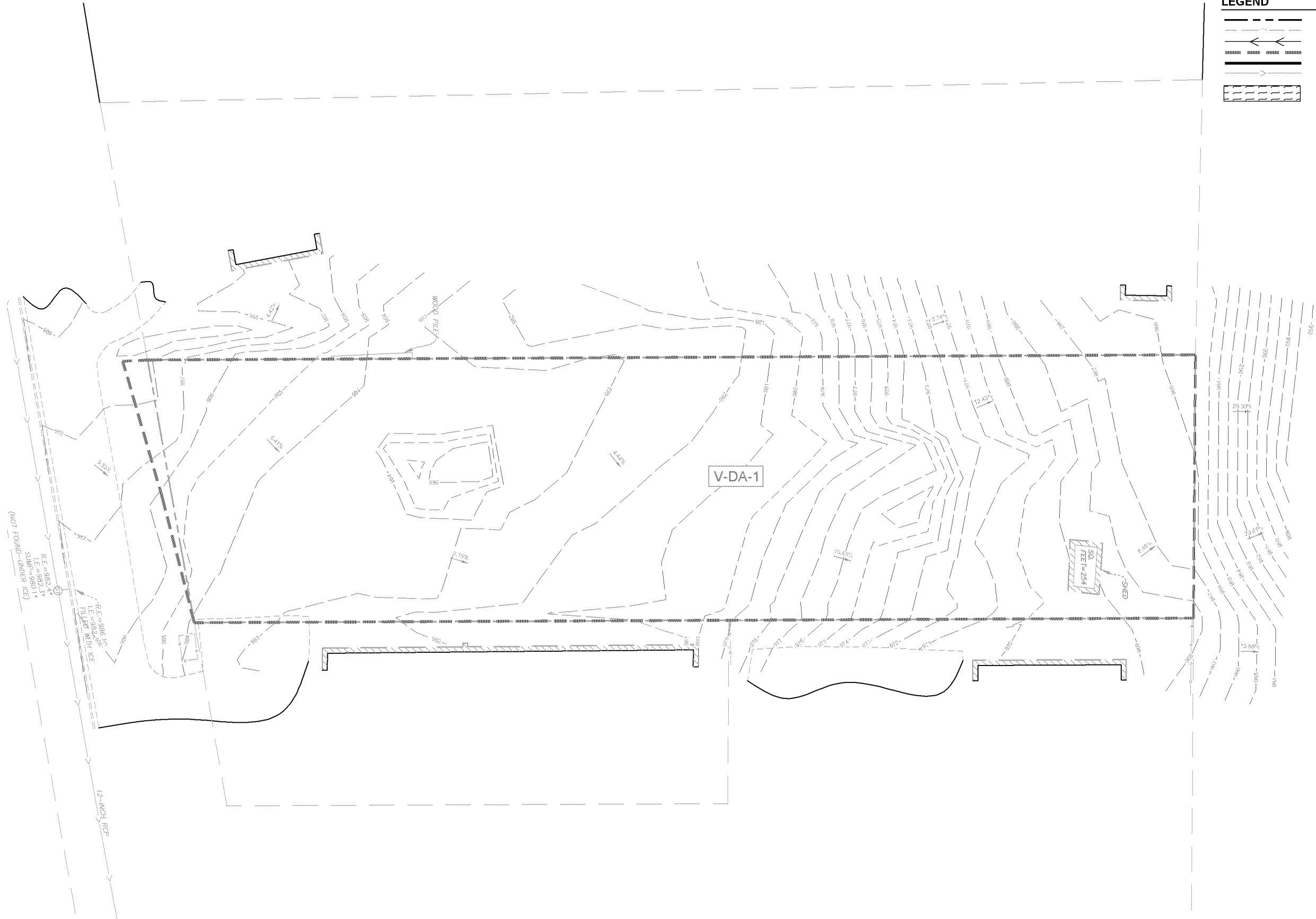
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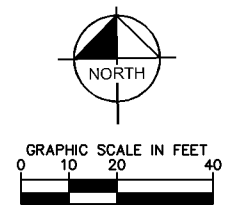


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**LEGEND**

	PROPERTY LINE
	EXISTING CONTOUR
	TIME OF CONCENTRATION PATH
	PROJECT LIMITS
	EXISTING BASIN BOUNDARY
	EXISTING STORM SEWER
	EXISTING WETLAND



PRELIMINARY - NOT FOR CONSTRUCTION

PROJECT  
**TIMBERWOLF**  
 PREPARED FOR  
**AMBROSE PROPERTY GROUP**  
 WESTON WI

**PRE-DEVELOPMENT DRAINAGE EXHIBIT**

KHA PROJECT	161062000
DATE	05/15/2023
SCALE	AS SHOWN
DESIGNED BY	RAV
DRAWN BY	RAV
CHECKED BY	MJS

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CITY OF SHOREWOOD

LANDSCAPE PLAN

SHOREWOOD  
PADDLER CLUB  
24565 SMITHTOWN ROAD  
SHOREWOOD, ILL 60054

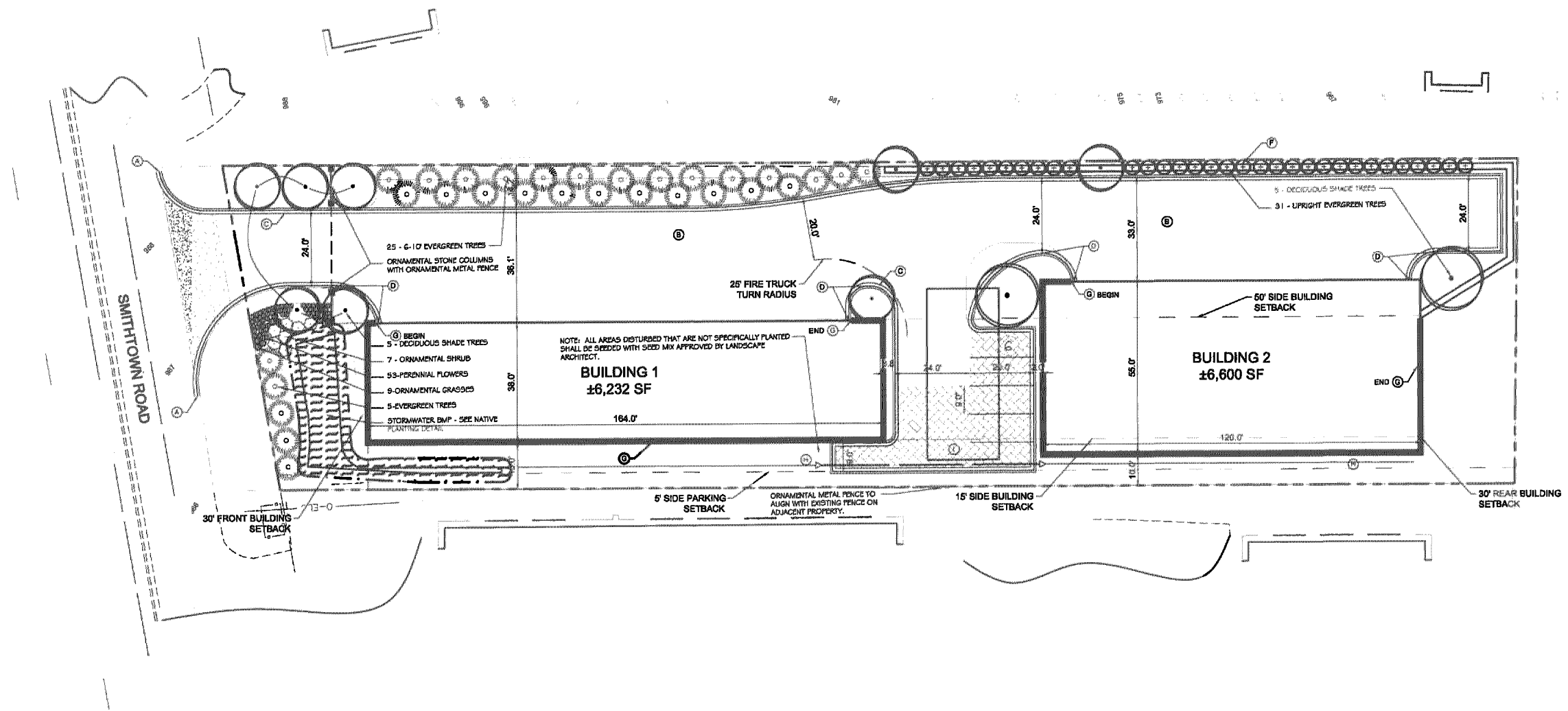
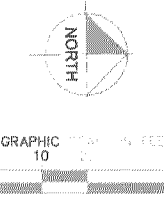
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05.15.2023

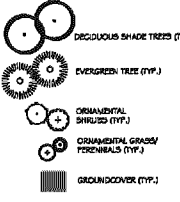
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GENERAL LANDSCAPE NOTES

- LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR AND SHALL MAINTAIN THE LANDSCAPING FOR 90 DAYS PAST THE FINAL INSPECTION.
- CONTRACTOR SHALL CONTACT UTILITY LOCATE TO VERIFY LOCATIONS OF ALL UNDERGROUND UTILITIES PRIOR TO INSTALLATION OF AN PLANT OR LANDSCAPE MATERIAL.
- LANDSCAPE CONTRACTOR TO CONTACT LANDSCAPE ARCHITECT PRIOR TO ORDERING PLANT MATERIAL.
- FINAL LOCATION OF ALL PLANTING SHALL BE DETERMINED IN THE FIELD BY THE OWNER'S REPRESENTATIVE.
- NO PLANT MATERIAL WILL BE INSTALLED UNTIL ALL GRADING AND CONSTRUCTION HAS BEEN COMPLETED IN THE IMMEDIATE AREA.
- ANY MODIFICATIONS TO PLANTING LAYOUT, PLANT MATERIALS, ETC. SHALL BE APPROVED BY THE OWNER'S CONSTRUCTION MANAGER PRIOR TO EXECUTION.
- SIZE AND GRADING STANDARDS OF PLANT MATERIAL SHALL CONFORM TO THE LATEST ADDITION OF ANSI Z60.1, AMERICAN STANDARD FOR NURSERY STOCK, BY THE AMERICAN NURSERY AND LANDSCAPE ASSOCIATION.
- ALL PLANT MATERIALS SHALL BE NURSERY GROWN STOCK AND SHALL BE FREE OF ANY DEFOLIATIONS, DISEASES OR INSECT DAMAGE. ANY MATERIALS WITH DAMAGED OR DISFIGURED/CRACKED LEADERS, BARK ABRASION, SUNSCALD, INSECT DAMAGE, ETC. ARE NOT ACCEPTABLE AND WILL BE REJECTED.
- TREES NOT EXHIBITING A CENTRAL LEADER WILL BE REJECTED UNLESS CALLED OUT IN THE PLANT LIST AS MULTI-STEM.
- CONTRACTOR SHALL PROVIDE A TWO YEAR GUARANTEE OF ALL PLANT MATERIALS. THE GUARANTEE BEGINS UPON WRITTEN ACCEPTANCE OF THE INITIAL PLANTING BY THE LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE. REPLACEMENT PLANT MATERIALS SHALL ALSO HAVE A TWO YEAR GUARANTEE WHICH COMMENCES UPON INSTALLATION.
- CONTRACTOR SHALL PROVIDE ALL NECESSARY MAINTENANCE (INCLUDING WATERING) OF PLANT MATERIALS FOR 90 DAYS FROM THE DATE OF ACCEPTANCE BY OWNER.
- A MINIMUM OF 18" OF LOAM PLANTING SOIL SHALL BE USED WHEN PLANTING ALL TREES (SIDES OF HOLE).
- A MINIMUM OF 18" OF LOAM PLANTING SOIL SHALL BE USED WHEN PLANTING ALL TREES (SIDES OF HOLE).
- PLANTS SHALL BE INSTALLED IMMEDIATELY UPON ARRIVAL TO SITE.
- ALL PLANTING BEDS TO BE EDGED USING COMMERCIAL GRADE PLASTIC EDGING INSTALLED PER MANUFACTURERS RECOMMENDED INSTALLATION INSTRUCTIONS.
- ALL PLANTING BED AREAS TO BE MULCHED AS FOLLOWS:  
16.1.1. ALL SHRUB BEDS SHALL BE MULCHED USING 4"-6" OF SMOOTH RIVER ROCK MULCH (WASHED WITH WEED BARRIER). COLOR SHALL MATCH BUILDING VENEER. ROCK SHALL BE LAID AT A DENSITY SO THAT NO WEED BARRIER SHALL BE VISIBLE.  
16.1.2. ALL TREE BEDS IN LAWN AREAS SHALL BE MULCHED USING 3"-4" OF PREMIUM SHREDED HARDWOOD BARK MULCH (MULCH SHALL BE PLACED SO THAT IT DOES NOT TOUCH THE TRUNK OF THE PLANT).
- TREES SHALL BE PLANTED SO THAT THE ROOT CROWN/FLARE IS SET 1"-2" ABOVE FINISHED GRADE. DO NOT USE THE EXISTING TOP OF THE ROOT BALL AS AN INDICATION OF THE LOCATION OF THE ROOT BALL.
- CONTRACTOR SHALL REPAIR ALL DAMAGE TO PROPERTY WHICH RESULTS FROM THE PLANTING AND LANDSCAPE INSTALLATION AT NO COST TO THE OWNER.
- APPLY A PRE-EMERGENT HERBICIDE TO ALL PLANTING AREAS THAT WILL EFFECTIVELY CONTROL BROADLEAF AND GRASSY WEEDS, IMMEDIATELY AFTER PLANTING AND PRIOR TO INSTALLATION OF MULCH.
- CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LANDSCAPE PERMITS.
- CONTRACTOR TO PROVIDE A MINIMUM 2% SLOPE AWAY FROM ALL STRUCTURES.
- ALL PLANTING BEDS AND LAWN AREAS TO BE SEPARATED BY STEEL EDGING. NO STEEL TO BE INSTALLED ADJACENT TO SIDEWALKS OR CURBS.
- ALL LAWN AREAS TO BE SEEDED WITH COMMERCIAL TURF GRASS BLEND, UNLESS OTHERWISE NOTED ON THE DRAWINGS.

LANDSCAPE LEGEND



PLANT SCHEDULE

KEY	QTY	PLANT NAME	SIZE	PLACEMENT
GD 3	3	Aulum Gold Grape	3" cal.	END
		Acer rubrum 'Rubum Plum'		
		Juniperus Min Noavette Hybrida		Pull, Over
CA		Calamagrostis 'Can Peacemaker'	1 gal.	
		Perovnia Lacy Blue'		
		Vinca near Daris Blue'		

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MAY 16 2023  
CITY OF SHOREWOOD

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I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed LANDSCAPE ARCHITECT under the laws of the State of Minnesota.  
Mark L. Kuitman  
Date: 05.15.2023 License No. 41089

**TREE PRESERVATION PLAN**

**SHOREWOOD PADDLE CLUB**  
24560 SMITHTOWN ROAD  
SHOREWOOD, MN 55391

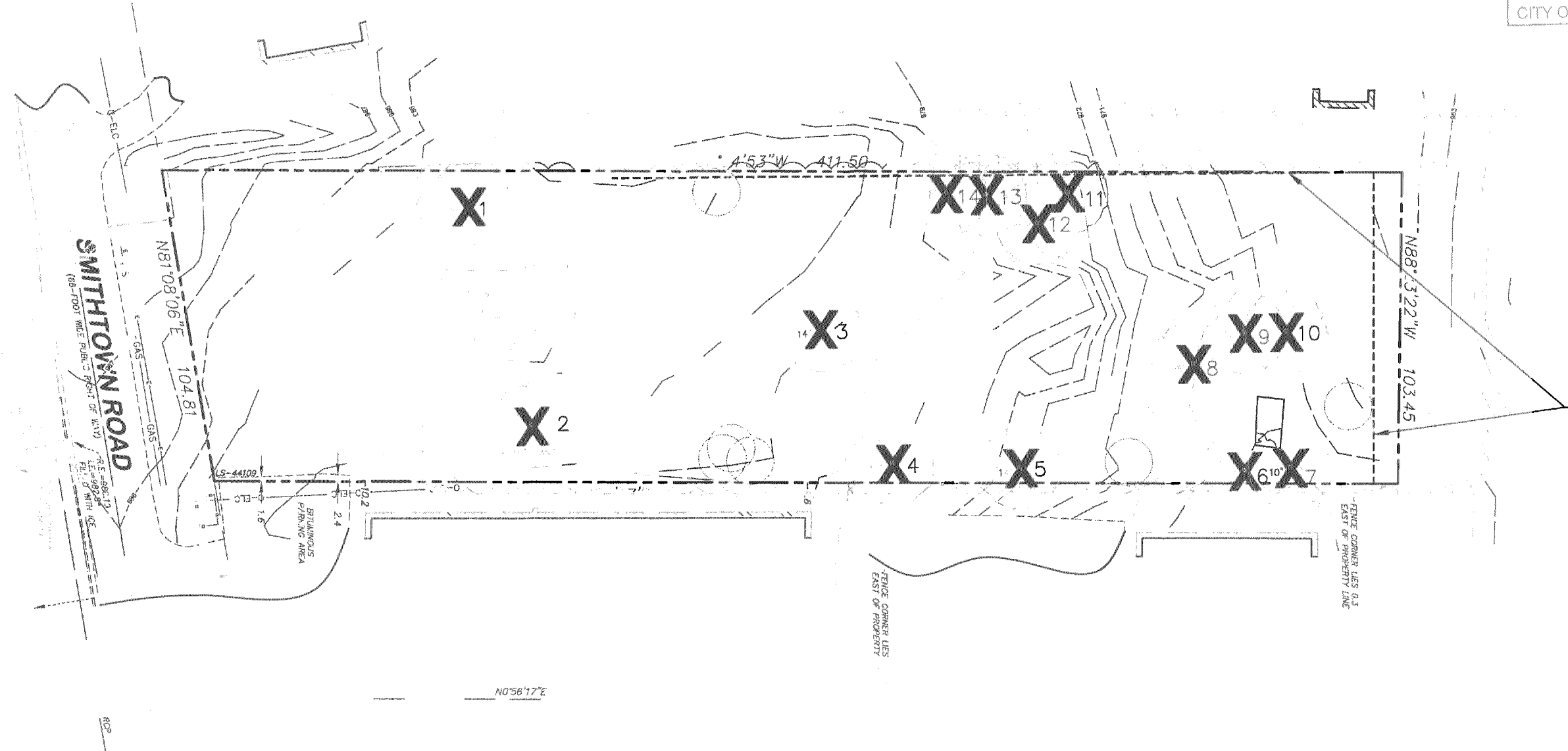
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2022-29

Date:  
05.15.2023

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**GENERAL PRESERVATION NOTES**

ALL TREES SHOWN ON THIS PLAN TO BE RETAINED SHALL BE PROTECTED DURING ALL PHASES OF DEMOLITION/CONSTRUCTION WITH TEMPORARY FENCING. IT SHALL BE THE GENERAL CONTRACTOR'S RESPONSIBILITY TO COORDINATE WITH LANDSCAPE CONTRACTOR.

