**SPECIAL MEETING**
**BRAINERD PLANNING COMMISSION**
Monday, June 8, 2015
5:00 p.m.
City Hall Council Chambers

1. Call to Order

2. NEW BUSINESS

   a. Conditional Use Permit – Non-enclosed Premises at the Log Cabin Restaurant and Bar – 714 South 7th Street

   b. Variance – Interior Access Requirement for a Non-enclosed Premises at the Log Cabin Restaurant and Bar – 714 South 7th Street

   c. Tax Increment Development Plan Recommendation – Royal Tire, 615 Washington Street

Any individual needing special accommodations please call 218/828-2309

# MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner MO

DATE: June 5, 2015

RE: Log Cabin Conditional Use Permit and Variance Procedure

Following is recommended procedure for considering the Log Cabin Restaurant /Bar Conditional Use Permit and Variance requests.

1. Review the proposal as if the access will be as required by the Zoning Ordinance. Should approval be considered there are conditions applicable to the CUP that are not necessarily applicable to the Variance.

2. Should the CUP be approved, **then** consider the variance to allow access without going through the restaurant/bar.

The conversation about the CUP and Variance will overlap, however as difficult and cumbersome it will seem, the CUP and Variance should be separate recommendations.

# STAFF REPORT TO THE PLANNING COMMISSION

**June 2, 2015**

| | |
|---|---|
| APPLICANT/LOCATION: | Randy Bye, co-owner of the Log Cabin; 314 S 7th Street |
| PROPOSED USE: | Conditional Use Permit for non-enclosed premises to provide outdoor food and alcohol service |
| CURRENT ZONING: | B-3 (Central Business) District |
| ADJACENT USES: | East: Office<br>South: Service<br>West: Service<br>North: Vacant |
| ADJACENT ZONING: | North: B-3 (Central Business) District<br>East: B-3 (Central Business) District<br>South: B-3 (Central Business) District<br>West: B-3 (Central Business) District |

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## REPORT

The new owners of the Log Cabin are proposing an outdoor area for serving food and alcohol. The area would be defined as the area under the overhang in front of the main building. They have submitted information about the number of tables, seating and how the area will be defined.

Based on the following are the Conditional Use Permit criteria:

A. **Criteria for Granting Conditional Use Permits. In granting a Conditional Use Permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants or surrounding lands. Among other things, the City Council shall make the following findings where applicable.**

1. **The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.**
   **There are no special district provisions that apply. Following are the conditional use permit provisions:**
   
   Non-enclosed areas for dining and/or serving alcohol when accessory to a restaurant and/or bar provided that:

1. *The applicant submits a site plan in accord with Section 5 of this ordinance that includes information demonstrating the location and type of all tables, refuse receptacles, and wait stations.*

2. *Access shall be provided only via the principal building.*

3. *The size of the area is restricted to thirty (30) percent of the total customer floor area within the principal structure.*

4. *The area is screened from view from adjacent residential uses in accordance with Section 20 of this Ordinance.*

5. *All lighting shall be hooded and directed away from adjacent residential uses in accordance with Section 18 of this Ordinance.*

6. *The applicant demonstrates that pedestrian circulation is not disrupted as a result of the area by providing the following:*
   a. *Minimum clear passage zone for pedestrians at the perimeter of the restaurant shall be at least five (5) feet without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, street lights, parking meters, or the like.*
   b. *Overstory canopy of trees, umbrellas or other structures extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven (7) feet above sidewalk.*

7. *The area is surfaced with concrete, bituminous, decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.*

8. *Storage of furniture shall not be permitted outdoors between November 1 and March 31. Outdoor furniture that is immovable or permanently fixed or attached to the sidewalk shall not be subject to the storage prohibition of this section. However, any immovable or permanently fixed or attached furniture shall be approved as part of the conditional use permit application.*

9. *Additional off-street parking may be required pursuant to the requirements set forth in Section 22 of this Ordinance based on the additional seating area provided by the area.*

10. *Closed lid refuse containers are to be provided.*

11. *So as to deter the free passage of any person or substance beyond the barriers of the non-enclosed areas, a Barrier at a minimum of thirty-six (36) inches made of wood, vinyl, wrought iron, brick or natural stone, planters or other approved material shall be provided.*

*Barrier Openings shall be spaced such that visibility is allowed but the passage of an alcoholic beverage through an opening to a person that is not within the non-enclosed area is prohibited.*

12. *The primary access and egress will be from the main premises or structure and no other access or egress will be allowed other than those required as emergency exits. The outdoor sale area will be defined or structurally constructed so as to prohibit the free passage of any person or substance beyond said area.*

13. *Smoking in the area, if allowed by the business owner, is permitted provided the area is in compliance with the Minnesota Freedom to Breathe Act of 2007.*

14. *The Building Official shall review the suitability of the area in light of the applicable fire, building, and life safety codes and the adequacy of the proposal to provide for the safety of persons on the premises.*

15. *There shall be no amplified live music allowed in the area except in the case of special event, which requires a permit from the City. Music shall be kept to a level that is not intrusive to surrounding property.*

16. *All licenses required for serving alcohol specified in city code Chapter XIII shall be obtained.*

Number 2 above requires access to the area from within the restaurant. The owners have identified that due to the building design access cannot be provide from within the building. In order to permit access from the outside a variance from this provision is required.

2. **The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.** Establishing the outdoor area should not cause any of the above conditions to occur.

3. **The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.**
The outdoor area will be confined to the area beneath the front overhang of the building. A railing barrier will prevent the seating from encroaching onto the public sidewalk. The area will accommodate 6 tables and 23 seats. Creating the small outdoor space within the confines of the building footprint (the overhang area is considered part of the footprint) and the installation of the decorative railing should create a harmonious relationship in the area.

4. **The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.**
The outdoor area will be the first of its kind Downtown, so it will create a new environment that is not consistent with the neighborhood. However, as stated in #4 above, the area will not project any further than the building footprint.

5. **The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.**
Additional traffic associated with the outdoor area can be accommodated by on-street parking in the Downtown area. The use will not create traffic that creates congestion, however if that should occur, it would be a good thing for Downtown.

6. **The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.**
   **The objectives of the Zoning Ordinance are:**
   **515-1-2: Intent and Purpose.**
   - **A. Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.**
   - **B. This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.**
   - **C. Protect neighborhoods.**
   - **D. Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.**
   - **E. Provide adequate light, air, and convenience of access to property.**
   - **F. Prevent congestion in the public right-of-way.**
   - **G. Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.**
   - **H. Protect and preserve the natural environment of the City.**

I. **Encourage the protection of historic and aesthetic resources in the City.**

J. **Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.**

K. **Provide for compatibility of different land uses.**

Permitting the outdoor area will allow the Log Cabin to provide another service to its customers. The Log Cabin is a well-known, long time Downtown landmark, one which will be enhanced by this additional service.

**General Goal #3:** *Promote community spirit and unity and enhance Brainerd's character and identity.*

**Strategies**

1. Encourage a variety of experiences and opportunities in terms of living, working and social activities within the community.

2. Protect and enhance important historical, cultural and natural resources as a means to maintain the integrity, heritage and local character of Brainerd's natural and built environment.

**DOWNTOWN**

**GOAL:** *Support the economic viability and diversification of the Downtown Commercial District.*

**Strategy**

1. Retain and attract the appropriate mix of retail/service business activity and housing opportunities in Downtown.

B. **Requirements for Granting Conditional Use Permits. In permitting a new conditional use or the alteration of an existing conditional use, the following requirements shall be met where applicable:**
   1. **Fire Protection. Fire prevention and firefighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.**

   2. **Electrical Disturbance. No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.**

   3. **Noise. Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled subject to**

**MPCA standards. Fire sirens and related apparatus used solely for public purpose shall be exempt from this requirement.**

4. **Vibrations. Vibrations detectable without instruments on neighboring property in any district shall be prohibited.**

5. **Odors. No odorous gas or matter shall be permitted which is discernible on any adjoining lot or property.**

6. **Air Pollution. No pollution of air by flying ash, dust, smoke, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation or other property.**

7. **Glare. Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.**

8. **Erosion. No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.**

8. **Water Pollution. Water pollution shall be subject to the standards established by the Minnesota Pollution Control Agency.**

The addition should have no adverse effect on any of these issues.

## DEPARTMENT INFORMATION

**Utilities**
No issues.

**Fire**
The Fire Department does not have any current concerns for the proposed outside seating area at the Log Cabin.

**Building**
No issues. The Department will inspect the area before use.

**Engineering**
**No Issues**

**Police - From Police Chief Corky McQuiston**
I looked at it, and I'm not sure what to think based on the diameter of the tables; it didn't look like they showed the width or depth of the area and how the clearance would work to get around the tables without going outside of the area for waiters/waitresses serving. Our real only concerns would be a distinct delineation from drinking on the premises and drinking in public which is a violation of the city ordinance and any beverages being dispensed to non-customers (underage drinkers).

## PLANNING DEPARTMENT REVIEW

Outdoor dining with alcohol service is an amenity in communities across the country. Sheep's Bar has had an outdoor patio for many years. The area proposed at the Log Cabin is a small area with limited seating. Should the variance to allow seating directly from the sidewalk it will be the owner's responsibility to monitor the coming and going of patron's in the outdoor area.

The owners are required to comply with all of the conditions of operation (sans interior access should the variance be granted) specified in the Zoning Ordinance
I have discussed the concern about the outside access with the city Attorney. We have concerns about customers walking or lingering on public sidewalks with alcohol. Because state laws prohibit alcohol on public sidewalks the CUP would only allow the service of alcohol on private property.

The Planning Commission has the ability to recommend additional conditions it thinks necessary to ensure the outdoor area does not create issues that would negatively affect the community public health, safety and welfare. To address this concern the following condition could be considered:

> ***Alcoholic beverages for customers seated outside can only be carried/delivered/served by restaurant /bar staff.***

Another condition to consider may be a time limit on the non-enclosed premises hours. Perhaps 10 p.m. or 11 p.m. is the latest the outdoor area should be open. If this is considered the seating entrance should be "roped off' with a sign informing the public the area is closed for the evening.

Adequate lighting may be an issue for the outside area for booth safety and comfort for customers. The area currently has no lighting. A condition that requires outside lighting could be considered.

## PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission can consider a recommendation on this request at its June 8, 2015 special meeting and City Council consideration can occur at its June 15, 2015 meeting.

Respectfully submitted,

Mark Ostgarden

Mark Ostgarden AICP
City Planner

Dear Planning Commission,

We would like to propose a fenced patio area in front of The Log Cabin to offer and outdoor dining experience. Which we feel at that will be an asset to down town Brainerd. There is nothing liking shopping and then grabbing a quick bite to eat on a patio.

Unfortunately due to the way The Log Cabin is designed we cannot have the customer access the patio thru the building. The doors in front of the building are the main entrance and exit to the bar and restaurant. We are asking that a variance be granted. There will be a sign on the patio to see inside for seating.

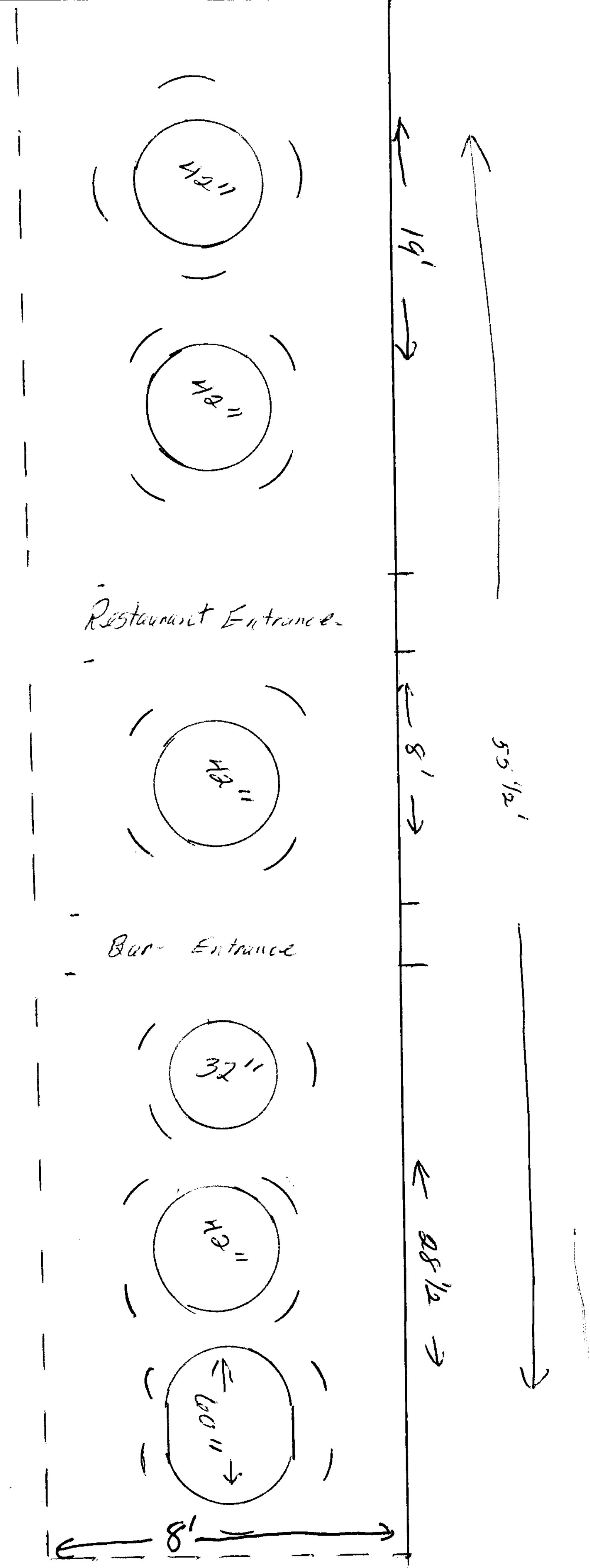


Thank You
Paul Duncan
Randy Bye
The Log Cabin

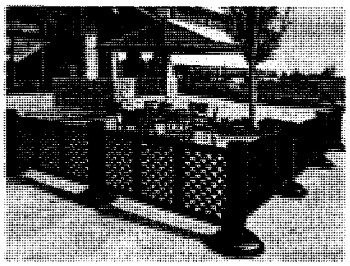
TJ's
Log Cabin
Bar & Restaurant
RESTAURANT
BAR
320
Check out our NEW Menu
You Can Eat Fish Fry
every Friday starting @ 4pm


TJ's
Log Cabin
Bar & Restaurant
RESTAURANT
BAR
HOURS
BAR HOURS
MON. - SAT. 11-1
320
StarTribune


CAFE



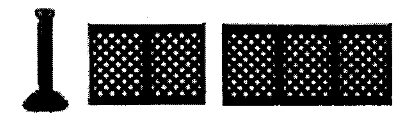
42"
19'
42"
Restaurant Entrance
42"
8'
55 1/2'
Bar Entrance
32"
42"
28 1/2
60"
8'



# PATIO FENCE

Design and define your patio space with attractive latticework panels.

