



**CITY COUNCIL
MEETING AGENDA
MARCH 13, 2023 AT 5:30 PM
HJEMKOMST CENTER AUDITORIUM**

City Council Meeting

Disclaimer: Voting requirements may be subject to changes in the law, parliamentary procedural matters, or other unforeseen issues. The City Attorney provides opinion on questions of voting requirements in accordance with the Moorhead City Code, Minnesota State Statutes, and parliamentary procedure.

1. Call to Order and Roll Call
2. Pledge of Allegiance
3. Agenda Amendments
4. Recognitions - Presentations
 - A. Presentation: Donation to the Inclusive Playground from Moorhead Kiwanis
 - B. MoorHeart Recognition: Sadiyo Osman
 - C. Proclamation - Bleeding Disorders Awareness Month
5. Consent Agenda

*All items listed with an asterisk (*) are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in accordance with the "Council Rules of Procedure". In such event, the item will be removed from the General Order of Business and considered in its normal sequence on the agenda.*
6. Approve Minutes
 - A. February 27, 2023 Meeting Minutes
7. Citizens Addressing the Council (Time Reserved: 15 Minutes)

During "Citizens Addressing the Council", the Mayor will invite residents to share issues, concerns and opportunities. Individuals must limit their comments to three minutes. The Mayor may limit the number of speakers on the same issue in the interest of time and topic. Individuals should not expect the Mayor or Council to respond to their comments tonight.
8. *Mayor and Council Appointments
9. Public Hearings (5:45 pm)

During "Public Hearings", the Mayor will ask for public testimony after staff and/or applicants make their presentations. The following guidelines are in place to ensure an efficient, fair, and respectful hearing; limit your testimony to three minutes and to the matter under consideration; the Mayor may modify times, as deemed necessary; avoid repeating remarks or points of view made by previous speakers. The use of signs, clapping, cheering or booing or any other form of verbal or nonverbal communication is not allowed.

 - A. Public Hearing – Community Development Block Grant 2023 Annual Action Plan
 - B. Public Hearing to Authorize Application to the Federal Transit Administration for 2023 Capital Assistance

- C. Resolution to Authorize Filing of an Application to the Federal Transit Administration for 2023 Capital Assistance
10. Engineering Department
- A. *Resolution to Adopt Revised Special Assessment Policy
 - B. *Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for Proposed 2nd Ave N Area Underground Utility & Street Improvements (Eng. No. 23-A2-04A and 14-02-03F)
 - C. *Resolution to Authorize an Easement Acquisition for the 7th & 8th Street North Mill & Overlay Project (Eng. No. 22-A2-06)
11. Community Development Department
- A. *Resolution to Receive the 2022 Annual Planning Commission Report
 - B. *Resolution to Approve Extension of Conditional Use Permits for Development in Flood Fringe and Excavation and/or Fill in the Floodway at One Fourth St S
 - C. *Resolution to Approve Extension of Conditional Use Permit to Exceed Maximum Building Heights in MU-3: Commercial Mixed Use at 2501 11th St S
 - D. *Resolution to Approve Conditional Use Permit for an Existing Dynamic Display Sign within 150 feet of an Area Zoned for Residential Use at 303 30th St S
 - E. Resolution to Approve Conditional Use Permit to Operate Nightclub Adjacent to a Residential Use at 1500 11th Street N
12. Public Works
- A. *Second Reading of Ordinance 2023-02: An Ordinance to Amend Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code
 - B. *Resolution to Approve Title & Summary of Ordinance 2023-02
 - C. *Resolution to Designate Recyclable Materials in “No Sort” Recycling
 - D. *Resolution to Designate Acceptable Containers for Yard Waste Collection
 - E. First Reading of Ordinance 2023-04: An Ordinance to Amend Section 6-2B Control of Invasive Species Tree Pests
 - F. Resolution to Approve Budget Adjustment #23-013 to cover costs of treatment and containing the spread of Emerald Ash Borer (EAB)
13. Administration
- A. *Resolution to Approve the Consumption of Beer on the Premises of the Moorhead Youth Hockey Arena on April 7 & 8, 2023
 - B. *Resolution to Approve Budget Adjustment #23-012 for the preparation of a City Debt Model

C. *Resolution to Authorize Purchase of a 35-Foot Heavy Duty Diesel BRT-style Transit Bus from New Flyer Industries

14. Mayor and Council Reports
15. City Manager Reports
16. Executive Session
17. New Business
18. Adjourn



City Council Communication

March 13, 2023

SUBJECT:

MoorHeart Recognition: Sadiyo Osman

RECOMMENDATION:

The City Council is asked to recognize and honor Sadiyo Osman with the MoorHeart award.

BACKGROUND/KEY POINTS:

The MoorHeart award recognizes individuals and organizations that go above and beyond to demonstrate community within our City by their actions and service. A team of volunteers from City boards and commissions selects award recipients who are recognized at City Council meetings. For the March 2023 award, the MoorHeart selection committee chose to recognize Sadiyo Osman for her outstanding service and volunteerism to the community of Moorhead, specifically her efforts in teaching early childhood development and childcare, as well as tutoring English to new Americans.

Sadiyo offers her skills to new Americans at the Afro-American Development Association. She connects with those hoping to learn new skillsets in order to create new personal opportunities. New Americans are able to utilize the Afro-American Development Association and its resources in order to find opportunities and feel at home in Moorhead. Sadiyo volunteers her time and skills to lift those hoping to learn English or understand childcare and childcare licensing.

Lisa Arnold wrote in the nomination: I have witnessed firsthand how valuable Sadiyo's work is for our students. Sadiyo is a first-generation Somali American whose background allows her to connect deeply with our students (many of whom are Somali) both culturally and linguistically. It took courage for Sadiyo to decide to volunteer with us, as she is not a native speaker of English herself and, most of the time, immigrants do not feel they are "qualified" to teach English. Sadiyo is not only a solid English tutor, but she's been extremely helpful in translating for our lowest-level students, who can become lost or intimidated if they have to communicate completely in English. Sadiyo has also taken the initiative to bring a training program to our students so that they can begin receiving child care training once a month that will not only enhance their understanding of child development but can also lead to licensure for at-home child care. This new training will be a great boom for many of our students who are otherwise not employed or who are not happy with their current employment. In addition to her volunteer work, Sadiyo's character deserves recognition. Her strength and integrity are inspiring to me and everyone at AADA, and I hope she can be recognized with the MoorHeart award so that she can be seen as a role model for other young New American women in the community.

The MoorHeart nomination committee thanks Sadiyo for her compassion and acknowledges the efforts that she makes to change the lives of so many individuals. Her inclusive, service-oriented personality shows that we can all become better connected with effort and determination. Sadiyo is a wonderful role model.



City Council Communication

March 13, 2023

The MoorHeart award is commemorated with a piece of art commissioned from Moorhead-based artist, Karman Rheault especially for this purpose.

As you learn of others in our community doing great things, large and small, please consider submitting a nomination. Information on nominating others for MoorHeart consideration is found at cityofmoorhead.com.

FINANCIAL CONSIDERATIONS:

Not Applicable

Voting Requirements: Not Applicable

Submitted By:

Dan Mahli, City Manager

Lisa Bode, Governmental Affairs Director

Mark Dickerson, Communications Coordinator

Attachments:

**OFFICIAL PROCLAMATION
CITY OF MOORHEAD, STATE OF MINNESOTA**

- WHEREAS,** *I, Shelly Carlson, Mayor of Moorhead am proud to commemorate March 2023 as Bleeding Disorders Awareness Month in the city of Moorhead; and*
- WHEREAS,** *this designation will formalize and expand upon the federal designation 30 years ago of March 1986 as “Hemophilia Awareness Month” and in 2016 when the entirety of the bleeding disorders community came together to encompass all bleeding disorders; and*
- WHEREAS,** *these bleeding disorders, which share the inability to form a proper blood clot, are characterized by extended bleeding after injury, surgery, trauma or menstruation and can lead to significant morbidity and can be fatal if not treated effectively; and*
- WHEREAS,** *this Awareness Month in Moorhead will generate greater awareness and understanding of not only hemophilia but all inheritable bleeding disorders, and rear bleeding disorders; which effect millions of individuals around the world; and*
- WHEREAS,** *the bleeding disorders community’s relationships with policymakers have fostered numerous medical and policy advancements beneficial to all those affected by bleeding disorders and their loved ones; and*
- WHEREAS,** *The Awareness Month will foster a greater sense of community and shared purpose among individuals with an inheritable bleeding disorder; and*
- WHEREAS,** *this Awareness Month will elevate awareness of and engagement in the inheritable bleeding disorders journey beyond our community to the general public, enabling the prevention of illness, unnecessary procedures, and disability;*
- NOW, THEREFORE,** *be it proclaimed that I, Shelly Carlson, do hereby proclaim the month of March 2023 as:*

Bleeding Disorders Awareness Month

IN WITNESS WHEREOF *I have set my hand and caused the Official Seal of the City of Moorhead to be affixed this 1th day of March, 2023.*

*Shelly A. Carlson
Mayor of Moorhead*



**CITY COUNCIL
MEETING MINUTES
FEBRUARY 27, 2023 AT 5:30 PM
HJEMKOMST CENTER AUDITORIUM**

1. Call to Order and Roll Call

Roll call of the members was made as follows:

Present: Council Member: Ryan Nelson
Council Member: Matthew Gilbertson
Council Member: Heather Nesemeier
Council Member: Laura Caroon
Council Member: Deb White
Council Member: Larry Seljevold
Council Member: Chuck Hendrickson
Mayor: Shelly Carlson

Absent: Council Member: Steve Lindaas

2. Pledge of Allegiance

3. Agenda Amendments

4. Recognitions - Presentations

A. MoorHeart Recognition: Mark Peihl, Archivist, Historical and Cultural Society of Clay County

Governmental Affairs Director Lisa Bode presented the MoorHeart Recognition to Clay County Archivist Mark Peihl. Ms. Bode shared excerpts from the nomination and Mr. Peihl thanked the community for the award.

5. Consent Agenda

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Motion to Approve made by Heather Nesemeier and seconded by Ryan Nelson

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, Hendrickson

Against: 0;

Abstain/Recuse: 0;

Absent: 1; Lindaas

6. Approve Minutes

A. February 13, 2023 Meeting Minutes

Motion to Approve February 13, 2023 Meeting Minutes made by Laura Caroon and seconded by Larry Seljevold

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, Hendrickson
Against: 0;
Abstain/Recuse: 0;
Absent: 1; Lindaas

7. Citizens Addressing the Council (Time Reserved: 15 Minutes)

During "Citizens Addressing the Council", the Mayor will invite residents to share issues, concerns and opportunities. Individuals must limit their comments to three minutes. The Mayor may limit the number of speakers on the same issue in the interest of time and topic. Individuals should not expect the Mayor or Council to respond to their comments tonight.

8. *Mayor and Council Appointments

A. *Resolution for Appointments to Boards and Committees

9. Public Hearings (5:45 pm)

During "Public Hearings", the Mayor will ask for public testimony after staff and/or applicants make their presentations. The following guidelines are in place to ensure an efficient, fair, and respectful hearing; limit your testimony to three minutes and to the matter under consideration; the Mayor may modify times, as deemed necessary; avoid repeating remarks or points of view made by previous speakers. The use of signs, clapping, cheering or booing or any other form of verbal or nonverbal communication is not allowed.

10. Engineering Department

A. *Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for 19-1/2 St and 14th Ave S Area Street Improvements (Eng. No. 23-A2-01)

B. *Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for 14th, 16th, 17th, 18th St S & 27th Ave S Mill and Overlay (Eng. No. 23-A2-03)

C. *Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for 6th St, 18th & 20th Ave S Rehabilitation (Eng. No. 23-A2-07)

D. *Resolution to Consider Actions Relating to Johnson Farms 5th and 7th Addition Underground Utility and Street Improvements (Eng. No. 23-A6-01)

E. *Resolution to Award Bid (Eng. No. 23-A6-01)

F. *Resolution to Award the bid for 7th & 8th Street Mill & Overlay (Eng. No. 22-A2-06)

G. *Resolutions to Approve Actions for 11th St S Underground Utility & Street Improvements (Eng. No. 22-A2-02)

H. *Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for 11th St S Underground Utility & Street Improvements (Eng. No. 22-A2-02)

I. *Resolution to Receive the Report, Order the Preparation of Plans & Specifications and Call for a Public Hearing for 2nd Ave N Area Underground Utility & Street Improvements (Eng. No. 23-A2-04A and 14-02-03F)

11. Community Development Department

A. Resolution to Authorize Advertisement for Architectural/Engineering Services for the Moorhead Community Center/Public Library

Community Development Director Kristie Leshovsky presented the public notice for

Architectural & Engineering services for the recently approved Community Center Regional Library in Moorhead. The deadline for submission is March 16 for the Request for Qualifications (RFQ) and April 20 for the Requests for Proposals (RFP) if qualifications are met. Construction is anticipated to begin June 1, 2024.

Motion to Approve Resolution to Authorize Advertisement for Architectural/Engineering Services for the Moorhead Community Center/Public Library with the addition of inclusive language made by Laura Caroon and seconded by Heather Nesemeier

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, Hendrickson

Against: 0

Abstain/Recuse: 0

Absent: 2; Carlson, Lindaas

- B. *Resolution to Approve Authorization of Bids - Moorhead Municipal Airport Florence Klingensmith Field 2023 Projects
- C. *Resolution to Approve Agreements with Mead and Hunt - Moorhead Municipal Airport 2023 Projects

12. Moorhead Public Service

- A. *Resolution to Award Bid for Construction at Moorhead DOE Tap Substation
- B. *Resolution to Approve Contract with Western Area Power Administration for 230-KV Transmission Line Construction Services Related to the Moorhead DOE Tap Substation Project

13. Public Works

- A. First Reading of Ordinance 2023-02: An Ordinance to Amend Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code

Public Works Director Steve Iverson shared information on an ordinance to designate and define the acceptable materials in the recycling stream. The updates include the removal of glass in the No Sort recycling bins and removal of clear bags as acceptable for yard waste. More information and public education will be provided as the changes go into motion. Mary Aldrich from Minnkota Recycling was in attendance to answer questions.

Motion to Approve First Reading of Ordinance 2023-02: An Ordinance to Amend Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code made by Chuck Hendrickson and seconded by Heather Nesemeier

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, Hendrickson

Against: 0

Abstain/Recuse: 0

Absent: 1; Lindaas

14. Administration

- A. *Resolution to Approve Trollwood Performing Arts School 2023 Operating Budget & Executive Affidavit

15. Mayor and Council Reports

MOORHEAD CITY COUNCIL MEETING MINUTES

February 27, 2023

Council Member Chuck Hendrickson stated Metropolitan Council of Governments Executive Director Cindy Gray is retiring in May and MetroCOG is in the process of recruiting the next executive director.

Council Member Heather Nesemeier shared that Moorhead Public Housing and the Clay County Housing Authority continue to work on merging operations as a way to better serve people and families that are precariously housed. Notification to affected tenants and households is happening.

Mayor Shelly Carlson thanked MSUM President Anne Blackhurst for partnership efforts and also thanked Swing Barrel for asking her to be a judge at its 1st Annual Chili Cook Off. Mayor Carlson talked about participating in a Professional Lunch podcast at NDSU and thanked Ricot Aladin for inviting her. Mayor Carlson also shared an update on the Diversion Project and stated the project is starting to run into anticipated completion milestones.