TREE PROTECTION FENCES SHALL BE INSTALLED PRIOR TO THE COMMENCEMENT OF ANY SITE PREPARATION WORK (CLEARING, GRUBBING OR GRADING). CLEARING SHALL BE DONE BY HAND.

FENCES SHALL COMPLETELY SURROUND TREE OR CLUSTERS OF TREES; SHALL BE LOCATED 5' FROM THE OUTERMOST LIMITS OF THE TREE BRANCHES (DRIP LINE); AND SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION BY CONTRACTOR. PROJECT IN ORDER TO PREVENT THE FOLLOWING:

- SOIL COMPACTION IN THE ROOT ZONE AREA RESULTING FROM VEHICULAR TRAFFIC OR STORAGE OF EQUIPMENT OR MATERIALS.
- ROOT ZONE DISTURBANCES DUE TO GRADE CHANGES (GREATER THAN 6 INCHES CUT OR FILL) OR TRENCHING.
- OTHER ACTIVITIES DETRIMENTAL TO TREES SUCH AS CHEMICAL STORAGE, CEMENT TRUCK CLEANING, AND FIRES.

WHERE ANY OF THE ABOVE EXCEPTIONS RESULT IN A FENCE BEING CLOSER THAN 4 FEET TO A TREE TRUNK, PROTECT THE TRUNK WITH STRAPPED-ON PLANKING TO A HEIGHT OF 8 FEET (OR TO THE LIMITS OF LOWER BRANCHES) IN ADDITION TO THE REDUCED FENCING PROVIDED.

WHERE ANY OF THE ABOVE EXCEPTIONS RESULT IN AREAS OF UNPROTECTED ROOT ZONES (UNDER DRIP LINES), THOSE AREAS SHOULD BE COVERED WITH 4 INCHES OF ORGANIC MULCH TO MINIMIZE SOIL COMPACTION.

ALL GRADING WITHIN PROTECTED ROOT ZONE AREAS SHALL BE DONE BY HAND OR WITH SMALL EQUIPMENT TO MINIMIZE ROOT DAMAGE. PRIOR TO GRADING, RELOCATE PROTECTIVE FENCING TO 2 FEET BEHIND THE GRADE CHANGE AREA. NO ROOT OVER 1 INCH DIAMETER WILL BE CUT.

ANY ROOTS EXPOSED BY CONSTRUCTION ACTIVITY SHALL BE PRUNED WITH A CLEAN CUT FLUSH WITH THE SOIL. BACKFILL ROOT AREAS WITH GOOD QUALITY TOP SOIL IMMEDIATELY. IF EXPOSED ROOT AREAS ARE NOT BACKFILLED WITHIN 2 DAYS, COVER THEM WITH ORGANIC MATERIAL IN A MANNER WHICH REDUCES SOIL TEMPERATURE AND MINIMIZES WATER LOSS DUE TO EVAPORATION.

PRIOR TO EXCAVATION OR GRADE CUTTING WITHIN TREE DRIP LINES, MAKE A CLEAN CUT BETWEEN THE DISTURBED AND UNDISTURBED ROOT ZONES WITH A ROCK SAW OR SIMILAR EQUIPMENT TO MINIMIZE DAMAGE TO REMAINING ROOTS.

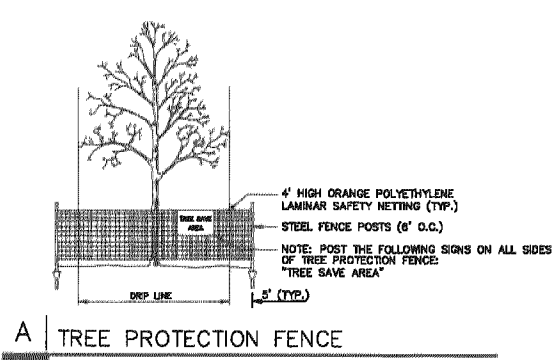
TREES MOST HEAVILY IMPACTED BY CONSTRUCTION ACTIVITIES SHOULD BE WATERED DEEPLY ONCE A WEEK DURING PERIODS OF HOT, DRY WEATHER. TREE CROWNS SHOULD BE SPRAYED WITH WATER PERIODICALLY TO REDUCE DUST ACCUMULATION ON THE LEAVES.

NO LANDSCAPE TOPSOIL DRESSING GREATER THAN 4 INCHES SHALL BE PERMITTED WITHIN THE DRIP LINE OF TREES. NO SOIL IS PERMITTED ON THE ROOT FLARE OF ANY TREE. GRADING LIMITED TO 3 INCH CUT.

PRUNING TO PROVIDE CLEARANCE FOR STRUCTURES, VEHICULAR TRAFFIC AND EQUIPMENT SHALL TAKE PLACE BEFORE CONSTRUCTION BEGINS.

ALL PRUNING MUST BE DONE ACCORDING TO RECOGNIZED, APPROVED STANDARDS OF THE INDUSTRY (REFERENCE THE NATIONAL ARBORIST ASSOCIATION PRUNING STANDARDS FOR SHADE TREES) BY A CERTIFIED ARBORIST AND SHALL BE APPROVED AND SUPERVISED BY OWNER'S REPRESENTATIVE OR PROJECT URBAN FORESTER.

DAMAGE TO TREES OR ANY NATURAL RESOURCE DUE TO CONTRACTOR'S NEGLIGENCE DURING THE CONSTRUCTION PHASE SHALL BE APPRAISED BY THE OWNER'S REPRESENTATIVE AND ORDERED, REPAIRED, REPLACED, OR COMPENSATED.



**A TREE PROTECTION FENCE**

**SHOREWOOD TREE PRESERVATION NOTES**

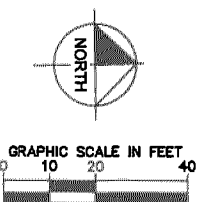
- CONTACT THE CITY PLANNING DEPT. AT (952) 474-3236 TO ARRANGE A PRE CONSTRUCTION CONFERENCE WITH THE CITY ZONING ADMINISTRATOR PRIOR TO ANY LAND DISTURBANCE.
- ALL TREE PROTECTION MEASURES SHALL BE INSTALLED PRIOR TO BUILDING CONSTRUCTION.
- CONTACT THE CITY OF SHOREWOOD PLANNING DEPT. AT (952) 474-3236 FOR A SITE INSPECTION UPON COMPLETION OF LANDSCAPE INSTALLATION.

**PRESERVATION LEGEND**

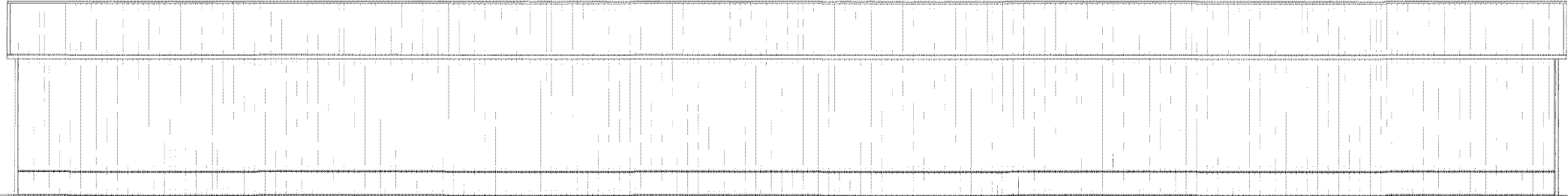
- EXISTING TREE TO REMAIN.
- EXISTING TREE TO BE REMOVED
- SILT FENCE
- TREE PROTECTION FENCING
- UTILITY LOCATION
- CONSTRUCTION MATERIAL AND STOCK PILE LIMITS

**TREE PRESERVATION TABLE**

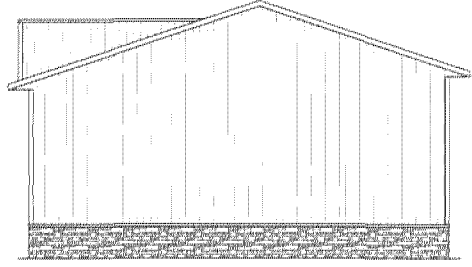
Tag No.	Species	Condition	Cal. Inches	Status	Replacement
1	BURSHAMPOOSE	GOOD	48	PRESERVE	0
2	SUGAR MAPLE	POOR (DECAY)	16	REMOVE	0
3	SIBERIAN ELM	POOR (DECAY)	12	REMOVE	0
4	SUGAR MAPLE	GOOD	8	REMOVE	0
5	SIBERIAN ELM	GOOD	14	REMOVE	0
6	SIBERIAN ELM	GOOD	10	REMOVE	0
7	GREEN ASH	POOR	10	REMOVE	0
8	GREEN ASH	TRUNK DAMAGE	24	REMOVE	0
9	GREEN ASH	POOR/RYING	8	REMOVE	0
10	GREEN ASH	POOR/RYING	10	REMOVE	0
11	SUGAR MAPLE	POOR (DECAY)	26	REMOVE	0
12	SUGAR MAPLE	GOOD	24	REMOVE	0
13	SUGAR MAPLE	POOR (DECAY)	8.9.8	REMOVE	0
14	SUGAR MAPLE	GOOD	28	REPLACE	0



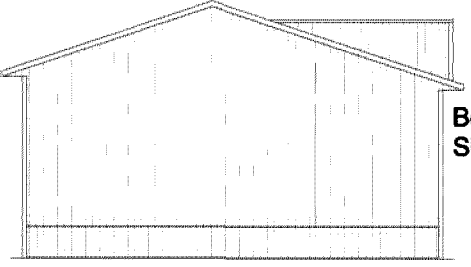
RECEIVED  
MAY 16 2023  
CITY OF SHOREWOOD



**REAR ELEVATION**  
SCALE: 1/8" = 1'-0"

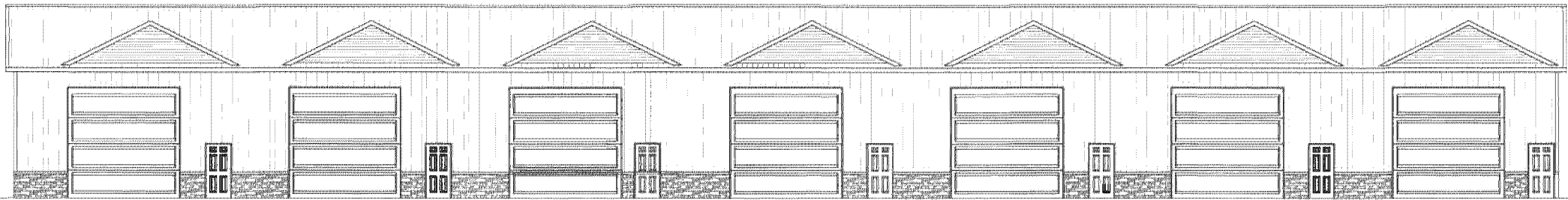


**RIGHT ELEVATION**  
SCALE: 1/8" = 1'-0"



**LEFT ELEVATION**  
SCALE: 1/8" = 1'-0"

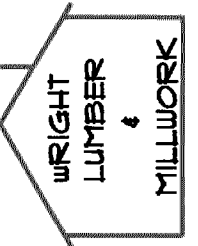
Board and Batten  
Siding



**FRONT ELEVATION**  
SCALE: 1/8" = 1'-0"

Standing Seam  
Metal Roof  
  
Board and Batten  
Siding  
  
Stone Base

REVISION BY	DATE



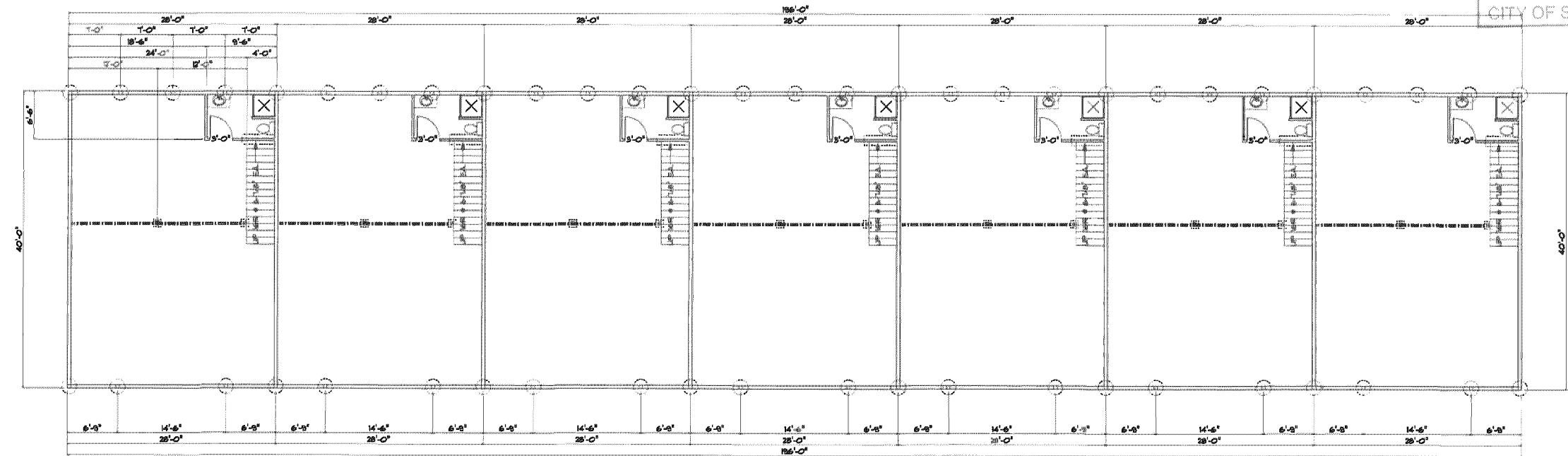
ALTHOUGH THESE PLANS HAVE BEEN PREPARED WITH  
UTMOST CONSIDERATION PREPARER OR WRIGHT LUMBER  
& MILLWORK INC. WILL NOT BE LIABLE FOR ANY ERROR,  
OMISSION OR DAMAGES RESULTING FROM SAID PLANS.  
USER TO VERIFY ALL DIMENSIONS & CONDITIONS AND BE  
RESPONSIBLE FOR THE SAME.