- Provide outdoor seating areas for offices and restaurants.
- Easy assembly. Interlocking posts and panels.
- Plastic resin resists fading and is easy to clean.
- Posts can be filled with water or sand for extra stability.



POST AND BASE | 2 PANEL | 3 PANEL

| MODEL NO. | DESCRIPTION | SIZE L x W | WT. (LBS.) | PRICE EACH 1 | PRICE EACH 3+ | ADD TO CART |
|---|---|---|---|---|---|---|
| [redacted] | | | | | | |

POSTS AND PANELS SOLD SEPARATELY

City Planning Department
City Hall – 501 Laurel Street
Brainerd, MN 56401
218-828-2309/Fax 218-828-2316
www.ci.brainerd.mn.us

Receipt # 2015-00053
Check # 1002
Date Paid: 5/22/15

# CONDITIONAL USE/REZONING/VARIANCE APPLICATION

| | RESIDENTIAL | | COMMERCIAL | |
|---|---|---|---|---|
| CONDITIONAL USE PERMIT | ☐ | ($250.00) | ☐ | ($400.00 + $500.00 escrow deposit) |
| REZONING | ☐ | ($300.00) | ☐ | ($500.00) |
| VARIANCE | ☐ | ($250.00) | ☐ | ($400.00 + $500.00 escrow deposit) |

**PROPERTY ADDRESS:** ~~300~~ 314 S. 7th St Brainerd, MN 56401

**LEGAL DESCRIPTION:** Lot(s): ________ Block: ________ Addition: ____________________
(attach description if lengthy)

**Property Owner Name:** Randy Bye -
**Street Address:** 320 S. 7th St. **City:** Brainerd **State:** MN **Zip Code** ________
**Phone Number:** 218-820-3444 **Fax:** ____________ **E-mail:** RandyBye@brainerd.net
**Applicant Name:** (If different than Property Owner) ____________________
**Street Address:** ____________ **City:** ____________ **State:** ____ **Zip Code:** ________
**Phone Number:** ____________ **Fax:** ____________ **E-mail:** ____________

**Description of Request:** ____________________________________________

[signature]
**Property Owner Signature** 5-21-15 **Date**

Randy Bye
(Please print name)

[signature]
**Applicant Signature** ________ **Date**

Randy Bye
(Please print name)

(OVER)

# AGENCY REVIEW CHECKLIST

Your request may require review by one or more of the agencies listed below. The City of Brainerd will determine which agencies will need to review your application and provide that agency with the notice of public hearing regarding your application:

✓ ______ **BRAINERD FIRE DEPARTMENT**
Attn: Kevin Stunek, Fire Chief; 23 Laurel St; Brainerd, MN 56401; 218-828-2312; kstunek@ci.brainerd.mn.us

✓ ______ **BRAINERD POLICE DEPARTMENT**
Attn: Corky McQuiston, 225 East River Road; Brainerd, MN 56401; 218-829-2805; corky.mcquiston@ci.brainerd.mn.us

✓ ______ **BRAINERD PUBLIC UTILITIES**
Attn: Scott Magnuson, Supt.; P.O. Box 373; Brainerd, MN 56401; 218-829-8726; smagnuson@bpu.org

______ **BWSR (MN Board of Water and Soil Resources)**
Attn: John Overland; 1601 Minnesota Dr; Brainerd, MN 56401; 218-828-2383; john.overland@state.mn.us

______ **CROW WING COUNTY HIGHWAY DEPARTMENT**
Attn: Tim Bray, County Engineer; 16589 County Rd 142; Brainerd, MN 56401; 218-824-1110/FAX 218-824-1111 tim.bray@crowwing.us

______ **CROW WING COUNTY SOIL AND WATER CONSERVATION DISTRICT**
Attn: Melissa Barrick; 322 Laurel St-Ste. 13; Brainerd, MN 56401; 218-828-6197/FAX 828-6095 melissa.barrick@crowwingswcd.us

______ **CROW WING COUNTY SURVEYOR'S OFFICE**
Attn: Mark Liedl; 322 Laurel St Ste 14.; Brainerd, MN 56401; 218-824-1124/FAX 824-1126; mark.liedl@crowwing.us

______ **HRA**
Attn: Jennifer Bergman; 324 E. River Rd.; Brainerd, MN 56401; 218-828-3705/FAX 828-8817; jennifer@brainerdhra.org

______ **MISSISSIPPI HEADWATERS BOARD**
322 Laurel Street Ste 5; Brainerd, MN 56401; 218-824-1307/FAX 824-1104
mhb@mississippiheadwaters.org

______ **MINNESOTA DEPARTMENT OF TRANSPORTATION**
Attn: Mary Safgren; 7694 Industrial Park Rd.; Baxter, MN 56425; 218-828-5700; mary.safgren@state.mn.us

______ **MINNESOTA DEPARTMENT OF NATURAL RESOURCES**
Attn: Wade Miller; 1601 Minnesota Dr.; Brainerd, MN 56401; 218-828-2605/FAX 828-6043; wade.miller@state.mn.us

______ **MINNESOTA POLLUTION CONTROL AGENCY**
Attn: Reed Larson; 7678 College Rd-Ste. 105; Baxter, MN 56425; 218-828-2492/FAX 828-2594
Reed.Larson@state.mn.us

______ **U.S. ARMY CORPS OF ENGINEERS**
Attn: Jeff Koshak; 8896 E. Gull Lake Dr.; Brainerd, MN 56401; 218-829-8402

## NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that JJ's Inc, owner of TJ's Log Cabin located at 314 South 7th Street, Brainerd, MN 56401 has applied for a Conditional Use Permit to permit outdoor food and alcohol service at the restaurant/bar and a variance to not require access to the seating be from within the restaurant/bar. Zoning Ordinance Section 515-62-6 B-3 B. Central Business District permits non-enclosed areas for dining and/or serving alcohol when accessory to a restaurant and/or as a conditional use.

The owner is also requesting a variance from Zoning Ordinance Section 515-62-6 B-3 B. Central Business District Conditional Uses that species access to the outdoor area shall be provided only via the principal building. Access to the outdoor area is proposed to be allowed from the public sidewalk.

The property is described as follows:

*Lots 3 thru 5 inclusive Block 69, Town of Brainerd & 1st Addn to Brainerd*
*PID #09196069003Z009*
*Section 24 Township 45 Range 31*

Notice is further given that the Planning Commission of the City of Brainerd will meet in the Brainerd City Hall Council Chambers, 501 Laurel Street, at 5:00pm, June 8, 2015 to consider the request for the Conditional Use Permit.

A copy of the application is on file for review at the City Planning Department, 501 Laurel Street.

Any individual needing special accommodations please call (218) 828-2309.

Dated this 22nd day of May, 2015

Mark Ostgarden

Mark Ostgarden AICP
City Planner

Publication date: May 27, 2015

| APPRCL | TXNAME | TXADR1 | TXADR2 | TXADR3 | PHYSADDR |
|---|---|---|---|---|---|
| 091960690220889 | 319 INCORPORATED | PO BOX 525 | 319 S 6TH ST | BRAINERD MN 56401 | 319 6TH ST S |
| 09196043003Z889 | BJORK, RICK | 222 S 7TH STREET | BRAINERD MN 56401 | | 222 7TH ST S |
| 09196067010W009 | BORDEN STEINBAUER, & KRUEGER PA | BOX 411 | BRAINERD MN 56401 | | 306 6TH ST S |
| 09196067010X009 | BORDEN STEINBAUER, & KRUEGER PA | BOX 411 | BRAINERD MN 56401 | | 302 6TH ST S |
| 09196071010Z889 | BRAINERD LAKES PROPERTIES LLC | 718 LAUREL ST | BRAINERD, MN 56401 | | 714 LAUREL ST |
| 09196071020Y009 | BREMER BANK OF BRAINERD | 321 7TH ST S | BRAINERD MN 56401 | | 321 7TH ST S |
| 09196071001Y009 | BREMER BANK OF BRAINERD | 321 7TH ST S | BRAINERD MN 56401 | | 713 MAPLE ST |
| 09196069008T009 | CITY OF BRAINERD | CITY ADMINISTRATOR-CITY HALL | 501 LAUREL ST | BRAINERD, MN 56401 | 616 LAUREL ST |
| 09196069008V009 | CITY OF BRAINERD | CITY ADMINISTRATOR-CITY HALL | 501 LAUREL ST | BRAINERD, MN 56401 | 616 LAUREL ST |
| 09196045001Z009 | CITY OF BRAINERD | CITY ADMINISTRATOR-CITY HALL | 501 LAUREL ST | BRAINERD, MN 56401 | |
| 09196069006Z009 | CITY OF BRAINERD | CITY ADMINISTRATOR-CITY HALL | 501 LAUREL ST | BRAINERD, MN 56401 | |
| 09196071006Y009 | CITY OF BRAINERD | CITY ADMINISTRATOR-CITY HALL | 501 LAUREL ST | BRAINERD, MN 56401 | |
| 09196099009Z009 | COX, K C | C/O CENTURY LINK | P O BOX 7909 | OVERLAND PARK, KS 66207-0909 | 402 7TH ST S |
| 09196099019W009 | DAL PROPERTIES LLC | 413 6TH ST S | BRAINERD, MN 56401 | | 413 6TH ST S |
| 09196041021Z009 | DTM PARTNERSHIP LLC | 8845 MEDLEY LN | GOLDEN VALLEY, MN 55427-3223 | | 217 7TH ST S |
| 09196067001Y009 | FIRST BANK CORPORATE PROPERTIES | 2800 E LAKE ST LAKE0012 | MINNEAPOLIS MN 55406 | | 320 6TH ST S |
| 09196097011Z009 | FIRST LUTHERAN CHURCH | 424 S 8TH ST | BRAINERD MN 56401 | | |
| 09196097021Z009 | FIRST LUTHERAN CHURCH | 424 S 8TH ST | BRAINERD MN 56401 | | 419 7TH ST S |
| 09196097006Z009 | FIRST LUTHERAN CHURCH | 424 S 8TH ST | BRAINERD MN 56401 | | |
| 09196097020Z009 | FIRST LUTHERAN CHURCH | 424 S 8TH ST | BRAINERD MN 56401 | | 711 NORWOOD ST |
| 09196097008Z009 | FIRST LUTHERAN CHURCH | 424 S 8TH ST | BRAINERD MN 56401 | | |
| 09196069001Z009 | JOHNSON, ROBERT L & JEANNE L | 10392 SQUAW PT RD | EAST GULL LAKE, MN 56401 | | 619 MAPLE ST |
| 09196097013Z009 | JOHNSON, SCOTT A & JODIE R | 34686 370TH AVE | AITKIN, MN 56431 | | 708 MAPLE ST |
| 09196097019A009 | JOHNSON, SCOTT A & JODIE R | 34686 370TH AVE | AITKIN, MN 56431 | | |
| 09196069003Z009 | JJ'S INC | 320 S 7TH ST | BRAINERD, MN 56401 | | 314 7TH ST S |
| 09196069023Z009 | LANE, JAMES A & WENDY L | 10414 GREENWOOD ST | BRAINERD, MN 56401 | | 323 6TH ST S |
| 09196099001Y009 | LINN, JOHN M & CARNA M | 16177 ASHMUN RD | BRAINERD, MN 56401 | | 422 7TH ST S |
| 091960430050009 | LUHRS, JON A & DEBRA D | 1524 S 7TH ST | BRAINERD MN 56401 | | 216 7TH ST S |
| 09196069013W889 | MADGES, RICHARD A | 14610 WONDERLAND PARK RD | BRAINERD MN 56401 | | 612 LAUREL ST |
| 09196069013X009 | MADGES, RICHARD A | 14610 WONDERLAND PARK RD | BRAINERD MN 56401 | | 606 LAUREL ST |
| 09196069016Z009 | MAHLUM-HANSON VFW, POST NO 1647 | 309 S 6TH ST | BRAINERD MN 56401 | | 307 6TH ST S |
| 09196069013Z889 | MAJIK PROPERTIES LLC | 12890 MOUNTAIN ASH DR | BAXTER, MN 56425 | | 602 LAUREL ST |
| 091961010070009 | MCKNIGHT HATHAWAY LLP | 15244 STATE HIGHWAY 371 N | BAXTER MN 56425 | | 412 6TH ST S |
| 09196101008Z889 | MCKNIGHT HATHAWAY LLP | 15244 STATE HIGHWAY 371 N | BAXTER MN 56425 | | 410 6TH ST S |
| 09196101009Z009 | MCKNIGHT HATHAWAY LLP | 15244 STATE HIGHWAY 371 N | BAXTER MN 56425 | | 6TH ST & MAPLE ST |
| 09196043002Z009 | MENK, EDWIN L & SUSAN | 623 LAUREL ST | BRAINERD MN 56401 | | 623 LAUREL ST |
| 09196067001X009 | MILLS PROPERTIES, INC | P O BOX 5055 | BRAINERD, MN 56401 | | |
| 09196067007Y009 | MILLS PROPERTIES, INC | P O BOX 5055 | BRAINERD, MN 56401 | | |
| 09196067010A009 | MILLS PROPERTIES, INC | P O BOX 5055 | BRAINERD, MN 56401 | | 514 LAUREL ST |
| 09196067007A009 | MILLS PROPERTIES, INC | P O BOX 5055 | BRAINERD, MN 56401 | | |
| 09196067008A009 | MILLS PROPERTIES, INC | P O BOX 5055 | BRAINERD, MN 56401 | | 310 6TH ST S |
| 09196067010Y889 | MILLS PROPERTIES, INC | P O BOX 5055 | BRAINERD, MN 56401 | | 520 LAUREL ST |
| 09196067009A009 | MILLS PROPERTIES, INC | P O BOX 5055 | BRAINERD, MN 56401 | | 308 6TH ST S |
| 096010002020009 | MOORES PROPERTIES, INC | 605 LAUREL ST | BRAINERD, MN 56401 | | |
| 096010002030009 | MOORES PROPERTIES, INC | 605 LAUREL ST | BRAINERD, MN 56401 | | |
| 096010002050009 | MOORES PROPERTIES, INC | 605 LAUREL ST | BRAINERD, MN 56401 | | |
| 096010003030009 | MOORES PROPERTIES, INC | 605 LAUREL ST | BRAINERD, MN 56401 | | |

