

**City of East Bethel
City Council Agenda
City Council Regular Meeting
Date: July 22, 2024 at 7:00 p.m.**



The regular City Council meeting may be monitored live via the following means:
Cable Channel 10, MidcoTV Channel 77, or the City of East Bethel YouTube channel
(www.youtube.com/channel/UC8_7ShcME-XG14pN5JrmBGg/live)

7:00 PM

1.0 Call to Order

2.0 Pledge of Allegiance

3.0 Adopt Agenda

4.0 Presentations and Public Hearings

- A. ACSO Monthly Report (p. 2-8)
- B. Fire Department Monthly Report (p. 9-12)

5.0 Public Forum

6.0 Consent Agenda (p. 13)

Any item on the consent agenda may be removed for consideration by request of any Council Member and put on the regular agenda for discussion and consideration

- A. Approve Bill List (p. 14-18)
- B. Minutes: July 8, 2024 City Council meeting (p. 19-36)
- C. Res. 2024-48, Accepting Donation from CenterPoint Energy (p. 37)

7.0 New Business - Commission, Association and Task Force Reports

- A. Planning Commission (None)
- B. Economic Development Authority (None)
- C. Park Commission (None)

8.0 Department Reports

- A. Community Development (None)
 - 1. Variance: 18164 Hwy 65 NE – Cedarwood Estates (p. 38-67)
 - 2. Variance: 23558 Ulysses St NE – Dan Graff (p. 68-80)
- B. Engineer (None)
- C. City Attorney (None)
- D. Finance (None)
- E. Public Works (None)
- F. Fire Department (None)
- G. City Administrator

9.0 Other

- A. Staff Report
- B. Council Reports

10.0 Adjourn

**City of East Bethel
City Council Meeting
Agenda Item Information**



Date: July 22, 2024

Agenda Item Number: Item 4.0 A

Agenda Item: Sheriff's Department Report

Background Information:

Lieutenant Derek Peters will present the Anoka County Sheriff's Office monthly report.

Attachment(s):

1. Sheriff's Office June Report *(this item will be provided as soon as it is made available)*
2. CSO Report of Activities
3. CFS Report

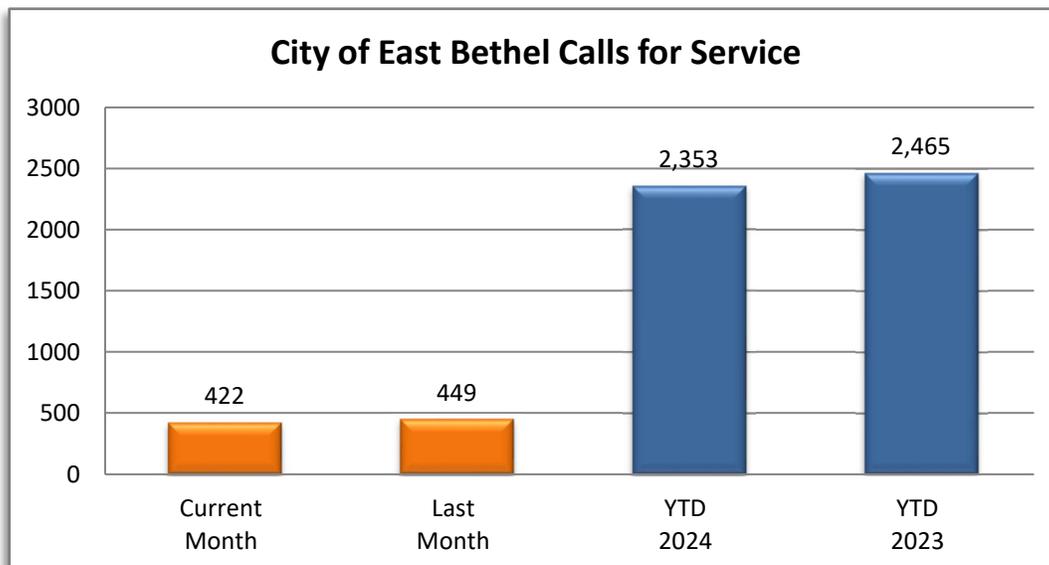
Fiscal Impact:

Recommendation(s): No Action Required

PATROL DIVISION

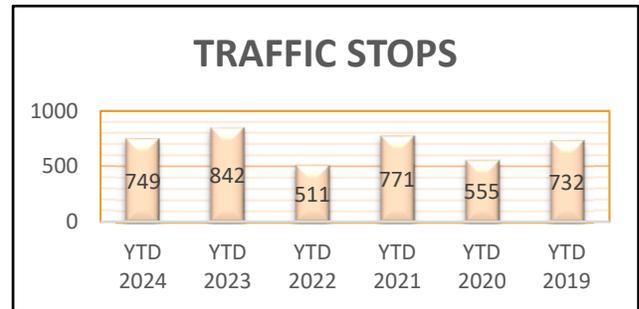
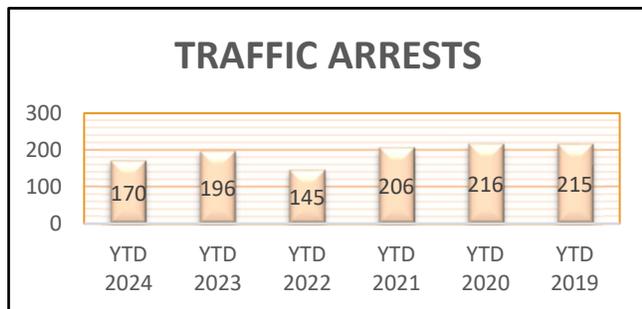
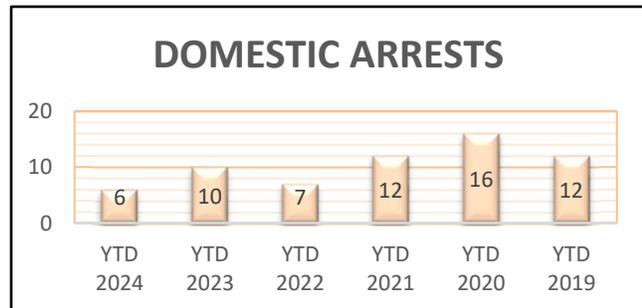
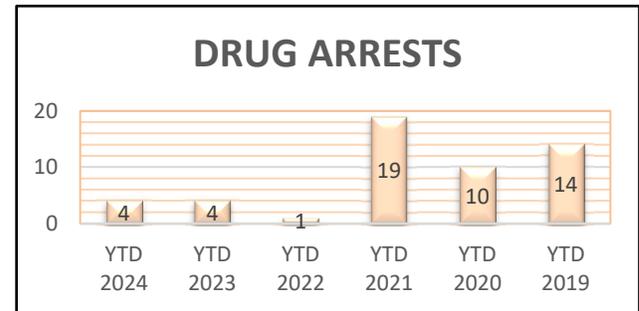
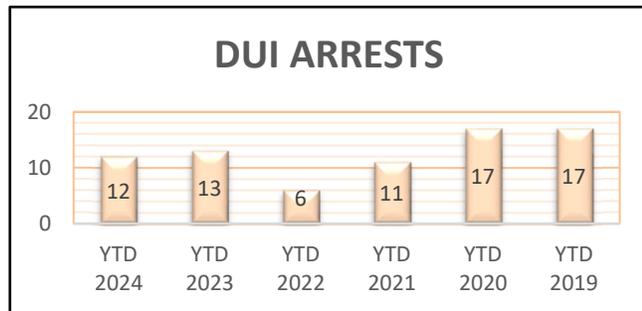
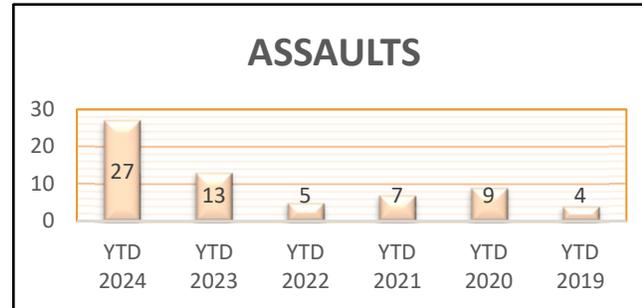
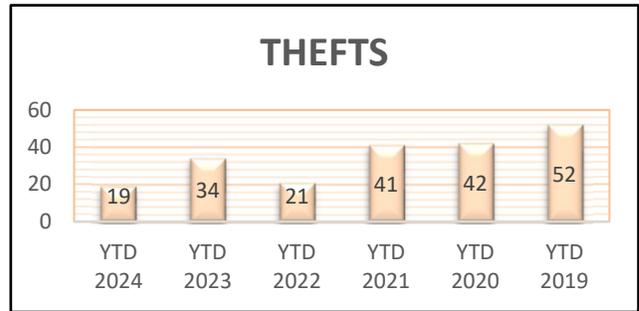
CITY OF EAST BETHEL - JUNE 2024

OFFENSE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD 2024	YTD 2023
Calls for Service	363	336	374	409	449	422							2,353	2,465
Burglaries	0	1	0	0	0	0							1	6
Thefts	5	3	3	2	2	4							19	34
Crim Sex Conduct	0	1	1	0	1	2							5	5
Assault	5	1	3	4	8	6							27	13
Dam to Property	0	5	1	3	4	2							15	7
Harass Comm	0	0	0	0	0	0							0	0
PI Accidents	4	2	3	7	11	7							34	32
PD Accidents	23	16	15	11	29	2							96	103
Medical	62	47	59	55	76	58							357	344
Animal Complaint	19	24	32	33	38	30							176	170
Alarms	24	14	17	13	15	14							97	100
Felony Arrests	6	4	2	2	3	6							23	10
Gross Misd Arrests	2	2	3	6	7	8							28	19
Misd Arrests	10	5	7	8	21	7							58	32
DUI Arrests	3	2	2	2	0	3							12	13
Drug Arrests	1	1	0	1	0	1							4	4
Domestic Arrests	1	0	3	1	1	0							6	10
Warrant Arrests	2	3	5	8	2	5							25	24
Traffic Stops	106	113	116	128	100	186							749	842
Traffic Arrests	16	32	18	29	26	49							170	196



CITY OF EAST BETHEL

YEAR TO DATE - JUNE 2019-2024

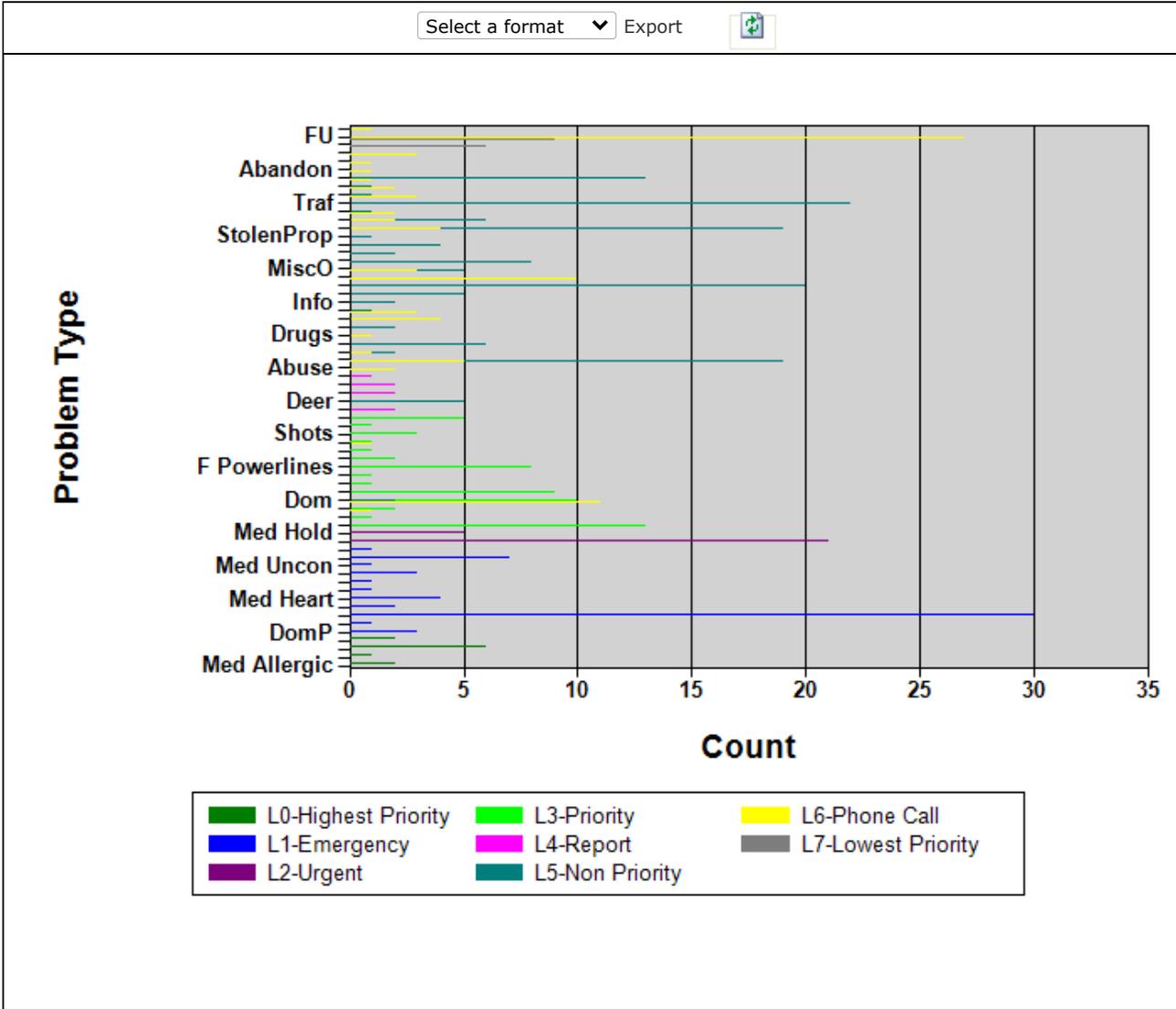


Problem Type Summary

12:35 PM 07/10/2024

Data Source: Data Warehouse

Agency:	LAW ENFORCEMENT
Division:	East Bethel Law
Day Range:	Date From 6/1/2024 To 6/30/2024
Exclusion:	• Calls canceled before first unit assigned



Priority	Description
0	L0-Highest Priority
1	L1-Emergency
2	L2-Urgent
3	L3-Priority
4	L4-Report
5	L5-Non Priority
6	L6-Phone Call
7	L7-Lowest Priority

Problem Type	Priority								Total
	0	1	2	3	4	5	6	7	
911			21						21
Abandon							1		1
Abuse						1	2		3
AbuseP									
AlarmB				13					13

						Item 4.0 A, Attachment 3		
AlarmCO								
AlarmCOill								
AlarmF			1					1
AlarmFsmoke								
AlarmHoldup								
AlarmV								
AlarmWF								
Animal					19	5		24
AnimalResc								
Arson								
Assault				2				2
AssaultP								
Boat Assist								
Bomb								
BombP								
Broadcast								
Burg						1		1
BurgP								
Civil						3		3
CivilP								
CSC					2	1		3
Debris					6			6
Deer				1	5			6
Disorderly			2			1		3
Dom			10	2	2	11		25
DomP	3							3
Drugs					1	1		2
DUI			9					9
Dumping					2			2
Escort								
ExPat						1	6	7
F Aircraft								
F Assist								
F CleanUp								
F Collapse								
F Dump								
F Elec Smell								
F Expl								
F Gas Odor In			1					1
F Gas Odor Out								
F Grass fire								
F Illegal								
F Misc			1					1
F Mutual Aid								
F Oven								
F Powerlines			8					8
F SmokeIn								
F SmokeOut			2					2
F Structure								
F Train								
F Veh								
F Water Rescue	1							1
Fight								
Flood in								
Flood out								
Fraud					2	4		6
FraudP			1					1
FU						27	9	36
FW								
Gun								
Harass					1	3		4
Info					2			2
Lift Assist				2				2
Liq								
Lockout					5			5
LockoutP				2				2

MA					20	Item 4.0 A, Attachment 3	20
MASS							
Med -	30						30
Med Alarm	2						2
Med Allergic	2						2
Med Assault							
Med Bleed	1						1
Med Breathing Diff	6						6
Med Breathing Not	2						2
Med Choking							
Med Drown							
Med Electro							
Med Fall							
Med Heart	4						4
Med Hold		5					5
Med ILL	1						1
Med Info							
Med OB							
Med Priority							
Med Seizure	1						1
Med Stab-Gunshot							
Med Stroke	3						3
Med Uncon	1						1
Medex							
Misc					6	10	16
MiscO					5	3	8
Noise					8		8
NoTag							
Ord							
Other							
Park					2		2
PD				1			1
Person			1	1		1	3
PI	7						7
POR					4		4
Property							
PW							
REPO-TOW							
RJ						1	1
RoadClosure							
Robbery							
RobberyP							
Shots			3				3
Slumper							
StolenProp					1		1
Suicide							
SuicideP	1						1
Susp					19	4	23
SuspP							
Theft					6	2	8
TheftP							
Threat					1	2	3
ThreatP							
Traf					22		22
Tres					1	3	4
UNK							
Unsecure							
Vand					1	2	3
VandP							
VehTheft							
VehTheftP							
Weapon							
Weather							
Welfare					13	1	14
WelfareP			1				1
WT			5				5

Total

11	54	26	58	11	157	Item 4.0 A, Attachment 3	90	15	422
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Close

**City of East Bethel
City Council Meeting
Agenda Item Information**



Date: July 22, 2024

Agenda Item Number: Item 4.0 B

Agenda Item: Fire Department Report

Background Information:

Fire Chief Rodney Sanow will present the Fire Department's monthly report.

Attachment(s):

Attachment 1 – June 2024 calls and call graph

Fiscal Impact:

Recommendation(s): No Action Required



East Bethel Fire Department June 2024 Response Calls

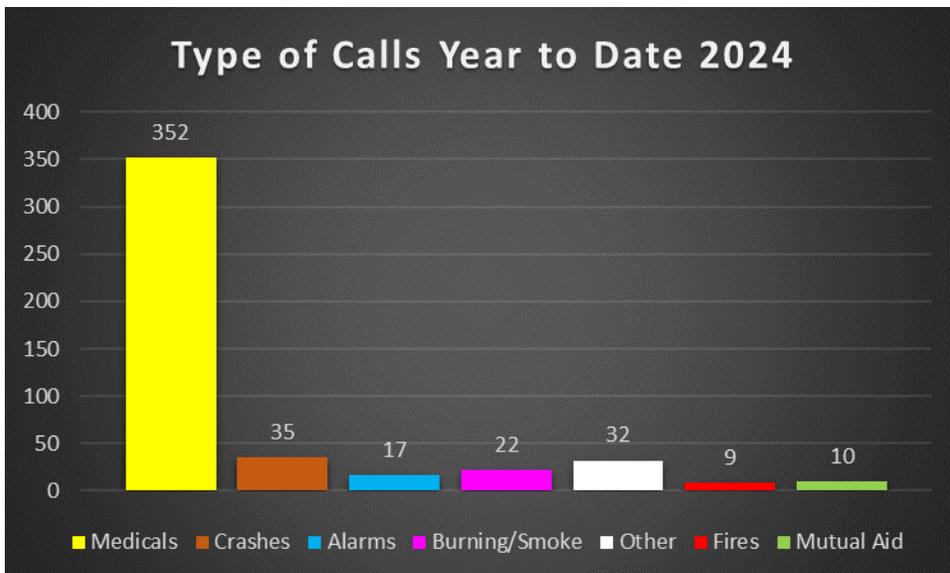
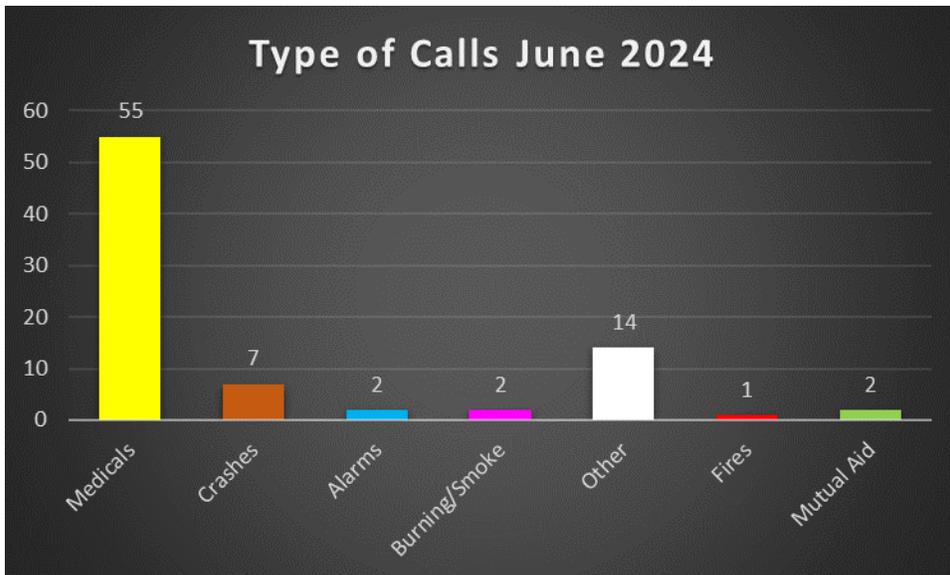
Incident No.	Incident Date	Street Address	Incident Type
395	6/1/2024	20375 Tyler Street Northeast	EMS call
396	6/4/2024	1848 Viking Boulevard Northeast	EMS call
397	6/4/2024	23561 Jackson Street Northeast	EMS call
398	6/4/2024	3207 Luan Drive Northeast	Other
399	6/4/2024	20509 Jewell Street Northeast	Other
400	6/4/2024	18164 Hwy 65 Northeast Apt 33	EMS call
401	6/4/2024	3440 190th Avenue Northeast	Other
402	6/5/2024	19131 Taylor Street Northeast Apt 304	EMS call
403	6/5/2024	2751 Viking Boulevard Northeast	Other
404	6/5/2024	28 Sims Road Northeast	EMS call
405	6/5/2024	3331 183rd Avenue Northeast	Other
406	6/5/2024	3331 183rd Avenue Northeast	Other
407	6/5/2024	4914 South Tri Oak Circle Northeast	Other
408	6/5/2024	3331 183rd Avenue Northeast	Other
409	6/6/2024	4876 North Tri Oak Circle Northeast	EMS call
410	6/6/2024	21150 Eveleth Street Northeast	Alarm
411	6/6/2024	885 198th Court Northeast	EMS call
412	6/8/2024	18978 Greenbrook Drive Northeast	Crash
413	6/8/2024	Hwy 65 Northeast and 187th Lane NE	Crash
414	6/8/2024	1623 207th Avenue Northeast	EMS call
415	6/8/2024	19131 Taylor Street Northeast Apt 311	EMS call
416	6/8/2024	24031 Fillmore Street Northeast	EMS call
417	6/8/2024	Hwy 65 Northeast and Viking Blvd NE	EMS call
418	6/8/2024	18164 Hwy 65 Northeast Apt 124	EMS call
419	6/9/2024	1943 Jenkins Street Northeast	EMS call
420	6/10/2024	24355 Hwy 65 Northeast Apt 131	EMS call
421	6/10/2024	Viking Blvd NE and North Coon Lake DR NE	EMS call
422	6/10/2024	229th Ave NE and East Bethel Blvd NE	Crash
423	6/10/2024	18329 Lakeview Point Drive Northeast	Other
424	6/10/2024	21715 Quincy Street Northeast	EMS call
425	6/11/2024	1848 Viking Boulevard Northeast	Burning/Smoke
426	6/11/2024	3510 Edmar Lane Northeast	EMS call
427	6/13/2024	18164 Hwy 65 Northeast Apt 81	EMS call
428	6/15/2024	24031 Fillmore Street Northeast	EMS call
429	6/15/2024	Hwy 65 Northeast and 221st Ave NE	Other
430	6/16/2024	1610 245th Avenue Northeast	Building fire
431	6/16/2024	24425 Durant Street Northeast	EMS call

