

BRAINERD PLANNING COMMISSION

Wednesday, March 17, 2021
6:00 p.m.
City Council Chambers
501 Laurel St.

Members of the public may attend the meeting in-person or monitor the meeting via phone.

Meeting Number: 1-844-992-4726

Access Code: 187 955 0504

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Approval/Change of Agenda
5. Approval of minutes of the regular meeting held on February 17, 2021.
6. OLD BUSINESS
7. NEW BUSINESS
 - A. Variance and Conditional Use Permit – Independent School District #181 has submitted a request for a variance and Conditional Use Permit amendment for Garfield Elementary School located at 1120 10th Ave N.E., Brainerd, MN 56401. The purpose of the Conditional Use Permit amendment is to permit the construction of an addition to the existing gymnasium. The requested variance is from *Section 515-54-7.B Principle Building Setbacks*. The applicant is requesting a reduced side yard setback from 20 feet to 16 feet 5 ¾ inches.
 - B. Consideration of Amending *Section 515-37: Signs* of the Code of Ordinances
8. PUBLIC FORUM – Time allocated for citizens to bring matters not on the agenda to the attention of the Planning Commission – time limits may be imposed.
9. Community Development Director's Report
10. Commissioners' Questions/Comments
11. Adjourn

Any individual needing special accommodations or that desires more information about the above items, please call 218/828-2307.

PLANNING COMMISSION
Wednesday, February 17, 2021

#1 Call to Order

Planning Commission Chair Duval called the meeting of the Brainerd Planning Commission to order at 6:05 p.m. in the City Hall Council Chambers.

#2 Roll Call

Noted present were Commissioners Kallroos, Yeager, Erickson, Duval, and Gorham. Commissioners Foley and Woodward were noted as absent. Community Development Director Chanski and Assistant Planner Kramvik were also noted as present.

#3 Pledge of Allegiance

Commission Chair Duval opened the meeting with the Pledge of Allegiance to the flag.

#4 Approval/Change of Agenda

MOVED AND SECONDED BY COMMISSIONERS YEAGER AND GORHAM, DULY CARRIED, TO APPROVE THE AGENDA.

#5 Approval of Minutes

MOTION AND SECONDED BY COMMISSIONERS GORHAM AND ERICKSON, DULY CARRIED, TO APPROVE THE MINUTES FROM THE JANUARY 20, 2021 MEETING AND THE FEBRUARY 3, 2021 WORKSHOP.

#6 Old Business

None

#7 New Business

7a. Conditional Use Permit – Hy-Tec Construction on behalf of Anderson Brothers Construction to Increase the Permitted Building Height at 11325 State Highway 210, Brainerd

Community Development Director Chanski gave an update of the application submitted for Anderson Brothers Construction at 11325 State Highway 210. The applicant is requesting a conditional use permit to increase the permitted height of the building from the allowed 30 feet to 34 feet in height. He explained one of the reasons is new equipment is being made larger in size and causing it more difficult to store in standard size buildings.

The Chair opened the public hearing at 6:13 p.m.

The Chair recognized Mr. Andy Waletzko, from Hy-Tec Construction who spoke on behalf of Anderson Brothers Construction. He said Community Development Director Chanski gave a good recap of the project and they plan to demolish the old building upon completion of the new structure. He said he will answer questions the Commission may have.

The Chair recognized Tim Ramerth, from Widseth Smith Nolting (WSN), indicated there will be an expansion of the yard area to the north. He said they will also work with Hy-Tec and the City Engineer for a stormwater management system to handle the additional runoff.

The Chair closed the public hearing at 6:18 p.m.

Commission discussion took place regarding landscaping, lighting, and screening.

MOVED AND SECONDED BY COMMISSIONERS GORHAM AND YEAGER, DULY CARRIED, TO APPROVE THE CONDITIONAL USE PERMIT FOR ANDERSON BROTHERS CONSTRUCTION AT 11325 HIGHWAY 210 BASED ON THE FINDINGS OF FACT AS PRESENTED, REMOVAL OF THE OLD BUILDING TAKE PLACE UPON COMPLETION OF THE NEW BUILDING AND TO ENCOURAGE CONTINUOUS LANDSCAPING ON THE SITE.

7b. Interpretation and Administration of Section 515-18: Outdoor Lighting

Community Development Director Chanski explained revisions to Section 515-18 took place in early 2020 regarding the height of light poles, but there are additional concerns to be discussed. He indicated there are some implementation and administration issues with the wording of lights being fully shielded and/or recessed, along with the five-foot above grade at property line.

Commission discussion took place; suggestions and ideas shared.

The Commission determined the ordinance needs to be as specific as possible with less interpretation needed and to reduce the subjectivity of the code. These suggestions will be shared with Swanson Haskamp Consulting during the zoning code revision process.

#8 Public Forum

The Chair opened the public forum at 7:24 p.m.

No one came forward.

The Chair closed the public forum at 7:24 p.m.

#9 Community Development Director's Report

Community Development Director Chanski announced the City Council approved the conditional use permit with conditions for the Sharing Bread Soup Kitchen at their February 1st meeting. He said they also approved the variance request for a reduced front yard setback at 406 Cedar Street for the addition of a covered porch. He thanked the Commission for participating in the workshop on February 3rd and he will be working on next steps with Jennifer Haskamp.

#10 Commissioner's Questions/Comments

Commissioner Erickson indicated MnDOT is currently conducting a Highway 210 Corridor Study for ideas and input, and the Commission's comments about lighting could be suggested. Community Development Director Chanski stated the City has a committee that includes himself and City Engineer Sandy for this project. He will relay this information at the next meeting.

#11 Adjourn – 7:30 p.m.

Michael Duval, Planning Commission Chair

MEMO



TO: Planning Commission

FROM: James Kramvik, Assistant Planner

DATE: March 17, 2021

RE: Variance – 1120 10th Ave NE.

Laine Larson, Superintendent ISD #181, has submitted a request on behalf of Brainerd Public Schools – ISD #181 to apply for a Variance to construct an addition to Garfield Elementary School at 1120 10th Ave NE.

Findings of Fact

1. Garfield Elementary School is located in a R-1 (Single Family Residential) District.
2. The operation of a school in a R-1 District is considered a conditional use per Section [515-54-5.F](#) of the Code of Ordinances.
3. The proposed addition includes a (1,529) square foot extension off the north east side of the building/ gymnasium. The (24.66) foot by (62) foot building extension will add recreational floor space.
4. The principal building setback of the front yard in a R-1 zone is twenty (20) feet per Section 515-54-7 of the Code of Ordinances.
 - a. The east side of the proposed addition along 11th Avenue NE meets the front yard setback requirement. The building will be setback (27) feet (4.5) inches from the east property line.
 - b. The north side of the proposed addition along L Street does not meet the front yard setback requirement. The building will be set back (16) feet (5.75) inches from the north property line.
3. Section [515-7-2](#), Subdivision 3A – Variances shall only be permitted:
 - a. When they are in harmony with the general purposes and intent of the ordinance.
 - i. The purpose of a R-1 (Single Family Residential) District is to “allow and preserve area in the City of quiet neighborhoods of one and two family homes, free from other uses except those which are compatible with residents of such a district.” Staff believes that neighborhood elementary schools within walking distance of residents fits the purpose of the R-1 District.
 - b. When the variances are consistent with the Comprehensive Plan.

- i. Staff believes this variance request is supported by Chapter 1 of the Comprehensive Plan.
 - 1. Policy 1(vii) under goal 1 states, “Strengthen and direct development toward existing neighborhoods.”
 - 2. Policy 2 under Goal 1 states, “Develop complete neighborhoods that meet the needs of all people within a comfortable walking or bicycling distance.”
- 4. Section [515-7-2](#), Subdivision 3B & Subdivision 4 – Variances may be granted when the applicant for the variances establishes that there are practical difficulties in complying with the Zoning Ordinance.
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.
 - i. Schools are a conditional use within R-1 districts.
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - i. Garfield Elementary was constructed in 1955. Since 1955, the size of the community has changed, and the addition to the gymnasium will further allow Garfield Elementary adjust to this growth and serve students in northeast Brainerd for years to come.
 - c. The variance, if granted, will not alter the essential character of the locality.
 - i. The property is currently used as an elementary school and will continue to be used as such.

As of this writing, a number of parties have contacted the Community Development Department with questions about the project, but none have expressed concerns or objections with it.

Staff Opinion

Staff recommends approval of the Variance application. Staff did make recommendations on the amended Conditional Use Permit application.

MEMO



TO: Planning Commission

FROM: James Kramvik, Assistant Planner

DATE: March 17, 2021

RE: CUP – 1120 10th Ave NE.

Laine Larson, Superintendent ISD #181, has submitted a request on behalf of Brainerd Public Schools – ISD #181 to amend the approved Conditional Use Permit to construct an addition to Garfield Elementary School at 1120 10th Ave NE.

Findings of Fact

1. Garfield Elementary School is located in a R-1 (Single Family Residential) District.
2. The operation of a school in a R-1 District is considered a conditional use per Section [515-54-5.F](#) of the Code of Ordinances.
3. The proposed addition includes a (1,529) square foot extension off the north east side of the building/ gymnasium. The (24.66) foot by (62) foot building extension will add recreational floor space.
4. The proposed addition must meet the following criteria as required by the aforementioned section of the Code:
 - a. The site accesses a major collector.
 - b. The site is landscaped in accordance with [Section 20](#) of the Zoning Code.
 - c. Off-street parking is provided in accordance with [Section 22](#) of the Zoning Code
 - d. Off-street loading and service entrances are provided as regulated by [Section 23](#) of the Zoning Code.
 - e. Emergency vehicle access is provided to and within the site.
5. No other elements are changing from the previous Conditional Use Permit approved by City Council on December 2nd 2019.

As of this writing, a number of parties have contacted the Community Development Department with questions about the project, but none have expressed concerns or objections with it.

Staff Opinion

Staff recommends approval of the CUP application with conditions. The planting of at least (2) shade trees of a 2" caliper size between the proposed addition and sidewalk along L Street NE. The tree planting will lessen the visual effects of the proposed building extension in relation to the height and decreased setback.



City Planning Department

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

Receipt # _____
Check # _____
Date Paid: _____

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: 1120 10th Ave NE, Brainerd, MN 56401

LEGAL DESCRIPTION: Lot(s): _____ Block: _____ Addition: See attached Certificate of Survey
(attach description if lengthy)

Property Owner Name: Brainerd Public School - ISD 181

Street Address: 804 Oak Street City: Brainerd State: MN Zip Code 56401

Phone Number: 218-454-6900 Fax: 218-454-6901 E-mail: laine.larson@isd181.org

Applicant Name: (If different than Property Owner) Same as Owner

Street Address: _____ City: _____ State: _____ Zip Code: _____

Phone Number: _____ Fax: _____ E-mail: _____

Description of Request: Garfield Elementary Additions & Renovations Variance Request

Variance request to add an expansion to the existing gymnasium at Garfield Elementary as indicated on the attached construction documents.

Laine D. Larson
Property Owner Signature

03-02-2021
Date

Laine D. Larson
(Please print name)

Laine D. Larson
Applicant Signature

03-02-2021
Date

Laine D. Larson
(Please print name)

(OVER)



City Planning Department

City Hall – 501 Laurel Street

Brainerd, MN 56401

218-828-2309/Fax 218-828-2316

www.ci.brainerd.mn.us

Receipt # _____

Check # _____

Date Paid: _____

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: 1120 10th Ave NE, Brainerd, MN 56401

LEGAL DESCRIPTION: Lot(s): _____ Block: _____ Addition: See attached Certificate of Survey
(attach description if lengthy)

Property Owner Name: Brainerd Public School - ISD 181

Street Address: 804 Oak Street City: Brainerd State: MN Zip Code 56401

Phone Number: 218-454-6900 Fax: 218-454-6901 E-mail: laine.larson@isd181.org

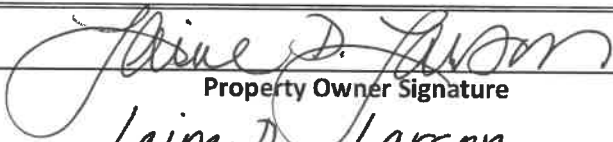
Applicant Name: (If different than Property Owner) Same as Owner

Street Address: _____ City: _____ State: _____ Zip Code: _____

Phone Number: _____ Fax: _____ E-mail: _____

Description of Request: Garfield Elementary Additions & Renovations Amendment Request

Amendment to the existing Conditional Use Permit for the construction of the Garfield Elementary additions and renovation project consisting of; an added addition to the existing gymnasium as indicated on the attached construction documents.