16. City Manager Reports

17. Executive Session

- A. Closed Executive Session pursuant to MN Statute 13D.05, Subdivision 3b(3), for the purpose of discussing the sale of real property described a portion of Parcel Numbers 58.900.0250 and 58.900.0251 owned by the City of Moorhead

Motion to Enter Closed Session Closed Executive Session pursuant to MN Statute 13D.05, Subdivision 3b(3), for the purpose of discussing the sale of real property described a portion of Parcel Numbers 58.900.0250 and 58.900.0251 owned by the City of Moorhead made by Deb White and seconded by Larry Seljevold

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, Hendrickson

Against: 0

Abstain/Recuse: 0

Absent: 1; Lindaas

Motion to Exit Closed Session Closed Executive Session pursuant to MN Statute 13D.05, Subdivision 3b(3), for the purpose of discussing the sale of real property described a portion of Parcel Numbers 58.900.0250 and 58.900.0251 owned by the City of Moorhead made by Heather Nesemeier and seconded by Laura Caroon

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, Hendrickson

Against: 0

Abstain/Recuse: 0

Absent: 1; Lindaas

Motion to Authorize staff to proceed with negotiating a sale of Parcel Numbers 58.900.0250 and 58.900.0251 in accordance with the terms and conditions discussed during the Executive Session, subject to bringing the final purchase agreement back to the City Council for formal approval made by Heather Nesemeier and seconded by Deb White

Motion Passed

For: 7; Nelson, Gilbertson, Nesemeier, Caroon, White, Seljevold, Hendrickson

Against: 0

Abstain/Recuse: 0

Absent: 1; Lindaas

18. New Business

19. Adjourn

Meeting adjourned 6:16pm

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson
Mayor

Christina Rust
City Clerk

The proceedings of this meeting are digitally recorded and are available for public review.



City Council Communication

March 13, 2023

SUBJECT:

Public Hearing on Community Development Block Grant 2023 Annual Action Plan

RECOMMENDATION:

This is a public hearing only. The Mayor and City Council are asked to receive public comments on the draft 2023 Annual Action Plan for the Community Development Block Grant (CDBG) and the draft Amended Citizens Participation Plan. Formal consideration of the 2023 Annual Action Plan and Citizen Participation Plan is scheduled for March 27, 2023.

BACKGROUND/KEY POINTS:

Draft 2023 Annual Action Plan: The City has developed its CDBG Annual Action Plan as part of its corresponding five-year plan as required by the U.S. Department of Housing and Urban Development (HUD). Citizen participation includes:

- Public Meeting (October 4, 2022)
- 30-day comment period (ending March 25, 2023)
- Public hearing (March 13, 2023)
- Final plan consideration by City Council (March 27, 2023)

Draft Amended Citizens Participation Plan: HUD requires Grantees to adopt and periodically update a Citizen Participation Plan that sets forth the City's policies and procedures for citizen participation related to its CDBG programs. The existing plan is proposed to remove expired COVID-19 references and to increase the minimum budget necessitating a substantial amendment from the greater of \$5,000 or more than 25% of an activity budget, to the greater of \$20,000 or 25% of activity budget.

Activity	Description	Budget
Program Administration	Staff support for planning, implementation, reporting, and monitoring of CDBG resources and support for the Moorhead Human Rights Commission. CFR Part 570.206	\$86,000
Home Rehabilitation Loan Program	Citywide rehabilitation loan program assisting owner-occupants of single-family homes whose income falls below 80% of area median income. Funds are provided on a loan basis up to \$25,000 provided sufficient home equity exists. No interest accrues on the loan and the entire principal balance must be repaid upon sale, title transfer or owner vacancy of the property. Applications from interested individuals are accepted by the City on a first come, first-served basis with priority for life safety emergency loans. The program is administered by the City of Moorhead. Eligible activity in accordance with CFR Part 570.202(a)(1). National Objective: Activity benefiting low- and moderate-income persons. Activity administration cost included.	\$243,341



City Council Communication

March 13, 2023

Acquisition Affordable Rental Housing	An affordable rental unit will be constructed through a partnership with Creative Care for Reaching Independence (CCRI). CDBG resources will be used to acquire a lot in a new housing subdivision to be used by CCRI to construct an affordable rental unit assisting disabled persons whose income falls below 80% of median income. Funds are provided on a deferred loan basis to CCRI. No interest accrues on the loan and the entire principal balance must be repaid upon sale, title transfer, or CCRI vacancy of the property. The program will be administered by CCRI. Eligible activity in accordance with CFR Part 570.201 (a). National Objective Activity benefiting low- and moderate-income persons. Includes \$500 Program Administration.	\$40,500
Acquisition Affordable Housing	Up to two affordable housing units will be constructed through a partnership with Habitat for Humanity and/or Cass Clay Community Land Trust. CDBG resources will be used for acquisition and/or site preparation of a lot in a new housing subdivision through paying down the special assessments for affordable housing unit for homebuyers. Location to be determined. Eligible activity in accordance with CFR Part 570.201 (a). National Objective: Activity benefiting low- and moderate-income persons. Includes \$500 Program Administration	\$50,500
Bennett Park Vacant Home Removal Project	Up to six abandoned mobile home units in Bennett Park will be removed from the property. Funds will be provided for activities that meet National Objective: Slum & Blight Spot Basis [24 CFR Part 570.208 (b)(2)]; potential HUD Matrix Codes: 04 Clearance and Demolition. Includes \$500 Program Administration	\$30,500
Accessibility Improvements	Rehabilitate affordable homes specifically through the construction of accessibility ramps or addition of assistive devices for households with a member who is disabled. CDBG resources will be used for construction materials and assistive devices (e.g., door handles, grab bars) and/or labor; eligibility applications are managed by Freedom Resource Center and ramps are constructed either by Freedom Resource Center, volunteers of the Remodeler's Council of the Home Builders Association of Fargo-Moorhead, or paid contractors. Applications from interested individuals are accepted by Freedom Resource Center on a first-come, first-served basis. The program is administered by the Freedom Resource Center and the City of Moorhead. CDBG funds will be offered as a grant. (\$4,000 Contract Amount/\$200 Activity Administration). Eligible activity in accordance with CFR Part 570.208(a)(3), 570.201(k), 570.202 (a)(1).	\$4,200



City Council Communication

March 13, 2023

Public Services Eligible activities in accordance with CFR Part 570.201(e). National Objective: Activity benefiting low- and moderate-income persons.	<u>Recreation Program – Romkey</u>: Recreation activity programming, meal program and/or activities for youth in low-income neighborhoods conducted by Moorhead Parks & Recreation at 900 19 St. S. Participating youth range in age from 3-17 years; the predominant age of participants is under 12 years. Budget: \$6,200 (\$6,000 program/\$200 Activity Administration) <u>Mobile Recreation for Youth</u>: Recreation opportunities in Moorhead's Queens (3201 20 St S), Belsly (3500 12 St S), and Stonemill (1210 45 Ave S) Parks by means of the Boys & Girls Club of the Red River Valley's P.O.D. "Play Outside Daily" truck, which is staffed by recreation leaders and filled with play equipment. The truck travels to metro area parks that do not have regular youth programming. The P.O.D. program focuses on physical activity, relationship building, and character development. CDBG funding will be used to offset Boys & Girls Club costs in Moorhead neighborhoods where at least 51% of the participants are from low to moderate-income households. Budget: \$7,200 (\$7,000 program/\$200 Activity Administration). <u>Opportunities Under Transit ["OUT"] Transportation Initiative</u>: Discounted bus pass voucher program for persons who are homeless or extremely low income (less than 30% median income) to provide transportation to and from employment or job training. OUT will provide two monthly bus passes per participant per year. The program will be administered by Metro Area Transit, 701.476.6782. Budget: \$10,200 (\$10,000 program/\$200 Activity Administration). <u>Homebuyer Education</u>: Educational program to inform consumers on what they can afford in a home, how to qualify for a mortgage, and how to be a responsible homeowner. This is a metropolitan area wide program offered by Lakes & Prairies Community Action Partnership. At least 51% of clients served by the City's resources must be low to moderate income persons. The program is approved by Minnesota Housing Finance Agency to qualify for first-time homebuyer assistance programs. Budget: \$5,200 (\$5,000 contract/\$200 Activity Administration). <u>Afro-American Development Association Youth Program</u>: Youth programming for individuals age 14-24. Programming helps to shape a positive future through discovering unique talents and abilities through career exploration, mentoring, sports, supportive services, and postsecondary admission application assistance. The program is administered by the Afro-American Development	\$58,000
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City Council Communication

March 13, 2023

	Association at multiple locations throughout Moorhead. Budget: \$8,200 (\$8,000 program/\$200 activity administration). <u>Snow Removal Assistance Program:</u> The City of Moorhead will assist homeowners who are elderly and/or disabled with snow removal services. CDBG funds will be used to pay a contractor the City hires to remove snow from public sidewalk abutting the home, driveway, and one walkway to a door for persons who are accepted into the program. Applicants will be prioritized on a first-come, first-served basis. Budget: \$21,000 (\$20,000 contract/\$1,000 Activity Administration)	
Change of Use – Affordable Housing at 1003 19 St S Property Acquired with CDBG funds	1003 19 St S was purchased in 2001 with Community Development Block Grant (CDBG) funds to remove a blighted structure. The Cass Clay Community Land Trust has expressed interest in this land to construct a home for affordable homeownership.	N/A

FINANCIAL CONSIDERATIONS:

The 2023 HUD Fiscal Year Grant Allocations were released just last week. The City of Moorhead's allocation is reflected in the following resources anticipated to be available:

\$313,598 – 2023 CDBG allocation from HUD (an increase of \$29,064 from 2022)

\$150,000 – Program Income (estimate)

\$ 49,443 – Unobligated funds at 2022 Year-End

Total \$513,041

Voting Requirements: Not Applicable

Submitted By:

Dan Mahli, City Manager

Lisa Bode, Governmental Affairs Director

Tanya Kunza, Community Development Program Administrator

Attachments:



City Council Communication

March 13, 2023

SUBJECT:

Public Hearing to Authorize Application to the Federal Transit Administration for 2023 Capital Assistance

RECOMMENDATION:

The Mayor and City Council are asked to conduct a Public Hearing and, following this, consider approval of the following actions:

1. Authorize submission of 2023 Grant Applications for capital assistance projects to Federal Transit Administration (FTA) for Section 5307, Section 5339 and Carbon Reduction Program (CRP) funding.
2. Authorize the Mayor or City Manager, and the City Attorney to sign FTA Certifications and Assurances.
3. Authorize the Mayor and City Manager to execute contracts with FTA.
4. Authorize the Transit Manager to furnish such additional information FTA may require in connection with such application or program of projects.
5. Authorize the Transit Manager to set forth and execute affirmative minority business policies in connection with the Transit program of projects' procurement needs.

BACKGROUND/KEY POINTS:

On September 27, 2021, the City Council approved submission of capital grant applications to the State of Minnesota Department of Transportation (MnDOT) for the four-year period 2022-2026. The State of Minnesota has selected Moorhead to receive \$480,320 in FTA Section 5339 funding for four projects listed in the following table.

In addition, FTA Section 5307 funds are being requested to supplement one of the projects (AVA/AVL Software for the Fixed Routes) due to cost increases. Moorhead receives an annual apportionment of Section 5307 funds that can be used for operating, planning and capital projects. The funds can be carried forward up to five years to prepare for larger projects. Four 5307 projects are included in the draft 2023 capital grant application.

The State of Minnesota allocated CRP funds to Moorhead to assist with increasing construction costs for the Dilworth Walmart Transit Hub.

A public hearing is required prior to submission of grant applications to the Federal Transit Administration (FTA). Therefore, a public hearing has been scheduled tonight for the following capital grant projects:



City Council Communication

March 13, 2023

URBANIZED AREA: Fargo, ND - Moorhead, MN

APPLICANT: City of Moorhead, MN

TRANSIT SERVICE AREA OF PROJECTS: Cities of Moorhead and Dilworth, MN

Section 5307 Federal Apportionment for FY2020 Partial	\$381,314
Section 5339 Federal Grant	\$480,320
Carbon Reduction Program (CRP)	\$67,200
Total	\$928,834

	Funding Source	Local Share	Federal Share	Project Totals
PROGRAM OF PROJECTS DESCRIPTIONS				
I. CAPITAL PROJECTS				
A. 20% Local / 80% Federal Funding				
1. Rehab/Replace Shelters	5307	\$6,888	\$27,554	\$34,442
2. Purchase Replacement Para Bus	5307	\$14,400	\$81,600	\$96,000
3. Replace AVA and AVL System	5307	\$11,640	\$46,560	\$58,200
4. Purchase Replacement Utility Vehicle	5307	\$6,400	\$25,600	\$32,000
B. 20% Local / 80% Federal Funding				
1. Rehab/Replace Shelters	5339	\$9,120	\$36,480	\$45,600
2. Miscellaneous Metro Transit Garage Facility and Equipment Improvements	5339	\$56,600	\$226,400	\$283,000
3. Replace AVA and AVL System	5339	\$48,360	\$193,440	\$241,800
4. Replace Paratransit Scheduling Software	5339	\$6,000	\$24,000	\$30,000
C. 20% Local / 80% Federal Funding				
1. Dilworth Walmart Hub Construction	5307	\$50,000	\$200,000	\$250,000
2. Dilworth Walmart Hub Construction	CRP	\$16,800	\$67,200	\$84,000
TOTAL PROGRAM OF PROJECTS		\$226,208	\$928,834	\$1,155,042

FINANCIAL CONSIDERATIONS:

All proposed capital projects were included in the approved 2022-2026 Capital Improvement Plan. The Moorhead local share match of \$159,408 is included in the approved 2023 Mass Transit Budget with funding from the annual CIP allocation of \$150,000 combined with CIP funds in Mass Transit Reserves. The local match for the Dilworth Walmart Hub Construction of \$66,800 will be provided by the City of Dilworth. Dilworth City Council authorized the local match at their regularly scheduled meeting of January 9, 2023.

Voting Requirements: Not Applicable

Submitted By:

Dan Mahli, City Manager
Lori Van Beek, Transit Manager

Attachments:

RESOLUTION

Resolution to Authorize Filing of an Application to the Federal Transit Administration for 2023 Capital Assistance

WHEREAS, the Federal Transportation Administrator has been delegated authority to award Federal financial assistance for a transportation project; and,

WHEREAS, the grant or cooperative agreement for Federal financial assistance will impose certain obligations upon the Applicant, and may require the Applicant to provide the local share of the project cost; and

WHEREAS, the Applicant has or will provide all annual certifications and assurances to the Federal Transit Administration required for the project; and

WHEREAS, the City of Moorhead, Minnesota, has received written authority from the State of Minnesota as the designated recipient to apply for Urbanized Area Formula Program assistance as defined by Title 49, United States Code, Section 5307;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota, as follows:

1. That the Mayor or City Manager, or his/her designee, is authorized to execute and file an application for Federal assistance on behalf of the City of Moorhead, Minnesota, with the Federal Transit Administration to aid in the financing of capital assistance projects authorized under Title 49, United States Code, Section 5307.
2. That the Mayor or City Manager, or his/her designee, and/or the City Attorney are authorized to execute and file with its applications the annual certifications and assurances and other documents the Federal Transportation Administration requires before awarding a Federal assistance grant or cooperative agreement.
3. That the Transit Manager, or his/her designee, is authorized to furnish such additional information as the Federal Transit Administration may require in connection with such applications or program of projects.
4. That the Transit Manager, or his/her designee, is authorized to set forth and execute affirmative minority business policies in connection with program of projects' procurement needs.
5. That the Mayor and City Manager, or his/her designee, are authorized to execute grant and cooperative agreements with the Federal Transit Administration on behalf of the City of Moorhead, Minnesota, for aid in the financing of operating and capital assistance projects.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Adopt Revised Special Assessment Policy

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to adopt a Revised Special Assessment Policy.