PLANS FOR: MARK KALTSAS  
  
MODEL: BUILDING 1  
BUILDER: BY CONSTRUCTION

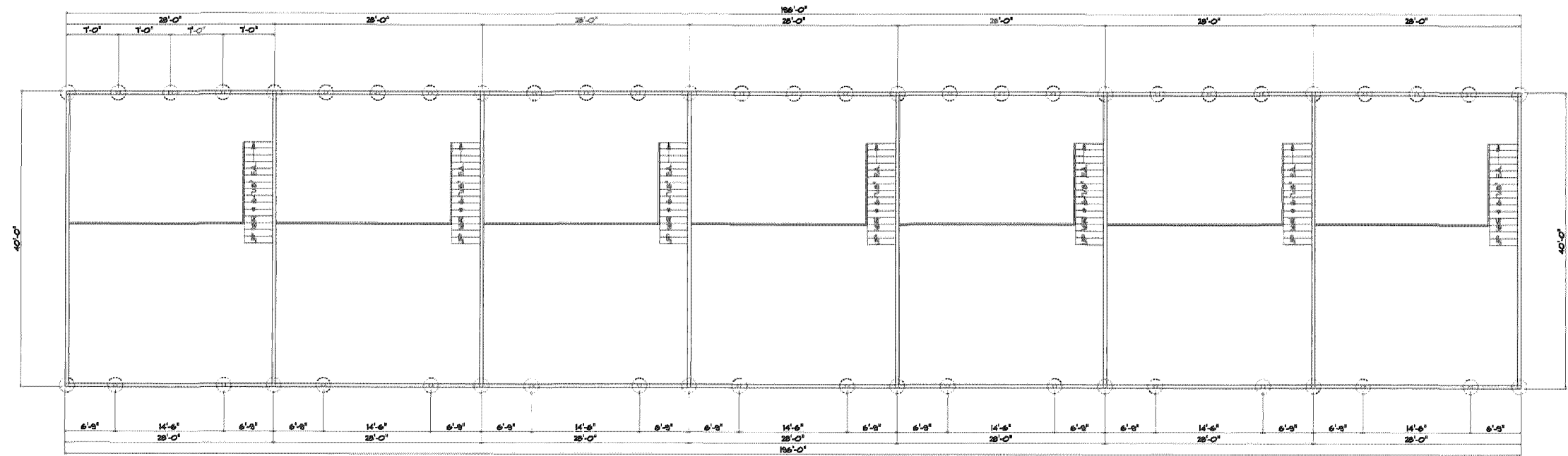
DATE PRINTED: 1-12-2022  
DRAWN BY: JASON

PLAN  
SHEET  
X OF X

RECEIVED  
MAY 16 2023  
CITY OF SHOREWOOD

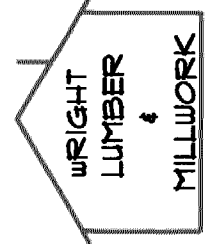


**FLOOR PLAN**  
SCALE: 1/8" = 1'-0"



**UPPER FLOOR PLAN**  
SCALE: 1/8" = 1'-0"

REVISIONS	DATE



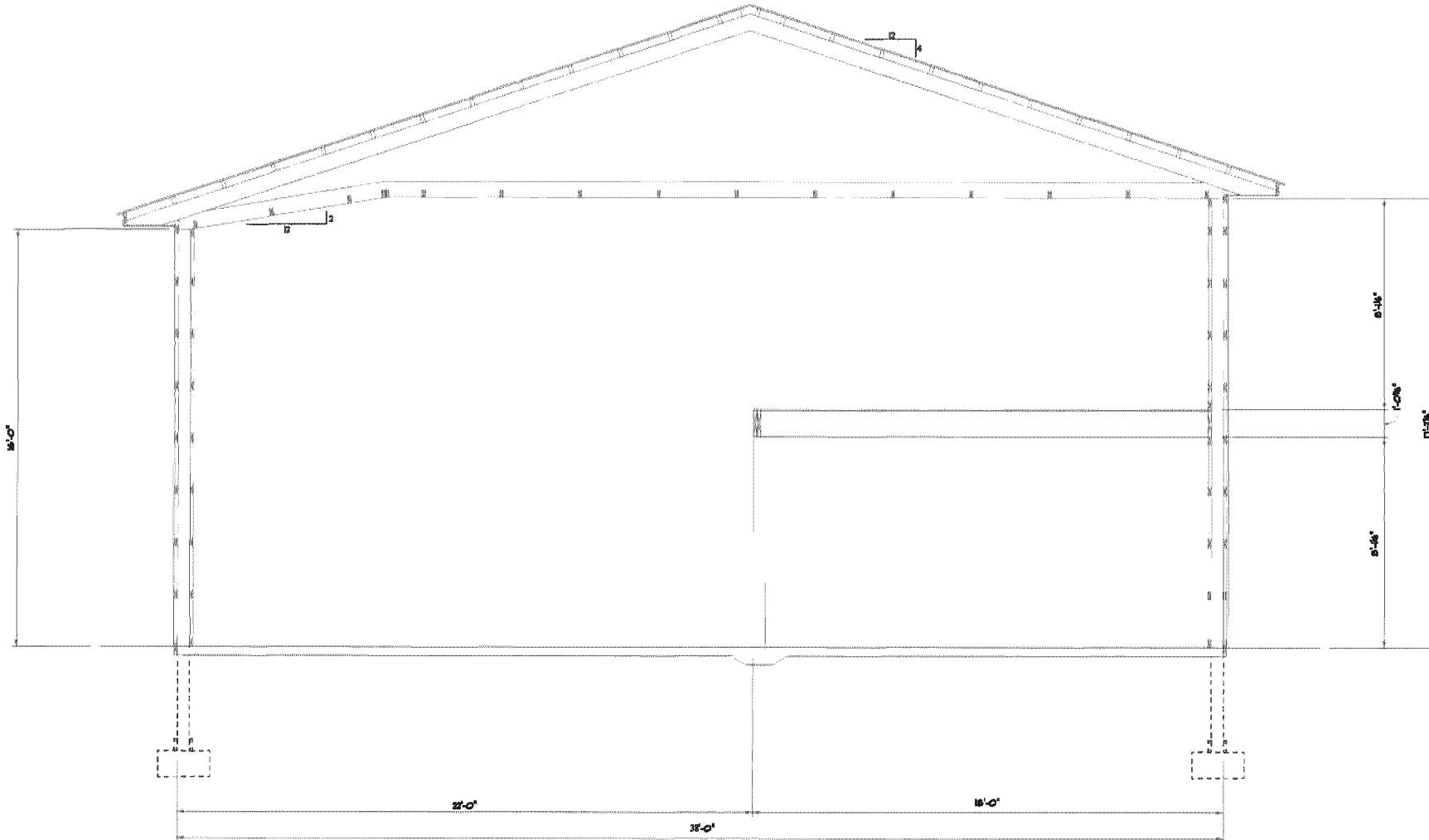
ALTHOUGH THESE PLANS HAVE BEEN PREPARED WITH  
GREATEST CARE, THE PREPARED OR WRIGHT LUMBER  
& MILLWORK INC. WILL NOT BE LIABLE FOR ANY ERRORS,  
OMISSIONS OR DAMAGES RESULTING FROM SAID PLANS.  
ISSUE TO VERIFY ALL DIMENSIONS & CONDITIONS AND BE  
RESPONSIBLE FOR THE SAME.

PLANS FOR: MARK KALTSAS

MODEL: BUILDING 1  
BUILDER: BY CONSTRUCTION

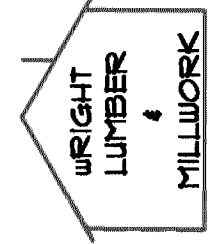
DATE PRINTED: 1-12-2022  
DRAWN BY: JASON

PLAN  
SHEET  
X OF X



RECEIVED  
MAY 16 2023  
CITY OF SHOREWOOD

REVISED BY	DATE



ALTHOUGH THESE PLANS HAVE BEEN PREPARED WITH UTMOST CONSIDERATION PREPARED BY WRIGHT LUMBER & MILLWORK INC. WILL NOT BE LIABLE FOR ANY ERROR, OMISSION OR DAMAGE RESULTING FROM SAID PLANS. USER TO VERIFY ALL DIMENSIONS & CONDITIONS AND BE RESPONSIBLE FOR THE SAME.

PLANS FOR: MARK KALTSAS  
MODEL: BUILDING 1  
BUILDER: BY CONSTRUCTION

DATE PRINTED: 1-13-2022  
DRAWN BY: JASON

PLAN  
SHEET  
X OF X





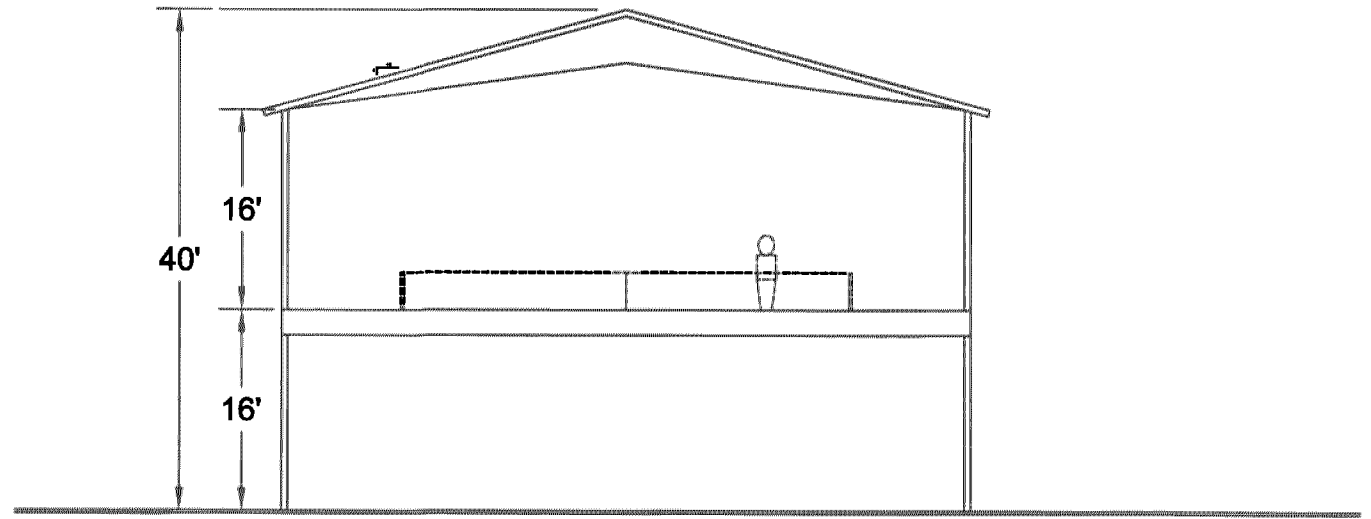
CLUBHOUSE ELEVATION

SCALE: 1/4" = 1'-0"



14' Overhead  
Architectural Door

Standard Door

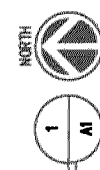
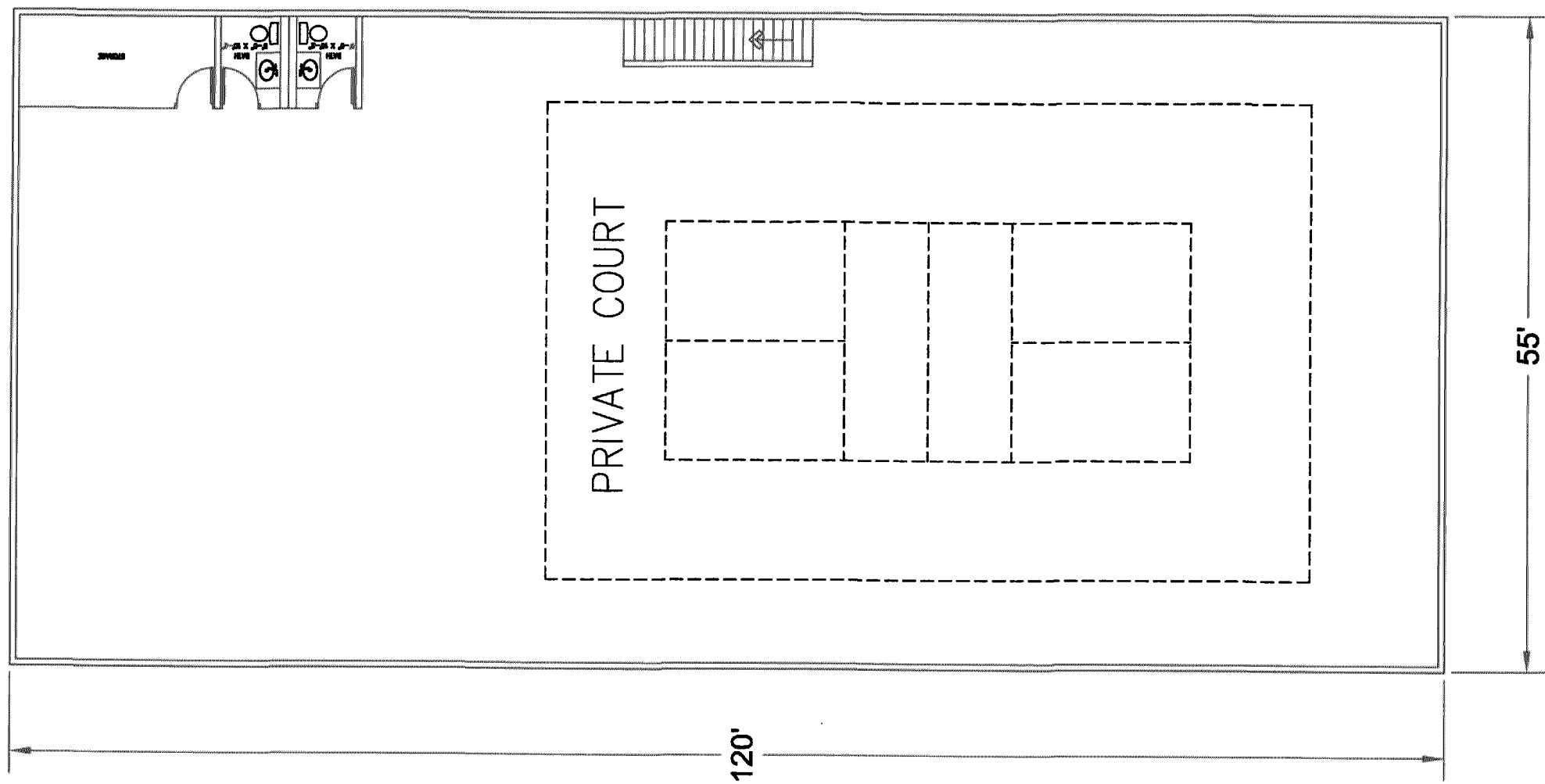


CLUBHOUSE SECTION

SCALE: 1/4" = 1'-0"

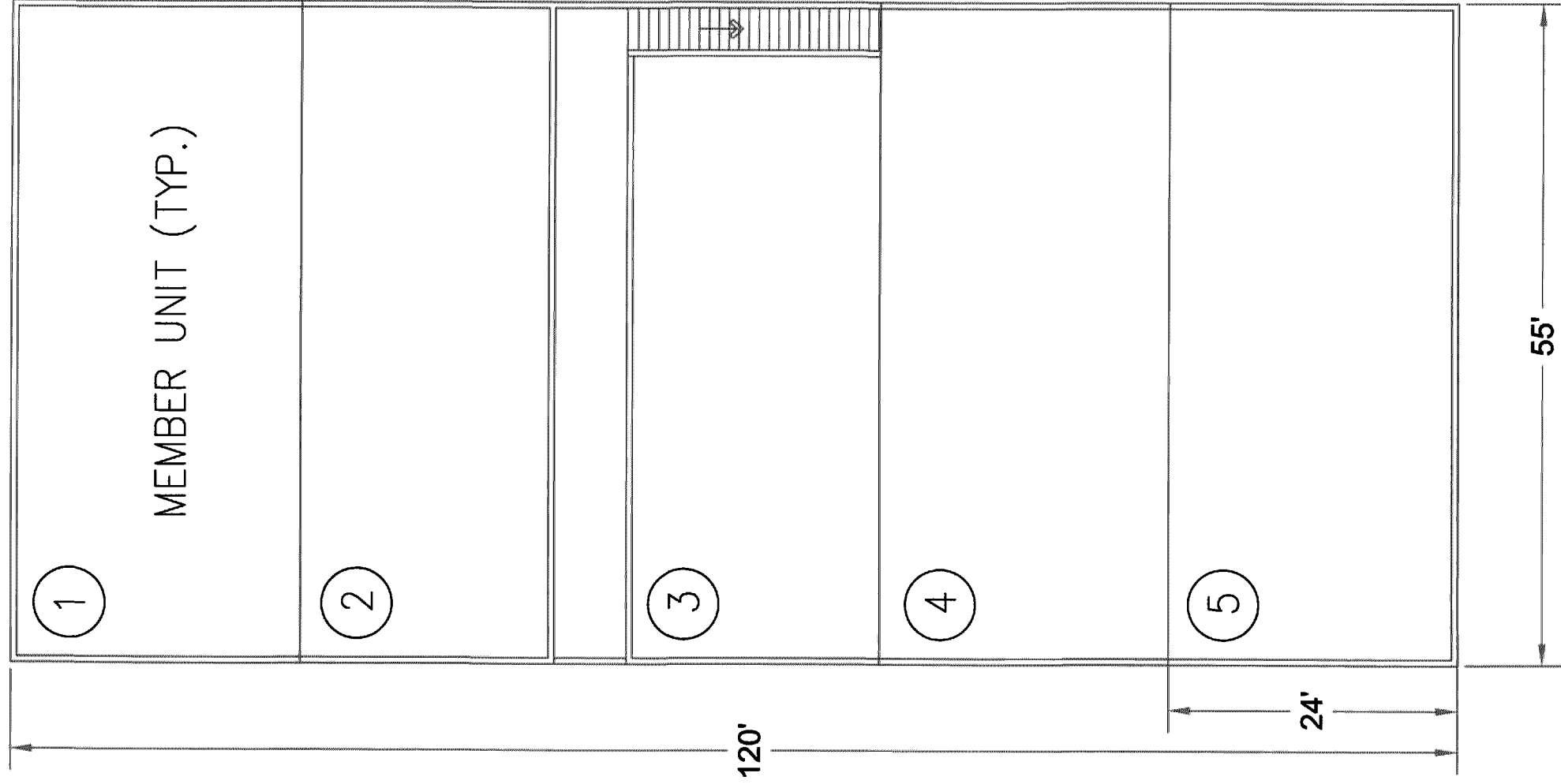


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MAY 16 2023  
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CLUBHOUSE FLOOR PLAN (SECOND FLOOR)  
SCALE: 1/4" = 1'-0"