| APPRCL | TXNAME | TXADR1 | TXADR2 | TXADR3 | PHYSADDR |
|---|---|---|---|---|---|
| 096010003130009 | MOORES PROPERTIES, INC | 605 LAUREL ST | BRAINERD, MN 56401 | | |
| 096010003150009 | MOORES PROPERTIES, INC | 605 LAUREL ST | BRAINERD, MN 56401 | | |
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| 09196071013Y889 | PATRICK, NILA M | 710 LAUREL ST | BRAINERD MN 56401 | | 710 LAUREL ST |
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| 09196099004Y009 | SADE PROPERTIES INC | 416 S 7TH ST | BRAINERD, MN 56401 | | 416 7TH ST S |
| 09196097020A009 | SADE PROPERTIES INC | 416 S 7TH ST | BRAINERD, MN 56401 | | |
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| 09196069008U009 | SMITH, BRIAN L & RHONDA | P O BOX 391 | BRAINERD, MN 56401 | | |
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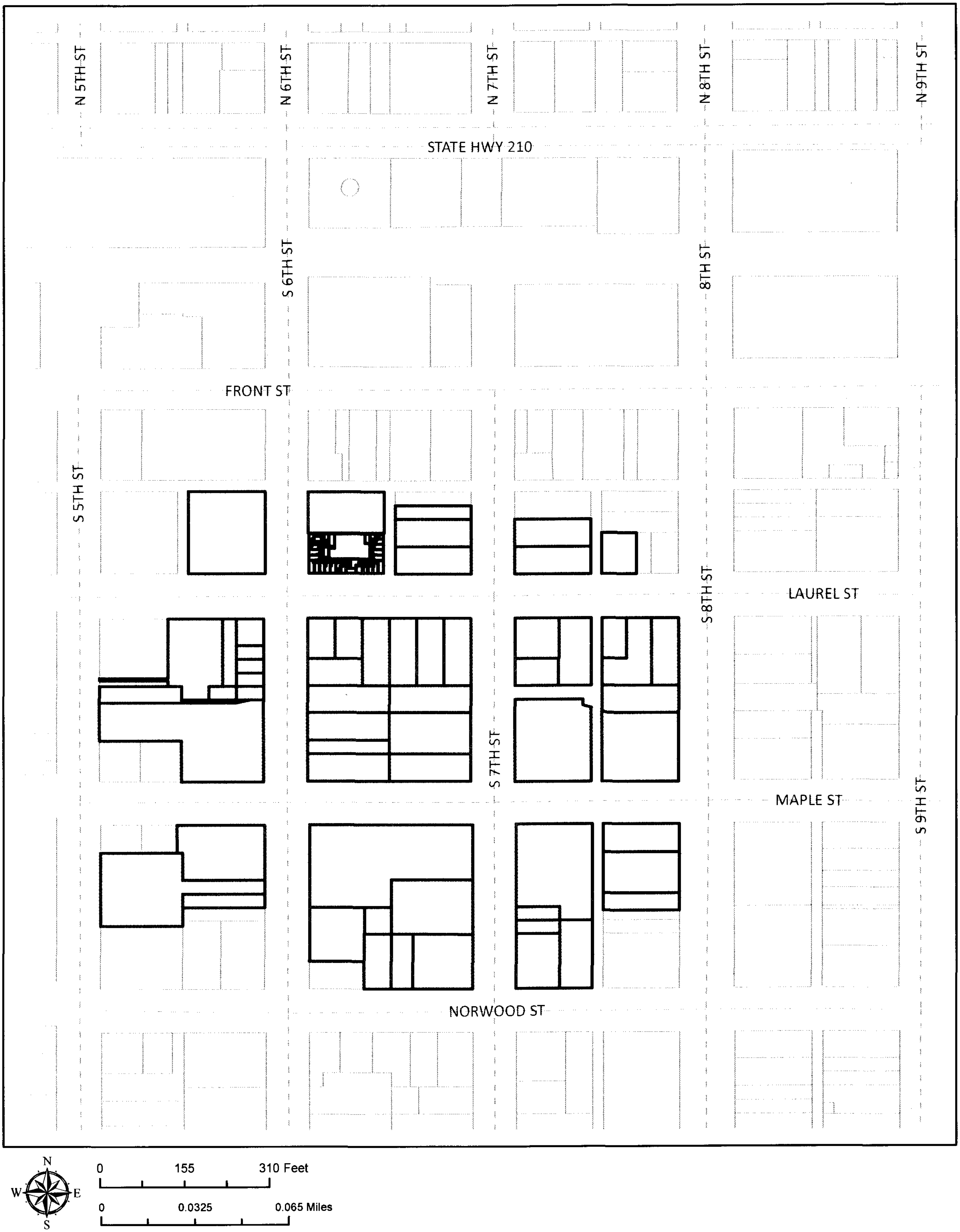
| 09196041023Z889 | WETHERELL, RICHARD B | 915 LAUREL ST | BRAINERD, MN 56401 | | 707 LAUREL ST |

City of Brainerd

CUP_Variance 314 S 7th St



# STAFF REPORT TO THE PLANNING COMMISSION

**June 2, 2015**

| | |
|---|---|
| APPLICANT/LOCATION: | Randy Bye, co-owner of the Log Cabin; 314 S 7th Street |
| PROPOSED USE: | Variance to permit access to a non-enclosed premises area that is not from within the building. |
| CURRENT ZONING: | B-3 (Central Business) District |
| ADJACENT USES: | East: Office<br>South: Service<br>West: Service<br>North: Vacant |
| ADJACENT ZONING: | North: B-3 (Central Business) District<br>East: B-3 (Central Business) District<br>South: B-3 (Central Business) District<br>West: B-3 (Central Business) District |

## REPORT

The new owners of the Log Cabin are proposing an outdoor area for serving food and alcohol. The area would be defined as the area under the overhang in front of the main building. They have submitted information about the number of tables, seating and how the area will be defined.

The owners have identified that due to the building design, access cannot be provide from within the building. In order to permit access from the outside, a variance from this provision is required.

## CRITERIA FOR GRANTING VARIANCES

A. ***Variances shall only be permitted:***
***When they are in harmony with the general purposes and intent of the ordinance. Following is the Intent and Purpose section of the Zoning Ordinance:***
   A. *Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
   B. *This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land.*
   C. *Protect neighborhoods.*
   D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*

E. *Provide adequate light, air, and convenience of access to property.*
F. *Prevent congestion in the public right-of-way.*
G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
H. *Protect and preserve the natural environment of the City.*
I. ***Encourage the protection of historic and aesthetic resources in the City.***
J. *Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
K. *Provide for compatibility of different land uses.*
L. *Provide for administration of this Ordinance.*
M. *Provide for amendments.*
N. *Prescribe penalties for violation of such regulations.*
O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

Permitting the outdoor area will allow the Log Cabin to provide another service to its customers. The Log Cabin is a well-known, long time Downtown landmark, one which will be enhanced by this additional service.

**When the variance is consistent with the Comprehensive Plan.**

***General Goal #3:*** *Promote community spirit and unity and enhance Brainerd's character and identity.*

***Strategies***

1. *Encourage a variety of experiences and opportunities in terms of living, working and social activities within the community.*

2. *Protect and enhance important historical, cultural and natural resources as a means to maintain the integrity, heritage and local character of Brainerd's natural and built environment.*

### *DOWNTOWN*

***GOAL:*** *Support the economic viability and diversification of the Downtown Commercial District.*

***Strategy***

1. *Retain and attract the appropriate mix of retail/service business activity and housing opportunities in Downtown.*

**B.** ***Subdivision 4. "Practical Difficulties", as used in connection with the granting of a variance means that:***

I. ***The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;***

The requirement for the non-enclosed premises access is because a non-enclosed area may not be a visible area from within an establishment. Also, the area might be quite large where activities might be occurring and knowing the comings and goings of the area could be difficult to monitor.

Allowing a variance for access from the outside to the Log Cabin area is reasonable because it is:

1. Very public.
2. Visible and can be monitored from within the building.
3. A relatively small area.

II. ***The plight of the landowner is due to circumstances unique to the property not created by the landowner;***
There is nothing unique about the property.

III. ***The variance, if granted, will not alter the essential character of the locality.***
As stated earlier the area will be within the confines of the building footprint and it is not a large area. Building alterations will not have to be made, changes that could alter the building's appearance and perhaps the character of the area.

***Economic considerations alone do not constitute practical difficulties.***
Although no estimates have been provided to verify costs to comply with the interior access requirement, the practical difficulty associated with this request is related to the cost of making changes and the benefit that will be received from the changes.

***Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.***

## PLANNING DEPARTMENT COMMENTS

In considering all of the factors associated with this request:

- Cost/ benefit
- Visibility of the area
- Size of the area
- Area location within the building footprint

There is practical difficulty associated with the request and the variance should be considered.

The Conditional Use Permit review includes concerns from the Police Chief and City Attorney about the ability to monitor alcohol service in the outdoor area. The same condition recommended for the Conditional use permit should be applied to the variance should approval be recommended.

## PLANNING COMMISSION AND CITY COUNCIL ACTION

The Planning Commission can consider a recommendation at the special June 8, 2015 meeting and the City Council would receive the recommendation for consideration at its June 15, 2015 meeting.

Respectfully submitted,

Mark Ostgarden AICP
City Planner

# MEMO

TO: Planning Commission

FROM: Mark Ostgarden, City Planner MO

DATE: June 3, 2015

RE: Planning Commission Recommendation – Modified Development Program District No. 4 and Tax Increment Financing Plan

The Planning Commission recommendation is sought on whether using Tax Increment Financing for redevelopment is a project that is in accord with city development plans for the district and site.

Royal Tire has submitted a redevelopment plan for its 615 Washington Street. It plans to demolish its current facility and reconstruction of a smaller, more efficient and customer friendly store. The smaller building will permit off street parking to be provided and the site to have some greenspace.

Project financing will include Tax Increment Financing (TIF). TIF is a method of capturing increased property tax value from a redeveloped site and using the increased taxes to pay for certain parts of a project. Cities are authorized to use this financing method by State Statute.

State Statute describes a very public approval process that must be followed for a city to use TIF. The City Council has the final authority on whether TIF should be used to assist in project financing. The process includes an opportunity for review by the Economic Development Authority, School District and County. It includes a Public Hearing and the adoption of the financing plan.

The process requires the Planning Commission to review a TIF Development Program and TIF Plan and recommend to the City Council whether it finds they are in accord with city development plans for the district and site. Guidance for whether the program meets this plan is found in the Comprehensive Plan Goals and Strategies, the Future Land Use Map and the current Zoning Map.

It is not expected that the Planning Commission understand the technical and financial aspects of the Development Program and TIF Plan. The entire Program and Plan is submitted for perusal, however the important part of the document for the Planning Commission is the Public Purpose section on page 13 through the 1st half of page 16.

Attached is a:

- Site aerial depicting the site boundary
- Site plan and elevation drawings
- Copy of the Modified Development Program and TIF Plan
- Draft findings
- Resolution finding the Modified Development Program and TIF Plan are consistent with the cities development plans

# Royal Tire Tax Increment Plan Findings Of Fact
# Planning Commission Meeting
# June 8, 2015

## COMMUNITY-WIDE VISION STATEMENT IN THE COMPREHENSIVE PLAN

### THE CITY OF BRAINERD SHALL BE...

A Place With Economic Opportunity

The city will actively promote and seek out new economic development opportunities to meet the needs of the growing and changing community.

## GOALS AND STRATEGIES

1. ECCONOMIC DEVELOPMENT

   GOAL: *Support the development of a strong, diversified, and growing economic base and create a favorable climate for economic development and ongoing business activities.*

   1. Actively promote development and redevelopment within the community, including financial incentives, with particular emphasis on attracting and supporting businesses that provide livable-wage jobs.

   2. Promote aesthetically pleasing development and redevelopment in the city.

2. LAND USE

   GOAL #5: *Support development that enhances community character and identity.*

   **Strategy**

   Work to strengthen and maintain the appearance of the Business Highway 371, **Highway 210/Washington Street,** Oak Street (former Highway 18), Highway 25 and County Road 3 corridors through design standards, trails, lighting, sidewalks, signage and other tools.