BACKGROUND/KEY POINTS:

The City's Special Assessment Policy provides guidance and direction for the use of special assessments under the authority provided by Minnesota Statutes Annotated, Chapter 429, other related State statutes, and City Charter. The City utilizes special assessments to fund public improvement projects and to collect unpaid penalties and charges. For public improvement projects, the proposed special assessment procedures address:

1. The determination of the need, cost-effectiveness, feasibility, and timing of the improvements;
2. The determination of the assessable share of the cost (i.e., the project benefits) based on the type of improvements; and
3. The equitable apportionment of the assessable cost among the benefited property owners.

The City's initial Special Assessment Policy was adopted in January, 1981. Major revisions to the policy were adopted in January, 2005 with additional minor revisions adopted in May, 2012.

In 2020, staff initiated a review of the City's current policy. Policy review and revision included staff from the Engineering Department, Community Development Department, Administration, and City Attorney. Two presentations were provided to the City Council at workshops to provide updates and solicit input.

The proposed policy includes numerous non-substantive revisions that clarify and/or document practices that have been utilized for many years. These revisions will assist staff with future implementation given the cross-departmental responsibilities associated with special assessments and the relative infrequency of policy revisions. The proposed policy also includes a few more significant revisions that were deemed necessary to address legal decisions and/or long-term financial implications. A summary of the more significant revisions is included in the attached table.

The policy establishes procedures for the scope of the most common public infrastructure projects. The scope and/or magnitude of certain improvements may require project-specific considerations that deviate from the policy and would be approved by the City Council.



City Council Communication

March 13, 2023

FINANCIAL CONSIDERATIONS:

There is no cost associated with adoption of the revised policy.

Public improvements may be constructed without using special assessments; however, the City has limited funding options and it is generally not economically feasible under current statutes to avoid special assessments altogether. Application of the revised policy involves numerous financial considerations that are addressed through separate actions including, but not limited to, City budget and capital improvement plan approval, improvement bond issuance, public improvement project authorization, development agreements, and collection of unpaid penalties and charges. Each of these actions typically includes specific consideration and/or authorization by the City Council and frequently involve Public Hearings. The revised policy has been written to recognize City Council authority to deviate from policy and/or standard practices as may be appropriate.

The proposed revisions are intended to facilitate the continued use of special assessments as a funding tool, to equitably assign costs to benefiting properties, and to promote the long-term financial health of the City.

Voting Requirements: Majority of Quorum

Submitted By:

Dan Mahli, City Manager
Tom Trowbridge, Assistant City Engineer
Bob Zimmerman, Engineering Director
Ruth Sierra, Office Specialist

Attachments: Summary of Proposed Revisions

Summary of Proposed Revisions

Topic	Applicability	Summary of Current Policy	Summary of Proposed, Revised Policy	Purpose
Postponed special assessments	Properties outside of City limits benefiting from a public improvement	Following the Assessment Hearing for the public improvement, interest at the bond interest rate accrues annually on the unpaid principal until the property is annexed and platted/developed.	- Postponed special assessments are not adopted until annexation. - Interest does not accrue prior to annexation and adoption. - Upon annexation, postponed special assessments are adopted and levied (developed land) or converted to a deferred special assessment (undeveloped land).	Comply with <i>Johanson v. City of Moorhead</i> (2019)
Deferred special assessments	Undeveloped properties within City limits benefiting from a public improvement (excluding Green Acres parcels subject to State statutes)	- Special assessments are adopted and deferred until platted/developed. - Interest at the project interest rate accrues annually on the unpaid principal until the property is platted/developed.	- Special assessments are adopted and deferred without interest until one of the following (whichever occurs first): - Ten (10) years from the date of the Assessment Hearing notice. - The date the property status changes to a Developed Property. If a parcel subject to deferred special assessments is subdivided and developed, deferral for that portion that is not subdivided and developed will continue. - Should all or any portion of the property be sold by the owner, special assessments will continue to be deferred under these same provisions. - When the property no longer qualifies as an undeveloped parcel or the ten (10) year deferral ends, all deferred special assessments will be payable in equal principal installments over a period of twenty (20) years plus interest at the project interest rate. - These provisions can be modified through parcel-specific & project-specific agreements.	- Continue to support new development through public financing for public infrastructure. - Ensure that new development pays for the full cost of public infrastructure to serve it (i.e. not subsidized by the existing tax base of the City). - Manage and minimize financial risk to the existing tax base of the City.

Topic	Applicability	Summary of Current Policy	Summary of Proposed, Revised Policy	Purpose
Interest rates & term	All special assessments as applicable	• Not addressed in current policy. • If applicable, implementation has been accomplished via City Council action or historic practice.	• Special assessment project interest rates are set at 1.5% over the applicable bond rate, subject to City Council approval. • Developers may request equal annual payment versus equal annual principal payment at the time a petition is submitted. • Developers may request a one-year deferral for new subdivisions upon written request received prior to preparation of the assessment roll. After the one-year deferral, the term for collection of the deferred special assessment plus one year's accrued interest will be 24 years (vs 25 years). • For undeveloped property, excluding Green Acres Parcels, with deferred special assessments adopted under a policy prior to the effective date of the revised policy, and that remain deferred as of the effective date of the revised policy, interest accrual will terminate on the last maturity date of the original bonds issued for the improvement.	• Establish policy language to reflect past authorization via City Council action and/or historic practice.
Developer requests to allocate special assessments	Special assessments for new development (e.g. new subdivisions)	• Not addressed in current policy. • If applicable, implementation has been accomplished via City Council action or historic practice.	• For new developments governed by a Developers Agreement, the developer may request approval of assessment rates that deviate from those outlined in policy. The request to deviate will include a proposed allocation among all parcels within the area covered by the Developers Agreement. The proposed allocation will be reviewed by City staff to ensure that the allocation is equitable, reasonable, and does not result in assessments to individual parcels that would render the parcel unmarketable.	• Establish policy language to reflect past authorization via City Council action and/or historic practice.

RESOLUTION

Resolution to Adopt Special Assessment Policy

WHEREAS, the City's Special Assessment Policy provides guidance and direction for the use of special assessments under the authority provided by Minnesota Statutes Annotated, Chapter 429, other related State statutes, and City Charter; and

WHEREAS, the City utilizes special assessments to fund public improvement projects and to collect unpaid penalties and charges; and

WHEREAS, the City's initial Special Assessment Policy was adopted in January, 1981 and subsequently revised in January, 2005 and May, 2012; and

WHEREAS, the policy establishes procedures for the scope of the most common public infrastructure projects but recognizes that the scope and/or magnitude of certain public improvements may require project-specific considerations that deviate from the policy; and

WHEREAS, the revised policy has been written to recognize City Council authority to deviate from policy and/or standard practices as may be appropriate; and

WHEREAS, the proposed revisions are intended to facilitate the continued use of special assessments as a funding tool, to equitably assign costs to benefiting properties, and to promote the long-term financial health of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the revised Special Assessment Policy is hereby adopted.

BE IT FURTHER RESOLVED that the City Manager is authorized to make minor, non-substantive grammatical, editorial, and clarifying edits as may be needed from time to time.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for Proposed 2nd Ave N Area Underground Utility & Street Improvements (Eng. No. 23-A2-04A and 14-02-03F)

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to approve plans & specifications and authorize advertisement for bids for the above-referenced project.

BACKGROUND/KEY POINTS:

The proposed project includes street and/or underground utility work along 2nd Ave N from 8th to 12th St, 10th St from 1st to 2nd Ave N, and 12th St from 1st to 2nd Ave N (map attached). The street improvements on 2nd Ave N and 12th St N are included in the City's 2023-2027 Capital Improvement Plan and are scheduled for construction in 2023. The project also includes sanitary sewer and water utility relocation that must be completed in advance of the proposed 11th St Underpass Project, which is anticipated to begin construction in 2024.

On December 12, 2022, the City Council ordered the preparation of the Preliminary Engineer's Report (PER), to consider making of improvements to these streets. The report was completed by City staff under the direction of the City Engineer and made recommendations for various street and utility improvements, and was received by the Council on February 27, 2023. Following receipt of the report, the Council ordered preparation of plans & specifications for the making of the recommended improvements as proposed in the report.

WSB has prepared plans & specifications for the proposed improvements under the direction of the City Engineer. The streets within this project area have been combined into one contract to simplify construction administration and maximize the economy of scale, while keeping the total contract size to a scope that is suitable for most local contractors. City staff recommends that the Council approve the plans & specifications and authorize advertisement for bids.

Below is an outline of the proposed project schedule.

PROJECT SCHEDULE	
Activity	Date
Order Preliminary Engineer's Report	December 12, 2022
Receive Engineer's Report, Order Plans & Specs, and Call for a Public Hearing	February 27, 2023
Approve Plans & Specs and Authorize Ad for Bids	March 13, 2023
Receive Bids	April 5, 2023
Hold Public Hearing, Order Improvements, Declare Intent to Assess & Award Bid	April 10, 2023
Anticipated Construction Schedule	May – Sept., 2023
Hold Assessment Hearing	Fall 2023



City Council Communication

March 13, 2023

FINANCIAL CONSIDERATIONS:

The cost of the above requested actions is negligible at this time, and consists of printing and mailing costs. The total project cost, including contingencies and fees, is preliminarily estimated at \$4,870,000. Approximately \$3,291,400 of this cost is for the relocation of City utilities in advance of the 11th St Underpass Project, and will be reimbursed by the State as part of the 11 St Underpass Project. It is proposed to finance the City share of the project cost (\$1,359,600) through the PIR Fund using a General Obligation Improvement Bond, and to assess approximately \$231,800 of the total project cost to the benefiting properties in accordance with the City's Special Assessment Policy. The balance of the project cost (\$1,127,800) will be paid as a City share.

Voting Requirements: Majority of Quorum

Submitted By:

Dan Mahli, City Manager
Tom Trowbridge, Assistant City Engineer
Bob Zimmerman, Engineering Director
Ruth Sierra, Office Specialist

Attachments: Location Map

2nd Ave N, 10th St N & 12th St N Street & Utility Improvements (Eng. Nos. 23-A2-04A & 14-A2-03F)

RIVERFRONT
PARK RD

9 ST N

10 ST N

12 ST N

2 AVE N

8 ST N

1 AVE N

1 AVE N

11 ST N

LEGEND

-  WATER MAIN REPLACEMENT
-  SANITARY SEWER REPLACEMENT
-  STREET REHABILITATION
-  STREET RECONSTRUCTION

120

Feet

9 ST S

10 ST S

CENTER AVE

11 ST S

RESOLUTION

Resolution to Approve Plans & Specifications and Authorize Advertisement for Bids for Proposed 2nd Ave N Area Underground Utility & Street Improvements (Eng. No. 23-A2-04A and 14-02-03F)

WHEREAS, pursuant to a resolution passed by the City Council on February 27, 2023, plans and specifications for 2nd Ave N Area Underground Utility & Street Improvements (Eng. No. 23-A2-04A and 14-02-03F) have been prepared under the direction of the City Engineer and such plans are presented to the Council for approval.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead as follows:

1. Such plans and specifications, a copy of which is on file in the office of the City Engineer, are hereby approved.
2. The City Engineer shall prepare and cause to be published on the official websites an advertisement for bids upon the making of such improvement under such approved plans and specifications. The advertisement shall be published a minimum of 21 days before the scheduled bid opening. The advertisement shall specify the work to be done, shall state the time and place that the bids will be opened, and shall state that no bids will be considered unless sealed and filed with the City Engineer and accompanied by a cash deposit, cashier's check, bid bond or certified check payable to the City of Moorhead for 5 percent of the amount of such bid.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Authorize an Easement Acquisition for the 7th & 8th Street North Mill & Overlay Project (Eng. No. 22-A2-06)

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to authorize the acquisition of an easement for the above-referenced project.

BACKGROUND/KEY POINTS:

In order to construct the 7th & 8th Street North Mill & Overlay Project, a temporary easement is needed on the Wells Fargo Bank property at 730 Center Avenue. The property owner has agreed to grant the proposed easement.

FINANCIAL CONSIDERATIONS:

The cost for the temporary easement is \$1,125.00 and will be paid through the PIR fund as part of the project cost.

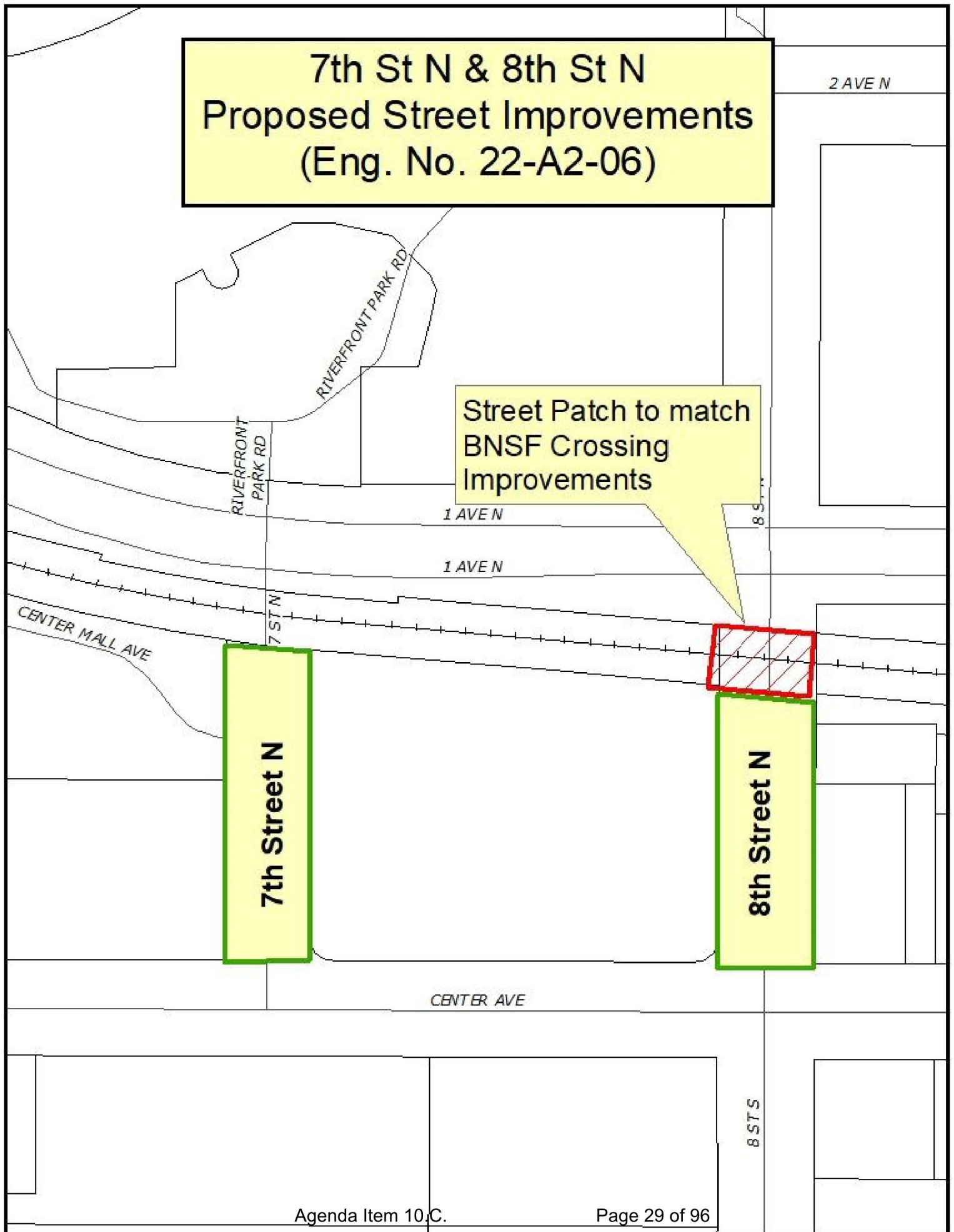
Voting Requirements: 3/4 of Council (6)