RECEIVED  
MAY 16 2023  
CITY OF SHOREWOOD

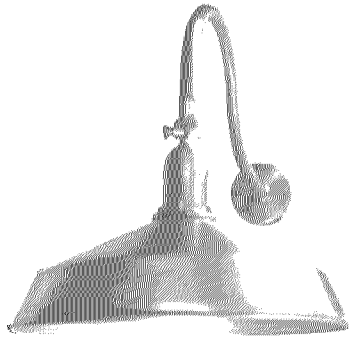


CLUBHOUSE FLOOR PLAN (FIRST FLOOR)  
 SCALE: 1/4" = 1'-0"  
 NORTH  
 1  
 AI

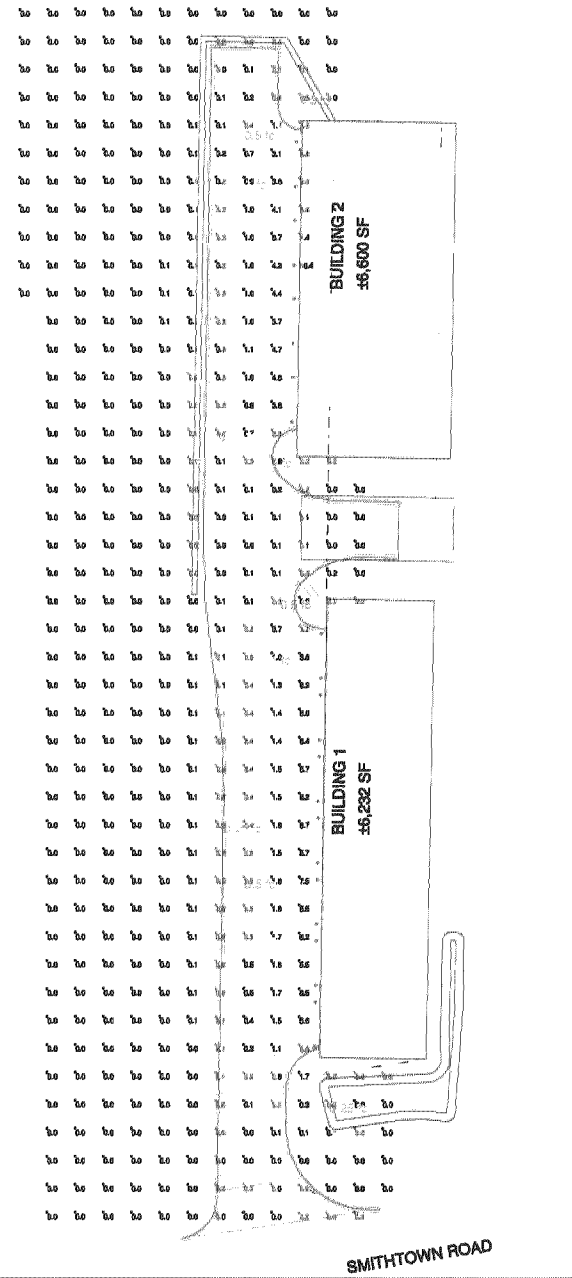
RECEIVED  
 MAY 16 2023  
 CITY OF SHOREWOOD

Luminaire Schedule		Label	Arrangement	LLF	Description	Arr. Watts	Lum. Lumens
Symbol	Qty	WP	Single	0.900	BASELITE W516X-40 (SHADE/ARM) 80 (BACKET/SWL/CANOPY) -E6-LGSWL-INC200W WALL MOUNT AT APPROX 9FT	200	2426

Calculation Summary		CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
Label	ILLUMINANCE	ILLUMINANCE	Fc	0.52	10.4	0.0	N.A.	N.A.
SITE GROUND								



FIXTURE CONCEPT



Plan View  
Scale: 1 inch= 30 Ft.

GENERAL NOTES:

A. PULSE PRODUCTS DOES NOT ASSUME RESPONSIBILITY FOR THE INTERPRETATION OF THIS CALCULATION OR COMPLIANCE TO THE LOCAL, STATE, OR FEDERAL LIGHTING CODES OR ORDINANCES.

B. LIGHTING LAYOUT IS NOT INTENDED FOR CONSTRUCTION DOCUMENTS BUT ONLY TO ILLUSTRATE THE PERFORMANCE OF THE PRODUCT.

C. ALL READINGS/CALCULATIONS SHOWN ARE SHOWN ON OBJECTS/SURFACES.



Comments

Date

#

Revisions

Drawn By: SANDY  
Checked By: JILL  
Date: 2/27/2023

Scale: AS NOTED

PADDLE CLUB  
SHOREWOOD, MN

PAGE 1 OF 1

RECEIVED  
MAY 16 2023  
CITY OF SHOREWOOD

**CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**RESOLUTION 23-107**

**A RESOLUTION DENYING A COMPREHENSIVE PLAN AMENDMENT AND PUD CONCEPT AND DEVELOPMENT STAGE PUD PLAN FOR THE PROPERTY LOCATED AT 24560 SMITHTOWN ROAD**

**WHEREAS**, Admark LLC. (the “Applicant”), has submitted a request for an amendment to the 2040 Comprehensive Plan to alter the Land Use Plan from Medium Density Residential to Commercial and a PUD Concept and Development Stage Plan for a private paddle club (the “Request”) consisting of a club house with an indoor pickleball court and a maximum of 12 self-storage condominium units for the property legally described as:

That part of Lot 25, Auditor’s Subdivision Number One Hundred Thirty-Three (133), Hennepin County, Minnesota, described as follows:

Commencing at the intersection of the south line of said Lot 25 and its easterly extension with the west right-of-way line of Hennepin County State Aid Highway No. 19, Plat 57: thence southwesterly along said south line of said Lot 25 and its easterly extension, a distance of 373.185 feet; thence northerly, parallel to that part of the west right-of-way line of said Highway Plat lying north of the south line of said Lot 25, a distance of 196.67 feet; thence westerly, parallel with the north line of said Lot 25, a distance of 72.11 feet to the point of beginning of the land to be described; thence northerly, parallel to said west right-of-way line of said Highway Plat, a distance of 182.47 feet to the north line of said lot 25; thence westerly along said north line a distance of 103.45 feet to the northwest corner of said Lot 25; thence southerly along the west line of said Lot 25 a distance of 411.01 feet to the south line of said Lot 25; thence easterly along said south line of said Lot 25 to a line drawn southerly from the point of beginning and parallel with that part of the west right-of-way line of said Highway Plat, lying north of the south line of said Lot 25, thence north along said last described parallel line to the point of beginning. Being Torrens Property as evidenced by Certificate of Title No. 788511 (the “Property”); and,

**WHEREAS**, the Applicant submitted the application as a PUD Concept and Development Stage Plan due to the significant number of variances that would be required to accommodate the Request; and,

**WHEREAS**, the Request has been submitted in the manner required for the development of land under the Shorewood City Code and under Chapter 462 of Minnesota Statutes, and all proceedings have been duly consistent thereunder; and,

**WHEREAS**, the Minnesota Statute 462.351 indicates that city’s role in guiding future development is to promote public health, safety, and general welfare.

**WHEREAS**, said Request is consistent in the manner of amendments to the Shorewood Comprehensive Plan and the regulations and requirements of the laws of the State of Minnesota and the City Code of the City of Shorewood for the approval of such a request; and,

**WHEREAS**, after the required notice, a public hearing was held, public testimony was taken and the Request was reviewed by the Planning Commission at a regular meeting held on September 5, 2023 and continued to October 3, 2023, the minutes of the meeting are on file at City Hall; and,

**WHEREAS**, the City Council considered the Request at its regular meeting on October 23, 2023, at which time the application materials and plans, Planning Director’s memorandum, the public testimony provided at the public hearing, and the Planning Commission’s recommendations were reviewed, and comments were heard by the City Council from the Applicant and City staff.

**NOW, THEREFORE, BE IT RESOLVED** THAT THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA FINDS AS FOLLOWS:

**FINDINGS OF FACT**

1. The Subject Property is located in the Medium Density Residential land use classification in the 2040 Comprehensive Plan, which allows development with 6 to 8 units per acre and Low to Medium Density Residential development in the 2030 Comprehensive Plan, which allowed development with 2 to 3 units per acre.
2. The Subject Property is located in the C-1 zoning district, which allows a private club or lodge serving food and beverages as a permitted use and self-storage as a conditional use.
3. The Applicant has applied for a Comprehensive Plan amendment to have the property re-guided to commercial, so that it is consistent with the zoning regulations.
4. The properties to the west of the Property are currently guided Medium Density Residential, zoned R-1A and currently used as single-family residential.
5. The Applicant’s proposal is identified on the application materials and plans submitted on May 16 and 17, June 20 and 26, July 7, and September 15, 2023 (the “Plans”).
6. The Applicant’s proposal is to construct two buildings on one lot that will contain a Private Paddle Club clubhouse and a maximum of 12 individual self-storage condominium units. The north building contains the club house and a maximum of five self-storage condominium units and the south building is proposed to contain a maximum of seven self-storage condominium units.
7. Chapter 2 (Policy Plan) of the City’s 2040 Comprehensive Plan and the Land Use Chapter of the City’s 2030 Comprehensive Plan includes several land use goals, objectives, and policies regarding land use patterns, identified as follows:

- Transitions between distinctly differing types of land uses shall be accomplished in an orderly fashion which does not create a negative impact on adjacent developments.
- Community planning and development is to consider the impact to surrounding neighbors, neighborhoods and cities and mitigate the impact with transitions (landscaping, berming, etc.) where possible.
- Residential neighborhoods shall be protected from adverse environmental impacts, including noise, air, and visual pollution.
- Neighborhoods are to be maintained and where necessary, strengthened in character, while at the same time improving and reinforcing community identity.

8. City Code section 1201.22 Subd. 4. j. of the zoning regulations requires self-storage buildings within 50 feet of property lines to be a maximum of 15 feet in height. The southerly building that contains only self-storage condominium uses does not meet the required setbacks to the south and east property line and exceeds the maximum height by 8 feet.

9. City Code section 1201.22 Subd. 5. of the zoning regulations requires a 50-foot setback from property lines adjacent to residential property for all commercial buildings and a 15-foot setback from side property lines for properties abutting other commercial properties. The northerly building contains the club house and is 38 feet from the west property line abutting residential and 10 feet from the east property line, which does not conform.

10. The north building does not meet setbacks from the west or the east property lines. The south building meets the setback to the west property line, but not the east or south property lines.

11. The applicant has provided 13 surface parking spaces on the site. The City Code requires six spaces for the pickleball courts; six spaces for self-storage; and five parking spaces for the club use plus one parking space for each two seats of seating capacity for kitchen/lounge area. The applicant has not provided a concept layout of the lounge and kitchen area of the clubhouse building so the city has estimated the area as having a seating capacity of 20 people, which would result in an additional 10 spaces needed for a total of 27 parking spaces.

12. City Code section 1201.03 Subd. 2 (g) (2) (b) of the zoning regulations require nonresidential uses to provide screening along the boundary of the residential property and that screening shall consist of landscaping at least as deep as the required setback for the subject site and of sufficient density to provide a visual screen and reasonable buffer. Fences are allowed in addition to, but not as a substitute for landscaping.

13. The applicant has proposed a landscaped area that is 14 feet wide tapering to seven feet wide at its narrowest point. In the seven-foot wide area, the applicant has proposed a 14 to 16 foot gabion wall (which would require a guardrail or fence on top) and a row of arborvitae on top of the retaining wall. This screening does not comply with the City Code requirements as the width is not as deep as the required setback for the subject site.

14. Section 1201.03 subd. 8 of the zoning regulations requires a conditional use permit review of import of fill for projects with over 100 cubic yards of fill. While the applicant has indicated that they need to import fill to the site in excess of 100 cubic yards, they have not indicated how much fill would be required.
15. Section 1201.25 Subd. 1 j. indicates that one of the purposes of the PUD district is to allow variation from the provisions of this chapter, including setbacks, height, lot area, width and depth, yards and the like internally within the project. Provisions of the zoning regulations shall generally be maintained at the periphery of the project area.
16. Section 1201.25 Subd. 1 e. indicates that one of the purposes of the PUD district is to provide a more desirable environment than would be possible through the strict application of zoning and subdivision regulations of the city.
17. The applicant has requested flexibility from the following zoning regulations:
  - a. Section 1201.03 Subd. 2 c. of the zoning regulations that prohibits multiple principal buildings on the same parcel, except through a PUD.
  - b. Section 1201.22 of the zoning regulations that requires setbacks from property lines and limits the height of buildings.
  - c. Section 1201.03 Subd. 4. j. provides hours of operation for self-storage facilities.
  - d. Section 1201.03 Subd. 2 g. (2) (b) of the zoning regulations that requires the nonresidential use to provide screening along the boundary of the residential property and that required screening shall consist of landscaping at least as deep as the required setback for the subject site and of sufficient density to provide a visual screen and reasonable buffer. Fences are allowed in addition to, but not as substitute for landscaping.
  - e. Section 1201.03 Subd. 2. u. allows commercial properties to have a maximum of 66 percent impervious surface coverage.
  - f. Sections 1201.03 Subd. 5 and 6 that identify the required amounts of parking and loading areas for each commercial development.

### **CONCLUSIONS**

A. Based upon the foregoing, and the records referenced herein, the City Council hereby concludes that the Applicant's proposal for a Comprehensive Plan Amendment to reguide the properties from Medium Density Residential to Commercial is in conflict with the objectives and policies listed in Item 7 under Findings and hereby denies the Request.

B. The City Council further concludes the Applicant's Request for a PUD Concept and Development Stage Plan for a commercial development is not consistent with the Medium Density residential classification in Shorewood's 2040 Comprehensive Plan nor the Low to Medium Density classification in Shorewood's 2030 Comprehensive Plan. Further, that the Request is not consistent with the zoning requirements for setbacks, building height, parking, screening, impervious surface coverage, and other elements of the zoning regulations that are designed to protect adjacent residential development from the impacts of commercial development, as identified in Items 8-14 under Findings and hereby denies the Request for a



PUD Concept and Development Stage Plan application for development of the site with the Request for commercial mixed use Paddle Club and luxury storage buildings.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Shorewood that the Request for the Property is denied, subject to the findings and conclusions contained herein.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD** this 23<sup>rd</sup> day of October, 2023

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**Jennifer Labadie, Mayor**

**ATTEST:**

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**Sandie Thone, City Clerk**

**CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**RESOLUTION 23-107**

**A RESOLUTION APPROVING A COMPREHENSIVE PLAN AMENDMENT FOR THE PROPERTY  
LOCATED AT 24560 SMITHTOWN ROAD**

**WHEREAS**, Admark, LLC (the “Applicant”), has submitted a request for a comprehensive plan amendment to alter the 2040 Comprehensive Plan’s Land Use Map from medium density residential to commercial (the “Request”) for the property legally described as:

That part of Lot 25, Auditor’s Subdivision Number One Hundred Thirty-Three (133), Hennepin County, Minnesota, described as follows:

Commencing at the intersection of the south line of said Lot 25 and its easterly extension with the west right-of-way line of Hennepin County State Aid Highway No. 19, Plat 57: thence southwesterly along said south line of said Lot 25 and its easterly extension, a distance of 373.185 feet; thence northerly, parallel to that part of the west right-of-way line of said Highway Plat lying north of the south line of said Lot 25, a distance of 196.67 feet; thence v westerly, parallel with the north line of said Lot 25, a distance of 72.11 feet to the point of beginning of the land to be described; thence northerly, parallel to said west right-of-way line of said Highway Plat, a distance of 182.47 feet to the north line of said lot 25; thence westerly along said north line a distance of 103.45 feet to the northwest corner of said Lot 25; thence southerly along the west line of said Lot 25 a distance of 411.01 feet to the south line of said Lot 25; thence easterly along said south line of said Lot 25 to a line drawn southerly from the point of beginning and parallel with that part of the west right-of-way line of said Highway Plat, lying north of the south line of said Lot 25, thence north along said last described parallel line to the point of beginning. Being Torrens Property as evidenced by Certificate of Title No. 788511 (the “Property”); and,

**WHEREAS**, the Request has been submitted in the manner required for the development of land under the Shorewood City Code and under Chapter 462 of Minnesota Statutes, and all proceedings have been duly consistent thereunder; and,

**WHEREAS**, said Request is consistent in the manner of amendments to the Shorewood Comprehensive Plan and the regulations and requirements of the laws of the State of Minnesota and the City Code of the City of Shorewood for the approval of such a request.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Shorewood that the Request for the Property is approved, subject to the required review by the Metropolitan Council.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD** this 23<sup>rd</sup> day of October, 2023.