Property Owner Signature

Laine D. Larson
(Please print name)

03-02-2021
Date


Applicant Signature

Laine D. Larson
(Please print name)

03-02-2021
Date

(OVER)

ROOM FINISH SCHEDULE - AREA 'A'												
ROOM NO	ROOM NAME	FLOOR	BASE	PLAN N WALL - TYP		PLAN E WALL		PLAN S WALL		PLAN W WALL		REMARKS
				MATL	FIN	MATL	FIN	MATL	FIN	MATL	FIN	
A100	VESTIBULE	CPT 1	EXIST C TILE	EXIST	EXIST	EXIST	EXIST/ PT 6A/PT 6D	EXIST	EXIST	EXIST	EXIST/ PT 6A/ PT 6D	6
A102	CIRC	VCT 1	EXIST C TILE	EXIST	EXIST	EXIST	EXIST/ PT 6A/PT 6D	EXIST	EXIST	EXIST	EXIST/ PT 6A/ PT 6D	6
A104	CIRC	VCT 1	EXIST C TILE	EXIST/C BLK/ GYP BD	EXIST/C TILE 1.2,3/ PT 6A/PT 6D	EXIST/C BLK/ GLASS	EXIST/C TILE 1.2,3/ PT 6A/PT 6D	EXIST/C BLK/GYP BD	EXIST/C TILE 1.2,3/ PT 6A/PT 6D	EXIST/C BLK/GYP BD GLASS	EXIST/C TILE 1.2,3/ PT 6A/PT 6D	6.10
A105	VEST	CPT 1	EXIST C TILE	BRICK	BRICK	BRICK	BRICK	BRICK	BRICK	BRICK	BRICK	6
A106	KINDERGARTEN	CPT 2/VCT 1	VB	EXIST/GYP BD	PT 6A	GYP BD	PT 6A	GYP BD	PT 6A	GYP BD	PT 6A	7.8
A106B	TOILET	P TILE 1	P TILE 1	EXIST	C TILE 4/PT 6A	GYP BD	C TILE 4	GYP BD	C TILE 4/PT 6A	GYP BD	C TILE 4/PT 6A	2
A107	KINDERGARTEN	CPT 2/VCT 1	VB	C BLK/ GYP BD	PT 6A	C BLK	PT 6A	GYP BD	PT 6C	GYP BD	PT 6A	7.8
A107B	TOILET	P TILE 1	P TILE 1	EXIST	C TILE 4/PT 6A	GYP BD	C TILE 4/PT 6A	GYP BD	C TILE 4/PT 6A	GYP BD	C TILE 4	2
A108	GYMNASIUM	EXIST WD/ C/VE	EXIST C BLK	PT 6A	PT 6A	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	1
A110	GYM OFFICE	VCT 1	VB	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	7.8
A112	MUSIC	CPT 2/VCT 1	VB	EXIST	PT 6C	EXIST	C BLK	PT 6A	GYP BD	GYP BD	PT 6A	1.7,8
A112A	MUSIC STOR	CPT 2	VB	EXIST	PT 6A	GYP BD	PT 6A	EXIST	PT 6A	EXIST	PT 6A	7
A113	VEST	CPT 1	EXIST	EXIST	EXIST	EXIST	EXIST	EXIST	EXIST	EXIST	EXIST	9.12
A114	CIRC	VCT 1	VB	EXIST/C BLK	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	9.12
A115	FLEX	CPT 2	VB	GYP BD	PT 6A	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	7.8
A116	TECH COORD	CPT 2	VB	GYP BD	PT 6A	EXIST	PT 6A	EXIST	PT 6A	BRICK	PT 6A	7.8
A117	CIRC	VCT 1	EXIST C TILE	EXIST	EXIST	EXIST	PT 6A/PT 6D	EXIST	EXIST	EXIST	PT 6A/PT 6D	6.9,10
A118	CIRC	VCT 1	EXIST C TILE	EXIST	EXIST	EXIST/GYP BD	EXIST/C TILE 1.2,3/ PT 6A/PT 6D	EXIST	EXIST	EXIST/C BLK	EXIST/C TILE 1.2,3/ PT 6A/PT 6D	6.10
A121	KINDERGARTEN	CPT 2/VCT 1	VB	EXIST/GYP BD	PT 6C	EXIST/GYP BD	PT 6A	EXIST	PT 6A	GYP BD	PT 6A	7.8
A121B	STOR	VCT 1	VB	EXIST	PT 6A	GYP BD	PT 6A	GYP BD	PT 6A	EXIST	PT 6A	7.8
A122	SPED	CPT 3	VB	EXIST/GYP BD	PT 6A	GYP BD	PT 6A	GYP BD	PT 6A	EXIST	PT 6A	7.8
A123	SPED	CPT 3	VB	GYP BD	PT 6A	GYP BD	PT 6A	EXIST	PT 6A	EXIST/GYP BD	PT 6A	7.8
A124	STORAGE	VCT 1	VB	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	7.8
A125	WASH	EXIST	EXIST	EXIST	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	6
A126A	WASH	EXIST	EXIST	EXIST	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	EXIST	PT 6A/PT 6D	6
A128	SPEECH	CPT 2	VB	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	7.8
A129	CIRC	VCT 1	EXIST C TILE	EXIST	EXIST/ PT 6A/ PT 6D	---	---	EXIST	EXIST/ PT 6A/ PT 6D	---	---	6.10
A130	LEVEL II SPED	CPT 3/VCT 1	VB	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	7.8
A130A	TOILET	P TILE 1	P TILE 1	EXIST	C TILE 4/PT 6A	EXIST	C TILE 4/ PT 6A	EXIST	C TILE 4/PT 6A	EXIST	C TILE 4	2
A131	4TH GRADE	CPT 2/VCT 1	VB	EXIST	PT 6C	EXIST	PT 6C	EXIST	PT 6A	EXIST	PT 6A	8
A132	4TH GRADE	CPT 2/VCT 1	VB	EXIST	PT 6C	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	8
A133	4TH GRADE	CPT 2/VCT 1	VB	EXIST	PT 6C	EXIST	PT 6A	EXIST	PT 6A	EXIST	PT 6A	8

DOOR / OPENING SCHEDULE - AREA 'A'															
DOOR NO	TYPE	QTY	DOOR / OPENING		LABEL	RATING	OVERALL WIDTH	FRAME			MOUNTING CONDITIONS			HDW GRP	REMARKS
			WIDTH	HEIGHT				TYPE	DEPTH	MATL.	GL.	HEAD	JAMB		
A100A	EXIST	1	3'-0"	7'-0"	AL	--	3'-0"	EXIST	--	AL	--	--	--	--	46
A100B	EXIST	1	3'-0"	7'-0"	AL	--	3'-0"	EXIST	--	AL	--	--	--	--	45
A101A	EXIST	1	3'-0"	7'-0"	HM	--	3'-4"	EXIST	--	HM	--	--	--	--	49
A101B	F	1	3'-0"	7'-0"	WD	90	3'-4"	FR 1A	--	HM	--	--	--	--	50
A105A	FG2	1	3'-0"	7'-0"	AL	--	3'-0"	CW4	--	AL	--	SEE ELEV	SEE ELEV	--	01
A105B	FG2	1	3'-0"	7'-0"	AL	--	3'-0"	CW4	--	AL	--	SEE ELEV	SEE ELEV	--	08
A105C	FG2	1	3'-0"	7'-0"	AL	--	3'-0"	SF3	--	AL	--	SEE ELEV	SEE ELEV	--	08
A105D	FG2	1	3'-0"	7'-0"	AL	--	3'-0"	SF3	--	AL	--	SEE ELEV	SEE ELEV	--	06
A106	F	1	3'-0"	7'-0"	WD	--	4'-9"	FR 2A	--	HM	--	F1/A4.801	F3/A4.801	B3/A4.801	36
A106A	N	1	3'-0"	7'-0"	WD	4-9"	3'-4"	FR 1A	--	HM	--	C1/A4.801	F3/A4.801	--	34
A106B	F	1	3'-0"	7'-0"	WD	--	3'-4"	FR 1	--	HM	--	F1/A4.801	F3/A4.801	--	11
A107	F	1	3'-0"	7'-0"	WD	--	4'-9"	FR 2A	--	HM	--	F1/A4.801	F3/A4.801	B3/A4.801	36
A107A	F	1	3'-0"	7'-0"	WD	--	4'-9"	FR 1	--	HM	--	F1/A4.801	F3/A4.801	--	36
A107B	F	1	3'-0"	7'-0"	WD	--	3'-4"	FR 1	--	HM	--	F1/A4.801	F3/A4.801	--	11
A108	N	2	3'-2"	7'-0"	WD	--	6'-8"	FR 1A	--	HM	--	E1/A4.801	C4/A4.801	--	38
A112	F	1	3'-0"	7'-0"	WD	--	5'-0"	FR 2A	--	HM	--	F1/A4.801	B6/A4.801	C3/A4.801	25
A112A	N	2	3'-2"	7'-0"	WD	--	6'-8"	FR 1	--	HM	--	E4/A4.801	C6/A4.801	--	37
A113A	FG2	1	3'-0"	7'-0"	AL	--	3'-0"	CW7	--	AL	--	--	--	--	48
A113B	FG2	1	3'-0"	7'-0"	AL	--	3'-0"	CW7	--	AL	--	--	--	--	02
A113C	FG2	1	3'-0"	7'-0"	AL	--	3'-0"	SF6	--	AL	--	--	--	--	42
A113D	FG2	1	3'-0"	7'-0"	AL	--	3'-0"	SF6	--	AL	--	--	--	--	24
A115	N	1	3'-0"	7'-0"	WD	--	3'-4"	FR 1	--	HM	--	F4/A4.801	B6/A4.801	--	24
A116	G 	1	3'-0"	7'-0"	WD	--	3'-4"	FR 1B	--	HM	--	C1/A4.801	E3/A4.801	--	22
A121	F	1	3'-0"	7'-0"	WD	--	5'-0"	FR 2A	--	HM	--	F1/A4.801	F3/A4.801	B3/A4.801	36
A121A	F	1	3'-0"	7'-0"	WD	--	5'-0"	FR 2A	--	HM	--	F1/A4.801	F3/A4.801	B3/A4.801	34
A121B	F	1	3'-0"	7'-0"	WD	--	3'-4"	FR 1	--	HM	--	F1/A4.801	F3/A4.801	--	34
A122	N	1	3'-0"	7'-0"	WD	--	3'-4"	FR 1A	--	HM	--	F1/A4.801	B6/A4.801	--	24
A123	N	1	3'-0"	7'-0"	WD	--	3'-4"	FR 1A	--	HM	--	F4/A4.801	F6/A4.801	--	24
A130	EXIST	1	3'-0"	7'-0"	WD	--	3'-4"	EXIST	--	HM	--	--	--	--	39

DOOR SCHEDULE GENERAL NOTES

- ALL DOORS ARE 1 3/4" THICK UNLESS OTHERWISE NOTED.
- FOR FRAME DEPTH, ONLY EXCEPTIONS TO THE FOLLOWING TABLE ARE SCHEDULED:
 - GYPSUM BOARD PARTITIONS: THROAT OF FRAME TO MATCH WALL THICKNESS.
 - MASONRY PARTITIONS:
 - 4" WALL: 5 3/4" FRAME
 - 6" WALL: 5 3/4" FRAME
 - 8" AND GREATER WALL: 7 3/4" FRAME
- FOR GLASS TYPES, ONLY EXCEPTIONS TO THE FOLLOWING TABLE ARE SCHEDULED:
 - INTERIOR NON-RATED:
 - CLEAR SAFETY WHEN REQUIRED BY TABLE IN GLAZING SPECIFICATION.
 - INTERIOR AND EXTERIOR RATED.
 - FIRE RATED:
 - EXTERIOR NON-RATED:
 - CLEAR INSULATED (SAFETY INSULATED WHEN REQUIRED BY TABLE IN GLAZING SPECIFICATION).
- SEE SHEET A0.701 FOR FRAME TYPES.
- SEE SHEET A0.701 FOR DOOR TYPES.
- AT DOOR SCHEDULE, LABEL DESIGNATION '45/20' INDICATES:
 - FOR ALL OPENINGS WITH SIDE LITES AND SCHEDULED TO BE RATED FOR 20 MINUTES, THE DOOR AND ANY GLASS WITHIN THE DOOR IS TO BE RATED FOR 20 MINUTES; THE FRAME AND ADJACENT SIDELITES (S) GLASS AND FRAME IS TO BE RATED FOR 45 MINUTES.