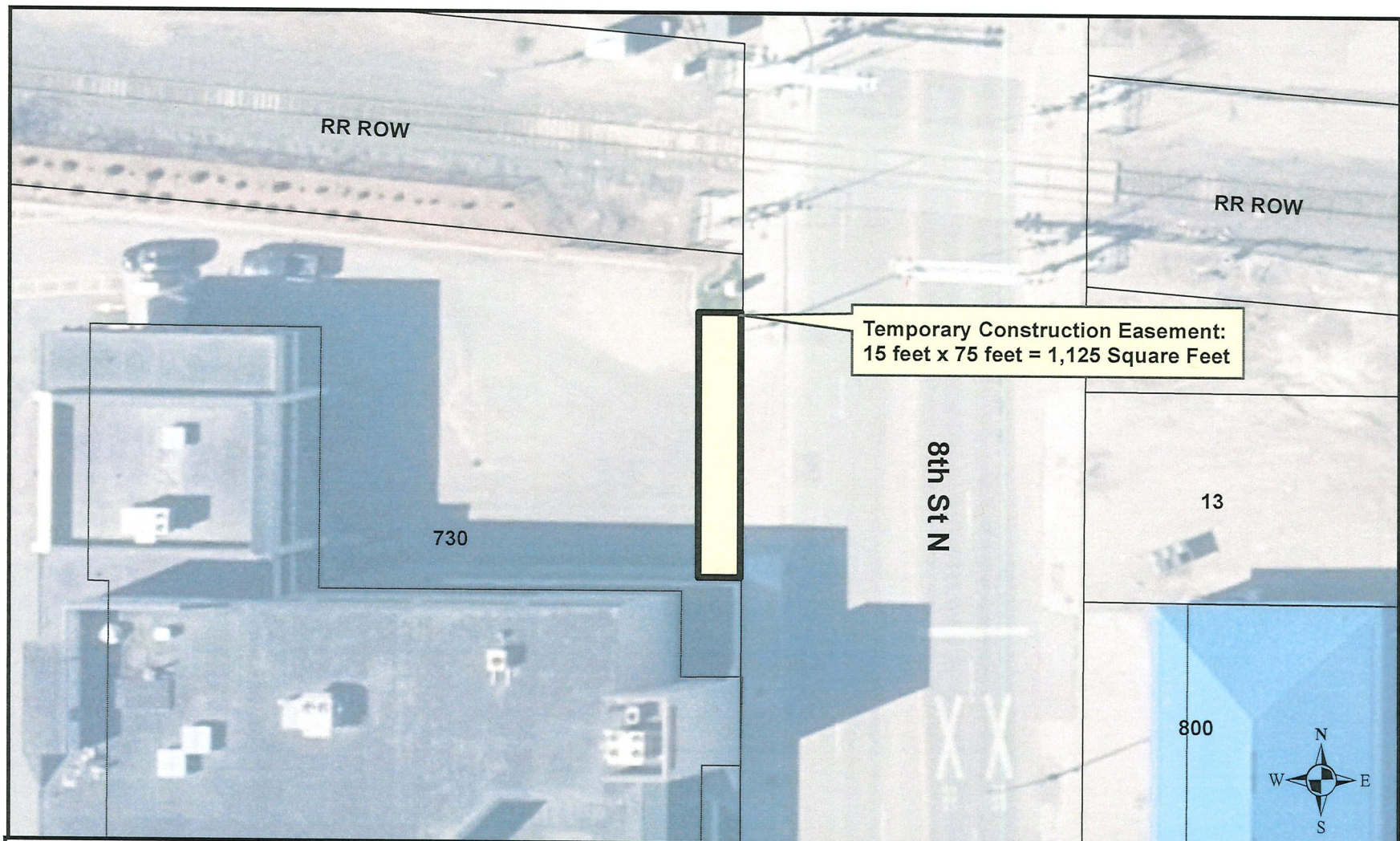
Submitted By:

Dan Mahli, City Manager
Tom Trowbridge, Assistant City Engineer
Bob Zimmerman, Engineering Director
Ruth Sierra, Office Specialist

Attachments: Easement Exhibit

**7th St N & 8th St N
Proposed Street Improvements
(Eng. No. 22-A2-06)**





Temporary Construction Easement Exhibit

Wells Fargo Bank

730 Center Ave Moorhead, MN 56560

Temporary construction easement on the easterly 15-feet of Lots Four (4) through Six (6), both inclusive, in Block Forty-Two (42) of the Original Townsite now the City of Moorhead, Minnesota.



RESOLUTION

Resolution to Authorize an Easement Acquisition for 7th & 8th Mill & Overlay Project (Eng. No. 22-A2-06)

WHEREAS, to construct the 7th & 8th Street North Mill & Overlay Project (Eng. No. 22-A2-06), a temporary easement is needed from the Wells Fargo Bank property at 730 Center Avenue; and

WHEREAS, Wells Fargo has agreed to provide the required easement at a cost of \$1,125.00; and

WHEREAS, the cost of the easement will be financed through the PIR fund as part of the total project cost.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the City Council does hereby authorize the acquisition of the easements described herein.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



To: Planning Commission
Subject: 2022 Planning Commission Annual Report
Date: March 6, 2023
Prepared By: Robin Huston, City Planner/Zoning Administrator

MEMORANDUM

GENERAL INFORMATION

The purpose of the Planning Commission is to oversee the implementation of an adopted comprehensive plan for the physical development of Moorhead. In doing so, recommendations are made to the City Council regarding comprehensive plan amendments, zoning text and map amendments, conditional use permits, vacations of right of way and easements, subdivisions and tax increment financing plans.

The Planning Commission also serves as the Board of Adjustment & Appeals to hear petitions for variances and appeals of administrative zoning determinations.

2022 PLANNING COMMISSIONERS

Tim Stone	At-Large	January – June
Jana Kasper	At-Large	June – December
Nicole Matson	1 st Ward	Vice-Chair
Steve Moore	2 nd Ward	
Brent Behm	3 rd Ward	Chair and FM MetroCOG Policy Board Alternate
Ezzat Haider	4 th Ward	January - March
Amber Gustafson	4 th Ward	June - December
Steve Lindaas	City Council	
Jenna Kahly	Clay County Commission	

2022 PLANNING COMMISSION ACTIVITY

Section 1-7-1E of the Moorhead City Code requires the Planning Commission to submit a report of its work of the preceding year to the City Council. The following represents the 2022 activities undertaken by the Planning Commission:

BOARD OF ADJUSTMENT & APPEALS PUBLIC HEARINGS

VARIANCES & APPEALS

No activity

PLANNING COMMISSION – PUBLIC HEARINGS

PRELIMINARY & FINAL PLATS

1. Hampton Place Fourth Addition
2. MCCARA Fifth Addition

3. Twelfth Avenue Business Park Second Addition
4. Horizon Shores Daycare Addition
5. Horizon Shores Strip Center Addition
6. Johnson Farms Seventh Addition

VACATION OF RIGHT OF WAY

1. 5th Ave S within Schreibers Addition–related to 20th/21st St Underpass project
2. 1st Ave S within Schreibers Addition – related 20th/21st St Underpass project
3. 4th Ave N within Hill's Addition – related to water treatment plant safety and security improvements

VACATION OF EASEMENTS

1. Twelfth Avenue Business Park Second Addition – to facilitate a replat
2. 1587 30th Ave S – to facilitate commercial development
3. 1601 29th Ave S – to facilitate commercial development
4. Johnson Farms Seventh Addition – to facilitate residential development

ZONING TEXT AMENDMENTS

1. Title 10-2-2 & 10-17, Article B - Updated Flood Related Definitions, and Floodway (FW) and Flood Fringe (FF) Permitted Uses
2. Title 11-1-4 Definitions, 11-5-8 Sidewalks, and 11-5-10 Boulevard Trees – To add language to address snow storage in new subdivisions (pending City Council approval)
3. Title 10-17D-4 Wireless Telecommunications Overlay – Added language to clarify exemptions for small wireless facilities on new or existing light poles up to 50 feet
4. Title 10-18-1 Use Tables – Added Cannabinoid Sales and Manufacturing

ZONING MAP AMENDMENTS

1. Hampton Place Fourth Addition – TZ: Transitional to RLD-2: Residential Low Density-2
2. MCCARA Fifth Addition – LI: Light Industrial and HI: Heavy Industrial to LI: Light Industrial
3. 2501 11th St S – RC: Regional Commercial to MU-3: Commercial Mixed Use
4. 1304 15th Ave N – INS: Institutional to CC: Community Commercial
5. Twelfth Avenue Business Park Second Addition – LI: Light Industrial to CC: Community Commercial
6. Portion of 2500 34th St S – Z: Transitional to CC: Community Commercial

COMPREHENSIVE PLAN AMENDMENTS

No activity

CONDITIONAL USE PERMITS

1. 2501 11th St S – to exceed 45-foot height limit in MU-3: Commercial Mixed Use to accommodate a 3 and 4-story multi-family building (new Skaff Apartments)
2. 1 4th St S – to allow development in the 100-year Flood Fringe/Plain and to allow excavation/fill in the Floodway (Bolg Square mixed-use project)
3. 1110 14th St S – to operate child and adult daycare facilities in PUD: L-INS (adaptive re-use of the former Thomas Edison Elementary School building)

4. 600 30th Ave S – to exceed 45-foot height limit in MU-3: Commercial Mixed Use to accommodate a 4-story multi-family building (Compass Apartments)
5. 1991 Main Ave SE – to allow self-storage facilities in CC: Community Commercial
6. 16 4th St S – to allow a religious institution in MU-1: Downtown Mixed Use (Hindu Temple)
7. 1500 Wall St Ave N – to allow a parking lot in RLD-0a: Residential Low Density-0a (Fischer Tree Service)
8. 600 1st Ave S – to allow excavation/fill in the Floodway (Rotary Natural Playground)

TAX INCREMENT FINANCING PLANS

No activity

OTHER ITEMS

1. Onward Moorhead: Comprehensive Plan Update and Public Hearing
2. Text Amendment – Title 3-3-3, Weeds – to allow native lawns
3. Reimagine Romkey Update
4. 2023 – 2027 Capital Improvement Plan
5. 1700 1st Ave S – Extension of a CUP to construct an 85-foot wireless tower (Verizon)
6. 2022 Development Report – for items that do not come before Planning Commission

RESOLUTION

Resolution to Receive the 2022 Annual Planning Commission Report

WHEREAS, the purpose of the Planning Commission is to oversee the implementation of an adopted comprehensive plan for the physical development of Moorhead; and

WHEREAS, recommendations are made to the City Council regarding zoning text and map changes, conditional use permits, vacations, subdivisions and tax increment financing plans; and

WHEREAS, the Planning Commission also serves as the Board of Adjustment & Appeals to hear petitions for variances and appeals of administrative zoning determinations; and

WHEREAS, Section 1-7-1E of the Moorhead City Code requires the Planning Commission to submit a report of its work of the preceding year to the City Council annually.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the City Council received the attached 2022 Annual Report for the Planning Commission of the City of Moorhead.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Approve Extension of Conditional Use Permits for Development in Flood Fringe and Excavation and/or Fill in the Floodway at One Fourth St S

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to approve a one-year extension of Conditional Use Permits for development in the Flood Fringe and Floodway to facilitate the construction of a mixed-use building at One Fourth St S.

BACKGROUND/KEY POINTS:

Conditional Use Permits (CUP) to allow development in the Flood Fringe and Floodway for the Bolig Square mixed-use project were approved on April 8, 2019 and re-approved on April 11, 2022, after first approval expired. City Code states that Conditional CUPs expire if the terms and conditions are not met within one year of issuance and allows applicants to request an extension.

At this time, the applicant is requesting a one-year extension until April 11, 2024. Applicant is requesting the extension due to coordination with the Railroad.

The Moorhead Planning Commission considered the request at their March 6, 2023 meeting and unanimously recommended approval of the one-year extension. The complete Planning Commission packet is available at:

<https://www.ci.moorhead.mn.us/government/boards-commissions/planning-commission>

FINANCIAL CONSIDERATIONS:

Not Applicable

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager
Robin Huston, City Planner/Zoning Administrator
Brittany Cameron, Assistant City Planner

Attachments: General Location Map
Resolution 2022-0411-H
Draft Resolution



General Location Map
1 4th St S
58.575.0025



Request for Conditional
Use Permit Extension



DocId:8042884

Tx:4033655

828782

Certified, Filed and/or Recorded on:

05/27/2022 10:20:24 AM

RECORDING FEE 46.00

Kimberly S. Savageau, Recorder
Office Of County Recorder
Clay County, MN**RESOLUTION 2022-0411-H***58.575.0025***Resolution to Re-Approve Conditional Use Permit to Allow Excavation and/or Fill in the Floodway for One 4th St S (Bolig Square)**

WHEREAS, EPIC Holdings II, LLC has requested a Conditional Use Permit to allow development in the 100-year Flood Fringe and a Conditional Use Permit to allow excavation and/or fill in the Floodway at One 4th Street South (Parcel 58.999.0018), legally described as:

That part of Lots 1-11, Block 4, and the adjoining BNSF Railway Company Right-of-Way, all in the Original Townsite, City of Moorhead, Clay County, Minnesota, described as follows:

Commencing at the Northeast Corner of said Block 4; thence North 89°39'45" West (assumed bearing), along the northerly line of said Block 4, for a distance of 80.00 feet; thence South 00°14'09" West, parallel with the easterly line of said Block 4, for a distance of 50.00 feet to the True Point of Beginning; thence South 34°54'00" East for a distance of 72.52 feet to a point of tangential curvature to the right, radius 210.00 feet; thence southeasterly, along said curve to the right for a distance of 46.68 feet, central angle 12°44'05", chord bearing South 28°31'58" East, to a point of intersection with the southerly line of said Block 4; thence South 00°14'09" East for a distance of 5.00 feet; thence North 89°39'48" West, parallel with the southerly line of said Block 4, for a distance of 34.15 feet; thence South 00°14'09" West for a distance of 19.12 feet; thence North 89°07'52" West for a distance of 178.27 feet; thence North 00°14'09" East for a distance of 22.46 feet to a point of intersection with the southerly line of said Block 4, said point of intersection also lying on the easterly line of the street easement described in Document No. 326143, on file at the Clay County Recorder's Office, said easterly line being a curve concave westerly, radius 490.00 feet; thence northerly along said curve and along the easterly line of said street easement, for a distance of 156.04 feet, central angle 18°14'44", chord bearing North 14°44'46" West, to a point of intersection with the northerly line of said Block 4; thence South 89°39'45" East, along the northerly line of said Block 4, for a distance of 122.12 feet to a point of tangential curvature to the right, radius 60.00 feet; thence southeasterly, along said curve to the right for a distance of 57.35 feet, central angle 54°45'45"; chord bearing South 62°16'53" East; thence South 34°54'00" East for a distance of 30.14 feet to the True Point of Beginning. Said tract contains 31,347 square feet, more or less, and is subject to easements as may be of record; and

WHEREAS, the Moorhead Planning Commission held a public hearing on April 4, 2022 and approved findings of fact (Exhibit A) and voted unanimously to recommend approval of the Conditional Use Permits contingent upon the conditions noted below; and

WHEREAS, the City Council finds the requested Conditional Use Permit consistent with the 2022 Comprehensive Plan and Moorhead City Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Conditional Use Permit to allow development in the 100-year Flood Fringe and a Conditional Use Permit to allow excavation and/or fill in the Floodway at One 4th Street South, (Parcel 58.999.0018), is hereby approved contingent upon the following conditions, which were developed based on criteria within the Moorhead City Code for Conditional Uses and to address general welfare, health and safety of the neighborhood:

1. Shall meet current engineering standards noted within FEMA Technical Bulletin 6-93, Technical Bulletin 10-01 and ASCE 24-14 Flood Resistant design and construction standards.
2. The area below Regulatory Flood Protection Elevation shall be used for vehicle parking and storage only.
3. No Rise Certification relating to excavation and/or fill in the FEMA Floodway required prior to the issuance of the Floodplain Permit.
4. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area as well as floodproofing measures, in accordance with the Minnesota State Building Code and Moorhead City Code.
5. The applicant shall receive all applicable required federal, state and local permits including a Floodplain Development Permit.