\_\_\_\_\_  
**Jennifer Labadie, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Sandie Thone, City Clerk**

**CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**RESOLUTION 23-108**

**A RESOLUTION APPROVING A PUD CONCEPT AND DEVELOPMENT STAGE PLAN  
FOR THE SHOREWOOD PADDLE CLUB TO BE LOCATED ON PROPERTY  
AT 24560 SMITHTOWN ROAD**

**WHEREAS**, Admark LLC (the “Applicant”), has submitted a request for a PUD Concept and Development Stage Plan for a development to be called “Shorewood Paddle Club” (the “Request”) for the property legally described as:

That part of Lot 25, Auditor’s Subdivision Number One Hundred Thirty-Three (133), Hennepin County, Minnesota, described as follows:

Commencing at the intersection of the south line of said Lot 25 and its easterly extension with the west right-of-way line of Hennepin County State Aid Highway No. 19, Plat 57: thence southwesterly along said south line of said Lot 25 and its easterly extension, a distance of 373.185 feet; thence northerly, parallel to that part of the west right-of-way line of said Highway Plat lying north of the south line of said Lot 25, a distance of 196.67 feet; thence v westerly, parallel with the north line of said Lot 25, a distance of 72.11 feet to the point of beginning of the land to be described; thence northerly, parallel to said west right-of-way line of said Highway Plat, a distance of 182.47 feet to the north line of said lot 25; thence westerly along said north line a distance of 103.45 feet to the northwest corner of said Lot 25; thence southerly along the west line of said Lot 25 a distance of 411.01 feet to the south line of said Lot 25; thence easterly along said south line of said Lot 25 to a line drawn southerly from the point of beginning and parallel with that part of the west right-of-way line of said Highway Plat, lying north of the south line of said Lot 25, thence north along said last described parallel line to the point of beginning. Being Torrens Property as evidenced by Certificate of Title No. 788511 (the “Property”); and,

**WHEREAS**, the Request has been submitted in the manner required for the development of land under the Shorewood City Code and under Chapter 462 of Minnesota Statutes, and all proceedings have been duly consistent thereunder; and,

**WHEREAS**, said Request is consistent with the regulations and requirements of the laws of the State of Minnesota and the City Code of the City of Shorewood for the approval of such a request; and,

**WHEREAS**, after the required notice, a public hearing was held, public testimony was taken and the Request was reviewed by the Planning Commission at a regular meeting held on September 5, 2023 and continued to October 3, 2023, the minutes of the meeting are on file at City Hall; and,

**WHEREAS**, the City Council considered the Request at its regular meeting on October 23, 2023, at which time the application materials and plans, Planning Director’s memorandum, the public testimony provided at the public hearing, and the Planning Commission’s recommendations were reviewed, and comments were heard by the City Council from the Applicant and City staff.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Shorewood that the Request for the development to be called “Shorewood Paddle Club” consisting of a clubhouse with a private pickleball court and a maximum of 12 self-storage condominium units, is hereby approved, subject to the following conditions:

1. The PUD Concept and Development Stage Plan is approved contingent on the approval of Resolution 23-107 approving a comprehensive plan amendment.
2. The PUD Concept and Development Stage Plan is approved to allow the Shorewood Paddle Club with a clubhouse with a private pickleball court and a maximum of 12 self-storage condominium units; consistent with the plans and materials received on May 16 and 17, June 20 and 26, July 7, and September 15, 2023 (the “Plans”).
3. The PUD specifically approves the following flexibility to the standards of the zoning regulations:
  - a. The PUD is allowed to have two principal buildings on one property.
  - b. The PUD is approved with flexibility to permit taller buildings consistent with those shown on the plans and with the reduced setbacks to property lines as shown on the approved site plan.
  - c. The PUD is approved with impervious surface coverage of 70 percent provided that the amount of impervious surface over 66 percent is provided with pervious pavers with an executed maintenance agreement.
  - d. The PUD is approved to allow reduced parking (13 spaces instead of 27) and no designated loading areas.
4. The PUD specifically prohibits any of the units or buildings from being used for any of the following:
  - a. Residential uses (permanent or temporary) or overnight occupancy.
  - b. Retail or other business uses.
  - c. Outdoor storage of any vehicles or other items.
  - d. Events that exceed the amount of surface parking provided on-site.
  - e. Outdoor storage of garbage cans or dumpsters.
5. Prior to any site disturbance or any building permits, the Applicant shall provide proof of recording for the following:
  - a. Executed development and PUD agreement.
  - b. Executed Stormwater Maintenance agreement for the private stormwater facilities.
  - c. Pay the following fees consistent with the fees required when the permit is issued: park dedication; water connection fees, and sanitary connection fees.
  - d. Submit all financial guarantees required by the development and PUD agreement.

- e. Submit all permits required in the Engineering Memo and the as needed for the building permit including a permit from Hennepin County Environmental Services.
6. The hours of operation for all the proposed uses shall be 7 am to 10 pm Sunday through Thursday and 7 am to 12 am Friday and Saturday.
7. Only one garbage hauler and one recycling hauler will be permitted on the property.
8. The development standards shall be based on the C-1 zoning district, except as shown on the Plans.
9. The Applicant may not import more than 100 cubic yards of material to the site unless a conditional use permit is approved by the City Council.
10. With the PUD final plan application, the Applicant shall provide the following or revise the plans as indicated below consistent with City Code and the engineer's memo dated August 3, 2023:
  - a. Revise the plans to be consistent with the revised site plan submitted September 15, 2023.
  - b. Revise the concept floor plans to indicate the lounge/kitchen area.
  - c. Add a dimension from the front property line to the southerly building, a minimum of 30 feet is required.
  - d. Revise the plans to indicate the parking spaces so that they do not block the fire lane, hydrants, fire department connections, other required fire suppression equipment, the pedestrian doors into the building, etc.
  - e. Revise the landscaping plan to provide the required distance between the trees and the adjacent property line.
  - f. Provide the CIC documents, which must include the allowed and prohibited uses on the site; limitation on events; parking prohibitions indicated in Item 6 below; the allowed hours of operation and access to the storage units; and that liquor licenses are required for any alcohol consumed on the property.
  - g. Provide the construction estimates for all site improvements.
  - h. Temporary construction easements signed by the applicable property owner for all off-site disturbance related to construction on the site.
  - i. Provide the mounting height for all fixtures. Fixtures greater than 10 feet above grade must provide side-shields to protect adjacent residential uses.
  - j. Show the security fence and gate on the plans. The security fence shall be a non-climbable, ornamental aluminum design.
  - k. Provide a six-foot privacy fence around the parking areas in the center of the site above the retaining walls to protect the adjacent apartment building from headlights.
  - l. Revise the plans to include the construction of a sidewalk connection in the right-of-way from the west side of this property east to connect with the existing sidewalk.
11. All parking spaces shall be striped on the site consistent with the plans and zoning regulations. Parking spaces may not block the fire lane, hydrants, fire department connections, other required fire suppression equipment, the pedestrian doors into the building, etc. No parking is allowed on the landscaping, over the curbs, on Smithtown Road.

12. Any signs proposed shall be permitted consistent with the limitations in 1201.03 Subd. 11 e. (3) (a) except that the property shall not qualify for the additional signage allowed for shopping centers and multi-tenant properties.
13. The approval for the PUD Concept and Development Stage Plan shall expire in six months from the date of approval if the Applicant has not submitted a complete application for PUD Final Plan, except that the Applicant may request an extension to the approval subject to the requirements of Section 1201.25 Subd. 6. c. (5).

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD Minnesota** on October 23, 2023.

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**Jennifer Labadie, Mayor**

**ATTEST:**

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**Sandie Thone, City Clerk**



# City of Shorewood Council Meeting Item

#9A.1
MEETING TYPE Regular

**Title / Subject: 3<sup>rd</sup> Quarter 2023 General Fund Budget Report**

Meeting Date: October 23, 2023

Prepared by: Joe Rigdon, Finance Director

Reviewed by: Marc Nevinski, City Administrator

Attachments: General Fund Budget Report

**Policy Consideration:**

A General Fund year-end budget report is provided to the City Council for review on a quarterly basis.

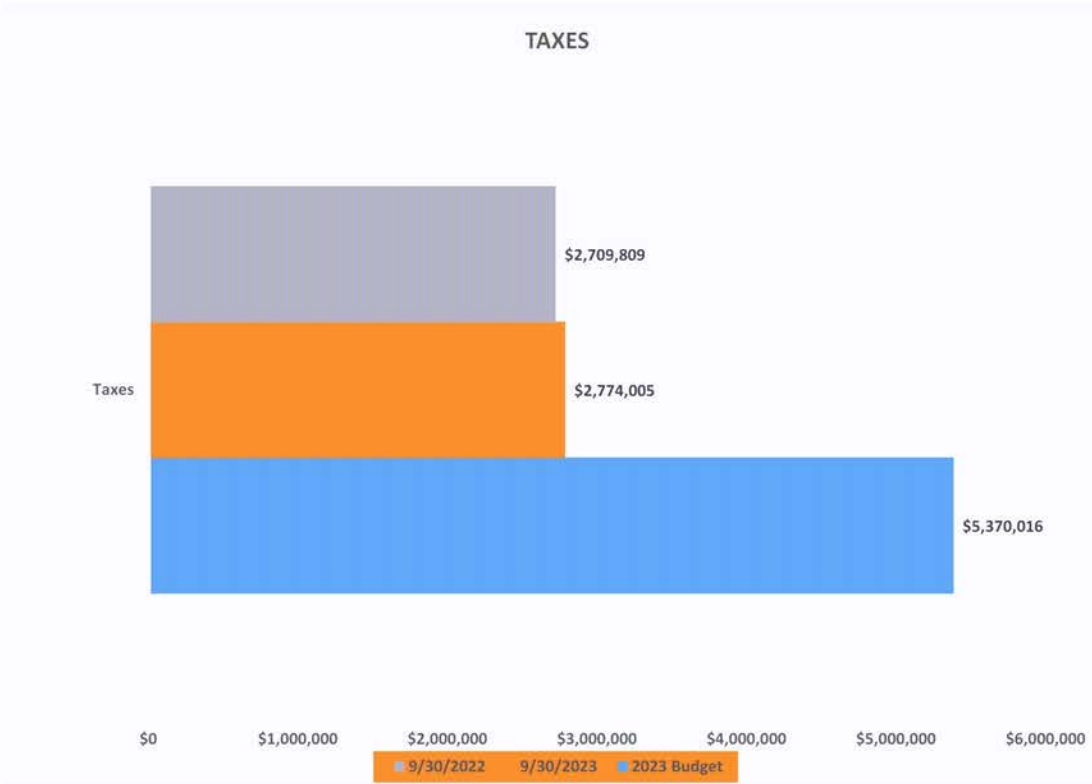
**Background:**

The following information describes the unaudited financial results of the City's General Fund as of September 30, 2023. Comparisons between year-to-date amounts through September for revenues and expenditures are included to assist in gauging fund performance.

**General Fund**

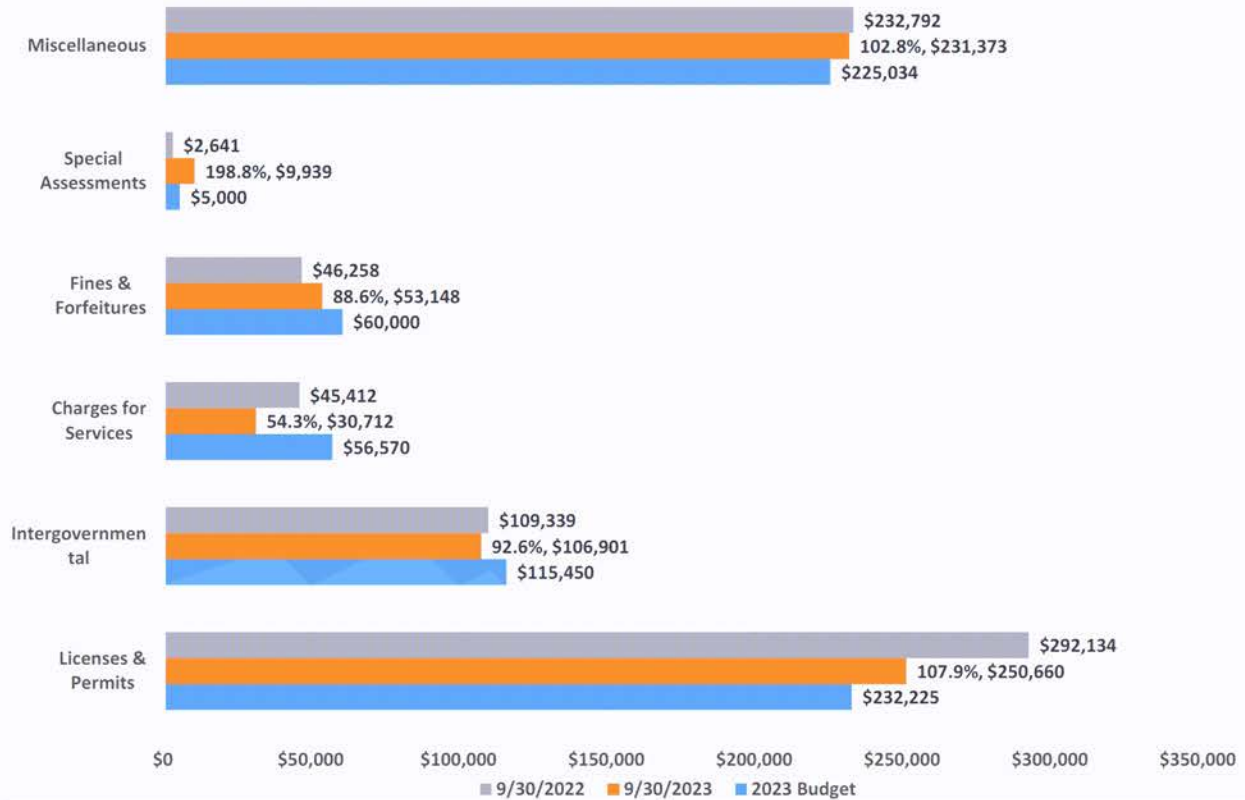
## Revenues:

Property tax revenues for the General Fund were \$2,774,005 through September 30. The remainder of first half property taxes were received in July 2023, and the second half property taxes will be received in December 2023.



