



City Council Work Session
Tuesday, October 1, 2024 at 6:00 PM
Public Meeting Room

AGENDA

1. Call to Order

2. Items for Discussion

- A. Discussion of Viaduct Park Ice Feature Phase
- B. Discussion of Corey Newby's Request for Variances at 15 3rd Ave SW
- C. Discussion of Zoning Text Amendments for Cannabis Businesses
- D. Discussion of Woolen Mill Dam Repair
- E. Discussion on Advance Retirement Notice Program
- F. Discussion of Eliminating Water Disconnection for Non-Payment

3. Future Discussion

4. Adjournment

(The Council may meet as a group for dinner)

Please contact the City Administrator's Office if you need special accommodations while attending this meeting.

Para pedir este documento en otro idioma, envíe un correo electrónico y adjunte el documento a accessibility@faribault.org.

Si aad u codsato dukumeentigan oo ku qoran luqad kale, fadlan e-mail u soo dir oo ku soo lifaaq dukumiintiga accessibility@faribault.org.



Council Work Session Memorandum

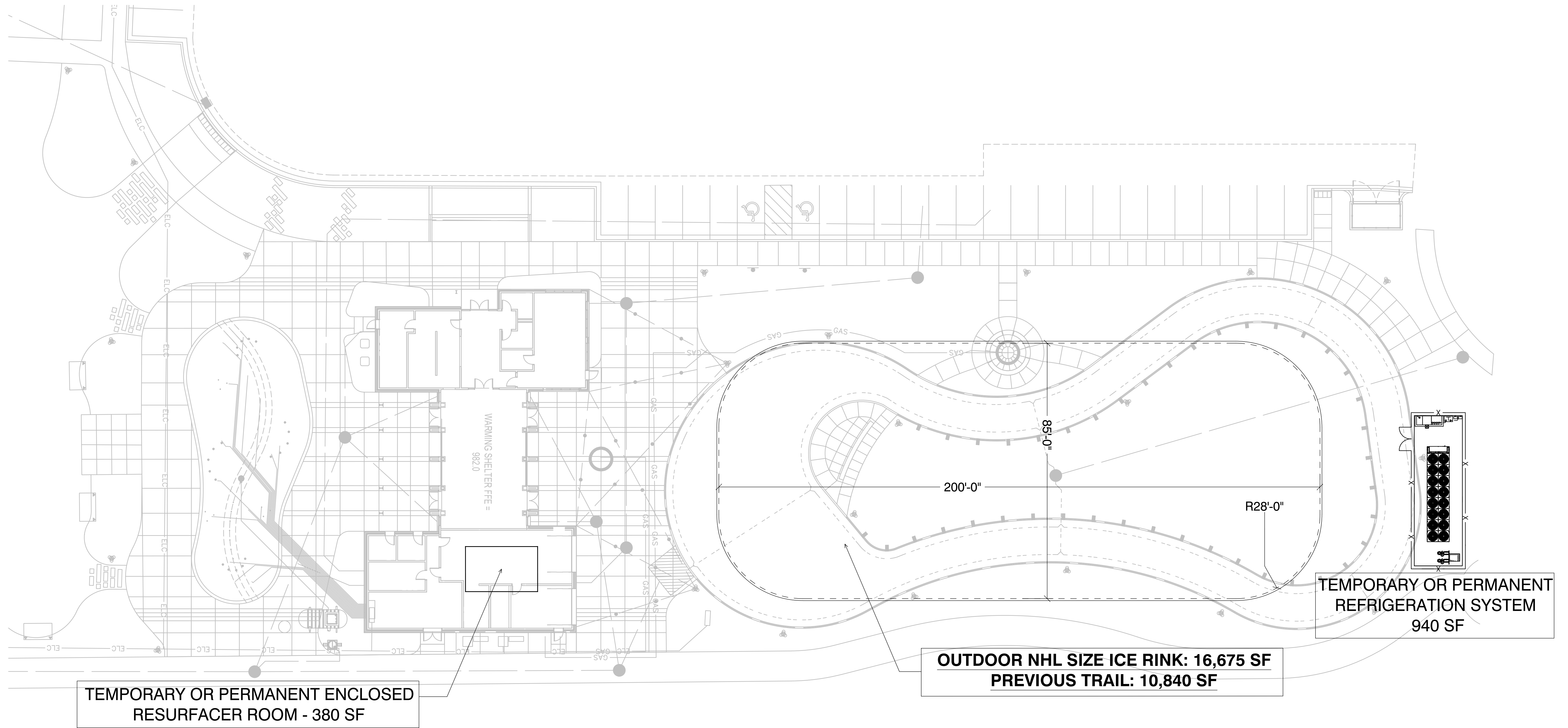
TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM: Mark DuChene, Director of Engineering (City Engineer)
MEETING DATE: October 1, 2024
SUBJECT: Discussion of Viaduct Park Ice Feature Phase

Discussion:

The City received the attached updated cost estimates and concept drawings for a future phase ice feature at the new Viaduct Park. Note the attached only accounts for the ice feature itself and not any additional required components such as an ice resurfer, a building to house the ice resurfer, site concrete walks, lighting, sound etc. Staff will present the attached and be looking for Council feedback and direction on how to proceed.

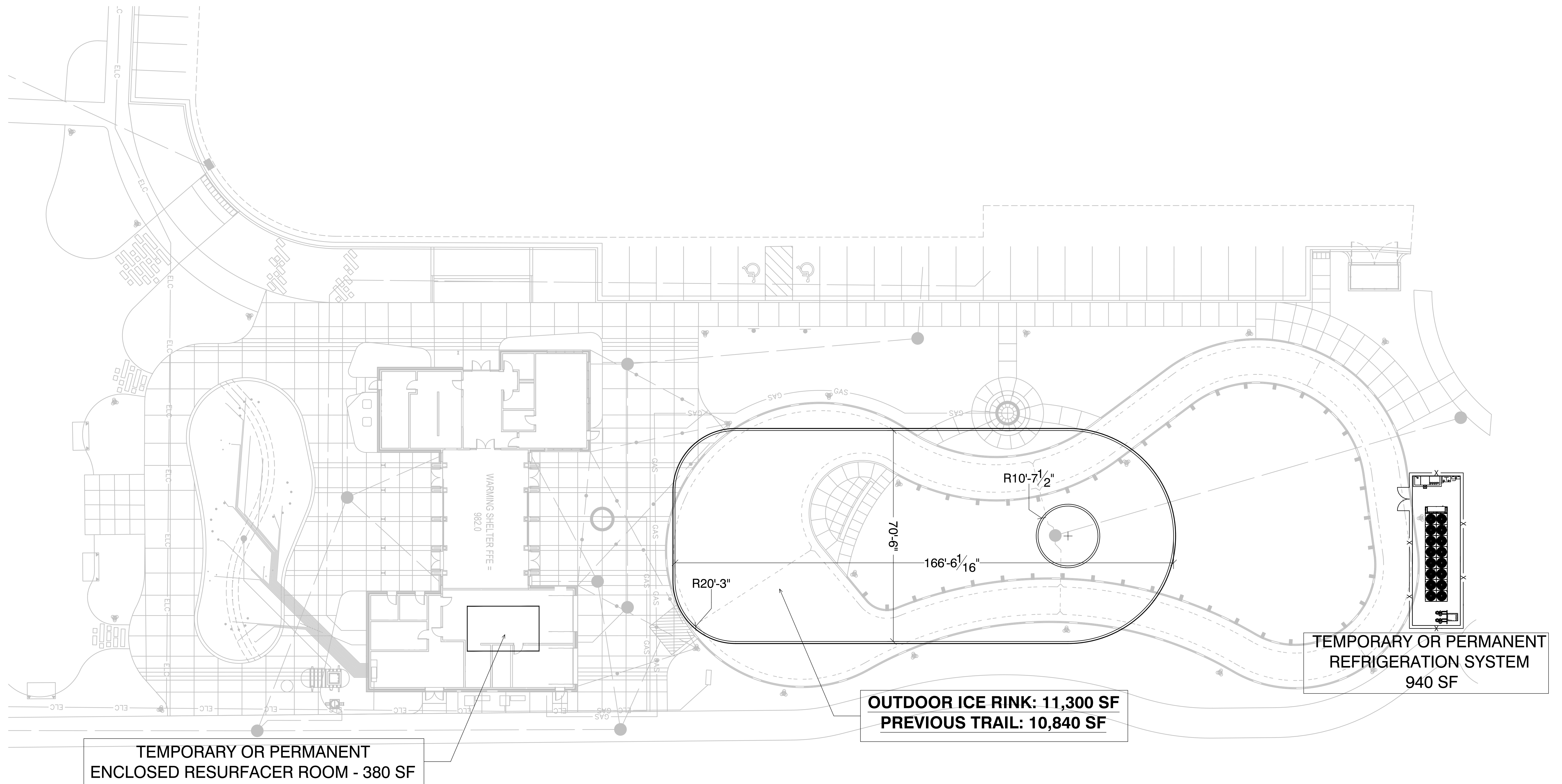
Attachments:

1. R100_Rink Plan (OPTION 1)
2. R100_Rink Plan.(OPTION 2)
3. R100_Rink Plan (OPTION 3)
4. Faribault Concept Cost Estimate 9-10-24



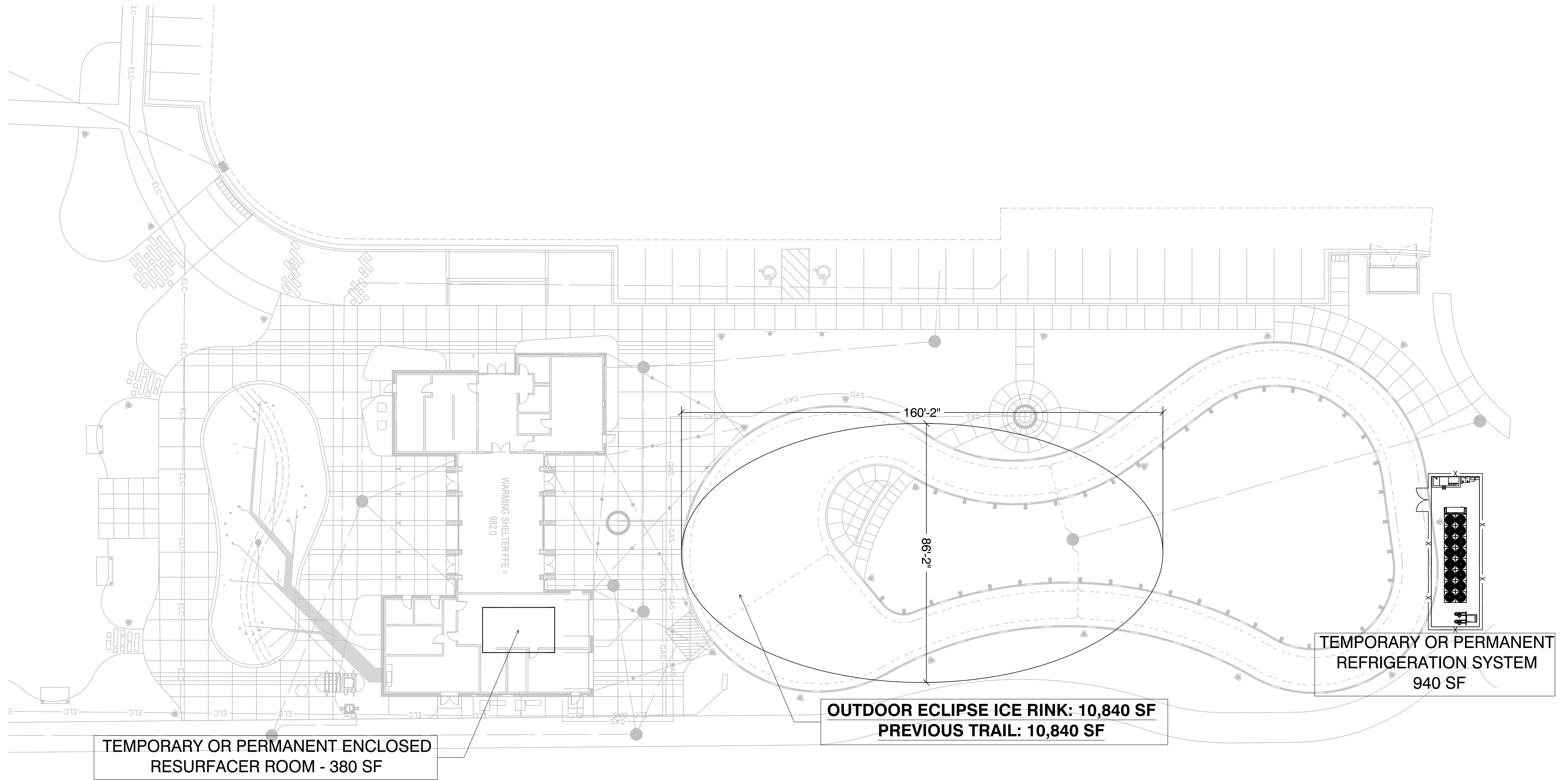
1 DOWNTOWN AREA PARK ICE RINK (OPTION - 1 NHL SIZE RINK)
SCALE: 1/16" = 1'-0"

DOWNTOWN AREA PARK ICE RINK FARIBAULT, MN



1 DOWNTOWN AREA PARK ICE RINK (OPTION - 2)
SCALE: 1/16" = 1'-0"

DOWNTOWN AREA PARK ICE RINK FARIBAULT, MN



1 DOWNTOWN AREA PARK ICE RINK (OPTION - 3 ELLIPTICAL)
SCALE: 1/16" = 1'-0"

DOWNTOWN AREA PARK ICE RINK FARIBAULT, MN

Opinion of Probable Project Costs - Downtown Area Park Ice Skating Rink

Faribault, Minnesota

B32 File No. 900.24.557



Date: 9.10.24

Revised:

Assumptions and Notes:

1. Costs are in 2025 dollars
2. Costs include: escalation, general conditions, ice rink contractors profit, insurance, bonds for the ice rink contractor.
3. Costs do not include fees for CM or GC.
4. Refrigeration system costs are based on a R-513 synthetic based outdoor refrigeration package (ammonia and CO2 would increase the costs).

Item	Cost Estimate ¹			Original Design
	Option 1	Option 2	Option 3	
Ice Rink Shape	NHL Size	With Island	Elipse	Skating Trail
Ice Rink Area	16,675 SF	11,300 SF	10,840 SF	10,840 SF
Outdoor refrigeration system sized for 3.5 month operation (includes motor control panel, air cooled condenser , pumps, glycol, refrigeration system, life safety, etc.)	\$1,100,000	\$875,000	\$800,000	
Concrete equipment pad for refrigeration package	\$15,000	\$15,000	\$15,000	
Chain-link fence and rock landscape for refrigeration package	\$8,000	\$8,000	\$8,000	
New 5" concrete ice rink floor, 4" of 25 psi insulation, exp joint, not subfloor heating system	\$850,000	\$650,000	\$600,000	
New decorative railing system (\$400/LF)	\$250,000	\$200,000	\$175,000	
Electric services to refrigeration package - by others	\$40,000	\$40,000	\$40,000	
Lighting around rink - by others	Not incl	Not incl	Not incl	
Prepping and grading the site, subgrade, excavate to mins 9" for rink floor, etc. - by others	Not incl	Not incl	Not incl	
Concrete curb around rink - by others	Not incl	Not incl	Not incl	
Concrete perimeter concrete around rink - by others	Not incl	Not incl	Not incl	
Roof structure - by others	Not incl	Not incl	Not incl	
Refrigeration room or resurfacer room with pit - by others	Not incl	Not incl	Not incl	
Screen wall around refrigeration package - by others	Not incl	Not incl	Not incl	
Benches, etc. - by others	Not incl	Not incl	Not incl	
Area drains, etc. - by others	Not incl	Not incl	Not incl	
Resurfacer, edger, etc. - by others	Not incl	Not incl	Not incl	
Subtotal of estimated construction costs	\$2,263,000	\$1,788,000	\$1,638,000	\$4,185,000
Estimate, design and constr. Contingency (20%) ¹	\$452,600	\$357,600	\$327,600	
Total estimated construction costs	\$2,715,600	\$2,145,600	\$1,965,600	
Engineering, legal, financial and administrative (20%) ¹	\$543,120	\$429,120	\$393,120	
Total estimated project costs (2025)	\$3,258,720	\$2,574,720	\$2,358,720	
Expected useful life - refrigeration system (yrs.)	20	20	20	
Adjusted Costs for 2026²	\$3,421,656	\$2,703,456	\$2,476,656	
Adjusted Costs for 2027²	\$3,592,739	\$2,838,629	\$2,600,489	

Footnotes:

1. See cost estimate narrative in report.
2. Applied escalation costs of 5% per year.



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
David Wanberg, CED Director
FROM: Harry Davis, City Planner
MEETING DATE: October 1, 2024
SUBJECT: Discussion of Corey Newby's Request for
Variances at 15 3rd Ave SW

Discussion:

At the September 24 City Council meeting, City Council tabled a discussion on Corey Newby's requested variance to parking setbacks and curbing requirements for 15 3rd Ave SW. Council requested that the applicant work with staff to compromise on a solution for the variance. Please see the attached for the applicant's proposal and justification.