ROOM FINISH SCHEDULE GENERAL NOTES

- SEE DETAILS OF CONSTRUCTION FOR ABBREVIATIONS.
- IF ALL WALLS IN ROOM HAVE THE SAME FINISH, THE "N WALL-TYP" COLUMN WILL BE USED.
- DISCREPANCIES BETWEEN THE ROOM FINISH SCHEDULE AND DRAWINGS SHALL BE REPORTED TO THE ARCHITECT FOR FINISH DETERMINATION.
- ON WALLS WHICH ARE COVERED WITH MILLWORK AND TACK SURFACES, A FINISH SHALL NOT BE APPLIED TO THE WALL BEHIND EXCEPT FOR LOCATIONS WHICH MAY BE EXPOSED (I.E. SPACE BETWEEN MILLWORK AND TACK SURFACE). CONCRETE BLOCK BEHIND MILLWORK AND MARKERBOARDS TO BE TOOLED.
- REFER TO MATERIAL FINISH / COLOR SCHEDULE FOR SPECIFIC FINISH TYPES AND COLORS.
- FOR CEILING MATERIAL WHEN MORE THAN ONE CEILING MATERIAL OCCURS THE CEILING FINISH IS INDICATED THUS: "1".
- PANT ALL EXISTING HM FRAMES PT 4B.

ROOM FINISH SCHEDULE REMARKS

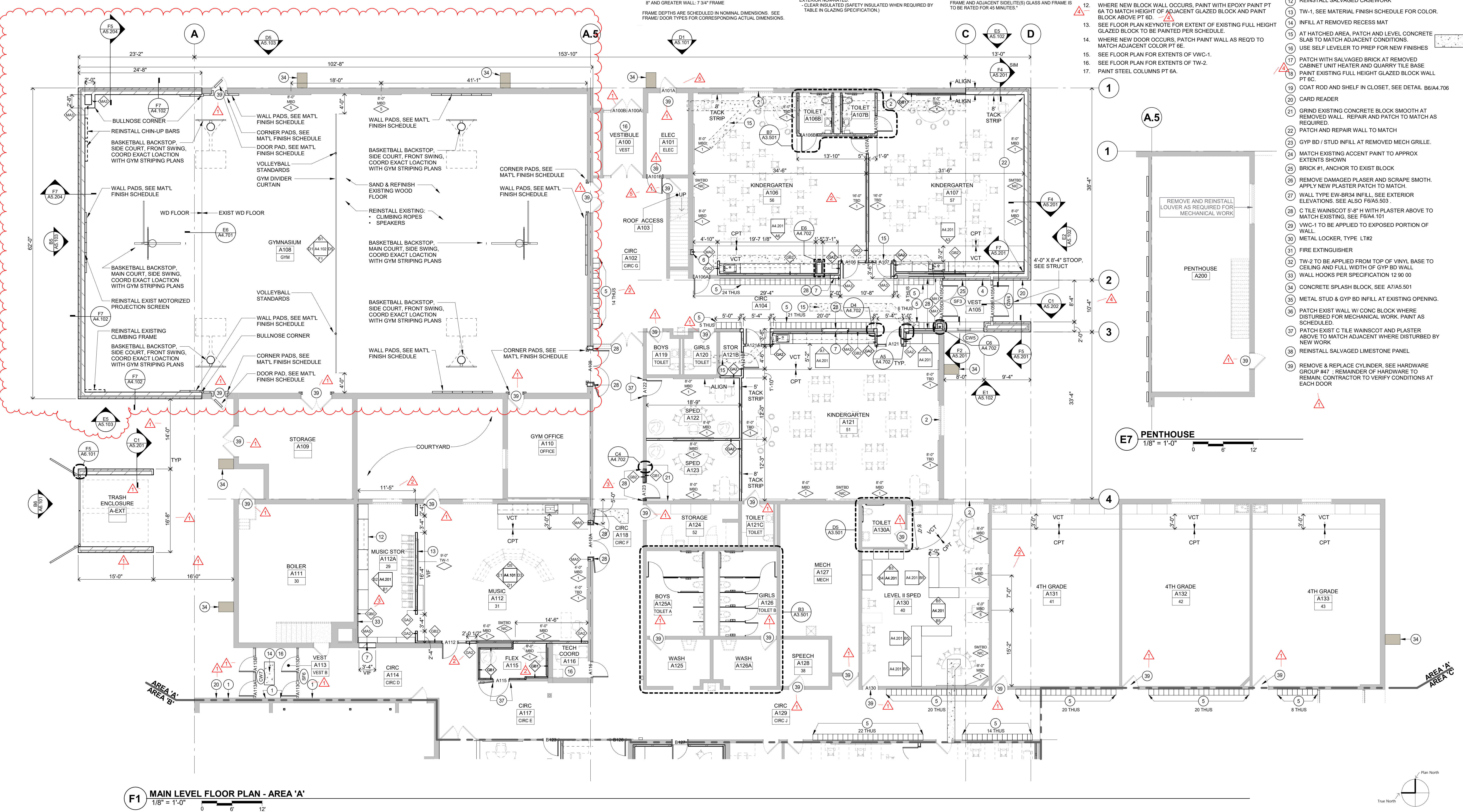
- SEE INTERIOR ELEVATIONS FOR LOCATIONS OF GLAZED BLOCK, PAINTED BLOCK, BRICK, SOUND BLOCK, VWC AND PAINT.
- PROVIDE CERAMIC TILE FULL HEIGHT ON PLUMBING WALLS AND 4'-6" ON REMAINING WALLS WITH EPOXY PAINT ABOVE. SEE DETAIL F4/A4.101 FOR TILE PATTERN INFORMATION.
- PAINT EXISTING GLAZED BLOCK, PT 6A AND EXISTING C BLOCK ABOVE PT 6D.
- PROVIDE GYPSUM BOARD SOFFIT ABOVE CASEWORK. (SEE CASEWORK ELEVATIONS AND REFLECTED CEILING PLANS.)
- SEE A3.801 STAIR DETAILS, ELEVATIONS, AND SECTIONS FOR FINISH MATERIALS.
- AT EXISTING WALL, PAINT C TILE ACCENT STRIP PT 6A AND PAINT WALL ABOVE PT 6D. PATCH TO MATCH EXISTING C TILE WAINSCOT AND BASE WHERE DISTURBED BY NEW WORK. SEE F6/A4.101
- PROVIDE VINYL BASE AT CASEWORK.
- SEE FLOOR PLAN FOR FLOOR PATTERN EXTENTS.
- PAINT EXISTING GLAZED BLOCK, PT 6A AND EXISTING PLASTER ABOVE PT 6D.
- AT NEW WORK PROVIDE CERAMIC TILE WAINSCOTT WITH PAINT ABOVE TO MATCH EXISTING. SEE DETAIL F6/A4.101
- PAINT FULL HEIGHT EXISTING GLAZED BLOCK WALL PT 6A.
- WHERE NEW BLOCK WALL OCCURS, PAINT WITH EPOXY PAINT PT 6A TO MATCH HEIGHT OF ADJACENT GLAZED BLOCK AND PAINT BLOCK ABOVE PT 6D.
- SEE FLOOR PLAN KEYNOTE FOR EXTENT OF EXISTING FULL HEIGHT GLAZED BLOCK TO BE PAINTED PER SCHEDULE.
- WHERE NEW DOOR OCCURS, PATCH PAINT WALL AS REQ'D TO MATCH ADJACENT COLOR PT 6E.
- SEE FLOOR PLAN FOR EXTENTS OF VWC-1.
- SEE FLOOR PLAN FOR EXTENTS OF TW-2.
- PAINT STEEL COLUMNS PT 6A.

FLOOR PLAN GENERAL NOTES

- ALL PLAN DIMENSIONS ARE NOMINAL TO FACE OF WALL. WALL THICKNESSES ARE SHOWN NOMINAL. SEE WALL TYPES FOR ACTUAL THICKNESS.
- ALL GYP. WALLS ARE TO BE 5 INCHES THICK UNLESS OTHERWISE NOTED.
- ALL CONCRETE BLOCK WALLS ARE TO BE 8 INCHES THICK UNLESS OTHERWISE NOTED.
- COORDINATE SIZE AND LOCATION OF ALL DUCT AND SHAFT OPENINGS IN WALLS AND FLOORS W/ MECH. AND ELEC. PROVIDE ALL REQUIRED LINTELS FOR OPENINGS. SEE LINTEL SCHEDULE.
- FIELD VERIFY ALL MILLWORK OPENINGS.
- SET GYP. DRAINS 3/4" BELOW FINISHED CONCRETE FLOORS UNLESS OTHERWISE NOTED. PROVIDE CONSISTENT SLOPE FROM WALL TO DRAIN BY SLOPING CONCRETE, MIN. 1/4" PER FOOT.
- VERIFY LOCATION, SIZE AND QUANTITY OF ALL MECHANICAL AND ELECTRICAL EQUIPMENT PADS.
- ALL DOORS/SLIDE OPENINGS TO BEGIN 4" FROM ADJACENT WALL UNLESS OTHERWISE NOTED.
- ALL GYP. WALLS ARE CENTERED ON GRID UNLESS OTHERWISE NOTED.
- FIRE RATED WALLS ARE INDICATED ON CODE PLANS.

FLOOR PLAN KEY NOTES:

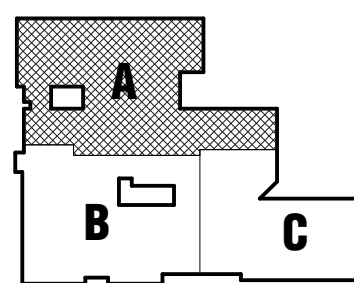
- DOOR ACTUATOR. SEE DETAIL E7/A0.201
- MANUAL ROLLER SHADE
- EMERGENCY EYE WASH. SEE MECH.
- CABINET UNIT HEATER. SEE DETAIL E6/A4.701. SEE MECH. FOR SPECIFICATIONS, COORDINATE LOCATION WITH MECH.
- METAL LOCKER TYPE LTH1
- C BLOCK INFILL AT REMOVED FC CABINET / MECH GRILLE / PASS THRU WINDOW
- C BLOCK INFILL AT EXISTING OPENING
- C BLOCK INFILL AT REMOVED GLAZED BLOCK; TO 7'-2" AFF.
- WALL PADS. SEE INTERIOR ELEVATIONS
- CORNER PADS. SEE INTERIOR ELEVATIONS
- WALL MOUNTED TELEVISION PROVIDED BY OWNER
- REINSTALL SALVAGED CASEWORK
- TW-1. SEE MATERIAL FINISH SCHEDULE FOR COLOR.
- INFILL AT REMOVED RECESS MAT
- AT HATCHED AREA, PATCH AND LEVEL CONCRETE SLAB TO MATCH ADJACENT CONDITIONS
- USE SELF LEVELER TO PREP FOR NEW FINISHES
- PATCH WITH SALVAGED BRICK AT REMOVED CABINET UNIT HEATER AND QUARRY TILE BASE
- PAINT EXISTING FULL HEIGHT GLAZED BLOCK WALL PT 6C.
- COAT ROD AND SHELF IN CLOSET. SEE DETAIL B6/A4.706
- CARD READER
- GRIND EXISTING CONCRETE BLOCK SMOOTH AT REMOVED WALL. REPAIR AND PATCH TO MATCH AS REQUIRED
- PATCH AND REPAIR WALL TO MATCH
- GYP BD / STUD INFILL AT REMOVED MECH GRILLE.
- MATCH EXISTING ACENT PAINT TO APPROX EXTENTS SHOWN
- BRICK #1. ANCHOR TO EXIST BLOCK
- REMOVE DAMAGED PLASTER AND SCRAPE SMOOTH. APPLY NEW PLASTER PATCH TO MATCH.
- WALL TYPE EV-BK34 INFILL. SEE EXTERIOR ELEVATIONS. SEE ALSO F6/A4.503.
- C TILE WAINSCOT 5'-6" H WITH PLASTER ABOVE TO MATCH EXISTING. SEE F6/A4.101
- VWC-1 TO BE APPLIED TO EXPOSED PORTION OF WALL.
- METAL LOCKER, TYPE LTH2
- FIRE EXTINGUISHER
- TW-2 TO BE APPLIED FROM TOP OF VINYL BASE TO CEILING AND FULL WIDTH OF GYP BD WALL
- WALL HOOKS PER SPECIFICATION 12.90.00
- CONCRETE SPLASH BLOCK. SEE A7/A5.501
- METAL STUD & GYP BD INFILL AT EXISTING OPENING.
- PATCH EXIST WALL W/ CONC BLOCK WHERE DISTURBED FOR MECHANICAL WORK. PAINT AS SCHEDULED.
- PATCH EXIST C TILE WAINSCOT AND PLASTER ABOVE TO MATCH ADJACENT WHERE DISTURBED BY NEW WORK
- REINSTALL SALVAGED LIMESTONE PANEL
- REMOVE & REPLACE CYLINDER. SEE HARDWARE GROUP #47. REMAINDER OF HARDWARE TO REMAIN; CONTRACTOR TO VERIFY CONDITIONS AT EACH DOOR



Project Name:



**GARFIELD
ELEMENTARY
SCHOOL
ADDITIONS &
RENOVATIONS**



KEY PLAN

Project Location:
1120 NE 10th Avenue
Brainerd, MN 56401

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Revisions			
Description	Date	Num	1
ADD #1	12-05-2019	1	
ASR003	6-4-2020	2	
PR0011	7-2-2020	3	
PR0012	7-6-2020	4	
PR0020	10-12-2020	5	
PR0022	01-28-2021	6	

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

Signature: *[Signature]*
 Printed Name: Vaughn Dierks
 Date: 11/18/2019 Reg. No. 26979

Project Information:

Project No.: 192065
 Drawn By: LH
 Checked By: SK
 Date: 11/18/2019
 File Name:

Sheet Title:

MAIN LEVEL FLOOR PLAN - AREA 'A'

Sheet Number:

A1.01a

GENERAL SITE PLAN NOTES

- CONTRACTOR SHALL CALL GOPHER STATE ONE CALL PRIOR TO BEGINNING REMOVALS.
- THE CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS PRIOR TO CONSTRUCTION AND NOTIFY OWNER AND ENGINEER OF ANY DIFFERENCES BETWEEN THE FIELD AND PLAN.
- CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING AND MAINTAINING TRAFFIC CONTROL AND SHALL BE IN COMPLIANCE WITH THE MINNESOTA UNIFORM TRAFFIC CONTROL DEVICES MANUAL AND TEMPORARY TRAFFIC CONTROL ZONE LAYOUTS FIELD MANUAL. THE TRAFFIC CONTROL SHALL BE APPROVED BY THE CITY PRIOR TO INSTALLATION.
- THE CONTRACTOR SHALL RECEIVE THE NECESSARY PERMISSION/PERMITS FOR ALL WORK LOCATED OUTSIDE OF THE MUNICIPAL RIGHT-OF-WAY AND PROPERTY LIMITS.
- ALL CURB TO MEET MINNESOTA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS FOR A TYPE "B618 CURB & GUTTER", UNLESS PLANS ARE MARKED OTHERWISE.
- ALL DIMENSIONS ARE TO BACK OF CURB UNLESS OTHERWISE NOTED.