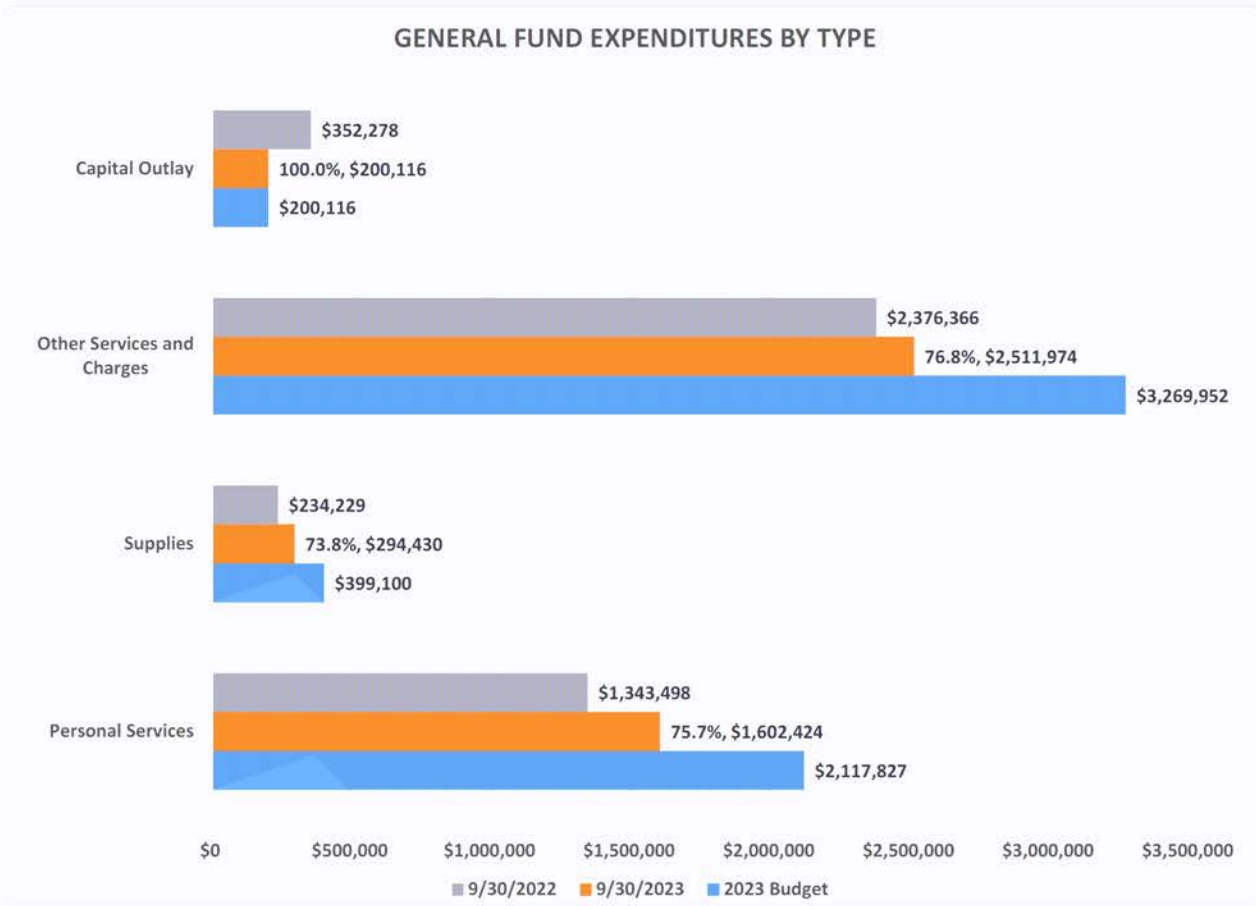


## GENERAL FUND NON-TAX REVENUES



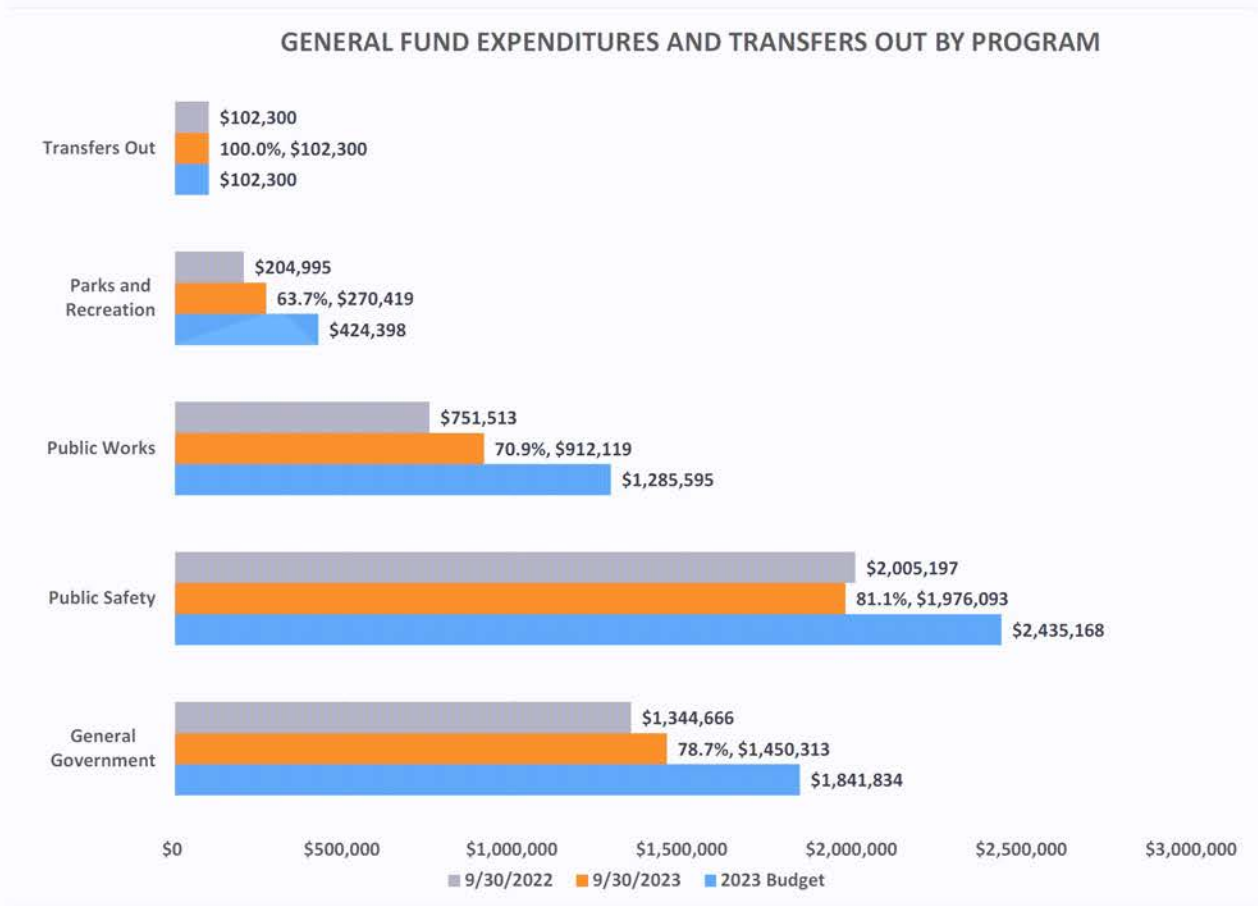
- Licenses and permits amounted to 107.9% of budget, or \$250,660 through September of 2023. The majority of the revenue consisted of building permits and plan check fees. As a comparison, licenses and permits revenues through September of 2022 were \$292,134.
- Intergovernmental revenues were \$106,901 through 09/30/23, as compared to \$109,339 through 09/30/22.
- Miscellaneous revenues totaled \$231,373 through 09/30/23. Antenna rent is the largest component, and accounted for the majority of the revenues. No investment interest earnings are typically allocated to the General Fund until the fourth quarter.
- Total General Fund revenues (excluding transfers in) amounted to \$3,456,738, or 57.0% of budget through 09/30/23. Revenues through September for 2023 were \$18,353 higher than prior year revenues through September 2022.

Expenditures by Type:



- General Fund personal services (including salaries and benefits) were at 75.7% of the annual budget through the third quarter of 2023. This amounted to a 19.3% increase over the 3rd quarter of 2022, and resulted due to timing differences in payroll from year to year.
- Other services and charges were 54.5% of the 2023 spending budget, and 5.7% more compared to the prior year. This is attributable to payment timing differences for the operations.
- Capital outlay expenditures are lower in 2023 due to payoff of the public safety facility debt in early 2023.

Expenditures by Program:

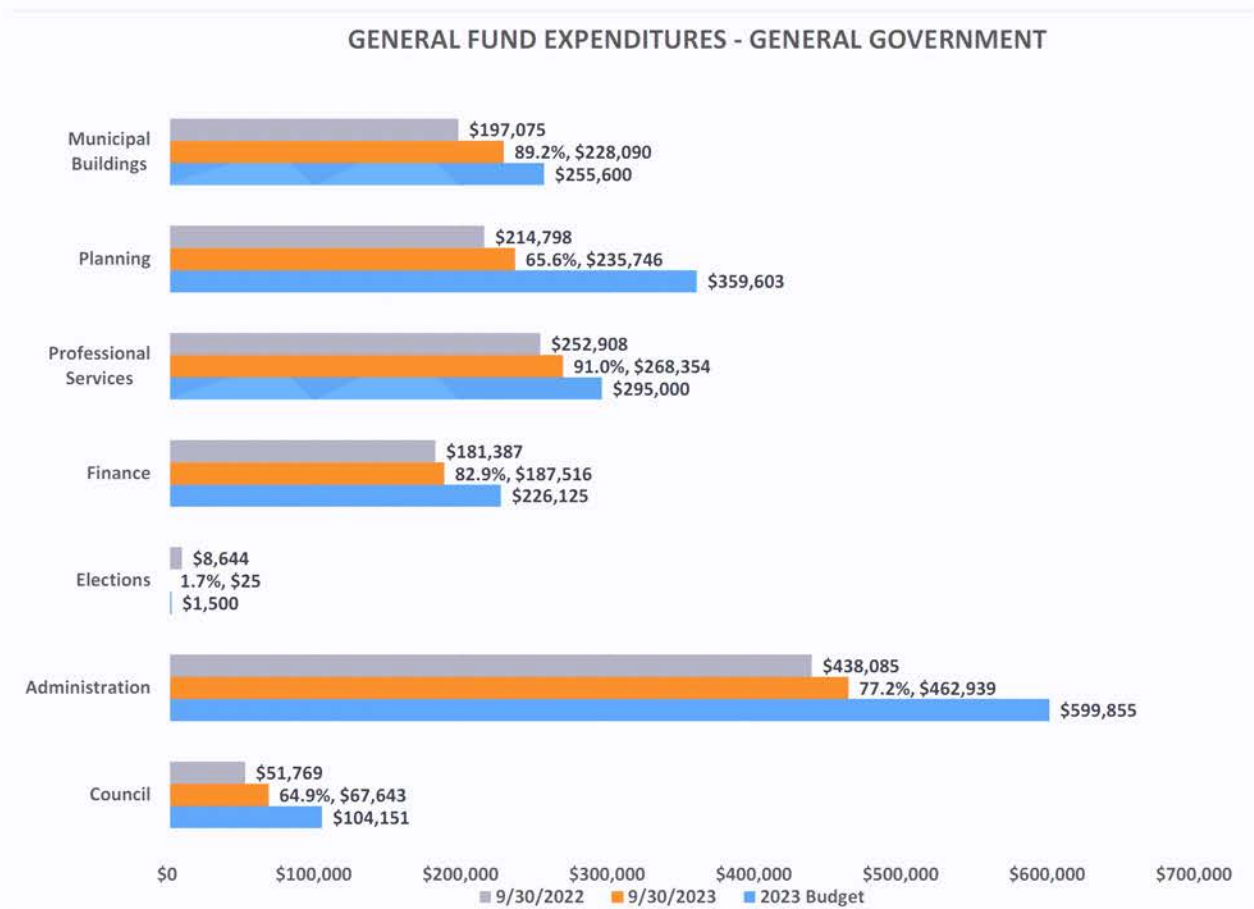


- General government expenditures through September 2023 were \$1,450,313 (78.7% of budget), or 7.9% higher than 2022.
  - Overall increases occurred due to timing of operations and expenditures.
- Public safety expenditures were \$1,976,093 through 09/30/23 (81.1% of budget), decreasing 1.5% through 09/30/22.
  - The decrease resulted from the capital/debt portion of the public safety contract fee being paid off, reducing the City's annual payments.
- Public works expenditures totaled \$912,119 through 09/30/23 (70.9% of budget), increasing 21.4% from the prior year.
  - Part of the increase is due to the hiring of an additional public works employee.
- Parks and recreation expenditures amounted to \$270,419 through September 2023, a \$65,424 or 31.9% increase from 2022.

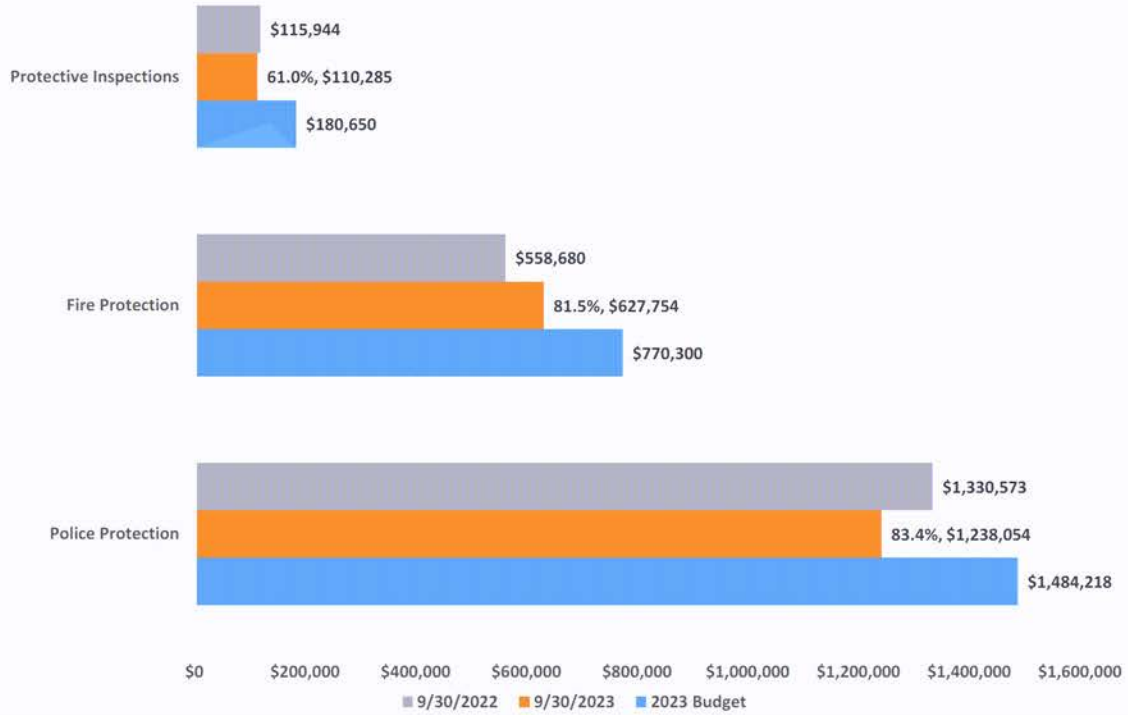
- Budgeted transfers out to the Shorewood Community and Event Center were \$102,300 through both September 2023 and September 2022.
- The General Fund exhibited an overall 7.0% increase in expenditures (excluding transfers out) from \$4,306,371 through 09/30/22 to \$4,608,944 through 09/30/23.
- General Fund expenditures were at 77.0% of budget as of 09/30/23.

Expenditures by Department:

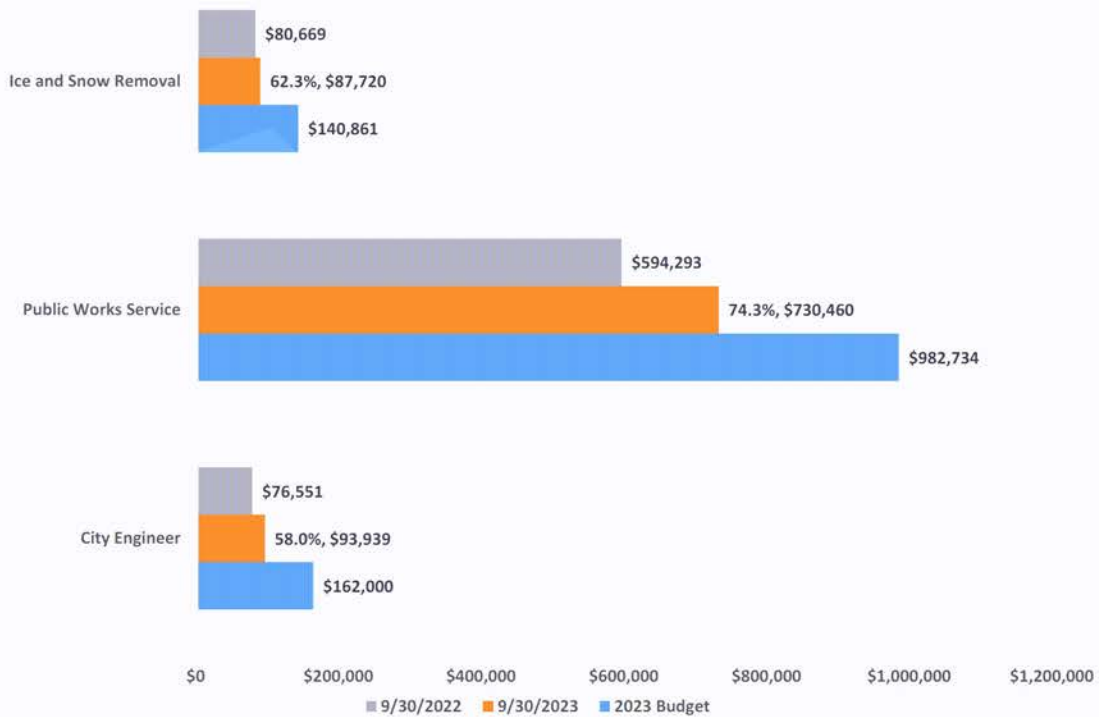
The following charts include expenditure information for individual departments for the third quarter of 2023.