The City Planner did not have time to do an in-depth review of the proposal, but can provide the following observations:

Criteria and Preliminary Findings

1. The variance is in harmony with the general purposes and intent of the City's ordinances.
 - Preliminary Finding: The use of playground space and sports courts as a buffer between the applicant's proposed parking lot and the public ROW does not meet the general purposes and intent of the ordinance for establishing a parking setback along the ROW. The ordinance requires a setback to account for screening and security/safety of those within the ROW. Placing areas meant for kids to play in a narrow 10' wide space with a fence on one side and trip hazards (curb stops) on the other does not appear to be a safe situation and merely shifts safety concerns brought up by Council at the last meeting from the public ROW onto the property. Although unclear from the proposal, the hop scotch and four square likely need a continuous solid surface, so the pavement would remain. The updated proposal does not fundamentally or substantially change that applicant's original request, so the original findings by staff still apply to this request.
2. The variance is consistent with the Comprehensive Plan.

- Preliminary Finding: The findings for the original request apply to this update.
- 3. The applicant proposes to use the property in a reasonable manner not permitted by the City's ordinances.
 - Preliminary Finding: The applicant demonstrates through their site plan that parking could be located outside of the setback and that curbing coupled with wheel stops is achievable. On that alone, it is clear to staff that the required setback and curbing is reasonable from a dimensional standpoint. While past Supreme Court decisions established boundaries for required improvements (rough proportionality; rational nexus), the applicant is changing the property from an institutional use to a commercial one, reusing a playground area for a parking lot, and immediately across the street from residences. Parking lots are required to be setback from ROW and have curbing. The setbacks are for screening, security/safety, and aesthetics while the curb is (in the case of ribbon curb) to resist cracking pavement at parking lot edges resulting in debris. These minimum requirements for development are rational and proportional to the new use and impact both on and off the property. City staff regularly applies these requirements to both new and redeveloped property in Faribault. The findings for the original request also apply to this update.
- 4. Unique circumstances apply to the property, which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control. The unique circumstances do not result from the actions of the applicant.
 - Preliminary Finding: The findings for the original request apply to this update.
- 5. The variance does not alter the essential character of the neighborhood.
 - Preliminary Finding: The findings for the original request apply to this update.
- 6. The variance requested is the minimum variance, which would alleviate the practical difficulties.
 - Preliminary Finding: The applicant demonstrates through their site plan that parking could be located outside of the setback and that curbing coupled with wheel stops is achievable. The required setback and curbing is not a practical difficulty and is achievable without great difficulty to the applicant. The findings for the original request apply to this update.
- 7. Economic conditions alone do not constitute practical difficulties.
 - Preliminary Finding: The findings for the original request apply to this update.

In summary, the City Planner does not consider the applicant's proposal to meet findings for granting a variance. This report is part of a discussion during a City Council Work Session, so there is no action needed at this time, but the Council should be free to provide feedback to the applicant on their variance request and the recent proposal.

If the City Council does find in favor of the applicant's updated proposal, or an alternative, the City Planner requests that City Council should provide clear direction on how to handle future requests for improvements on existing development and if amending City Code is necessary to achieve this direction.

Attachments:

1. Applicant Compromise 1
2. September 24 2024 City Council Packet for Resolution 2024-196

As you know, Council continued discussion on your variance requests to the next City Council meeting. They also invited you to come to the next work session and work through everyone's concerns to a compromise.

Compromise

- 1. Get around the setback variance till needed.**
- 2. Replace Curb with Concrete Wheel Parking lot stops.**

We can place you on the work session agenda, but if you want Council to review material beforehand you will need to have your compromise proposal to me **by noon tomorrow**. The agenda and packet will go out at the end of Thursday as the City Clerk is out of the office Friday. Alternatively, you may come to the meeting with your proposal, but you will miss the opportunity to give Council time to review before the meeting and staff (me) enough time to review and make a recommendation on your proposal.

To make sure that Council, staff, and you walk out of the work session understanding exactly what needs to be done, I suggest that your proposal be clear regarding:

- The setback between the property line and the ROW

Parkinglot can start at the 10' set back with variance allowing set back to stay a playground. South Side will contain a bocce ball court. East side will contain 4 square and hopscotch

- The location and type of curb, including a method for stopping cars if you pursue a ribbon curb

Would like to replace the curb with a Heavy Duty Wheel parking lot stop.

- What you plan to put in between the parking lot and ROW, which can be a combination of the following:
 - Wall (material, height, length)
Keep the current chain link fence but add slats for 90% opacity.
East side will be moved back onto the property line. City has approved 4 ft height for safety.
 - Shrubs (height, spacing, species)

You will need to make a case why your proposal meets the criteria for a practical difficulty.

The north side of the property is unusable with slope and construction of Division St. The amount of Building square footage space vs open space is unmatched. Located in Residential applies more ordinances with screening, setbacks, landscaping, etc.

It will not be enough to present only a narrative- your proposal should include scaled and dimensioned diagrams. I highly recommend you talk to your development team and see what they can do for you on short notice.

Both you and the Council brought up other aspects that you can address to bolster your proposal and project a complete plan for the property going forward. Some of these included:

- Providing a clear number of total requested parking spaces
 - Providing less parking than required does require a variance, but that variance is easier to grant if you provide a parking study. We can talk more about this if needed.
 - Parking lots of 50 spaces or more do require 1 parking lot tree per 25 spaces.
- Security and safety for:
 - Pedestrians in the ROW
 - Cars maneuvering on-site
 - Your property
 - Etc.

Addressing Variance Concerns

Major concern(s) of a setback variance

- Overhang into ROW
 - Starting the parking lot 10' from the property line with acceptance to leave current playground pavement in place.
 - South side Bocce Ball Court
 - Eastside 4 square and hopscotch
 - Existing fence will also provide added security.
 - It will need to be altered to 90% opacity
 - No sidewalk on the south side.
 - Also major guardrail in place on the Main entrance side of the parking lot.

Major concern(s) for curb variance

- Keeping cars in the parking lot
 - We have included concrete wheel stops to prevent any roll forwards or mis driving.
- Drainage
 - By not adding curb we don't alter drainage flow
 - Wheel stops and fence would keep any debris from entering ROW
 - Also have 10' buffer space between parking spots to the property line.
 - There is green space in ROW on both sides of the parking lot with no side walk to the South Side.

Major concern(s) for variance in general

- Future use
 - Allowing above reduces the variances needed.
 - By not having flexibility makes it more likely to have future owner
 - Is protection from
- **Sec. 2-470. - Variance conditions and guarantees.**
- The City Council may impose such conditions upon the premises benefited by the variance as may be necessary to comply with the standards established by the City's ordinances, or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2011-17, § 3, 10-25-11)
- **Sec. 2-480. - Expiration of variance.**
- If substantial development or construction has not taken place within one (1) year of the date of approval of a variance, such variance shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the variance and shall state facts showing a good faith effort to complete work permitted under the original approval.

Sec. 2-460. - Required findings for variance.

(A) - *Prerequisites for approval.* The City Council shall not vary the regulations of this ordinance, except under Subsection below, unless it makes each of the following findings based upon the evidence presented to it in each specific case:

(1) - The variance is in harmony with the general purposes and intent of the City's ordinances.

It follows other properties in the surrounding area. As well providing little to no impact on anything.

(2) - The variance is consistent with the Comprehensive Plan.

Fits the comp plan to a T. Hit all guiding principles located on page 8 of the comprehensive plan.

(3) - The applicant proposes to use the property in a reasonable manner not permitted by the City's ordinances.

A use from the private sector to help save a historic property is more than reasonable.

(4) - Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control. The unique circumstances do not result from the actions of the applicant.

North Side (division) completely unusable due to slope and bridge. Property was built landlocked and already meets hard surface limits. Property is very old and hasn't changed for many decades.

(5) - The variance does not alter the essential character of the neighborhood.

It eliminates disturbance to the neighborhood.

(6) - The variance requested is the minimum variance which would alleviate the practical difficulties.

It's very minimal, and avoids more variance till future use.

(7) - Economic conditions alone do not constitute practical difficulties.

Use of square footage to maintain property and fill comp plan goals are more important than the economics.

(B)

Historical variance. The City Council may vary the regulations of this ordinance and declare that practical difficulties exist, regardless of economic circumstances, when the following facts and conditions are shown to exist in addition to the above conditions being satisfied:

(1)

The applicant's property is currently located within the HPD, Historical Preservation District, as identified in [Section 13-360](#), or listed on the National Register of Historic Places.

(2)

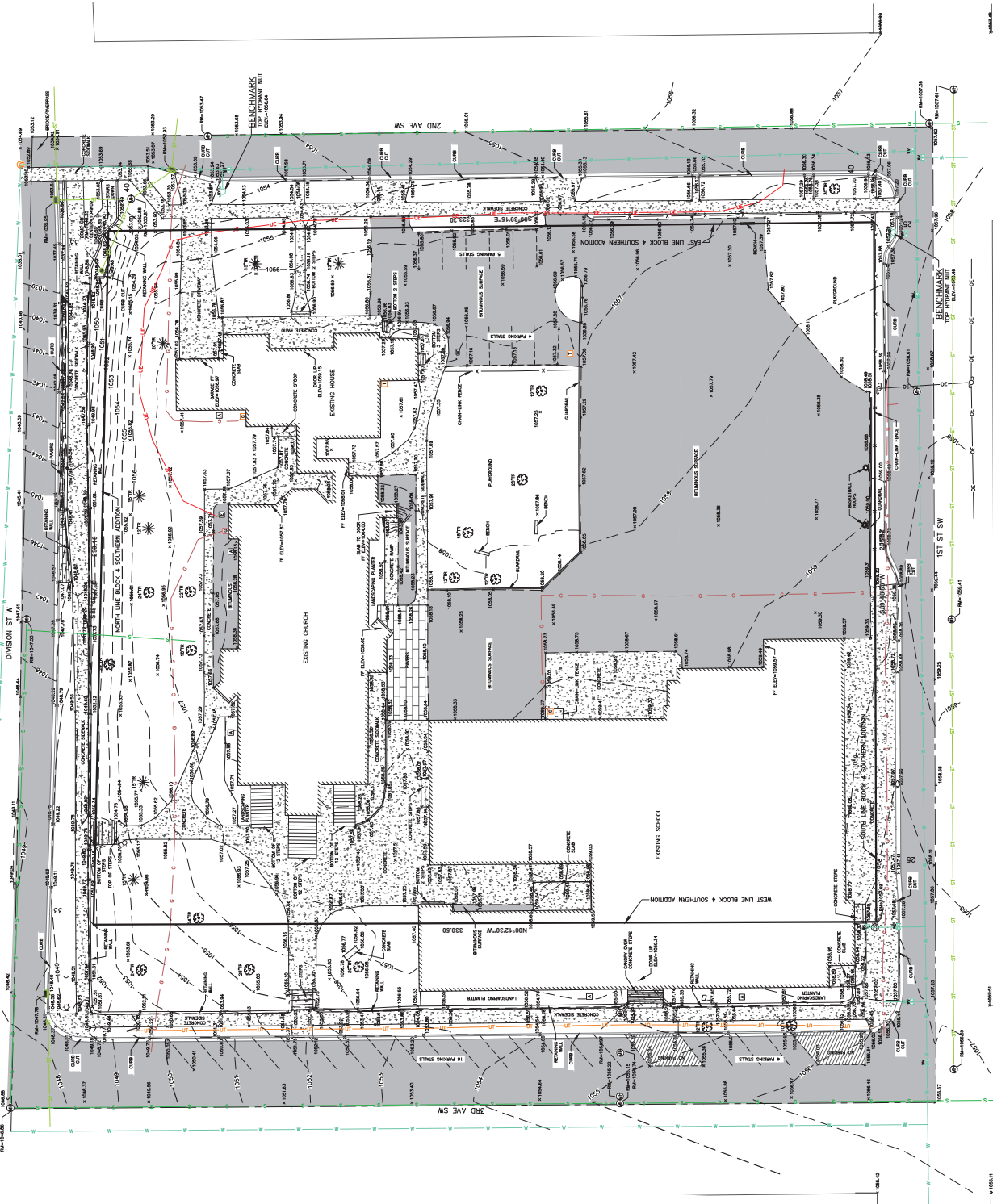
The historically significant structure would lose any or all of its historical value and/or architectural uniqueness if strict application of the regulations were carried out.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2011-17, § 3, 10-25-11)

"It is not hard to make a decision when you know what your values are." -Roy Disney (highlighted in Vision to 2040)

TOPOGRAPHIC AND BOUNDARY SURVEY

BLOCK 4 SOUTHERN ADDITION
FARIBAULT, RICE COUNTY, MINNESOTA



- LEGEND**
- Water Main
 - Water Sewer
 - Storm Sewer
 - Gas Main
 - Gas Line
 - Electric
 - Electric Pole
 - Electric Meter
 - Electric Transformer
 - AC Unit
 - Power Pole
 - Day Anchor
 - Water Service Valve
 - Water Service Line
 - Spot Elevation
 - Dead End Tree
 - Concrete Tree
 - Concrete Surface
 - Blumhouse Surface

BASIS OF BEARING SYSTEM
All bearings are based upon the NAD83 Rice County Coordinate System

LEGAL DESCRIPTION OF RECORD
Block 4, Southern Addition of Faribault, Rice County, Minnesota.

NOTE
The survey was conducted in accordance with the Minnesota Statutes, Chapter 560, and the rules and regulations of the Minnesota Board of Surveyors.

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No responsibility is accepted for the locations of utilities shown here. Verification of actual locations should be requested prior to the commencement of construction or the taking of any other action relying on the actual locations.

Locations of all utilities shown are approximate.

Gopher State One-Call: 1-800-251-1966

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

Scott A. Hutchinson, L.S. No. 12446

Date: 8/29/24

TOPOGRAPHIC AND BOUNDARY SURVEY
BLOCK 4 SOUTHERN ADDITION
FARIBAULT, RICE COUNTY, MINNESOTA

FOR COREY NEMBY

Drawn by:	JONES HAUGH SMITH, INC.
Surveyed by:	JONES HAUGH SMITH, INC.
MDH:	MDH
Recorded by:	Recorded
Revised:	Revised

BLOCK 11, SOUTHERN ADD.

SHEET NO. 1 OF 3 SHEETS



Request for Council Action

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
David Wanberg, CED Director
FROM: Harry Davis, City Planner
MEETING DATE: September 24, 2024
SUBJECT: Resolution 2024-196 Deny Variance at 15 3rd Ave SW

Background:

Corey Newby (the "Applicant") requests approval of variances from parking setbacks in C-2 and curbing requirements for parking lots. The applicant did provide a narrative behind the variance requests, citing the historic character of the property for its uniqueness and the comprehensive plan for supporting small businesses. He also touched on traffic flows, drainage, and disturbance to the neighborhood. The full narrative by the applicant may be found in attachments. Diagrams and other information are also in the attachments.

The variances proposed by the applicant are not consistent with the planning and zoning aspects of the City of Faribault's Unified Development Ordinance. In general, many of the Applicant's main points for the variance criteria centered on the historic use and character of the property, how construction would be a disturbance for the neighborhood, and how the requirement is a strain on small business which is against the Comprehensive Plan.

The main points for having parking lot setbacks are: keeping cars away from public ROW (and potentially overhanging into it), keeping space between the parking lot and the road for landscape and screening, and to provide a more pleasant aesthetic appeal to passersby and neighbors. The main points for having curbing around parking lots are: keeping cars from rolling or driving over property line/ROW, keeping cars from destroying landscaping adjacent to parking areas, keeping cars and nature from expeditiously fraying pavement edges and creating debris, and helping collect and direct drainage and run off. The Applicant does not attempt to make any compromise of the code requirements in favor of preserving the character or history of the property, which is not a valid point. The historic church is not material to the request and would only be material if there was an alteration to the church itself. If the applicant were to propose a

compromise, i.e. providing a partial setback or establishing curbing in areas where parking would be near to the public ROW, City Staff might see this as an attempt to have the request be in harmony with the ordinance, but that is not the case. The applicant does cite drainage as a reason to not have curbing, but has provided no data or plans showing how drainage is already dealt with on-site and how a lack of curbs don't result in drainage spilling into the public ROW.

The Comprehensive Plan does have principles, goals, objectives, and policies that address development, but none of them allude to giving small businesses variances when they request them. One of the core guiding principles cited by the Applicant is "remove or minimize barriers and create or strengthen opportunities for all individuals, businesses, industries, organizations, and services to succeed." However, the ordinance is a requirement that City Council put in place as a minimum level of expectation for development. While the existing areas are not curbed and are too close to the property line, the Applicant is changing the use of the property from an institutional and school use to a commercial and retail use, along with converting a school yard into a parking lot.

The applicant cannot claim there is no room on the property to meet the requirements of code, as City Staff demonstrates in the attached staff report that there is adequate room for the applicant's proposed 50 spaces and meeting the parking lot landscape setback and not impacting the playground. Additionally, further documentation by the applicant's development team shows how meeting the setback and providing parking lot curbing is possible.