Project Name:



GARFIELD ELEMENTARY ADDITION & REMODEL

Project Location:
1120 NE 10TH AVENUE
BRainerd, MN

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MARK	DATE	REVISION
△	12/05/19	ADDENDA #1
△	04/06/20	ASI #1
△	05/01/20	PR #5
△	07/16/20	CSI #01
△	01/28/21	PR #22

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Engineer under the State of Minnesota.

Signature: *Timothy T. Ramerth*
Printed Name: TIMOTHY T. RAMERTH
Date: 11/18/2019 Reg. No.: 41966

Project Information:

Project No.: 028180083.080
Drawn By: ERY
Checked By: TTR
Date: NOV. 2019
File Name:

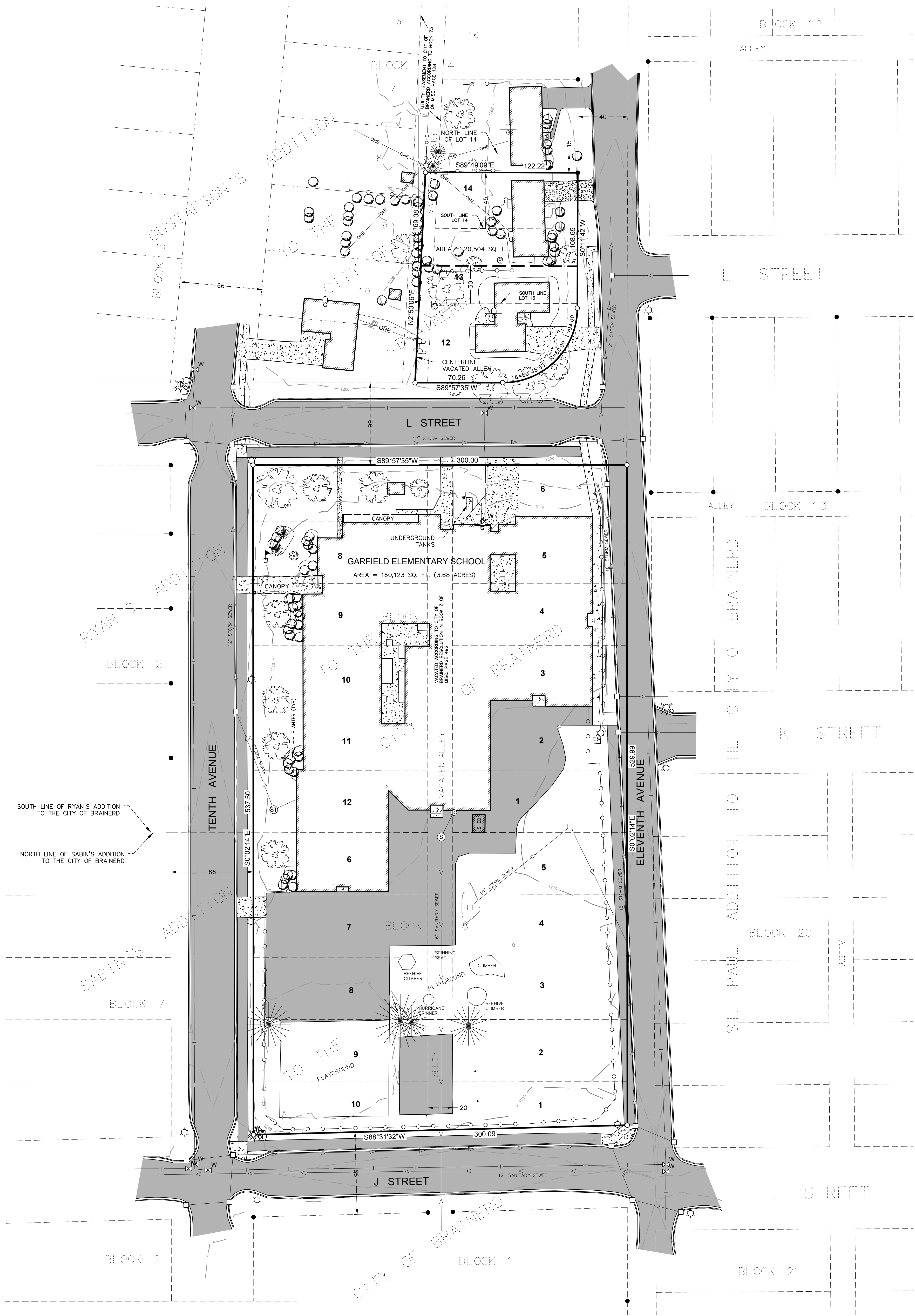
Sheet Title:
SITE PLAN

Sheet Number:

C5.01

CERTIFICATE OF SURVEY

BLOCK 8, SABIN'S ADDITION TO THE CITY OF BRAINERD,
BLOCK 1, RYAN'S ADDITION TO THE CITY OF BRAINERD AND
PART OF BLOCK 4, GUSTAFSON'S ADDITION TO THE CITY OF BRAINERD,
SECTION 19, TOWNSHIP 45, RANGE 30, CROW WING COUNTY, MINNESOTA



LEGAL DESCRIPTIONS FOR GARFIELD ELEMENTARY SCHOOL

Document No. 917558
Lot 12 and the South 30 feet of Lot 13, Block 4, Gustafson's Addition to the City of Brainerd, together with the vacated alley adjacent and accruing thereto, Crow Wing County, Minnesota.

Document No. 917572
The South 45 feet of Lot 14, and Lot 13, EXCEPT the South 30 feet thereof, Block 4, Gustafson's Addition to the City of Brainerd, and the East 1/2 of adjacent vacated alley, Crow Wing County, Minnesota.

Book 114 of Deeds, Page 481
Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11) and Twelve (12), Block One (1), Ryan's Addition to the City of Brainerd and Lots Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8), Block Eight (8), Sabin's Addition to the City of Brainerd, Crow Wing County, Minnesota.

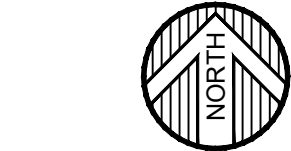
State Deed No. 179502 recorded as Document No. 456783
Sabin's Addition to the City of Brainerd Lot One (1) Block Eight (8).

Document No. 452985
Lot Two (2), Block Eight (8), Sabin's Addition to the City of Brainerd.

Document No. 452423
That part of the Southwest Quarter of the Northeast Quarter (SW1/4 of NE1/4) of Section Nineteen (19) in Township Forty-five (45) North, Range Thirty (30) West, described as follows, to-wit: - commencing at the Northwest corner of said SW1/4 of NE1/4 and running thence East along the North line thereof for a distance of 1037.94 feet; thence South for a distance of 478.06 feet to an iron pipe monument as the place of beginning of the tract hereby conveyed; thence South for a distance of 50 feet; thence East for a distance of 140 feet; thence North for a distance of 50 feet and thence West for a distance of 140 feet to the place of beginning, said tract being commonly known as Lot 9 of Block 8 of Sabin's Addition to the City of Brainerd, subject, however, to certain building reservations and restrictions of record.

Document No. 448140
That part of the SW1/4NE1/4 of Section 19, Township 45 North, Range 30 West, described as follows, to wit: Commencing at the Northwest corner of said SW1/4 of NE1/4 and thence East along the North line thereof for a distance of 1037.94 feet, thence South for a distance of 570.5 feet to the place of beginning of the tract hereby conveyed; thence North 42.44 feet, thence East for 140 feet; thence South for 38.39 feet; thence Westerly for 140.4 feet to the place of beginning, said tract being commonly known as Lot 10 of Block 8 of Sabin's Addition to the City of Brainerd, subject, however, to certain building reservations and restrictions of record.

- OHE — OHE — DENOTES OVERHEAD ELECTRIC
- DENOTES LIGHT POLE
- DENOTES POWER POLE
- DENOTES SANITARY SEWER MANHOLE
- DENOTES UNDERGROUND SANITARY SEWER
- DENOTES STORM SEWER MANHOLE
- DENOTES UNDERGROUND STORM SEWER
- DENOTES STORM SEWER CATCH BASIN
- DENOTES GAS MAIN
- DENOTES TELEPHONE PEDESTAL
- DENOTES WATER VALVE
- DENOTES WATER HYDRANT
- DENOTES UNDERGROUND WATER MAIN
- DENOTES DECIDUOUS TREE
- DENOTES CONIFEROUS TREE
- DENOTES SHRUB
- DENOTES FLAG POLE
- DENOTES CONCRETE SURFACE
- DENOTES BITUMINOUS SURFACE
- DENOTES CHAIN LINK FENCE



0 40 80
SCALE (IN FEET)

ORIENTATION OF THIS BEARING SYSTEM
IS BASED ON THE CROW WING COUNTY
COORDINATE DATABASE NAD 83

ELEVATIONS ARE BASED ON THE NORTH
AMERICAN VERTICAL DATUM OF 1988
BENCHMARK IS THE TOP NUT OF THE
HYDRANT AT THE INTERSECTION OF K ST.
NE AND 11TH AVENUE
ELEVATION = 1212.15

- = DENOTES FOUND IRON MONUMENT
- = DENOTES 12 INCH DIAMETER BY 18 INCH LONG IRON
PIPE MONUMENT SET AND MARKED PLUS # 41663

SURVEYOR'S NOTES:

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE COMMITMENT OR OPINION. THERE MAY BE EASEMENTS OR OTHER LIMITING FACTORS NOT SHOWN ON THIS SURVEY WHICH AFFECT THE SUBJECT PROPERTY.