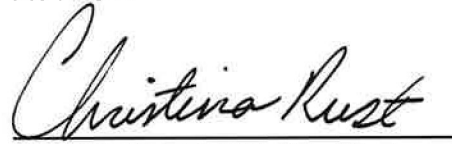
PASSED: April 11, 2022 by the City Council of the City of Moorhead.

APPROVED BY:



MICHELLE (SHELLY) A. CARLSON, Mayor

ATTEST:



CHRISTINA RUST, City Clerk

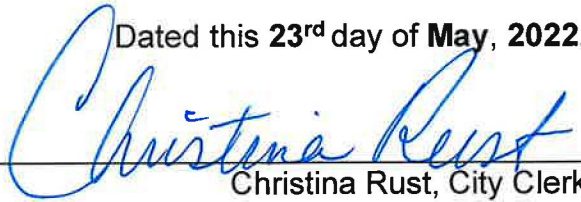
CERTIFICATION

STATE OF MINNESOTA
COUNTY OF CLAY
CITY OF MOORHEAD

I do hereby certify that the above Resolution is a true and accurate copy of the Resolution adopted by the Council of the City of Moorhead at an authorized meeting held on the **11th** day of **April, 2022**, as shown by the minutes of the meeting in my possession.



Dated this **23rd** day of **May, 2022**.


Christina Rust, City Clerk

**Conditional Use Permits
Moorhead Planning Commission
Findings of Fact**

REQUEST: Conditional Use Permits in Floodway and Flood Fringe – Bolig Square

LOCATION: One 4th Street S, Parcel #58.999.0018

APPLICANT: EPIC Holdings II, LLC

OWNER: EPIC Holdings II, LLC

File No: 22P008

WHEREAS, the Moorhead Planning Commission received a full and complete application for a:

1. Conditional Use Permit for development within the Flood Fringe
2. Conditional Use Permit for excavation and/or fill in the Floodway

WHEREAS, the Moorhead Planning Commission held a public hearing on the aforementioned request on April 4, 2022; and

WHEREAS, upon considering the Conditional Use Permits application, staff report and analysis, public testimony and comment, and all other pertinent and available information, the Moorhead Planning Commission finds the following:

Findings of Fact

1. A full and complete application was filed by EPIC Holdings II, LLC and received March 16, 2022 (herein referred to as "Application") seeking a Conditional Use Permit for development within the Flood Fringe and a Conditional Use Permit for excavation or fill in the Floodway at:

That part of Lots 1-11, Block 4, and the adjoining BNSF Railway Company Right-of-Way, all in the Original Townsite, City of Moorhead, Clay County, Minnesota, described as follows:

Commencing at the Northeast Corner of said Block 4; thence North 89°39'45" West (assumed bearing), along the northerly line of said Block 4, for a distance of 80.00 feet; thence South 00°14'09" West, parallel with the easterly line of said Block 4, for a distance of 50.00 feet to the True Point of Beginning; thence South 34°54'00" East for a distance of 72.52 feet to a point of tangential curvature to the right, radius 210.00 feet; thence southeasterly, along said curve to the right for a distance of 46.68 feet, central angle 12°44'05", chord bearing South 28°31'58" East, to a point of intersection with the southerly line of said Block 4; thence South 00°14'09" East for a distance of 5.00 feet; thence North 89°39'48" West, parallel with the southerly line of said Block 4, for a distance of 34.15 feet; thence South 00°14'09" West for a distance of 19.12 feet; thence North 89°07'52" West for a distance of 178.27 feet; thence North 00°14'09" East for a distance of 22.46 feet to a point of intersection with the southerly line of said Block 4, said point of intersection also lying on the easterly line of the street easement described in Document No. 326143, on file at the Clay County Recorder's Office, said easterly line being a curve concave westerly, radius 490.00 feet; thence northerly along said curve and along the easterly line of said street easement, for a distance of 156.04 feet, central angle 18°14'44", chord bearing North 14°44'46" West, to a point of intersection with the northerly line of said Block 4; thence South 89°39'45" East, along the northerly line of said Block 4, for a distance of 122.12 feet to a point of tangential curvature to the right, radius 60.00 feet; thence southeasterly, along said curve to the right for a distance of 57.35 feet, central angle 54°45'45"; chord bearing South 62°16'53" East; thence South 34°54'00" East for a distance of 30.14 feet to the True Point of Beginning. Said tract contains 31,347 square feet, more or less, and is subject to easements as may be of record.

2. The Conditional Use Permits are requested to accommodate construction of a 5-story mixed-use building with underground parking.

3. The property is zoned MU-1: Downtown Mixed Use, which allows for commercial and residential uses.
4. A public hearing was held by the Planning Commission on April 4, 2022 on the Application allowing all interested persons an opportunity to speak, full and complete record of which is detailed in the minutes of the Moorhead Planning Commission.
5. The request is consistent with the general intent of the MU-1: Downtown Mixed Use zoning district.
6. The request has been found consistent with the following considerations regarding the possible adverse effects of the requested Conditional Use Permits (Section 10-4-3E):
 - A. The proposed action has been considered in relation to the specific policies and provisions of, and has been found to be consistent with, the official city comprehensive plan and with the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - The property was guided towards railroad use in the 2004 Comprehensive Land Use Plan but the rail area had not been split off from the primary parcel at that time. The 2022 Comprehensive Land Use Plan shows the property guided for Mixed Use.
 - B. The proposed use is or will be compatible with the present and future uses of the area;
 - The proposed mixed use building is compatible with the present and future uses of the area.
 - C. The proposed use conforms with all performance standards contained herein (i.e. parking, loading, noise, etc.).
 - During building plan review, all performance standards will be reviewed to meet Moorhead City Code.
 - D. The proposed use will not tend to or actually have an adverse effect on the area in which it is proposed.
 - The proposed use will not tend to or actually have an adverse effect on the area in which it is proposed.
 - E. Traffic generated by the proposed use is within the capabilities of streets serving the property.
 - The proposed use will be accommodated by the existing and reconfigured capabilities of the streets serving the property.
 - F. The proposed use can be accommodated by public services and facilities including parks, schools, streets and utilities, and will not overburden the City's service capacity.
 - The proposed use can be accommodated by the existing public service facilities that currently serve or are near the property.
7. The Planning Commission also reviewed the following factors in relation to the proposed development/fill/excavation in the Flood Fringe and Floodway Overlay Districts and based their recommendations on:
 - A. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - B. The danger that materials may be swept onto other lands or downstream to the injury of others or that may block bridges, culverts, or other hydraulic structures.
 - C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - E. The importance of the services provided by the proposed facility to the community.
 - F. The requirements of the facility for a waterfront location.
 - G. The availability of the alternative locations not subject to flooding for the proposed uses.
 - H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - I. The relationship of the proposed use to the comprehensive plan and floodplain management program of the area.
 - J. The safety of access to the property in times of flood for ordinary and emergency vehicles.

- K. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

NOW, THEREFORE, BE IT RESOLVED by the Moorhead Planning Commission that based upon the above Findings of Fact, the request of EPIC Holdings II, LLC for Conditional Use Permits for Bolig Square, One 4th Street S, Parcel #58.999.0018 described as:

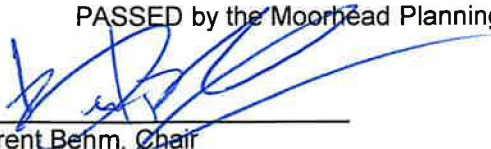
That part of Lots 1-11, Block 4, and the adjoining BNSF Railway Company Right-of-Way, all in the Original Townsite, City of Moorhead, Clay County, Minnesota, described as follows:

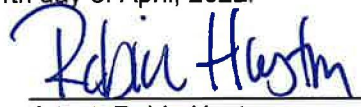
Commencing at the Northeast Corner of said Block 4; thence North 89°39'45" West (assumed bearing), along the northerly line of said Block 4, for a distance of 80.00 feet; thence South 00°14'09" West, parallel with the easterly line of said Block 4, for a distance of 50.00 feet to the True Point of Beginning; thence South 34°54'00" East for a distance of 72.52 feet to a point of tangential curvature to the right, radius 210.00 feet; thence southeasterly, along said curve to the right for a distance of 46.68 feet, central angle 12°44'05", chord bearing South 28°31'58" East, to a point of intersection with the southerly line of said Block 4; thence South 00°14'09" East for a distance of 5.00 feet; thence North 89°39'48" West, parallel with the southerly line of said Block 4, for a distance of 34.15 feet; thence South 00°14'09" West for a distance of 19.12 feet; thence North 89°07'52" West for a distance of 178.27 feet; thence North 00°14'09" East for a distance of 22.46 feet to a point of intersection with the southerly line of said Block 4, said point of intersection also lying on the easterly line of the street easement described in Document No. 326143, on file at the Clay County Recorder's Office, said easterly line being a curve concave westerly, radius 490.00 feet; thence northerly along said curve and along the easterly line of said street easement, for a distance of 156.04 feet, central angle 18°14'44", chord bearing North 14°44'46" West, to a point of intersection with the northerly line of said Block 4; thence South 89°39'45" East, along the northerly line of said Block 4, for a distance of 122.12 feet to a point of tangential curvature to the right, radius 60.00 feet; thence southeasterly, along said curve to the right for a distance of 57.35 feet, central angle 54°45'45"; chord bearing South 62°16'53" East; thence South 34°54'00" East for a distance of 30.14 feet to the True Point of Beginning. Said tract contains 31,347 square feet, more or less, and is subject to easements as may be of record,

is hereby approved contingent upon:

1. Shall meet current engineering standards noted within FEMA Technical Bulletin 6-93, Technical Bulletin 10-01 and ASCE 24-14 Flood Resistant design and construction standards.
2. The area below Regulatory Flood Protection Elevation shall be used for vehicle parking and storage only.
3. No Rise Certification relating to excavation and/or fill in the FEMA Floodway required prior to the issuance of the Floodplain Permit.
4. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area as well as floodproofing measures, in accordance with the Minnesota State Building Code and Moorhead City Code.

PASSED by the Moorhead Planning Commission this 4th day of April, 2022.


Brent Behm, Chair
Moorhead Planning Commission


Attest: Robin Huston,
City Planner/Zoning Administrator

RESOLUTION

Resolution to Approve Extension of Conditional Use Permits for Development in Flood Fringe and Excavation and/or Fill in the Floodway at One Fourth Street S (58.575.0025)

WHEREAS, the Moorhead City Council approved Conditional Use Permits in Flood Fringe and Floodway at One Fourth Street S on April 11, 2022 as Resolution 2022-0411-H; and

WHEREAS, Moorhead City Code Section 10-14-6 states that terms and conditions within an approved Conditional Use Permit shall be met within one year of issuance; and

WHEREAS, Moorhead City Code Section 10-14-6 also states that an applicant may request an extension for a Conditional Use Permit; and

WHEREAS, the terms and conditions outlined in Resolution 2022-0411-H have not been met and the applicant has submitted a Conditional Use Permits extension request; and

WHEREAS, the Planning Commission reviewed the Conditional Use Permits extension request at their March 6, 2023 meeting and unanimously recommended approval of said request.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Conditional Use Permits granted to allow development in the Flood Fringe and excavation and/or fill in the Floodway for One Fourth Street S on April 11, 2022 shall be extended to April 11, 2024.

BE IT FURTHER RESOLVED by the City Council of the City of Moorhead that the Conditional Use Permits Extension shall be granted under the terms and conditions outlined within Resolution 2020-0411-H.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Approve Extension of Conditional Use Permit to Exceed Maximum Building Heights in MU-3: Commercial Mixed Use at 2501 11th St S

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to approve a two-year extension for a Conditional Use Permit to exceed height limits in MU-3: Commercial Mixed Use at 2501 11th St S.

BACKGROUND/KEY POINTS:

The Conditional Use Permit (CUP) was approved for this location on April 11, 2022 to facilitate the construction of a 3 and 4-story multi-family building with structured parking on the first level. City Code states that CUPs expire if the terms and conditions are not met within one year of issuance and allows applicants to request an extension.

At this time, the applicant is requesting a two-year extension until April 11, 2025 stating the project has been delayed due to rising interest rates.

The Moorhead Planning Commission considered the request at their March 6, 2023 meeting and unanimously recommended approval of the two-year extension. The complete Planning Commission packet is available at:

<https://www.ci.moorhead.mn.us/government/boards-commissions/planning-commission>

FINANCIAL CONSIDERATIONS:

Not Applicable

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager
Robin Huston, City Planner/Zoning Administrator
Brittany Cameron, Assistant City Planner

Attachments: General Location Map
Resolution 2022-0411-3
Draft Resolution



General Location Map
2501 11th St S
58.328.0020





DocId:8042886

Tx:4033655

828784

Certified, Filed and/or Recorded on:

05/27/2022 10:20:26 AM

RECORDING FEE 46.00

Kimberly S. Savageau, Recorder
Office Of County Recorder
Clay County, MN

RESOLUTION 2022-0411-3

58.328.0020

**Resolution to Approve a Conditional Use Permit to Exceed Maximum
Building Height at 2501 11th St S**

WHEREAS, B. Carlson, on behalf of Design Resources Group, has requested a Conditional Use Permit to exceed height limits in MU-3: Commercial Mixed Use at 2501 11th Street South (Parcel 58.328.0020), legally described as:

Lot 2, Block 1, Holiday Center Third Addition

WHEREAS, the Moorhead Planning Commission held a public hearing on the request on April 4, 2022 and approved Findings of Fact (Exhibit A) and voted unanimously to recommend approval of the Conditional Use Permit contingent upon the conditions noted below; and

WHEREAS, the City Council finds the requested Conditional Use Permit consistent with the 2022 Comprehensive Plan and Moorhead City Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Conditional Use Permit to exceed height limits in MU-3: Commercial Mixed Use at 2501 11th Street South (Parcel 58.328.0020), is hereby approved contingent upon the following conditions, which were developed based on the criteria within the Moorhead City Code for Conditional Uses and address general welfare, health, and safety of the area:

1. Maximum building height shall be up to 43 feet in the area less than 150 feet from the residential low-density zoning district principle structures across from 11th St S.
2. Maximum building height shall be up to 53 feet in the area more than 150 feet from the residential low-density zoning district principle structures across from 11th St S.
3. Owner shall receive all required federal, state and local permits.