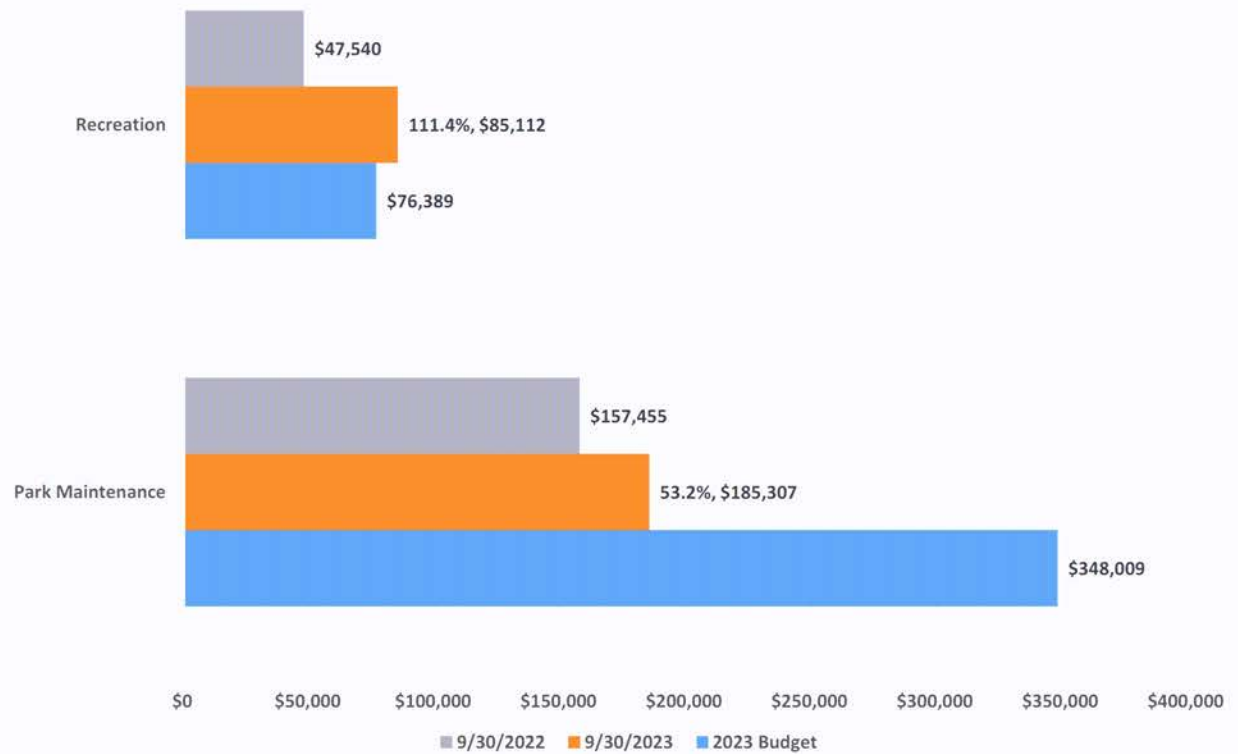
GENERAL FUND EXPENDITURES - PUBLIC SAFETY



GENERAL FUND EXPENDITURES - PUBLIC WORKS



GENERAL FUND EXPENDITURES - PARKS AND RECREATION



**Financial or Budget Considerations:**

This report is intended to provide budget to actual and comparative financial information for the General Fund.

**Recommendation / Action Requested:**

Staff recommends that the City Council accept the quarterly budget report.

**Next Steps and Timeline:**

The General Fund budget report for 4th quarter 2023 will be prepared and distributed in 2024.

**Connection to Vision / Mission:**

The review of periodic reporting of financial information is a component of sound financial management.

## General Fund Revenues and Expenditures vs Budget Through September 30, 2023

Description	Budget 2023	Amount 1/1/23 to 9/30/2023	YTD Budget 1/1/23 to 9/30/2023	% Collected/ % Expended	One Year Prior Actual	Amount Change	% Change
<b>General Fund Revenues</b>							
Taxes	5,370,016	2,774,005	4,027,512	51.7%	2,709,809	64,196	2.4%
Licenses & Permits	232,225	250,660	174,169	107.9%	292,134	(41,474)	-14.2%
Intergovernmental	115,450	106,901	86,588	92.6%	109,339	(2,438)	-2.2%
Charges for Services	56,570	30,712	42,428	54.3%	45,412	(14,700)	-32.4%
Fines & Forfeitures	60,000	53,148	45,000	88.6%	46,258	6,890	14.9%
Special Assessments	5,000	9,939	3,750	198.8%	2,641	7,298	276.3%
Miscellaneous	225,034	231,373	168,776	102.8%	232,792	(1,419)	-0.6%
<b>Total General Fund Revenues</b>	<b>6,064,295</b>	<b>3,456,738</b>	<b>4,548,221</b>	<b>57.0%</b>	<b>3,438,385</b>	<b>18,353</b>	<b>0.5%</b>
<b>Other Financing Sources</b>							
Transfers In	25,000	25,000	18,750	100.0%	25,000	0	0.0%
<b>Total Revenues and Other Financing Sources</b>	<b>6,089,295</b>	<b>3,481,738</b>	<b>4,566,971</b>	<b>57.2%</b>	<b>3,463,385</b>	<b>18,353</b>	<b>0.5%</b>
<b>General Fund Expenditures</b>							
<b>General Government</b>							
<b>Council</b>							
Personal Services	27,451	20,157	20,588	73.4%	16,632	3,525	21.2%
Supplies	3,000	1,672	2,250	55.7%	3,940	(2,268)	-57.6%
Other Services and Charges	73,700	45,814	55,275	62.2%	31,197	14,617	46.9%
<b>Council</b>	<b>104,151</b>	<b>67,643</b>	<b>78,113</b>	<b>64.9%</b>	<b>51,769</b>	<b>15,874</b>	<b>30.7%</b>
<b>Administration</b>							
Personal Services	528,855	396,649	396,641	75.0%	334,249	62,400	18.7%
Supplies	17,000	14,298	12,750	84.1%	9,917	4,381	44.2%
Other Services and Charges	54,000	51,992	40,500	96.3%	93,919	(41,927)	-44.6%
<b>Administration</b>	<b>599,855</b>	<b>462,939</b>	<b>449,891</b>	<b>77.2%</b>	<b>438,085</b>	<b>24,854</b>	<b>5.7%</b>

## General Fund Revenues and Expenditures vs Budget Through September 30, 2023

Description	Budget 2023	Amount		YTD Budget 1/1/23 to 9/30/2023	% Collected/ % Expended	One Year Prior Actual	Amount Change	% Change
		1/1/23 to 9/30/2023	9/30/2023					
<b>Elections</b>								
Personal Services	0	0	0	0	N/A	6,552	(6,552)	-100.0%
Supplies	1,500	0	1,125	0.0%	1,838	(1,838)	(1,838)	-100.0%
Other Services and Charges	0	25	0	N/A	254	(229)	(229)	-90.2%
<b>Elections</b>	<b>1,500</b>	<b>25</b>	<b>1,125</b>	<b>1.7%</b>	<b>8,644</b>	<b>(8,619)</b>	<b>(8,619)</b>	<b>-99.7%</b>
<b>Finance</b>								
Personal Services	192,125	141,005	144,094	73.4%	136,810	4,195	4,195	3.1%
Supplies	21,000	40,378	15,750	192.3%	37,846	2,532	2,532	6.7%
Other Services and Charges	13,000	6,133	9,750	47.2%	6,731	(598)	(598)	-8.9%
<b>Finance</b>	<b>226,125</b>	<b>187,516</b>	<b>169,594</b>	<b>82.9%</b>	<b>181,387</b>	<b>6,129</b>	<b>6,129</b>	<b>3.4%</b>
<b>Professional Services</b>								
Other Services and Charges	295,000	268,354	221,250	91.0%	252,908	15,446	15,446	6.1%
<b>Professional Services</b>	<b>295,000</b>	<b>268,354</b>	<b>221,250</b>	<b>91.0%</b>	<b>252,908</b>	<b>15,446</b>	<b>15,446</b>	<b>6.1%</b>
<b>Planning</b>								
Personal Services	280,403	221,491	210,302	79.0%	196,991	24,500	24,500	12.4%
Supplies	700	2,160	525	308.6%	834	1,326	1,326	159.0%
Other Services and Charges	78,500	12,095	58,875	15.4%	16,973	(4,878)	(4,878)	-28.7%
<b>Planning</b>	<b>359,603</b>	<b>235,746</b>	<b>269,702</b>	<b>65.6%</b>	<b>214,798</b>	<b>20,948</b>	<b>20,948</b>	<b>9.8%</b>
<b>Municipal Buildings</b>								
Supplies	38,000	21,675	28,500	57.0%	13,971	7,704	7,704	55.1%
Other Services and Charges	217,600	206,415	163,200	94.9%	183,104	23,311	23,311	12.7%
<b>Municipal Buildings</b>	<b>255,600</b>	<b>228,090</b>	<b>191,700</b>	<b>89.2%</b>	<b>197,075</b>	<b>31,015</b>	<b>31,015</b>	<b>15.7%</b>
<b>Total General Government</b>	<b>1,841,834</b>	<b>1,450,313</b>	<b>1,381,376</b>	<b>78.7%</b>	<b>1,344,666</b>	<b>105,647</b>	<b>105,647</b>	<b>7.9%</b>
<b>Public Safety</b>								
<b>Police Protection</b>								
Supplies	0	0	0	N/A	0	0	0	N/A
Other Services and Charges	1,484,218	1,238,054	1,113,164	83.4%	1,173,863	64,191	64,191	5.5%
Capital Outlay	0	0	0	N/A	156,710	(156,710)	(156,710)	-100.0%
<b>Police Protection</b>	<b>1,484,218</b>	<b>1,238,054</b>	<b>1,113,164</b>	<b>83.4%</b>	<b>1,330,573</b>	<b>(92,519)</b>	<b>(92,519)</b>	<b>-7.0%</b>



## General Fund Revenues and Expenditures vs Budget Through September 30, 2023

Description	Budget 2023	Amount 1/1/23 to 9/30/2023	YTD Budget 1/1/23 to 9/30/2023	% Collected/ % Expended	One Year Prior Actual	Amount Change	% Change
<b>Fire Protection</b>							
Other Services and Charges	570,184	427,638	427,638	75.0%	363,112	64,526	17.8%
Capital Outlay	200,116	200,116	150,087	100.0%	195,568	4,548	2.3%
<b>Fire Protection</b>	<b>770,300</b>	<b>627,754</b>	<b>577,725</b>	<b>81.5%</b>	<b>558,680</b>	<b>69,074</b>	<b>12.4%</b>
<b>Protective Inspections</b>							
Personal Services	145,050	96,610	108,788	66.6%	91,813	4,797	5.2%
Supplies	3,300	927	2,475	28.1%	1,032	(105)	-10.2%
Other Services and Charges	32,300	12,748	24,225	39.5%	23,099	(10,351)	-44.8%
<b>Protective Inspections</b>	<b>180,650</b>	<b>110,285</b>	<b>135,488</b>	<b>61.0%</b>	<b>115,944</b>	<b>(5,659)</b>	<b>-4.9%</b>
<b>Total Public Safety</b>	<b>2,435,168</b>	<b>1,976,093</b>	<b>1,826,376</b>	<b>81.1%</b>	<b>2,005,197</b>	<b>(29,104)</b>	<b>-1.5%</b>
<b>Public Works</b>							
<b>City Engineer</b>							
Supplies	0	70	0	N/A	73	(3)	-4.1%
Other Services and Charges	162,000	93,869	121,500	57.9%	76,478	17,391	22.7%
<b>City Engineer</b>	<b>162,000</b>	<b>93,939</b>	<b>121,500</b>	<b>58.0%</b>	<b>76,551</b>	<b>17,388</b>	<b>22.7%</b>
<b>Public Works Service</b>							
Personal Services	593,034	465,504	444,776	78.5%	382,244	83,260	21.8%
Supplies	190,900	166,557	143,175	87.2%	105,789	60,768	57.4%
Other Services and Charges	198,800	98,399	149,100	49.5%	106,260	(7,861)	-7.4%
<b>Public Works Service</b>	<b>982,734</b>	<b>730,460</b>	<b>737,051</b>	<b>74.3%</b>	<b>594,293</b>	<b>136,167</b>	<b>22.9%</b>
<b>Ice &amp; Snow Removal</b>							
Personal Services	59,661	68,376	44,746	114.6%	44,378	23,998	54.1%
Supplies	80,000	18,564	60,000	23.2%	36,291	(17,727)	-48.8%
Other Services and Charges	1,200	780	900	65.0%	0	780	N/A
<b>Ice &amp; Snow Removal</b>	<b>140,861</b>	<b>87,720</b>	<b>105,646</b>	<b>62.3%</b>	<b>80,669</b>	<b>7,051</b>	<b>8.7%</b>
<b>Total Public Works</b>	<b>1,285,595</b>	<b>912,119</b>	<b>964,196</b>	<b>70.9%</b>	<b>751,513</b>	<b>160,606</b>	<b>21.4%</b>

## General Fund Revenues and Expenditures vs Budget Through September 30, 2023

Description	Budget 2023	Amount 1/1/23 to 9/30/2023	YTD Budget 1/1/23 to 9/30/2023	% Collected/ % Expended	One Year Prior Actual	Amount Change	% Change
<b>Parks and Recreation</b>							
<b>Park Maintenance</b>							
Personal Services	233,959	130,759	99,913	55.9%	99,913	30,846	30.9%
Supplies	36,700	25,568	15,846	69.7%	15,846	9,722	61.4%
Other Services and Charges	77,350	28,980	41,696	37.5%	41,696	(12,716)	-30.5%
<b>Park Maintenance</b>	<b>348,009</b>	<b>185,307</b>	<b>157,455</b>	<b>53.2%</b>	<b>157,455</b>	<b>27,852</b>	<b>17.7%</b>
<b>Recreation</b>							
Personal Services	57,289	61,873	42,967	108.0%	33,916	27,957	82.4%
Supplies	7,000	2,561	5,250	36.6%	6,852	(4,291)	-62.6%
Other Services and Charges	12,100	20,678	9,075	170.9%	6,772	13,906	205.3%
<b>Recreation</b>	<b>76,389</b>	<b>85,112</b>	<b>57,292</b>	<b>111.4%</b>	<b>47,540</b>	<b>37,572</b>	<b>79.0%</b>
<b>Total Parks and Recreation</b>	<b>424,398</b>	<b>270,419</b>	<b>214,747</b>	<b>63.7%</b>	<b>204,995</b>	<b>65,424</b>	<b>31.9%</b>
<b>Total General Fund Expenditures</b>	<b>5,986,995</b>	<b>4,608,944</b>	<b>4,386,695</b>	<b>77.0%</b>	<b>4,306,371</b>	<b>302,573</b>	<b>7.0%</b>
<b>Other Financing Uses</b>							
Transfers Out - SCEC - Building	32,300	32,300	24,225	100.0%	32,300	0	0.0%
Transfers Out - SCEC - Operations	70,000	70,000	52,500	100.0%	70,000	0	0.0%
Transfers Out - Equipment Replacement	0	0	0	N/A	0	0	N/A
Transfers Out - Street Improvements	0	0	0	N/A	0	0	N/A
Transfers Out - Park Capital	0	0	0	N/A	0	0	N/A
<b>Total Other Financing Uses</b>	<b>102,300</b>	<b>102,300</b>	<b>76,725</b>	<b>100.0%</b>	<b>102,300</b>	<b>0</b>	<b>0.0%</b>
<b>Total Expenditures and Other Financing Uses</b>	<b>6,089,295</b>	<b>4,711,244</b>	<b>4,463,420</b>	<b>77.4%</b>	<b>4,408,671</b>	<b>302,573</b>	<b>6.9%</b>
<b>General Fund, Net</b>	<b>0</b>	<b>(1,229,506)</b>	<b>103,552</b>	<b>N/A</b>	<b>(945,286)</b>	<b>(284,220)</b>	<b>30.1%</b>

## General Fund Revenues and Expenditures vs Budget Through September 30, 2023

Description	Budget 2023	Amount 1/1/23 to 9/30/2023	YTD Budget 1/1/23 to 9/30/2023	% Collected/ % Expended	One Year Prior Actual	Amount Change	% Change
<b>Expenditures and Transfers Out by Program</b>							
General Government	1,841,834	1,450,313	1,381,376	78.7%	1,344,666	105,647	7.9%
Public Safety	2,435,168	1,976,093	1,826,376	81.1%	2,005,197	(29,104)	-1.5%
Public Works	1,285,595	912,119	964,196	70.9%	751,513	160,606	21.4%
Parks and Recreation	424,398	270,419	214,747	63.7%	204,995	65,424	31.9%
Transfers Out	102,300	102,300	76,725	100.0%	102,300	0	0.0%
<b>Total Expenditures and Transfers Out</b>	<b>6,089,295</b>	<b>4,711,244</b>	<b>4,463,420</b>	<b>77.4%</b>	<b>4,408,671</b>	<b>302,573</b>	<b>6.9%</b>
<b>Expenditures by Department</b>							
Council	104,151	67,643	78,113	64.9%	51,769	15,874	30.7%
Administration	599,855	462,939	449,891	77.2%	438,085	24,854	5.7%
Elections	1,500	25	1,125	1.7%	8,644	(8,619)	-99.7%
Finance	226,125	187,516	169,594	82.9%	181,387	6,129	3.4%
Professional Services	295,000	268,354	221,250	91.0%	252,908	15,446	6.1%
Planning	359,603	235,746	269,702	65.6%	214,798	20,948	9.8%
Municipal Buildings	255,600	228,090	191,700	89.2%	197,075	31,015	15.7%
Police Protection	1,484,218	1,238,054	1,113,164	83.4%	1,330,573	(92,519)	-7.0%
Fire Protection	770,300	627,754	577,725	81.5%	558,680	69,074	12.4%
Protective Inspections	180,650	110,285	135,488	61.0%	115,944	(5,659)	-4.9%
City Engineer	162,000	93,939	121,500	58.0%	76,551	17,388	22.7%
Public Works Service	982,734	730,460	737,051	74.3%	594,293	136,167	22.9%
Ice and Snow Removal	140,861	87,720	105,646	62.3%	80,669	7,051	8.7%
Park Maintenance	348,009	185,307	157,455	53.2%	157,455	27,852	17.7%
Recreation	76,389	85,112	57,292	111.4%	47,540	37,572	79.0%
Transfers Out	102,300	102,300	76,725	100.0%	102,300	0	0.0%
<b>Total Expenditures and Transfers Out</b>	<b>6,089,295</b>	<b>4,711,244</b>	<b>4,463,420</b>	<b>77.4%</b>	<b>4,408,671</b>	<b>302,573</b>	<b>6.9%</b>