Incident No.	Incident Date	Street Address	Incident Type
432	6/16/2024	24031 Fillmore Street Northeast	EMS call
433	6/16/2024	24355 Hwy 65 Northeast Apt 163	EMS call
434	6/16/2024	900 189th Avenue Northeast	EMS call
435	6/16/2024	524 Sims Road Northeast	EMS call
436	6/17/2024	23542 Tamarack Street Northwest	Building fire
437	6/17/2024	24031 Fillmore Street Northeast	EMS call
438	6/17/2024	21070 Rendova Street Northeast	EMS call
439	6/18/2024	18164 Hwy 65 Northeast Apt 165	EMS call
440	6/18/2024	705 Lakeshore Drive Northeast	EMS call
441	6/19/2024	22305 Vermillion Street Northeast	EMS call
442	6/19/2024	24031 Fillmore Street Northeast	EMS call
443	6/19/2024	21431 Durant Street Northeast	EMS call
444	6/19/2024	22549 Bataan Street Northeast	Unauthorized burning
445	6/19/2024	1617 229th Lane Northeast	EMS call
446	6/20/2024	24355 Hwy 65 Northeast Apt 179	EMS call
447	6/20/2024	18414 Everglade Drive Northeast	EMS call
448	6/21/2024	19131 Taylor Street Northeast Apt 21	EMS call
449	6/21/2024	1623 207th Avenue Northeast	EMS call
450	6/21/2024	3301 Viking Boulevard Northeast	Other
451	6/21/2024	3933 191st Avenue Northeast	EMS call
452	6/22/2024	1003 Sims Road Northwest	Mutual Aid
453	6/22/2024	19438 West Tri Oak Circle Northeast	EMS call
454	6/22/2024	Durant Street Northeast and 213th Ave NE	Crash
455	6/22/2024	19131 Taylor Street Northeast Apt 14	EMS call
456	6/23/2024	23611 Davenport Street Northeast	EMS call
457	6/24/2024	2717 183rd Avenue Northeast	Other
458	6/24/2024	411 206th Avenue Northeast	EMS call
459	6/24/2024	18529 Lakeview Point Drive Northeast	EMS call
460	6/24/2024	22736 Sandy Drive Northeast	EMS call
461	6/24/2024	24031 Fillmore Street Northeast	EMS call
462	6/25/2024	4650 229th Avenue Northeast	EMS call
463	6/25/2024	20405 Monroe Street Northeast	Other
464	6/25/2024	19450 Rochester Street Northeast	EMS call
465	6/26/2024	18367 Everglade Drive Northeast	EMS call
466	6/26/2024	24031 Fillmore Street Northeast	EMS call
467	6/26/2024	Hwy 65 Northeast and Klondike Dr NE	Crash
468	6/27/2024	100-163 Bryant Lane Northeast	Crash
469	6/27/2024	900 189th Avenue Northeast	EMS call
470	6/27/2024	900 189th Avenue Northeast	EMS call
471	6/28/2024	3012 227th Lane Northeast	EMS call
472	6/28/2024	2700 Viking Blvd NE and 3158 Viking Blvd Ne	Crash

Incident No.	Incident Date	Street Address	Incident Type
473	6/28/2024	2748 222nd Lane Northeast	EMS call
474	6/29/2024	4588 194th Avenue Northeast	EMS call
475	6/30/2024	19356 Isanti Street Northeast	Other
476	6/30/2024	20002 Edison Street Northeast	Alarm
477	6/30/2024	216 Birch Road Northeast	EMS call

83 Total calls

- 55 Medicals
- 7 Crashes
- 2 Alarms
- 2 Burning/Smoke
- 14 Other
- 1 Fires
- 2 Mutual Aid



**City of East Bethel
City Council Meeting
Agenda Item Information**



Date: July 22, 2024

Agenda Item Number: Item 6.0 A-C

Requested Action: Consider approving the Consent Agenda as presented

Background Information:

Item A – Approve Bills

Item B – July 8, 2024 City Council Meeting Minutes

Minutes from the July 8, 2024 City Council meeting are attached for your review.

Item C – Res. 2024-48, Accepting Donation from CenterPoint Energy

CenterPoint Energy has donated \$2,200.00 to the City of East Bethel Fire Department via a Community Safety Grant for the purchase of two AED’s for the back-up first-out trucks to respond to scenes.

Staff recommends acceptance of the donated money to be used for the purchase of two AED’s to be used by the East Bethel Fire Department.

Fiscal Impact: As noted above

Recommendation(s): Staff recommends approval of the Consent Agenda as presented.

City Council Action:

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____



City of East Bethel

July 22, 2024

Payment Summary

Payments for Council Approval						
Dept Descr						Amount
Bills to be approved for payment						\$719,545.59
Electronic Payroll Payments						\$44,091.92
Payroll City Council - July 15, 2024						\$2,234.02
Payroll Fire Department - July 15, 2024						\$12,971.31
Payroll City Staff - July 3, 2024						\$49,835.50
Total to be Approved for Payment						\$828,678.34
Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
Arena Operations	Bldg/Facility Repair Supplies	24-246	Kuehn Roof Systems	615	49851	\$550.00
Arena Operations	Bldgs/Facilities Repair/Maint	314658610	Trane U.S. Inc.	615	49851	\$1,483.50
Arena Operations	Bldgs/Facilities Repair/Maint	350311439161	Wright-Hennepin Coop Electric	615	49851	\$30.95
Arena Operations	Information Systems	1523	FINNLYTECH INC	615	49851	\$4,097.40
Arena Operations	Information Systems	IN4584766	Innovative Office Solutions	615	49851	\$14.99
Arena Operations	Refuse Removal	1068217T067	Ace Solid Waste, Inc.	615	49851	\$282.50
Building Inspection	Escrow Refund	2024-00478	CORA OLSON	101		\$10,228.75
Building Inspection	Escrow Refund	2024-00478	Lashinski Septic Service	101		\$22,190.00
Building Inspection	Escrow Refund	17042	Mork Well Company, Inc.	101		\$20,700.00
Building Inspection	Escrow Refund	17043	Mork Well Company, Inc.	101		\$684.00
Building Inspection	Escrow Refund	070324	SALLY KUCHESKA	101		\$3,616.00
Building Inspection	Motor Fuels	25535529	Mansfield Oil Company	101	42410	\$318.12
Building Inspection	State Surcharges	Q2 2024	MN Dept Labor & Industry	101		(\$85.06)
Building Inspection	State Surcharges	Q2 2024	MN Dept Labor & Industry	101		\$2,126.38
City Administration	Conferences/Meetings	01477	MCFOA	101	41320	\$50.00
City Administration	Legal Notices	1005347	ECM Publishers, Inc.	101	41320	\$60.50
City Administration	Office Supplies	IN4584766	Innovative Office Solutions	101	41320	\$47.98
City Administration	Office Supplies	06314	LOOK, MATT	101	41320	\$22.32
City Administration	Postage/Delivery	41518	MAILING SOLUTIONS	101	41320	\$1,392.45
City Administration	Printing and Duplicating	41518	MAILING SOLUTIONS	101	41320	\$1,601.12
City Administration	Professional Services Fees	M29325	TimeSaver Off Site Secretarial	101	41320	\$376.88
City Administration	Professional Services Fees	M29325	TimeSaver Off Site Secretarial	101	41320	\$210.62
City Administration	Professional Services Fees	M29325	TimeSaver Off Site Secretarial	101	41320	\$167.00
City Administration	Small Tools and Minor Equip	0853051	Carrie Frost	101	41320	\$15.13
City Administration	Telephone	07 2024	CenturyLink	101	41320	\$155.77
Economic Development Authority	Professional Services Fees	308626	CivicPlus	232	23200	\$11,284.37
Elections	Legal Notices	1007295	ECM Publishers, Inc.	101	41410	\$48.40
Engineering	Architect/Engineering Fees	53266	Hakanson Anderson Assoc. Inc.	101		\$217.50
Engineering	Architect/Engineering Fees	53267	Hakanson Anderson Assoc. Inc.	101		\$3,211.50
Engineering	Architect/Engineering Fees	53270	Hakanson Anderson Assoc. Inc.	101	43110	\$112.50
Engineering	Architect/Engineering Fees	53271	Hakanson Anderson Assoc. Inc.	101	43110	\$420.30
Fire Department	Bldgs/Facilities Repair/Maint	2619	Bill's Quality Cleaning	101	42210	\$168.00
Fire Department	Bldgs/Facilities Repair/Maint	2620	Bill's Quality Cleaning	101	42210	\$53.00
Fire Department	Bldgs/Facilities Repair/Maint	P32485	MacQueen	101	42210	\$2,725.00
Fire Department	Motor Fuels	25530672	Mansfield Oil Company	101	42210	\$282.03
Fire Department	Motor Fuels	25535529	Mansfield Oil Company	101	42210	\$506.11
Fire Department	Motor Vehicles Parts	1539-278839	O'Reilly Auto Stores Inc.	101	42210	\$129.99



City of East Bethel

July 22, 2024

Payment Summary

Fire Department	Motor Vehicles Parts	1539-280666	O'Reilly Auto Stores Inc.	101	42210	\$82.38
Fire Department	Office Supplies	IN4584766	Innovative Office Solutions	101	42210	\$9.34
Fire Department	Refuse Removal	1068217T067	Ace Solid Waste, Inc.	101	42210	\$92.06
Fire Department	Refuse Removal	1068217T067	Ace Solid Waste, Inc.	101	42210	\$37.84
Fire Department	Repairs/Maint Machinery/Equip	P32465	MacQueen	101	42210	\$86.65
Fire Department	Small Tools and Minor Equip	0724-470	Advanced First Aid	101	42210	\$4,400.00
Fire Department	Small Tools and Minor Equip	113998855	Fleet Pride	101	42210	\$15.19
Fire Department	Telephone	07 2024	CenturyLink	101	42210	\$60.38
Fire Department	Telephone	07 2024	CenturyLink	101	42210	\$88.46
Fire Department	Telephone	13299700114129	Midcontinent Communications	101	42210	\$20.25
Fire Department	Unemploy Benefit Payments	Q2 2024	MN Dept of Employment and	101	42210	\$8.20
General Govt Buildings/Plant	Bldg/Facility Repair Supplies	66540	Menards Blaine	101	41940	\$8.99
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	2617	Bill's Quality Cleaning	101	41940	\$380.00
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	2621	Bill's Quality Cleaning	101	41940	\$168.00
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	310127735	Premium Waters, Inc.	101	41940	\$8.64
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	310151830	Premium Waters, Inc.	101	41940	\$34.20
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	610180161	Premium Waters, Inc.	101	41940	\$8.64
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	51812	Robert B. Hill Company	101	41940	\$18.00
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	35031439021	Wright-Hennepin Coop Electric	101	41940	\$23.95
General Govt Buildings/Plant	General Operating Supplies	0853051	Carrie Frost	101	41940	\$43.24
General Govt Buildings/Plant	Refuse Removal	1068217T067	Ace Solid Waste, Inc.	101	41940	\$93.46
Legal	Legal Fees	06 2024	Eckberg, Lammers, P.C.	101	41610	\$10,461.41
Legal	Legal Fees	40577	Eckberg, Lammers, P.C.	101	41610	\$800.00
Legal	Legal Fees	40577	Eckberg, Lammers, P.C.	101	41610	\$122.50
Legal	Legal Fees	40577	Eckberg, Lammers, P.C.	101	41610	\$790.00
Legal	Legal Fees	40577	Eckberg, Lammers, P.C.	101	41610	\$612.50
Legal	Legal Fees	40577	Eckberg, Lammers, P.C.	101	41610	\$147.00
Mayor/City Council	Dues and Subscriptions	2024	Mediation & Restorative Svcs	101	41110	\$2,357.20
MSA Street Construction	Architect/Engineering Fees	53268	Hakanson Anderson Assoc. Inc.	402	40200	\$4,387.50
Park Capital Projects	Bldg/Facility Repair Supplies	7484727	Cemstone Products Company	407	40700	\$1,190.00
Park Capital Projects	Bldg/Facility Repair Supplies	5687	PREFER PAVING INC	407	40700	\$15,540.00
Park Capital Projects	Bldg/Facility Repair Supplies	506687	Rivard Companies	407	40700	\$474.60
Park Maintenance	Clothing & Personal Equipment	4198330368	Cintas Corporation	101	43201	\$33.69
Park Maintenance	Clothing & Personal Equipment	4199048407	Cintas Corporation	101	43201	\$43.59
Park Maintenance	Equipment Parts	115519594	Fleet Pride	101	43201	\$5.02
Park Maintenance	Equipment Parts	P24698	MN Equipment	101	43201	\$98.66
Park Maintenance	General Operating Supplies	9174305707	Grainger	101	43201	\$167.66
Park Maintenance	General Operating Supplies	143198412-001	SiteOne Landscape Supply	101	43201	\$30.00
Park Maintenance	Motor Fuels	25530672	Mansfield Oil Company	101	43201	\$542.36
Park Maintenance	Motor Fuels	25535529	Mansfield Oil Company	101	43201	\$433.81
Park Maintenance	Motor Fuels	460305	River Country Cooperative	101	43201	\$28.88
Park Maintenance	Other Equipment Rentals	MP251515	LRS	101	43201	\$80.00
Park Maintenance	Personnel/Labor Relations	101562	Trust in Us, LLC	101	43201	\$58.00
Park Maintenance	Sign/Striping Repair Materials	37399	Menards - Forest Lake	101	43201	\$63.96
Park Maintenance	Small Tools and Minor Equip	541201184241141	Capital One Trade Credit	101	43201	(\$31.64)
Park Maintenance	Small Tools and Minor Equip	541201184249298	Capital One Trade Credit	101	43201	\$42.93
Park Maintenance	Small Tools and Minor Equip	37319	Menards - Forest Lake	101	43201	\$18.99
Payroll	Insurance Premiums	CNS0001603579	Delta Dental	101		\$51.04



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Payroll	Insurance Premiums	CNS0001603579	Delta Dental	101		\$520.87
Payroll	Insurance Premiums	CNS0001603579	Delta Dental	101		(\$102.09)
Payroll	Insurance Premiums	265863996981	Medica	101		\$10,694.69
Payroll	Insurance Premiums	436200082024	NCPERS Group Life Ins	101		\$80.00
Payroll	Union Dues	07 2024	MN Public Employees Assn	101		\$351.00
Planning and Zoning	Escrow Refund	WO#107491003	CenterPoint Energy	101		\$650.00
Planning and Zoning	Escrow Refund	022024	JSN HOLDINGS LLC	101		\$200.00
Planning and Zoning	Escrow Refund	03 2024	STEVEN FRANKER	101		\$500.00
Planning and Zoning	Filing Fees	24-22191	Anoka County Property Tax	101	41910	\$46.00
Planning and Zoning	Filing Fees	24-22835	Anoka County Property Tax	101	41910	\$46.00
Planning and Zoning	Legal Notices	1007296	ECM Publishers, Inc.	101	41910	\$66.55
Planning and Zoning	Legal Notices	1007297	ECM Publishers, Inc.	101	41910	\$66.55
Planning and Zoning	Legal Notices	1007298	ECM Publishers, Inc.	101	41910	\$66.55
Planning and Zoning	Legal Notices	1007299	ECM Publishers, Inc.	101	41910	\$66.55
Planning and Zoning	Professional Services Fees	M29325	TimeSaver Off Site Secretarial	101	41910	\$285.50
Planning and Zoning	Software Licensing	R-025044-000-1	WSB & Associates, Inc.	101	41910	\$5,400.00
Police	Professional Services Fees	40413	Animal Humane Society	101	42110	\$277.00
Police	Professional Services Fees	S2404001D-2	Anoka County Treasury Dept	101	42110	\$360,478.25
Recycling Operations	Professional Services Fees	3468b	Evergreen Recycling	226	43235	\$1,060.00
Recycling Operations	Professional Services Fees	061124	Freimuth Enterprises LLC	226	43235	\$52.00
Recycling Operations	Professional Services Fees	070924	Freimuth Enterprises LLC	226	43235	\$92.00
Recycling Operations	Refuse Removal	1068217T067	Ace Solid Waste, Inc.	226	43235	\$884.75
Recycling Operations	Travel Expenses	071024	JABS, EMILY	226	43235	\$19.43
Street Capital Projects	Architect/Engineering Fees	53269	Hakanson Anderson Assoc. Inc.	406	40600	\$660.00
Street Maintenance	Bldgs/Facilities Repair/Maint	4198330368	Cintas Corporation	101	43220	\$9.19
Street Maintenance	Bldgs/Facilities Repair/Maint	4199048407	Cintas Corporation	101	43220	\$11.89
Street Maintenance	Bldgs/Facilities Repair/Maint	310127736	Premium Waters, Inc.	101	43220	\$4.32
Street Maintenance	Bldgs/Facilities Repair/Maint	310151816	Premium Waters, Inc.	101	43220	\$32.90
Street Maintenance	Bldgs/Facilities Repair/Maint	310180162	Premium Waters, Inc.	101	43220	\$4.32
Street Maintenance	Clothing & Personal Equipment	4198330368	Cintas Corporation	101	43220	\$33.68
Street Maintenance	Clothing & Personal Equipment	4199048407	Cintas Corporation	101	43220	\$43.58
Street Maintenance	Equipment Parts	117934672	Fleet Pride	101	43220	\$114.76
Street Maintenance	Lubricants and Additives	0233104-IN	Allied Oil & Tire Company	101	43220	\$1,145.95
Street Maintenance	Lubricants and Additives	1154444044	Fleet Pride	101	43220	\$320.51
Street Maintenance	Lubricants and Additives	3317	Morgen Mueller	101	43220	\$226.51
Street Maintenance	Motor Fuels	25530672	Mansfield Oil Company	101	43220	\$1,345.05
Street Maintenance	Motor Fuels	25535529	Mansfield Oil Company	101	43220	\$187.98
Street Maintenance	Motor Vehicles Parts	115654415	Fleet Pride	101	43220	\$29.76
Street Maintenance	Motor Vehicles Parts	116190348	Fleet Pride	101	43220	\$137.81
Street Maintenance	Motor Vehicles Parts	118119247	Fleet Pride	101	43220	\$26.92
Street Maintenance	Professional Services Fees	4060357	Gopher State One-Call	101	43220	\$49.95
Street Maintenance	Refuse Removal	1068217T067	Ace Solid Waste, Inc.	101	43220	\$483.39
Street Maintenance	Safety Supplies	9178549268	Grainger	101	43220	\$618.45
Street Maintenance	Safety Supplies	9178549276	Grainger	101	43220	\$46.00
Street Maintenance	Safety Supplies	07 2024	MN DEPARTMENT OF TRANSPORTATION	101	43220	\$21.04
Street Maintenance	Street Maint Materials	IN58948	City of St. Paul	101	43220	\$1,133.25
TIF 1-2	Professional Services Fees	08 2024 1-1	EB Properties, LLC	436	43600	\$41,156.99
TIF 1-2	Professional Services Fees	08 2024 1-2	EB Properties, LLC	436	43600	\$41,156.99



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TIF 1-3	Professional Services Fees	08 2024	Viking Preserve, LLC	437	43700	\$46,590.02
TIF 1-4	Professional Services Fees	08 2024 1-4	BANKVISTA	438	43800	\$44,239.42
TIF 1-5	Professional Services Fees	08 2024 1-5	BANK CHEROKEE	439	43900	\$23,411.24
Water Utility Operations	Bldgs/Facilities Repair/Maint	35031439021	Wright-Hennepin Coop Electric	601	49401	\$42.95
Water Utility Operations	Chemicals and Chem Products	6808313	Hawkins, Inc	601	49401	\$100.00
Water Utility Operations	Gas Utilities	07 2024	CenterPoint Energy	601	49401	\$91.05
Water Utility Operations	Refund of Overpayment	24133	BDM Construction	601		\$108.62
Water Utility Operations	Telephone	07 2024	CenturyLink	601	49401	\$198.57
Water Utility Operations	Telephone	07 2024	CenturyLink	601	49401	\$70.95
Water Utility Operations	Telephone	07 2024	CenturyLink	601	49401	\$156.45
						\$719,545.59



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Electronic Payroll Payments		
Payroll	PERA	\$10,236.30
Payroll	Federal Withholding	\$7,961.74
Payroll	Medicare Withholding	\$2,811.28
Payroll	FICA Tax Withholding	\$11,053.88
Payroll	State Withholding	\$3,929.47
Payroll	MSRS/H.S.A./HCSP	\$8,099.25
		\$44,091.92

1 had sent a copy of the request to the Council. He explained that 2 weeks ago at the last City Council
2 meeting, Mr. Look had said that his request was almost ready and the City would let him know when
3 it was available. He stated that he asked about it 1 week ago and received no response so he was still
4 waiting to view the public records that he had requested 7 weeks ago. He noted that Mr. Look had
5 recently accused him of violating a City Ordinance by stating that he had a second garage of 232 sq.
6 ft. on his property. He explained that he had attempted to correct Mr. Look's mistake by sharing that
7 the second garage was really a garden shed and was only 142 sq. ft. in size. He stated that instead of
8 admitting his error, Mr. Look doubled down on the accusation of it being 232 sq. ft. He explained
9 that he had used a Craftsman measuring tape and the measurement at the foundation was 14.58 x
10 9.75 or 142.155 sq. ft. He stated that he sent a second e-mail to the City that outlined the actual size
11 of the structure and nobody had, to this point, admitted that a mistake had been made.