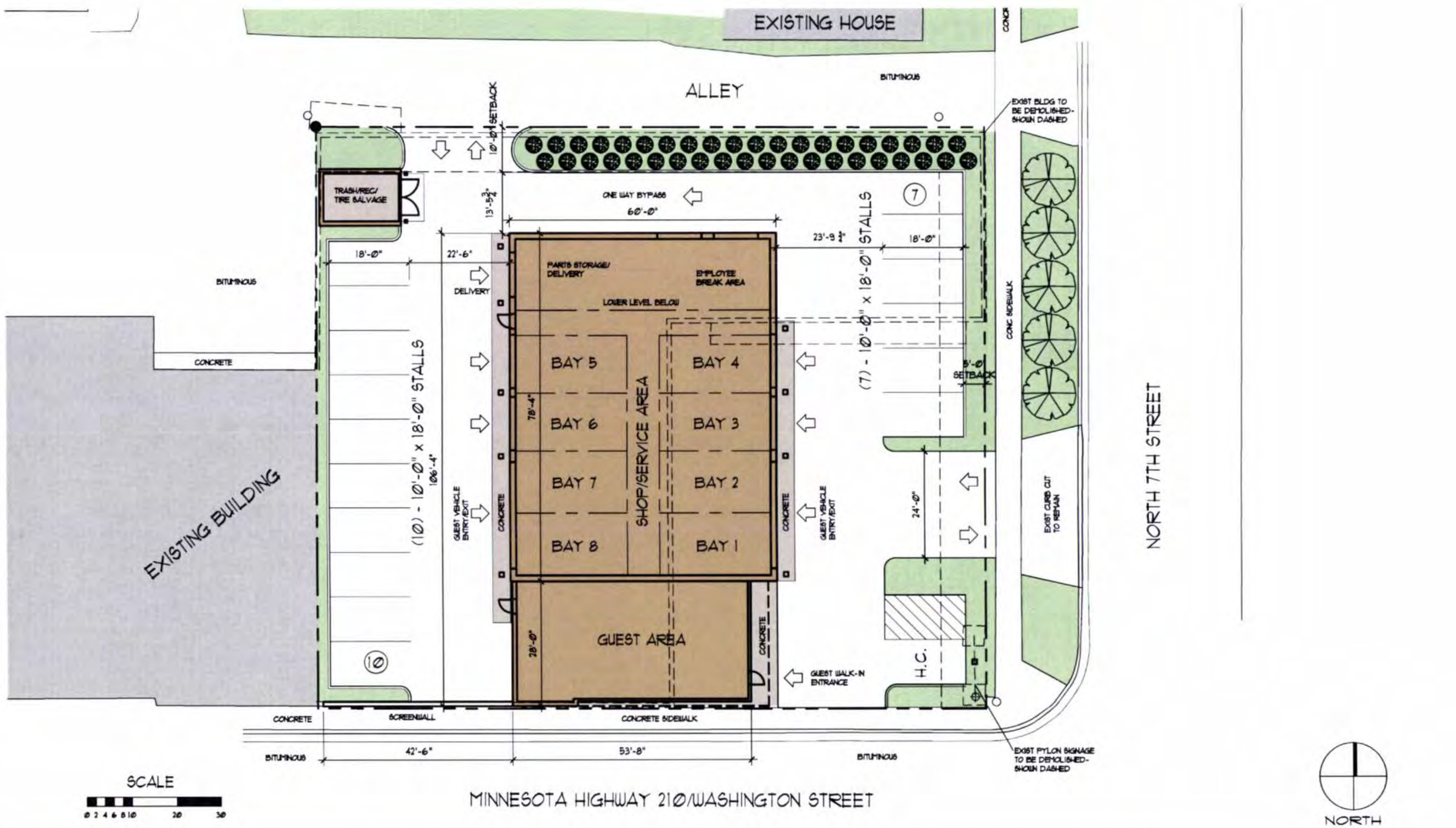
## OTHER FINDINGS

3. The Comprehensive Plan Future Land Use Map identifies the site as future General Commercial land use.

4. The site is zoned Business B-6 (Washington Street Coordior) District, which permits general commercial development and the proposed use is permitted in the B-6 zone.

5. Site Redevelopmet will improve access, improve off street parking and provide green space that dif not previsouly exist and the aesthrtics of the area.

6. Redevelopment will need comply with all Zoning Ordinance requirements.



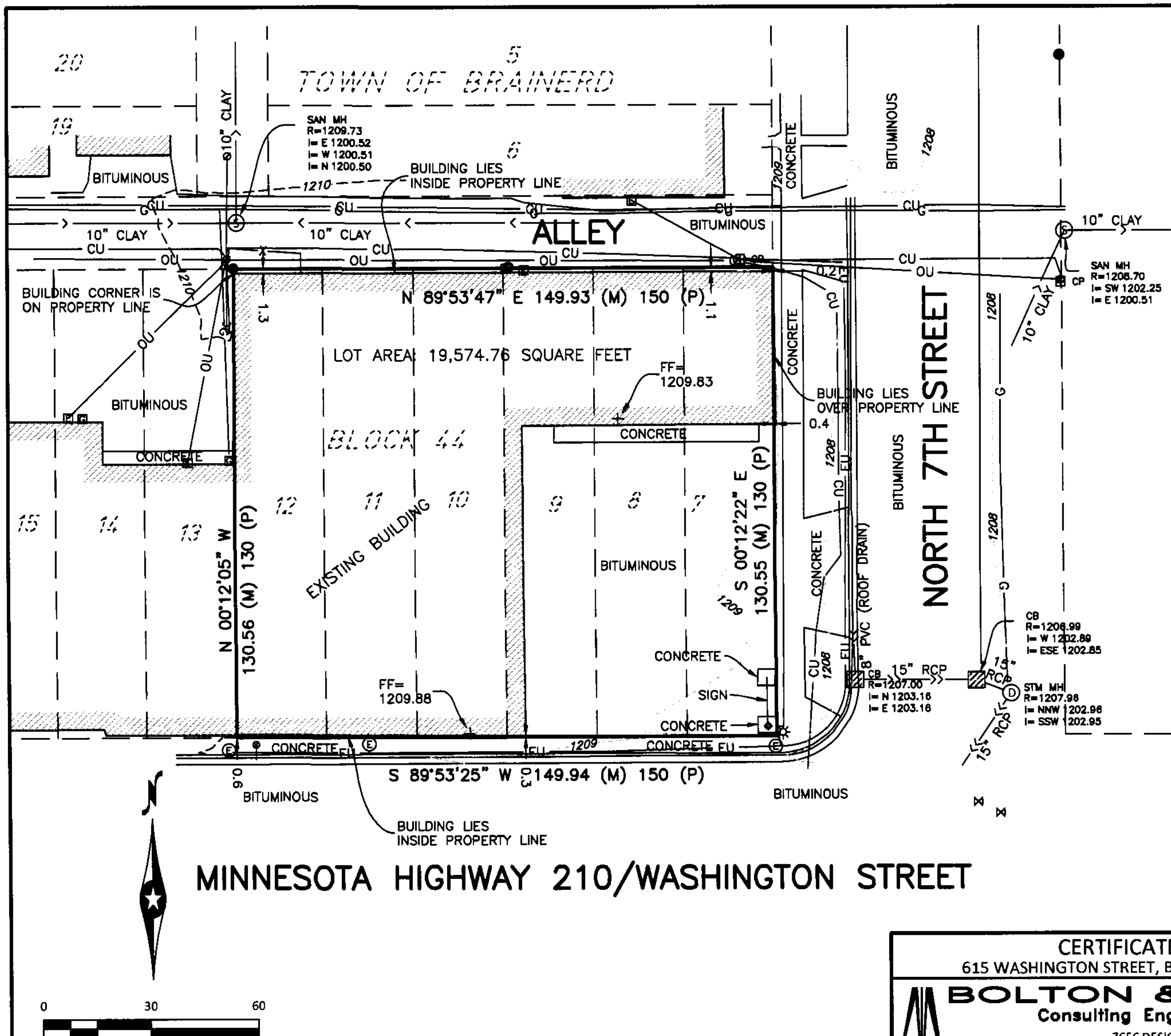

SRa
SPERIDES REINERS ARCHITECTS, INC.

ROYAL TIRE BRAINERD

ARCHITECTURAL SITE PLAN

2-19-2015 CITY OF BRAINERD MEETING

ROYAL TIRE




## DESCRIPTION:

Lots 7-12, Block 44, TOWN OF BRAINERD, Crow Wing County, Minnesota.

## SURVEYOR'S NOTES:

1. This survey was performed, and the survey map prepared, without benefit of either a title insurance commitment or an attorney's title opinion. The record boundary and easement information (if any) shown hereon is based on information provided by the client. Research of documents affecting title to the property surveyed or adjoining properties has been limited to a cursory review of record information and it is recommended that all title matters affecting this property and survey be reviewed by an attorney or other title professional.
2. Bearings shown on this survey are based on the NAD83(2011) Crow Wing County Coordinate System.
3. Field survey was completed July 28, 2014.

## SURVEYOR'S CERTIFICATION

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota.

Nathaniel T. Stadler
License Number 43934

8-6-2014
Date

Underground utility lines and structures are shown in an approximate way only, according to information provided by others. A request that utilities be located for this survey was made through Gopher State One Call (Ticket No. 141961873). The underground utility lines and structures shown on this map represent the information provided to Bolton & Menk, Inc. as a result of that request. The surveyor does not guarantee that the information provided was either complete or accurate. The surveyor does not guarantee that there are no other underground utility lines and structures, active or abandoned, on or adjacent to the subject property.

## LEGEND

(M) MEASURED
(P) PLATTED



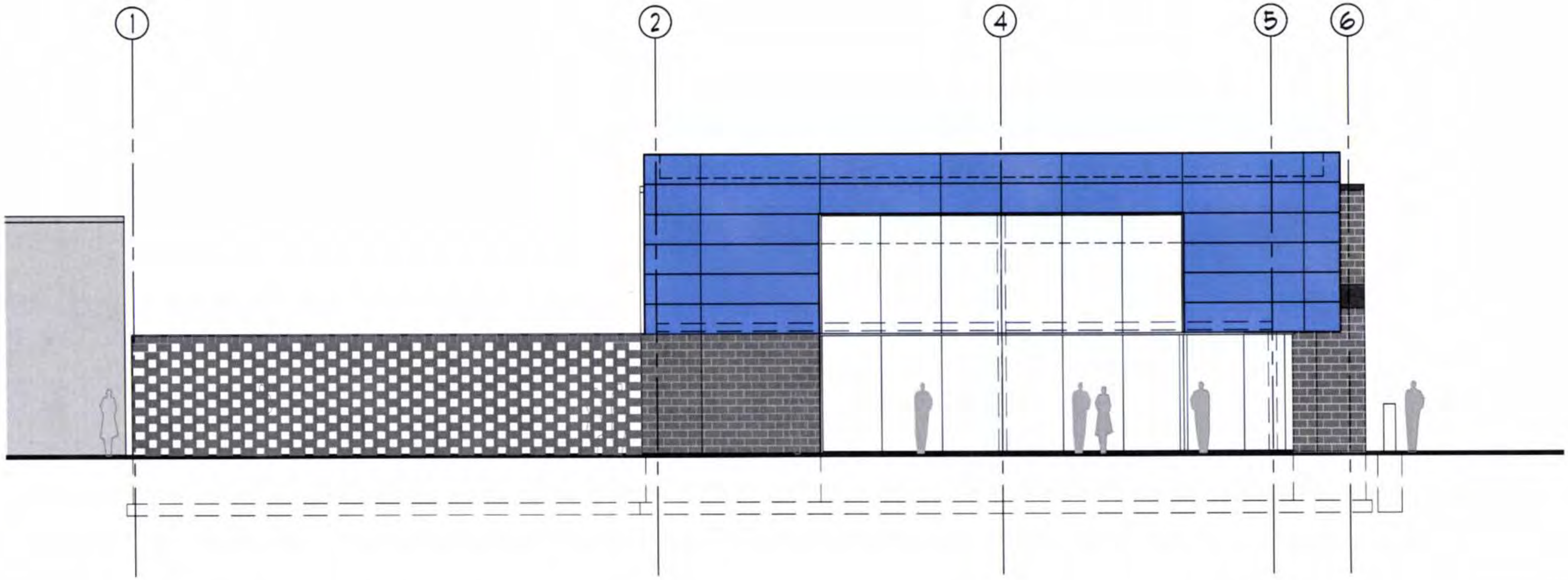
CERTIFICATE OF SURVEY
615 WASHINGTON STREET, BRAINERD, MINNESOTA 56301

BOLTON & MENK, INC.
Consulting Engineers & Surveyors
7656 DESIGN ROAD, SUITE 200
BAXTER, MINNESOTA 56425
(218)-825-0684

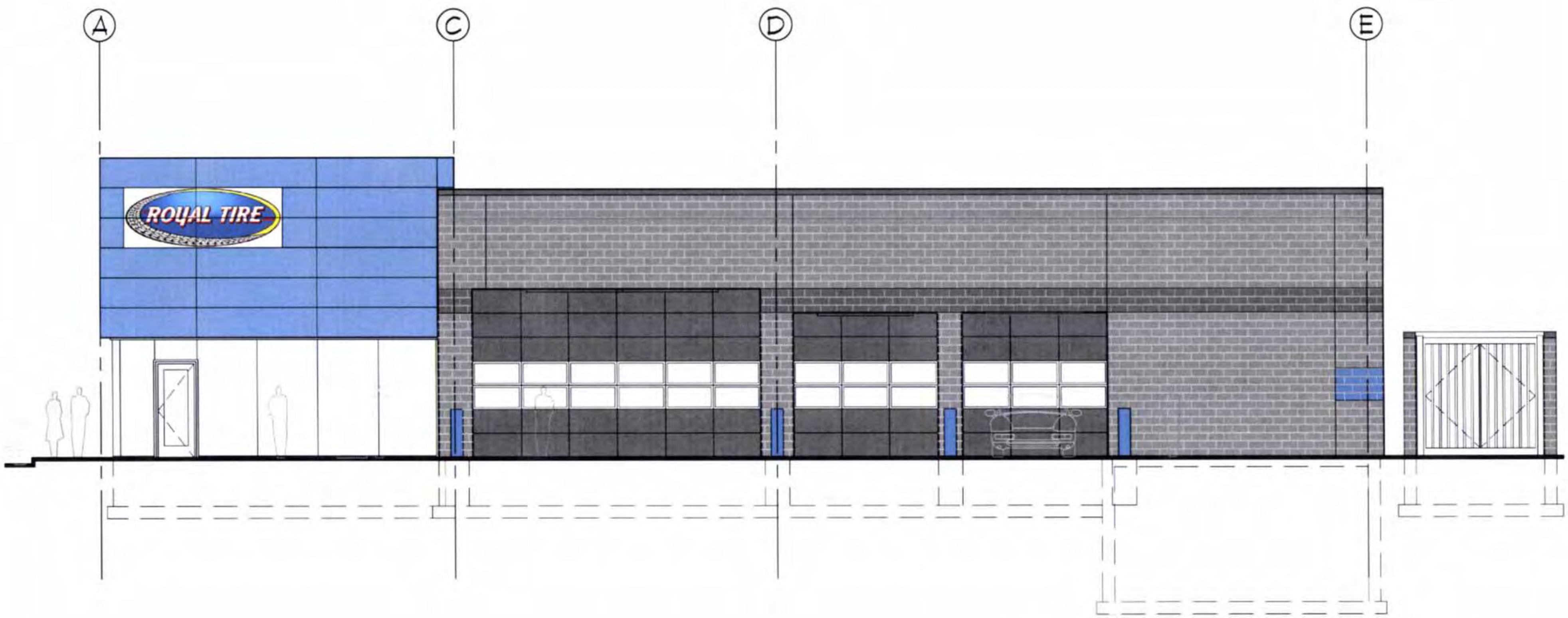
Lots 7-12, Block 44, TOWN OF BRAINERD, Crow Wing County, Minnesota