**General Fund  
Revenues and Expenditures vs Budget  
Through September 30, 2023**

Description	Budget 2023	Amount 1/1/23 to 9/30/2023	YTD Budget 1/1/23 to 9/30/2023	% Collected/ % Expended	One Year Prior Actual	Amount Change	% Change
<b>Expenditures by Type</b>							
Personal Services	2,117,827	1,602,424	1,512,814	75.7%	1,343,498	258,926	19.3%
Supplies	399,100	294,430	287,646	73.8%	234,229	60,201	25.7%
Other Services and Charges	3,269,952	2,511,974	2,436,148	76.8%	2,376,366	135,608	5.7%
Capital Outlay	200,116	200,116	150,087	100.0%	352,278	(152,162)	-43.2%
<b>Total Expenditures</b>	<b>5,986,995</b>	<b>4,608,944</b>	<b>4,386,695</b>	<b>77.0%</b>	<b>4,306,371</b>	<b>302,573</b>	<b>7.0%</b>
Transfers Out	102,300	102,300	76,725	100.0%	102,300	0	0.0%
<b>Total Expenditures and Transfers Out</b>	<b>6,089,295</b>	<b>4,711,244</b>	<b>4,463,420</b>	<b>77.4%</b>	<b>4,408,671</b>	<b>302,573</b>	<b>6.9%</b>



# City of Shorewood Council Meeting Item

#9A.2

MEETING TYPE  
Regular

**Title / Subject: Investments 3rd Quarter 2023 Report**

Meeting Date: October 23, 2023

Prepared by: Joe Rigdon, Finance Director

Reviewed by: Marc Nevinski, City Administrator

Attachments: Third Quarter 2023 Investments Spreadsheets

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**Policy Consideration:**

An investment report is provided to the City Council for review on a quarterly basis.

**Background:**

The following information describes the unaudited investment activity of the City's funds as of September 30, 2023.

The City's investment policy, modified 3/24/2013, indicates that an investment report shall be prepared at least quarterly, including a management summary.

**General Objectives:**

The primary objectives, in priority order, of investment activities are safety, liquidity, and yield.

1. Safety:

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective is to mitigate credit risk and interest rate risk. Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates.

2. Liquidity:

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands.

3. Yield:

The investment portfolio shall be designed with the objective of attaining a market rate of return through budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs.

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**Mission Statement:** *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*

### **Authorized and Suitable Investments:**

Minnesota Statute 118A.04 lists the types of investments that public funds may be invested in. The City's investment policy is narrower than the statute, and includes the following permissible investments:

- United States securities:

Governmental bonds, notes, bills, mortgages (excluding high-risk mortgage-backed securities), and other securities, which are direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress.

- State and local securities:

Any security which is a general obligation of any state or local government with taxing powers which is rated "A" or better by a national bond rating service.

Any security which is a revenue obligation of any state or local government with taxing powers which is rated "AA" or better by a national bond rating service.

- Commercial paper:

Commercial paper issued by United States corporations or their Canadian subsidiaries that is rated in the highest quality category by at least two nationally recognized rating agencies and matures in 270 days or less.

- Time deposits:

Time deposits that are fully insured by the Federal Deposit Insurance Corporation (FDIC) or by the National Credit Union Administration (NCUA).

- Minnesota joint powers investment trust (4M Fund):

Investments are restricted to securities described in Minnesota Statutes 118A.04 and 118A.07, subdivision 7.

### **Diversification:**

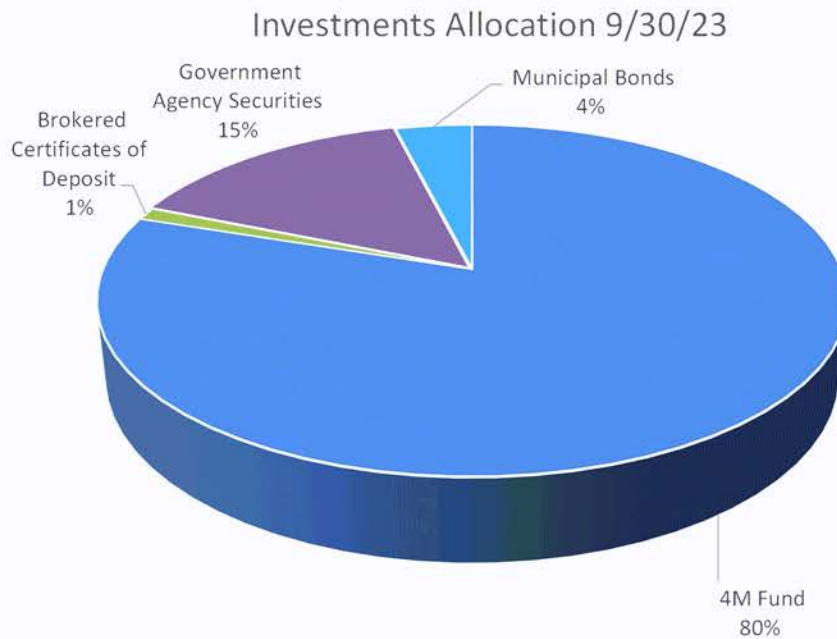
The City shall attempt to diversify its investments according to type and maturity. The portfolio may contain both short-term and long-term investments. The City will attempt to match its investment maturities with anticipated cash flow requirements. The City's investment policy includes the following restrictions:

- No more than 30% of the total investments should extend beyond 5 years.
- No investment should extend beyond 15 years.
- No more than 10% of the total investments shall be commercial paper.

As of 9/30/2023, the City is in compliance with the investment policy's diversification restrictions.

**Current Investments:**

At 9/30/2023, market value of the City's investments amounted to \$17,568,579.68. Municipal money market funds (4M) were the largest share of the portfolio, at 80%. Net bond proceeds of \$5.7 million were transferred into the 4M fund in July 2023. An investments summary and an investments detail listing are included on the attachments.



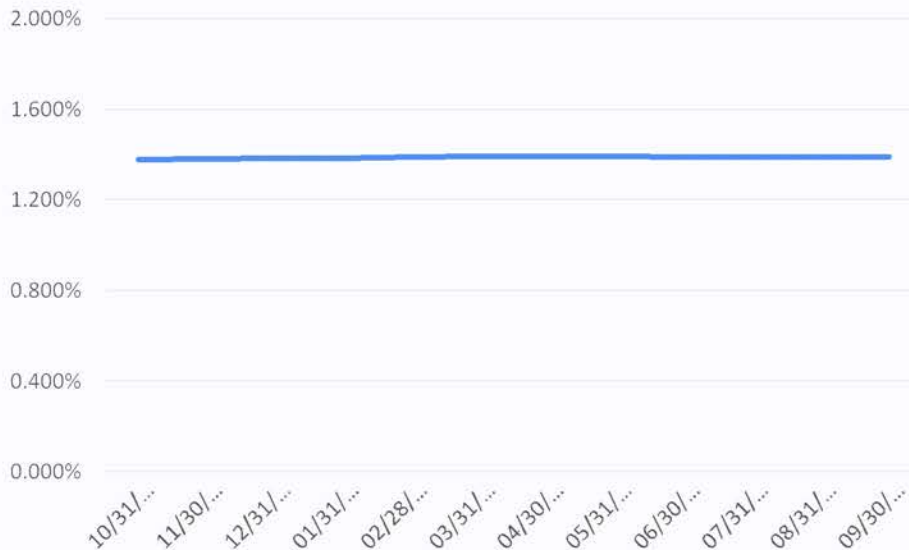
The weighted average portfolio maturity in days of the City's investment portfolio has slowly declined during the past year. This calculation varies based on the mix of investment purchases and maturities. The City has shifted the majority of its funds to the 4M money market, which does not have a fixed maturity. The remaining fixed rate investment maturities have become shorter as a result. The average fixed rate investment maturity at September 30, 2023 was a calculated 350 days, or 0.96 years.

### Weighted Average Portfolio Maturity (Days)



The weighted average fixed rate yield of the City's investment portfolio was flat during the past year. Based on the City's fixed rate investments (excluding the 4M Fund), the fixed rate portfolio yield was calculated at 1.391% at 9/30/2023.

### Weighted Average Portfolio Fixed Rate Yield





The 4M Fund average monthly rate for September 2023 was 5.313%, as compared to a rate of 2.797% in October 2022.



From 1/1/2023 through 9/30/2023, the City received \$505,954 in investment interest. The change in fair market value of the portfolio increased by \$64,114 through 9/30/23 as a result of market economic conditions. The City’s intent is to hold investments to maturity dates, which will prevent realized principal gains or losses on investments related to market conditions. Net investment income through 9/30/23 amounted to \$570,068.

**Financial or Budget Considerations:**

This report is intended to provide investments financial information for the City’s funds.

**Recommendation / Action Requested:**

Staff recommends that the City Council accept the quarterly investments report.

**Next Steps and Timeline:**

The investments quarterly report for 4th quarter 2023 will be prepared and distributed in January 2024.

**Connection to Vision / Mission:**

The review of periodic reporting of financial information is a component of sound financial management.

**City of Shorewood  
Investments Summary  
2022-2023**

	10/31/22	11/30/22	12/31/22	01/31/23	02/28/23	03/31/23	04/30/23	05/31/23	06/30/23	07/31/23	08/31/23	09/30/23
<b>Allocation (\$)</b>												
4M Fund	5,614,650.94	4,629,904.94	12,440,583.25	11,488,137.10	11,527,279.65	11,886,069.29	10,688,777.69	10,739,258.56	11,401,079.50	17,143,316.92	15,213,410.33	13,527,423.36
Brokered Money Markets												
Brokered Certificates of Deposit	1,228,858.74	1,228,860.00	981,336.78	981,625.83	982,082.13	982,678.88	734,660.11	735,547.43	245,425.51	246,193.37	246,885.49	(0.00)
Government Agency Securities	3,421,848.05	3,442,095.92	3,447,926.48	3,467,458.46	3,447,115.66	3,186,604.13	3,191,992.11	3,184,295.79	3,176,647.75	3,186,113.22	3,196,511.74	3,200,952.82
Municipal Bonds	825,537.00	836,917.00	838,078.50	844,764.50	835,549.00	842,252.50	838,051.00	836,759.50	839,928.50	840,297.00	841,294.50	840,203.50
	11,090,894.73	10,137,777.86	17,707,925.01	16,781,985.89	16,792,026.44	16,897,604.80	15,453,480.91	15,495,861.28	15,663,081.26	21,415,920.51	19,498,102.06	17,568,579.68

	10/31/22	11/30/22	12/31/22	01/31/23	02/28/23	03/31/23	04/30/23	05/31/23	06/30/23	07/31/23	08/31/23	09/30/23
<b>Allocation (%)</b>												
4M Fund	50.6%	45.7%	70.3%	68.5%	68.6%	70.3%	69.2%	69.3%	72.8%	80.0%	78.0%	77.0%
Brokered Money Markets	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Brokered Certificates of Deposit	11.1%	12.1%	5.5%	5.8%	5.8%	4.7%	4.8%	4.7%	1.6%	1.1%	1.3%	0.0%
Government Agency Securities	30.9%	34.0%	19.5%	20.7%	20.5%	18.9%	20.7%	20.5%	20.3%	14.9%	16.4%	18.2%
Municipal Bonds	7.4%	8.3%	4.7%	5.0%	5.0%	5.0%	5.4%	5.4%	5.4%	3.9%	4.3%	4.8%
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Weighted Average Portfolio Yield	1.378%	1.381%	1.384%	1.385%	1.390%	1.393%	1.394%	1.394%	1.389%	1.389%	1.389%	1.391%
4M Fund Rate	2.797%	3.477%	3.934%	4.175%	4.442%	4.683%	4.844%	5.008%	5.027%	5.041%	5.250%	5.313%

Weighted Average Portfolio Maturity (Days)	544	515	508	478	448	445	438	407	421	390	359	350
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City of Shorewood - Investments Detail  
12/31/23

4M Fund

Money Market	Par Value	Yield %	Purchase Date	Maturity Date	Cusip	FDIC #	Market Value 12/31/2022	Purchases	Sales	Transfers in	Transfers out	Change in Market Value & Gain/Loss	Interest/Dividends	Market Value 9/30/2023
US Treasury	11,488,137.10	5.313					12,440,583.25	1,290,300.00	-	5,833,301.63	(6,500,000.00)	-	463,238.48	13,527,423.36
US Treasury	303,000.00	0.125	3/24/2022	3/31/2023	91282CBLU4	N/A	299,896.98	-	(303,000.00)	-	(189.38)	3,103.02	189.38	0.00
Servfirst Bank, FL CD	249,500.08	0.16	4/1/2021	4/3/2023	Non-DTC	57993	249,100.00	-	(249,100.00)	-	(800.08)	-	800.08	-
Greenstate Credit Union, IA CD	249,947.60	0.15	6/1/2021	6/1/2023	Non-DTC	N/CUA	249,200.00	-	(249,200.00)	-	(747.60)	-	747.60	-
Texas Capital Bank, NA Dallas TX	242,000.00	2.80	6/24/2022	6/23/2023	88224PM55	34383	240,357.06	-	(242,000.00)	-	(1,698.77)	1,642.94	6,998.77	-
Brokered CD	242,000.00	1.76	9/5/2019	9/5/2023	61760MA61	34221	242,679.72	-	(247,000.00)	-	(4,569.50)	4,320.28	4,569.50	(0.00)
Morgan Stanley Pw Bank CD	306,000.00	0.25	3/24/2022	9/30/2023	91282CDA6	N/A	295,827.95	-	-	-	(382.50)	10,172.05	382.50	306,000.00
US Treasury	500,000.00	2.00	4/20/2021	10/1/2023	943080VH1	N/A	494,830.00	-	-	-	(5,000.00)	5,170.00	5,000.00	500,000.00
Waukesha WI Prom Nts	309,000.00	0.75	6/21/2022	12/31/2023	91282C089	N/A	297,086.51	-	-	-	(2,317.50)	8,388.96	2,317.50	305,475.47
Government Agency	296,000.00	2.125	3/24/2022	3/31/2024	912828W71	N/A	286,842.35	-	-	-	(3,145.00)	4,312.96	3,145.00	291,195.31
Government Agency	500,000.00	2.00	4/5/2021	4/30/2024	912828X70	N/A	482,578.00	-	-	-	(5,000.00)	7,617.31	5,000.00	490,195.31
US Treasury	305,000.00	1.75	6/21/2022	6/30/2024	912828E28	N/A	292,383.07	-	-	-	(5,337.50)	4,324.74	5,337.50	296,707.81
Government Agency	350,000.00	2.00	4/20/2021	10/1/2024	943080V17	N/A	343,248.50	-	-	-	(3,500.00)	(3,045.00)	3,500.00	340,203.50
Municipal Bonds	500,000.00	0.50	4/5/2021	3/31/2025	912828ZFO	N/A	459,570.50	-	-	-	(1,250.00)	6,484.19	1,250.00	466,054.69
Government Agency	314,000.00	0.50	3/24/2022	3/31/2025	912828ZFW	N/A	288,610.27	-	-	-	(785.00)	4,072.08	785.00	292,682.35
US Treasury	327,000.00	0.25	6/21/2022	6/30/2025	912828ZW3	N/A	296,458.85	-	-	-	(817.50)	4,074.59	817.50	300,533.44
Government Agency	500,000.00	0.75	4/5/2021	3/31/2026	91282CB17	N/A	448,672.00	-	-	-	(1,875.00)	3,476.44	1,875.00	452,148.44
							17,707,925.01	1,290,300.00	(1,290,300.00)	5,833,301.63	(6,542,715.33)	64,114.56	505,953.81	17,568,579.68

Net Interest Earnings (Interest and realized gains/losses on securities)

570,068.37

570,068.37