12 Lewis asked if Mr. Linder had checked his e-mail this afternoon. Mr. Linder confirmed that he had
13 checked his e-mail just prior to coming to the meeting.

14 Lewis stated that he sees that there was an e-mail from Administrative Coordinator Carrie Frost who
15 works closely with Mr. Look, which has a time stamp of 4:04 p.m. He noted that he was not sure if
16 that was when it was sent or when he received it. He read aloud from the e-mail which stated 'we
17 have processed your inquiry for public records and there is a significant amount of data/documents
18 for review of 500+ pages'. He stated that the e-mail goes on to say that Mr. Linder should coordinate
19 with Ms. Frost on how to get this information uploaded onto something like a thumb drive because
20 they do not want to print off that many pages.

21 Mr. Linder explained that his original request was just to be able to come into the City offices and
22 view the information and had not intended for anyone on staff to put in a lot of effort to sort through
23 the information. He noted that he had felt it would be easier for everybody if he could just view it.

24 Lewis stated he felt that was what Ms. Frost was saying in the e-mail and that Mr. Linder could come
25 into City Hall and view the information.

26 Mr. Linder raised the subject of extra gazebos on the neighboring property.

27 Lewis stated that he did not want to go into all of that again and encouraged Mr. Linder to look at the
28 information he had requested. He stated that this was about the fifth time that Mr. Linder wanted
29 the Council to hear this same information, which he did not feel was right.

30 Mr. Linder noted the excuse that the City has been giving him was that his neighbor's property is
31 larger than his.

32 Lewis clarified that issue would not be resolved here or now. He reiterated that the Council has
33 heard about this issue numerous times and understood that there is a disagreement about the
34 information. He asked Mr. Linder to take the next step and look at the information that City staff had
35 spent a lot of time putting together for him and explained that this situation had begun to aggravate
36 him.

37 Mr. Linder agreed that he has also been aggravated by this situation.

38 Lewis explained that the City has a staff of 22 people and there are 12,000 people in the City and they
39 need to be assiduous in how they manage their time.

1 Linda Harvey asked to address the Council and stated she felt that the facts of the measurements are
2 wrong that were submitted by Mr. Look, which is what Mr. Linder has been trying to communicate.

3 Look clarified that the City does not have access to go onto their property and measure any sort of
4 structure, but uses a GIS service from the County where they can look down and take measurements.
5 He stated that the roof of that structure is 232 sq. ft. and that is what applies to impervious surface.
6 He noted that the question that has been raised is why Mr. Linder cannot have a pergola like his
7 neighbor and explained that the reason is because if you are at the maximum allowance for
8 impervious surface, which is roofing, then he cannot have an additional structure that would increase
9 the impervious surface amount. He explained that was the context that was missing from the
10 conversation.

11 Look stated that compiling the 500+ pages of information that was requested by Mr. Linder had taken
12 multiple hours of staff time because some information had to be redacted as it included personal
13 information. He explained that staff cannot respond instantly to every single public data request that
14 is received because they still have other City business that needs to be taken care of before they can
15 respond to those types of requests. He stated that based on the size of the information in this
16 instance, he believed that the City had responded in a reasonable time frame. He recommended that
17 Mr. Linder schedule an appointment with City staff for a time to come in and view the materials. He
18 explained that they would provide him a room for him to be able to review the information and
19 noted that if he wants copies of any of the information, the City would have to charge a fee for that
20 action.

21 Lewis stated that he was done discussing this situation and apologized for getting angry about the
22 situation.

23 Mr. Linder thanked the Council for their time and noted that he was hopeful that there was not a lot
24 of redaction done in the records.

25 **6.0 Consent Agenda**

26 Item A: Approve Bills

27 Item B: Approve Meeting Minutes June 24, 2024 City Council Work Meeting

28 Item C: Approve Meeting Minutes, June 24, 2024 City Council Meeting

29 Item D: Resolution 2024-47, Declaring Surplus Property – Recycling Center Trailer

30 Item E: Purchase of Equipment – Recycle Center Trailer

31 Item F: Resolution 2024-46, Appointing Election Judges for 2024 State Primary Election

32 **Mundle stated I'll make a motion to approve Consent Agenda as amended. DeRoche stated I'll**
33 **second.** Lewis asked any discussion? Lewis asked about the item under Approve Bills related to the
34 East Bethel Fire Department – Conferences and Meetings – Fire Certification Board and asked for
35 information about what the certification was for. Look stated that those costs are typically
36 reimbursed to the City by the State and explained that he did not know what this specific item was
37 for, but can get that information for the Council. To the motion, all in favor say aye. **All in favor.**
38 Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

39 **7.0 New Business. Commission, Association, and Task Force Reports**

40 **7.0 A Planning Commission**

41 **7.0 A.1 Variance Request : 23558 Ulysses Street NE – Wetland Setback**

1 Berg presented the request of Everything Outdoors, LLC, on behalf of Dan Graff, for a variance to
2 reduce the Shoreland Overlay setback standard for the placement of an in-ground pool. This property
3 is located in an R-2 Single Family and Townhome Residential Zoning District, in the West Side Estates
4 Subdivision and in the Coopers Lake - Shoreland Overlay.

5 Berg referenced Zoning Appendix A. General Regulations – Section 57. Shoreland Overlay (SL) District,
6 which classifies wetlands into multiple categories and are consistent with the criteria found in
7 Minnesota Regulations, part 6120.3300, and the Protected Waters Inventory Map for Anoka County,
8 Minnesota. Additionally, each classification has a required setback from the Ordinary High Water
9 Level (OHWL). Coopers Lake has been classified as a Natural Environment with a 150-foot structural
10 setback.

11 Berg explained the residence was constructed in 2006 and placed 161.22 feet from the OHWL, as
12 identified on a Certificate of Survey dated May 5, 2004. According to survey, there is 87.60 feet of
13 distance between the rear of the house and the rear lot line. Elevations identified on the survey show
14 that there is a 12-foot elevation change (steep drop off) between the rear lot line and the edge of the
15 OHWL. This area between the rear lot line and Coopers Lake is owned by the City of East Bethel and
16 included in the John E. Anderson Park.

17 Berg stated the property owners have proposed placing an in ground pool with concrete apron in the
18 rear yard within the 150-foot Shoreland Overlay setback. The required rear yard setback in an R2
19 Zoning District, without the shoreland overlay component, is 10 feet. The proposed placement is 21
20 feet from the rear property line; however, it is approximately 94 feet from the nearest point of the
21 identified OHWL.

22 Berg reviewed Section 57 of the Shoreland Overlay (SL) District. Sub. 6. Administration relating to
23 compliance, notification to the Department of Natural Resources (DNR), and considerations to grant a
24 variance.

25 Berg stated a public hearing notice and email copy was sent to the North Metro representative of the
26 MN DNR. On June 26, 2024, City Staff received a call from Wes Saunders-Pearce, North Metro Area
27 Hydrologist, who after reviewing the information supports the Planning Commission's
28 recommendation of denial as this variance request is a significant reduction in setback. Additionally,
29 the MN DNR generally supports the ordinance restrictions in local Shoreland Overlay code.

30 Berg presented Sub. 8 of the Shoreland Overlay District standards for placement, design, and height
31 of structures as well as Section 10, the general development regulations for permanent and portable
32 swimming pools.

33 Berg explained the consideration of a variance requires the Planning Commission to consider a three-
34 factor test for practical difficulties, as follows:

- 35 • The first factor, a test of reasonableness, means that the landowner would like to use the
36 property in a practical way but cannot do so under the rules of the ordinance. It does not mean
37 that the land cannot be put to any reasonable use whatsoever without the variance. For example,
38 if the variance application is for a building too close to a lot line or does not meet the required
39 setback, the focus of the first factor is whether the request to place a building there is reasonable.

40 In this case:

- 41 ○ *A swimming pool is identified as an allowable Accessory Use in an R2 Zoning District.*
- 42 ○ *The variance request to place an in ground pool in a Shoreland Overlay Setback may not be*
43 *reasonable.*

- The second factor is that the landowner's problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

In this case:

- *This property is located in the Coopers Lake - Shoreland Overlay with specific setback requirements and the primary residence was constructed within 10 feet of the setback requirements from the OHWL.*
- *The primary residence was constructed over 475 feet from the front lot line, 17 feet from the North property line and 23 feet from the South property line. This placement limits the buildable area available on the side and rear yard for any accessory construction.*
- *There are terraced elevations throughout the property, both front and rear yard.*
- *The Subsurface Sewage Treatment System (SSTS) and Well are located in front of the house.*
- The third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

In this case:

- *The proposed location of the in ground pool is the rear yard and not visible from the roadway.*
- *The primary residence was constructed over 475 feet from the front lot line.*
- *Standing tree growth along the property lines screen the rear yard from neighboring properties.*
- *The degree of the requested variance is significant (58% of the Shoreland Overlay Setback) and would be a radical departure from the scheme of the City's land use controls.*

Berg stated that on June 25, 2024, the Planning Commission held a Public Hearing at which there was no public comment. After a review of the application material and hearing from the applicant the Planning Commission, by a 5-0 vote recommended denial of the variance request. Berg stated the City Council should review the request, consider the Planning Commission's formal recommendation and approve or deny the variance request to the standard Shoreland Overlay setback from 150 feet to 94 feet, for the placement of an in ground pool at 23558 Ulysses Street NE., as presented in Resolution 2024-45.

Berg noted that he had supplied the Council with an additional site plan drawing that was provided to him earlier today by the contractor that shows a bit more specific information on the potential pool location. He explained that it was unclear to him, based on the drawing, whether this matches the certificate of survey because this is not an official document that was done by a survey company. He referenced the survey that had been completed when the property was constructed that shows from the rear corner of the house to the OHWL is about 161.22 feet and from the rear of the house to the property line is about 87.60 feet. He explained that the contractor had also provided additional photos that were not provided at the time of the application that shows where the potential pool area is staked out.

1 **DeRoche stated I'll make a motion to discuss the variance application at 23558 Ulysses Street NE.**
2 **Lewis stated I'll second. Motion passed by general consensus. NOTE TO STAFF: no vote taken**

3 DeRoche asked if Mr. Berg had stated that this was 10 feet from the OHWL. Berg clarified that the
4 house was placed 161.22 feet from the nearest OHWL and the setback requirement in the Shoreland
5 Overlay District is 150 feet.

6 DeRoche stated that he also lives in a Shoreland Overlay District and thought that anything from
7 1,000 feet from the OHWL was considered to be within the Shoreland Overlay District. He asked how
8 close the pool would be to the lake. Berg stated that the most recent drawing indicates that it would
9 be 125 feet from the edge of the pool, not counting the concrete apron. He noted that the City's
10 ordinance does not define an in-ground or above ground pool as an accessory structure, but in his
11 opinion, an in-ground pool would be considered an accessory structure, but reiterated that was not
12 how it was depicted in the ordinance.

13 DeRoche asked why they had not considered placing the pool in the front yard area. Berg stated that
14 would be something that only the homeowner could answer, but explained that there would be room
15 in the front yard. He noted that the applicant and the contractor were both present if the Council
16 would like to ask them any questions.

17 Dan Graff, property owner, explained that he was just trying to get a decent pool installed for his 11
18 grandchildren to use rather than having an above ground pool. He stated that the property has a 12-
19 foot increase from the lake to his land and the pool would be 125 feet away from the OHWL. He
20 stated that they could probably push it a little closer to the deck so it would end up about 135 feet
21 away from the OHWL and would only need a variance of 15 feet. He felt that there were some
22 misconceptions that took place among the Planning Commission because they thought the people
23 from the park may be able to see the pool, but assured the Council that would not be possible. He
24 stated that they have notified all their neighbors and none of them had a problem with what they are
25 proposing. He stated he believed that the OHWL would never reach where the pool would be
26 located. He explained that he cannot place the pool in the front yard because his septic system is on
27 the south side and the other side of the yard has a neighbor that is close. He stated that it would be
28 very difficult to squeeze the pool in and also felt it would look terrible in that location.

29 DeRoche asked for a more detailed explanation of the location of the septic system. Mr. Graff
30 pointed it out on the overhead screen and explained that he also has the secondary septic site
31 located in the area.

32 Berg reminded the Council that the pictures and drawing he was showing on the projector had just
33 been received earlier that day.

34 Lewis asked if Coopers Lake had the beaver dams. Berg stated that it was not Coopers Lake and
35 explained that Mayor Lewis was referring to a different lake.

36 DeRoche stated that he can remember an application from about 13 years ago where someone
37 wanted to be able to put a dock out on the lake, which was denied.

38 Mr. Graff confirmed that docks are not allowed on Coopers Lake unless they were grandfathered in.
39 He stated that this pool would not interfere with any of the lake quality. He noted that they
40 previously owned property on Forest Lake where they just needed to have a 50-foot setback.

41 Berg explained that every classification of water can be different and gave the example of Coon Lake
42 having a 75-foot setback and reminded the Council that this body of water was classified with a 150-
43 foot setback. He displayed some modeling that included use of a wetland overlay map and the 100

1 year flood plan map and explained that this was probably why the OHWL was an average and not
2 defined by a specific number.

3 Lewis asked about the rationale from the Planning Commission for their recommendation of denial.

4 DeRoche stated that he thought they were just waiting for the DNR comments on the setback. He
5 asked if all of this would go away if it were to be an above ground pool. Berg agreed that this would
6 not be an issue if the pool was above ground which his office would essentially consider to be
7 temporary and not a 'structure'.

8 Lewis stated that City Attorney Larson has stated in the past, that to grant a variance there has to be
9 the three-factor test and they have to be able to detail the 'why' behind their decision. He noted that
10 was why he had asked the question earlier about whether the Planning Commission had given any
11 particular reasons for their recommendation of denial. Berg stated that there was discussion from a
12 few of the Commissioners about whether this may set precedent. He explained that variances are set
13 up with the three factor test so that each case is examined based on their own merits and specific
14 situation.

15 Mr. Graff noted that there are not that many people who are actually on the lake nor are there many
16 people that will put in an inground pool.

17 Lewis shared a hypothetical situation where Mr. Graff would sell his home and the next owners were
18 a young couple with rowdy friends, which meant that the pool would become a big party place. He
19 asked how Mr. Graff's neighbors would feel about this scenario.

20 Mr. Graff stated it was very difficult to answer that kind of hypothetical question.

21 Smith asked if Mr. Graff had considered installing an above ground pool. Mr. Graff stated that he
22 thinks that above ground pools look tacky, cannot have a diving board, and are pretty much one
23 depth for the entire pool.

24 Jeromiej Sommers, Everything Outdoors, stated that it also may be possible that an above ground
25 pool would be visible from the park.

26 Miller stated that the shoreline seems to be going away and asked if there would be any possibility of
27 offsetting the pool and moving it slightly down so it would meet the City standards.

28 Mr. Sommers explained that moving the pool location a bit would gain some distance, but would be
29 right up against the trees.

30 Mundle stated that in the write up there is a variance request of approximately 94 feet versus the
31 required 150 feet, but there was a statement made tonight that they could move the pool closer to
32 the deck so it would be closer to 135 feet rather than 150 feet, which would only require a 15-foot
33 variance. He stated that he was not sure that the Council had all the current information in front of
34 them right now.

35 Berg explained that when the application came in, he had contacted the contractor after he had
36 looked at the initial drawings. Berg stated he had communicated that he was not sure about the
37 distances and measurements that were indicated on the drawings and what was included in the write
38 up within the packet was essentially his best guess based on those the materials. He reiterated that
39 the drawing shown tonight was what had been submitted earlier today.

40 Mundle clarified that he was not trying to blame staff for this, but just to communicate that he did
41 not feel that the Council had enough information on this related to the exact site placement on how
42 they may be able to work together to make something work for an inground pool. He stated that the

1 information that the Council had received showed that the pool would be 65 feet into the Shoreland
2 Overlay setback area and noted that it now appears that the request was actually for 15 feet, which
3 he felt may be a bit easier for the City to work with than the original request for 65 feet.

4 Lewis asked which figures were accurate. Mr. Sommers stated that the 125 feet distance was
5 accurate and explained that they had moved the pool in a bit closer to the house.

6 Lewis asked if they had taken the apron off on that side. Mr. Sommers stated that they had left the
7 apron on.

8 Berg stated that he believes the only way to get exact distances would be to have a survey company
9 go out and create a survey that would show the City the exact distances based on where they were
10 currently planning to install the pool.

11 Mundle stated that he was not sure that the Council needed that but did feel they needed competent
12 measurements and site placing. He stated the applicant had made the claim that they would
13 probably only need a 15-foot variance, and explained that the Council needs to see those figures and
14 that information. He asked if there would be any issues for the applicant if the Council tabled this and
15 brought it back up at their next meeting with the updated and accurate information. Mr. Sommers
16 stated his most recent drawing was an overlay on top of the City's information and shows that it fits
17 at exactly 125 feet, but stated that he could also move it a bit closer to the home.

18 Mundle suggested that Mr. Sommers bring back 2 or 3 scenarios with different distances to present
19 to the Council. He felt the best course of action for the Council would be to table this item so they
20 can consider it once they have more accurate information in front of them. He encouraged the
21 applicant to meet with Mr. Berg so they are clear on what details and information the Council would
22 be looking for.

23 Look stated that this could be postponed to the July 22, 2024 City Council meeting.

24 **Mundle stated I'll make a motion to table discussion of the variance request for 23558 Ulysses**
25 **Street NE to the July 22, 2024 City Council meeting. Miller stated I'll second.** Lewis asked any
26 discussion? To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion
27 passes. **Motion passes unanimously.**

28 **7.0 A.2 IUP: Farm Animals – 22343 Sandy Drive NE**

29 Berg presented the request of Jon and Petra Fager, the owners of 22334 Sandy Drive NE, for an IUP
30 for the keeping of 1 alpaca/llama and 9 sheep/goats or 11 sheep/goats. The property is reported to
31 be 5.6 acres and is located in a R2 – Single Family and Townhouse Residential zoning district.

32 Berg noted Chapter 10, Article V, Section 10-151 (g) requires that a minimum of one fenced acre of
33 pasture land plus any indicated fraction thereof must be provided for each animal unit described as
34 described in Sub. (h), which was included in the meeting packet as Attachment 5.

35 Berg explained that although the applicant's property is 5.6 acres, after mapping out required
36 setbacks, there is approximately 4.41 acres of possible pasture land with some areas of tree cover.
37 Staff calculations would afford the applicants 1 alpaca/llama and 6 sheep/goats or 7 sheep/goats and
38 0 alpaca/llama, based on the 4.41 acres.

39 Berg reviewed Sec. 10-150, Definitions, indicating that 'pasture land' means land with vegetation
40 coverage used for grazing livestock. Pasture growth can consist of grasses, shrubs, deciduous trees or
41 a mixture, not including wetlands. This property does not have any fencing as of the date of
42 application. The applicants intend on using an electric fence rotating the pasture land throughout
43 their available pasture space. He referenced Appendix A., Section 25-1 B., indicating that barbed wire

1 and electrical fences are prohibited, except on lots with an approved interim use permit for use in
2 keeping and confining farm animals, livestock or for crop protection. The proposed pasture land
3 areas, farm animal shelter will be required to meet all setbacks as required by Chapter 10, Article V,
4 Sec. 10-152. There is an existing barn proposed to be utilized as a shelter for the animals.

5 Berg stated at the June 26, 2024, Planning Commission meeting, a Public Hearing was held and there
6 was no public comment. After a review of the application material and hearing from the applicant the
7 Planning Commission, by a 5-0 vote, recommended approval of the IUP for one Alpaca/Llama and six
8 Sheep/Goats or without an Alpaca or Llama, seven Sheep/Goats for a period of one year. At the
9 conclusion of one year, the applicants would need to reapply for the IUP and recommend it be
10 renewed for a period of a minimum of five years.

11 Berg stated the City Council should review the request, consider the Planning Commission's formal
12 recommendation and approve the IUP for the keeping of keeping of farm animals at 22343 Sandy
13 Drive NE, with conditions, as presented in Resolution 2024-44.

14 **DeRoche stated I'll make a motion to adopt Resolution 2024-44, Approving IUP for Farm Animals at**
15 **22343 Sandy Drive NE, with conditions as listed. Miller stated I'll second.** Lewis asked any
16 discussion?