The Planning Commission at their September 3, 2024 meeting held a public hearing and heard from the applicant. The Planning Commission voted to continue discussion on the item to the next meeting to give the applicant additional time to put together more drawings and a clearer depiction of proposed improvements to the property. At the September 16, 2024 meeting, the applicant showed a property survey and site plan. The Planning Commission voted unanimously to recommend approval of the resolution to City Council and recommend denial of the applicant's request. See the attached resolution.

If the City Council agrees with the Planning Commission's findings and recommendations, the Council should approve the resolution denying the variance request. If the Council is inclined to consider approving the Applicant's request, the Council should provide direction to City Staff and continue the meeting for action at an upcoming Council meeting.

Refer to the attached Planning Commission report for additional information.

Recommendation:

Approve Resolution 2024-196 to deny the requested variance.

Attachments:

1. Resolution 2024-196 Deny Variance at 15 3rd Ave SW
2. PC Staff Report
3. Applicant Submittal

CITY OF FARIBAULT

RESOLUTION #2024-196

DENY VARIANCE AT 15 3RD AVE SW

WHEREAS, Corey Newby (the Applicant/Owner) requests variances from parking setbacks and curbing requirements at 15 3rd Ave SW; and

WHEREAS, the property described in the above recitals and graphically depicted in Exhibit A are hereinafter referred to as the subject property; and

WHEREAS, the Applicant requests maintaining the existing extent of pavement in an area proposed to be a parking lot, resulting in a setback of zero (0) feet from the property line where a thirty (10) foot setback for off-street parking is required under Appendix B UDO, Chapter 11, Article 1, Sec 11-100, Table 11-2, as depicted in Exhibit B; and

WHEREAS, the Applicant requests maintaining the existing pavement in an area proposed to be parking with no curb around the perimeter of the parking lot, resulting in no curbing around the proposed parking area where perimeter curbing is required under Appendix B UDO, Chapter 8, Article 2, Sec 8-110(A), as depicted in Exhibit B; and

WHEREAS, City Staff has completed a review of the application and made a report to the Planning Commission, as depicted in Exhibit C; and

WHEREAS, the Planning Commission, on September 3, 2024 and September 16, 2024, following proper notice, held a public hearing regarding the requests, and following said public hearing made findings and recommended that the City Council deny the requested variances; and

WHEREAS, following said public hearing, the Planning Commission recommended denial of the requested variances based on the following findings as required by Section 2-460 of the City's Unified Development Ordinance:

1. The variance is in harmony with the general purposes and intent of the City's ordinances.

Finding: The applicant claims that the variances do not impact the site and ordinance in any way and not putting the curb in or removing some of the pavement to establish a setback would keep disturbances down.

The criteria asks for details on how the variance is in harmony with the purpose or intent of the ordinance, which the Applicant does not provide. The main points for having parking lot setbacks are: keeping cars away from public ROW (and potentially overhanging into it), keeping space between the parking lot and the road for landscape and screening, and to provide a more pleasant aesthetic appeal to passersby and neighbors. The main points for having curbing around parking lots are: keeping cars from rolling or driving over property line/ROW, keeping cars from destroying landscaping adjacent to parking areas, keeping cars and nature from expeditiously fraying pavement edges and creating debris, and helping collect and direct drainage and run off. The Applicant does not attempt to make any compromise of the code requirements in favor of preserving the character or history of the property, which is not a valid point. If the applicant were to propose a compromise, i.e. providing a partial setback or establishing curbing in areas where parking would be near to the public ROW, City Staff might see this as an attempt to have the request be in harmony with the ordinance, but that is not the case. The applicant does cite drainage as a reason to not have curbing, but has provided no data or plans showing how drainage is already dealt with on-site and how a lack of curbs don't result in drainage spilling into the public ROW.

Due to the largely residential character surrounding the subject property, staff sees all the main points above as critical for maintaining compatibility between the new use of the paved area as a parking lot and the adjacent properties. The variances requested by the applicant are not in harmony with the general purposes and intent of the City's ordinances.

2. The variance is consistent with the Comprehensive Plan.

Finding: The property is guided for commercial land use per the Comprehensive Plan and the proposed use of the land is for a retail business. The applicant claims that the variances cut out an unneeded step and strain on small business and help build up the core values of the comprehensive plan. The Applicant listed the core guiding principles in the comprehensive plan to support their requests.

The Comprehensive Plan does have principles, goals, objectives, and policies that address development, but none of them allude to giving small businesses variances when they request them. One of the core guiding principles cited by the Applicant is "remove or minimize barriers and create or strengthen opportunities for all individuals, businesses, industries, organizations, and services to succeed." However, the ordinance is a requirement that City Council put in place as a minimum level of expectation for development. While the existing areas are not curbed and are too close to the property line, the Applicant is changing the use of the property from an institutional and school use to a commercial and retail use, along with converting a school yard into a parking lot. The City regularly deals with business and property owners moving into older parts of the City where the property owner is required to update much of their property, which usually includes the parking lot, up to current code. Most of these projects are shifting from commercial to commercial uses. Some of these projects are not complete updates, as the amount and cost of the updates must be proportional to the overall improvements of the property.

City Staff does not see how the variance requests comply with the Comprehensive Plan.

3. The applicant proposes to use the property in a reasonable manner not permitted by the City's ordinances.

Finding: The applicant claims that the property has been as-is for almost 70 years with no issues and that the variances help save the first catholic church in Faribault.

City Staff does not see the applicant's above reasonings as justification for the criteria of reasonable use. In a previous criteria, City Staff listed numerous reasons why a parking setback and curbing are good for development and help with compatibility. Providing curb around a parking lot or having parking setback from the public ROW are reasonable requirements contributing to compatibility with adjacent properties. The historic character of the church, while a generally important topic, does not extend to the proposed parking area and is not a valid point for this criteria. The applicant does propose to use the property as a commercial business, which is a use permitted by the ordinance, but commercial uses should be compatible with adjoining properties and be as compliant with code as possible. Use of part of the property as a parking lot without setbacks and curbing isn't reasonable and permitted by ordinance.

4. Unique circumstances apply to the property, which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control. The unique circumstances do not result from the actions of the applicant.

Finding: The applicant claims that fewer alterations on a historic property from 1856 are better and that the money would be better spent on repairing the buildings.

The applicant's reasonings above fail to establish a unique circumstance that applies to the property. The Applicant bought the subject property, used previously as a church and school, with the intent to use it as a commercial business. They requested and succeeded in rezoning the property from P/I, Public Institutional to C-2, Highway Commercial. Previous discussions with the Applicant include phasing over time to use all of the subject property, including structures. The historic church is not material to the request and would only be material if there was an alteration to the church itself. Additionally, the applicant cannot claim that repairs to the building override necessary improvements outside of the structure, as the public is expected to use interior and exterior parts of the property and the parking lot is part of the outward property appearance. The property owner is also required to maintain the building as a base expectation prior to opening to the public. The circumstances stated by the applicant are not grounds for a variance, with circumstances created by the applicant during the process of buying and getting zoning entitlement for the subject property.

5. The variance does not alter the essential character of the neighborhood.

Finding: The applicant claims that the variance would result in less disturbance and that they would prefer to keep the original character.

The Applicant did not provide any additional information on how parking lot curbing and setbacks would be a significant break from the essential character of the area. As stated above, the proposed parking area is not part of the historic character for the property. While property redevelopment is generally disruptive, it is not something that happens for very long and does not impact the essential character of the neighborhood on its own. City Staff maintains that the required curb and parking setback would do more to protect the essential character of the neighborhood, which is primarily residential.

6. The variance requested is the minimum variance, which would alleviate the practical difficulties.

Finding: The applicant claims that the variance would result in less disturbance and that they would prefer to keep the original character.

Previous findings established that the applicant's points do not adequately address variance criteria, which mean there is no practical difficulty experienced by the Applicant. In City Staff's report to the Planning Commission (Exhibit C), the City Planner demonstrates how the applicant could develop a parking area in roughly the same location without needing a parking setback variance. Additionally, the improvements can be done without significantly impacting other elements on the subject property, like the playground. City Staff does not see a minimum necessary variance in the applicant's proposal.

7. Economic conditions alone do not constitute practical difficulties.

Finding: The applicant claims that the variance would be better due to less change for the historic property and less disturbance for the neighborhood using the subject property's playground. Additionally, a change to the current conditions of the property may leave less growth for the business.

The argument regarding historic character is thrown out in previous criteria and does not apply. The neighborhood's use of the playground is not a valid reason for denying the variance as the property is not a public park and is immaterial to the variance at hand. The argument regarding a lack of room for growth if the parking area were to be compliant with ordinances is debunked in City Staff's report and diagram within Exhibit C. Based on the arguments presented by the applicant and previous discussions with the Applicant, City Staff is not convinced that the request is without economic conditions. In a previous criteria, the Applicant stated that they would rather put more money into the building for repair. This point is the

most applicable to the variance criteria, but sadly cannot be the only condition to the property or circumstance to be granted a variance.

WHEREAS, the City Council, at a public meeting, on September 24, 2024, considered the request, the report to the Planning Commission, and the results of the public hearing, and concurred with all findings of the Planning Commission as stated in the above recitals and hereby makes the identical findings.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY FARIBAULT, MINNESOTA AS FOLLOWS:

Section 1: Denial of the Requested Variances. The City Council hereby denies the requested variances from Chapter 11, Article 1, Sec 11-100, Table 11-2 and Chapter 8, Article 2, Sec 8-110(A), of the City's Unified Development Ordinance. Said denial is based on the foregoing recitals, which are incorporated herein by reference, and which constitute the findings of the City Council, all of which are to protect the public's health, safety, and welfare.

Section 2. Compliance. The City Council authorizes the Mayor, City Administrator, City Planner, and the City Attorney to take any additional steps and actions necessary or convenient to accomplish the intent of this resolution.

Section 3. Effective Date. This resolution shall become effective immediately upon its passage and without publication.

Date Adopted: September 24, 2024

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Jessica L. Kinser, City Administrator

Exhibit A Property Description



Blue Outline = Subject Property

PID 18.31.4.26.029 – 15 3rd Ave SW

Exhibit B Depiction of Variance

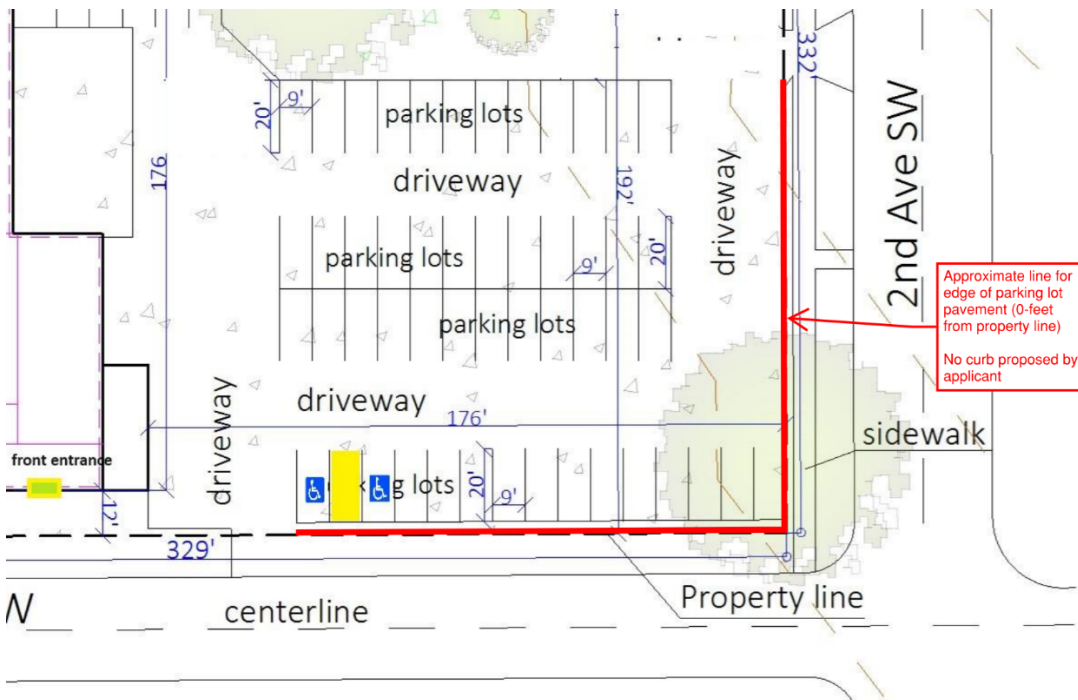
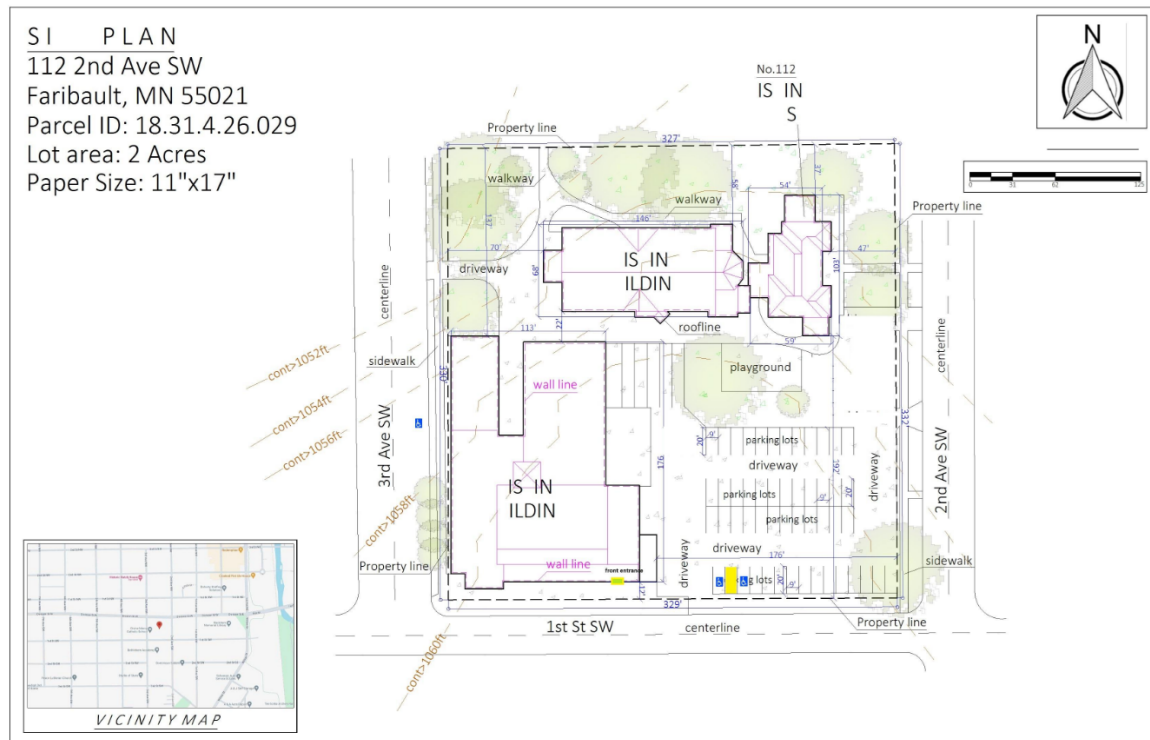


Exhibit C
Staff Report from Planning Commission

(insert document after this page)



Staff Report to the Planning Commission

TO: Planning Commission
THROUGH: David Wanberg, CED Director
FROM: Harry Davis, City Planner
MEETING DATE: September 16, 2024
SUBJECT: Deny Variances for Parking Setback and Curbing –
Corey Newby/15 3rd Ave SW

Request:	Applicant requests approval for parking setbacks and curbing variances.
Recommendation:	The DRC and City Planner recommend denial of the variances to City Council based on the findings and conditions in the attached draft resolution.
Recommended Motion(s):	Motion to forward and recommend denial of the variance requests, with findings and conditions suggested by city staff.

Request:

Corey Newby (the Applicant/Owner) requests approval of variances from parking setbacks in C-2 and curbing requirements for parking lots as depicted in the attached plans.



Location of former Divine Mercy Church and School Property owned by Applicant

Background and Project Description:

In November 2023, the applicant approached staff with interest in buying the Divine Mercy Catholic School property at 15 3rd Avenue SW. The Applicant intends to bring a mostly online auction business to Faribault and adapt the elementary school building on the subject property for online operations and a retail storefront. In April 2024, the Applicant successfully amended the comprehensive plan and zoning map to allow commercial uses under C-2, Highway Commercial zoning on the subject property.

The applicant is now coming forward with plans to occupy and use the property as intended. The requested variances are the Applicant's next step before submitting for site plan review.

Table 1 – Variance Table

Variance Issue	Requirement	Proposed	Variance
Front setback for off-street parking and loading areas (Sec 11-100, Table 11-2)	10-foot setback from property line	0-foot setback	10 feet
Curbing (Sec 8-110(A))	Drives, landscape islands, and parking/maneuvering areas shall have concrete curbing around perimeter	No curbing	No curbing

The applicant did provide a narrative behind the variance requests, citing the historic character of the property for its uniqueness and the comprehensive plan for supporting small businesses. He also touched on traffic flows, drainage, and disturbance to the neighborhood. The full narrative by the applicant may be found in attachments.