FOR: Sperides Architects

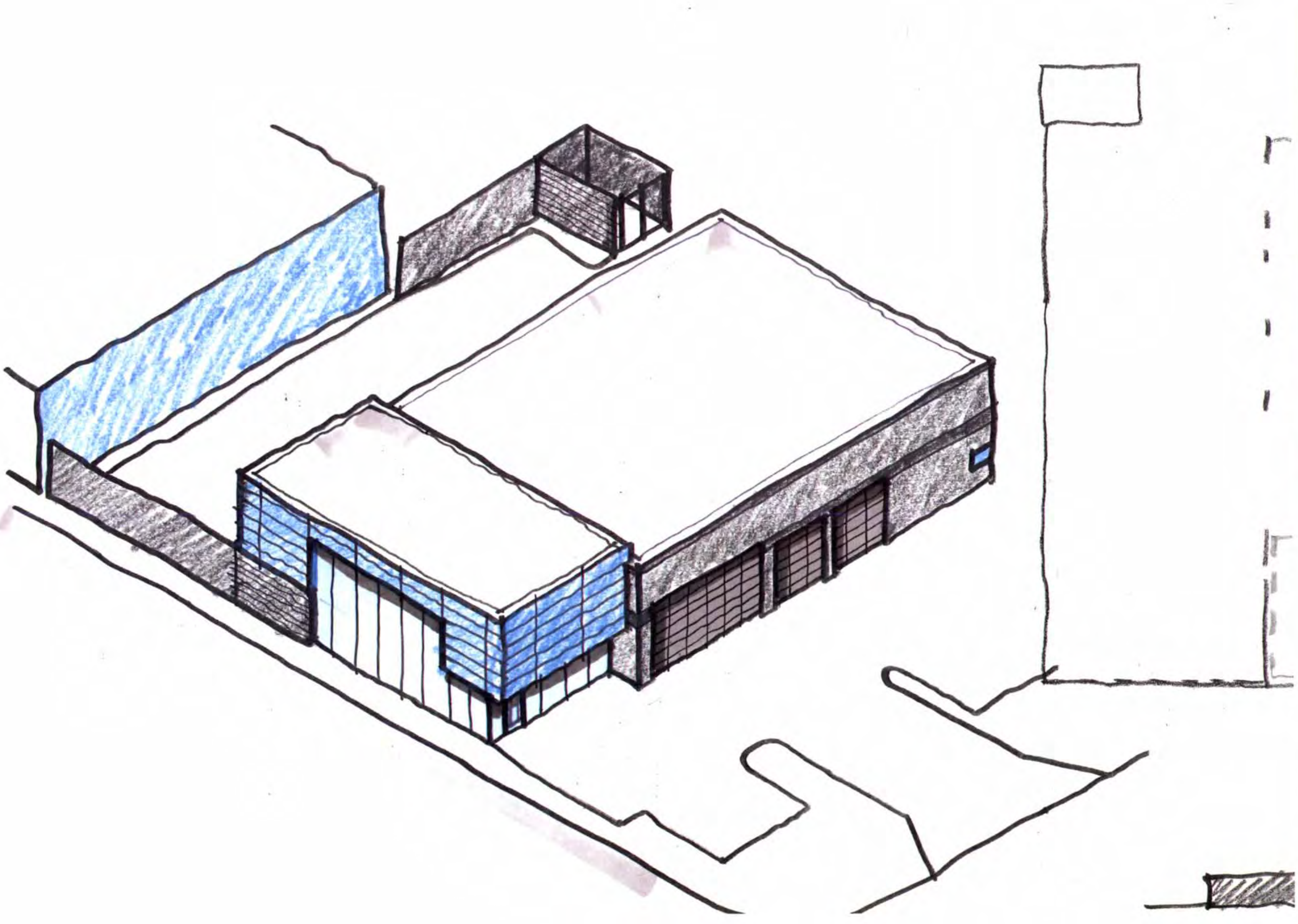
H:\SPERARCH_PR\B11108620\CAD\C3D\108620SU1.DWG 08-06-2014 3:28p.m. JOB NUMBER: B11.108620 FIELD BOOK: DRAWN BY: FRD R31-T45-525-21

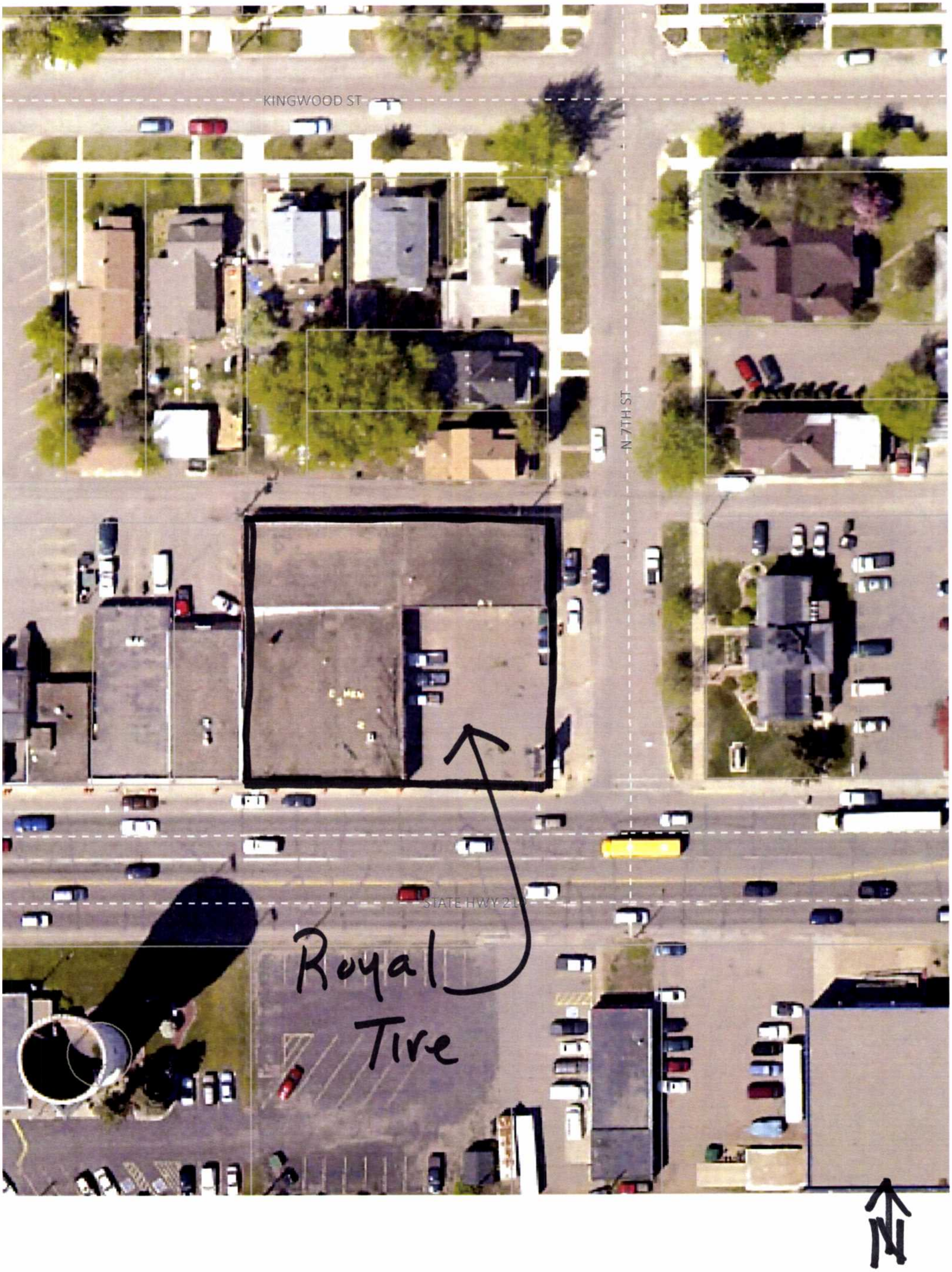



SOUTH ELEVATION STUDY 2-18-2015




EAST ELEVATION STUDY 2-18-2015




KINGWOOD ST
N 7TH ST
STATE HWY 21
Royal Tire
N

**CITY OF BRAINERD**
**PLANNING COMMISSION**

**RESOLUTION NO. ______**

RESOLUTION FINDING MODIFIED DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 4 AND THE TAX INCREMENT FINANCING PLAN FOR TAX INCREMENT FINANCING DISTRICT NO. 4-18 CONSISTENT WITH THE PLANS FOR DEVELOPMENT OF THE CITY OF BRAINERD

WHEREAS, the City Council of the City of Brainerd has authorized preparation of a modified Development Program for Development District No. 4 and a Tax Increment Financing Plan (TIF Plan) for Tax Increment Financing District No. 4-18 within that Development District, and the modified Development Program and the TIF Plan have been submitted to the Planning Commission for comment; and

WHEREAS, the Planning Commission has reviewed the modified Development Program and the TIF Plan and has compared it with the plans for development of the City as a whole.

NOW, THEREFORE, BE IT RESOLVED By the Planning Commission of the City of Brainerd, Minnesota as follows:

1. The modified Program for Development District No. 4 and the TIF Plan for TIF District No. 4-18 are found to be consistent with the plans for development of the City of Brainerd as a whole.

2. It is recommended that the City Council of the City of Brainerd hold the public hearing required by law and adopt the modified Program and the proposed TIF Plan.

Approved this ____ day of June, 2015 by the Planning Commission of the City of Brainerd, Minnesota.

______________________________
Chairperson

ATTEST:

______________________________
Secretary

**Draft, May 14, 2015**

# MODIFIED DEVELOPMENT PROGRAM

# DEVELOPMENT DISTRICT NO. 4

# and

# TAX INCREMENT FINANCING PLAN

# TAX INCREMENT FINANCING DISTRICT NO. 4-18

## CITY OF BRAINERD, MINNESOTA

**Approved: _____________, 2015**

| This instrument drafted by: | Financial information prepared by: |
|---|---|
| KENNEDY & GRAVEN, CHARTERED (MNI)<br>470 US Bank Plaza<br>Minneapolis, Minnesota 55402<br>Telephone: (612) 337-9300 | SPRINGSTED INCORPORATED<br>380 Jackson Street, Suite 300<br>St. Paul, MN 55101-2887<br>Telephone: (651) 223-3000 |

## TABLE OF CONTENTS

## SECTION I. MODIFIED DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 4

Subsection 1.1. Definitions. For the purposes of the Development District Program, the following terms shall have the meanings specified below, unless the context otherwise requires:

"City" means the City of Brainerd, a municipal corporation under the laws of the State of Minnesota.

"Comprehensive Plan" means the City's Comprehensive Plan, including the objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and water within the City.

"City Council" or "Council" means the Brainerd City Council;

"City Development District Act" or "Act" means Minnesota Statutes, Sections 469.124 through 469.134, as amended.

"County" means Crow Wing County, Minnesota.

"Development District" means Development District No. 4 which was initially approved by the Council on September 18, 1989, pursuant to and in accordance with the City Development District Act, and as it has been or may be modified.

"Development District Program" or "Program" means the program for development of the District adopted by the City pursuant to the Development District Act, and as it has been or may be amended.

"Project Area" or "Project" means the property within Development District No. 4, as described in the Development Program.

"State" means the State of Minnesota.

"Tax Increment Financing Act" or "TIF Act" means Minnesota Statutes, Sections 469.174 through 469.1794, inclusive, as amended.

"Tax Increment Bonds" means any general obligation or revenue tax increment bonds or notes issued by the City to finance the public costs associated with Development District No. 4 as stated in the Program and in the Tax Increment Financing Plans for the Tax Increment Financing Districts within Development District No. 4, or any obligations issued to refund the Tax Increment Bonds.

"Tax Increment Financing District" or "TIF District" means any Tax Increment Financing District created and established pursuant to the TIF Act within Development District No. 4.

"Tax Increment Financing Plan" or "TIF Plan" means the TIF Plan adopted by the Council for any TIF District within Development District No. 4.

Subsection 1.2. Statement and Finding of Public Purpose. The Council of the City determines that there is a need for development and redevelopment within the corporate limits of the City and within the Development District to provide employment opportunities, to improve the tax base and to improve the general economy of the State. It is found that the area within the District is potentially more useful and valuable than is being realized under existing development, is less productive than is possible under this program and, therefore, is not contributing to the tax base to its full potential.

Therefore, the City has determined to exercise its authority to develop a program for improving the Development District of the City to provide an impetus for private development, to maintain and increase employment, to utilize existing potential and to provide other facilities as are outlined in the Development Program adopted by the City.

The Council finds that the welfare of the City as well as the State of Minnesota requires active promotion, attraction, encouragement and development of economically sound industry and commerce to carry out its stated public purpose objectives.

Subsection 1.3. Statutory Authority. The Council determines that it is desirable and in the public interest to establish, develop and administer a Development Program for the Development District in the City, pursuant to the provisions of the Act.

Funding of the necessary activities and improvements in the Development District may be accomplished in whole or in part through tax increment financing in accordance with the TIF Act.

The City has designated a specific area within the corporate limits of the City as Development District No. 4 as authorized by Section 469.126 of the Act, as outlined in this document. Within the Development District, the City is administering TIF District No. 4-1 (economic development); TIF District No. 4-2 (redevelopment); TIF District No. 4-3 (redevelopment); TIF District No. 4-4 (housing), TIF District No. 4-5 (housing), TIF District No. 4-6 (redevelopment); TIF District No. 4-7 (redevelopment), TIF District No. 4-8 (redevelopment), TIF District No. 4-9 (redevelopment), TIF District No. 4-10 (housing), TIF District No. 4-11 (redevelopment), TIF District No. 4-12 (housing), TIF District No. 4-13 (housing), TIF District No. 4-14 (housing), TIF District No. 4-15 (redevelopment), TIF District No. 4-16 (redevelopment), TIF District No. 4-17 (redevelopment), and is hereby establishing TIF District No. 4-18 (redevelopment).