17 DeRoche noted that he had watched the Planning Commission meeting and felt that they had
18 everything covered. Lewis agreed and stated that he felt the Planning Commission did a really good
19 job. Miller asked if there was a cost to the IUP applications. Berg stated that there was a cost and
20 noted that it costs \$300 for an IUP and the renewal would also be \$300, but explained that the
21 Council could make a determination about the length of the approval. Lewis stated that kind of
22 bothered him because they would be paying \$300 for the first IUP and then come back in a year and
23 have to pay it again and asked why they would have to pay the second \$300. Berg explained that the
24 first IUP was for a term of one year, which is historically how the City had handled those in the past.
25 Berg stated that this gives the applicant a one-year time period to ensure that they can comply with
26 all the IUP conditions because it is also introduced farm animals to a site that has not had them
27 before. Berg noted that if everything goes well, conditions are met, and there are no complaints,
28 after one year, the City can approve an indefinite IUP or put a different time period on the approval
29 such as 5 years or 10 years.

30 DeRoche stated that he would like to amend his motion to give the applicant at least two years.
31 Lewis clarified that he felt the way to proceed was to have the one-year renewal and then the Council
32 can decide after that year not to charge the fee. Mundle confirmed that the City could always choose
33 to waive the fee. Look stated if this was what the Council was interested doing, it should be included
34 in the motion language. **DeRoche stated I'll amend the motion to include: that at the time of**
35 **renewal in one year, if everything was going well, the conditions had been met, and no complaints**
36 **were received, that the City would waive the \$300 fee. Miller stated I'll second the amendment to**
37 **the motion.** To the motion as amended, all in favor say aye. **All in favor.** Lewis asked any opposed?
38 That motion passes. **Amended motion passes unanimously.**

39 **7.0 A.3 Sec. 15 – Driveway Access and Standards**

40 Berg reviewed that at the May 13, 2024 City Council Meeting, there was discussion to revisit and
41 revise the Driveway Access Standards Ordinance. The Council directed Staff to review the ordinance
42 and provide a recommendation to address the concerns. Berg stated Staff have reviewed Sec. 15.
43 Driveway Access and Standards and have provided a recommended language change to address the
44 concerns. The proposed change was presented to the City Council at the May 23, 2024 Work Meeting

1 and the direction was to follow the City's established ordinance revision process and have the
2 Planning Commission review.

3 Berg stated on June 25, 2024, the Planning Commission held a Public Hearing, during which there was
4 no public comment. After a review of the application material, the Planning Commission, by a 5-0
5 vote, recommended approval of the revision of Sec. 15. – Driveway Access Standards as presented in
6 Ordinance 24-03.

7 Berg stated the Council should review the Ordinance revision, consider the Planning Commission's
8 formal recommendation, and approve the revision to Section 15, Driveway Access Standards as
9 presented in Ordinance 24-03.

10 **Lewis stated I'll make a motion to adopt Ordinance 24-03, Section 15, Driveway Access Standards.**
11 **Smith stated I'll second.** Lewis asked any discussion?

12 DeRoche stated that he thought the City had decided to take the 75 feet out of the ordinance. Berg
13 explained what he proposed, was that in any platted subdivisions that has multiple lots on a paved
14 City street, that they maintain the 75-foot requirement. But, the rural or agricultural properties that
15 are one-offs and not part of a subdivision would be required to pave from the edge of the right-of-
16 way/road surface to the property line. DeRoche reiterated that he thought the Council had said to
17 take the 75 feet out. DeRoche noted the ordinances states that the permitted second driveways
18 would be constructed and improved to current standards at the time of construction. DeRoche gave
19 an example of someone who has a driveway and wants to put in another using Class 5 materials
20 because it is not going to be used frequently. DeRoche referenced the variance that the City granted
21 for property on Durant and stated that unless it becomes an issue, he would not understand why
22 these things changed.

23 DeRoche stated he thought that staff was going to be in touch with the Council and figure out what
24 would work for the ordinance, but nobody had gotten in touch with him. Berg stated that this was
25 presented at the Work Meeting on May 23, 2024 where they had asked for feedback from the
26 Council and did not receive any feedback other than the direction to have the Planning Commission
27 review it. DeRoche stated that he had been under the impression that staff would be getting the
28 feedback from the Council after the meeting. Berg explained that regardless of whether it is a
29 driveway today or a driveway in 6 months, the ordinance requires that it be paved within one year of
30 construction. Berg stated that they will be required to only pave to the property line for the second
31 driveway and after that they can use a different material. Berg explained that the City was just trying
32 to prevent pollution and rocks from getting out onto the traveling surface. DeRoche stated that there
33 was a lot of concern when the City did the variance for the Durant Street project and even with all the
34 rain and black dirt, he has not seen an issue there.

35 DeRoche stated that he had gone back and tried to find the Work Meeting minutes where this was
36 discussed and could not find them. Berg stated that the June 24, 2024 Work Meeting minutes were
37 approved earlier in the meeting during the Consent Agenda so he would not have had access to them
38 before because they would have just been 'draft' minutes. DeRoche stated that the Work Meeting
39 minutes in tonight's package are from the June meeting and this was discussed at the May meeting.

40 DeRoche explained his point is that before this kind of thing comes before the Council, they need to
41 have some heads up and have enough information, so it is not like the architectural ordinance that
42 ended up taking 13 months to complete. Berg suggested that the Council propose whatever they
43 would like and vote on it and explained that staff will make the ordinance whatever the Council

1 would like. Berg reiterated that this was brought up at the Work Meeting with the idea that they
2 were looking for discussion on it.

3 Smith stated that he agreed with DeRoche because he thought the Council had stated that they felt
4 75 feet was too much. Miller noted that at one of the Planning Commission meetings, they also
5 agreed that 75 feet seemed like it was really out of line. Smith stated that he thinks that this should
6 be changed because, in his opinion, 75 feet was way too long. Look stated that there were
7 discussions about two different types of properties, residential and rural residential. Look stated that
8 for the residential district, they are just proposing that it match what is currently there.

9 Lewis stated for the rural, residential it is just from the road to the property line, whatever distance
10 that is. Berg stated he felt that the language proposed was a solution that accommodated all of the
11 concerns but also keeps the platted subdivisions more aesthetically pleasing.

12 DeRoche asked about the date for the May Work Meeting. Berg stated that in his notes it says that
13 the meeting took place on May 23, 2024. DeRoche noted that he was on the City website and that
14 date was not listed as an option.

15 Look reminded the Council that even if they approve what was currently being proposed, if they
16 decided at some point in the future that it was not working, it can be changed because this was a
17 living document. To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That
18 motion passes. **Motion passes unanimously.**

19 **7.0 A.4 Sec. 10-151 – IUP and acreage requirements for domestic farm animals; nondomestic animals**
20 **prohibited**

21 Berg reviewed that at the May 13, 2024 City Council Meeting, there were multiple resident
22 complaints regarding roosters that were lodged at the Public Forum. The Council directed staff to
23 review the ordinance and provide a recommendation to address the residents' concerns. Berg stated
24 Staff have reviewed Section 10-151 and provided a recommended change. The proposed change was
25 presented to the City Council at the May 23, 2024 Work Meeting. The Council direction was to follow
26 the City's established ordinance revision process and have the Planning Commission review.

27 Berg stated on June 25, 2024, the Planning Commission held a Public Hearing during which there
28 were two residents who spoke. One was in favor of prohibiting roosters completely and the other
29 recommended the City consider some incremental allowable number of roosters, based on acreage.
30 After discussion, the Planning Commission recommendation included a provision prohibiting roosters
31 on any lots in a platted subdivision. By a 4-1 vote, the Planning Commission recommended approval
32 of the revision of Section 10 -151, Interim Use Permit (IUP), and acreage requirements for domestic
33 farm animals; nondomestic animals prohibited as presented in Ordinance 24-04.
34

35 Berg asked the Council to review the ordinance revision information, consider the Planning
36 Commission's formal recommendation, and approve, deny, or recommend a modification to
37 Ordinance 24-04, revising Sec. 10 -151, Interim Use Permit (IUP), and acreage requirements for
38 domestic farm animals; nondomestic animals prohibited.

39 Lewis noted that he felt that the Planning Commission had thoroughly discussed this matter.

40 **Lewis stated I'll make a motion to adopt Ordinance 24-04, revising Sec. 10 -151, Interim Use Permit**
41 **(IUP), and acreage requirements for domestic farm animals; nondomestic animals prohibited.**

42 **Mundle stated I'll second.** Lewis asked any discussion? To the motion, **Lewis, and Mundle – Aye.**

43 Lewis asked any opposed? **DeRoche, Smith, and Miller – Nay.** That motion failed.

1 DeRoche stated that he was tired of arguing about this and noted that some at the Planning
2 Commission wanted there to be no roosters allowed at all. He stated that, in his opinion, this is East
3 Bethel, which is a rural community, and when people move out here some people want to have
4 chickens. He explained that he did not support this change and felt that the Planning Commission
5 essentially decided to leave this up to the Council.

6 Miller stated he felt that this change was too early because they had just covered the whole chicken
7 situation and the fees involved. Lewis noted they had discussed chickens but not roosters.

8 Miller stated he felt it included roosters and noted that with regard to the complaints that came in,
9 he and Councilmember Smith went and sat for 15 minutes in the neighborhood and did not hear one
10 chicken or rooster. He stated that they had even gone up to the door of the people who supposedly
11 owned the roosters, but they did not answer. He noted that in East Bethel you will hear a lot of
12 animals and he believes that this change is too early and East Bethel is a big city which has a lot of
13 country-folk that like to have chickens and roosters. He explained that he has chickens and also has a
14 rooster and stated that his roosters has gotten into 2 fights with a hawk. He stated that he likes that
15 he essentially has a 'watch dog' over his chickens.

16 Lewis asked if he was located in a platted subdivision. Miller stated that he was not in a platted
17 subdivision. Lewis noted that this change would only apply to platted subdivisions. DeRoche stated
18 that most of the platted subdivisions have lot sizes of 2.5 acres.

19 Lewis asked if what Councilmember Miller did not like, was the rule about not being able to have
20 more than 1 rooster. Berg noted that the rural residential subdivisions have minimum acreage sizes
21 of about 2.30 acres.

22 DeRoche asked if that was what the one just put in on Durant Street was. Berg stated he believed
23 that was a 20-acre lot, so that would not be part of a platted subdivision.

24 Lewis reiterated that he believes some members of the Council do not like the statement that no
25 more than 1 rooster would be permitted on all other parcels, particularly if it was someone who had
26 20+ acres.

27 DeRoche noted he believes that one person had also said they wanted the minimum acreage size
28 moved from 1.5 acres up to 3 acres. He asked if that had been included in the information before the
29 Council. Berg stated that it was not included and explained that he had just given the Council what
30 the Planning Commission motion was from their meeting.

31 Lewis asked if Councilmember DeRoche was saying that it be changed so there could be no more than
32 one rooster permitted on less than 3 acres. DeRoche stated that was what had been proposed.

33 Smith stated that was what they had said, but that was not included in what was before the Council.
34 Berg clarified that detail was not in their motion.

35 DeRoche stated that Planning Commission Chair Johnson had wanted to table that item and bring it
36 back before the Planning Commission again.

37 Lewis asked what the Council needed to do to move this along. Berg explained that the motion had
38 already failed because it was 2-3 vote. Look confirmed that the motion had failed so there would
39 need to be a reconsideration by the Council for whatever they would like to propose.

40 DeRoche noted there was a point raised that normally people have two roosters so if something
41 happens to one of them, then the other younger one, would already know how to take care of
42 business. He explained that he did not know much about them but did not feel like he could really

1 argue with someone who actually raises them. He asked if there was anyone present who had any
2 input for the Council.

3 Look asked if there may be non-crowing roosters.

4 Petra Vager, 22343 East Sandy Drive, stated that there were not non-crowing roosters. She explained
5 that what she had said at the previous meeting was that the two main reasons she would want to
6 have more than one rooster was that they are not as effective when they are younger. So, there
7 would essentially be no protection for the hens during the time when roosters are young and if they
8 are alone while they are growing up, they also may not know what to do when they are grown. She
9 explained that if you have an adult rooster, which would be an alpha rooster, but also a younger beta
10 rooster, they will be able to learn what to do by watching the alpha rooster. She noted that the
11 second reason she would want to have more than one rooster was that if you are breeding more than
12 one kind of chicken, you need a rooster that matches the kind of chicken, for example, either a meat
13 chicken or a laying chicken.

14 Lewis asked if the chickens were free range chickens, clipped, or in a coop. Ms. Vager stated that the
15 chickens would be in a coop and would have a run.

16 Lewis asked the Council what they wanted to do. Berg explained that if there were no other motions,
17 the ordinance would remain as it is in the books.

18 DeRoche suggested that the Council work this out at one of their Work Meetings so they can make
19 sure what is brought before them has all the details that they want included.

20 Lewis announced that the City was planning to begin broadcasting their Work Meetings.

21 Berg confirmed that staff will bring this topic to a future Work Meeting.

22 **7.0 A.5 Metes and Bounds Split: 516 217th Avenue NE**

23 Berg reviewed that on June 10, 2024, Keith Gallagher, submitted an application for a Metes and
24 Bounds split of a 20-acre parcel of land, located at 516 217th Avenue NE, PID: 07-33-23-31-0001, into
25 three parcels. The first parcel, will contain the original single family home and will be divided off as a
26 10-acre lot. The remaining 10 acres will be subdivided equally into two 5-acre lots. The property
27 proposed for the division is zoned Rural Residential and per City Code, Appendix A, Zoning, Section
28 42, the minimum lot size for any division is 2 acres.

29 Berg explained that to be eligible for using metes and bounds divisions as outlined in Appendix A,
30 Zoning, Section 12, the following conditions must be met:

- 31 1. The parcel must be a minimum of five acres.
- 32 2. The parcel must have a minimum road front of 300 feet.
- 33 3. The parcel must contain 23,000 square feet of buildable area as defined in other portions of this
34 ordinance.
- 35 4. Appropriate road, public utility, and drainage easements, as outlined in Ordinance 151 as
36 amended, must be dedicated to the city.
- 37 5. Park and trail dedication fees as adopted by the city council by resolution must be paid at the time
38 of city certification of parcel division.

39 Berg indicated that this request meets the minimum requirements for a metes and bounds parcel
40 split by City code.

41 Berg stated on June 25, 2024, the Planning Commission reviewed the petition for a metes and bounds
42 parcel split to ensure it satisfies the requirements of City Code, Appendix A, Zoning, Section 12. By a 5

1 – 0 vote, the Planning Commission made a recommendation to the City Council to approve the parcel
2 split with conditions as identified in Resolution 2024-41.

3 Berg stated the Council should review the request, consider the Planning Commission’s formal
4 recommendation, and approve the metes and bounds parcel split with conditions as identified in
5 Resolution 2024-41.

6 **Mundle stated I’ll make a motion to adopt Resolution 2024-41, Approval of Metes and Bounds**
7 **Parcel Split at 516 217th Avenue NE. DeRoche stated I’ll second.** Lewis asked any discussion?
8 DeRoche asked what effect this action would have for the Met Council. Berg stated that it would not
9 affect the Met Council because this is within the City’s rural residential zoning district so those parcels
10 are allowed to be split down to a minimum of 2 acres and this would split them into 5 acre parcels.
11 To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes.
12 **Motion passes unanimously.**

13 **7.0 B Economic Development Authority**

14 None.

15 **7.0 C Park Commission**

16 None.

17 **8.0 Department Reports**

18 **8.0 A Community Development**

19 **8.0 A.1 Variance: 18164 Highway 65 NE – Cedarwood Estates**

20 Lewis explained that because the City has to wait for some legal evaluation, the Council cannot deal with
21 this item during tonight’s meeting. Berg suggested that the Council make a motion to move this item to
22 July 22, 2024.

23 **Mundle stated I’ll make a motion to postpone discussion of the variance request for the placement**
24 **of manufactured homes on Lots 17 and 125 in the Cedarwood Estates Manufactured Home Park**
25 **located at 18164 Highway 65 NE, until the July 22, 2024 City Council meeting. Smith stated I’ll**
26 **second.** Lewis asked any discussion?

27 Mundle asked if this postponement would follow into the appropriate timeline for action. Berg
28 stated there is an extension until August 4, 2024 so the July 22, 2024 meeting would still fall within
29 the appropriate timeframe for action. DeRoche asked for clarification on the reason for this delay.
30 Lewis stated that the City was waiting for the City Attorney to have time to review a letter that was
31 received from the legal representation for the petitioner.

32 DeRoche asked if the City had gotten all the other information that they had asked for. Look clarified
33 that the City had received the other information and explained that the letter seems to be making
34 some claims that the City may not agree with, so they needed legal counsel to determine if that is
35 accurate. Look stated that the applicant had been notified that this item would be pulled from
36 tonight’s agenda and would be moved to July 22, 2024.

37 DeRoche noted that the City had asked for verification from the MPCA. Look reiterated that the City
38 had received all of that information. Smith stated that he had received all the information that he
39 had asked for and had been able to review it. To the motion, all in favor say aye. **All in favor.** Lewis
40 asked any opposed? That motion passes. **Motion passes unanimously.**

41 **8.0 B Engineer Report**

42 None.

1 **8.0 C City Attorney**

2 None.

3 **8.0 D Finance**

4 None.

5 **8.0 E Public Works**

6 None.

7 **8.0 F Fire Department**

8 None.

9 **8.0 G City Administrator Report**

10 Look stated that he wanted to follow up on the question regarding the fire service certification
11 expense that was raised under the Consent Agenda. He explained that the expense was for a Fire
12 Officer 1 certification exam which was taken by David Bailey, Ryan Henry, and Jordan Hill. He gave a
13 brief explanation of the exam that he found via a Google search.

14 Look stated last Tuesday, he attended the County Board meeting where the assessment contract
15 passed without any conversation. He noted that they also considered the ditch abandonment that
16 Capstone was working towards which also passed. He felt it was good that they had the public come
17 in a few evenings prior to the meeting so they could express concerns and talk through any of the
18 issues that arose.

19 Look stated that the Council should be familiar with broadband and the ARPA dollars that the County
20 has and their efforts to invest them in areas that are underserved, including East Bethel. He noted
21 that the County had originally gone out with a request for proposal to see if there would be interest
22 in receiving dollars for projects which they then switched to a grant based system in which the
23 providers then submitted requests for the grant dollars. He stated that he has heard that none of the
24 applications met the grant requirements, so the funds were sitting there despite having been verbally
25 allocated for underserved areas. Look explained that he had reached out to a County Commissioner
26 and asked them to fast-track these efforts because the problem is not going away. He stated that he
27 intends to continue working with the County to try to impress upon them the need to 'fish or cut
28 bait'.

29 DeRoche asked why none of the grant applications were accepted and if they had changed the
30 parameters. Lewis asked if it was because it was a moving target. Look stated he believes that it was
31 a 50/50 contribution before, but then they had a discussion about a city like Nowthen, which has less
32 wetlands and more densely developed areas. He explained because of this, the cost to extend
33 broadband would be less than for a city like East Bethel, because of the amount of wetlands. He
34 stated that a 50/50 contribution would end up being a larger 50/50 contribution from East Bethel
35 than there would be for Nowthen, so it was not necessarily an apples-to-apples kind of comparison.
36 He explained that was part of what he had encouraged the County to take into consideration because
37 East Bethel may need some extra consideration in order to accomplish those goals that other
38 communities may not have to deal with. He stated that he was unsure why this did not meet the
39 grant requirements, but assured the Council that he intended to try to find out. He stated that he
40 also intended to encourage the County to allocate money and let the community decide how they
41 will distribute it so they can utilize those funds because the clock is running out for meeting the
42 deadline to expend the ARPA funds.

1 Miller stated he had heard there was a house fire on Quincy recently and asked if everyone was okay.
2 Look stated that everyone was fine and there were no injuries, but the home was a complete loss.

3 DeRoche asked who had responded to the fire. Look explained he was not sure if there was mutual
4 aid for this fire outside of the East Bethel Fire Department. Look noted that he did not believe the
5 fire was related to fireworks.

6 **9.0 Other Items**

7 **9.0 A Staff Report**

8 None.
9

10 **9.0 B Council Reports**

11 Mundle stated on behalf of Stephanie Dorn, Director of Booster Days, he was asked to remind people
12 that Booster Days is coming up on July 20, 2024, and will have lots of things to do including: a
13 pancake breakfast, car show, petting zoo, inflatables, K-9 demonstration, bands, talent show, and
14 music and fireworks at dusk. He encouraged residents to come out and celebrate together at Booster
15 Days.

16 Lewis asked if Ms. Dorn would be letting the Council know when they should appear or be present at
17 the booth. Mundle noted he believed that Administrative Coordinator Frost had sent out a document
18 few weeks ago in order for the Council to sign up for their time slot at the Council booth.

19 Lewis stated the City has a complaint based zoning enforcement system and the logic behind that is
20 that the people most directly and closely effected by zoning violations are the ones that should be
21 listened to in the event of a complaint. He stated there is a situation in the City that has been
22 happening for a long-time with someone who has been working out of their home. He stated that it
23 looked like it was going to be enforceable and the sentiment was basically that they hated enforcing
24 those types of things because it is a person's livelihood. Lewis stated it had been given a lot of
25 attention, but it had occurred to him that the City is in favor of democracy, which is why the
26 complaint was highly valued when coming from an adjacent property owner. He felt there ought to
27 be a way to have a more local democracy about this disposition and explained that when there is one
28 person that complains that someone was in violation of either an ordinance or a CUP, he did not feel
29 it should be the final measure if, for example, 19 out of 20 people who live around this individual
30 thinks what they are doing is fine, but the 1 individual, who may not like that person, complains. He
31 would like to throw out the idea for Council consideration of having some sort of local democracy
32 approach to zoning ordinance enforcement. He explained if there is a way that the City can make
33 their zoning enforcement more democratic and locally based, he thinks that would be a good
34 development for the City.

35 DeRoche stated that he agreed that this was a good idea.

36 Lewis stated that he was still dealing with the ACEIT, the Anoka County Election Integrity Team, to
37 learn about the options for requesting a post-election review of some of the elections in the City and
38 noted that Oak Grove and Ramsey have done this in the past. He was interested in pursuing this as a
39 'checks and balances' to ensure that the elections are being fairly conducted and no fraud was
40 involved. He stated that he and City Administrator Look have been in conversations with ACEIT about
41 how that can be done and how the costs can be managed. He thinks it is a good practice to have a bit
42 of 'bird-dogging' happening with the elections because he felt it was close to the most fundamental
43 right that people have to be able to vote. He reiterated that the conversation is ongoing and would

1 guess that it would be limited to several races and most likely a random selection of precinct, rather
2 than doing the whole thing.