Discussion:

The variances proposed by the applicant are not consistent with the planning and zoning aspects of the City of Faribault’s Unified Development Ordinance. The following provides an overview of the key planning and zoning-related items associated with:

Variance Summary

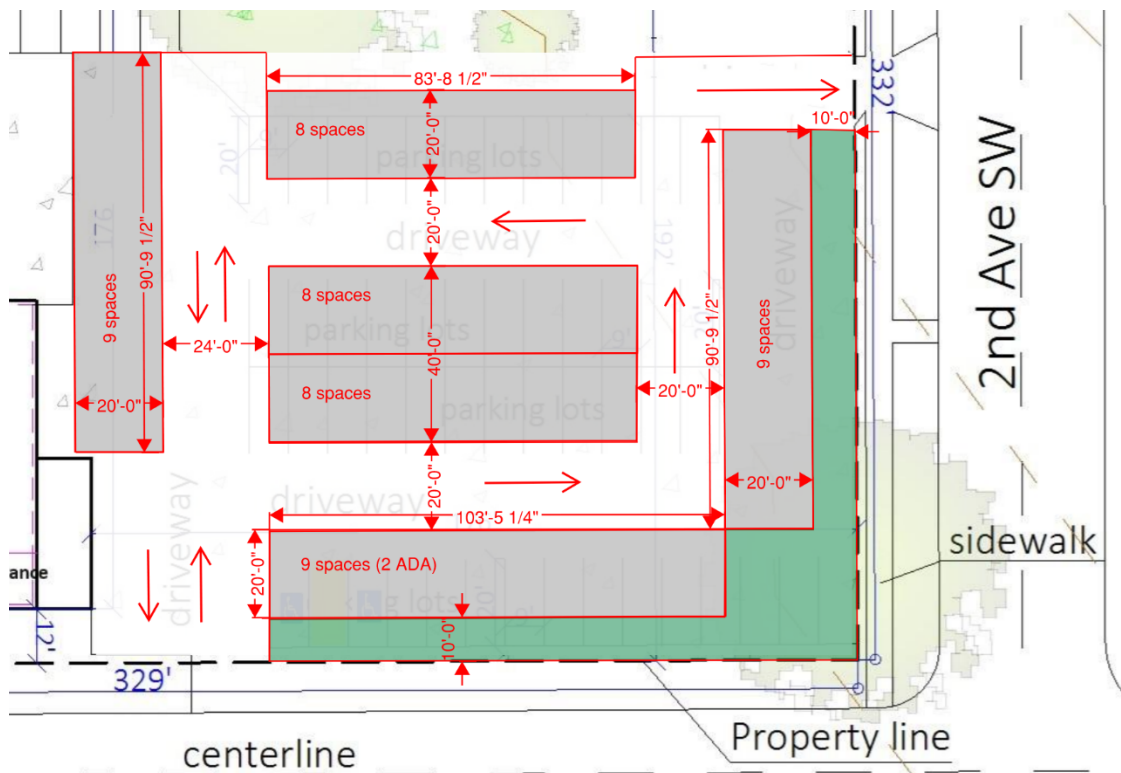
- In general, many of the Applicant’s main points for the variance criteria centered on the historic use and character of the property, how construction would be a disturbance for the neighborhood, and how the requirement is a strain on small business which is against the Comprehensive Plan.

The main points for having parking lot setbacks are: keeping cars away from public ROW (and potentially overhanging into it), keeping space between the parking lot and the road for landscape and screening, and to provide a more pleasant aesthetic appeal to passersby and neighbors. The main points for having curbing around parking lots are: keeping cars from rolling or driving over property line/ROW, keeping cars from destroying landscaping adjacent to parking areas, keeping cars and nature from expeditiously fraying pavement edges and creating debris, and helping collect and direct drainage and run off. The Applicant does not attempt to make any compromise of the code requirements in favor of preserving the character or history of the property, which is not a valid point. The historic church is not material to the request and would only be material if there was an alteration to the church itself. If the applicant were to propose a compromise, i.e. providing a partial setback or

establishing curbing in areas where parking would be near to the public ROW, City Staff might see this as an attempt to have the request be in harmony with the ordinance, but that is not the case. The applicant does cite drainage as a reason to not have curbing, but has provided no data or plans showing how drainage is already dealt with on-site and how a lack of curbs don't result in drainage spilling into the public ROW.

The Comprehensive Plan does have principles, goals, objectives, and policies that address development, but none of them allude to giving small businesses variances when they request them. One of the core guiding principles cited by the Applicant is "remove or minimize barriers and create or strengthen opportunities for all individuals, businesses, industries, organizations, and services to succeed." However, the ordinance is a requirement that City Council put in place as a minimum level of expectation for development. While the existing areas are not curbed and are too close to the property line, the Applicant is changing the use of the property from an institutional and school use to a commercial and retail use, along with converting a school yard into a parking lot.

The applicant cannot claim there is no room on the property to meet the requirements of code, as City Staff demonstrates below that there is adequate room for the applicant's proposed 50 spaces and meeting the parking lot landscape setback and not impacting the playground:



In summary, the variance does not meet the standards for a practical difficulty. A more detailed breakdown by criteria may be found in the draft resolution.

Development Review Committee Recommendation. The City's Development Review Committee (DRC) reviewed the proposed variances on August 20, 2024 recommended denial of the variances.

Public Comment. The City Planner received no public comment prior to publishing this report. Notification for this item was published in the paper on August 22, 2024 and letters sent to property owners within 350-feet on August 21, 2024.

September 3, 2024 Planning Commission. The Planning Commission did previously review and hold a public hearing for this item during the September 3, 2024 Planning Commission meeting. The applicant was present and spoke to the request during the public hearing. The Planning Commission voted to continue discussion on the variance requests to the next meeting to give the applicant time to prepare additional information and diagrams to support the request. New diagrams and information are included. City staff still recommend denial of the requests based on the same findings as before.

Recommendation:

The DRC and City Planner recommend denial of the variances to City Council based on the findings and conditions in the attached draft resolution.



APPLICATION FOR REQUESTED ACTION
Variance

Planning Case # _____
Filing Fee _____
Hearing Date _____

SITE ADDRESS 15 3rd Ave SW, Faribault, MN, 55021

APPLICANT Corey Newby E-MAIL coreynewby@gmail.com

PHONE 952-460-0055 (H) _____ (W) _____ (FAX) _____

APPLICANT ADDRESS 9594 202nd St W, Lakeville, MN 55044

OWNER (if other than applicant) _____

PHONE _____ (H) _____ (W) _____ (FAX) _____

OWNER'S ADDRESS _____

LEGAL DESCRIPTION Lot Block 4 of SOUTHERN ADD

ACREAGE/SIZE OF PROPERTY 2 acres

CURRENT ZONING Commercial 2

EXISTING USE OF PROPERTY None

PROPOSED USE OF PROPERTY Retail
(Including number of units per acre and types of uses if mixed use)

IDENTIFY ALL ADJACENT LAND USES Institutional and Residential

SIGNATURE OF APPLICANT Corey Newby DATE 7/31/2024
(Must submit proof of property control)

SIGNATURE OF THE OWNER Corey Newby DATE 7/31/2024
(If other than the applicant)

**PLEASE PROVIDE ALL INFORMATION REQUESTED ON
THIS FORM AND THE ATTACHED CHECKLIST.**

VARIANCE
Required Submittals

☐ **Site plan**

- ☐ Drawn to scale, with scale noted
- ☐ Date and North arrow
- ☐ Boundaries and dimensions shown graphically
- ☐ Location of any streets, public trails, railroads, or waterways
- ☐ Location of existing and proposed structures, with distance from property lines noted
- ☐ Location and dimensions of existing and proposed off-street parking and loading spaces, with distance from property lines noted (when applicable)

☐ **Required supplemental information**

- ☐ Written summary stating the specific variation requested, giving distances as needed
- ☐ Written summary stating exceptional conditions/peculiar difficulties which make the variance necessary
- ☐ Written statement as to why you feel a variance should be granted
- ☐ Other information as required

☐ **Filing fee**

☐ **SIGNATURE OF APPLICANT** Corey Newby **DATE** 7/31/2024

Planning Case # _____

Please answer the following questions as they relate to your specific variance request:

1. In your opinion, is the variance in harmony with the purposes and intent of the ordinance?

Yes (☒) No (☐) Why or why not?

It doesn't affects the site and/or ordinance in any way.

It only keeps disturbance down

2. In your opinion, is the variance consistent with the comprehensive plan?

Yes (☒) No (☐) Why or why not?

It cuts out un needed step and stain on a small business

It helps build up the core values of the comprehensive plan

3. In your opinion, does the proposal put property to use in a reasonable manner?

Yes (☒) No (☐) Why or why not?

This property has been this way for almost 70 years with no issues.

Helps save the first catholic church in Faribault, historic preservation is a must.

4. In your opinion, are there circumstances unique to the property?

Yes (☒) No (☐) Why or why not?

This is a historic property from 1856. Less alterations the better. It is also in need of great re pair and money should be focused on that,

5. In your opinion, will the variance maintain the essential character of the neighborhood?

Yes (☒) No (☐) Why or why not?

It is less disturbance this way

The original character has been this way since 1954, would like to keep it.

6. In your opinion, is the variance requested the minimum variance which would alleviate the practical difficulty?

Yes (☒) No (☐) Why or why not?

By altering the current parking lot will change drainage and disrupt the land that has been this way for 70 years.

7. In your opinion, do the economic conditions alone constitute the practical difficulty?

Yes (☐) No (☒) Why or why not?

Its a 150+ year established historic property, less change the better.

By changing current conditions will leave less room for growth and disturb the current community use of playgrounds.

The City Council must make an affirmative finding on all of the seven criteria listed above in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied.

The undersigned certifies that they are familiar with application fees and other associated costs, and also with the procedural requirements of the City Code and other applicable ordinances.

Applicant's Signature:

Corey Newby

Date:

7/31/2024

SI PLAN

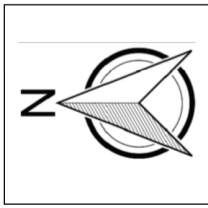
112 2nd Ave SW

Faribault, MN 55021

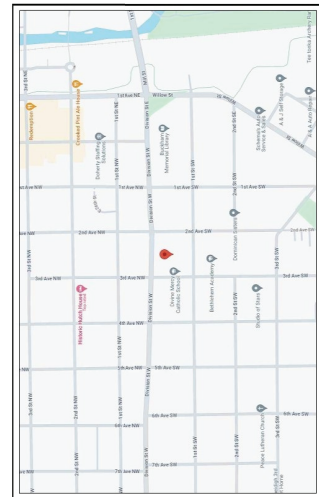
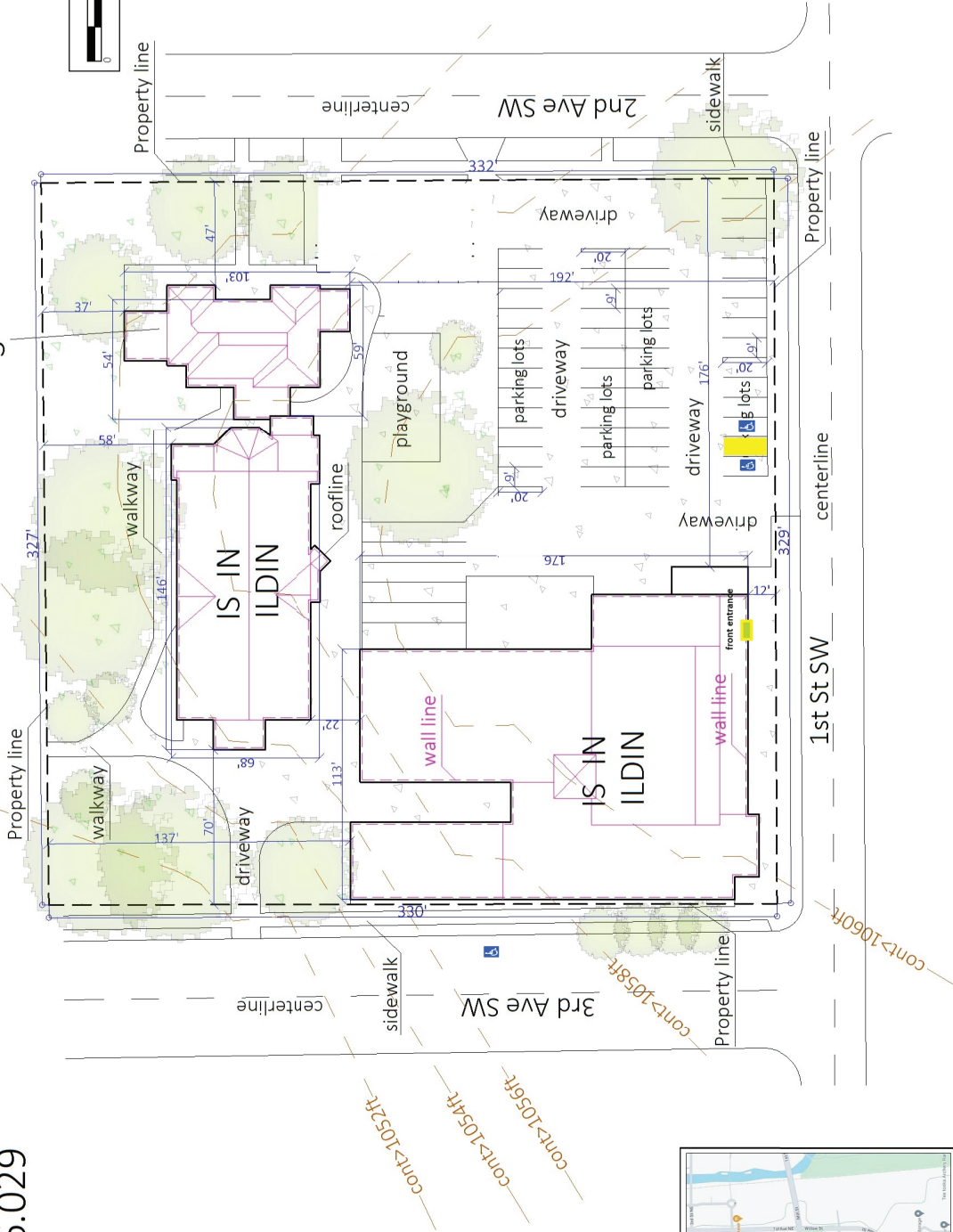
Parcel ID: 18.31.4.26.029

Lot area: 2 Acres

Paper Size: 11"x17"



No.112
IS IN
S



VICINITY MAP

Urban Flea Market Parking Lot Variance - The Greater Good

I am requesting a Parking lot Variance, including setbacks and curbing. The uniqueness and age of this property along with the comprehensive plan warrant and make these variances necessary.

If setbacks are put into effect future use of remaining property becomes an issue for off street parking requirements. It also keeps the existing flow of traffic and drainage the same as it has been since 1958. Traffic and drainage were highlighted by the city engineer as the 2 main concerns. By using this variance we eliminate these 2 issues.

Variance also creates less disturbance to the neighborhood while maintaining the current essential character of the neighborhood. Disturbance was also a big worry for city staff during the rezoning process.

Most importantly it follows the guidelines of the comprehensive plan.

1. **Foster a strong sense of community** among all people and constituencies in Faribault.
2. **Identify, protect, enhance, and celebrate our iconic and historic sites and architecture** as well as our significant natural areas, which define our sense of place.
3. **Remove or minimize barriers and create or strengthen opportunities for all individuals, businesses**, industries, organizations, and services to succeed.
4. **Encourage innovation**, creativity, **flexibility**, and **openness to new ideas and positive change** in all sectors of the community.
5. **Strive for excellence in all sectors of the community**

The above demonstrates its not just about economics. It's about the future use of the property. It's about following the comprehensive plan and finding the greater good for the community. It's about maintaining the first catholic church in Faribault. The city is built on historic preservation. We should continue to follow it.

The benefits of this variance greatly outweigh any if any negative impacts. Lets implement "The Vision to 2040 and The Comprehensive Plan" and I can start impacting this community!

Supporting Doc

I've included the original concepts where city planner had suggested setback variance and stall size variance for the parking lot. It also demonstrates the importance of the variances to allow for expansion when the other buildings are ready for use.

By keeping the current set back, we can eliminate the stall size variance. Adding the curbing variance allows for more room in the parking lot if an island in future is added. It also eliminates any drainage issues that the city engineer was concerned about. Drainage was a hot topic this year for Faribault.