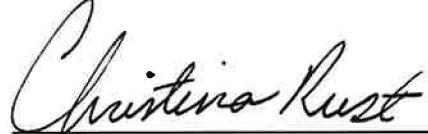
PASSED: April 11, 2022 by the City Council of the City of Moorhead.

APPROVED BY:



MICHELLE (SHELLY) A. CARLSON, Mayor

ATTEST:



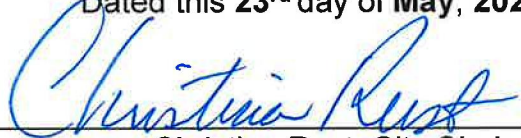
CHRISTINA RUST, City Clerk

CERTIFICATION

STATE OF MINNESOTA
COUNTY OF CLAY
CITY OF MOORHEAD

I do hereby certify that the above Resolution is a true and accurate copy of the Resolution adopted by the Council of the City of Moorhead at an authorized meeting held on the **11th** day of **April, 2022**, as shown by the minutes of the meeting in my possession.

Dated this **23rd** day of **May, 2022**.



Christina Rust, City Clerk



**Conditional Use Permits
Moorhead Planning Commission
Findings of Fact**

REQUEST: Conditional Use Permit – to exceed maximum building heights in MU-3: Commercial Mixed Use

LOCATION: 2501 11th Street S, Parcel # 58.328.0020

APPLICANT: B. Carlson, on behalf of Design Resources Group

OWNER: Skaff Apartments – Moorhead VIII

FILE NO: 22P004

WHEREAS, the Moorhead Planning Commission received a full and complete application for a Conditional Use Permit to exceed maximum building height in MU-3: Commercial Mixed Use; and

WHEREAS, the Moorhead Planning Commission held a public hearing on the aforementioned request on April 4, 2022; and

WHEREAS, upon considering the Conditional Use Permits application, staff report and analysis, public testimony and comment, and all other pertinent and available information, the Moorhead Planning Commission finds the following:

Findings of Fact

1. A full and complete application was filed by B. Carlson on behalf of Design Resources Group and received on March 11, 2022 (herein referred to as "Application") seeking a Conditional Use Permit to exceed maximum building heights in MU-3: Commercial Mixed Use at 2501 11th St S, Parcel #58.328.0020 described as:

LOT 2, BLOCK 1, HOLIDAY CENTER THIRD ADDITION.

2. The Conditional Use Permit is requested to construct a three and four-story multi-family building.
3. The property is zoned MU-3: Commercial Mixed Use, which allows structures to exceed 45 feet in height with a conditional use permit.
4. A public hearing was held by the Planning Commission on April 4, 2022 on the Application allowing all interested persons an opportunity to speak, full and complete record of which is detailed in the minutes of the Moorhead Planning Commission.
5. The request is consistent with the general intent of the MU-3: Commercial Mixed Use Zoning District.
6. The request has been found consistent with the following considerations regarding Section 10-19-10 that states building heights in excess of those standards contained in the district provisions may be allowed through a conditional use permit, provided that:
 - a. The site is capable of accommodating the increased intensity of use.
 - Increased density has been preliminarily reviewed. During plan review, once final plans are submitted, all performance standards will be reviewed to meet the requirements of the MU-3 zoning district.
 - b. The increased intensity of use does not cause an increase in traffic volume beyond the capacity of the surrounding streets.
 - Traffic volumes have been preliminarily reviewed. During plan review, once final plans are submitted, traffic volumes will be evaluated again.

- c. Public utilities and services are adequate.
 - The proposed building can be serviced by existing public utilities and services.
- d. For each additional story over the district limitation or for each additional ten feet (10') above the maximum allowed per district, front and side yard setback requirements shall be increased by ten percent (10%).
 - During plan review, all performance standards will be reviewed to meet Moorhead City Codes and Minnesota Building Code.
- e. The provisions of subsection 10-4-3E of this title are considered and satisfactorily met.

Section 10-4-3E of the Moorhead Zoning Ordinance states that the Planning Commission and City Council shall consider possible adverse effects of the proposed conditional use. Their judgment shall be based upon, but not limited to, the following factors:

- a. The proposed action has been considered in relation to the specific policies and provisions of, and has been found to be consistent with, the official city comprehensive plan and with the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - The proposed mixed-use building is consistent with the comprehensive plan and with the purposes of the zoning district in which it is to be located.
- b. The proposed use is or will be compatible with the present and future uses of the area;
 - The proposed use is compatible with the mix of residential and commercial present and future uses of the area.
- c. The proposed use conforms to all performance standards contained herein (i.e. parking, loading, noise, etc.).
 - During plan review, all performance standards will be reviewed to meet Moorhead City Codes and Minnesota Building Code.
- d. The proposed use will not tend to or actually have an adverse effect on the area in which it is proposed.
 - The proposed use will not tend to or actually have an adverse effect on the area in which it is proposed.
- e. Traffic generated by the proposed use is within the capabilities of streets serving the property.
 - The proposed use will be accommodated by the existing capabilities of the streets and parking areas serving the property.
- f. The proposed use can be accommodated by public services and facilities including parks, schools, streets and utilities, and will not overburden the City's service capacity.
 - The proposed use can be accommodated by the existing public service facilities that currently serve the property.

NOW, THEREFORE, BE IT RESOLVED by the Moorhead Planning Commission that based upon the above Findings of Fact, the request of B. Carlson, on behalf of Design Resources Group, for a Conditional Use Permit to exceed maximum building heights in MU-3: Commercial Mixed Use at 2501 11th St S, Parcel # 58.328.0020 described as:

LOT 2, BLOCK 1, HOLIDAY CENTER THIRD ADDITION

is hereby approved contingent upon:

1. Maximum building height shall be up to 43 feet in the area less than 150 feet from the residential low-density zoning district principle structures across 11th St S.
2. Maximum building height shall be up to 53 feet in the area more than 150 feet from the residential low-density zoning district principle structures across 11th St S.
3. Owner shall receive all required federal, state and local permits.

PASSED by the Moorhead Planning Commission this 4th day of April, 2022.



Brent Behm, Chair
Moorhead Planning Commission

Attest: Robin Huston,
City Planner/Zoning Administrator

RESOLUTION

Resolution to Approve Extension of Conditional Use Permit to Exceed Maximum Building Heights in MU-3: Commercial Mixed Use at 2501 11th Street S (Parcel 58.328.0020)

WHEREAS, the Moorhead City Council approved a Conditional Use Permit to exceed height limits in MU-3: Commercial Mixed Use at 2501 11th Street S on April 11, 2022 as Resolution 2022-0411-3; and

WHEREAS, Moorhead City Code Section 10-14-6 states that terms and conditions within an approved Conditional Use Permit shall be met within one year of issuance; and

WHEREAS, Moorhead City Code Section 10-14-6 also states that an applicant may request an extension for a Conditional Use Permit; and

WHEREAS, the terms and conditions outlined in Resolution 2022-0411-3 have not been met and the applicant has submitted a Conditional Use Permit extension request; and

WHEREAS, the Planning Commission reviewed the Conditional Use Permit extension request at their March 6, 2023 meeting and unanimously recommended approval of said request.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Conditional Use Permit granted to exceed height limits in MU-3: Commercial Mixed Use at 2501 11th Street S on April 11, 2022 shall be extended to April 11, 2025.

BE IT FURTHER RESOLVED by the City Council of the City of Moorhead that the Conditional Use Permit Extension shall be granted under the terms and conditions outlined within Resolution 2022-0411-3.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Approve a Conditional Use Permit for an Existing Dynamic Display Sign within 150 ft of an area zoned for residential use at 303 30th St S.

RECOMMENDATION:

The Mayor and City Council are asked to consider a Conditional Use Permit for an existing Dynamic Display Sign within 150 feet of an area zoned for residential use at 303 30th St N.

BACKGROUND/KEY POINTS: The American Legion was issued a sign permit in August 2022 for a dynamic display/electronic sign. Because the sign was within 150 feet of a residential zoning district, the sign was permitted to change messages up to once per hour. The American Legion now requests that the sign be able to change more frequently therefore triggering the Conditional Use Permit requirement.

Staff recommended that the original condition of messages changing once per hour be kept as a condition because of the proximity to a residential district/home. Following the hearing and discussion, the Planning Commission recommended the sign change no more than once per minute and operates between 6:00 AM and 10:00 PM.

The Planning Commission held a public hearing on March 6, 2023 and unanimously recommended approval with the conditions noted in the attached resolution. One public comment was received stating they could see the sign from their dining room window, but have no objections to the Conditional Use Permit. The complete Planning Commission packet is available at:

<https://www.cityofmoorhead.com/government/boards-commissions/planning-commission>

FINANCIAL CONSIDERATIONS:

Not Applicable

VOTING REQUIREMENTS:

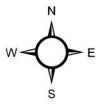
Majority of Council

Submitted By:

Dan Mahli, City Manager
Robin Huston, City Planner / Zoning Administrator
Forrest Steinhoff, Assistant City Planner

Attachments:

- General Location Map
- Draft Resolution
- Findings of Fact
- Conditional Use Permit



General Location Map
303 30th St N
58.207.0050



RESOLUTION

Resolution to Approve Conditional Use Permit for an Existing Dynamic Display Sign within 150 feet of an Area Zoned for Residential Use at 303 30th Street N (Parcel 58.207.0050)

WHEREAS Scott Moen, on behalf of American Legion Post 21, has requested a Conditional Use Permit for an existing Dynamic Display Sign within 150 feet of an area zoned for residential use at 303 30th Street N, legally described as:

Lot One (1), Block Two (2) of the Replat of Eastgate Second Addition, excepting from said lot the following two tracts:

- 1) Beginning at the SE corner of Lot 1; thence Northerly on and along the East line of Lot 1 a distance of 300 feet to a point; thence Westerly perpendicular to the last described line a distance of 300 feet, more or less, to the West line of Lot One (1); thence Southerly on and along the West line of Lot 1 to the SW corner of Lot 1; thence South 88 degrees 24' 03" East on and along the South line of Lot 1 a distance of 136.05 feet to an iron monument; thence South 01 degrees 35' 57" West a distance of 5.00 feet to an iron monument; thence South 88 degrees 24' 03" East along the South line of Lot 1 a distance of 163.95 feet to the SE corner of Lot 1, the point of beginning.
- 2) Commencing at the SE corner of said Lot 1; thence North 01 degrees 42' 20" East (assumed bearing) along the easterly line of said Lot 1 for a distance of 300.00 feet to the true point of beginning; thence continue North 01 degrees 42' 20" East along the Easterly line of said lot 1 for a distance of 263.92 feet; thence North 88 degrees 09' 34" West parallel with the Northerly line of said Lot 1 for a distance of 300.00 feet to a point of intersection with the Westerly line of said Lot 1; thence South 01 degrees 42' 22" West along the Westerly line of said Lot 1 for a distance of 264.62 feet to a point located 295.56 feet northerly of the SW corner of said Lot 1; thence South 88 degrees 17' 40" East for a distance of 300 feet to the true point of beginning; and

WHEREAS, the Moorhead Planning Commission held a public hearing on the request on March 6, 2023 and approved Findings of Fact (Exhibit A) and voted unanimously to recommend approval of the Conditional Use Permit contingent upon the conditions noted below; and

WHEREAS, the City Council finds the requested Conditional Use Permit consistent with the 2022 Comprehensive Plan and Moorhead City Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Conditional Use Permit for an Existing Dynamic Display Sign within 150 feet of an area zoned for residential use at 303 30th Street N is hereby approved contingent upon the following conditions, which were developed based on the criteria within the Moorhead City Code for Conditional Uses and address general welfare, health, and safety of the area:

1. Conditional Use Permit is to allow an existing Dynamic Display Sign to be located within 150 feet of an area zoned for residential use. All other Moorhead Sign Code regulations regarding On Premise Signs with Dynamic Display, including Visibility, Design, and Brightness, must also be met.
2. Sign must be located entirely on private property, including any overhang.
3. Owner shall ensure sign display does not change more often than once per minute and that sign does not create a visual nuisance by having a rapid rotating, revolving,

scrolling, flashing, blinking, strobing, etc. lighted display as this type of signage is not appropriate in residential areas.

4. Owner shall ensure sign only operates between hours of 6:00 AM and 10:00 PM.
5. Owner shall receive all required federal, state and local permits.
6. The City of Moorhead reserves the right to inspect the property for compliance with these conditions at any time and for any reason.
7. Any and all claims that arise or may arise against Applicant, its agents, servants, or employees while engaged in the use of the Property, shall in no way be the obligation of the City of Moorhead. Furthermore, Applicant, its agents servants, employees, or assigns shall indemnify, hold harmless, and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including attorneys' fees which the City, its officers or employees may hereafter sustain, incur, or be required to pay, in anyway connected with the use of the Property or City actions related to the granting of this Conditional Use Permit.
8. Any improvements made to the property in connection with this Conditional Use Permit shall be at the sole expense of the Applicant or Owner and shall not be the obligation of the City.
9. If Applicant fails to observe the terms and conditions of this Conditional Use Permit, the City may revoke this Conditional Use Permit. In such an event, the City will give owner at least a ten (10) day notice of revocation at a revocation hearing for the Conditional Use Permit stating the time, place and purpose of such hearing. Upon such hearing, the City may revoke this Conditional Use Permit. If this Conditional Permit is revoked, Applicant/Owner shall cease operating the Dynamic Display Sign by the date stated by the City Council at the hearing. Applicant shall pay reasonable attorney's fee and court costs associated with the City's enforcement of the terms of this Conditional Use Permit.
10. This Conditional Use Permit will not be in effect until such time as it is executed and recorded with Clay County.
11. The obligations herein shall run with the Property and shall bind the Applicant and the Owner and their successors and assigns.
12. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
13. The Applicant acknowledges receipt of this Conditional Use Permit and agrees to its terms and conditions.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

EXHIBIT A

Conditional Use Permit Moorhead Planning Commission Findings of Fact

REQUEST: Conditional Use Permit – To allow an existing Dynamic Display Sign to remain within 150 feet of an area zoned for residential use.