3 DeRoche stated that a lot of people have posted about picking up dog excrement when they go to
4 Booster East or Booster West. He noted that someone had chimed into the conversation and said
5 they had been bitten by somebody's dog and that dogs were charging people and other dogs. He
6 stated the whole time he has served on the City Council, there hasn't really been a potentially
7 dangerous dog issue and wonders if people just haven't been reporting it. He questioned whether
8 the City needed to address the situation if someone puts it out there. He noted that from legal
9 standpoint, he thinks that if enough people complain that dogs are biting and the City does not do
10 anything, they could turn around and sue the City.

11 City Attorney _____ stated she did not believe that would create any liability for the City. She noted
12 that the City enforces their ordinances as they are made aware of them. So, if the City was made
13 aware of a potentially dangerous dog and chose not to enforce the ordinance, there would need to
14 be some sort of record as to why that was not occurring. She explained that typically, this would be
15 handled at a law enforcement level and the complaint would be made to the local law enforcement
16 and not City staff. She stated that once it was processed at the law enforcement level, it could then
17 potentially be brought before the Council to make a motion regarding the designation of a potentially
18 dangerous dog and then later, a dangerous dog.

19 DeRoche stated that people used to come in and complain to City staff, such as former City
20 Administrator Davis, who would try to get people to work things out. He stated that if they couldn't
21 work it out, whoever got bit would call the deputies to come out, write a citation, and the dog would
22 go into quarantine. He stated after that, it would end up at a City Council meeting for them to make
23 a decision on whether they can keep the dog, put restrictions on the dog, or have the dog put down.

24 Mundle stated there have not been many of these instances over the past year.

25 City Attorney _____ stated there is one about a year or two ago, where a dog was put down. She
26 noted that it was a very bad situation and believes it did not even go through the 'potentially
27 dangerous dog' phase.

28 Mundle agreed and noted that the City had an independent hearing officer to conduct that hearing in
29 order to have a bit of separation between the City and the situation. He stated with the severity in
30 that case, the City wanted to have a professional to handle those efforts.

31 DeRoche cautioned that the City cannot be letting people's dogs bite other residents.

32 Mundle clarified that the City does not let people's dogs bite the residents, but noted that accidents
33 do and will happen.

34 Berg explained that procedurally, the Sheriff's office would take the report which is then forwarded
35 to Administrative Coordinator Frost. Then, Ms. Frost would distribute it to his office for electronic
36 cataloging and the City Administrator along with the Sheriff's office makes the determination on
37 whether the bite was escalated enough to be brought in front of the Council. Berg stated the City is
38 getting reports, and gave the example of the report he received today where there was a bite, but
39 the skin was not broken and the victim did not want to seek medical attention. He explained the
40 deputy had verified that the animal had its rabies vaccination and the dog was allowed to remain in
41 the care of their owner and told to maintain the quarantine period within the home. He explained if
42 there was a break in the skin and medical attention is sought, that would escalate the report to come
43 before the Council and it would not be handled administratively.

1 DeRoche stated that he was just going on history and noted he can remember an instance where
2 someone was brought up for a potentially dangerous dog because their dog, who was inside a fence,
3 ran up to the fence and scared somebody. He stated this was not a bite that broke the skin, but the
4 potential was there to be a dangerous dog.

5 Berg stated the Council can give staff direction to bring them all of those instances for Council review
6 but cautioned that he did not think the Council would actually want all of them. DeRoche stated that
7 was not what he was asking for.

8 Miller stated that it seemed like every week there was something on social media about dogs that
9 were being found were being dropped off at different areas and asked if there was anyway the City
10 could get clarification on this so residents know exactly what do to with a lost dog. He suggested that
11 perhaps something could be put into the City's flyer so people can see the information and know
12 what to do.

13 Berg stated that in the past, they have included information in the *Bulletin* and agreed that could be
14 repeated in a future edition.

15 **9.0 C Other**

16 None.

17 **10.0 Adjourn**

18 **Mundle stated I'll make a motion to adjourn. DeRoche stated I'll second.** To the motion, all in favor
19 say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

20 Meeting adjourned at 8:50 PM.

21 Submitted by:

22 Kayla Rokosz

23 *TimeSaver Off Site Secretarial, Inc.*

**CITY OF EAST BETHEL
EAST BETHEL, MINNESOTA**

RESOLUTION NO. 2024-48

ACCEPTING DONATION FROM CENTERPOINT ENERGY

WHEREAS, the City of East has received a donation via a Community Safety Grant in the amount of \$2,200.00 from CenterPoint Energy that will be used for the purchase of two AED's for East Bethel Fire Department's back-up first-out trucks to respond to scenes.

NOW THEREFORE BE IT RESOLVED that the City of East Bethel City Council does hereby acknowledge and accept the \$2,200.00 donation from CenterPoint Energy.

BE IT FURTHER RESOLVED that the City of East Bethel City Council expresses its thanks and appreciation to CenterPoint Energy for their \$2,200.00 donation for the purchase of two AED's.

Adopted this 22nd day of July, 2024 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Kevin Lewis, Mayor

ATTEST:

Matt Look, City Administrator

**City of East Bethel
City Council Meeting
Agenda Item Information**



Date: July 22, 2024

Agenda Item Number: 8.0 A1

Agenda Item: Variance Request – General Regulations – for a variance to setback and lot standards for placement of manufactured homes, on sites 17 and 125, at the property located at 18164 Highway 65 NE — Continental Communities.

Requested Action: Consider a variance request for the placement of manufactured homes on Lot 17 and Lot 125.

Background Information: On June 10, 2024 variance request information was presented to the City Council for the placement of manufactured homes on lots 17 and 125 in the Cedarwood Estates Manufactured Home Park. At the conclusion of the presentation and discussion City Council requested additional information regarding the Sewage Treatment Plant and permits issued since November of 2021.

A February 17, 2022 MPCA Audit Report is attached.

An October 2017 Facility Evaluation Report by Bolton & Menk, Inc. is attached.

A summary of the Manufactured Home Placements since Nov. 2021 is also attached.

An East Bethel Community Development Internal Memo regarding Setbacks in regard to a placement on Lot 45 is also attached.

The proposed placements – The proposed placements of manufactured homes on Lot 17 and Lot 125 do not meet the criteria set forth to allow for the proposed structures to be placed, so variances would be required.

Consideration of a variance requires the consideration of a three-factor test for practical difficulties:

- The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.
- In this case:
 - *The placement of a new manufactured home on a lot in an existing manufactured home park is reasonable.*
 - *Placing a manufactured home on a non-conforming lot with the dimensions larger than any previous home is not reasonable.*
 - *Expansion of a non-conformity is prohibited by East Bethel Ordinance Sec 05. & Minn. Stat. § 462.357, subd. 1e.*
 - *Placing a manufactured home within 30' of another manufacture home may not be reasonable.*

- The second factor is that the landowner’s problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands.
- In this case:
 - ***Continental Communities purchased the property in its existing form and design.***
 - ***Due to the lack of CUP and non-conforming status of the entire property, the existing lot dimensions in Cedarwood Estate cannot be expanded to accommodate placements of manufactured homes within existing setbacks.***
 - ***Sec. 38-44. – Existing Manufactured Home Parks contains provisions that allow “other variances may be approved by the city council if strict compliance with said provisions of this article would be an undue hardship upon the park owner.”***
- The third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.
- In this case:
 - ***There are 150 + manufactured homes in the park of which all would not meet Sec. 38-25. - Lot standards.***
 - ***The encroachment in setbacks vary on each lot as a result of the inconsistent lot dimensions.***
 - ***A variety of manufactured home dimensions have been placed on lots throughout the history of the park.***

Planning Commission: On May 28, 2024, the Planning Commission held a Public Hearing. Aside from a representative of Continental Communities, there was no public comment. After a review of the application material and hearing from the applicant the Planning Commission, after a lengthy discussion, by a 7-0 vote recommended denial to the City Council to the variance requests to reduce the lot standards and setback distances to allow the existing placements of Manufactured Homes on Lot 17 and Lot 125.

One item of concern raised by the planning commission was risk associated with fire. The National Fire Protection Association 501A - Standard for Fire Safety Criteria for Manufactured Home Installations, Sites and Communities states in **Sec. 6.2.1 Fire Separation Separation Requirements. Sec. 6.2.1.1 Fire separation distances shall comply with the jurisdiction’s adopted building code, local rules, or regulations.**

Recommendation: City Council should review the additional information requested, consider previously discussed historical information as well as the Planning Commission’s formal recommendation and approve, provide a modified approval or deny the variance requests to reduce the lot standards and setback distances to allow the placement of Manufactured Homes on Lot 17 and Lot 125.

Attachments:

1. Location Map
2. Aerial Map
3. Feb 17, 2022 MPCA Audit Report
4. Bolton & Menk, Inc. 2017 Facility Evaluation Report
5. Summary of Manufactured Home Placements since Nov. 2021

- 6. February 28, 2022 MEMO regarding Lot #45
- 7. Larkin Hoffman July 3, 2024 Memo to City
- 8. East Bethel City Attorney Memo

City Council Action:

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

18164 Highway 65 - Location Map

Item 8.0 A.1, Attachment 1



-  Parcels
-  City Mask

1 inch equals 359 feet



18164 Highway 65 - Aerial Map

Item 8.0 A.1, Attachment 2



-  Parcels
-  City Mask

1 inch equals 271 feet





520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300
800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

February 17, 2022

Daniel Van Voorhis
2015 Spring Road Suite 600
Oak Brook, IL 60523-3907

RE: Village Green North Mobile Home Park
SDS Permit No. MN0052132
WW DSA-Offsite Desk Audit

Dear Daniel Van Voorhis:

Enclosed is the WW DSA-Offsite Desk Audit Report (Report) that resulted from an inspection of the Village Green North Mobile Home Park (Regulated Party) on February 4, 2022, by Haley Anderson of the Minnesota Pollution Control Agency (MPCA). Non-compliant requirements identified at the time of inspection are listed on page 6 of the Report

Corrective actions and deadlines are listed on page 7-8 of the Report.

Please be aware, this correspondence does not preclude the MPCA from taking further action in response to non-compliance identified.

If you have any questions, please contact me at 651-757-2037 or 800-657-3864 and by email at haley.e.anderson@state.mn.us.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads 'Haley Anderson' in a cursive script.

This document has been electronically signed.

Haley Anderson
Environmental Specialist
Municipal Division

HA;jg

Enclosure

cc: Jesse Osborne, Village Green North Mobile Home Park (w/enclosure)
Activity ID INS20220001 @ 3536



Water Quality Point Source Program

WW DSA-Offsite Desk Audit Report

Facility information:

Facility name: Village Green North Mobile Home Park

Permit number: MN0052132

Address: 18164 Highway 65 NorthEast, Cedar, Minnesota 55011

SIC code: 6515 - Operators of Residential Mobile Home Sites

Permit expiration date: 03/31/2027

Facility design flow: 0.05 million gallons per day (MGD) average wet-weather (AWW)

EPA facility type classification: EPA Minor (Minor: <1.0 MGD AWW Design; Major: >1.0 MGD AWW Design)

Type of flow: Domestic

Geographic information:

MPCA region: MPCA Metro Region

County: Anoka

Basin: Upper Mississippi River, Upper Portion

Major watershed: Rum River

Receiving water: Unnamed ditch (Branch 3 Lateral 2)

Those present during the inspection:

Jesse Osborne, Contract Operator

MPCA representatives:

Haley Anderson, Environmental Specialist

Inspection information:

Inspection date: February 4, 2022

Inspection category: Routine Inspection

Inspection type: WW DSA-Offsite Desk Audit

Facility components:

- Activated Sludge - extended aeration
- Collection system (gravity and/or pressure)
- Disinfection (chlorination)
- Effluent Disposal - Rapid Infiltration Basin
- Secondary Clarification
- Solids Handling - Storage Tank

Treatment plant operators:

Name	Email	Phone	Class	Expiration
------	-------	-------	-------	------------

If any of the above Treatment plant operators, including their associated contact information are inaccurate, please submit those edits to Tracy Finch (tracy.finch@state.mn.us) and Andrea Ebner (andrea.ebner@state.mn.us).

Facility contacts:

Name	Relationship	Phone	Email
Sherry Saxon	is 24-Hour emergency contact - Secondary for	630-645-8109	sherrysaxon@continentalcommunities.com
Jesse Osborne	is Wastewater Permit Contact for is 24-Hour emergency contact-Primary for is DMR recipient for is Online Subscriber for is consultant for	651-403-0782	Jesse@storgeworldmn.com
Kevin Carlson	is Online Subscriber for	612-695-4248	kcarlson@edenprairie.org
Larry Cirrincione	is Wastewater Billing Contact for	630-645-8112	larry_cirrincione@continentalcommunities.com
Daniel Van Voorhis	is responsible official for owns	630-645-0310	daniel_vanvoorhis@continentalcommunities.com

If any of the above contacts are inaccurate, please submit the appropriate form to NPDES.PCA@state.mn.us:

- To remove an Online Subscriber contact, please submit an [e-Services: Request to remove account holder authorization](#) (wq-wwprm7-100b)
- For all other contact updates, please submit a [Permit contact change form](#) (wq-wwprm7-72)

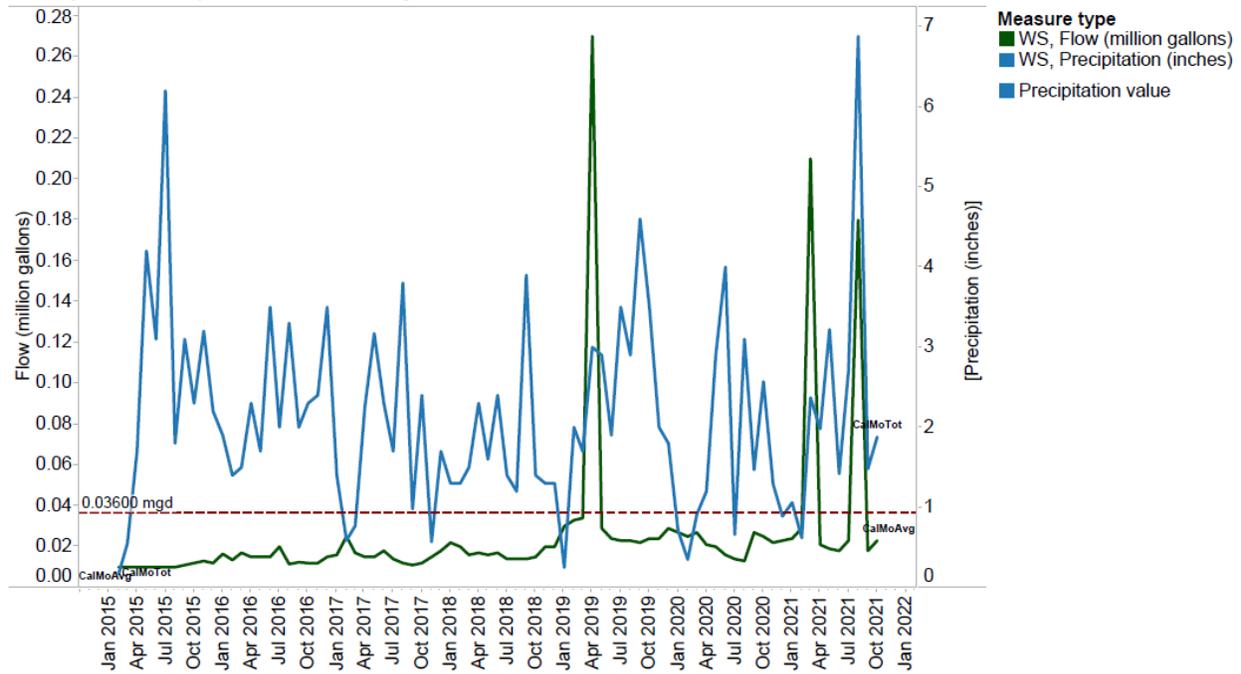
Inspection Summary
May 2015 – February 2022

A WW DSA-Offsite Desk Audit was conducted on February 4, 2022 by Haley Anderson of the Minnesota Pollution Control Agency (MPCA) to determine the compliance of Village Green North Mobile Home Park (Regulated Party) with the terms and conditions of its National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit.

Key: A = Advisory C = Compliant NC = Non-Compliant NI = Not Inspected NA = Not Applicable

Compliance status	Requirement and notes
	Overall physical condition of the plant
	Comments: Plant is in good, working condition. Extra parts are kept on hand in case of emergency.
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	Adequate Operation & Maintenance to achieve permit compliance <ul style="list-style-type: none"> • Certified Operator • Maintenance schedule - daily, weekly, and monthly • Chemical additives/Bioaugmentation approved
	Comments: Weekly maintenance performed.
<input type="checkbox"/> NI <input type="checkbox"/> NA	Inflow & Infiltration (I&I)/collection system <ul style="list-style-type: none"> • Number of lift stations: One lift station <ul style="list-style-type: none"> ○ Alarm System: Visual/audio • Miles of sanitary sewer: <ul style="list-style-type: none"> ○ Inspection/cleaning program frequency: Jet once per year ○ I&I ordinance in effect – If yes, is it enforceable: None
	Comments: No I&I issues. Jesse checked seals on manholes summer 2021
	Flow data (compare design flow to actual flow) <ul style="list-style-type: none"> • Design Flow: 0.05 MGD • Actual Flow (3-4 yr. avg): 0.019 MGD or 39 % of design flow

Monthly Flow & Precipitation values for Village Green North Mobile Home Park



Compliance status	Requirement and notes
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	Equipment calibration - Flow instrument calibration methods <ul style="list-style-type: none"> Flow equipment (pump run times, meters, etc.)
Comments:	
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	Releases/Incidents prohibited
Comments:	

Compliance status	Requirement and notes
<input type="checkbox"/> NC <input type="checkbox"/> C <input type="checkbox"/> A <input checked="" type="checkbox"/> NA	Release follow-up: <ul style="list-style-type: none"> Take all reasonable steps to immediately end release Notify Duty Officer immediately Recover as rapidly and thoroughly as possible
<input type="checkbox"/> NC <input type="checkbox"/> C <input type="checkbox"/> A <input checked="" type="checkbox"/> NA	Release sampled and results submitted within 30 days
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	Nuisance conditions prohibited
Comments:	
<input type="checkbox"/> NI	Sampling methods/lab certification
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	Representative sampling (Sample type, location, timing)
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	Additional sampling (If yes – reported on Discharge Monitoring Reports (DMRs) and Sample Values)
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	Certified lab analyzes samples or field parameters in-house and calibrations compliant <ul style="list-style-type: none"> Certified laboratory name:
Comments:	

Compliance status	Requirement and notes
	<p>Field parameter analysis: potential of hydrogen (pH)</p> <ul style="list-style-type: none"> • Instrument manufacturer and model: • Calibration procedure and records • Minimum of two point calibration • Buffers current (e.g., not expired) • Calibrated each day of sample
	<p>Comments:</p>
	<p>Field parameter analysis: Dissolved Oxygen (DO)</p> <ul style="list-style-type: none"> • Instrument manufacturer and model: • Calibration procedure and records • Calibration frequency: /
	<p>Comments:</p>
	<p>Field parameter analysis: Specific conductance</p> <ul style="list-style-type: none"> • Instrument manufacturer and model: • Calibration procedure and records • Calibration frequency: /
	<p>Comments:</p>
	<p>Field parameter analysis: Total Residual Chlorine (TRC)</p> <ul style="list-style-type: none"> • Instrument manufacturer and model: • Calibration/verification procedure and records • Checked against standard at least monthly/quarterly
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A <input type="checkbox"/> NA	<p>Method detection limit and reporting limit established</p>
	<p>Comments:</p>
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	<p>Sample preservation and procedures</p> <ul style="list-style-type: none"> • Sample type (e.g., Comp. vs. Grab) compliant with Limits & Monitoring • Holding times (e.g., pH, TRC, DO within 15 min., etc.) • Thermal preservation adequate (≤6°Celsius) • Composite samples refrigerated during sample collection if applicable • Thermometers (Sample Fridge, etc. checked annually with National Institute of Standards and Technology)
	<p>Comments: Kept in cooler in refrigerator, pH taken on site</p>
<input type="checkbox"/> NI	<p>DMRs/sample values/annual reports</p>
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C	<p>Timeliness</p> <ul style="list-style-type: none"> • Reports (Required reports submitted on time) • Permit application submitted on time • Sample Values submitted on time • DMRs submitted on time
	<p>Comments:</p>
Compliance status	Requirement and notes
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	<p>Completing Reports (DMRs, etc. complete and submitted on MPCA approved forms)</p>
	<p>Accuracy (e.g., Lab data match all DMR values and frequency)</p>
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C	<p>Frequency of sampling (as required by permit, no missed samples)</p>

DMR parameters

Type of parameter	Total required	Missing	Percent missing	Limit violations	Percent violations
All parameters	1095	0	0.00%	2	0.18%

Compliance status	Requirement and notes
<input checked="" type="checkbox"/> NC <input type="checkbox"/> C	Permit limit compliance: Fecal sample taken too close to edge of weir. Chorine was increased to combat future fecal issues.

Station	DMR monitoring period	Parameter	Limit	Reported value
WS 002	10/01/2021 - 10/31/2021	Fecal Coliform, MPN or Membrane Filter 44.5C in organisms per 100 milliliter - calendar month geometric mean	200	3572
WS 002	10/01/2020 - 10/31/2020	pH in standard units - calendar month minimum	6.0	5.5

Compliance status	Requirement and notes
<input checked="" type="checkbox"/> NC <input type="checkbox"/> C <input type="checkbox"/> A <input type="checkbox"/> NA	Permit limit violation follow-up

Comments: No comments on DMRs after violation

<input type="checkbox"/> NI	Record keeping
-----------------------------	-----------------------

<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	<p>Maintain records for at least three years and with following:</p> <ul style="list-style-type: none"> Place, date, time of sample/measurement Date of analysis Name of person performing sample/measurement, etc. Analytical techniques, procedures, and methods used Results of analysis
--	---

Chain of Custody (COC) forms (completely filled out, available, etc.)