Conditional Use Permit

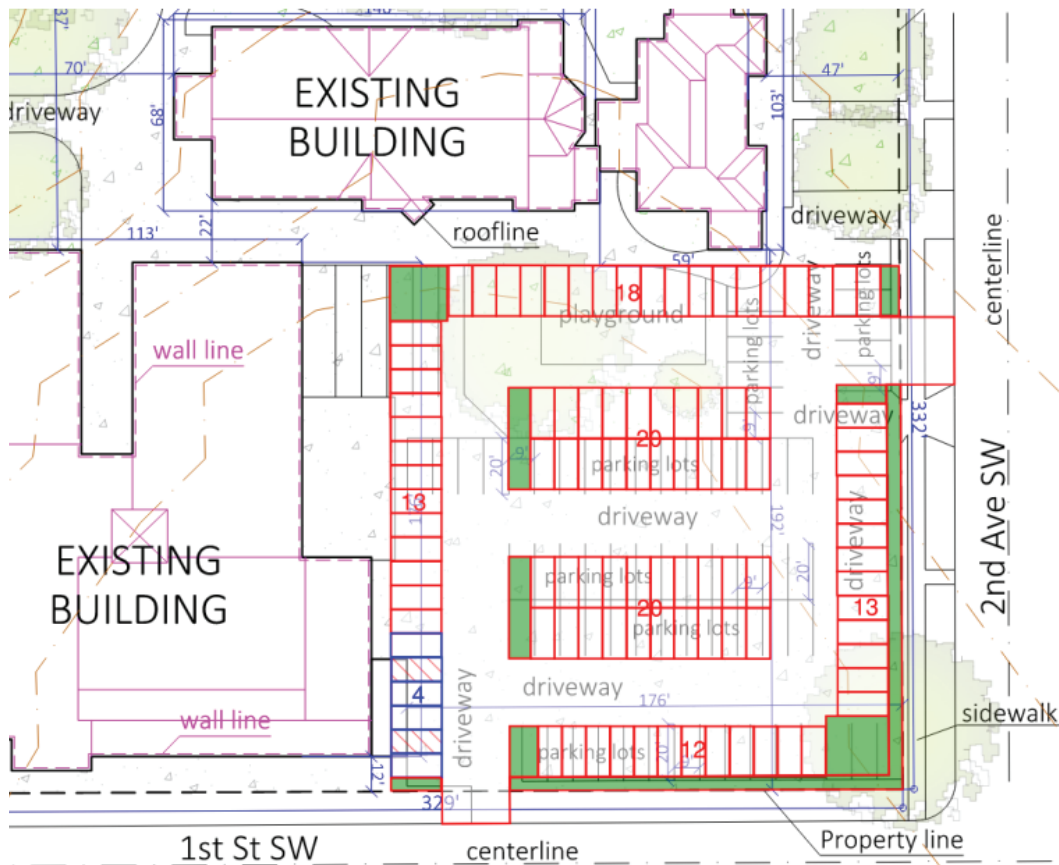
Please see the attached report from the December 4th Planning Commission workshop.

Planning Commission Workshop December 4th, 2023 Summary

At the December 4th Planning Commission Workshop, the City Planner presented the business and subject property concept. Cory Newby followed with a presentation of their own. The reaction from the Planning Commission to the proposed flea market use was mixed and included discussion on traffic, parking, the viability of the use, the current state of the buildings, and consideration of what the property should or should not be going into the future. Planning Commission requested Cory Newby work with staff on establishing more details regarding parking and use of the structures on the property.

Planning Commission Workshop December 18th, 2023

Cory Newby submitted new documents with additional details and a preliminary site plan for parking, which are attached to this report. City staff are concerned about utilizing the existing paved area on-site and converting into efficient and useable parking for the proposed (or any potential) business. The initial parking plan provided by Cory Newby did not adequately provide parking improvements expected with a change of use, so the City Planner suggests, and Cory Newby supports, a potential parking layout as shown below and in the attachments.



This preliminary parking plan would provide 100 spaces on-site, but requires minor parking variances, such as parking space length (18-feet vs 20-feet) and parking setbacks (five feet vs 10-feet). Cory Newby's calculations for parking needs based on to-be-used space on the property are 46 parking spaces. Calculations are shown below:

Total Building Space: ~33,500 sq ft

Space Not Used/Open to Public: ~10,900 sq ft

- House 5216 sq ft
- Church Basement 1143 Sq Ft
- Church & House breezeway 450 sq ft
- School Basement 1360 sq ft
- School 2nd floor 2695 sq ft Usable

Space: ~22,600 sq ft Proposed Use

Space: ~18,000 sq ft

- Retail ~12,000 sq ft (Open to Public)
- Storage/Limited Processing ~6,000 Sq Ft (Not Open to Public)

Retail: 1 Space per 300 sq ft = 40 spaces

Storage/Limited Processing: 1 Space per 1,000 sq ft = 6 spots

Total Spaces Needed: 46

Based on the preliminary calculations from Cory Newby and the preliminary parking improvement plan, adequate parking exists for the uses proposed. Although the UDO does not specifically account for storage and processing areas for a business like this, the City Planner sees the proposed 1 space per 1,000 sq ft as reasonable for discussion. With the possibility of 100 parking spaces provided on-site, the ratio of parking spaces to building area is around 1 space per 225 sq ft of useable space, as noted by Cory Newby above and attached. This is a higher ratio of parking than generally required for retail uses elsewhere in the city. Against the total existing building area, including parts Cory Newby is not proposing to use, would raise the ratio to approximately 1 space per 335 square feet.

In addition to the building use and parking calculations, Cory Newby provided a rough traffic impact analysis (see attached). The City Engineer did not review the analysis before writing this report, so initial feedback is unavailable.

As this project moves forward, the City Planner recommends a conditional use permit that is specific and comprehensive in terms of conditions: what is required, which buildings/spaces are used for the proposed business, if an annual review is required, etc. These conditions are not atypical compared to conditional uses approved in other jurisdictions. If the proposed development does not adhere to the conditions, enforcement of the conditions could be challenging for city staff and the business operator.

K:\Common Share\Projects\2023\Preliminary and Other Projects\112 2nd Ave NW - Urban Flea Market\12.18.23 PC\Review 1

**BLOCK 4 SOUTHERN ADDITION
FARIBAULT, RICE COUNTY, MINNESOTA**



BASIS OF BEARING SYSTEM
All bearings are based upon the MinDot Rice County Coordinate System

LEGAL DESCRIPTION OF RECORD
Block 4, Southern Addition to Fairbault, according to the recorded plat thereof.

NOTE:
The title work does not show ownership west of the west line of Block 4. Southern Addition depicts the west line of Block 4 being the quarter line between SE and

ES, HAUGH & SMITH INC.

This drawing and format is strictly prohibited without the written consent and permission of Jones, Haugh & Smith Inc.

locations should be requested prior to the commencement of construction or the taking of any other action relying on the actual locations.

GOPHER STATE ONE-CALL: 1-800-252-1166

Minneapolis

[illegible]

TOPOGRAPHIC AND BOUNDARY SURVEY



Survey:	MDH	Date of Field Work:	7/28/24	Revised:	
 JONES HAUGH SMITH Engineers + Surveyors		515 South Washington Ave. Albert Lea, MN 55007 507-373-4876 415 West North Street Owatonna, MN 55060 507-451-4898			
Checklist:		SAT			
Date of Plot or Map:		8/20/24			

URBAN FLEA MARKET
PARKING LOT
112 2ND. AVE. SW, FARIBAULT, MN
55021

PROJECT TEAM	ARCHITECT STEADY, WEAVER, KERSHNER & ASSOCIATES APPRO DEVELOPMENT 21476 GRENADA AVENUE LAKEVILLE, MN 55044 (763) 443-2504 (763) 443-2171 (763) 443-2171 Email: info@approdevelopment.com	STRUCTURAL ENGINEER WILLIAMS ENGINEERING COMPANY ADDRESS 1 ADDRESS 2 PHONE NUMBER EMAIL	CONTRACTOR: NAME DR. PETER GARNATT 21476 GRENADA AVENUE LAKEVILLE, MN 55044 763-443-2171 EMAIL
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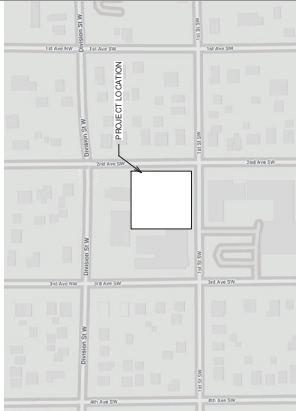
CONTRACTOR:
NAME
APPRO DEVELOPMENT
21476 GRENADA AVENUE
LAKEVILLE, MN 55044
952-469-2171
EMAIL

CODE SUMMARY

DRAWING INDEX	
Sheet Number	Sheet Name
A-General	
AQ-1	COVER SHEET
B-Civil	
AT-1	SITE PLAN

PROJECT DESCRIPTION

IMAGE



ABBREVIATIONS

4	AND	FT	FEET OR FEET	RED MAT	W.C.	WATER CLOSET	
5	ANGLE	FRP	FIBER REINFORCED PLASTIC	PM	PAINTED	W.H.	WATER HEATER
6	CENTER LINE	F.F.E.	FINISHED FLOOR ELEVATION	PART	PARTITION	W.B.	WALL BRASS
7	DIAMETER	F.F.	FIRE EXTINGUISHER	PARQ	PARKING	WT.	WEIGHT
8	DOWN	F.F.P.	FLOOR FINISH	PAV	PAVING	W.F.	WIRE FABRIC
9	FLAT	F.D.	FLOOR DRAIN	PL	PLASTIC LAMINATE	W.W.	WINDOW
10	PLUS OR MINUS	F.L.	FLOURESCENT LIGHT	PLYMD	PLYWOOD	W.	WITH
11	ABOVE FINISHED FLOOR	P.M.	POUNDS	P.V.	POWER HOOD VENTILATOR	WD	WOOD
12	ACQUACUSTICAL CEILING TILE	G.P.M.	GALLONS PER MINUTE	P.V.	POWER HOOD VENTILATOR		
13	ADJUSTABLE	GA.	GAUGE	2	PROPERTY LINE		
14	AGGREGATE	GALV.	GALVANIZED	Q	QUARRY TILE		
15	A.H.	A.H.	AR HAND LAMP UNIT	GL	GLASS		
16	ALTERNATE	G.L.	GLASS BLOCK	GL	GLASS		
17	ANCHOR BOLT	GLAZ	GLAZING	REFR.	REFRIGERATOR		
18	ANCHORED	G.F.I.	GROUND FAULT INTERRUPTER	REFR.	REFRIGERATOR		
19	ARCHITECTURAL	H.C.	HANDICAPPED	B.A.	RETURN AIR		
20	AUTOMATIC	H.W.E.	HARDWARE	R.H.	RIGHT HAND		
21	BASMENT	H.V.A.C.	HEATING, VENTILATING, AND AIR CONDITIONING	R.H.	RIGHT HAND		
22	BEAM BEARING	HT.	HEAT	R.O.	ROUGH OPENING		
23	BEARING	H.Y.D.	HOLLOW METAL	RM	ROOM		
24	BITUMINOUS	I.L.O.	IN LIEU OF	RB	RUBBER BASE		
25	BLOCK	N.	NICHES	RB	RUBBER TILE		
26	BOARD	NCL	NOT INCLUDED	SAN.	SANITARY		
27	BUILD UP ROOF	NT.	INTERIOR	SAN.T	SANITABLE		
28	CABINET	IMP.	INTERNATIONAL BUILDING CODE	SHT.	SHEET		
29	CARPET	JAN.	JANITOR	SHR.	SHOWER		
30	CATCH BASIN	J.T.	JOINT BEARING	SHR.	SHOWER		
31	CEILING	JST	JOINT	S.M.	SMALL		
32	CEILING TILE	JUST	JUST	S.M.	SMALL		
33	CEILING	K.	KITCHEN	S.C.	SOLID CORE		
34	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
35	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
36	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
37	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
38	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
39	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
40	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
41	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
42	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
43	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
44	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
45	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
46	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
47	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
48	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
49	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
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51	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
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54	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
55	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
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57	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
58	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
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61	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
62	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
63	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
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69	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
70	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
71	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
72	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
73	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
74	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
75	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
76	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
77	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
78	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
79	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
80	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
81	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
82	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
83	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
84	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
85	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
86	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
87	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
88	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
89	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
90	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
91	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
92	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
93	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
94	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
95	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
96	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
97	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
98	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
99	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		
100	CEILING	K.P.S.	KITCHEN	S.C.	SOLID CORE		

STANDARD DRAWING SYMBOLS

[illegible][illegible]

URBAN FLEA
MARKET PARKING
LOT

COVER SHEET

Project number	24-03-0008
Date	01/31/24
Drawn by	MSC
Checked by	RWR

0.00

0.00

Properties with Variances?

No Curb or partial Curbs

Arby's
DQ
Halal Market
Brighton Hospice
Pillar
Autowash
Farm Bureau Insurance
Mercury
City & Lakes
MRG
Francis Pest Control
Auto Zone
Storage on 7th
Truss
C & S Vending
Bliss Ford
Mobile
Lyndala Halal Market
Jersey Mikes (we'll see)
Southern China Cafe
J-Mo
Crown

Curb/Setback Variances

Napa
Dominos
Fams Barber Shop
Dentist House
All of the Cannon Buildings
Sammons
Abubaker Center
Environmental Tillage
Ace Hardware
Five Star Car Sales

BA

2020 - greenhouse parking lot
No Curb
No Screening
No Landscaping
Not sure about setbacks

The majority of these have no screening to partial screening. Landscaping requirements are in question on most as well.



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
David Wanberg, CED Director
FROM: Harry Davis, City Planner
MEETING DATE: October 1, 2024
SUBJECT: Discussion of Zoning Text Amendments for Cannabis Businesses

Discussion:

On September 16, 2024 the Planning Commission reviewed initial recommendations from City Council for zoning text amendments that would permit cannabis businesses in certain zoning districts. The City Planner also reviewed the initial recommendations and proposed changes matching the different cannabis business types with uses already allowed in each zoning district. The Planning Commission voted unanimously in favor of the City Planner's changes based on City Council's recommendations. Please see the attached report to Planning Commission for a summary of recommendations from the Planning Commission and City Planner.

The City Planner and City Clerk request feedback from City Council on the Planning Commission's recommendation and direction on any changes before the proposal appears in front of the City Council during a regular meeting.

Attachments:

1. Ordinance 2024-XX Approve a Zoning Text Amendment to Allow Cannabis Businesses in Certain Zoning Districts
2. Updated PC Staff Report

CITY OF FARIBAULT

ORDINANCE No. 2024-XX

**APPROVE A ZONING TEXT AMENDMENT TO ALLOW CANNABIS
BUSINESSES IN CERTAIN ZONING DISTRICTS**

WHEREAS, the City of Faribault (the "Applicant") requests a zoning text amendment to allow cannabis businesses in certain zoning districts and add cannabis related definitions to the Unified Development Ordinance; and

WHEREAS, the Planning Commission, on September 16, 2024, following proper notice, held a public hearing regarding the proposed zoning text amendment; and

WHEREAS, following the public hearing, the Planning Commission recommended that the City Council approve the above-referenced zoning text amendment based on the following written findings outlined in Section 2-180 of the City's Unified Development Ordinance as follows:

1. **Criteria: Whether the amendment is consistent with the applicable policies of the City's Land Use Plan.**

Finding: The Comprehensive Plan's numbers 3 and 4 of the Core Guiding Principles support the general direction of the proposed zoning amendment:

3. Remove or minimize barriers and create or strengthen opportunities for all individuals, businesses, industries, organizations, and services to succeed.

The proposed zoning amendment will allow for cannabis businesses to be in appropriate places within the community, thereby providing better access for the public and fostering new business development.

4. Encourage innovation, creativity, flexibility, and openness to new ideas and positive change in all sectors of the community.

The proposed zoning amendment will give flexibility on finding locations for cannabis businesses in Faribault. The zoning districts proposed for different cannabis businesses are meant to be compatible and supporting other uses found within the same zoning district.

In addition to the Core Guiding Principles, there are several goals, objectives, and policies met by the zoning text amendment:

Goal: Faribault's investments in its built assets retain and attract quality businesses, industries, institutions, and housing, ensuring that Faribault is an outstanding place to live, work, and play.

Objective 1.1: Guide land to provide an appropriate mix of compatible land uses that meets the City's current and anticipated needs.

Policy 1.1.A: Guide and regulate land to respond to social and market demands, respect significant natural and cultural assets, and support the efficient use of infrastructure.

Policy 1.1.B: Seek first to strengthen existing development and guide new development in areas currently served by existing infrastructure, but where appropriate, allow logical and strategic staged growth in undeveloped areas if it is in the City's best interest.

Policy 1.1.C: Encourage the development of complete neighborhoods where all people have reasonable, safe, and convenient access to healthy food, goods, parks, social offerings, and services.

Policy 1.1.D: Identify and implement opportunities to maximize synergies and minimize conflicts between land uses.

Goal: Faribault has a diverse and resilient economy that supports employment and business opportunities for people of all backgrounds and skills.

Objective 1.1: Cultivate an economy and labor force that has the skills, resources, and support structures to thrive in a rapidly changing economy.

Policy 1.1.C: Work with a variety of partners to ensure Faribault residents have access to people, places, organizations, and businesses that are welcoming and supportive of their attempts to enrich themselves and their families.

Objective 1.2: Nurture a business environment supportive of all industry sectors while balancing economic growth with living wage jobs, equitable employment practices, and minimal impacts on the environment.

Policy 1.2.A: Support the development, growth, and retention of small businesses.

Policy 1.2.B: Encourage innovation, creativity, flexibility, and openness to new ideas and positive change in all sectors of the community.