Subsection 1.4. Statement of Objectives. The Council determines that the Development District will provide the City with the ability to achieve certain public purpose goals not otherwise obtainable in the foreseeable future without City intervention in the normal development process. The public purpose goals include: restore and improve the tax base and tax revenue generating capacity of the Development District; increase employment opportunities; realize comprehensive planning goals; remove blighted conditions; revitalize the property within the Development District to create an attractive, comfortable, convenient, and efficient area for industrial, commercial, residential, governmental, convention, and related use.

The City and Council seek to achieve the following Development District program objectives:

1. Promote and secure the prompt development of certain property in the Development District, which property is not now in productive use or in its highest and best use, in a manner consistent with the City's Comprehensive Plan and with the minimum adverse impact on the environment, and thereby promote and secure the development of other land in the City.

2. Promote and secure additional employment opportunities within the Development District and the City for residents of the City and the surrounding area, thereby improving living standards, reducing unemployment and the loss of skilled and unskilled labor and other human resources in the City.

3. Secure the increase of commercial/industrial property subject to taxation by the City, Independent School District No. 181, Crow Wing County, and other taxing jurisdictions in order to better enable such entities to pay for governmental services and programs required to be provided by them.

4. Provide for the financing and construction of public improvements in and adjacent to the Development District, necessary for the orderly and beneficial development of the Development District and adjacent areas of the City.

5. Promote the concentration of commercial, office, and other appropriate development in the Development District so as to maintain the area in a manner compatible with its accessibility and prominence in the City.

6. Encourage local business expansion, improvement, and development, whenever possible.

7. Create a desirable and unique character within the Development District through quality land use alternatives and design quality in new and remodeled buildings.

8. Encourage and provide maximum opportunity for private redevelopment of existing areas and structures that are compatible with the Development Program.

9. Enhance the development potential for the abandoned Burlington Northern Railroad site in the eastern part of the Development District.

10. Encourage redevelopment of substandard housing and development of housing for low and moderate income persons, to improve housing and employment opportunities in the Development District and the City, where compatible with other planning and development goals.

Subsection 1.5. Estimated Public Costs and Supportive Data. Estimated public costs within the Development District are set forth in various documents. Public costs associated with TIF District No. 4-1 and TIF District No. 4-2 are set forth in the Development Program as adopted on November 27, 1989. Public costs associated with TIF District No. 4-3 are set forth in the TIF Plan therefor adopted on November 5, 1990. Public costs associated with TIF District No. 4-4 are set forth in the TIF Plan therefor adopted on March 18, 1991. Public costs associated with TIF District No. 4-5 are set forth in the TIF Plan therefor adopted on September 5, 1995. Public costs associated with TIF District Nos. 4-6 and 4-7 are set forth in the TIF Plans adopted on February 22, 1996 and April 1, 1996, respectively. Public costs associated with TIF District No. 4-8 are set forth in the TIF

Plan therefor adopted on August 4, 1997. Public costs associated with TIF District No. 4-9 are set forth in the TIF Plan therefor adopted on January 19, 1999. Public costs associated with TIF District No. 4-10 are set forth in the TIF Plan therefor adopted on July 6, 1999. Public costs associated with TIF District 4-11 are set forth in the TIF Plan thereof adopted on May 21, 2001. Public costs associated with TIF District No. 4-12 are set forth in the TIF Plan therefor adopted on December 17, 2001, along with the modification of the Development Program. Public costs associated with TIF District No. 4-13 are set forth in the TIF Plan therefor adopted on May 20, 2002, along with the modification of the Development Program. Public costs associated with TIF District No. 4-14 are set forth in the TIF Plan thereof adopted on December 16, 2002, along with the modification of the Development Program. Public costs associated with TIF District No. 4-15 are set forth in the TIF Plan thereof adopted on December 4, 2006, along with the modification of the Development Program. Public costs associated with TIF District No. 4-16 are set forth in the TIF Plan thereof adopted on December 3, 2007, along with the modification of the Development Program. Public costs associated with TIF District No. 4-17 are set forth in the TIF Plan thereof adopted on February 2, 2009, along with this modification of the Development Program. Public costs associated with TIF District No. 4-18 are set forth in the TIF Plan thereof to be adopted on June 15, 2015, along with the modification of the Development Program. In addition to any previously authorized public costs, the City may acquire additional parcels of land for development or redevelopment purposes, as described in Section 1.14 herein.

Subsection 1.6. Environmental Controls. The proposed development activities in the Development District do not present significant environmental concerns, except for those previously identified at the abandoned Burlington Northern Railroad site. All municipal actions, public improvements and private development shall be carried out in a manner consistent with existing environmental standards.

Subsection 1.7. Proposed Reuse of Property. The proposals for reuse of property within the Development District are described in the documents referenced in Section 1.5 herein. The City may acquire additional parcels for redevelopment, as identified in Section 1.14 herein.

Unless otherwise specified, the Development Program does not contemplate the acquisition of private property until such time as a private developer presents an economically feasible program for the reuse of that property. Proposals, in order to be considered, must be within the framework of the above cited goals and objectives, and must clearly demonstrate feasibility as a public program. Prior to formal consideration of the acquisition of any property, the City Council will require a binding contract, performance bond and/or other evidence or guarantees that a supporting tax increment or other funds will be available to repay the public cost associated with the proposed acquisition. It is the intent of the City to negotiate the acquisition of property whenever necessary. Appropriate restrictions regarding the reuse and redevelopment of property shall be incorporated into any land sale contract to which the City is a part.

Subsection 1.8. Public Improvements and Facilities to be Constructed Within Development District No. 4. The public improvements and facilities to be constructed within the Development District include: (a) off-site improvements, including streets, water, sanitary sewer and storm sewer; and (b) on-site utilities, soils correction, parking and landscaping. All public improvements are more particularly described in the documents referenced in Section 1.5 herein.

Subsection 1.9. Administration and Maintenance of the Development District. Maintenance and operation of the public improvements will be the responsibility of the Administrator of the City who shall serve as Administrator of the Development District. The powers, duties and responsibilities of the Administrator are spelled out in the Administrative Guide for the Administration of the Development Program for the Development District. Each year the Administrator will submit to the Council the maintenance and operation budget for the following year.

The Administrator will administer the Development District pursuant to the provisions of Section 469.131 of the Act; provided, however, that such powers may only be exercised at the direction of the Council. No action taken by the Administrator pursuant to the above-mentioned powers shall be effective without authorization by the Council.

Subsection 1.10. Rehabilitation. Owners of properties within the Development District will be encouraged to rehabilitate their property to conform with the applicable state and local codes and ordinances, as well as any design standards. Owners of the properties who purchase property within the Development District from the City may be required to rehabilitate their properties as a condition of sale of land. The City will provide such rehabilitation assistance as may be available from federal, state or local sources.

Subsection 1.11. Relocation. The City does not anticipate the need for relocation of existing persons or businesses within the Development District, except in association with TIF District No. 4-3. Redevelopment of existing housing in that TIF District may require relocation of residents. Provisions of relocation will be made in accordance with Minnesota Statutes, Section 117.50 through 117.56 and any rules adopted by the City Council.

Subsection 1.12. Open Space to be Created. The City, in carrying out the objectives of the Development Program, proposes to encourage the beautification of open spaces through the development of criteria, which shall be incorporated into any land sale agreements entered into by the City of Brainerd.

Subsection 1.13. Boundaries of the Development District. Boundaries of Development District No. 4 as established on September 18, 1989:

> Beginning at the southeast corner of the North 1/2 of Section 30, T45N R30W; thence westerly along the south line of the North 1/2 of said Section 30 to the southeast corner of the North 1/2 of Section 25 T45N R30W; thence westerly along the south line of the North 1/2 of said Section 25; to the southwest corner of the North 1/2 of said Section 25; thence northerly along the west line of said Section 25 to the southerly right-of-way line of the Burlington Northern Railway, thence westerly along the south right-of-way line of the Burlington Northern Railway to the west line of the NW 1/4 of Section 9 T133N R28W; thence northerly along the west line of said NW 1/4 of Section 9 to the southwest corner of the SW 1/4 of Section 4 T133N R28W; thence northerly along the west line of said SW 1/4 of Section 4 to the northwest corner of the SW 1/4 of said Section 4; thence easterly along the north line of the SW 1/4 of Section 4 to the northeast corner of the SW 1/4 of said Section 4 T133N R28W; thence southerly along the east line of the SW 1/4 of said Section 4 to a point 350 feet north of the right-of-way of State Trunk Highway No. 210 (Washington

Street); thence westerly along a line running parallel to and 350 feet north of the north right-of-way line of State Trunk Highway 210 to the centerline of 4th Avenue N.E. in Brainerd; thence northerly along the centerline of said 4th Avenue N.E. to the centerline of "E" Street; thence easterly along the centerline of "E" Street to the centerline of 8th Avenue; thence southerly along the centerline of said 8th Avenue to the north right-of-way line of State Trunk Highway No. 210; thence northeasterly along the north right-of-way line of State Trunk Highway No. 210 to the east line of the east 1/2 of Section 19 T45N R30W; thence southerly along the east line of the East 1/2 of Section 19 to the northeast corner of the East 1/2 of Section 30 T45N R30W; thence southerly along the east line of the East 1/2 of Section 30 to the point of beginning.

By modification of the Development Program approved March 19, 1991, the City added the following area to the Development District:

Commencing at the S.E. corner of the N. 1/2 of Section 30,T45N,R30W thence westerly along the south line of the N. 1/2 of Section 30A distance of 3.336 feet more or less to the centerline of 19th Street, S.E. thence southerly along the centerline of 19th Street, S.E. a distance of 1020 feet more or less to the south line of Lot 8, Holland's Third Addition to the City of Brainerd, thence easterly along the south line of Lot 8, Holland's Third Addition, Lots 30 and 19, Holland's Second Addition and Lots 14 and 3, Holland's First Addition a distance of 3.336 feet more or less to the east line of Section 30,T45N,R30W, thence northerly along the east line of Section 30 a distance of 1020 feet more or less the S.E. corner of the N. 1/2 of Section 30, the point of beginning, and there ending.

By a September 5, 1995 modification, the City added the following area to the Development District:

Lot 1, Block 1, and Outlot A, Marsh Run, according to the recorded plat thereof.

By modification of the Development Program approved May 20, 2002, the City added the following area to the Development District:

The point being on a line projected east from the eastern boundary of the alley located in the 14 block of the Cuyuna Addition and intersects 28th Street and continues East until Hwy. 25 and commences South along the Hwy until the eastern corner of the Timberland Addition which commences South until the corporate city limits and commences westward following the city limits until reaching a perpendicular line projected North and East along 28th Street which represents the point of beginning.

By a December 16, 2002, modification, the City added the following area to the Development District:

The plat of Brainerd Oaks, excluding outlot C.

By a December 4, 2006 modification, the City added the following area to the Development District:

P.I.N. 09196036001Z009
P.I.N. 09196036019X009
P.I.N. 09196082000Z009
P.I.N. 09196096001Z009
P.I.N. 09196096021Z009

By a December 2, 2007 modification, the City added the following area to the Development District:

| | | |
|---|---|---|
| 1 | 09122002001Y009 | N. 46 2/3' of Lots 1 thru 3 Block 2 inclusive, except West 10' of North 46 2/3' of Lot 3, Block 2, East Brainerd |
| 2 | 09122002001Z009 | S. 93 1/3' of Lot 1, Block 2 and E 1/2 of S. 93 1/3' Lot 2, Block 2, East Brainerd |
| 3 | 09122002002Z009 | W. 1/2 of S 93 1/3' of Lot 2, Block 2 and S. 93 1/3' of Lot 3, Block 2, East Brainerd |
| 4 | 09122002004W009 | N. 46 2/3 FT. OF LOTS 4, 5, AND 6 BLOCK 2, East Brainerd |
| 5 | 09122002004X889 | Center 46 2/3' of Lots 4, 5, & 6, Block 2, Town of East Brainerd, except the East 10' of the South 30' of the center 1/3 (being 46 2/3') of said Lot 4 and also except the East 6' of the North 16 2/3' of the center 1/3 (being 46 2/3') of said Lot 4, East Brainerd |
| 6 | 09122002004Y009 | E. 10' of S. 30' of Center 1/3 of Lot 4 and also E. 6' of N. 16 2/3' of Center 1/3 of Lot 4, Block 2, East Brainerd |
| 7 | 09122002004Z009 | S. 46 2/3' of Lots 4 thru 6 Block 2 inclusive, East Brainerd |
| 8 | 09122002003B009 | W. 10 FT. OF N. 46 2/3 FT. OF LOT 3 BLOCK 2, East Brainerd |

By a February 2, 2009 modification, the City added the following area to the Development District:

Lots Five (5) and Six (6), except the east 25 feet thereof, Block Three (3), Town of

Brainerd, Crow Wing County

A map of the approximate boundaries of the Development District is attached as Appendix A hereto, and the parcels in the proposed TIF District No. 4-18 are identified in Section 1.14, clause 18.

Subsection 1.14. Parcels To Be Acquired or May be Acquired In Whole or In Part Within the Development District.

1. Parcels within TIF District No. 4-1:

   (a) P.I.N. 0919800H001Z009
   Description: Lots 1 through 6, inclusive, Block H and the adjacent southerly 1/2 of vacated Robert Street.

   (b) Part of P.I.N. 0919800H007X009
   Description: North 20 feet of Lot 7, Block H, and the adjacent South 1/2 of vacated Robert Street.

   (c) P.I.N. 0919800P011Z009

Description: Lots 11 and 12, Block P and the adjacent northerly 1/2 of vacated Robert Street.

(d) P.I.N. 0919800P001Z009
Description: South 30 feet of the northerly 1/2 of vacated Robert Street.

2. Parcels within TIF District No. 4-2:

(a) P.I.N. 09198046001P009
Description: W. 25 FT of Lots 1 thru 6 inclusive Block 46, and all of Lots 7 thru 12 inclusive Block 46, and the vacated alley formerly running N'ly & S'ly between the aforementioned lots.