Comments: COC sent via email

	<p>Pretreatment</p> <p>Significant industrial users:</p> <ul style="list-style-type: none"> Agreement in place and up to date Inspection frequency: / Sampling frequency: / Trucked-in waste accepted? If yes, sampled appropriately?
--	---

Comments: None

	Stabilization pond operation
--	-------------------------------------

<input type="checkbox"/> NC <input type="checkbox"/> C <input type="checkbox"/> A <input checked="" type="checkbox"/> NA	Bypass structures – all structures capable of bypassing kept locked
---	--

Comments: Once per week mowing during growing months. No current issues with burrowing animals. In the past, rodents and burrowing animals were removed from the property.

Compliance status	Requirement and notes
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	Pond observations – Pond system inspected weekly and records kept of the following: <ul style="list-style-type: none"> • Water depth; Aquatic plant coverage; Floating mats and Ice cover; Odors; Condition of dikes; and presence of rodents (muskrats, burrowing animals)
<input type="checkbox"/> NC <input checked="" type="checkbox"/> C <input type="checkbox"/> A	<ul style="list-style-type: none"> • Daily precipitation records

Other/Additional comments:

Alleged violations/Corrective actions (Provided as indicated below):

- See below:

Violation number	Requirement (e.g., Minn. R., Permit condition)	Description of noncompliance	Corrective action	Timeline (e.g., immediately, within 10 days)
1	<p>SDS Permit MN0052132, Chapter 5, Part 5.13.73</p> <p>Effluent Violations. If sampling by the Permittee indicates a violation of any discharge limitation specified in this permit, the Permittee shall immediately make every effort to verify the violation by collecting additional samples, if appropriate, investigate the cause of the violation, and take action to prevent future violations. If the Permittee discovers non-compliance that does not explicitly endanger human health, public drinking water supplies, or the environment, the non-compliance shall be reported during the next reporting period to the MPCA with its Discharge Monitoring Report (DMR). If no DMR is required within 30 days, the Permittee shall submit a written report within 30 days of the discovery of the noncompliance. This description shall include the following information:</p> <ul style="list-style-type: none"> a. a description of the event including volume, duration, monitoring results and receiving waters; b. the cause of the event; c. the steps taken to reduce, eliminate and prevent reoccurrence of the event; d. the exact dates and times of the event; and e. steps taken to reduce any adverse impact resulting from the event. <p>[Minn. R. 7001.150, 3(K)]</p>	<p>During the February 4, 2022 DSA desk audit, the MPCA documented that comments were not left on DMRs following noncompliance</p>	<p>Immediately begin providing information, including items a-e, when noncompliance occurs</p>	<p>Immediately</p>

2	<p>SDS Permit MN0052132, Limits and Monitoring</p> <p>The Permittee must comply with the limits and monitoring requirements below</p>	<p>During the February 4, 2022 DSA desk audit, the MPCA documented one fecal coliform exceedance 10/2021 of 3572 with a limit of 200, and one pH exceedance 10/2020 of 5.5 with a limit of 6.</p>	<p>Immediately begin complying with permit limit requirements</p>	<p>Immediately</p>
---	--	---	---	--------------------

Subject item	Parameter	Discharge limitations						
		Quality /Conc. avg.	Quality /Conc. max.	Quality/ Conc. units	Frequency	Sample type	Effective period	Notes
WS 002	Fecal Coliform, MPN or Membrane Filter 44.5C	200 calendar month geometric mean		organisms per 100 milliliter	twice per month	Grab	Jan-Dec	
WS 002	pH		9.0 calendar month maximum	standard units	twice per month	Grab	Jan-Dec	

Address questions and submittals requested above to:

Haley Anderson
 Minnesota Pollution Control Agency
 520 Lafayette Road North
 Saint Paul, MN 55155-4102
 651-757-2137
haley.e.anderson@state.mn.us

I. Introduction

This Facility Evaluation Report has been prepared by Bolton & Menk, Inc. on behalf of the Village Green North Manufactured Home Community. The community is located at 18164 Hwy. 65 N.E. in Cedar, MN. It owns and operates a package-style wastewater treatment facility that serves its residents. This Facility Evaluation Report has been prepared in response to SDS Permit No. MN0052132 (Appendix A), Chapter 4, Paragraph 5.10.21 which states:

“Within two (2) years after permit issuance [April 19, 2019], the Permittee shall work with a Professional Engineer to complete a facility evaluation and submit a Facility Evaluation Report (Report) to the MPCA for review and approval. The Report shall include, but is not limited to:

- a. An evaluation of the treatment system components, operations, performance, conditions, etc.;*
- b. A list of recommended improvements based on the facility evaluation. This may include improvements to facility infrastructure, operations and maintenance, data collection, safety features, etc.;*
- c. A list of proposed actions the Permittee will take to address the improvement items; and*
- d. A detailed schedule for completing the proposed actions to address the improvement items.”*

An inspection of the facility was performed October 19, 2017. This report summarizes the findings.

II. Facility Description

The Village Green North Mobile Home Park wastewater treatment facility is located at 18164 Highway 65 NE, Cedar, Minnesota 55011, Anoka County. A location map is provided as Figure 1. The facility does not have a surface water discharge.

The facility consists of one aeration tank, two final clarifiers operated in sequence, one chlorine contact tank, and a 4.1-acre seepage basin. The aeration tank, final clarifiers, and chlorine contact tank are located in a corrugated metal structure. Waste solids are pumped to an on-site below-grade concrete tank and periodically transported to another wastewater treatment facility for stabilization and disposal. Four groundwater monitoring wells are associated with the Facility.

The Facility is designed to treat an average influent flow of 30,000 gallons per day, with a 5-day carbonaceous biological oxygen demand (CBOD₅) strength of 348 mg/L. It is a Class C facility.

IV. Influent Characteristics

Influent flow rates at the treatment facility are provided in Figures 2 and 3. Values are taken from the MPCA’s wastewater data browser. Monthly average flows are between 10,000 and 25,000 gallons per day. Assuming 130 active units in the service area, an average of 2.5 people per household, per capita flow rates are between 31 and 77 gallons per day. This range is somewhat lower than average. Some combination of smaller average size of household, unoccupied housing units, or efficient water usage may account for the low flows. The available data suggests a flow meter malfunction in 2015, which appears to have been resolved.

Influent CBOD₅ concentrations are provided in Figures 4 and 5. The range of concentrations sometimes exceeds Metcalf and Eddy’s typical range for domestic wastewater of 110-350 mg/L. This may be the result of efficient water usage, resulting in concentrated waste. It seems likely that the June 2010 concentration of 1,000 mg/L is the result of sampling or laboratory anomaly rather than a representative indication of actual conditions.

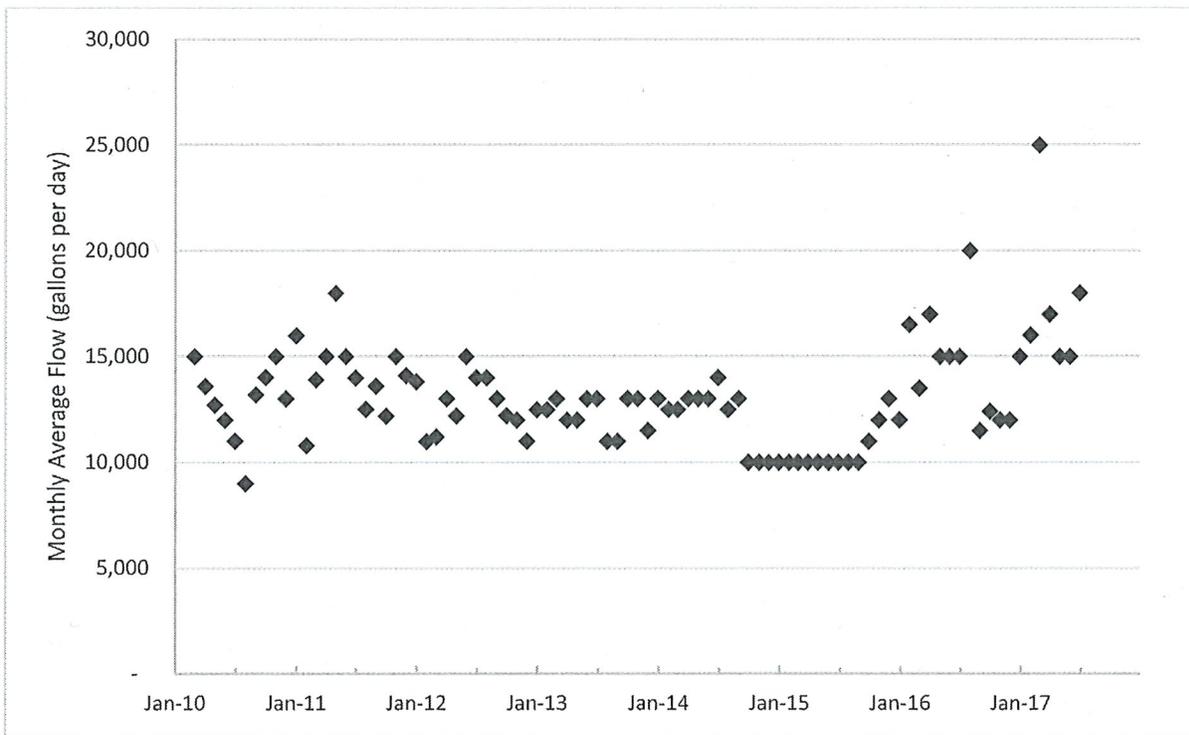


Figure 2 Monthly average influent flow rates

SUMMARY - CEDARWOOD ESTATED MANUFACTURED HOME PERMITIS - 11/2021 - 3/2024

Permit #	Date	Lot #	Front Setback	Rear Setback	Left Side	Right Side
21-01110	11/18/2021	106	18'	15'	35'	30'
22-00132	3/14/2022	63	20'	19'	28'	28'
22-00133	3/14/2022	45	15'	26'	15'	15'
22-00253	4/29/2022	2	15'	44'5"	25'	25'
22-00478	7/13/2022	22	30'	13'	30'	30'
22-00713	8/23/2022	146	30'	10'	30'	30'
22-00714	8/23/2022	142	30'	10'	30'	30'
22-00769	8/24/2022	103	30'	10'	30'	30'
22-01020	11/1/2022	17	5'9"	21'	27'	21'
22-01021	11/1/2022	20	10'	21'	22'	23'
22-01022	11/1/2022	25	15'	8'	16'	20'
22-01023	11/1/2022	47	10'	25'	24'	10'
22-0124	11/1/2022	49	6'	18'	22'	25'
22-01025	11/1/2022	115	5'	15'	25'	28'
22-01026	11/1/2022	125	6'5"	14'5"	30'	29'
22-01098	11/9/2022	10	21'	20'	34'	18'
22-01206	12/29/2022	139	10'	22'	22'	14'
23-00084	2/8/2023	141	15'	19'	12'	25'
23-00085	2/8/2023	85	15'6"	14'	18'	22'
23-00086	2/28/2023	46	10'	15'	30'	23'
23-00133	2/28/2023	144	16'	50'	16'	22'
23-00172	3/22/2023	128	20'	27'	54'	23'
23-00399	5/23/2023	118	16'	26'	20'	?
24-00023	1/11/2024	175	10'	10'+	20'	14' +
24-00059	2/8/2024	100	10'	18'	22'	13'
Average Distance:			15' 6"	19'	25' 5"	22' 9"

< - - See 2/28/2022 Memo

< - - Variance Request

< - - - Variance Request

? = Vacant Lot

Front Setback = Distance between sidewalk and front of home.
Rear Setback = Distance between rear of homes, not lot lines.
Left Side or Right Side = Distance between homes, not lot lines.

Memo



FILE COPY

To: Steve Lutmer, Building Inspector

From: Stephanie Hanson, Community Dev. Director

A handwritten signature in black ink, appearing to read "Stephanie Hanson", is written over the printed name.

Date: February 28, 2022

Re: Village Green, Lot 45, Manufactured Home Setback

After discussion with Fire Chief Mark DuCharme and City Administrator Jack Davis, it's been determined that the proposed setback of 15 feet between homes is sufficient for the placement of a new structure on Lot 45. There are many other homes within Village Green with equal to or less than a 15 foot setback.

Attached is the site plan of the property.



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Suite 1000
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General: 952-835-3800
Fax: 952-896-3333
www.larkinhoffman.com

July 3, 2024

East Bethel City Council
c/o Aaron Berg, Community Development Director
2241 221st Ave. NE
East Bethel, MN 55011

BY E-MAIL ONLY
(aaron.berg@ci.east-bethel.mn.us)

Re: Variance Application Submitted by Continental Communities
Cedarwood Estates, 18164 Highway 65 NE

Dear Members of the East Bethel City Council:

This law firm represents Continental Communities, owner of the Cedarwood Estates manufactured home community (the “Property”). On July 8, 2024, a variance application relating to two home sites on the Property (the “Application”) return to the City Council for review. The Planning Commission heard the Application on May 28, 2024, recommending denial based upon historical statements of fact and legal conclusions presented by staff regarding alleged nonconformity of the Property. Staff’s conclusion regarding nonconformity contradicts state law and overlooks critical historical facts.

The use of the Property is a lawful nonconforming use under state law and under the special use permits (“SUPs”) granted to the Property in 1970 and 1971. Continental Communities is entitled to install the homes proposed for Lots 17 and 125 because the size dimensions and setback requirements are consistent with regulations in place when what would become Cedarwood Estates was constructed in or around the year 1970. The City should approve the variance because doing so acknowledges Continental Communities’ legal rights and because the three-factor test for variances is satisfied.

A. The Manufactured Home Community Use of the Property is a Lawful Use.

1. *The SUPs issued by the City are analogous to CUPs.*

City staff repeatedly represented to the Planning Commission that the current use of the *entire* Property is illegally nonconforming. Staff’s conclusion on this fundamental issue is erroneous and prejudiced the recommendation of the Planning Commission.

Staff told the Planning Commission that neither Continental Communities nor its predecessors in interest had ever obtained a conditional use permit (“CUP”) for the manufactured home use. Staff’s argument suggests that there is a material difference between the special use permits that Continental Communities’ predecessor obtained in 1970 and 1971, from a CUP, which City Ordinance first required for this type of use starting with adoption of Ordinance 142 in 1987.

But the distinction between an SUP and a CUP is one of semantics, not of substance.¹ Minnesota Statute § 462.3595, Subd. 3 codified for CUPs what was already the law for SUPs—these land use permits are of perpetual duration and remain in place unless violated.²

The City made a manufactured home community a permitted use for the Property when it granted the special use permits in 1970/1971.³ There is no evidence that the City has at any time over the last five (5)-plus decades claimed that any owner of the Property violated conditions imposed by the 1970/1971 SUPs. The SUPs remain in effect and use of the Property for a manufactured home community remains a permitted use to this day.

2. *City Ordinance did not limit the duration of the SUPs to six (6) months.*

During the Planning Commission meeting, City staff stated that when the special use permits were approved in 1970 and 1971, mobile home parks were only allowed for up to six (6) months. Staff told the Planning Commission that the permits granted to Continental Communities' predecessor were only valid for six (6) months.⁴ Staff is incorrect both with respect to City Ordinances existing in 1970, and with respect to the manner of SUP issued to the Property.

Staff's reference to a six (6)-month limitation ostensibly referred to Ordinance No. 16, adopted by the Village of East Bethel (the "Village") in 1961.⁵ Ordinance No. 16 applied generally to mobile homes in the City. It did not purport to allow establishment of mobile home parks. Ordinance No. 16 provided that if the owner desired to maintain a mobile home in a location for six (6) months, it needed to "apply to the Village Constable for a permit to keep such mobile home in the Village[.]"⁶ The Village Constable was vested with authority to issue the temporary permit.⁷

In 1965, the Village approved Ordinance No. 27, "an ordinance regulating mobile home parks and the occupancy thereof in the Village of East Bethel."⁸ This ordinance required "[a]pplication for a special use permit to establish and construct a mobile home park under the provisions of this ordinance[.]"⁹ The plain language of the ordinances demonstrates the distinction between what the City intended to regulate. Ordinance 16 provided guidance around maintenance of temporary mobile homes (a "mobile home") as compared to Ordinance 27 which contemplates installation, permitting and approval of a mobile home park. Nowhere did

¹ See *Inland Const. Co. v. City of Bloomington*, 292 Minn. 374, 378 (Minn. 1972) (observing that conditional use permits and special use permits are synonymous); see also Minn. Op. Att'y Gen. 59A-32 1990 WL 59a6916, at *2 (1990) ("Provisions such as the one contained in defendant city's ordinance providing for special-use permits, sometimes called "special exception permits" or "conditional use permits," were introduced into zoning ordinances as flexibility devices.").

² See RATHKOPF'S THE LAW OF ZONING AND PLANNING § 61:50 (4th ed.) ("Status of approved special use") (hereafter, "*Rathkopf's Law of Zoning*") (observing that when a special use permit is approved, "the body granting it has no authority to subsequently review the grant and reverse itself.").

³ See *Rathkopf's Law of Zoning* § 61:50 (observing that the grant of a special use permit renders the use "a permitted use that attaches to and benefit the land[.]").

⁴ See <https://www.youtube.com/watch?v=hmwAis8TEgM> (Planning Commission video) 46 minutes 00 seconds.

⁵ Ordinance No. 16 was included in the Planning Commission meeting packet starting at page 35.

⁶ Ordinance 16 § 5

⁷ *Id.*

⁸ Ordinance No. 27 was included in the Planning Commission meeting packet starting at page 37.

⁹ Ordinance 27 § 2(a).

Ordinance 27 indicate that the special use permit envisioned by that ordinance was valid for only a limited duration. Nor would a 6-month approval for mobile home parks make practical or financial sense. By the time the infrastructure required by the permit was installed and homes were set, they would need to be removed. Ordinance No. 27 clearly superseded Ordinance No. 16 with respect to the mobile home parks it specifically regulated.

The record is clear that a SUP was issued pursuant to Ordinance 27 rather than Ordinance 16 because:

- 1) The applicant sought approval of a park rather than a single home, with significant infrastructure investment.
- 2) If the SUP was issued under Ordinance 16 rather than Ordinance 27 it would have been issued by the Village Constable rather than under the zoning authority of the City Council. As the staff report acknowledged, “A Special Use hearing was held on May 6, 1970 as a Special Planning and Zoning Meeting . . . [a]t the conclusion of the Special Use Hearing the Village of East Bethel Council met and approved the Special Use Permit for [the Property] with a phase one plan for 170 units.”
- 3) Minutes from a Council Meeting dated February 5, 1969 reflect that the landowner had paid a “\$50.00 Mobile Park Fee.” A \$50.00 fee was required pursuant to Ordinance No. 27 § 2(d). By contrast, Ordinance No. 16 provided that the fee for the six (6) month, temporary permit was \$10.00.

Accordingly, the approvals did not expire after six months.

B. The City May Not Lawfully Impose Current Ordinance Requirements Against the Property.

The use of the Property has special protections under Minnesota law. Pursuant to Minnesota Statute § 462.357, Subd. 1a:

A municipality must not enact, amend, or enforce a zoning ordinance that has the effect of altering the existing density, lot-size requirements, or manufactured home setback requirements in any manufactured home park constructed before January 1, 1995, if the manufactured home park, when constructed, complied with the then existing density, lot-size and setback requirements.

In other words, if a manufactured home park was constructed before January 1, 1995, and if, when constructed, the park complied with existing density, lot-size, and setback requirements, a municipality may not enforce density, lot-size, or setback requirements that are more restrictive. At the time the Property began being used for purposes of a mobile home park, the applicable Ordinance in effect was Ordinance No. 27. Ordinance No. 27 contained the following requirements regarding density, lot-size, and setback requirements:

Density: “No mobile home shall be inhabited by a greater number of occupants than that for which it is designed.” Ordinance 27 § 4(m).

Lot size: “Each plot shall have a gross area of not less than 3200 square feet with a minimum width of 40 feet.” *Id.* § 4(b).

Setback:

Front: “There shall be a minimum distance of four (4) feet between the front of the mobile home and the sidewalk line of the plot.” *Id.* § 4(c).

Back: “Where an alley is provided adjacent to the back line of a plot there shall be a minimum setback of five (5) feet from said back line, where there is not an alley, the setback from the back line of the plot shall not be less than ten (10) feet.” *Id.* § 4(d).

Side: “There shall be not less than (5) five feet between a mobile home and any side line of a plot.” *Id.* § 4(e).

The historical record contains no indication that the mobile homes on the Property were not consistent with the requirements of Ordinance No. 27, and several indications that the Property was consistent. To obtain the SUPs, Continental Communities’ predecessor was required to submit detailed information regarding the placement of mobile homes. *See* Ordinance No. 27 § 2(b). Those plans were presented to and approved by the Planning, and Zoning Commission at a special meeting on May 6, 1970, and then approved by the City Council on May 6, 1970. The plans for Phase II of the project were presented and approved by the City Council on September 1, 1971. The City Council’s approvals of the plans and grant of the permits is itself *prima facie* evidence that the units conformed with City Ordinance. *Cf. Sunrise Lake Ass’n, Inc. v. Chisago County Bd. of Com’rs*, 633 N.W.2d 59, 61 (Minn. Ct. App. Sept. 4, 2001) (observing that party challenging approval of CUP bears burden of proving invalidity, and that burden of proof is higher than in challenge to denial of a CUP). The law presumes that the City complied with the law when it reviewed the project. There is no contrary evidence. Accordingly, all prerequisites for Minnesota Statute § 462.357, Subd. 1a to apply are satisfied here.