LOCATION: 303 30th Street N, Parcel 58.207.0050

APPLICANT: Scott Moen, on behalf of American Legion Post 21

OWNER: American Legion Post 21

File No: 23P002

WHEREAS, the Moorhead Planning Commission received a full and complete application for a Conditional Use Permit for a Dynamic Display Sign within 150 feet of an area zoned for residential use; and

WHEREAS, the Moorhead Planning Commission held a public hearing on the aforementioned request on March 6, 2023; and

WHEREAS, upon considering the Conditional Use Permit application, staff report and analysis, public testimony and comment, and all other pertinent and available information, the Moorhead Planning Commission finds the following:

Findings of Fact

1. A full and complete application was filed by Scott Moen, on behalf of the American Legion Post 21, and received February 14, 2023 (herein referred to as "Application") seeking a Conditional Use Permit to operate a Dynamic Display Sign within 150 feet of an area zoned for residential use at 303 30th Street N, Parcel 58.207.0050, legally described as:

Lot One (1), Block Two (2) of the Replat of Eastgate Second Addition, excepting from said lot the following two tracts:

- 1) Beginning at the SE corner of Lot 1; thence Northerly on and along the East line of Lot 1 a distance of 300 feet to a point; thence Westerly perpendicular to the last described line a distance of 300 feet, more or less, to the West line of Lot One (1); thence Southerly on and along the West line of Lot 1 to the SW corner of Lot 1; thence South 88 degrees 24' 03" East on and along the South line of Lot 1 a distance of 136.05 feet to an iron monument; thence South 01 degrees 35' 57" West a distance of 5.00 feet to an iron monument; thence South 88 degrees 24' 03" East along the South line of Lot 1 a distance of 163.95 feet to the SE corner of Lot 1, the point of beginning.
 - 2) Commencing at the SE corner of said Lot 1; thence North 01 degrees 42' 20" East (assumed bearing) along the easterly line of said Lot 1 for a distance of 300.00 feet to the true point of beginning; thence continue North 01 degrees 42' 20" East along the Easterly line of said lot 1 for a distance of 263.92 feet; thence North 88 degrees 09' 34" West parallel with the Northerly line of said Lot 1 for a distance of 300.00 feet to a point of intersection with the Westerly line of said Lot 1; thence South 01 degrees 42' 22" West along the Westerly line of said Lot 1 for a distance of 264.62 feet to a point located 295.56 feet northerly of the SW corner of said Lot 1; thence South 88 degrees 17' 40" East for a distance of 300 feet to the true point of beginning.
2. The property is zoned RC: Regional Commercial, which allows for Dynamic Display Signs to be located within 150 feet of an area zoned for residential use as a Conditional Use.

3. A public hearing was held by the Planning Commission on March 6, 2023 on the Application allowing all interested persons an opportunity to speak, a full and complete record of which is detailed in the minutes of the Moorhead Planning Commission.
4. The request is consistent with the general intent of the RC: Regional Commercial zoning district.
5. The request has been found consistent with the following considerations regarding the possible adverse effects of the requested Conditional Use Permits (Section 10-4-3E):
 - A. The proposed action has been considered in relation to the specific policies and provisions of, and has been found to be consistent with, the official city comprehensive plan and with the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - The property is zoned RC: Regional Commercial and consistent with the 2022 Comprehensive Land Use Plan as it is guided towards Mixed Use. The proposed use could be found consistent with the purposes of the zoning district if the conditions of approval are met.
 - B. The proposed use is or will be compatible with the present and future uses of the area.
 - The proposed Dynamic Display Sign is compatible with the present and future uses of the area if the conditions of approval are met.
 - C. The proposed use conforms with all performance standards contained herein (i.e. parking, loading, noise, etc.).
 - During sign permit review, all performance standards were reviewed to meet Moorhead City Code as long as sign messages did not change more than once per hour and would conform if the conditions of approval are met.
 - D. The proposed use will not tend to or actually have an adverse effect on the area in which it is proposed.
 - The proposed use will not tend to or actually have an adverse effect on the area in which it is proposed if the conditions of approval are met.
 - E. Traffic generated by the proposed use is within the capabilities of streets serving the property.
 - The proposed use will be accommodated by the existing capabilities of the streets serving the property.
 - F. The proposed use can be accommodated by public services and facilities including parks, schools, streets and utilities, and will not overburden the City's service capacity.
 - The proposed use can be accommodated by the existing public service facilities that currently serve the property.
6. After review of the criteria for consideration noted above, staff recommends approval of the Conditional Use Permit with the conditions noted below. The conditions were developed based upon the above noted criteria and to address the general welfare, health and safety of the neighborhood.
 1. Conditional Use Permit is to allow an existing Dynamic Display Sign to be located within 150 feet of an area zoned for residential use. All other Moorhead Sign Code regulations regarding On Premise Signs with Dynamic Display, including Visibility, Design, and Brightness, must also be met.
 2. Sign must be located entirely on private property, including any overhang.
 3. Owner shall ensure sign display does not change more often than once per minute and that sign does not create a visual nuisance by having a rapid rotating, revolving, scrolling, flashing, blinking, strobing, etc. lighted display as this type of signage is not appropriate in residential areas.
 4. Owner shall ensure sign only operates between hours of 6:00 AM and 10:00 PM.
 5. Owner shall receive all required federal, state and local permits.

NOW, THEREFORE, BE IT RESOLVED by the Moorhead Planning Commission that based upon the above Findings of Fact, the request of Scott Moen, on behalf of the American Legion Post 21, for a Conditional Use Permit to operate an existing Dynamic Display Sign within 150 feet of an area zoned for residential use at 303 30th Street N, Parcel 58.207.0050, legally described as:

Lot One (1), Block Two (2) of the Replat of Eastgate Second Addition, excepting from said lot the following two tracts:

- 3) Beginning at the SE corner of Lot 1; thence Northerly on and along the East line of Lot 1 a distance of 300 feet to a point; thence Westerly perpendicular to the last described line a distance of 300 feet, more or less, to the West line of Lot One (1); thence Southerly on and along the West line of Lot 1 to the SW corner of Lot 1; thence South 88 degrees 24' 03" East on and along the South line of Lot 1 a distance of 136.05 feet to an iron monument; thence South 01 degrees 35' 57" West a distance of 5.00 feet to an iron monument; thence South 88 degrees 24' 03" East along the South line of Lot 1 a distance of 163.95 feet to the SE corner of Lot 1, the point of beginning.
- 4) Commencing at the SE corner of said Lot 1; thence North 01 degrees 42' 20" East (assumed bearing) along the easterly line of said Lot 1 for a distance of 300.00 feet to the true point of beginning; thence continue North 01 degrees 42' 20" East along the Easterly line of said lot 1 for a distance of 263.92 feet; thence North 88 degrees 09' 34" West parallel with the Northerly line of said Lot 1 for a distance of 300.00 feet to a point of intersection with the Westerly line of said Lot 1; thence South 01 degrees 42' 22" West along the Westerly line of said Lot 1 for a distance of 264.62 feet to a point located 295.56 feet northerly of the SW corner of said Lot 1; thence South 88 degrees 17' 40" East for a distance of 300 feet to the true point of beginning.

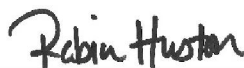
is hereby approved contingent upon:

1. Conditional Use Permit is to allow an existing Dynamic Display Sign to be located within 150 feet of an area zoned for residential use. All other Moorhead Sign Code regulations regarding On Premise Signs with Dynamic Display, including Visibility, Design, and Brightness, must also be met.
2. Sign must be located entirely on private property, including any overhang.
3. Owner shall ensure sign display does not change more often than once per minute and that sign does not create a visual nuisance by having a rapid rotating, revolving, scrolling, flashing, blinking, strobing, etc. lighted display as this type of signage is not appropriate in residential areas.
4. Owner shall ensure sign only operates between hours of 6:00 AM and 10:00 PM.
5. Owner shall receive all required federal, state and local permits.

PASSED by the Moorhead Planning Commission this 6th day of March, 2023.



Brent Behm, Chair
Moorhead Planning Commission



Attest: Robin Huston,
City Planner/Zoning Administrator

CONDITIONAL USE PERMIT

State of Minnesota
County of Clay
City of Moorhead

WHEREAS **Scott Moen, on behalf of American Legion Post 21** (hereinafter referred to as the "Applicant"), has paid the sum of two hundred dollars (\$200.00) to the City of Moorhead, as required by the City of Moorhead Fee Schedule, plus forty-six dollars (\$46.00) for the Clay County Recording Fee, and has complied with all the requirements of the Zoning Ordinance necessary for obtaining this permit; and

WHEREAS, **American Legion Post 21** (hereinafter referred to as "Owner") is the legal owner of the below described property.

NOW, THEREFORE, by order of Moorhead City Council, that said applicant is hereby issued a Conditional Use Permit to

ALLOW AN EXISTING DYNAMIC DISPLAY SIGN WITHIN 150 FEET OF AN AREA ZONED FOR RESIDENTIAL USE

on the Property, as described below, with the following attached conditions.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

PROPERTY DESCRIPTION

303 30th Street N - Parcel 58.207.0050, legally described as:

Lot One (1), Block Two (2) of the Replat of Eastgate Second Addition, excepting from said lot the following two tracts:

1) Beginning at the SE corner of Lot 1; thence Northerly on and along the East line of Lot 1 a distance of 300 feet to a point; thence Westerly perpendicular to the last described line a distance of 300 feet, more or less, to the West line of Lot One (1); thence Southerly on and along the West line of Lot 1 to the SW corner of Lot 1; thence South 88 degrees 24' 03" East on and along the South line of Lot 1 a distance of 136.05 feet to an iron monument; thence South 01 degrees 35' 57" West a distance of 5.00 feet to an iron monument; thence South 88 degrees 24' 03" East along the South line of Lot 1 a distance of 163.95 feet to the SE corner of Lot 1, the point of beginning.

2) Commencing at the SE corner of said Lot 1; thence North 01 degrees 42'20" East (assumed bearing) along the easterly line of said Lot 1 for a distance of 300.00 feet to the true point of beginning; thence continue North 01 degrees 42' 20" East along the Easterly line of said lot 1 for a distance of 263.92 feet; thence North 88 degrees 09' 34" West parallel with the Northerly line of said Lot 1 for a distance of 300.00 feet to a point of intersection with the Westerly line of said Lot 1; thence South 01 degrees 42' 22" West along the Westerly line of said Lot 1 for a distance of 264.62 feet to a point located 295.56 feet northerly of the SW corner of said Lot 1; thence South 88 degrees 17' 40" East for a distance of 300 feet to the true point of beginning.

CONDITIONAL USE PERMIT CONDITIONS
ALLOW AN EXISTING DYNAMIC DISPLAY SIGN WITHIN 150 FEET OF AN AREA ZONED
FOR RESIDENTIAL USE
303 30th Street N - Parcel 58.207.0050

1. Conditional Use Permit is to allow an existing Dynamic Display Sign to be located within 150 feet of an area zoned for residential use. All other Moorhead Sign Code regulations regarding On Premise Signs with Dynamic Display, including Visibility, Design, and Brightness, must also be met.
2. Sign must be located entirely on private property, including any overhang.
3. Owner shall ensure sign display does not change more often than once per minute and that sign does not create a visual nuisance by having a rapid rotating, revolving, scrolling, flashing, blinking, strobing, etc. lighted display as this type of signage is not appropriate in residential areas.
4. Owner shall ensure sign only operates between hours of 6:00 AM and 10:00 PM.
5. Owner shall receive all required federal, state and local permits.
6. The City of Moorhead reserves the right to inspect the property for compliance with these conditions at any time and for any reason.
7. Any and all claims that arise or may arise against Applicant, its agents, servants, or employees while engaged in the use of the Property, shall in no way be the obligation of the City of Moorhead. Furthermore, Applicant, its agents servants, employees, or assigns shall indemnify, hold harmless, and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including attorneys' fees which the City, its officers or employees may hereafter sustain, incur, or be required to pay, in anyway connected with the use of the Property or City actions related to the granting of this Conditional Use Permit.
8. Any improvements made to the property in connection with this Conditional Use Permit shall be at the sole expense of the Applicant or Owner and shall not be the obligation of the City.
9. If Applicant fails to observe the terms and conditions of this Conditional Use Permit, the City may revoke this Conditional Use Permit. In such an event, the City will give owner at least a ten (10) day notice of revocation at a revocation hearing for the Conditional Use Permit stating the time, place and purpose of such hearing. Upon such hearing, the City may revoke this Conditional Use Permit. If this Conditional Permit is revoked, Applicant/Owner shall cease operating the Dynamic Display Sign by the date stated by the City Council at the hearing. Applicant shall pay reasonable attorney's fee and court costs associated with the City's enforcement of the terms of this Conditional Use Permit.
10. This Conditional Use Permit will not be in effect until such time as it is executed and recorded with Clay County.
11. The obligations herein shall run with the Property and shall bind the Applicant and the Owner and their successors and assigns.

12. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
13. The Applicant acknowledges receipt of this Conditional Use Permit and agrees to its terms and conditions.

Applicant Acknowledgement

STATE OF MINNESOTA
COUNTY OF CLAY

On this ____ day of March, 2023, before me, a Notary Public in and for said County and State, personally appeared Scott Moen, known to me to be the Applicant. Respectively, described in and who executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of the Applicant/Owner.

SEAL

Notary Public, Clay County, MN

APPROVED BY:

Dan Mahli, City Manager

STATE OF MINNESOTA
COUNTY OF CLAY

On this ____ day of March, 2023, before me, a Notary Public in and for said County and State, personally appeared Dan Mahli, known to me to be the City Manager. Respectively, described in and who executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of City of Moorhead.

SEAL

Notary Public, Clay County, MN



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Approve Conditional Use Permit to Operate a Nightclub Adjacent to a Residential Use at 1500 11th St N

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to approve a Conditional Use Permit to operate a 4,220 square foot nightclub adjacent to a residential use at 1500 11th St N.

BACKGROUND/KEY POINTS:

The applicants signed a lease and were issued a 2:00 AM liquor license before zoning, building, fire and environmental health reviews could be completed and approved. City and County Staff were notified of the nightclub operation following issuance of the liquor license. As a result, an on-premise inspection was completed and further requirements were determined, including the need for a Conditional Use Permit to operate when adjacent to a residential use.