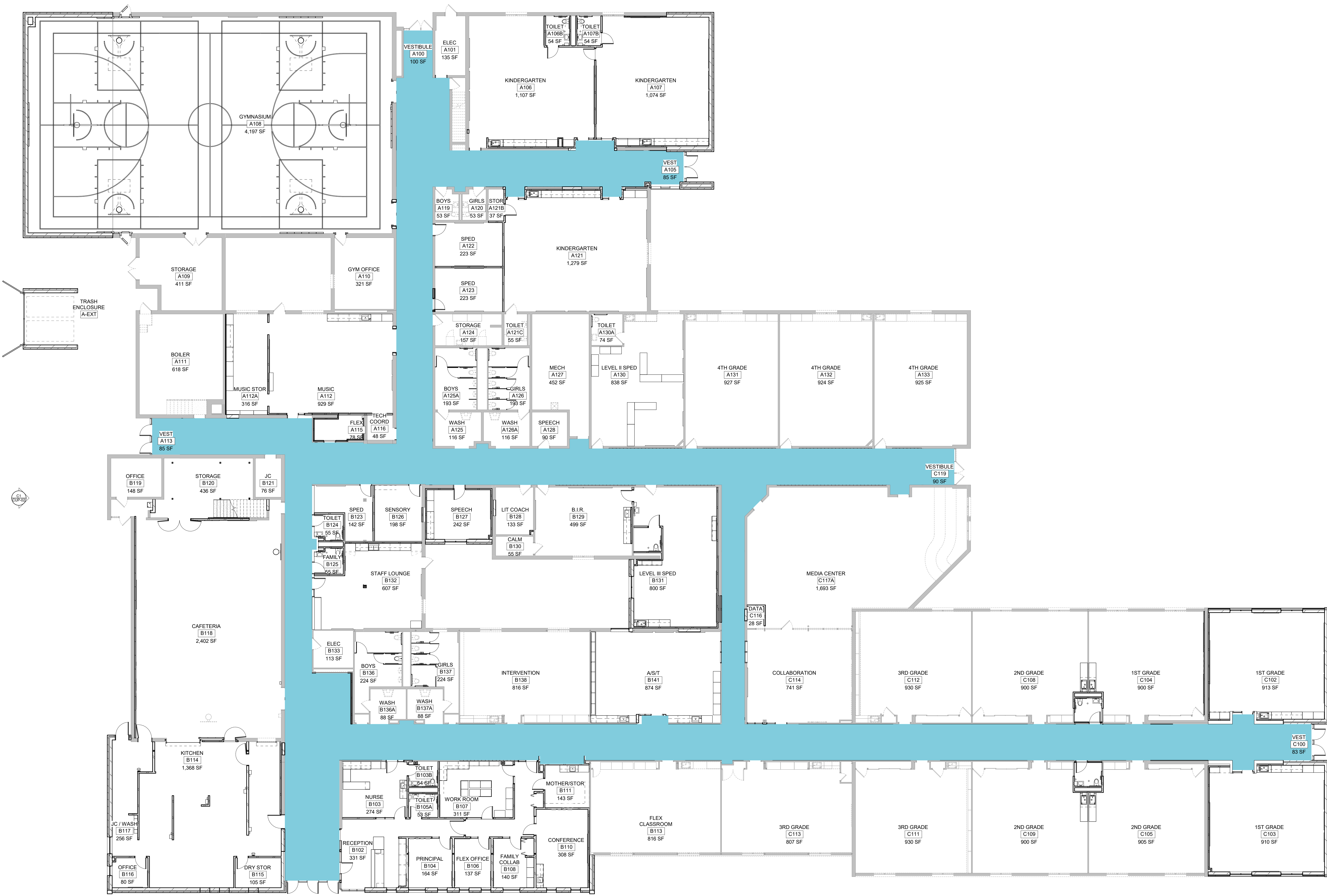
THE UTILITIES SHOWN ON THIS SURVEY ARE ACCORDING TO VISIBLE EVIDENCE ONLY. WIDSETH SMITH NOLTING ASSUMES NO RESPONSIBILITY FOR THE COMPLETENESS AND ACCURACIES OF THE LOCATIONS. FURTHER LOCATIONS AND VERIFICATIONS ARE RECOMMENDED BEFORE ANY CONSTRUCTION OR EXCAVATION.

WIDSETH SMITH NOLTING
Engineering | Architecture | Surveying | Environmental



PREPARED FOR: INDEPENDENT SCHOOL DISTRICT NO. 481
DATE: 10-22-2019
BY: CHAD M. CONNER
DATE: 10-22-2019
L.C. NO. 41643

DATE	AS SHOWN	DATE	AS SHOWN
10-21-19	AS SHOWN	10-21-19	AS SHOWN
DRAWN BY: CMC	CHECKED BY: CMC	DRAWN BY: CMC	CHECKED BY: CMC
FILE NUMBER: 28180083.082		FILE NUMBER: 28180083.082	



F1 MAIN LEVEL FLOOR PLAN
3/32" = 1'-0"
0 5' 10'

CONDITIONAL USE PERMIT
NOT FOR CONSTRUCTION

Project Name:



**GARFIELD
ELEMENTARY
SCHOOL
GYM ADDITION**

Project Location:
1120 NE 10th Avenue
Brainerd, MN 56401

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Revisions		
Description	Date	Num

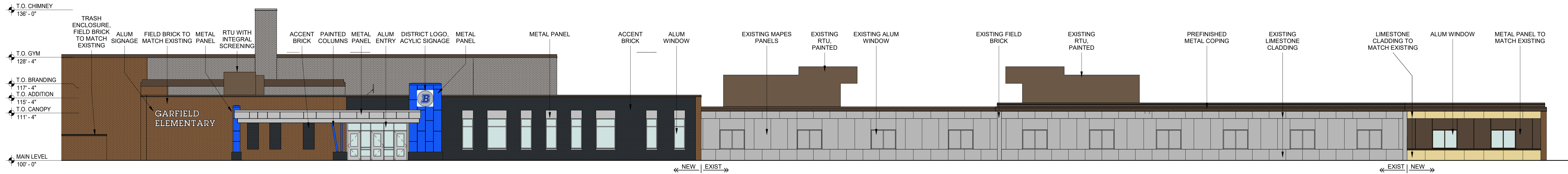
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Licensed Architect under the laws of the State of Minnesota.

Signature: _____
Printed Name: _____
Date: _____ Reg. No.: _____

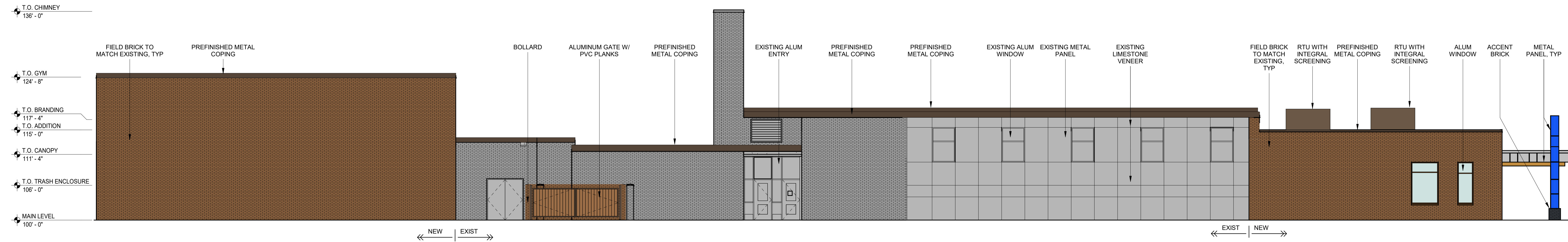
Project Information:
Project No. : 192065
Drawn By : RG
Checked By : SK
Date : 01.28.2021
File Name:

Sheet Title:
MAIN LEVEL PLAN

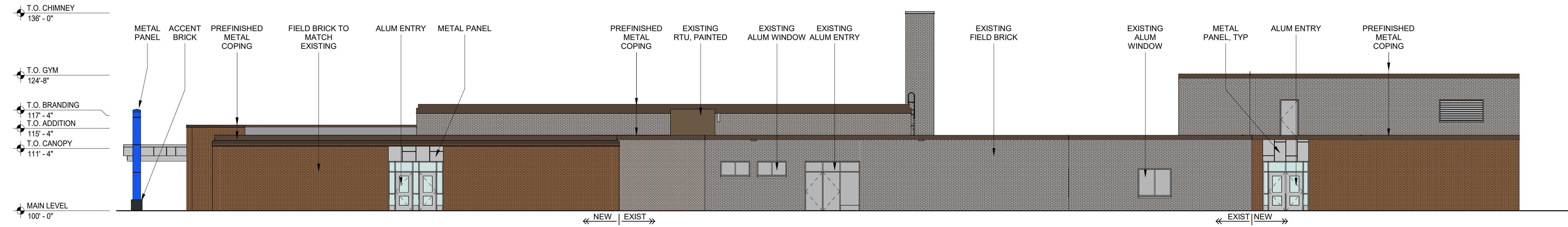
Sheet Number:
CUP-01



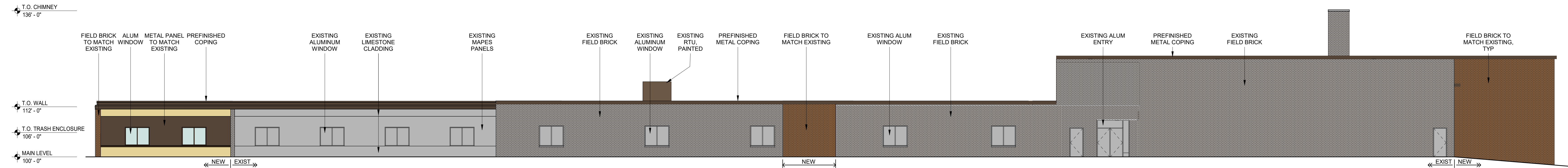
B1 WEST ELEVATION - OVERALL
3/32" = 1'-0"



C1 NORTH ELEVATION - OVERALL
1/8" = 1'-0"



E1 SOUTH ELEVATION - OVERALL
3/32" = 1'-0"



F1 EAST ELEVATION - OVERALL
3/32" = 1'-0"

CONDITIONAL USE PERMIT
NOT FOR CONSTRUCTION

Project Name:



GARFIELD
ELEMENTARY
SCHOOL
GYM ADDITION

Project Location:
1120 NE 10th Avenue
Brainerd, MN 56401

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Revisions		
Description	Date	Num

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Signature: _____
Printed Name: _____
Date: _____ Reg. No.: _____

Project Information:
Project No. : 192065
Drawn By : RG
Checked By : SK
Date : 01.28.2021
File Name:

Sheet Title:
EXTERIOR ELEVATIONS

Sheet Number:
CUP-02

Revisions		
Description	Date	Num

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Signature: _____
Printed Name: _____
Date: _____ Reg. No.: _____

Project Information:

Project No. : 192065

Drawn By : Author

Checked By : Checker

Date : 01.28.2021

File Name:

Sheet Title:

EXTERIOR MATERIALS

Sheet Number:

CUP-03



DISTRICT LOGO

- THREE COLORS

ACCENT BRICK

- COLOR: DARK IRONSPOT VELOUR
- SIZE: NORMAN
- TEXTURE: WIRECUT
- COURSING: 1/3 COMMON BOND



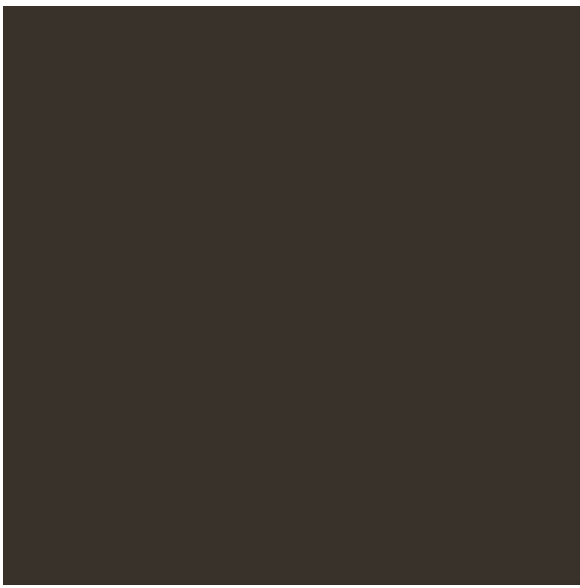
LIMESTONE VENEER TO MATCH EXISTING

- COLOR: NORTHERN BUFF
- CUT: FLEURI
- FINISH: HONED



METAL PANELS & COPING TO MATCH EXISTING

- COLOR: DARK BRONZE



FIELD BRICK TO MATCH EXISTING

- COLOR: 70% MOJAVE VELOUR; 30% LT IRONSPOT VELOUR
- SIZE: NORMAN
- TEXTURE: WIRECUT
- COURSING: 1/3 COMMON BOND



PANTONE®
286 C

DISTRICT BRANDING 'BLUE'

- COLOR: PANTONE 286C
- METAL PANELS & LOGO SIGNAGE



ACCENT METAL PANELS

- COLOR: CLEAR ALUMINUM

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Independent School District #181 has submitted a request for a variance and Conditional Use Permit amendment for Garfield Elementary School located at 1120 10th Ave N.E., Brainerd, MN 56401. The purpose of the Conditional Use Permit amendment is to permit the construction of an addition to the existing gymnasium. The requested variance is from *Section 515-54-7.B Principle Building Setbacks*. The applicant is requesting a reduced side yard setback from 20 feet to 16 feet 5 ¾ inches. The property is legally described as:

Lot 12 and the South 30 feet of Lot 13, Block 4, GUSTAFSON'S ADDITION TO THE CITY OF BRAINERD, together with the vacated alley adjacent and accruing thereto

The South 45 feet of Lot 14, and Lot 13, EXCEPT the South 30 feet thereof, Block 4, GUSTAFSON'S ADDITION TO THE CITY OF BRAINERD, and the East ½ of adjacent vacated alley

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11) and Twelve (12), Block One (1), RYAN'S ADDITION TO THE CITY OF BRAINERD and Lots Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8), Block Eight (8), SABIN'S ADDITION TO THE CITY OF BRAINERD

Lot One (1), Block Eight (8), SABIN'S ADDITION TO THE CITY OF BRAINERD

Lot Two (2), Block Eight (8), SABIN'S ADDITION TO THE CITY OF BRAINERD

The property is zoned R-1 (Single Family Residential) District. A copy of the proposed site plan is on file for review with the Community Development Department.