C. The Variance Criteria Are Satisfied.

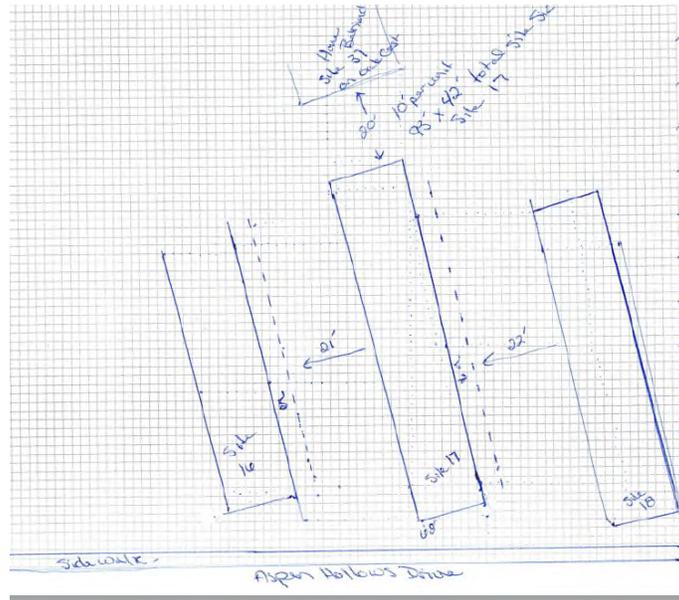
The requested lot size and spacing variances are reasonable and in keeping with the standards applicable to the Property under Ordinance 27. The City should grant the variance because the practical difficulties standard is met here. The three elements of the practical difficulties standard are:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (2) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and

- (3) the variance, if granted, will not alter the essential character of the locality.

Minn. Stat. § 462.357, Subd. 6(2).

The proposed Lots are reasonable. The front, side, and rear spacing being proposed for Lots 17 and Lot 125 are all permissible under Ordinance 27. The minimum lot size proposed for Lot 125 meets the minimum lot size requirement in Ordinance 27. Properly measured, the lot size for Lot 17 is also permissible under Ordinance 27. The staff report incorrectly states the dimension of Lot 17. The following drawing shows the dimensions of Lot 17:



There is twenty-one (21) feet between the trailer home on Lot 17 and the plot line of Lot 16. The trailer home is itself sixteen (16) feet in width. The Lot 17 plot boundary is five (5) feet from the side of the trailer home closest to Lot 18. Accordingly, the width of Lot 17 is forty-two (42) feet in total. The length of Lot 17 is ninety-five (95) feet. In total, Lot 17 is therefore 3,990 sq. ft. Lot 17 is conforming with all spacing requirements of Ordinance 27.

Pursuant to Minnesota Statute § 462.357, Subd. 1a, neither Lot 17 nor Lot 125 need a variance because the Lots conform with the ordinance in effect when the park was constructed in/around 1970. Nevertheless, the fact that the SUPs have been misplaced means that review of meeting minutes and prior ordinances must be undertaken to understand the applicable zoning. These items are subject to misinterpretation. The City Council should grant the variance to remove all doubt regarding the legality of the units being proposed.

Even if the City disagreed that Ordinance 27 is the applicable ordinance, it is reasonable to grant these variances in light of the fact Cedarwood Estates is a fifty (50)-plus year old park providing affordable housing to members of the community. Continental Communities did not create the existing lot sizes. The fact that either right of way or existing lots severely constrain the individual lot sizes is a circumstance unique to the property. Furthermore, the average sizes of

manufactured homes have increased considerably since 1970. As far as City staff has suggested that only mobile homes of a size similar to those in place in 2008 should be allowed, it would be difficult both to find a manufactured home of that size, and to find any consumer interested in a home of that size. Finally, the variance will not alter the essential character of the locality. The lots are not out of line with other lots at the Property.

D. Conclusion.

The Planning Commission rejected the variance application on the mistaken premise that the Property is not a lawfully conforming use. As articulated above, the use of the Property has been and remains a permitted use pursuant to the SUPs granted by the City, which remain in effect. The City's approvals of the plans for the park—as well as the ensuing five (5) decades following those approvals with no City enforcement action—create a presumption that existing City requirements were satisfied when the park was constructed. The proposed units are reasonable and a variance should issue.

Sincerely,

/s/ Bryan J. Huntington and Megan C. Rogers

Bryan J. Huntington and Megan C. Rogers, for
Larkin Hoffman

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cc:

Mayor Kevin Lewis (by e-mail only) (kevin.lewis@ci.east-bethel.mn.us)
Councilmember Rob DeRoche (by e-mail only) (rob.deroche@ci.east-bethel.mn.us)
Councilmember Tim Miller (by e-mail only) (tim.miller@ci.east-bethel.mn.us)
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Reply to Stillwater

July 18, 2024

VIA EMAIL ONLY

East Bethel City Council
2241 221st Ave NE
East Bethel, MN 55011

Mayor Kevin Lewis
Councilmember Rob DeRoche
Councilmember Tim Miller
Councilmember Brian Mundle
Councilmember Jim Smith

Re: City Attorney Response Letter to Larkin Hoffman law firm Attorneys Huntington and Rogers
Variance Application Submitted by Continental Communities
Cedar Estates, 18164 Highway 65 NE

Dear East Bethel Mayor and City Council Members:

I have reviewed the letter from Larkin Hoffman attorneys Bryan J. Huntington and Megan C. Rogers, dated July 3, 2024, addressed to Members of the East Bethel City Council and strongly disagree with their legal analysis and conclusions.

I cannot sufficiently underscore enough the following:

Subject to the practical difficulties test under Minn. Stat. § 462.357, Subd. 6, the East Bethel City Council has complete quasi-judicial authority to accept, reject, or accept with conditions your client's variance application.

If an applicant cannot meet all three factors of the statutory test, then cities generally should not grant a variance.

In addition, the single question before the City of East Bethel is Continental Communities' variance application for Lots 17 and 125. Regardless, of how the City Council decides in this instance, the City Council's decision cannot and should not be construed as a precedent or in some means binding the City regarding future applications or requests by Continental Communities respecting Cedar Estates.

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Hudson Office
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SUMMARY BACKGROUND.

For the Monday, June 10, 2024, East Bethel City Council meeting, the East Bethel staff provided the City Council an extensive report (pages 26-92 in the City Council agenda packet) on Cedar Estates, formerly Village Green North (hereinafter referred to by its present name “Cedar Estates”), which the following is a condensed digest.

Continental Communities purchased Cedar Estates in October 2021. As of the date of its Cedar Estates purchase, Continental Communities knew or should have known the current use of Cedar Estates, current zoning and nonconforming status, current vacancy and non-use of Lots 17 and 125, and the legal status and implications.

As of the date of Continental Communities purchase of Cedar Estates, the property was, and continues to be, zoned R2.¹ In the City of East Bethel, manufactured home parks are permitted solely in a B-1 business commercial district.

In September 1969, the Village of East Bethel² granted Cedar Estates a Special Permit. In the early 1970’s Cedar Estates was approved as a mobile home court for 170 units subject to a Special Use Permit. Neither the City nor Continental Communities have located a Special Use Permit, and a Special Use Permit was not recorded against the real estate.

On May 9, 1979, Ordinance No. 122 permitted single lot sizes at 7,800 sq. ft., 60 feet lot widths, 130-foot lot depths, 30-foot front setbacks, 20 feet rear yard lot setbacks, and 15 feet side lot setbacks and a minimum distance of 30 feet between homes in all directions with no more than 25 percent lot coverages and eliminated the 6-month occupancy provisions. On or about March 4, 1987, the City’s zoning code increased buffer zones and maintained individual lot dimensions.³ The lots and the mobile homes on the lots at Cedar Estates did not meet 1979 City code and continue to be non-code compliant. East Bethel City code is local law.⁴

A city employee or official does not have the authority to change or revise the law, which includes City code, and, therefore, an unlawfully issued permit or authorization cannot be relied upon by a property owner and confers no rights to the property owner/permittee.⁵ That written, as noted below, it appears that up to 2011, Lots 17 and 125, were lawful nonconforming residential mobile home lots, but thereafter, those lots became unlawful nonconforming lots.

¹ East Bethel rezoned the real estate on September 3, 1979, and again on September 5, 2007, to R2 Residential.

² On January 1, 1974, the City of East Bethel was incorporated as a city.

³ East Bethel Cod Section 38-44. - Existing manufactured home parks. Manufactured home parks in existence or for which conditional use permits have been issued as of the effective date of the ordinance from which this article is derived may continue to operate for a period not to exceed two years from the effective date of the ordinance from which this article is derived, during which two-year period this article shall not apply to such parks; at the termination of said two-year period, however, all the provisions contained herein shall apply and must be met by such parks within the following exceptions: sections 38-24(2) and (3), 38-25, 38-26(d) through (i), and 38-27(a) and (b); other variances may be approved by city council if strict compliance with said provisions of this article would be an undue hardship upon the owner of the park. (Ord. No. 142, § 11, 3-4-1987)

⁴ *Motokazie! Inc. v. Rice Cnty.*, 824 N.W.2d 341, 346 (Minn. App. 2012) (“An ordinance which a municipal corporation is authorized to make, is as binding on all persons within the corporate limits as any statute or other laws.” (quoting citation omitted)).

⁵ *State ex rel. Howard v. Vill. of Roseville*, 244 Minn. 343, 350, 70 N.W.2d 404, 408 (1955).

As of 2011, Lots 17 and 125 ceased to be used. Historical mapping shows that Lots 17 and Lot 125 contained no homes and remained empty lots as of the date Continental Communities purchased Village Green/Cedar Estates and remained vacant until sometime in 2022 and/or 2023 when Continental Communities constructed new pads on each lot and unilaterally moved in manufactured homes larger than any previous manufactured house on each lot. Without and until an approved variance is obtained, these new manufactured houses on Lots 17 and 125 are unlawful.

NONCONFORMITIES.

Lots 17 and 125 are unique in that they possess all three possible nonconformity categories.

There are three categories of nonconformities: (1) nonconforming use, (2) nonconforming property, and (3) nonconforming structures. A nonconforming use is a use of the property that is not permitted by city code. A nonconforming property is where the property for whatever reason does not conform to City code requirements such as lot size. A nonconforming structure is where the existing structures do not conform to the City's code requirements. A nonconformity is unlawful unless at the time of their existence it was lawful. The present information suggests that until 2011, Lots 17 and 125 were lawful nonconforming uses, property, and structures, which status changed upon discontinuance.

If a nonconformity is discontinued for a period of a year or more, then “[a]ny subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.”⁶ East Bethel Code section 05 “[e]ncourage[s] the elimination of nonconforming uses and structures or reduc[tion of] their impact on adjacent properties.” Attorneys Huntington and Rogers do not address this issue.

Rather, attorneys Huntington and Rogers appear to rest most of their legal argument on Minn. Stat. § 462.357, Subd. 1a., which analysis is misplaced and ignores nonconforming law. Section 462.357, subd. 1a, neither changes nor invalidates nonconforming law.⁷ Simply put, section 462.357, subd. 1a, merely provides that a manufactured home park may continue to operate at its pre-January 1, 1995, density, lot-size, and setbacks. For instance, section 462.357, Subd. 1 a, does not prohibit a nonconforming designation, does not permit expansion, does not confer rights if the use is discontinued, and does not cancel out variance requirements or standards.

In a tacit acknowledgement that the City is following the law, attorneys Huntington and Rogers indicate in their letter that Continental Communities' and the City's records regarding dimensions and mobile home structure size are in conflict and references Continental Communities's rough, not to scale, hand drawn, non-surveyed drawing. But even the hand drawn submission establishes a non-conformity, and that Continental Communities seeks a nonconformity expansion. Thus, at best the dispute is a measuring disagreement as to the extent of the nonconformity and the extent of the proposed expansion.

Nonconforming Use.

Based on the record known to-date, when Cedar Estates was created the use as a mobile home was permitted. Therefore, when the property was later rezoned, Cedar Estates became a legal, nonconforming use. Even though Cedar Estates continues as a mobile home park, Lots 17 and 125 ceased to be used as

⁶ See Minn. Stat. § 462.357(1e)(b). East Bethel Code section 05-2 provides that if a “nonconforming [use] or occupancy is discontinued for a period of more than one year,” then it must be changed to a conforming use.

⁷ See *Croix Holdings, LLC. v. City of Newport*, 2021 WL 5999561 (Minn. App. December 20, 2021) (review denied March 15, 2022).

mobile home residential lots for over a year.⁸ Therefore, absent approvals by the City to the contrary, the use of Lots 17 and 125 must conform to R2 zoning.

Nonconforming Lot.

As of May 9, 1979, Lot 17 had the following nonconformities:

Lot size.	Required 7800.	Actual: 2400
Lot Width.	Required 60'	Actual: 30'
Lot Depth.	Required: 130'	Actual: 80'

As of May 9, 1979, to the present⁹, Lot 125 became a non-conforming lot since its lot dimensions no longer met City code requirements:

Lot size.	Required 7800	Actual: 4500
Lot Width.	Required 60'	Actual: N/A
Lot Width (Corner Lots)	Required: 70'	Actual: 50'
Lot Depth.	Required: 130'	Actual: 90'

Nonconforming Structures.

The City has not yet determined the structure sizes in 1979, which, at that time, would have constituted the legal conforming structure dimensions. Based on the 2008 manufactured houses, here is the nonconforming structure status of Lots 17 and 125¹⁰:

Lot 17

Front Setback	Required: 30'	Actual: 10'
Rear Yard Lot Setback.	Required: 20'	Actual: 25'
Side Lot Set Back	Required: 15'	Actual: @12.5'
Min. Distance Between Homes.	Required: 30'	Actual: 25'
Lot Coverage Max.	Required: 25%	Actual: @37.9%

Lot 125

Front Setback	Required: 30'	Actual: 15' if Cedar Dr; 26' if Linden PL NE
Rear Yard Lot Setback.	Required: 20'	Actual: @12'
Side Lot Set Back	Required: 15'	Actual: @14' and 7.5'
Min. Distance Between Homes.	Required: 30'	Actual: 28' (east); 15' (north)
Lot Coverage Max.	Required: 25%	Actual: @21%

NONCONFORMITIES, LAWFUL VERSUS UNLAWFUL.

Discontinuance. If a nonconformity is discontinued from more than one year, then the nonconformity

⁸ If a property owner seeks a variance to allow a use of their property that is not permissible under the zoning ordinance, then such variances are often termed "use variances" as opposed to "area variances" from dimensional standards. Use variances are not generally allowed in Minnesota. State law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located (Minn. Stat. § 462.357, subd. 6).

⁹ East Bethel code section 38-25 (current) mobile dimensions are similar to the 1979 requirements:

¹⁰ East Bethel code section 38-25 (current) mobile dimensions are similar to the 1979 requirements.

ceases to be a lawful and only permitted uses or structures are allowed.¹¹ Here, absent the City Council’s lawful exercise of discretionary approval as described above, once Lots 17 and 125 ceased to be used for a mobile home residence for over a year, Lots 17 and 125 are restricted to R2 permitted uses and permitted structures.

Expansion. In addition, a nonconformity cannot be expanded. In other words, assuming Lots 17 and 125 maintained its lawful nonconforming status in all respects, the mobile homes are restricted to same size and location. Continental Communities proposed use of Lots 17 and 125 are nonconformity expansions.¹² As for maintaining the 1979 standards, Continental Communities opines that “it would be difficult both to find a manufactured home of that size, and to find any consumer interested in a home of that size.” There is no support in the record for these opinions, plus financial difficulties cannot create practical difficulties to support of a variance.¹³

City Retains its Public Health, Welfare, and Safety Authority. Minn. Stat. § 462.357, Subd. 1e(b) provides, “A municipality may, by ordinance, . . . impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.”

In addition to the above, the City has an interest in increasing the distance between residential structures to mitigate the dangers associated with fire and other destructive forces and maximize room for public safety personnel to bring in equipment and address such hazards. The nonconformities were already contrary to those public health, welfare, and safety issues, and Continental Communities purposed mobile homes by increasing density, decreasing the distance between structure, and exceeding lot coverage by even more increases public health, welfare and safety concerns. The expanded lot coverage also increases impervious surface, increasing stormwater run-off.

VARIANCE LAW.

A city may grant a variance if enforcement of a zoning ordinance provision, as applied to a particular piece of property, would cause the landowner “practical difficulties.” For the variance to be granted, the applicant must satisfy the statutory three-factor test for practical difficulties (Minn. Stat. § 462.357, subd. 6). If the applicant does not meet all three factors of the statutory test, the city should not grant the variance. Also, variances are only permitted when:

- They are in harmony with the general purposes and intent of the ordinance, and
- The terms of the variance are consistent with the comprehensive plan.

The East Bethel Planning Commission on a 7-0 vote recommended denial and the June 10, 2024, East Bethel staff report summarizes how Continental Communities does not meet the practical difficulties three factors. That written, the East Bethel City Council is the decision-making body charged to exercise its “quasi-judicial” authority, meaning that the City Council acts like a judge in evaluating the facts against the legal standard. Simply put, the facts in this case here are very thin in support of the variance application.

I started this letter noting that the variance application concerns Cedar Estates Lots 17 and 125 only. There is a much bigger picture, however, for both the City and Continental Communities to consider and

¹¹ See Minn. Stat. § 462.357(1e)(b).

¹² The extent of the expansions have not been calculated by this author. Attachments 9 and 10 to the June 10, 2024 are a non-surveyed diagram of the proposed mobile homes on Lots 17 and 125.

¹³ Minn. Stat. § 462.357(6).

maybe mutually agree upon a reasonable roadmap, such as future use and development of the existing Cedar Estates, adjacent property owned by Continental Communities and its future use and development, and the zoning respecting all these properties.

Sincerely,

/s/ Eric Larson

Eric Larson
East Bethel City Attorney
Eckberg Lammers, P.C.
651-351-2137
elarson@eckberglammers.com

cc: Matt Look, City Administrator
Aaron Berg, Community Development Director
Bryan J. Huntington (bhuntington@larkinhoffman.com)
Megan C. Rogers (mrogers@larkinhoffman.com)

**City of East Bethel
City Council Meeting
Agenda Item Information**



Date: July 22, 2024

Agenda Item Number: 8.0 A2

Agenda Item: Variance Request – Setback reduction from the Shoreland Overlay standard for the placement of an in ground pool – 23558 Ulysses St NE – Everything Outdoors, LLC.

Background Information: Everything Outdoors, LLC, on behalf of Dan Graff, is requesting a variance to reduce the Shoreland Overlay setback standard for the placement of an in ground pool. This property is located in an R-2 Single Family and Townhome Residential Zoning District, in the West Side Estates Subdivision and in the Coopers Lake - Shoreland Overlay.

Application information, along with the Planning Commission’s recommendation was presented to the City Council at the July 8, 2024 Regular Meeting. At the conclusion of the discussion City Council requested additional measurements and placement scenarios from the applicant.

On July 16, 2024 , the city received three (3) separate site plans options with different depths of encroachment ranging from 25.7 feet, 18.7 feet or 14.5 feet into the require Shoreland Overlay Setback of 150 feet.

The consideration of a variance requires the consideration of a three-factor test for practical difficulties:

- The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

In this case:

- ***A swimming pool is identified as an allowable Accessory Use in an R2 Zoning District.***
 - ***The variance request to place an in ground pool in a Shoreland Overlay Setback may not be reasonable.***
- The second factor is that the landowner’s problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

In this case:

- ***This property is located in the Coopers Lake - Shoreland Overlay with specific setback requirements and the primary residence was constructed within 10 feet of the setback requirements from the OHWL.***
- ***The primary residence was constructed over 475 feet from the front lot line, 17 feet from the North property line and 23 feet from the South property line. This placement limits the buildable area available side and rear yard for any accessory construction.***

- ***There are terraced elevations throughout the property, both front and rear yard.***
- ***The Subsurface Sewage Treatment System (SSTS) and Well are located in front of the house.***
- The third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

In this case:

- ***The proposed location of the in ground pool is the rear yard and not visible from the roadway.***
- ***The primary residence was constructed over 475 feet from the front lot line.***
- ***Standing tree growth along the property lines screen the rear yard from neighboring properties.***
- ***The degree of the requested variance is a departure from the scheme of the City's land use controls.***

Planning Commission: At the June 25, 2024, the Planning Commission a Public Hearing was held at which there was no public comment. After a review of the application material and hearing from the applicant the Planning Commission, by a 5-0 vote recommended denial of the variance request.

Recommendation: City Council should review the request, consider the Planning Commission's formal recommendation in addition to the additional information and approve or deny the variance request to the standard Shoreland Overlay setback from 150 feet, for the placement of an in ground pool at 23558 Ulysses St NE., as presented in Resolution 2024-45A or 2024-45B.

Attachments:

1. Resolution 2024-45A or 2024-45B
2. Location Map
3. Aerial Map
4. Survey
5. Site Plans X 3

City Council Action:

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

**CITY OF EAST BETHEL
STATE OF MINNESOTA**

RESOLUTION NO. 2024-45

A RESOLUTION GRANTING A VARIANCE FOR THE REDUCTION OF THE SHORELAND OVERLAY SETBACK FROM 150 FEET TO _____ FEET FOR THE PLACEMENT OF AN IN GROUND POOL ON PROPERTY LOCATED AT 23558 ULYSSES ST NE, PIN # 32-34-23-21-0013, LEGALLY DESCRIBED AS:

LOT 4 BLOCK 1 WEST SIDE EST, ANOKA COUNTY, MINNESOTA.

WHEREAS, the property owner requested a variance for the placement of an in ground pool in the Shoreland Overlay Setback, and;

WHEREAS, the Planning Commission held a public hearing on June 25, 2024; and,

WHEREAS, the Planning Commission finds the request:

1. Is not a reasonable use of the property;
 - A swimming pool is identified as an allowable Accessory Use in an R2 Zoning District.
 - The variance request to place an in ground pool in a Shoreland Overlay Setback may not be reasonable.
2. Is a unique situation to this property due to circumstances not caused by the landowner;
 - This property is located in the Coopers Lake - Shoreland Overlay with specific setback requirements and the primary residence was constructed within 10 feet of the setback requirements from the OHWL.
 - The primary residence was constructed over 475 feet from the front lot line, 17 feet from the North property line and 23 feet from the South property line. This placement limits the buildable area available side and rear yard for any accessory construction.
 - There are terraced elevations throughout the property, both front and rear yard.
 - The Subsurface Sewage Treatment System (SSTS) and Well are located in front of the house.
3. Will have a negative effect the characteristic of the neighborhood;
 - The degree of the requested variance is departure from the scheme of the City's land use controls.