Objective 1.3: Ensure opportunities are available for Faribault to grow and change in a manner that benefits current as well as future generations.

Policy 1.3.A: Identify areas appropriate for new development or redevelopment that are consistent with market demand, have limited environmental impact, and support the efficient use or extension of existing infrastructure.

Goal: Faribault maximizes opportunities for residents to live a healthy life in which they are safe, well nourished, and have access to a range of housing, healthcare, and employment.

Objective 1.1: Strengthen opportunities in the design, development, and maintenance of Faribault's built environment to promote healthy living for all.

Policy 1.1.B: Encourage complete neighborhoods where all people have safe and convenient access to healthy food, goods, and services in all neighborhoods.

2. **Criteria: Whether the amendment is in the public interest and is not solely for the benefit of a single property owner.**

Finding: The proposed zoning text amendment is not intended to benefit only one property owner. It will be effective citywide and benefit many different property owners and agencies. This amendment does not impose undue burdens or limits on property owners as it allows for new cannabis uses across appropriate zoning districts.

3. **Criteria: Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of a particular property.**

Finding: Although the proposed text amendment does not change the zoning classification of property in the city, there are existing properties where a property owner or business may want to start a cannabis use. When comparing cannabis businesses to other by-right and conditional uses in each of the outlined zoning districts, cannabis businesses are not more intense or create more activity. Because cannabis businesses are relatively new to Minnesota, peer city research is limited and not a part of this proposal.

4. **Criteria: Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of a particular property.**

Finding: The proposed text amendment does not change the zoning classification of property in the city. Therefore, this required finding does not apply to the proposed text amendment.

5. **Criteria: Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of a particular property.**

Finding: The proposed text amendment does not change the zoning classification of property in the city. Therefore, this required finding does not apply to the proposed text amendment. Minnesota law recently changed, and the associated Office of Cannabis Management published a model ordinance, to allow cannabis businesses in cities for recreational consumption. This ordinance has a foundation based on the OCM model ordinance, with initial feedback from City Council and further refinement on recommended zoning districts for certain cannabis businesses by Planning Commission and the City Planner.

WHEREAS, the City Council held a public meeting on XXXX XX, 2024, to consider approval of the first reading of Ordinance 2024-XX; and

WHEREAS, the City Council also held a public meeting on XXXX XX, 2024, to consider approval of the second reading of Ordinance 2024-XX; and

WHEREAS, based on the City Staff report, the results of the public hearing, and the written findings and recommendation of the Planning Commission, the City Council of the City of Faribault concurs with the written findings of the Planning Commission as stated in the above recitals and hereby makes the identical findings.

NOW, THEREFORE, THE CITY OF FARIBAULT ORDAINS:

Section 1: Findings and Incorporation of Recitals and Exhibits. The recitals in this ordinance are part of this ordinance and, where applicable, constitute the written findings of the City Council of the City of Faribault.

Section 2: Text Amendment – Added Cannabis Definitions. The Faribault City Council hereby adds (shown in the underlined text) to the Unified Development Ordinance under Chapter 1, “Section 1-130. Cannabis business definitions.” with associated definitions, as proposed in Exhibit A.

Section 3: Text Amendment – Added Cannabis Business Setback. The Faribault City Council hereby adds (shown in the underlined text) to the Unified Development Ordinance under Chapter 7, Section 7-30 titled development standards to add a 250-foot setback from schools for cannabis businesses, as proposed in Exhibit B.

Section 4: Text Amendment – Principal Uses for the Commercial Districts. The Faribault City Council hereby adds or amends (shown in the underlined text) the Unified Development Ordinance under Chapter 11, Article 1, Section 11-30 titled principal uses for the commercial districts, as proposed in Exhibit C.

Section 5: Text Amendment – Principal Uses for the Industrial Districts. The Faribault City Council hereby adds or amends (shown in the underlined text) the Unified Development Ordinance under Chapter 12, Article 1, Section 12-30 titled principal uses for the industrial districts, as proposed in Exhibit D.

Section 6: Text Amendment – Principal Uses for the Special Districts. The Faribault City Council hereby adds or amends (shown in the underlined text) the Unified Development Ordinance under Chapter 13, Article 5, Section 13-520 titled principal uses for the special districts, as proposed in Exhibit E.

Section 7: Effective Date. This ordinance shall be effective immediately upon its passage and publication per the provisions of the Faribault City Charter.

Public Hearing: September 16, 2024

First Reading: XXXX XX, 2024

Second Reading: XXXX XX, 2024

Publication: XXXX XX, 2024

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Jessica L. Kinser, City Administrator

EXHIBIT A

**Proposed Sec. 1-130. Cannabis business definitions. under Chapter 1 of the
Unified Development Ordinance**

Sec. 1-130. Cannabis business definitions.

Unless otherwise noted in this section, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance. Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of this development ordinance, have the meanings indicated. All words and phrases not defined shall have their common meaning.

Cannabis cultivation. A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.

Cannabis retail business. A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and lower-potency hemp edible retailers.

Cannabis retailer. Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

Lower-potency hemp edible. As defined under Minn. Stat. 342.01 subd. 50.

Office of Cannabis Management. Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.

Place of public accommodation. A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Preliminary license approval. OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.

Public place. A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.

Residential treatment facility. As defined under Minn. Stat. 245.462 subd. 23.

Retail registration. An approved registration issued by the city of Faribault to a state-licensed cannabis retail business.

School. A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. 120A.24.

State license. An approved license issued by the State of Minnesota’s Office of Cannabis Management to a cannabis retail business.

EXHIBIT B

**Amended Sec. 7-30. Development standards., under Chapter 7 of the
Unified Development Ordinance**

Sec. 7-30. Development standards.

(Beneath *Campground*.)

Cannabis businesses.

(1) All cannabis businesses must not be located within two hundred fifty (250) feet, measured lot line to lot line, of any school or church, except if the licensed establishment is located within the Central Business District zoning district.

(Above *Car wash*.)

EXHIBIT C

**Amended Sec. 11-30. Principal uses for the commercial districts. under
Chapter 11, Article 1 of the Unified Development Ordinance**

Sec. 11-30. Principal uses for the commercial districts.

- (A) *In general.* All permitted and conditional uses allowed in the commercial districts are listed in Table 11-1.
- (B) *Permitted uses.* Uses specified with a "P" are permitted in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish a permitted use shall obtain a zoning certificate for such use as specified in Sections 2-190 through 2-250.
- (C) *Conditional uses.* Uses specified with a "C" are allowed as a conditional use in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish or expand a conditional use shall obtain a conditional use permit for such use as specified in Sections 2-260 through 2-340.
- (D) *Prohibited uses.* Any use not listed as either "P" (permitted) or "C" (conditional) in a particular district or any use not determined by the City Planner to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district. Such determination shall be made in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (E) *Specific development standards.* Permitted and conditional uses specified with an "x" under the Specific Development Standards column shall be subject to the standards identified in Chapter 7, Specific Development Standards.
- (F) *Generalized use categories.* Table 11-1 employs generalized use categories for some types of commercial uses. A particular use may be determined to be within a generalized use category if not listed specifically elsewhere in Table 11-1 and if not determined to be within another less restrictive generalized use category. Determination of whether a particular use is included within a generalized use category shall be made by the City Planner in the manner provided for in Section 2-50 governing determination of substantially similar uses.
 - (1) *General retail sales and services.* General retail sales and services uses include the retail sale of new products or the provision of services to the general public that produce minimal off-site impacts. General retail sales and services include the following uses:
 - (a) Automobile parts and accessories.
 - (b) Bakery/catering service.
 - (c) Barber shop/beauty salon.
 - (d) Bicycle sales and repair.
 - (e) Clothing and accessories.
 - (f) Department and discount stores.
 - (g) Drug store.
 - (h) Dry-cleaning establishment.
 - (i) Electronics sales and repair.
 - (j) Film developing/photographic supplies.
 - (k) Florist.
 - (l) Hardware store.
 - (m) Household furnishings and appliances.
 - (n) Locksmith.
 - (o) Musical instruments.
 - (p) Office and school supplies.

- (q) Picture framing.
 - (r) Shoe repair/tailor.
 - (s) Sporting goods/bait and tackle.
- (2) *Craftsman studios, limited production and processing.* Craftsman studios, limited production and processing uses include activities that are consistent and compatible with retail sales and services if such services are conducted wholly within an enclosed building if operated in a manner that prevents external effects of the activity such as (but not limited to) smoke, soot, dirt, vibration, and odor from being detectable at the property line. These uses produce minimal off-site impacts due to their limited nature and scale. Craftsman studios, limited production and processing is allowed as a principal use provided the use shall not exceed a maximum floor area of two thousand five hundred (2,500) square feet, and the main entrance shall open to a retail or office area. Such uses may include wholesale and off-premises sales, subject to other restrictions established in this ordinance. Limited production, processing and storage uses greater than two thousand five hundred (2,500) square feet in area, may be allowed subject to a conditional use permit in accordance with Sections 2-260 through 2-340 of the UDO, with requirements for noise, vibration, dust and odor controls. Craftsman studios, limited production and processing includes the following uses or similar uses:
- (a) Apparel and other finished products made from fabrics.
 - (b) Computers and accessories, including circuit boards and software.
 - (c) Electronic components and accessories.
 - (d) Film, video and audio recording.
 - (e) Food and beverage products, except no live slaughter or grain milling, cereal, vegetable oil, or vinegar.
 - (f) Jewelry, ornamental ceramics and pottery.
 - (g) Leather crafting and upholstery.
 - (h) Precision medical and optical goods.
 - (i) Signs and advertising devices.
 - (j) Visual arts and artist's studio.
 - (k) Watches and clocks.
 - (l) Wood crafting and carving.
 - (m) Wood furniture, woodworking, cabinetry, millwork, and upholstery, not including sawmills.
 - (n) Cannabis cultivation.
 - (o) Cannabis manufacturer.
 - (p) Hemp manufacturer.

Table 11-1. Principal uses in the commercial districts.

Use	District					Development Standards
	C-1	C-2	C-3	CBD	SH	
Commercial uses						
Auction establishments		C	C		-	X
Retail sales and services						
General retail sales and services	P	P	P	P	C	
Ambulance facility	-	C	-	-	C	X
Antiques and collectibles	-	P	P	P	C	

Bank or financial institution	-	P	P	P	C	
Boat and marine sales	-	P	P	-	C	
Bookstore	P	P	P	P	C	
Building material sales	-	P	P	-	C	
<u>Cannabis retail and delivery</u>	<u>-</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>
Child care center	C	P	P	P	C	X
Digital Billboards	-	C	C	-	C	see 9-160(l)
Firearms dealer	-	P	P	P	C	X
Funeral home	-	P	P	P	C	X
Greenhouse, lawn and garden supplies	-	P	P	P	C	
Grocery or convenience store	C	P	P	P	C	
Laundry, self-service	-	P	P	P	C	X
Pawn shop	-	P	P	P	C	
Performing, visual, or martial arts school	-	P	P	P	C	
Pet store	-	P	P	P	C	X
Photocopying	P	P	P	P	C	
Recreational vehicle sales and service	-	P	P	-	C	
Rental of household goods and equipment	-	P	P	P	C	
Shopping center	C	P	P	P	C	
Small engine repair	-	P	P	P	-	
Tattoo parlor	-	P	P	P	C	
Veterinary clinic	-	P	P	P	C	X
Video store	P	P	P	P	C	
Offices	C	P	P	P	C	X
Automobile services						
Automobile convenience facility	C	P	P	P	C	X
Automobile rental	-	P	P	P	-	X
Automobile repair, minor	-	P	P	C	C	X
Automobile repair, major	-	C	C	C	-	X
Automobile sales	-	P	P	-	-	X
Transportation						
Truck and trailer sales and service	-	C	-	-	-	X
Car wash	-	P	P	-	C	X
Food and beverages						
Bar, nightclub, liquor establishment	-	P	P	P	C	X
Brewery	-	C	C	C	C	X
Coffee shop with limited entertainment	P	P	P	P	C	X
Liquor store	-	P	P	P	C	
Microdistillery	-	C	C	C	C	X
Restaurant, drive-through	-	C	C	C	C	X
Restaurant	C	P	P	P	C	X
Restaurant with general entertainment	C	P	P	P	C	X

Commercial recreation, entertainment and lodging						
Bed and breakfast facility	-	-	-	P	C	X
Bowling alley	-	P	P	-	C	
Hotel, motel	-	P	P	P	C	
Indoor recreational facility	-	P	P	C	-	
Outdoor recreation area	-	C	C	C	P	X
Sports and health facility	P	P	P	P	C	
Theater, indoor	-	P	P	C	C	
Limited recycling collection center	-	C	C	-	C	X
Institutional and public uses						
Educational facilities						
College or university	-	P	P	C	C	
Early childhood education center	C	P	P	P	C	X
Schools, K-12	-	C	C	C	C	X
Schools, vocational or business	-	P	P	C	C	
Parking facilities, ramps	C	C	C	C	C	X
Social, cultural, charitable, and recreational facilities						
Stadiums, arenas	-	C	C	-	-	X
Clubs and lodges	C	P	P	P	C	
Community center	C	P	P	C	-	X
Library	C	P	P	P	-	
Museum	C	P	P	P	-	
Park	P	P	P	P	P	
Religious institutions						
Place of assembly	C	C	C	C	C	
Health and medical facilities						
Clinic, medical or dental	P	P	P	P	C	
Laboratory, medical or dental	-	P	P	P	C	
Hospital	-	C	C	-	-	X
Massage parlor	-	P	P	P	C	
Production, processing, and storage						
Farm and construction equipment sales	-	P	P	-	C	X
Craftsman studios	-	P	P	P	C	X
Limited production and processing up to 2,500 sq. ft.	-	P	P	P	C	X
Limited production and processing over 2,500 sq. ft.	-	C	C	C	C	X
Contractor office and showroom	-	P	P	P	-	X
Furniture moving and storage	-	P	P	-	-	
Industrial machinery and equipment, sales, service, and rental	-	P	P	-	C	
Laundry, commercial	-	P	P	P	-	X
Packaging of finished goods	-	P	P	P	-	
Printing and publishing	-	P	P	P	-	
Self-service storage facility	-	P	P	C	C	

Wholesaling, warehousing, and distribution; Cannabis wholesale	-	P	P	C	-	X
Residential uses						
Dwellings						
Dwelling unit as part of mixed-use structure	-	-	-	P	C	X
Multiple-family dwelling	C	C	C	C	-	
Dwelling in conjunction with business	C	C	C	C	C	X
Congregate living						
Residential care facility, serving six or fewer persons	C	C	C	C	C	
Residential care facility, serving seven to sixteen persons	C	C	C	C	C	X
Residential care facility, serving seventeen or more persons	-	C	C	-	C	X
Nursing home, senior housing facility	C	C	C	C	C	X
Public service and utilities						
Communication facilities, towers	C	C	C	C	see section 6-230	
Electric or gas substation	C	P	P	P		
Essential services	P	P	P	P		
Electricity generation plant, non-nuclear	-	C	C	-		
Governmental buildings and structures	C	P	P	P		
Governmental buildings and structures (other than those used primarily as offices)	-	C	C	C	C	X
Public utility buildings and structures	C	P	P	P		

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2001-15, § 1, 8-28-01; Ord. No. 2002-13, § 1, 6-25-02; Ord. No. 2002-16, § 1, 8-13-02; Ord. No. 2004-14, § 1, 6-8-04; Ord. No. 2006-21, § 5, 9-26-06; Ord. No. 2008-15, § 1, 6-24-08; Ord. No. 2008-25, § 3, 2-24-09; Ord. No. 2010-06, § 3, 5-25-10; Ord. No. 2013-005, § 1, 8-13-13; Ord. No. 2013-009, § 9, 11-26-13; Ord. No. 2015-01, § 1, 1-27-15; Ord. No. 2015-09, § 2, 7-28-15; Ord. No. 2015-10, § 2, 9-22-15; Ord. No. 2017-2, § 3, 4-25-17; Ord. No. 2022-2, § 2, 1-25-22; Ord. No. 2023-1, § 4, 2-28-23; Ord. No. 2023-21, § 3, 9-12-23)

EXHIBIT D

**Amended Sec. 12-30. Principal uses for the industrial districts. under
Chapter 12, Article 1 of the Unified Development Ordinance**

Sec. 12-30. Principal uses for the industrial districts.