A Public Hearing to consider the variance and Conditional Use Permit amendment requests will be conducted by the Brainerd Planning Commission at 6:00 p.m. on Wednesday, March 17, 2021, in the City Council Chambers at 501 Laurel St., Brainerd, MN 56401.

Members of the public may attend this meeting in-person or monitor the meeting via phone. Information regarding how to attend this meeting virtually will be posted to the City's website (ci.brainerd.mn.us) by 4:30pm on Friday, March 12, 2021.

Any individual needing special accommodations or would like more information about this request, please call (218) 828-2307.

Dated this 4th day of March 2021

Publication Date: March 7, 2021



David C. Chanski, MPA
Community Development Director

MEMO



TO: Planning Commission

FROM: David Chanski, Community Development Director

DATE: March 17, 2021

RE: Consideration of Amending Section 515-17: Signs of the Code of Ordinances

Beginning in January, the Community Development Department began to receive an increasing number of complaints regarding non-commercial speech signs still being posted. Currently, the City Code states that all non-commercial speech signs must be removed within 10 days following an election. City Code Section 515-2 defines non-commercial speech sign as “a sign displaying a dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, civic events and informational topics.” In response, staff conducted a thorough sweep of the entire city, which resulted 71 letters being sent to members of our community regarding non-commercial speech signs posted on their properties on February 12.

Following the issuance of these letters, staff dug further into the issue of non-commercial speech sign regulation and found some concerns regarding the supportability of the City’s regulations. Upon staff’s recommendation to the City Council on March 1st, the issue was referred to the Planning Commission for review.

Attached to this memo is a draft amended ordinance. This draft is also in the hands of the City Attorney for his review. The main purpose of the recommended amendments is to remove any language that regulates the content of signs or appears to favor commercial speech over non-commercial speech. Additionally, while the Commission is discussion elements of the ordinance, there are some highlighted areas unrelated to non-commercial speech signs that staff would like to discuss with the Planning Commission, particularly language that refers to changeable copy signs and well as regulations for drive-thru signs.

Included with this memo is other supporting documentation including a concurring opinion from Associate Justice Samuel Alito in the case of Reed vs. Town of Gilbert (2015) and guidance from the League of Minnesota Cities on sign ordinances.

SECTION 37 SIGNS

Section:

515-37-1:	Purpose and Intent
515-37-2:	Effect
515-37-3:	Severability
515-37-4:	Permit Required
515-37-5:	Permit Not Required
515-37-6:	Prohibited Signs
515-37-7:	Violations
515-37-8:	Substitution
515-37-9:	General Regulations
515-37-10:	District Regulations
515-37-11:	Non-Conforming Signs

515-37-1: Findings, Purpose and Intent. It is not the purpose or intent of this sign Ordinance to regulate the message displayed on any sign, nor is it the purpose or intent of this Ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building.

A. The city council hereby finds as follows:

1. Exterior signs have a substantial impact on the character and quality of the environment.
2. Signs provide an important medium through which individuals may convey a variety of messages.
3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
4. As defined by Section 515-2 of this Ordinance, a sign is any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.
5. The city's zoning regulations have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.

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B.. The purpose and intent of this Ordinance is to:

1A. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the City in order to promote the public health, safety and welfare.

2B. Maintain, enhance, and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.

3C. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.

4D. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the City.

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515-37-2: Effect. A sign may be erected, mounted, displayed, or maintained in the City if it is in conformance with the provisions of this Ordinance. The effect of this Ordinance, as more specifically set for herein, is to:

- A. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this sign Ordinance.
- B. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this sign Ordinance.
- C. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means of having a lesser impact on the environment and the public health, safety and welfare.
- D. Provide for the enforcement of the provisions of this sign Ordinance.

515-37-3: Severability. If any section, subsection, sentence, clause, or phrase of this sign Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this sign Ordinance. The City Council hereby declares that it would have adopted the sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

515-37-4: Permit Required. No sign shall be erected, altered, improved, reconstructed, maintained, or moved in the City without first securing a permit from the City:

- A. The content of the message or speech displayed on the building and/or sign shall not be reviewed or considered in determining whether to approve or deny a Sign Permit.
- B. Application for an Administrative Permit shall be filed by the property owner or designated agent with the City on forms to be provided by the City.
- C. Application for a permit shall contain the following information unless waived by the City:
 - 1. Names and addresses of the applicant owners of the sign and lot.
 - 2. Address at which any signs are to be erected.
 - 3. Lot, block, and addition at which the signs are to be erected and the street on which they are to front.
 - 4. Type and size of sign (e.g., wall sign, pylon sign, monument sign).
 - 5. A site plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.
 - 6. Inventory of existing on-site signage (size, height, location).
 - 7. Plans, location and specifications and method of construction and attachment to the buildings or placement method of the ground.
 - 8. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and Ordinances of the City.
 - 9. Written consent of the owner or lessee of any site on which the sign is to be erected.
 - 10. Any Electrical Permit and/or Building Permit required and issued for the sign.
 - 11. A detailed description of any electronic or electrical components that are proposed to be added to the sign.
 - 12. Other information to demonstrate compliance with this and all other Ordinances of the City.
- D. The Sign Permit application shall be accompanied by a fee. Fees for the review and processing of Sign Permit applications shall be imposed in accordance with the fee schedule established by City Ordinance.

- E. The City shall notify the applicant, in writing, of an incomplete application within fifteen (15) days of the date of submission.
- F. The City shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, Ordinances and applicable performance standards set forth in this Ordinance within sixty (60) days of submission of a complete application pursuant to MN State Statutes Section 15.99. If the work that is authorized under a permit has not been completed within sixty (60) days after the date of issuance, the permit shall be null and void.
- G. All signs, including electric wiring, supporting structure, guy wires or chains, shall be properly maintained and kept in safe condition. A sign or sign structure which is deteriorated, unsafe, defaced or otherwise altered shall be repaired, repainted, or replaced by the permit holder or property owner on which the sign is located.

515-37-5: Permit Not Required. The following signs shall not require a permit and are allowed in addition to those signs allowed by Section 515-37-10 of this Ordinance. These exemptions however shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance and its compliance with the provisions of this Ordinance or any other law or Ordinance regulating the same.

A. The changing of the display surface on an existing sign.

B. Non-commercial speech signs, subject to the following

1. Signs shall only be located on private property with the permission of the property owner.

2. No sign shall be permitted in the Right-of-Way.

3. Signs shall be placed no less than fifteen (15) feet from the back of the curb and shall not be within the sight visibility triangle.

4. Signs shall not exceed six (6) square feet in area and shall not exceed three (3) feet in height.

5. No more than two (2) signs are allowed per property.

a. Additional signs are permitted beginning forty-six (46) days before the State primary in a State general election year until ten (10) days following the State general election, and ninety-one (91) days prior to any special election until ten (10) days following the special election.

6. Signs shall not be illuminated.

Commented [DC1]: Purpose of this section is to specific identify the non-commercial speech signs are permitted, but lay out certain restrictions regarding size, number, and location, in addition to the election pre-emption, as allowed by the Supreme Court.

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~~C.B.~~ One (1) temporary off-premises sign on private property six (6) square feet or less in size, not to exceed three (3) feet in ~~height in Residential Districts.~~ Temporary height. Temporary signs shall be allowed for a period of seven (7) days.

~~C.~~ All non-commercial speech signs of any size posted in any number from forty six (46) days before the State primary in a State general election year until ten (10) days following the State general election, and thirteen (13) weeks prior to any special election until ten (10) days following the special election, subject to the following:

- ~~1.~~ Signs shall comply with the fair campaign practices act contained in Minnesota State Statutes Section 211B.045.
- ~~2.~~ No such sign shall be located within one hundred (100) feet of any polling site.
- ~~3.~~ Signs must be removed by the person responsible within ten (10) days following an election.
- ~~4.~~ Signs shall be located on private property with permission of the property owner.
- ~~5.~~ Signs shall be placed no less than fifteen (15) feet from the back of the curb and shall not be within the sight visibility triangle.
- ~~6.~~ The City shall have the right to remove and destroy all signs not conforming to this subsection.

D. Signs located within the public right-of-way are regulated by Chapter VIII of the City Code.

~~E.~~ Official signs.

~~F.~~ Flags or emblems of a National, Federal, or State government or memorial signs thereof, displayed on private property

~~G.~~ Except for temporary signs in 517.37.9 G, one (1) on-premises temporary sign shall be allowed per street frontage when a property is offered for sale or lease, provided that:

- ~~1.~~ Within the R (residential) districts, no sign shall exceed twelve (12) square feet in area and six (6) feet in height for single family, two family, townhouse, and quadraminium units; or thirty two (32) square feet in area or eight (8) feet in height for multi family or public and semi-public uses.
- ~~2.~~ Within non-residential districts, thirty two (32) square feet is allowed if less than ten (10) acres.

Commented [DC2]: Paragraphs E, F, and G have been removed. Per the Supreme Court opinions in Reed vs. the Town of Gilbert, staff believes that these sections of ordinance may no longer be supportable as manage they give preference to certain types of non-commercial speech (E and F) and give loser restrictions to certain commercial speech (G).

~~3. Within all other zoning districts and in those cases where a parcel of land exceeds ten (10) acres, regardless of its zoning, no sign shall exceed sixty-four (64) square feet in area or ten (10) feet in height.~~

~~4. Directional and information signs for parking areas, loading areas, and for buildings or locations on a site subject to the following conditions:~~

~~A. Individual signs shall not exceed six (6) square feet in area.~~

~~B. Signs may not be located in a public right-of-way.~~

~~5. Banners, pennants, inflatable signs, sandwich boards, "A" frame signs and the like.~~

515-37-6: Prohibited Signs. The following signs are prohibited:

A. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

B. All signs over three hundred (300) square feet in area.

~~C. All off-premises signs greater than six (6) square feet in area.~~

D. Changeable copy signs, except as specifically allowed by Section 515-37-10.

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E. Content classified as "obscene" as defined by Minnesota State Statutes Section 617.241.

F. Flashing or rotating signs.

G. Signs painted, attached or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, or similar public structures.

515-37-7: Violations. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall, upon conviction thereof, be guilty of a petty misdemeanor. Persons violating this Section may be fined in addition to other penalties for Ordinance violations allowed by this Ordinance. Any sign violation of this Section may be subject to immediate removal by the City, at the expense of the owner, without notice to the property owner or owner of the sign if different than the property owner. Each day that the violation continues is a separate offense.

- A. This Ordinance shall be administered and enforced by City staff. Any City staff person may institute in the name of the City appropriate actions or proceedings against a violator.
- B. Inspection. All signs for which a permit is required shall be subject to inspection by City staff.
- C. The City reserves the right to require the removal at the owner's expense of any sign when the requirements of this Section are not completely followed and adhered to, or if a sign is not properly maintained or falls into a state of disrepair. The City shall not have any obligation or liability to replace any sign when removed by the City.

515-37-8: Substitution. The owner of any sign which is otherwise allowed by this sign Ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. Conversion back to commercial copy is permitted as allowed in each zoning district. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

515-37-9: General Regulations.

- A. All freestanding and monument signs shall be set back three (3) feet from any property line and outside of the site visibility triangle. No portion of the sign shall extend into the public right-of-way or an easement.
- B. Wall signs may extend no more than twenty-four (24) inches from the building façade and may encroach into the public right-of-way where there is a zero building setback.
- C. The installation of electrical signs shall be subject to the State Electrical Code. Electrical service to a freestanding sign shall be underground.
- D. No sign shall be attached or be allowed to hang from any building until all necessary wall attachments have been approved by the City Building Official.
- E. No signs, guys, stays or attachments shall be erected, placed, or maintained on trees nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof.
- F. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the driver and may not interfere with or obscure traffic signs or signals. Lighting may not illuminate any adjacent properties, buildings, or streets.

- G. Portable signs which are designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed are permitted within B-4, B-5, B-6 and industrial zones subject to the following:
1. A Sign Permit is issued for the sign that shall require a non-refundable fee as set by Ordinance, together with a bond or cash deposit is issued for the sign.
 2. In the event the sign is not removed within two (2) business days of the permit expiration date, the bond or cash deposit shall be forfeited as a penalty.
 3. Permits shall be for periods not to exceed sixty (60) consecutive days of each ninety (90) calendar day period for one premises, or a total of one hundred twenty (120) days in a calendar year.
 4. One (1) temporary sign is allowed on the premises at one time.
 5. Temporary signs permitted by Subsection 515-37-5 of this Ordinance shall be exempt from the requirements of this Section.
- H. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
- I. A freestanding sign or sign structure constructed so that the faces are not back-to-back, shall not have an angle separating the faces exceeding twenty degrees (20°) unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.
- J. The area within the frame of a sign shall be used to calculate the square footage except that the width of a frame exceeding twelve (12) inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six (6) inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.
- K. The top of a wall sign, including its superstructure, if any, shall be no higher than the top of the roof of the building to which such sign may be attached.
- L. Projecting signs may be allowed in commercial districts provided that:

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1. There is a minimum of eight (8) feet of clearance under the base of the sign to the ground below.