WHEREAS, the Planning Commission recommends to the City Council denial of the variance.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of East Bethel hereby approves the variance to reduce the Shoreland Overlay Setback from 150 feet to _____

feet for the placement of an in ground pool on a property located at 23558 Ulysses St NE with the following conditions:

1. Property owner must obtain a building permit and complete all necessary inspections as required by the Minnesota Uniform Building Code.

Adopted by the City Council of the City of East Bethel on this 22nd day of July, 2024.

CITY OF EAST BETHEL

Kevin Lewis, Mayor

ATTEST:

Matt Look, City Administrator

**CITY OF EAST BETHEL
EAST BETHEL, MINNESOTA**

RESOLUTION NO. 2024-45

A RESOLUTION DENYING A VARIANCE FOR THE REDUCTION OF THE SHORELAND OVERLAY SETBACK FROM 150 FEET TO _____ FEET FOR THE PLACEMENT OF AN IN GROUND POOL ON PROPERTY LOCATED AT 23558 ULYSSES ST NE, PIN # 32-34-23-21-0013, LEGALLY DESCRIBED AS:

LOT 4 BLOCK 1 WEST SIDE EST, ANOKA COUNTY, MINNESOTA.

WHEREAS, Everything Outdoors, LLC, on behalf of Dan and Diana Graff, has applied for variance to reduce a Shoreland Overlay setback from 150 feet to _____ feet for the placement of an in ground pool located at 23558 Ulysses Street NE in East Bethel; and

WHEREAS, the subject property is located in an R-2 Single Family and Townhome District under the City's current zoning ordinance; and

WHEREAS, the subject property is also located in the Coopers Lake Shoreland Overlay (SL) District; and

WHEREAS, the required Shoreland Overlay setback distance in this district is 150 feet; and

WHEREAS, the applicants variance request is to reduce the 150 foot standard to _____ feet; and

WHEREAS, there is sufficient room on the applicants' property for a pool to be built in another area of the property without a requirement for variances.

WHEREAS, Sec. 57. Shoreland Overlay (SL) District. Sub. 6. Administration requires that; *In cases where standards conflict with the standards of the base zoning districts, the more restrictive standard will prevail.*

WHEREAS, Sec. 57. Shoreland Overlay (SL) District. Sub. 8. Shoreland Overlay District Standards requires that; *When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.*

WHEREAS, the MN DNR supports the administration and enforcement of local Shoreland Overlay ordinances; and

WHEREAS, there is sufficient room on the applicants' property for a pool to be built in another area of the property without a requirement for variances.

WHEREAS, the Planning Commission, by a 5 – 0 vote has recommended denial of the variance request; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EAST BETHEL, MINNESOTA, the requested variance is denied for the following reasons:

1. The City Council makes the following findings of fact in regard to this matter:
 - A. The subject property is classified R-2 Single Family and Townhome and also is in a Shoreland Overlay District under the City's Zoning Ordinance.
 - B. The City's Zoning Ordinance requires a 150 foot Shoreland Overlay setback for this property.
 - C. A pool is identified as an Accessory Use in a R-2 Zoning District.
2. The strict enforcement of the City's setback requirements in this case will not cause the applicants undue hardship because of circumstances unique to this property:
 - A. This property can be put to reasonable use as there is sufficient room on the applicants' property for an in ground pool to be built in another area of the property under the conditions allowed by the City's official controls without a setback variance.
3. The plight of the landowners in this case is partially due to circumstances created by the previous landowners.
 - A. The primary residence was constructed over 475 feet from the front lot line, 17 feet from the North property line and 23 feet from the South property line.
 - B. The primary residence was constructed 161 feet from the Ordinary High Water Level (OHWL) of Coopers Lake, limiting the available buildable area available for any accessory construction.
 - C. There are terraced elevations throughout the property, both front and rear yard.
 - D. The Subsurface Sewage Treatment System (SSTS) and Well are located in front of the house.
4. The variance, if granted, would alter the essential character of the locality because the setback would be significantly less than those permitted or authorized throughout the City.
 - A. The degree of the requested variance is a departure from the scheme of the City's land use controls.
 - B. **Section 57. Shoreland Overlay (SL) District. Sub. 6. Administration** requires that; *In cases where standards conflict with the standards of the base zoning districts, the more restrictive standard will prevail.*
 - C. **Section 57. Shoreland Overlay (SL) District. Sub. 8. Shoreland overlay district standards. C. Placement, design, and height of structures. 2).**

Placement of structures on lots states: *When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.*

Adopted this 22nd day of July, 2024, by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Kevin Lewis, Mayor

ATTEST:

Matt Look, City Administrator

23558 Ulysses St NE - Location Map

Item 8.0 A.2, Attachment 2



-  Parcels
-  City Mask

1 inch equals 359 feet



23558 Ulysses St NE - Aerial Map

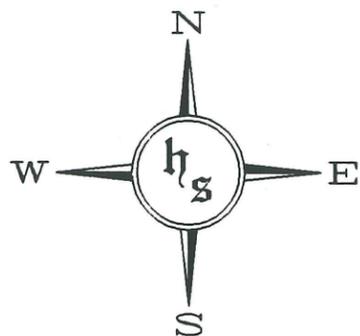
Item 8.0 A.2, Attachment 3



-  Parcels
-  City Mask

1 inch equals 272 feet





HY-LAND SURVEYING, P.A.

LAND SURVEYORS

8700 Jefferson Highway
Osseo, Minnesota 55369
PHONE (763) 493-5761
FAX (763) 493-5781

NAME _____
ADDRESS _____

OFFICE COPY

INVOICE NO. 27,398
F.B. NO. 293-30/31
SCALE 1" = 80'

- Denotes Iron Monument
- Denotes Wood Hub Set For Excavation Only
- x000.0 Denotes Existing Elevation
- Denotes Proposed Elevation
- ← Denotes Surface Drainage

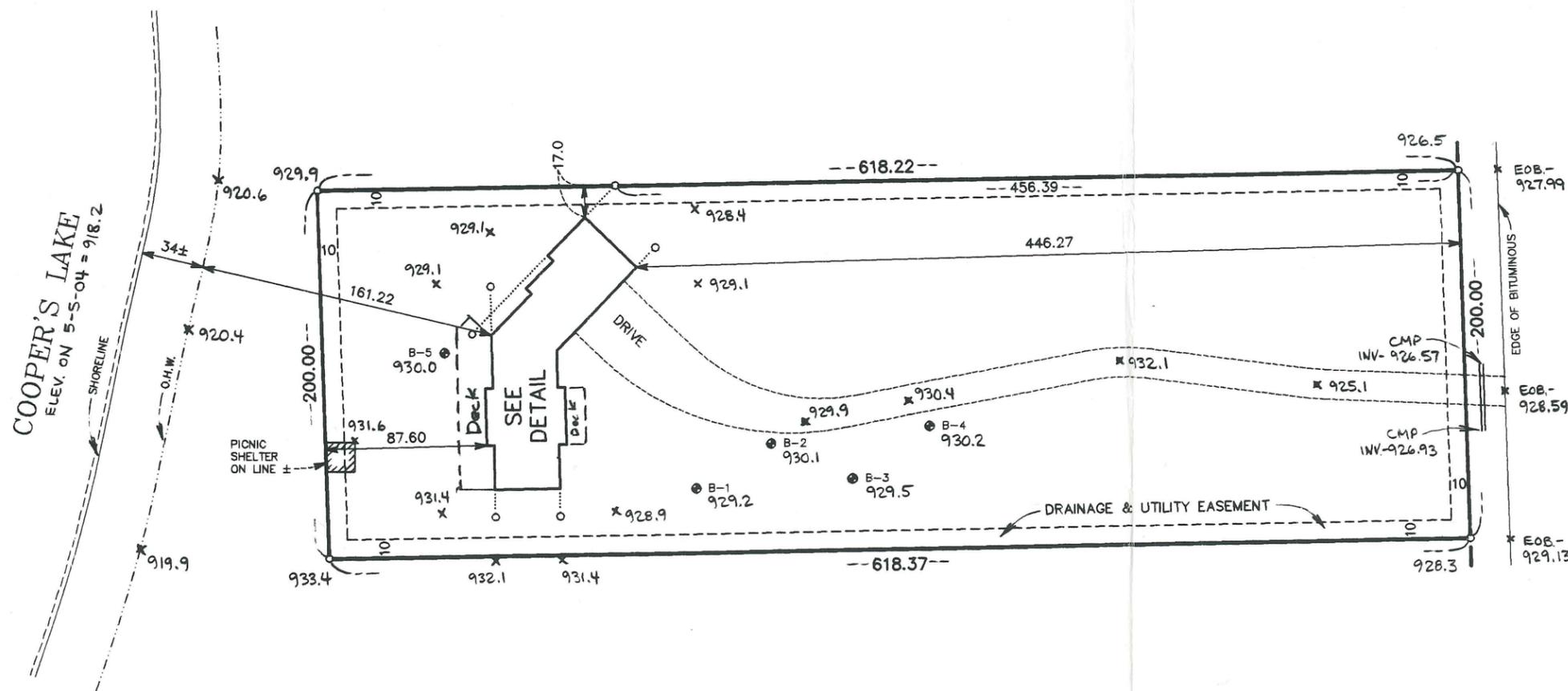
Surveyors Certificate

NOTE: PROPERTY CORNERS SET BY DEVELOPERS SURVEYOR

Property Located In Part Of
NW 1/4, Sec. 32, Twp. 34, R. 23.

933.9 Proposed Top of Block
933.4 Proposed Garage Floor
925.2 Proposed Lowest Floor
Type of Building -
Full Basement

MIKE STEWART



LOT 4, BLOCK 1, WEST SIDE ESTATES

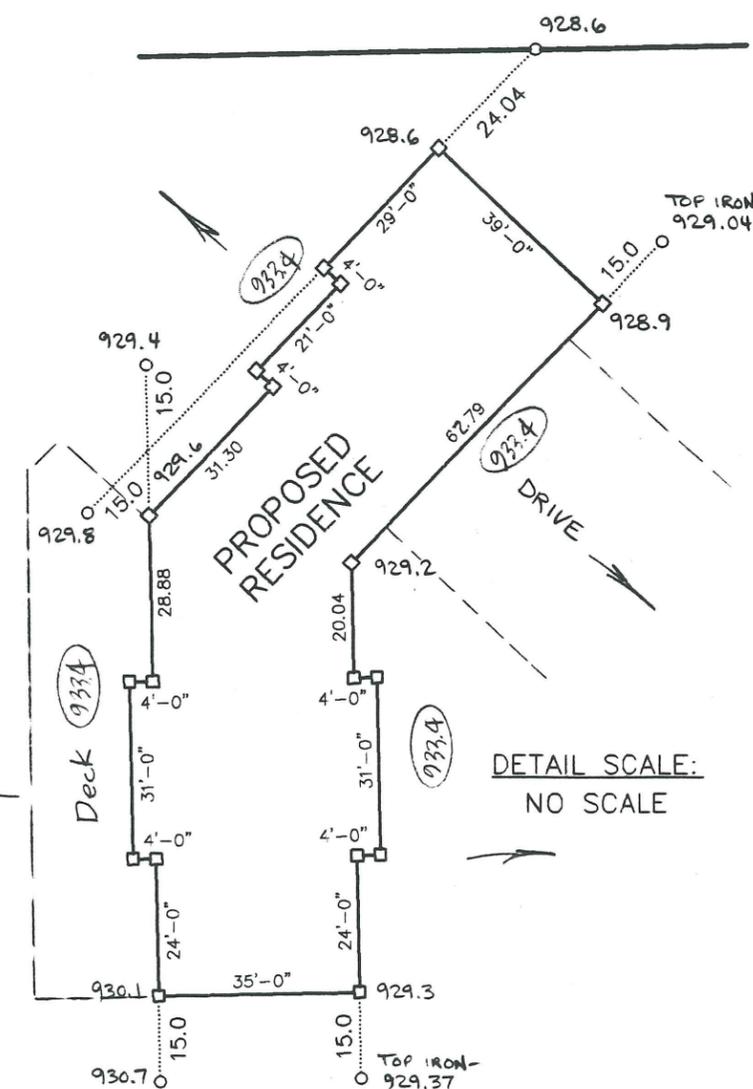
This survey is certified only to the above named person or persons and not to subsequent owners, mortgages or title insurers.

The only easements shown are from plats of record of information provided by client. All building dimensions and floor elevations must be verified by client.

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

Surveyed by us this 5th day of May, 20 04

ULYSSES STREET N.E.



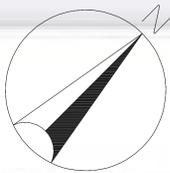
DETAIL SCALE:
NO SCALE

Signed:

Milton E. Hyland

Milton E. Hyland, Minn. Reg. No. 20262

EVERYTHING OUTDOORS
3700 323RD AVE NE
CAMBRIDGE MN 55008



NORTH

DAN GRAF
ULYSSESS ST NE
EAST BETHEL MN

DRAWN DATE SCALE

Reviewed by Designer



S

225.2 Proposed Lowest Floor

Type of Building -

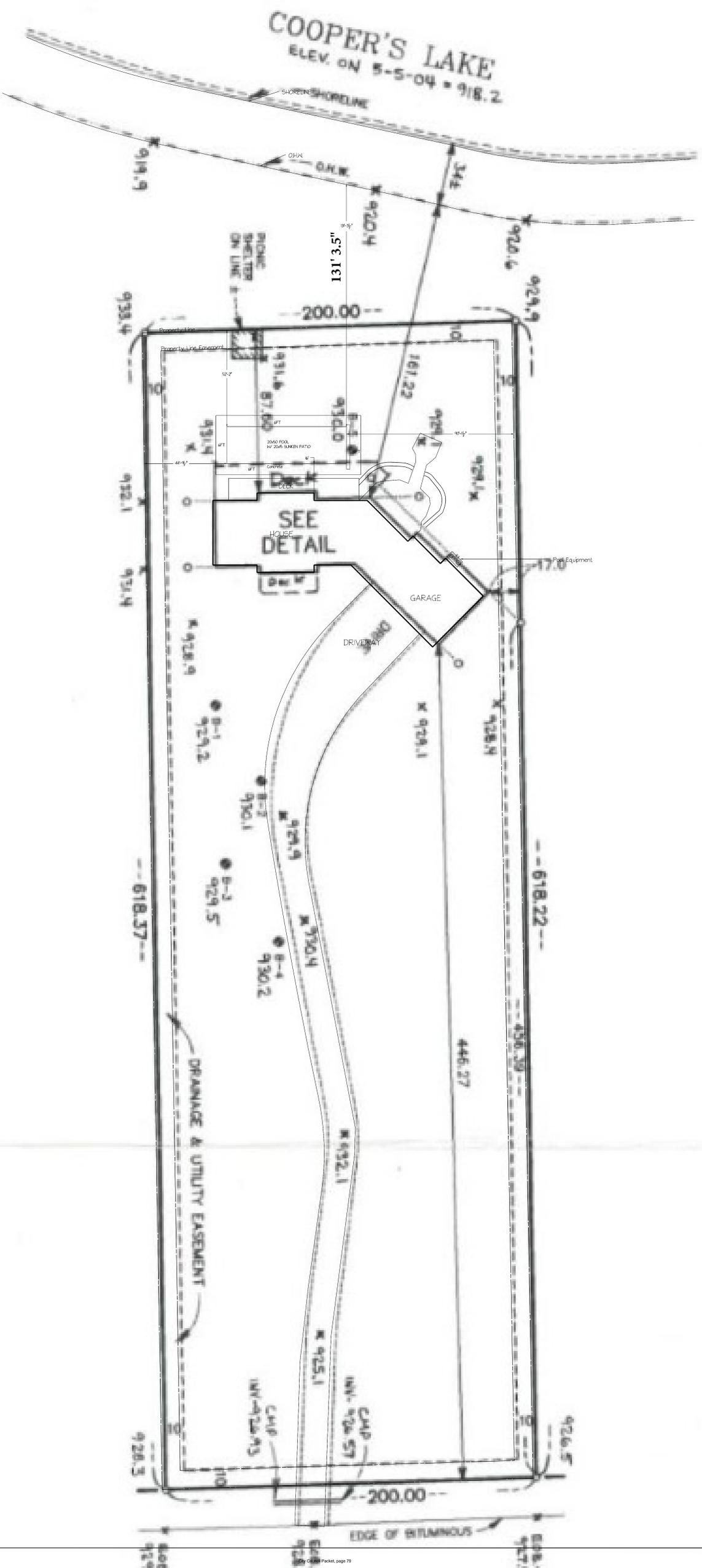
Full Basement

MIKE STEWART

Surveyors Certificate

NOTE: PROPERTY CORNERS
SET BY DEVELOPERS SURVEYOR

NAME ADDRESS PHONE (763) 493-5761 FAX (763) 493-5781



LOT 4, BLOCK 1, WEST SIDE ESTATES

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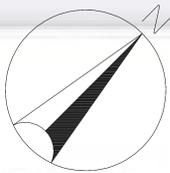
The only easements shown are from plots of record of information provided by client. All building dimensions and floor elevations must be verified by client.

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

Surveyed by us this 5th day of May, 2004

S

EVERYTHING OUTDOORS
3700 323RD AVE NE
CAMBRIDGE MN 55008



NORTH

DAN GRAF
ULYSSESS ST NE
EAST BETHEL MN

DRAWN DATE SCALE

Reviewed by Designer

S

225.2 Proposed Lowest Floor

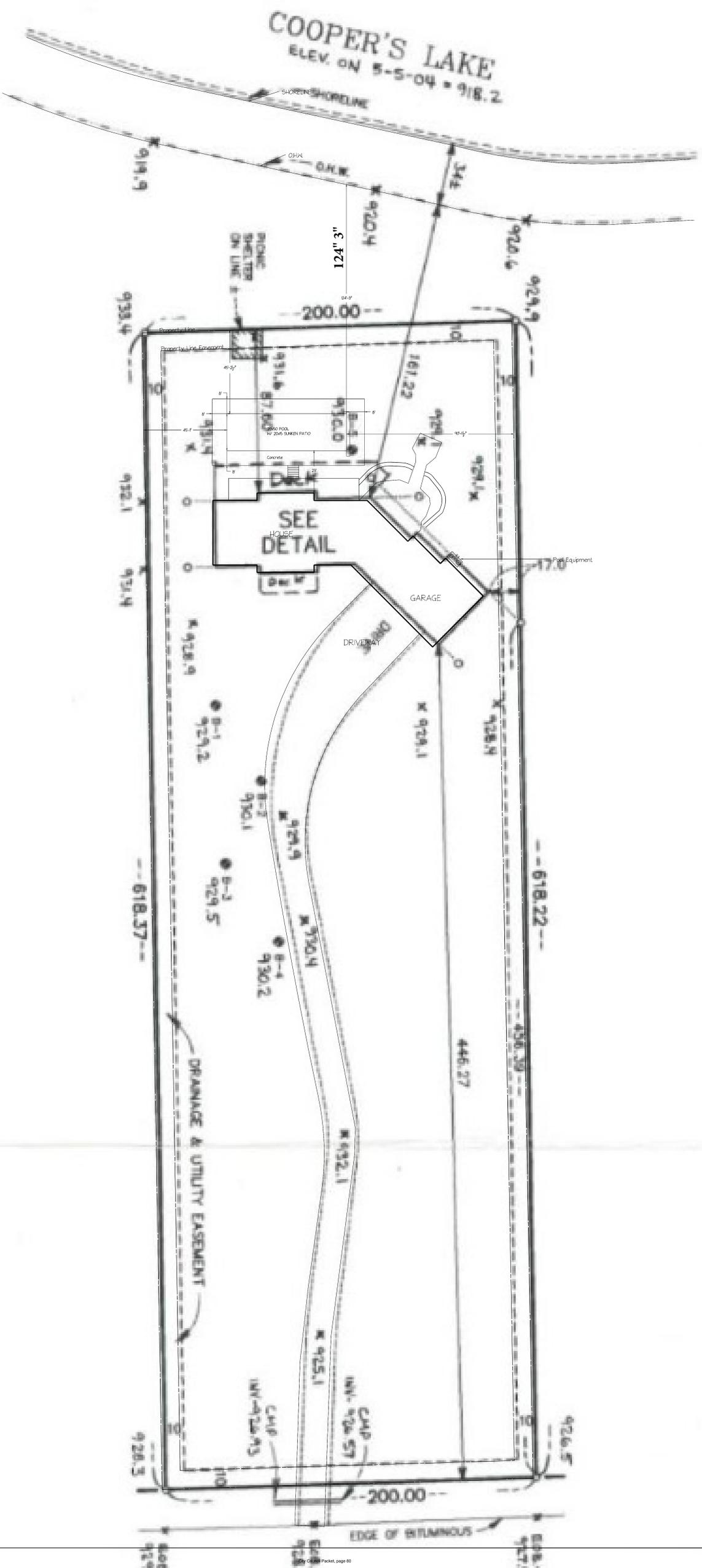
Type of Building -
Full Basement

MIKE STEWART

Surveyors **Certificates**

NOTE: PROPERTY CORNERS
SET BY DEVELOPERS SURVEYOR

NAME
ADDRESS
PHONE (763) 493-5761
FAX (763) 493-5781



LOT 4, BLOCK 1, WEST SIDE ESTATES

This survey is certified only to the above named person or persons and not to subsequent owners, mortgages or title insurers. The only easements shown are from plots of record of information provided by client. All building dimensions and floor elevations must be verified by client. I hereby certify that this survey was prepared by me or under my direct supervision, and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota. Surveyed by us this 5th day of May, 2004.

S