- (A) *In general.* All permitted and conditional uses allowed in the industrial districts are listed in Table 12-1.
- (B) *Permitted uses.* Uses specified with a "P" are permitted in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish a permitted use shall obtain a zoning certificate for such use as specified Sections 2-190 through 2-250.
- (C) *Conditional uses.* Uses specified with a "C" are allowed as a conditional use in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish or expand a conditional use shall obtain a conditional use permit for such use as specified in Sections 2-260 through 2-340.
- (D) *Prohibited uses.* Any use not listed as either "P" (permitted) or "C" (conditional) in a particular district or any use not determined by the City Planner to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district. Such determination shall be made in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (E) *Specific development standards.* Permitted and conditional uses specified with an "x" under the Specific Development Standards column shall be subject to the standards identified in Chapter 7, Specific Development Standards.
- (F) *Generalized use categories.* Table 12-1 employs generalized use categories for some types of industrial uses. A particular use may be determined to be within a generalized use category if not listed specifically elsewhere in Table 12-1 and if not determined to be within another less restrictive generalized use category. Determination of whether a particular use is included within a generalized use category shall be made by the City Planner in the manner provided for in Section 2-50 governing determination of substantially similar uses.
 - (1) *Limited Industrial Uses.* Limited industrial uses are low impact uses which produce little or no noise, odor, vibration, glare or other objectionable influences and which, given proper controls, have little or no adverse effect on surrounding properties. Limited industrial uses generally do not involve processing of raw materials or production of primary materials. Limited industrial uses include the production, processing, or storage of the following:
 - (a) Apparel, textiles, and fabrics.
 - (b) Electronic and electrical equipment, components, and accessories.
 - (c) Foods and food products, not including distilling or live slaughter.
 - (d) Household goods and appliances.
 - (e) Measuring, analyzing, and controlling instruments.
 - (f) Medical and optical goods and technology.
 - (g) Novelty items, musical instruments, sporting and athletic equipment, and other personal goods.
 - (h) Office and commercial equipment, furniture, and fixtures.
 - (i) Pharmaceuticals, health and beauty products.
 - (j) Printing and publishing operations, including distribution.
 - (k) Signs, including electric and neon signs, and other advertising devices.
 - (l) Fabricated metal products such as cans and shipping containers, cutlery, handtools and general hardware.
 - (m) Fabricated plastic and rubber products, except tires and inner tubes.

- (n) Household, industrial and commercial machinery and equipment such as engines and turbines, farm, lawn and garden equipment, heating, cooling and refrigeration equipment, and machine tools.
 - (o) Metal working such as stamping, welding, machining, extruding, engraving, plating, grinding, polishing, cleaning and heat treating.
 - (p) Paper and paperboard products, except no pulp, paper or paperboard mills.
 - (q) Woodworking, lumber and wood products, not including saw mills.
 - (r) Cannabis cultivation.
 - (s) Cannabis manufacturer.
 - (t) Hemp manufacturer.
- (2) *General Industrial Uses.* General industrial uses include high impact and outdoor uses which are likely to have a substantial adverse effect on the environment or on surrounding properties and which require special measures and careful site selection to ensure compatibility with the surrounding area. General industrial uses often include processing of raw materials or production of primary materials. General industrial uses include the production or processing of the following:
- (a) Asphalt, paving and roofing materials.
 - (b) Battery manufacture and reprocessing.
 - (c) Chemicals and chemical products, including ammonia, chlorine, household cleaners, detergent, fertilizer, and industrial and agricultural chemicals.
 - (d) Gypsum and plaster products.
 - (e) Manufactured housing.
 - (f) Paints, varnishes, lacquers, and enamels.
 - (g) Petroleum and coal products, except no mining or extraction.
 - (h) Plastics and synthetic resins and fibers.
 - (i) Primary metals, including steelworks, rolling and finishing mills, forge or foundry.
 - (j) Pulp, paper or paperboard mills.
 - (k) Sand and gravel, except no mining or extraction.
 - (l) Sawmills.
 - (m) Tanned hides and leather.
 - (n) Tires and inner tubes.
 - (o) Transportation equipment, including motor vehicle and aircraft parts and equipment.

Table 12-1. Principal uses in the industrial districts.

	District				Development Standards
Use	I-P	I-1	I-2	SH	
Industrial uses					
Generalized use categories					
Limited industrial	P	P	P	C	x
General industrial	-	-	P	-	

Specific industrial uses					
Aircraft storage and maintenance	P	P	P	C	
Ammunition and explosives, storage and manufacturing	-	-	C	-	
Boat construction, repair, and storage	P	P	P	C	
Cleaning services and laundries	P	P	P	C	x
Concrete, asphalt, and rock crushing facility	-	-	C	-	x
Contractor showroom	P	P	P	C	x
Contractor yard	P	P	P	C	
Furniture moving and storage	C	P	P	C	
Grain elevator or storage	-	-	P	-	
Grain milling and distillation	-	-	P		
Greenhouse, wholesale	P	P	P	C	
Industrial machinery and equipment sales, service, and rental	P	P	P	C	
Research, development, and testing laboratory	P	P	P	C	
Recycling facility	C	C	P	-	
Refuse disposal and incineration facility	-	-	C	-	x
Scrap/salvage yard, metal milling facility	-	-	C	-	x
Self service storage	P	P	P	C	
Stockyards, slaughter of animals	-	-	C	-	x
Wholesaling, warehousing and distribution; <u>Cannabis wholesale</u>	P	P	P	C	x
Commercial uses					
Adult entertainment uses	P	P	P	C	x
Animal kennel, veterinary services	P	P	P	C	x
Auction establishments	C	C	C	C	x
Automobile Services					
Automobile convenience facility	P	P	P	C	x
Automobile repair, major	P	P	P	C	x
Automobile repair, minor	P	P	P	C	x
Automobile sales	C	C	-	C	x
Brewery	P	P	P	C	x
Commercial recreation, entertainment and lodging					
Firearm range, indoor	P	P	P	C	x
Hotel, motel	C	C	-	-	
Indoor recreational facility	P	P	P	P	x
Outdoor recreation area	C	C	C	C	x
Digital Billboards	C	C	C	C	see 9-160(l)
Offices	P	P	P	C	
Retail sales and services					
Ambulance Facility	C	C	C	C	x
Building material sales, lumberyard	P	P	P	C	
<u>Cannabis retail and delivery</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>x</u>
Child care center (as principal use)	C	C	-	C	

Farm and construction equipment	P	P	P	C	
Restaurants, liquor establishments	C	C	C	C	x
Transportation					
Bus garage or maintenance facility	C	P	P	C	
Heliport	-	C	C	-	x
Package delivery service	P	P	P	C	
Transportation services; <u>Cannabis transportation</u>	P	P	P	C	<u>x</u>
Transportation terminal	P	P	P	C	x
Truck, trailer, boat or recreational vehicle, sales service or rental	P	P	P	C	
Waste hauler	-	C	P	-	x
Institutional and public uses					
Educational facilities					
School, vocational or business	P	P	P	C	
Parking facilities, ramps	C	C	C	C	x
Social, cultural, charitable, & recreational facilities					
Armories, convention halls	P	P	P	C	
Stadiums, arenas	C	C	C	C	x
Clubs and lodges	P	P	P	C	
Religious institutions					
Place of assembly	P	P	-	C	x
Residential uses					
Dwelling in conjunction w/business	C	C	C	C	x
Public service and utilities					
Communication facilities	P	P	P	C	x
Communication towers	C	C	C	C	see § 6-230
Electric or gas substation	P	P	P	C	x
Electricity generation plant, non-nuclear	-	-	C	-	x
Essential services	P	P	P	P	x
Governmental buildings and structures	P	P	P	C	x
Public utility buildings and structures	P	P	P	C	x
Street and equipment maintenance facility	P	P	P	C	
Waste transfer or disposal facility	-	C	C	-	x

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2004-14, § 1, 6-8-04; Ord. No. 2005-24, § 1, 9-13-05; Ord. No. 2006-21, § 6, 9-26-06; Ord. No. 2008-25, § 4, 2-24-09; Ord. No. 2013-009, § 10, 11-26-13; Ord. No. 2016-9, § 1, 6-28-16; Ord. No. 2023-1, § 5, 2-28-23)

EXHIBIT E

**Amended Sec. 13-520. Principal uses for the special districts. under
Chapter 13, Article 5 of the Unified Development Ordinance**

Sec. 13-520. Principal uses for the special districts.

- (A) *In general.* All permitted and conditional uses allowed in the district are listed in Table 13-2.
- (B) *Permitted uses.* Uses specified with a "P" are permitted in the district where designated, provided that the use complies with all other applicable provisions of this chapter. Persons wishing to establish a permitted use, excluding single family residential uses, shall obtain a zoning certificate for such use as specified in Sections 2-190 through 2-250.
- (C) *Conditional uses.* Uses specified with a "C" are allowed as a conditional use in the district where designated, provided that the use complies with all other applicable provisions of this chapter. Persons wishing to establish or expand a conditional use shall obtain a conditional use permit for such use as specified in Sections 2-260 through 2-340.
- (D) *Prohibited uses.* Any use not listed as either "P" (permitted) or "C" (conditional) in a particular district or any use not determined by the City Planner to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district. Such determination shall be made in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (E) *Specific development standards.* Permitted and conditional uses specified with an "X" under the Specific Development Standards column shall be subject to the standards identified in Chapter 7, Specific Development Standards.

• **Table 13-2. Principal uses in the special districts.**

Use	O District	TUD District	P/I District	Shoreland District	Development Standards
Residential Uses					
Dwellings					
Single-family dwelling, farm-related	P	C	-	P	
Single-family dwelling, not farm-related	-	C	-*	C	X
Dormitories, multi-unit housing, nursing homes, and hospice facilities	-	-	P	C	X
Agricultural Uses					
Agricultural produce sales	P	C	-	C	X
<u>Cannabis cultivation</u>	<u>P</u>	<u>P</u>	<u>-</u>	<u>P</u>	<u>X</u>
Farms, not including commercial feedlots	P	P	-	P	
Nurseries and tree farms	P	P	-	P	
Wildlife and game refuges	P	P	-	P	
Institutional and Public Uses					
Social, Cultural, Charitable, and Recreational Facilities					
Athletic field, rinks or courts	C	C	P	C	X
Cemetery	C	C	P	C	X
Fairgrounds**	C	C	P	C	X
Golf course	C	C	P	C	X
Public and private park, playground	P	P	P	P	X
Libraries	-	-	P	C	X
Community centers, gymnasiums, field house, arenas	-	-	P	C	X
Hospitals, clinics, medical centers	-	-	P	C	X
Schools, colleges, and universities	-	-	P	C	X

Congregational uses					
Religious institutions, places of worship	C	C	P	C	
Commercial uses					
Airports, helipads, and related uses	C	C	P	C	X
Campgrounds	C	C	C	C	X
Kennels—Boarding or breeding	C	C	-	C	X
Outdoor recreational area	C	C	P	C	X
Resorts and inns	C	C	C	C	
Stables—riding or boarding	C	C	C	C	X
Veterinary services	C	C	-	C	X
Public service and utilities					
Communication facilities	C	C	C	C	
Communication towers	C	C	C	C	see Sec. 6-230
Electric or gas substation	C	C	C	C	
Essential services	P	P	P	P	
Governmental buildings and structures	C	C	P	C	X
Correctional facilities and jails	-	-	C	C	X
Public utility buildings and structures	C	C	P	C	

* Use allowed as a permitted accessory use per Section 15-530.

** County fairgrounds are generally exempt from local zoning per MN Statutes Section 38.16.

(Ord. No. 2022-3, § 2, 1-25-22)



Staff Report to the Planning Commission

TO: Planning Commission
THROUGH: David Wanberg, CED Director
FROM: Harry Davis, City Planner
MEETING DATE: September 16, 2024 - *UPDATED FOR CC 10/1/24*
SUBJECT: Approve a Zoning Text Amendment to Allow Cannabis Businesses in Certain Zoning Districts

Request:	City initiated a zoning text amendment to allow cannabis businesses in certain zoning districts. The amendment also includes adding definitions from the OCM model ordinance and City Council-backed setback for cannabis businesses from schools.
Recommendation:	The City Planner recommends allowing cannabis businesses in certain zoning districts, new cannabis-related definitions, and the school setback.
Recommended Motion:	Motion to forward and recommend approval of the requested amendments allowing cannabis businesses in certain zoning districts, including additional definitions and school setback, with criteria and findings as stated in the draft ordinance.

Background and Details:

Since last year, the City Council began reviewing and discussing cannabis regulations within city limits. Cannabis licensing will be done at the state level, but cities have the option to not allow cannabis businesses. The City Council determined that they want to allow for cannabis businesses within the City, including taking on responsibility for licensing, regulating, and inspecting such businesses. State-level rules on regulating cannabis state that the city can limit where zone(s) cannabis businesses may operate. As with other uses in the UDO, a jurisdiction may also determine if such use is by-right or requires a conditional use permit.

While each city and county may zoning differently, a few themes are emerging across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite and are also required to have plans to prevent the visibility of

cannabis and hemp-derived products to individuals outside the retail location. Cannabis businesses should be zoned under existing zoning ordinances following the license type or endorsed activities held by the cannabis business.

The reason that this effort started at the Council level is because the City has an option to not allow cannabis businesses within the City, meaning no zoning rules would need to change. Additionally, the Council may ban cannabis businesses from certain areas of the City, but they were not in favor. In general, the City Council supports very little regulation within the City. The City Council and City Clerk are in favor of using the recommended model ordinance by the Office of Cannabis Management, which is primarily addresses at licensing and leaves room for cities to fill in the gaps regarding zoning and land use. The only restriction that the Council is in favor of is a 250-foot buffer from schools.

Request:

The request brought forth is to amend UDO and list what zoning districts are appropriate for cannabis businesses, definitions for the different business types, and City Council's request for a 250-foot buffer from schools.

Definitions

The list of proposed definitions to add to the UDO are (as new Sec 1-130):

- Cannabis cultivation
- Cannabis retail business
- Cannabis retailer
- Lower-potency hemp edible
- Office of Cannabis Management
- Place of public accommodation
- Preliminary license approval
- Public place
- Residential treatment facility
- Retail registration
- School
- State license

Cannabis Business Setback – UPDATED FROM 9/16/24 PC

Added to Sec 7-30 Development standards:

Cannabis businesses.

(1) All cannabis businesses must not be located within two hundred fifty (250) feet, measured lot line to lot line, of any school or church, except if the licensed establishment is located within the Central Business District zoning district.

Summary of Cannabis Business Uses by Zoning District

The list of proposed types of cannabis businesses and proposed zoning

districts (and City Planner reasoning in *italics*):

- Commercial Districts:
 - C-1, Neighborhood Commercial
 - No cannabis businesses allowed
A similar use to cannabis retail (liquor store) is not permitted in C-1. Cultivation, manufacturer, wholesale, and transportation are not similar to uses already found in C-1. Cannabis businesses would not be similar to other uses found in C-1.
 - C-2, Highway Commercial
 - Permitted
 - Cannabis Retail
 - Cannabis Delivery
 - Cannabis Wholesale
Cannabis retail, delivery, and wholesale are all similar to uses permitted in C-2.
 - Permitted up to 2,500 sq ft (CUP >2,500 sq ft)
 - Cannabis Cultivation
 - Cannabis Manufacturer
 - Hemp Manufacturer
Cannabis cultivation and manufacturing are similar to uses found under the limited production and processing use, which permits uses up to 2,500 sq ft and requires a conditional use for uses above the threshold.
 - C-3, Community Commercial
 - Permitted
 - Cannabis Retail
 - Cannabis Delivery
 - Cannabis Wholesale
Cannabis retail, delivery, and wholesale are all similar to uses permitted in C-3.
 - Permitted up to 2,500 sq ft (CUP >2,500 sq ft)
 - Cannabis Cultivation
 - Cannabis Manufacturer
 - Hemp Manufacturer
Cannabis cultivation and manufacturing are similar to uses found under the limited production and processing use, which permits uses up to 2,500 sq ft and requires a conditional use for uses above the threshold.
 - CBD, Central Business District
 - Permitted
 - Cannabis Retail

- Cannabis Delivery
Cannabis retail, delivery, and wholesale are all similar to uses permitted in CBD.
 - Permitted up to 2,500 sq ft (CUP >2,500 sq ft)
 - Cannabis Cultivation
 - Cannabis Manufacturer
 - Hemp Manufacturer
Cannabis cultivation and manufacturing are similar to uses found under the limited production and processing use, which permits uses up to 2,500 sq ft and requires a conditional use for uses above the threshold.
 - Conditional Use
 - Cannabis Wholesale
Non-cannabis wholesale is a conditional use in CBD, so cannabis wholesale would be a similar use and is therefore proposed as such.
- Industrial Districts:
- I-P, Industrial Park
 - Permitted
 - Cannabis Cultivation
 - Cannabis Manufacturer
 - Hemp Manufacturer
 - Cannabis Retail
 - Cannabis Delivery
 - Cannabis Wholesale
 - Cannabis Transportation
All cannabis business types are similar to uses already permitted in I-P.
 - I-1, Light Industrial
 - Permitted
 - Cannabis Cultivation
 - Cannabis Manufacturer
 - Hemp Manufacturer
 - Cannabis Retail
 - Cannabis Delivery
 - Cannabis Wholesale
 - Cannabis Transportation
All cannabis business types are similar to uses already permitted in I-P.
 - I-2, Heavy Industrial
 - Permitted
 - Cannabis Cultivation
 - Cannabis Manufacturer

- Hemp Manufacturer
- Cannabis Retail
- Cannabis Delivery
- Cannabis Wholesale
- Cannabis Transportation

All cannabis business types are similar to uses already permitted in I-P.

- Special Districts

In general, special districts do not allow for commercial or industrial uses, so most of the cannabis business types have no similar uses found in the special districts.