(b) P.I.N. 09198046000Z009
Description: Commencing at the northwest corner of Block 46, thence westerly a distance of 40 ft to the centerline of NW 7th Street, thence southerly, parallel to the west line of Block 46, a distance of 340 ft to the intersection of NW 7th Street and the centerline of Charles Street, thence easterly, parallel to the south line of Block 46, a distance of 220 ft, thence northerly a distance of 40 ft, thence westerly along the south line of Block 46 a distance of 180 ft to the southwest corner of Block 46, thence northerly 300 ft along the west line of Block 46 to the point of beginning and there ending in Brainerd, Minnesota.

3. Parcels within TIF District No. 4-3:

(a) P.I.N. 091580010040009
Description: Lot 4, Block 1, Miller's Addition to East Brainerd.

(b) P.I.N. 091580010050009
Description: Lot 5, Block 1, Miller's Addition to East Brainerd.

(c) P.I.N. 091580010060009
Description: Lot 6, Block 1, Miller's Addition to East Brainerd.

4. Other Parcels

(a) P.I.N. 091960690080009
Description: Lots 5 and 6 of C.A. Walker's Subdivision of Lots 8, 9, 10, 11 and 12, Block 69 of the Original Plat of the City of Brainerd, and the Westerly 25 feet of Lots 10, 11 and 12, Block 69 of the Original Plat of the City of Brainerd.

(b) P.I.N. 09196069008X889
Description: The West One Foot of Lot 2 and Lots 3 and 4 of C.A. Walker's Subdivision of Lots 8, 9, 10, 11 and 12, Block 69 Except the West One Foot of the South 50 Feet of Said Lot 2.

5. Parcels within TIF District No. 4-5:

Description: Lot 1, Block 1, Marsh Run.

6. Parcels within TIF District No. 4-6:

P.I.N. 09196073013Z009
P.I.N. 09196073015Z009
P.I.N. 09196073018Z009

Description: Lots 13, 14, 15, 16, 17 and Lots 18 and 19 together with that part of the West ½ of the alley lying between the East extension of the North line of said Lot 18 and the East extension of the South line of said Lot 19, all in Block 73, First Addition to the Town of Brainerd, Crow Wing County, Minnesota.

7. Parcels within TIF District No. 4-7:

P.I.N. 09196047001Z009
P.I.N. 09196047019Z009

Description: Lots 1 through 6, and Lots 19 and 20, Block 47, Original Town of Brainerd.

8. Parcels within TIF District No. 4-8:

P.I.N. 09196039001Y009
P.I.N. 09196039005Y009
P.I.N. 09196039022Y009

Description: Lots 1 through 4, inclusive, and adjacent vacated portion of alley, Sec/Plat: Town of Brainerd and First Addition to Brainerd; Lots 5 and 6, Block 39 and adjacent vacated portion of alley, Sec/Plat: Town of Brainerd and First Addition to Brainerd; Lots 22 through 24, inclusive, Block 39 and adjacent vacated portion of alley, Sec/Plat: Town of Brainerd and First Addition to Brainerd.

9. Parcels within TIF District No. 4-9:

P.I.N. 09198058001Z009
P.I.N. 09198058008Z009
P.I.N. 09198058009Z889

Description: The North 12.5 feet of Lot, 9, Lot 8 of Block 58, West Brainerd AND Lots 1, 2, 3, 4, 5, 6, 10, 11 and 12, and the South Half of Lot 9 and the South 12.5 feet of the North-Half of Lot 9, Block 58, West Brainerd and the following described vacated alley: that portion of the 20 foot alley lying between Lot 1 and the South 25 feet of Lot 2 and the South 25 feet of Lot 11 and Lot 12, Block 58, West Brainerd, subject to a reservation of an easement for utilities in favor of the City of Brainerd.

10. Parcels within TIF District No. 4-10:

P.I.N. 0924000090A009 (before subdivision).

Description: Block 1 and Block 2, The Willows, including all adjacent street and road right-of-ways.

11. Parcels within TIF District No. 4-11:

P.I.N. 050194000EA00009
P.I.N. 05P194000C00889
P.I.N. 05P194000D00889

Description: See TIF Plan for TIF District No. 4-11, Appendix E.

12. Parcels within TIF District No. 4-12:

P.I.N. 0925100090A0009

Description: Outlot A, The Willows.

13. Parcels within TIF District No. 4-13

P.I.N.: 092650010010009

Description: Lot 1, Block 1, Timberland Addition

14. Parcels within TIF District No. 4-14

New parcel identification numbers will be assigned after the plat is filed.

Description: See TIF Plan for TIF District No. 4-14.

15. Parcels within TIF District No. 4-15.

P.I.N. 09196036001Z009
P.I.N. 09196036019X009
P.I.N. 09196082000Z009
P.I.N. 09196096001Z009
P.I.N. 09196096021Z009

16. Parcels within TIF District No. 4-16.

| | | |
|---|---|---|
| 1 | 09122002001Y009 | N. 46 2/3' of Lots 1 thru 3 Block 2 inclusive, except West 10' of North 46 2/3' of Lot 3, Block 2, East Brainerd |
| 2 | 09122002001Z009 | S. 93 1/3' of Lot 1, Block 2 and E 1/2 of S. 93 1/3' Lot 2, Block 2, East Brainerd |
| 3 | 09122002002Z009 | W. 1/2 of S 93 1/3' of Lot 2, Block 2 and S. 93 1/3' of Lot 3, Block 2, East Brainerd |
| 4 | 09122002004W009 | N. 46 2/3 FT. OF LOTS 4, 5, AND 6 BLOCK 2, East Brainerd |
| 5 | 09122002004X889 | Center 46 2/3' of Lots 4, 5, & 6, Block 2, Town of East Brainerd, except the East 10' of the South 30' of the center 1/3 (being 46 2/3') of said Lot 4 and also except the East 6' of the North 16 2/3' of the center 1/3 (being 46 2/3') of said Lot 4, East Brainerd |
| 6 | 09122002004Y009 | E. 10' of S. 30' of Center 1/3 of Lot 4 and also E. 6' of N. 16 2/3' of Center 1/3 of Lot 4, Block 2, East Brainerd |
| 7 | 09122002004Z009 | S. 46 2/3' of Lots 4 thru 6 Block 2 inclusive, East Brainerd |
| 8 | 09122002003B009 | W. 10 FT. OF N. 46 2/3 FT. OF LOT 3 BLOCK 2, East Brainerd |

17. Parcels within TIF District 4-17.

Lots Five (5) and Six (6), except the east 25 feet thereof, Block Three (3), Town of Brainerd, Crow Wing County

18. Parcel within proposed TIF District 4-18

PIN 09196044007Z009

Description: Lots 7-12, Block 44, Town of Brainerd, Crow Wing County

Subsection 1.15. <u>Modification of the Development Program for Development District No. 4</u>. The Development Program has been adopted and modified as follows:

| | |
|---|---|
| September 18, 1989 | Adopted (Brainerd Daily Dispatch development). |
| November 27, 1989 | Modified (Perkins development). |
| November 5, 1990 | Modified (ASI Handicapped Housing development). |
| March 18, 1991 | Modified (Ridgeview Apartments development). |
| September 5, 1995 | Modified (Marsh Run development). |
| February 22, 1996 | Modified (Metropolitan Federal development). |
| April 1, 1996 | Modified (Armory development). |
| August 4, 1997 | Modified (Buffalo Run development) |
| January 19, 1999 | Modified (River View Motel redevelopment) |
| July 6, 1999 | Modified as described herein (The Willows development) |
| May 21, 2001 | Modified (East Brainerd Mall Redevelopment) |

| | |
|---|---|
| December 17, 2001 | Modified (Willows Phase II) |
| May 20, 2002 | Modified (Timberland Townhomes) |
| December 16, 2002 | Modified (Brainerd Oaks development). |
| December 4, 2006 | Modified (Artspace Project) |
| December 3, 2007 | Modified (Taco John's Project) |
| February 2, 2009 | Modified (Jimmy John's Project) |

The Development Program as modified herein is intended to summarize and restate all prior Program modifications. Nothing in this modification is intended to alter or restrict any activity previously authorized in the Program, and all prior documents representing the Program are incorporated herein by reference.

Subsection 1.16 Modification. The following text represents a modification to the Development Program for Development District No. 4:

This modification represents a continuation of the goals and objectives set forth in the Development Program for Development District No. 4. Generally, the substantive changes include the establishment of Tax Increment Financing District No. 4-18 to assist in the redevelopment of underutilized and blighted property through the demolition of the existing Royal Tire store in the City, which is currently structurally substandard, and the construction of an improved and expanded Royal Tire commercial facility.

For further information, a review of this modified Development Program for Development District No. 4 is recommended. Other relevant information is contained in the Tax Increment Financing Plans for Tax Increment Financing Districts No. 4-1 through No. 4-17.

A description and map of the Development District, including Tax Increment Financing District No. 4-18, is attached at Appendix A.

The Development Program as modified herein is intended to summarize and restate all prior Program modifications. Nothing in this modification is intended to alter or restrict any activity previously authorized in the Program, and all prior documents representing the Program are incorporated herein by reference.

## SECTION II. TAX INCREMENT FINANCING PLAN FOR TAX INCREMENT FINANCING DISTRICT NO. 4-18

Section 2.1. Statutory Authority. Pursuant to the TIF Act, the City seeks to create Tax Increment Financing District No. 4-18 and adopt a TIF Plan for the TIF District.

Section 2.2. Statement of Objectives. The objectives outlined in subdivision 1.4 of the Development Program for Development District No. 4, as amended, are incorporated herein by reference. The principle objective in establishing TIF District No. 4-18 is to assist in the renovation and expansion of an existing Royal Tire retail and automotive store and associated parking and landscaping, owned and operated by Royal Tire, Inc. (the "Minimum Improvements").

Section 2.3 Statement of Public Purpose. In adopting the TIF Plan for TIF District No. 4-17, the City Council intends to make the following findings:

(a) Anticipated development would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and the increased market value of the Royal Tire Project site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the TIF District permitted by the TIF Plan.

**Factual basis:** This finding is based on analysis of the pro forma and other materials submitted to the City by Royal Tire, Inc. (the "Developer"), and materials provided by Springsted, Incorporated, the City's Municipal Advisor. Development of this property as a new Royal Tire retail and automotive store and associated parking and landscaping, owned and operated by Royal Tire, Inc. requires significant redevelopment on a parcel of land in the City, including the existing Royal Tire site, which currently contains a structure which is physically and functionally obsolete (the "Development Property"). The commercial building on the site of the existing Royal Tire at 615 Washington Street has outmoded and obsolete system condition deficiencies in essential utilities, mechanical and electrical components, ventilation and fire protection, and contains asbestos and other hazardous materials which require abatement. The Developer's pro forma indicates that in order to meet the development objectives of demolition of the substandard building and associated environmental cleanup in order to construct a new Royal Tire retail tire and automotive service store, which will result in the retention of 10 jobs and the creation of 2 new jobs with a wage of $16.23 per hour, tax increment financing assistance is required to fund the gap between development costs and expected income. Without this assistance, the development is not feasible according to the Developer.

The City has further determined that no other development is expected to occur that would create a greater market value than that proposed, adjusting for the tax increment assistance. Any other development of the site would have to create a market value increase of more than $701,089 in order to exceed the value increase expected under the current proposal, after subtracting the present value of the tax increment for 26 years (See Market Value Analysis Report, Appendix B). Such increase in value is not likely to occur because the Development Property is comprised of a structurally substandard retail tire store and automotive service store. Any alternative development would be required to absorb the cost of among other items, rehabilitation/replacement of obsolete heating and ventilation system, demolition of the obsolete structure and the costly abatement of hazardous substances including asbestos, lead paint and possibly petroleum contaminants. Therefore, the City reasonably believes that the expected increase in market value at this site without TIF assistance is $0.

(b) The TIF Plan will afford maximum opportunity, consistent with the sound needs of the City as a whole, for development of the District by private enterprise.

**Factual basis:** The proposed development will permit removal of a blighted, obsolete and substandard building, facilitate redevelopment in the East Brainerd Area, create and retain jobs as a result of the construction of a new retail tire store and automotive service store by the Developer. The proposed development will permit redevelopment of an underutilized area of the City.

(c) The TIF Plan conforms to general plans for development of the City as a whole.

**Factual basis:** The City Planning Commission has found that the proposed development is consistent with the comprehensive City plan.

Subsection 2.4. Development District Program. The City created Development District No. 4 on September 18, 1989, and modified the Program as described in Subsection 1.1 thereof (See Section I of this document) and the modified Development Program, which is incorporated by reference herein. The City is hereby modifying the Program to update the development activities planned or authorized within the Development District. The modifications are set forth in Section I of this document.

Subsection 2.5. Description of TIF District. TIF District No. 4-18 consists of the following parcel:

PID # 09196044007Z009

Other parcels or portions of parcels immediately adjacent to these foregoing parcels may be identified as within the boundaries of TIF District No. 4-18 as shown on the maps attached hereto in Appendix A. The area encompassing the TIF District shall also include all street or utility right-of ways located upon or adjacent to the TIF District as described in Appendix A.

A map of the approximate boundaries of TIF District No. 4-18 (including the identified and unidentified parcels as described above) is attached hereto in Appendix A. This map is for location purposes only.

Subsection 2.6. Development District Contracts. No contracts have yet been executed for the development activity authorized by this TIF Plan. The property in the TIF District will be owned by Royal Tire, Inc. Agreements regarding property within the Development District will be entered into in accordance with Section 469.176, Subd. 5 of the TIF Act. The City anticipates entering into a development contract with a business entity owned or controlled by Royal Tire, Inc. for the implementation of the Royal Tire Project. Such contract will obligate the Developer to construct the Minimum Improvements for the Royal Tire Project on the Development Property in the TIF District.

Subsection 2.7. Classification of TIF District. The City has determined that TIF District No. 4-18 is a redevelopment district, pursuant to Section 469.174, Subd. 10 of the TIF Act. To qualify under this Subdivision, a "Redevelopment District" means a type of tax increment financing district consisting of a project, or portions of a project, within which the City finds by resolution that one or more of the following conditions, reasonably distributed throughout the district, exists:

1. parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures (the "coverage test"), and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance (the "building condition test");

2. the property consists of vacant, unused, underused, inappropriately used, or infrequently used rail yards, rail storage facilities, or excessive or vacated railroad rights-of-way;

3. tank facilities, or property whose immediately previous use was for tank facilities, as defined in section 115C.02, subdivision 15, if the tank facilities:

   a. have or had a capacity of more than 1,000,000 gallons;
   b. are located adjacent to rail facilities; and
   c. have been removed or are unused, underused, inappropriately used, or infrequently used, or
   d. a qualifying disaster area, as defined in subdivision 10b.
   e. the conditions evidenced by the project within the Tax Increment Financing District qualify the project for designation as a Redevelopment District.