2. The sign does not project more than five (5) feet beyond the wall to which it is mounted, may not project over any vehicular drive aisle or traveled portion of a public or private street and may not project over a public right-of-way except within the B-3 District.

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3. The area of the projecting sign is not more than fifty (50) percent of the maximum area allowed for an individual wall sign in the respective zoning district in Sections 515-37-10.B and 515-37-10.C of this Ordinance.

M. Roof signs shall be allowed in commercial and industrial districts provided that:

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1. The height of the sign shall not exceed the height of the roof.
2. The sign design shall be consistent with the building character and integrated into the building architecture.

- N. Signs are not allowed to encroach into or over MnDOT right-of-way.

515-37-10: District Regulations. In addition to the signs allowed by Section 515-37-5 of this Ordinance, the following signs shall be allowed within the specific Zoning Districts:

- A. Non-residential uses within the R-A, R-R, R-1, R-2, R-3, R-4, and R-5 Districts.

1. Except for the uses specified in Section 515-37-5 of this Ordinance, one (1) sign shall be allowed per parcel provided that:
 - a. The total area of the sign shall not exceed thirty-two (32) square feet.
 - b. A freestanding sign shall be limited to a maximum height of six (6) feet.
2. Signs shall be allowed for a subdivision or multiple family development of five (5) or more lots or dwelling units provided that:
 - a. One (1) sign shall be allowed at each street entrance. Entrances less than one hundred (100) feet apart are not permitted individual entrance signs.
 - b. The area of each sign shall not exceed twenty-four (24) square feet.
 - c. Freestanding signs shall be limited to a maximum height of six (6) feet.

- d. Illumination of the sign shall be as regulated in Section 515-37-9.F of this Ordinance.
 - e. For sign(s) requiring regular long-term maintenance, the sign(s) shall be located on common space of sufficient size and area to accommodate said structure. The property owner or association shall be responsible for maintenance of the sign.
 - f. One (1) wall sign up to sixteen (16) square feet is permitted for each multifamily development.
 - g. The area around the sign shall be landscaped in such a manner to accent and enhance the sign while remaining sensitive to the natural features of the site. Detailed site and landscape plans shall be included with each sign permit application and shall be subject approval by City staff.
 - h. The design and construction of area identification signs shall be done with the highest commercial quality materials and workmanship to keep maintenance and upkeep costs to a minimum and to minimize the potential for vandalism. Area identification signs are to be aesthetically pleasing when designed and constructed. The sign shall be compatible with nearby structures in the area. Detailed construction plans and a materials list shall be included with each Sign Permit application and shall be subject approval by City staff.
3. Additional signs shall be allowed upon approval of a Final Plat for a subdivision having not less than five (5) lots provided that:
- a. One (1) sign shall be allowed per project or subdivision or one (1) sign for each frontage to a public street, whichever is greater.
 - b. The area of the sign shall not exceed thirty-two (32) square feet.
 - c. Freestanding signs shall be limited to a maximum height of eight (8) feet.
 - d. The sign shall not be displayed for a period to exceed twenty-four (24) months from the date a permit is issued for the sign or until building permits have been issued for eighty-five (85) percent of the lots or dwelling units within the subdivision, whichever is less restrictive.
4. Government buildings and structures, public, quasi-public or private recreation buildings, public parks and recreation areas, public and private educational institutions limited to accredited elementary, middle, senior high schools, or colleges and universities, and places of worship shall be allowed the following signs:

- a. Not more than two (2) wall signs shall be permitted on the front wall. The combined total area of such sign or signs shall not exceed the lesser of fifteen (15) percent of the area of the front face (including doors and windows).
- b. For each principal building on a lot, there shall not be more than one (1) freestanding monument sign except on a corner lot where two signs, one facing each street, shall be permitted. No such signs shall exceed one hundred (100) square feet in area. Monument signs may not exceed twelve (12) feet in height. The monument sign may include a changeable copy sign as part of the allowable sign area.
 - 1) The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall be counted as part of the total sign area allowed within a respective Zoning District.
 - 2) No more than one (1) changeable copy sign per parcel.
 - 3) A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.
 - 4) Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.
- c. Temporary signage is subject to the provisions of Sections 515-37-5 and 515-37-9 of this Ordinance.

B. Within the B-1 District the following additional regulations shall apply:

- 1. All residential use regulations in accordance with Section 515-37-10.A.
- 2. Each parcel shall be allowed one (1) wall sign up to two (2) square feet in area and one (1) freestanding sign up to twelve (12) square feet in area.
- 3. The height of a freestanding sign shall not exceed six (6) feet.

C. Within the B-2, B-3, B-4, B-5, B-6, I-1 and I-2 Districts the following additional regulations shall apply:

- 1. The total area of building signs displayed on a parcel shall not exceed fifteen (15) percent of the building façade on which the sign is to be located fronting not more than two (2) public streets.

2. A one hundred (100) square foot sign up to twenty-five (25) feet tall is permitted for a parcel with street frontage of one hundred (100) feet or less.
 - a. In B-4, B-5 and B-6 zoning districts, one (1) square foot of sign area may be added to the permitted one hundred (100) square foot sign area for each one (1) foot of street frontage over one hundred (100) feet. A sign up to three hundred (300) square feet is permitted.
 - b. Parcels in B-4, B-5 and B-6 zoning districts with more than three hundred (300) feet of street frontage may have one (1) additional sign for each additional three hundred (300) feet of street frontage. Signs shall be located at least three hundred (300) feet apart.
 - c. Sign area for parcels permitted more than one (1) sign is equal to the total feet of street frontage. If more than one (1) sign is used, the total sign area allowed shall be distributed between permitted signs.
 - d. Each sign shall be three hundred (300) feet apart and each sign may not exceed three hundred (300) square feet in area.
 - e. Signs shall be located on the street frontage for which its sign area is determined.
3. Wall, Canopy and Marquee Signs. Wall, canopy, or marquee signs may occupy up to fifteen (15) percent of a building façade fronting a public street or alley. Up to an additional sixteen (16) square feet may be used for awning signs.
4. Awning or canopy signs. Letters may be painted or otherwise affixed to any permissible awning or canopy as follows:
 - a. One sign per canopy fascia fronting onto a public street.
 - b. Be within the physical dimensions of the awnings or canopy fascia.
5. Accessory signs to gas sales in conjunction with automobile service stations or convenience stores are permitted provided that:
 - a. Gasoline and price sign. One (1) sign (single or double faced) per frontage on a public street, suitable for apprising persons of the total sign price per gallon. The area of such price sign shall not exceed sixteen (16) square feet on either side. Each such sign shall be affixed to the standard of a ground sign or light fixture and shall state the total price. No sign posting an incomplete price or less than the total sales price is permitted.

- b. Signs denoting operating instructions associated with self service gas facilities including gas pump, air supply and car washes are exempt from the maximum sign area standards of this Subsection.

6. Changeable copy signage.

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- a. The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall be counted as part of the total sign area allowed within a respective Zoning District.
- b. No more than one (1) changeable copy sign per parcel.
- c. A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.
- d. Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.

7. In addition to the freestanding sign allowed by this Section 515-37-10.C.2, convenience food uses with drive through facilities may display additional signs, provided that:

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- a. Not more than one (1) sign is allowed.
- b. The sign shall be single sided with an area not to exceed fifty (50) square feet.
- c. The height of the sign shall not exceed six (6) feet including its base or pole measured from grade to the top of the structure.
- d. The sign shall not encroach into any principal building setback and shall be located directly adjacent to the drive through aisle and oriented in such a manner so that the sign provides information to the drive through patrons only and does not impair site visibility or obstruct circulation.

D. Multiple Occupancy Commercial and Industrial Buildings including Business/Commercial Centers:

- 1. Except as provided for in this Subsection, individual tenants of a multiple occupancy building within a commercial or industrial zoning district may display separate wall, canopy or marquee signs when a tenant's business has an exclusive exterior entrance subject to the following requirements:
 - a. The number of wall signs shall be limited to one (1) per tenant space, except one (1) sign per exterior wall may be displayed for the tenant of a

corner suite or a suite that extends through a building this having two (2) exterior walls facing a public right of way.

- b. The total area of all wall signs shall not exceed fifteen (15) percent of the tenant bay.
 - c. Signs shall be located on the exterior wall of the tenant space to which the Sign Permit is issued but are not required to face a public street.
2. In addition to wall and free-standing signs, canopy and marquee signs are allowed provided that:
- a. Occupy up to an additional sixteen (16) square feet on a building façade fronting a public street or alley.
 - b. Letters are painted or otherwise affixed to any permissible awning or canopy as follows:
 - 1) One (1) sign per canopy fascia fronting onto a street.
 - 2) Be within the physical dimensions of the awnings or canopy fascia.
3. Business/Commercial Centers may erect one (1) free standing sign per street frontage, not to exceed two (2) freestanding signs per site (single or double faced).

4. Changeable copy signs are allowed in accordance with Section 515-38-10.C.6 of this Ordinance.

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515-37-11: Non-Conforming Signs. A nonconforming sign lawfully existing upon the effective date of this Section shall be regulated in accordance with Section 15 of this Ordinance.

ALITO, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF
GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE ALITO, with whom JUSTICE KENNEDY and
JUSTICE SOTOMAYOR join, concurring.

I join the opinion of the Court but add a few words of
further explanation.

As the Court holds, what we have termed “content-
based” laws must satisfy strict scrutiny. Content-based
laws merit this protection because they present, albeit
sometimes in a subtler form, the same dangers as laws
that regulate speech based on viewpoint. Limiting speech
based on its “topic” or “subject” favors those who do not
want to disturb the status quo. Such regulations may
interfere with democratic self-government and the search
for truth. See *Consolidated Edison Co. of N. Y. v. Public
Serv. Comm’n of N. Y.*, 447 U. S. 530, 537 (1980).

As the Court shows, the regulations at issue in this case
are replete with content-based distinctions, and as a result
they must satisfy strict scrutiny. This does not mean,
however, that municipalities are powerless to enact and
enforce reasonable sign regulations. I will not attempt to
provide anything like a comprehensive list, but here are
some rules that would not be content based:

Rules regulating the size of signs. These rules may
distinguish among signs based on any content-neutral
criteria, including any relevant criteria listed below.

Rules regulating the locations in which signs may be

ALITO, J., concurring

placed. These rules may distinguish between free-standing signs and those attached to buildings.

Rules distinguishing between lighted and unlighted signs.

Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Rules that distinguish between the placement of signs on private and public property.

Rules distinguishing between the placement of signs on commercial and residential property.

Rules distinguishing between on-premises and off-premises signs.

Rules restricting the total number of signs allowed per mile of roadway.

Rules imposing time restrictions on signs advertising a one-time event. Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed.*

In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. See *Pleasant Grove City v. Summum*, 555 U. S. 460, 467–469 (2009). They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots.

Properly understood, today’s decision will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives.

*Of course, content-neutral restrictions on speech are not necessarily consistent with the First Amendment. Time, place, and manner restrictions “must be narrowly tailored to serve the government’s legitimate, content-neutral interests.” *Ward v. Rock Against Racism*, 491 U. S. 781, 798 (1989). But they need not meet the high standard imposed on viewpoint- and content-based restrictions.

Sign Ordinances and the First Amendment

Learn how to design a sign ordinance for your city that meets the requirements of the First Amendment for protecting various forms of speech.

RELEVANT LINKS:

[*Reed v. Town of Gilbert*, 135 S. Ct. 2218 \(2015\).](#)

I. First Amendment principles

The First Amendment protects signs as speech, and, as a result, courts closely review attempts to regulate signs. In 2015, the U.S. Supreme Court decided a seminal case (*Reed v. Town of Gilbert*) that changed how courts review the validity of sign ordinances. Prior to this decision, courts generally presumed sign ordinances were valid and, in their review, would look to the intent behind the adoption of the ordinance, striking down only those ordinances where the court found evidence that the city “adopted (the sign regulation) to suppress speech with which the government disagreed” (commonly known as content-based).

Since *Reed*, courts now presume that sign ordinances that restrict speech (either expressly or implicitly) are unconstitutional. As a result, courts look first to the effect of the sign ordinance—whether the ordinance regulates signs differently based on the content or message of the sign—before conducting its analysis of the constitutionality of the ordinance. Based upon the court’s determination, the court will apply one of two standards of review to the challenged ordinance. If the ordinance draws distinctions based on the message communicated by the sign, the court reviews these ordinances more harshly than if the ordinance regulates signs and their placement without regard to content.