- O, Open Space/Agricultural
 - Permitted
 - Cannabis cultivation
Nurseries and tree farms are permitted in O, which is a similar use to cannabis cultivation.
- TUD, Transitional Urban Development
 - Permitted
 - Cannabis cultivation
Nurseries and tree farms are permitted in TUD, which is a similar use to cannabis cultivation.
- P/I, Public/Institutional
 - No cannabis businesses allowed
No uses found in P/I are similar to any of the cannabis business types.
- Shoreland
 - Permitted
 - Cannabis cultivation
Nurseries and tree farms are permitted in Shoreland, which is a similar use to cannabis cultivation.

September 3, 2024 Planning Commission Work Session

At the September 3, 2024 Planning Commission Work Session, the Planning Commission reviewed initial recommendations from the City Planner regarding the general direction from City Council. The Planning Commission also had the change to review the full draft licensing ordinance by the City Clerk and a City Council Work Session memo on cannabis businesses.

Discussion:

2024 Comprehensive Plan

The proposed changes meet numbers 3 and 4 of the Core Guiding Principles:

3. Remove or minimize barriers and create or strengthen opportunities for all individuals, businesses, industries, organizations, and services to succeed

4. Encourage innovation, creativity, flexibility, and openness to new ideas and positive change in all sectors of the community.

Additionally, the amendment supports many policies in the plan related to transportation and economic assets. Some of the implementations goals met by the request are:

- Faribault's investments in its built assets retain and attract quality businesses, industries, institutions, and housing, ensuring that Faribault is an outstanding place to live, work, and play.
- Faribault has a diverse and resilient economy that supports employment and business opportunities for people of all backgrounds and skills.
- Faribault maximizes opportunities for residents to live a healthy life in which they are safe, well nourished, and have access to a range of housing, healthcare, and employment.

A full list of goals, objectives, and policies met by the proposed request is found in the draft ordinance.

Criteria for Adopting a Zoning Text Amendment

In general, the proposed amendment meets the code criteria for amending the zoning text. The request and recommended approach meet many goals and policies of the comprehensive plan. Additionally, the cannabis businesses proposed in each zoning district are similar to uses already found in each district. A full narrative of how the request meets the criteria is found in the draft ordinance.

Development Review Committee

The Development Review Committee (DRC) reviewed the request on September 3 and expressed support for the City Planner's recommended zoning districts for cannabis businesses.

Public Comment. The City Planner received no public comment prior to publishing this report. Notification for this item was published in the paper on September 5, 2024.

MN DNR. The City Planner notified MN DNR of the proposed zoning map amendment because the zoning text amendment does expand the uses allowed in the Shoreland Overlay District. The DNR did respond on September 11, 2024 with no concerns about the requested changes since the uses proposed closely resemble those already permitted.

Recommendation:

The City Planner and DRC recommend Planning Commission forward and recommend approval to City Council the zoning text amendments allowing cannabis businesses in certain zoning districts, including additional definitions and school setback, with criteria and findings as stated in the

draft ordinance.

September 16, 2024 Planning Commission Meeting

At the September 16, 2024 Planning Commission meeting, the Planning Commission held a public hearing and voted unanimously in favor of the proposed text amendment with an amendment to the 250-foot buffer so the wording matches setback requirements for liquor stores.



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM: Mark DuChene, Director of Engineering (City Engineer)
MEETING DATE: October 1, 2024
SUBJECT: Discussion of Woolen Mill Dam Repair

Discussion:

Since the partial failure of the Woolen Mill Dam north abutment wall and subsequent emergency erosion stabilization repairs, staff have been monitoring the dam and repairs and at this time even though there is some water seepage through the temporary rip-rap, there are no signs of any significant issues. The next steps for the dam are to engage an engineering consultant to evaluate options to repair or replace the dam depending on the site investigation. City Staff also has a meeting scheduled with FEMA on October 7th, 2024 to discuss what funding options may be available to the City for repairs and/or replacement. Staff will provide an update on the timeline associated with the dam and will be looking for feedback from the Council on how they want to see the dam repaired and if there is any interest in pursuing dam removal.

Attachments:



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM: Kevin Bushard, Human Resources Director
MEETING DATE: October 1, 2024
SUBJECT: Discussion on Advance Retirement Notice Program

Discussion:

Staff worked on developing an Advance Retirement Notice Program. The program is designed to improve the efficiency and stability of the City's workforce by encouraging employees to give the City advance notice of their intent to retire. The purpose of the program is to begin the process of replacing an employee who is leaving the City as soon as possible after notice is given. This will reduce the amount of time a position remains unfilled. The City would still reserve the right to not replace any employee who retires or to modify or eliminate the position and duties prior to hiring a new employee.

Staff is open to further discussion of the program document that will be available on Monday, September 30, 2024.

Attachments:

1. Advance Retirement Notice Program



Advance Retirement Notice Program

Purpose: The City of Faribault's (City) Advance Retirement Notice Program is designed to improve the efficiency and stability of the City's workforce by encouraging employees to give the City advance notice of their intent to retire. The purpose of the program is to begin the process of replacing an employee who is leaving the City as soon as possible after notice is given. This will reduce the amount of time a position remains unfilled. The City would still reserve the right to not replace any employee who retires or to modify or eliminate the position and duties prior to hiring a new employee. This decision will not affect an employee's eligibility for an advance notice payment.

Eligibility: This program is available to all regular full-time employees.

Policy: In order for an employee in a to qualify for an advance notice payment, each of the following must apply:

1. On an annual basis notification must be received no later than November 15 and date of retirement must occur before September 30 of the following year.
2. The City at its sole discretion must approve such payment.
3. The employee works a normal work day on the last date of work specified in the written notice of Retirement, unless otherwise expressly authorized by the Department Director.

The City will provide a one-time lump sum advance notice payment for employees that qualify of \$1,000.00.

The City reserves the right to approve or deny requests to be absent from work regardless of any accrued paid leave time during the period from the date the written notice is received to the last date of work. It is the policy and intent that an employee requesting an advance notice payment remain actively working for the City and not be absent from work for a cumulative amount of unreasonable time during the notice period. If an employee is absent from work for an unreasonable amount of time during such period, then such absences may result in the City withdrawing its approval of the advance notice payment.

The City may withdraw its approval of the advance notice payment on or before the employee's last date of work specified in the employee's notice of Retirement, at its sole discretion. Circumstances that may result in the City withdrawing its approval include but are not limited to; the employee's performance, conduct, or behavior not meeting expectations, any valid complaint(s) against the employee, the employee being unable to work, discontinuation of the program, etc.

No employee is entitled to nor has any right to an advance notice payment, unless and until they meet the qualification requirements specified herein.

The advance notice payment will be made through payroll for the pay period that includes the employee's last date of work. Payment will not be made if the employee or City modifies or rescinds the Retirement. Payment is subject to any and all taxation and required deductions.

The employee's Retirement cannot be modified or rescinded unless such modification or rescission is approved by Department Director. The rescission of the employee's Retirement will, and any modification of the employee's Retirement may, preclude the employee from qualifying for any advance notice payment by the City.

DRAFT



Advance Retirement Notice

Date:

Name:

Department Director:

Re: Advance Retirement Notice

Advance Retirement Notice

I, _____, voluntarily retire my position of _____, with the City of Faribault. My last day of work will be: _____.

By signing this document, I am agreeing to the terms and conditions of the Advance Retirement Notice Program. I also understand that by giving this notice that I am agreeing that there will no longer be a position available to me after the stated terminated date and 14-day rescission period listed herein.

I understand that I have 14-calendar days from the date I sign to rescind this Retirement. A rescission must be in writing, dated, signed and delivered to the Department Director within the 14-calendar day period. After the 14-day period my Retirement is irrevocable, unless rescinded by the City.

Employee Signature

Date

Retirement Acceptance

Department Director

Date



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM:
MEETING DATE: October 1, 2024
SUBJECT: Discussion of Eliminating Water Disconnection for Non-Payment

Discussion:

At the August 20th work session, the Council heard a proposal from staff to stop the practice of disconnecting water service because of non-payment of the City of Faribault utility bill. The memo from that meeting is attached. The Mayor and Council expressed an interest in discussing further but requested additional information on how eliminating the shut-offs would impact landlords.

Presently, when an application is completed for water service, the applicant identifies as the renter or the owner. If "renter" is marked, the City checks a box to send a paper bill to the owner as well. If there is a landlord saying this is not happening, they can call Finance, and this can be set up very easily. With the system working this way, owners and renters are getting notices when bills are past due as well as a disconnect notice. Finance is proposing to continue sending the disconnect notices to both the renter and the landlord in order to ensure there is still communication from the City about a delinquent bill, in addition to the past due statements.

Currently, any unpaid utility bills are specially assessed to the property owner. Special assessment notices (required before Council can approve an assessment list) go only to the property owner. This is not proposed to change by doing a special assessment of past due utility bills versus disconnection. What could happen is that the number of special assessments increases, but it is difficult to say that it would primarily be a problem for landlords versus owner-occupied properties.

Attached with this item is also a draft ordinance that shows the change in language. Please note that Section 28.72 does still leave the ability to disconnect services in situations where the integrity of the water system is in question. This language would allow for water disconnections to occur at vacant properties where an outstanding bill exists but there is no known

payer (deaths, foreclosures, etc.) or if there is an issue with the water service at a property that is resulting in high usage or potential damage to the system. What does not change on the attached draft ordinance is Section 28.73. Water and other delinquent charges can be assessed against a property now (and they are), and this does not change for the proposal to reduce/eliminate disconnections.

If the ordinance is acceptable and the process questions have been answered, we would like to place a first reading of this ordinance on the October 8th agenda for a first reading.

Attachments:

1. Council Work Session Memorandum
2. Ordinance Amending Chapter 28 Division 4 Disconnection of Water for Nonpayment



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM:
MEETING DATE: August 20, 2024
SUBJECT: Eliminate Water Disconnection Due to Non-Payment

Discussion:

A vacancy in the Utility Billing Accounting Technician position has put new eyes on the tasks and efforts required as part of the monthly utility billing process. One of the least liked parts of the utility billing is the disconnection of water services because of non-payment. Accounts not paid by the 5th of each month result in Finance generating a shut-off order which is sent to the Public Works- Utilities to carry out the task. Each month, between 425-450 accounts reach the point of disconnection. However, Utilities staff can only handle 30-40 actual shutoffs each month. This results in Finance staff selecting those with the highest delinquent balances for disconnection. It is easy to see how a customer is likely to be delinquent for many months before their account balance will rank in the top 10 percent of those that have not paid each month. In essence, the system is currently functioning to give people some time to catch up before their balance is large enough to warrant disconnection. If a customer cannot catch up, they will ultimately have the water disconnected.

Financial Analysis

The City charges a \$75 fee to a customer to have their water turned back on. For 2023, this resulted in \$19,260 in revenue. Through July 30th, the City has collected \$13,160 in reconnection fees, which would annualize to anticipated revenue of \$22,560. This is a large amount of money. However, in the Water Fund, this is only 0.5% of the annual revenue. On the expenditure side, there are two costs to look at. The hard costs are those that are savings to the City as they would no longer exist in a scenario where disconnection for non-payment did not occur. There are also opportunity costs, which are associated more with the personnel that are part of the disconnect process. The City would not reduce hours of personnel in Public Works or Finance to be less than full-time; however, the opportunity to do other work is being missed with the required

disconnection process. The attached spreadsheet breaks down these costs by hard cost and opportunity cost.

The City would save around \$5,000 a year with no planned overtime to reconnect water and no disconnect notice mailings on a monthly basis. Considering the total reconnection fees budgeted, a change to no longer disconnect for non-payment would be a loss of \$15-17,000 a year in net revenue.

The opportunity cost is where the City is seeing the highest expense. Finance spends about 1.5 hours a month preparing the shut-off list, which is only 10% of eligible accounts. Public Works then takes over, with the Superintendent cross-checking the list with obituaries, jail records, etc., followed by the GIS Coordinator developing a map for staff to start the process. It is estimated that 40 hours is dedicated to disconnecting water service by two Water/Sewer Operators. Once disconnected, Finance sees an influx of customers and spends around 4 hours just processing the reconnect payments. In total, there are 47.5 hours per month between two departments that could be dedicated towards other job functions. Using just wages alone, this cost is almost \$19,000 in 2024 dollars. In Public Works, water disconnection duties are redirecting those hours away from regular service requests and the meter changeout project.

Disconnection & Sprinkler Systems

Another consideration for discontinuing water disconnection comes from Fire and Code Services. Currently, a building with a sprinkler system is only required to have one water service line into the property which can serve both the domestic water supply and the sprinkler system. If non-payment becomes an issue, the City is put in a bad position of shutting off a building's fire protection along with the water service. This then results in Fire Code violations that could lead to revocation of occupancy, which would have to be pursued in the legal system. It is easy to see how this situation could quickly get out of control, harming employees of a local business or residents in an apartment complex, with potentially no solution other than a court order to vacate a property. Fire and Code Services has been discussing the need to amend the Building Code to require two water service lines into the property as the solution to ensuring continuous water service to a fire suppression system. On the front end, this will require a higher cost for a developer/builder to put in two water services. Switching to a system of specially assessing past due utility bills would result in no reason to require a second water line, and a lower development cost (or keep our current code requirements).

Alternative to Disconnection

The alternative to disconnecting water for non-payment is to specially assess properties for past due amounts. This currently happens with utility

bills, where disconnection is not the means to achieve payment. This could be vacant properties where the water has already been disconnected as well as situations where a tenant leaves without paying but is still responsible for the amount past due. The downside to switching to a system of special assessments versus disconnections for non-payment is the cash flow. With every account getting billed every month in the City of Faribault, there is a consistent cash flow to help meet the expenditure needs of the Water, Sewer, and Stormwater funds. While the assumption is to collect less than 100% each month, allowing delinquent accounts to continue to be delinquent beyond what is currently happening reduces the percent of funds that are likely to be collected each month. While a special assessment is a guaranteed payment, special assessments are only paid in April and September when tax bills are due and only if the City has followed the process in a timely manner to ensure all assessments are to Rice County, to ensure they will be billed on that initial tax statement. When assessed, the property owner only has one year to pay the special assessment and has a 10% interest rate or \$25, whichever is greater.

Implementation Process

If the Council is willing to consider a change in water disconnection for non-payment, an amendment to the Code of Ordinances would be required. Specifically, the code requires the City Administrator to produce a list of accounts that did not make payment on the 5th of each month to the Utilities division (section 28-71), which the Utilities Superintendent shall use as sufficient cause for turning off the water to a property (section 28-72(a)). For someone to get their water turned on, they must pay the balance that is due as well as a \$70 water disconnection processing fee. These sections of Chapter 28 Water are attached with this memo.

Attachments:

1. City Disconnect Costs
2. Sec 28.71 to 28.73 Water Shut Off

**CITY OF FARIBAULT
ORDINANCE No. 2024-XXX**

***Amending Chapter 28, Division 4 of the Code of Ordinances,
Regarding Disconnection of Water for Nonpayment***

THE CITY OF FARIBAULT ORDAINS that the City Code of Ordinances shall be amended by the deletions of the stricken language and the additions in underlined language as follows:

Section 1. Chapter 28, Water, Division 4, Rates and Charges

Sec. 28-71. - Same—Collection; receipts for payment; delinquent list; report to city administrator; etc.

The city administrator shall receive all monies from all persons or consumers of water shown by the statement of the water division of the department of public works to be due. Upon payment by any person of the water charges so charged, the city administrator shall give such person a suitable receipt and endorse on the proper places on such statement the time and amount of such payment. ~~On the sixth (6th) day of the month after receiving copies of such statements, the city administrator shall make out and deliver to the water division superintendent a statement or list of all persons who shall have failed to make payment of water charges so charged against them. It shall be the duty of the city administrator to preserve all of the copies of statements delivered by the water division superintendent and return the same with an official receipt for the amount collected to the financial records in the office of the city administrator on or before the last day of each month.~~

Sec. 28-72. - Same—Turning off service.

(a) ~~It shall be the duty of the water division superintendent, upon receiving, pursuant to section 28-71 of this division, the list or statement of such persons who shall have failed to pay water bills by the sixth (6th) day of the month following receipt of the bill, to forthwith make a diligent effort to enforce payment, and. The failure by the a consumer to pay a service account within a reasonable time thereafter shall be deemed sufficient cause for turning off the water and implementing collection for the service to such premises. Water service will generally not be disconnected for non-payment, except in special circumstances where the integrity of the water system is in question.~~

(b) When a consumer's water has been turned off it shall not be turned on again until payment of disconnection processing fee, in addition to full payment of delinquent water rent. The disconnection processing fee shall be set by the city council in the fee schedule.

Sec. 28-73. - Same—Assessment.

Water rent shall be a charge against the owner, lessee or occupant of the premises and shall constitute a lien against the lot or parcel served and in the event of delinquency, the city administrator may commence legal action to collect such unpaid rent or certify such delinquency to the county auditor to be assessed against such lot or parcel and collected with real estate taxes.

Section 2. This ordinance amendment shall take effect and be in force after its passage and publication in accordance with Section 3.05 of the City Charter.

First Reading:

Second Reading:

Publication Date:

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Jessica L. Kinser, City Administrator