The area meets the requirements described in clause 1 above. The factual basis for that finding is based on the analysis of the buildings conducted by LHB, Inc., and is summarized in a report prepared by LHB, dated ______, 2015, on file in City Hall (the "Report").

The City has determined that the District meets the coverage test because 100% of the area of proposed TIF District No. 4-18 is occupied by buildings, streets, utilities, paved or gravel parking lots or similar structures, which meets or exceeds the 70% area coverage requirement of Section 469.174 subd. 10(a)(1).

The City has determined that TIF District No. 4-18 meets the building condition test. Pursuant to the Report, there are portions of one (1) parcel containing a commercial structure, a Royal Tire store. The Report establishes the replacement costs of the building. The building (100%) contains code deficiencies that exceed the 15% threshold required by Section 469.174 subd. 10(c) because the code deficiencies exhibit conditions which are not in compliance with the current building codes applicable to new construction, and these code deficiencies are at least 15% of the replacement cost for the building as shown in the Report. The Report indicates that the building (100%) contained code deficiencies to the extent that substantial renovation or clearance is required. Therefore, the systems condition deficiencies and the condition of the building examined by the City result in the conclusion that the building is structurally substandard to a degree requiring substantial renovation or clearance because of the defects in the structural elements and the combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection systems including adequate egress, layout and condition of interior partitions and similar factors, which defects and deficiencies are of sufficient total significance to justify substantial renovation or clearance. In addition, because TIF District No. 4-18 is a TIF District whose boundaries contain essentially the subject building and grounds examined for purposes of assessing the extended code deficiencies, the sub-standard building conditions located on a parcel of the TIF District are reasonably distributed throughout the geographic area of the TIF District.

Subsection 2.8. Modification of TIF Plan. The Plan for TIF District No. 4-18 may be modified by the City, provided that any reduction or enlargement of geographic area of the TIF District, increase in amount of bonded indebtedness to be incurred, including a determination to capitalize interest on the debt if that determination was not a part of the original plan, or to increase or decrease the amount of interest on the debt to be capitalized, increase in the portion of the captured tax capacity to be retained by the City, increase in total estimated tax increment expenditures or designation of additional property to be acquired by the City shall be approved upon the notice and after such discussion, public hearing and findings as required for approval of the original Plan.

Subsection 2.9. Use of Tax Increment.

(a) Pursuant to Section 469.176, Subd. 4 of the TIF Act, all revenues derived from the tax increment from TIF District No. 4-18 shall be used in accordance with the TIF Plan. The revenues shall be used to finance or otherwise pay the capital and administrative costs of development activities within the Development District as identified in the TIF Plan.

(b) Pursuant to Section 469.176, Subd. 4 (j) of the TIF Act, at least 90 percent of the revenue derived from tax increments paid by properties in TIF District No. 4-18 will be expended to finance the cost of correcting conditions that allow designation of the TIF District as a redevelopment district, including the rehabilitation of structures and remediation of hazardous substances and the allocated administrative expenses of the City.

(c) Revenues derived from tax increment will be expended in accordance with the "five-year rule" as set forth in Section 469.1763 of the TIF Act.

Subsection 2.10. Excess Tax Increment. Pursuant to Section 469.176, Subd. 2 of the TIF Act, in any year in which the increment exceeds the amount necessary to pay the costs authorized by the TIF Plan, including the amount necessary to cancel any tax levy as provided in Minnesota Statutes, Section 475.61, Subdivision 3, the City shall use the excess amount computed as required by this section of the TIF Act to do any of the following, in the order determined by the City:

(a) prepay any outstanding bonds or obligations;

(b) discharge the pledge of tax increment therefor;

(c) pay into an escrow account dedicated to the payment of bonds; or

(d) return the excess amount to the Crow Wing County Auditor who shall distribute the excess amount to the City, the County and Independent School District No. 181 in direct proportion to their respective local tax rates.

In addition, and subject to the limitations set forth in Subsection 2.9 herein, the City may choose to modify the TIF Plan in order to provide for other public improvements within the Development District.

Subsection 2.11 Limitations on Collection of Increment. (a) If, after four years from the date of certification of the original tax capacity of TIF District No. 4-18, no demolition, rehabilitation, or renovation of property or other site preparation, including qualified improvement of a street or right-of-way adjacent to a parcel but not installation of underground utility service, including sewer or water systems, have been commenced on a parcel located within TIF District No. 4-18 by the City, or by the owner of the parcel in accordance with the TIF Plan, no additional increment may be taken from that parcel, and the original tax capacity of that parcel shall be excluded from the original tax capacity of the TIF District. If these activities subsequently commence, the City shall so certify to the county auditor, and the tax capacity of the property as most recently certified by the commissioner of revenue may be added to the TIF District's original tax capacity.

(b) No tax increment shall in any event be paid to the City from TIF District No. 4-18 after 25 years from the date of receipt by the City of the first increment.

(c) All revenues derived from tax increment shall be used in accordance with the Tax Increment Financing Plan. The revenues shall be used to finance, or otherwise pay public development and redevelopment costs pursuant to the Act. These revenues shall not be used to circumvent existing levy limit law. No revenues derived from tax increment shall be used for the construction or renovation of a building used primarily and regularly for conducting the business of the municipality; but this provision shall not prohibit the use of revenues derived from tax increments for the construction or renovation of a parking structure. Further, no tax increments may be used for a commons area used as a public park, or a facility used for social, recreational, or conference purposes; except that this provision does not apply to a privately owned facility for conference purposes or a parking structure.

Subsection 2.12. Limitation on Administrative Expenses. Pursuant to Section 469.176, Subd. 3 (c) of the TIF Act, administrative expenses are limited to 10 percent of the total estimated tax increment expenditures for the TIF District, or the total tax increments, as defined in Section 469.174, Subd. 25 (1).

Subsection 2.13. Limitation on Boundary Changes. The geographic area of TIF District No. 4-18 may be reduced, but it cannot be enlarged after five years following the date of certification of the original tax capacity by the Crow Wing County Auditor. Thus, the TIF District may not be enlarged after approximately July 2020.

Subsection 2.14. Relocation. The City accepts as binding its obligations under state law for relocation and will administer relocation services for families, individuals and businesses displaced by public action. No relocation is expected as a result of the establishment of TIF District No. 4-18.

Subsection 2.15. Parcels to be Acquired Within the TIF District. If necessary to facilitate development of the redevelopment project described in Subsection 2.17, the City may acquire any parcels within TIF District No. 4-18. The City may also determine that it is in the City's best interest to avoid any potential liability for hazardous waste by acquiring title directly, and instead reimburse Developer for the cost of acquisition for such purposes. The City has no current plans for such acquisition, but rather expects to help finance Developer acquisition costs, various infrastructure and related development costs necessary to develop the property, as described in Section 2.18.

Subsection 2.16. TIF Account. The tax increment received with respect to TIF District No. 4-18 shall be segregated by the City in a special account on its official books and records or held by a trustee for the benefit of holders of bonds issued to finance development or redevelopment costs projects.

Subsection 2.17. Estimate of Project Costs. In order to facilitate establishment of a new Royal Tire retail and automotive service store and associated parking and landscaping, described in Sections 2.2 and 2.3, the City estimates the following costs to be financed in part with tax increments from the TIF District:

| | |
|---|---|
| *Property Demolition and Infrastructure*: acquisition, demolition, replacement of sidewalks, curb and gutter, street lighting, water, sewer, storm sewer, parking facility (including landscaping consistent with applicable City plans) and related planning and engineering costs: | $ 171,000 |
| Interest, including capitalized interest | $ 154,023 |
| Administrative Expenses | $ 35,972 |
| TOTAL | $ 360,995 |

The costs may shift among these categories, but the total costs will not be increased without modification of this TIF Plan in accordance with the TIF Act. Because infrastructure and site improvement costs may benefit all property in the TIF District, tax increment expenditures will be allocated to the property within the TIF District.

The above costs represent present value capital costs. The City is expressly authorized to pay interest on bonds or notes issued to pay such costs, as described in Section 2.18, and to pay for administrative costs on an annual basis. For a complete description of expected expenditures on a future-value basis, see Appendix B.

Subsection 2.18. Estimate of Bonded Indebtedness. The City intends to finance the costs identified in this TIF Plan through tax increment payments that will reimburse the Developer for such costs together with interest thereon, on a pay-as-you-go basis, including issuance of tax increment revenue notes in a maximum principal amount of $360,995. In addition, the City reserves the right to loan or advance money from its general fund or any other legally available funds to finance qualified expenditures, such as costs of administering the TIF District. Before any loan or advance is made, the City will authorize the loan or advance by a resolution approving an interfund loan.

Subsection 2.19. Original Tax Capacity and Original Local Tax Rate. At the time of the request for certification, the original tax capacity of property within TIF District No. 4-18 is estimated to be $6,578. This figure represents the property's tax capacity as of January 2, 2014, for taxes payable 2015, assuming the request for certification is filed before July 1, 2015.

The original local tax rate of TIF District No. 4-18 is 132.666%. This rate is the rate for taxes payable 2015.

The County auditor will increase or decrease the original tax capacity of TIF District No. 4-18 as a result of:

(a) change in the tax exempt status of property within the TIF District;

(b) reduction or enlargement of the geographic boundaries of the TIF District;

(c) reduction of valuation by means of a court-ordered abatement, stipulation agreement, voluntary abatement made by the assessor or auditor or by order of the Minnesota commissioner of revenue; or

(d) change in the classification of property within the TIF District to a classification that has a different class rate.

Each year the County auditor will measure the increase or decrease in the tax capacity of TIF District No. 4-18. Any year which the total tax capacity of the TIF District exceeds the original tax capacity, an increment will be payable to the City. Any year in which the tax capacity is below the adjusted original tax capacity, no tax capacity will be captured and no increment will be payable to the City.

Subsection 2.20. Estimate of Captured Tax Capacity and Tax Increment. The City estimates that the redevelopment will be completed by the end of 2015, creating a total tax capacity for TIF District No. 4-18 of $11,250 as of January 2, 2016. The captured tax capacity as of that date is estimated to be $4,672, and the first full year of tax increment is estimated to be $6,198 payable in 2017. Estimates of captured tax capacity and tax increment are based on these assumptions, as shown in Appendix B.

Pursuant to Section 469.177, Subd. 2 of the TIF Act, it is found and declared that all of the captured tax capacity generated within TIF District No. 4-18 is necessary to finance or otherwise make permissible expenditures authorized by Section 469.176, Subd. 4 of the TIF Act.

Subsection 2.21. Duration of the TIF District. Under Section 469.176, Subd. 1(e) of the TIF Act, the City may receive TIF payments until 25 years from the date of the receipt of the first increment, unless the TIF District is decertified before that time under Section 469.1763, Subd. 4 of the TIF Act.

Subsection 2.22. Estimate of Impact on Other Taxing Jurisdictions. The City believes that, because the development would not have occurred without the tax increment assistance, the TIF District has no impact on other taxing jurisdictions. However, assuming the development would have occurred without tax increment assistance, making the anticipated captured tax capacity available to other jurisdictions, the hypothetical impacts on other jurisdictions are presented in Appendix C.

Pursuant to Section 469.175, Subdivision 2(b) of the TIF Act, the following additional information is provided:

1. The estimated total amount of tax increment that will be generated over the life of the district is $360,995 (with 3% annual market value inflator).
2. The estimated amount of tax increments over the life of the TIF District that would be attributable to school district levies, assuming the school district's share of the total local tax rate for all taxing jurisdictions remained the same, is $68,906.
3. The estimated amount of tax increments over the life of the TIF District that would be attributable to county levies, assuming the county's share of the total local tax rate for all taxing jurisdictions remained the same, is $92,106.
4. The probable impact of the TIF District on police protection is minimal. The proposed development is not expected to require additional police time to protect the new development.
5. The probable impact of the TIF District on fire protection services is not expected to be significant. A new building with new safety systems meeting code requirements is of superior construction and will generate few calls for fire protection.
6. The impact of the TIF District on public works is expected to be minimal. The current infrastructure for sanitary sewer, storm sewer, and water will be able to handle the additional volume generated by the proposed development.
7. The probable impact of borrowing costs is expected to be minimal, if any. It is not anticipated that there will be any general obligation debt issued in relation to this proposed development, therefore there will be no impact on the City's ability to issue future debt or on the City's debt limit.

Subsection 2.23. Annual Financial Report. The City will comply with all reporting requirements under Section 469.175, subds. 5 and 6.

Subsection 2.24. Notification of Prior Planned Improvements. Pursuant to Section 469.177, Subdivision 4 of the TIF Act, the City reviewed its records with regard to the property within TIF District No. 4-18 and found that no building permits were issued during the 18 months immediately preceding approval of the TIF Plan by the City.

Subsection 2.25. Assessment Agreements. Pursuant to Section 469.177, Subdivision 8 of the TIF Act, the City may execute an assessment agreement in recordable form with the developer which establishes a minimum market value of the land and completed improvements for the duration of TIF District No. 4-18. The assessment agreement, if any, shall be presented to the Crow Wing County Assessor who shall review the plans and specifications for the improvements to be constructed, review the market value previously assigned to the land upon which the improvements are to be constructed and so long as the minimum market value contained in the assessment agreement appears in the judgment of the assessor to be a reasonable estimate, the assessor may certify the minimum market value agreement. The assessment agreement shall be filed of record in the office of the county recorder or the registrar of titles of Crow Wing County. Recording or filing of an assessment agreement complying with the terms of Section 469.177, Subd. 8 of the TIF Act shall constitute notice of the agreement to any subsequent purchaser or encumbrance of the land or any part thereof, whether voluntary or involuntary, and shall be binding upon them. It is not anticipated that a minimum market value agreement will be entered into at this time, but the City reserves the right to do so in the future.