A. Content-based

As referenced above, the *Reed* decision created a two-step analysis to determine if the ordinance restricts speech, commonly referred to as “content-based”:

- Does the ordinance’s actual language refer to the content or the message of the sign?
- If not, then does evidence exist that shows the city adopted the regulation specifically because of disagreement (or agreement) with the message expressed by the sign?

RELEVANT LINKS:

Advantage Media, LLC v. City of Eden Prairie, 456 F.3d 793 (8th Cir. 2006).

Hensel v. City of Little Falls, 992 F. Supp.2d 916 (D. Minn. 2014).

In *Reed*, the Town of Gilbert’s sign code required permitting for signs, but then listed out categories or types of signs exempt from permitting, including “political signs,” “ideological signs,” and “temporary directional signs.” The ordinance in *Reed* also placed different physical restrictions on the separate types of signs. The Supreme Court found this ordinance content-based because the regulation “on its face” looked to the message on the proposed sign to determine how the city would regulate it.

As mentioned above, if a court finds the city expressly regulated or intended to regulate a message or content, then the court applies a more rigorous level of review to those ordinances. This heightened level of review is called “strict scrutiny,” and the court will only uphold the ordinance if it furthers a compelling government interest and is narrowly tailored. Courts have found few governmental interests represent justifiable “compelling interests.” As a result, in practice, few, if any, regulations survive strict scrutiny.

In the alternative, for sign ordinances that do not regulate the message or content of signs (commonly called “content-neutral”), courts apply a lower standard of review to the reasonableness of regulations and generally uphold regulations that further a significant government interest, as long as reasonable alternative channels for communication exist. As a result, courts uphold ordinances considered content-neutral more often than not.

B. Content-neutral

As stated above, when a local government’s ordinance is content-neutral, courts review it with a much more relaxed standard, upholding regulations that meet the criteria below (often referred to as reasonable time, place, and manner restrictions). These ordinances:

- Do not reference the content of the sign.
- Are narrowly tailored to serve a significant governmental interest (rather than compelling interest).
- Leave open ample alternative channels for communication of the information.

To help avoid challenges when adopting sign ordinances, cities should:

- Not regulate based on content.
- Not favor commercial speech over noncommercial speech.
- Further substantial government interests, such as traffic safety or aesthetics, without regulating more than necessary to accomplish their objectives.
- Leave ample alternative channels for communication, such as limiting the size of signs but still allowing signs.

RELEVANT LINKS:

[Central Hudson Gas & Elec. v. Public Svc. Comm'n](#), 447 U.S. 557 (1980).

[Sign Ordinance](#), City of Hopkins sample.

C. Commercial speech v. noncommercial speech

Courts treat commercial speech differently than noncommercial speech and do not afford it the same level of protection. Courts have defined commercial speech as speech that proposes a commercial transaction. Commercial speech enjoys some First Amendment protection but not as much protection as noncommercial speech.

Understanding commercial speech versus noncommercial speech can get confusing. Commercial speech is initiated by a person or company who engages in commerce, or is selling something; targets commercial audiences or audiences that are actual or potential consumers; and communicates a message commercial in nature, such as advertisements. Noncommercial speech, on the other hand, includes messages that do not promote commercial products or services, such as a message that has ideological or political content.

II. Drafting a sign ordinance

With the First Amendment concerns surrounding sign regulation, the below guidelines will help cities in drafting ordinances. Keep in mind that signs can pose distinct problems subject to a city's police power, such as taking up space, obstructing views, distracting motorists, and displacing alternative uses for land, so cities can regulate signs, they just must do so cautiously.

A. Provisions to include

1. Statement of purpose

This section of an ordinance explains the public purpose reason for the sign ordinance and how the city intends to apply the ordinance. The statement of purpose should state clearly that it does not intend to have content-based restrictions or content-based enforcement. Cities find it a best practice for the statement of purpose to delineate the governmental interests spurring the regulations.

2. Substitution clause

Adding a message substitution clause may avoid claims that an ordinance favors commercial signs over noncommercial messages. A substitution clause provides that for every commercial sign allowed, any noncommercial message could be legally substituted. Substitution clauses help protect against allegations of discrimination (based on content) because they always allow a noncommercial message on any sign. Many ordinances inadvertently define signs in terms of advertising and, as a result, may be interpreted as allowing only commercial messages.

RELEVANT LINKS:

[Minn. Stat. § 211B.045.](#)

[Brayton v. City of New Brighton](#), 519 N.W.2d 243 (Minn. App. 1994), cert. denied, 514 U.S. 1036, (1995).

[City of Ladue v. Gilleo](#), 512 U.S. 43 (1994). [Brayton v. City of New Brighton](#), 519 N.W.2d 243 (Minn. App. 1994).

A substitution clause may correct these mistakes by providing a catch-all allowance of noncommercial messages notwithstanding other provisions. A sample substitution clause reads as follows:

“Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.”

3. Severability clause

A severability clause provides that if a court finds any provision of the ordinance invalid, the remainder of the ordinance stands on its own. This clause may prevent a flaw in one part of the ordinance from invalidating the entire ordinance.

A sample severability clause reads as follows:

“If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.”

4. Election season pre-emption

A city’s sign ordinance should contain acknowledgement of the election season pre-emption required by state law. Under this law, municipalities must allow noncommercial signs of any size or number during election season, which runs from 46 days before the state general primary until 10 days after the state general election. The statute does not define noncommercial sign. One Minnesota case does, however, and states that a “noncommercial opinion sign” is one which “does not advertise products, goods, businesses, or services and which expresses an opinion or other point of view.” Courts consider campaign signs a subset of noncommercial opinion speech. Outside of “election season,” including during non-general election years, a city’s local sign ordinance governs. However, as stated before, even if not election season, local sign ordinances should not have the effect of prohibiting opinion speech.

5. Time, place, and manner regulations

Best practices suggest cities should:

- Adopt sign ordinance regulations based on time, place, and manner concerns, not on content.
- Refrain from favoring commercial speech over noncommercial speech.

RELEVANT LINKS:

[*Hensel v. City of Little Falls*, 992 F. Supp.2d 916 \(D. Minn. 2014\).](#)

[*Reed v. Town of Gilbert*, 135 S. Ct. 2218 \(2015\).](#)

[*Advantage Media v. City of Hopkins*, 379 F.Supp.2d 1030 \(D.Minn. 2005\).](#)

Examples of content-neutral restrictions include regulations based on size, brightness, zoning district, spacing, and movement.

B. Provisions to avoid

1. Unfettered discretion

Cities should avoid drafting ordinances that provide discretionary approval by the city staff. Ordinances that give staff discretion to grant or deny have the potential to favor some messages or messengers over others, regardless of whether an abuse of that discretion occurred. Sign ordinances should have transparent and objective permit requirements, making the decision to grant or deny ministerial, as opposed to subjective, in nature. So, for example, cities should avoid provisions allowing staff discretion to deny permits, even if the application satisfies all specific ordinance requirements, or provisions that treat signs as conditional or special uses.

2. Exemptions or favoritism

Cities should avoid exempting certain groups or messages, such as church signs or official flags, from permit requirements in the ordinance. Courts construe these types of exemptions as content-based discrimination because a decision is made based on the text, or content, of the sign.

Also, municipalities may want to keep in mind that including specific exemptions in sign ordinances often has the effect of “watering down” the proof that the regulation furthers a substantial government interest. For example, if an ordinance includes a prohibition on temporary signs but allows a long list of exemptions, it suggests the city is not really concerned about temporary signs.

3. Over-defining signs

Cities should avoid drafting ordinances in ways in which noncommercial speech inadvertently gets treated less favorably than commercial speech. For example, some cities have run into trouble by defining a “sign” as “advertising.” A court’s analysis would be as follows:

- The city ordinance defines signs as advertising devices.
- The ordinance allows signs as defined.
- The ordinance, by its definition of signs as advertising, prohibits all other types of signs.

This arguably prohibits noncommercial speech, violating the First Amendment.

RELEVANT LINKS:

FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990).

Metromedia Inc. v. City of San Diego, 453 U.S. 490 (1981).

Advantage Media, LLC v. City of Eden Prairie, 456 F.3d 793 (8th Cir. 2006).

City of Cottage Grove v. Ott, 395 N.W.2d 111 (Minn. App. 1986).

Texas v. Johnson, 491 U.S. 397 (1989). *Young v. City of Roseville*, 78 F.Supp.2d 970 (D. Minn. 1999).

City of Ladue v. Gilleo, 512 U.S. 43 (1994).

Goward v. City of Minneapolis, 456 N.W.2d 460 (Minn. App. 2990).

C. Include procedural protections

Cities that require permitting should include certain procedural safeguards in their ordinance, such as a:

- Specification of the time within which the city will grant or deny a permit, keeping in mind judicial preference for brevity in the response time.
- Requirement that, if the city denies the permit, the applicant has access to prompt judicial review.

III. Common sign ordinance issues

A. Off-premise advertising (billboards)

Off-premise advertising consists of commercial signs that advertise for a business located somewhere else than at the location where the sign is placed. Large, freestanding billboards create unique problems for land use planning and development precisely because their design intends for them to stand out from their surroundings. Courts have found a legitimate local governmental interest in controlling the size and location of billboards, but not in controlling the sign's communicative aspects. Indeed, billboards can distract drivers, posing real danger to both motorists and nearby pedestrians and justifying regulation.

In Minnesota, the court has upheld a sign ordinance that completely prohibited off-premise commercial advertising, but, did so cautiously and only because the ordinance did not regulate noncommercial signs. Because of the scrutiny applied in regulating speech, cities should use caution in adopting complete billboard prohibitions and work with their city attorneys.

B. Flags

Courts have recognized that the display of flags can constitute expressive conduct protected under the First Amendment as well. Cities should use caution if regulating flags to avoid favoring some types of flags (particularly the United States flag) over other flags. Use of a substitution clause helps in these instances: if one type of noncommercial flag would be acceptable, any noncommercial flag should be allowed.

C. Yard signs, including political signs

Courts have deemed yard signs constitutionally protected. Best practice suggests avoiding total bans on noncommercial lawn signs in residential areas, and using caution in adopting provisions that may favor some messages over others.

RELEVANT LINKS:

La Tour v. City of Fayetteville, Ark., 442 F.3d 1094 (8th Cir. 2006). *State v. Dahl*, 676 N.W.2d 305 (Minn. App. 2004).

Minn. Stat. Ch. 173. Minn. Stat. 160.2715. Minn. DOT Billboard Permits and Guidance. Minn. DOT Community and Guide Signage.

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For example, exemptions from sign regulations for real estate signs or construction project signs favor commercial speech over noncommercial speech. However, general limitations on the number and size of signs have withstood constitutional challenges since such limitations have nothing to do with a sign's message, and they further governmental interests in protecting property values, preventing distractions for drivers, or avoiding clutter.

Again, as stated before, a city's sign ordinance should contain acknowledgement of the election season pre-emption required by state law. Under this law, municipalities must allow noncommercial signs of any size or number during election season, from 46 days before the state general primary until 10 days after the state general election.

D. Electronic signs

Electronic signs present new challenges, especially with ever-changing technology capable of new levels of brightness, movement, flashing, and potential distraction. Most sign ordinances do not adequately address these issues and how they may impact traffic safety or aesthetics. Courts have upheld regulations on electronic or flashing signs, so long as the regulations are not tied to the content of the signs, serve a substantial governmental interest, and leave open ample alternative channels for communication. For example, courts have found that allowing non-electronic signs, or even operating the electronic sign in a non-flashing mode, represents ample alternatives.

E. Signs adjacent to highways

Minnesota statutes specifically regulate signs adjacent to highways. Minnesota law states, in part, that it is unlawful to paint, print, place, or affix any object within the limits of any state highway; but provides for some specific signage that meets certain Department of Transportation criteria. Furthermore, Minnesota's Outdoor Advertising Control Act prohibits advertising devices on private land without the consent of the owner or occupant; on public utility poles; on trees or shrubs; and by painting or drawing on rocks or natural features.

IV. Further assistance

Due to the complexity of regulating signs, cities should work with their city attorneys to draft and review such ordinances. City attorneys also can examine the law for possible exceptions to these general rules about sign ordinances and the First Amendment. The League of Minnesota Cities' Research Department can provide assistance and sample ordinances.



Figure 4. Street scene of sign having blue light source contrasted with adjacent white light source projected through blue pigment. Note that sign on left is predominantly red by area with a blue border. Also note reflection of blue light off of adjacent structure indicating light trespass.



Figure 5. Street scene displaying a variety of sign illumination colors and sizes. Note that sign with blue light source toward right is predominantly red by area with a blue border but is the most bright to the eye in this street scene..



Figure 6. Variety of sign illumination colors and sizes. Note that sign with blue light source toward distant center is predominantly red by area with a blue border but is the most bright to the eye in this street scene.