The Moorhead Planning Commission considered the request at their March 6, 2023 meeting and recommended approval with conditions noted within the attached resolution. Two public comments were received in opposition of the Conditional Use Permit stating concerns about noise and theft. The complete Planning Commission packet is available at:

<https://www.ci.moorhead.mn.us/government/boards-commissions/planning-commission>

FINANCIAL CONSIDERATIONS:

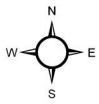
Not Applicable

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager
Robin Huston, City Planner/Zoning Administrator

Attachments: General Location Map
Draft Resolution
Findings of Fact
Conditional Use Permit



General Location Map
1500 11th St N
58.900.1740



Matson Field

RESOLUTION

Resolution to Approve Conditional Use Permit to Operate a 4,220 square foot Nightclub Adjacent to a Residential Use at 1500 11th Street N (Parcel 58.900.1740)

WHEREAS, the Classic Touch Lounge, LLC has requested a Conditional Use Permit to operate a 4,220 square foot nightclub adjacent to a residential use at 1500 11th Street North, legally described as:

Auditor's Outlot 32E, Auditor's Outlots in Section Thirty-two, Township One Hundred Forty North of Range Forty-eight West of the Fifth Principal Meridian, situated in the City of Moorhead, the County of Clay and the State of Minnesota; and

WHEREAS, the Moorhead Planning Commission held a public hearing on March 6, 2023 and approved findings of fact (Exhibit A) and voted unanimously to recommend approval of the Conditional Use Permit contingent upon the conditions noted below; and

WHEREAS, the City Council finds the requested Conditional Use Permit consistent with the 2022 Comprehensive Plan and Moorhead City Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Conditional Use Permit to operate a 4,220 square foot nightclub adjacent to a residential use at 1500 11th Street North is hereby approved, contingent upon the following conditions, which were developed based on criteria within the Moorhead City Code for Conditional Uses and to address general welfare, health and safety of the neighborhood:

1. Nightclub hours of operation shall be limited to:
 - a. 1:00 AM CT Friday and Saturday,
 - b. 12:00 AM CT Sunday through Thursday.
2. The maximum nightclub occupancy is 300 persons.
3. Nightclub doors and windows to remain closed to minimize noise, except as to allow normal entry/exit from establishment.
4. Nightclub shall operate in conformance City Noise Control standards and no sound from the interior of the nightclub may be heard by a person standing at any property line of 1500 11th St N.
5. Nightclub shall operate in conformance with all other Federal, City, State and County laws, regulations and/or ordinances including environmental, safety, fire, building code and health codes.
6. An approved parking plan for the nightclub that illustrates the required 46 parking spaces shall be submitted on or before 4:30 PM CT May 1, 2023.
7. The Nightclub owner/operator shall be responsible to provide supervision to prevent loitering on property or in the vicinity of the establishment. Loitering is defined as patrons and guests of the Nightclub remaining outside of the building for longer than ten minutes including traveling to or from a vehicle in the parking lot to the building.
8. No outdoor seating is permitted.

9. A solid, opaque 7-foot high screening fence shall be installed along the eastern property line on or before June 1, 2023. Such fence shall be limited to no more than two colors, have no designs or advertising on it and shall be attractive in nature.
10. All required modifications detailed in the Fire Marshall Inspection Report dated February 9, 2023 must be made by timeline provided by Fire Marshall.
11. Applicant to receive all federal, state and local permits.
12. The City of Moorhead reserves the right to inspect the property for compliance with these conditions at any time and for any reason.
13. Any and all claims that arise or may arise against Applicant, its agents, servants, or employees while engaged in the use of the Property, shall in no way be the obligation of the City of Moorhead. Furthermore, Applicant, its agents servants, employees, or assigns shall indemnify, hold harmless, and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including attorneys' fees which the City, its officers or employees may hereafter sustain, incur, or be required to pay, in anyway connected with the use of the Property or City actions related to the granting of this Conditional Use Permit.
14. Any improvements made to the property in connection with this Conditional Use Permit shall be at the sole expense of the Applicant or Owner and shall not be the obligation of the City.
15. If Applicant fails to observe the terms and conditions of this Conditional Use Permit, the City may revoke this Conditional Use Permit. In such an event, the City will give owner at least a ten (10) day notice of revocation at a revocation hearing for the Conditional Use Permit stating the time, place and purpose of such hearing. Upon such hearing, the City may revoke this Conditional Use Permit. If this Conditional Permit is revoked, Applicant/Owner shall cease operating nightclub by the date stated by the City Council at the hearing. Applicant shall pay reasonable attorney's fee and court costs associated with the City's enforcement of the terms of this Conditional Use Permit.
16. This Conditional Use Permit will not be in effect until such time as it is executed and recorded with Clay County.
17. The obligations herein shall run with the Property and shall bind the Applicant and the Owner and their successors and assigns.
18. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
19. The Applicant acknowledges receipt of this Conditional Use Permit and agrees to its terms and conditions.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

EXHIBIT A

Conditional Use Permit Moorhead Planning Commission Findings of Fact

REQUEST: Conditional Use Permit – To operate a 4,220 square foot nightclub adjacent to a residential use

LOCATION: 1500 11th St N, Parcel #58.900.1740

APPLICANT: Classic Touch Lounge, LLC

OWNER: Aadland Enterprises, LLC

File No: 23P001

WHEREAS, the Moorhead Planning Commission received a full and complete application for a Conditional Use Permit to operate a 4,220 square foot nightclub adjacent to a residential use; and

WHEREAS, the Moorhead Planning Commission held a public hearing on the aforementioned request on March 6, 2023; and

WHEREAS, upon considering the Conditional Use Permit application, staff report and analysis, public testimony and comment, and all other pertinent and available information, the Moorhead Planning Commission finds the following:

Findings of Fact

1. A full and complete application was filed by Classic Touch Lounge, LLC and received February 13, 2023 (herein referred to as “Application”) seeking a Conditional Use Permit to operate a 4,220 square foot nightclub adjacent to a residential use at:

Auditor’s Outlot 32E, Auditor’s Outlots in Section Thirty-two, Township One Hundred Forty North of Range Forty-eight West of the Fifth Principal Meridian, situated in the City of Moorhead, the County of Clay and the State of Minnesota.
2. The property is zoned CC: Community Commercial, which allows for this type of use but requires a conditional use permit when adjacent to a residential use.
3. A public hearing was held by the Planning Commission on March 6, 2023 on the Application allowing all interested persons an opportunity to speak, a full and complete record of which is detailed in the minutes of the Moorhead Planning Commission.
4. The request is consistent with the general intent of the CC: Community Commercial zoning district.
5. The request has been found consistent with the following considerations regarding the possible adverse effects of the requested Conditional Use Permits (Section 10-4-3E):
 - A. The proposed action has been considered in relation to the specific policies and provisions of, and has been found to be consistent with, the official city comprehensive plan and with the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - The property is zoned CC: Community Commercial and consistent with the 2022 Comprehensive Land Use Plan as it is guided towards Commercial. The proposed use could be found consistent with the purposes of the zoning district if the conditions of approval are met.
 - B. The proposed use is or will be compatible with the present and future uses of the area.
 - The proposed use will be compatible with the present and future uses of the area if conditions of approval are met.

- C. The proposed use conforms with all performance standards contained herein (i.e. parking, loading, noise, etc.).
 - If conditions of approval are met, the proposed use will conform with all performance standards.
 - D. The proposed use will not tend to or actually have an adverse effect on the area in which it is proposed.
 - If conditions of approval met, the proposed use will not tend to or actually have an adverse effect on the area in which is it proposed.
 - E. Traffic generated by the proposed use is within the capabilities of streets serving the property.
 - The proposed use will be accommodated by the existing capabilities of the streets serving the property.
 - F. The proposed use can be accommodated by public services and facilities including parks, schools, streets and utilities, and will not overburden the City's service capacity.
 - The proposed use can be accommodated by the existing public service facilities that currently serve the property.
6. After review of the criteria for consideration noted above, staff recommended approval of the Conditional Use Permit with the conditions noted below. The conditions were developed based upon the above noted criteria and to address the general welfare, health and safety of the neighborhood:
1. Nightclub hours of operation shall be limited to:
 - a. 1:00 AM CT Friday and Saturday,
 - b. 12:00 AM CT Sunday through Thursday.
 2. The maximum nightclub occupancy is 300 persons.
 3. Nightclub doors and windows to remain closed to minimize noise, except as to allow normal entry/exit from establishment.
 4. Nightclub shall operate in conformance City Noise Control standards and no sound from the interior of the nightclub may be heard by a person standing at any property line of 1500 11th St N.
 5. Nightclub shall operate in conformance with all other Federal, City, State and County laws, regulations and/or ordinances including environmental, safety, fire, building code and health codes.
 6. An approved parking plan for the nightclub that illustrates the required 46 parking spaces shall be submitted on or before 4:30 PM CT May 1, 2023.
 7. The Nightclub owner/operator shall be responsible to provide supervision to prevent loitering on property or in the vicinity of the establishment. Loitering is defined as patrons and guests of the Nightclub remaining outside of the building for longer than ten minutes including traveling to or from a vehicle in the parking lot to the building,
 8. No outdoor seating is permitted.
 9. A solid, opaque 7-foot high screening fence shall be installed along the eastern property line on or before June 1, 2023. Such fence shall be limited to no more than two colors, have no designs or advertising on it and shall be attractive in nature.
 10. All required modifications detailed in the Fire Marshall Inspection Report dated February 9, 2023 must be made by timeline provided by Fire Marshall.
 11. Applicant to receive all federal, state and local permits.

NOW, THEREFORE, BE IT RESOLVED by the Moorhead Planning Commission that based upon the above Findings of Fact, the request of Classic Touch Lounge, LLC, for a Conditional Use Permit to operate a 4,220 square foot nightclub adjacent to a residential use at 1500 11th St N, Parcel 58.900.1740, legally described as:

Auditor's Outlot 32E, Auditor's Outlots in Section Thirty-two, Township One Hundred Forty North of Range Forty-eight West of the Fifth Principal Meridian, situated in the City of Moorhead, the County of Clay and the State of Minnesota.

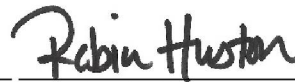
is hereby approved contingent upon:

1. Nightclub hours of operation shall be limited to:
 - a. 1:00 AM CT Friday and Saturday,
 - b. 12:00 AM CT Sunday through Thursday.
2. The maximum nightclub occupancy is 300 persons.
3. Nightclub doors and windows to remain closed to minimize noise, except as to allow normal entry/exit from establishment.
4. Nightclub shall operate in conformance City Noise Control standards and no sound from the interior of the nightclub may be heard by a person standing at any property line of 1500 11th St N.
5. Nightclub shall operate in conformance with all other Federal, City, State and County laws, regulations and/or ordinances including environmental, safety, fire, building code and health codes.
6. An approved parking plan for the nightclub that illustrates the required 46 parking spaces shall be submitted on or before 4:30 PM CT May 1, 2023.
7. The Nightclub owner/operator shall be responsible to provide supervision to prevent loitering on property or in the vicinity of the establishment. Loitering is defined as patrons and guests of the Nightclub remaining outside of the building for longer than ten minutes including traveling to or from a vehicle in the parking lot to the building,
8. No outdoor seating is permitted.
9. A solid, opaque 7-foot high screening fence shall be installed along the eastern property line on or before June 1, 2023. Such fence shall be limited to no more than two colors, have no designs or advertising on it and shall be attractive in nature.
10. All required modifications detailed in the Fire Marshall Inspection Report dated February 9, 2023 must be made by timeline provided by Fire Marshall.
11. Applicant to receive all federal, state and local permits.

PASSED by the Moorhead Planning Commission this 6th day of March, 2023.



Brent Behm, Chair
Moorhead Planning Commission



Attest: Robin Huston,
City Planner/Zoning Administrator

CONDITIONAL USE PERMIT

State of Minnesota
County of Clay
City of Moorhead

WHEREAS **Classic Touch Lounge, LLC** (hereinafter referred to as the “Applicant”) has paid the sum of two hundred dollars (\$200.00) to the City of Moorhead, as required by the City of Moorhead Fee Schedule, plus forty-six dollars (\$46.00) for the Clay County Recording Fee, and has complied with all the requirements of the Zoning Ordinance necessary for obtaining this permit; and

WHEREAS, **Aadland Enterprises, LLC** (hereinafter referred to as “Owner”) is the legal owner of the below described property.

NOW, THEREFORE, by order of Moorhead City Council, that said applicant is hereby issued a Conditional Use Permit to

OPERATE A 4,220 SQUARE FOOT NIGHTCLUB ADJACENT TO A RESIDENTIAL USE

on the Property, as described below, with the following attached conditions.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

PROPERTY DESCRIPTION

1500 11th Street N - Parcel 58.900.1740, legally described as:

Auditor’s Outlot 32E, Auditor’s Outlots in Section Thirty-two, Township One Hundred Forty North of Range Forty-eight West of the Fifth Principal Meridian, situated in the City of Moorhead, the County of Clay and the State of Minnesota.

**CONDITIONAL USE PERMIT CONDITIONS
TO OPERATE A 4,220 SQUARE FOOT NIGHTCLUB ADJACENT TO A RESIDENTIAL USE
1500 11th Street N - Parcel 58.900.1740**

1. Nightclub hours of operation shall be limited to:
 - a. 1:00 AM CT Friday and Saturday,
 - b. 12:00 AM CT Sunday through Thursday.
2. The maximum nightclub occupancy is 300 persons.
3. Nightclub doors and windows to remain closed to minimize noise, except as to allow normal entry/exit from establishment.
4. Nightclub shall operate in conformance City Noise Control standards and no sound from the interior of the nightclub may be heard by a person standing at any property line of 1500 11th St N.
5. Nightclub shall operate in conformance with all other Federal, City, State and County laws, regulations and/or ordinances including environmental, safety, fire, building code and health codes.
6. An approved parking plan for the nightclub that illustrates the required 46 parking spaces shall be submitted on or before 4:30 PM CT May 1, 2023.
7. The Nightclub owner/operator shall be responsible to provide supervision to prevent loitering on property or in the vicinity of the establishment. Loitering is defined as patrons and guests of the Nightclub remaining outside of the building for longer than ten minutes including traveling to or from a vehicle in the parking lot to the building,
8. No outdoor seating is permitted.
9. A solid, opaque 7-foot high screening fence shall be installed along the eastern property line on or before June 1, 2023. Such fence shall be limited to no more than two colors, have no designs or advertising on it and shall be attractive in nature.
10. All required modifications detailed in the Fire Marshall Inspection Report dated February 9, 2023 must be made by timeline provided by Fire Marshall.
11. Applicant to receive all federal, state and local permits.
12. The City of Moorhead reserves the right to inspect the property for compliance with these conditions at any time and for any reason.
13. Any and all claims that arise or may arise against Applicant, its agents, servants, or employees while engaged in the use of the Property, shall in no way be the obligation of the City of Moorhead. Furthermore, Applicant, its agents servants, employees, or assigns shall indemnify, hold harmless, and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including attorneys' fees which the City, its officers or employees may hereafter sustain, incur, or be required to pay, in anyway connected with the use of the Property or City actions related to the granting of this Conditional Use Permit.

14. Any improvements made to the property in connection with this Conditional Use Permit shall be at the sole expense of the Applicant or Owner and shall not be the obligation of the City.
15. If Applicant fails to observe the terms and conditions of this Conditional Use Permit, the City may revoke this Conditional Use Permit. In such an event, the City will give owner at least a ten (10) day notice of revocation at a revocation hearing for the Conditional Use Permit stating the time, place and purpose of such hearing. Upon such hearing, the City may revoke this Conditional Use Permit. If this Conditional Permit is revoked, Applicant/Owner shall cease operating nightclub by the date stated by the City Council at the hearing. Applicant shall pay reasonable attorney's fee and court costs associated with the City's enforcement of the terms of this Conditional Use Permit.
16. This Conditional Use Permit will not be in effect until such time as it is executed and recorded with Clay County.
17. The obligations herein shall run with the Property and shall bind the Applicant and the Owner and their successors and assigns.
18. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
19. The Applicant acknowledges receipt of this Conditional Use Permit and agrees to its terms and conditions.

Applicant Acknowledgement

STATE OF MINNESOTA
COUNTY OF CLAY

On this ____ day of March, 2023, before me, a Notary Public in and for said County and State, personally appeared Kaluah Smith, known to me to be the Applicant. Respectively, described in and who executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of the Applicant/Owner.

SEAL

Notary Public, Clay County, MN

APPROVED BY:

Dan Mahli, City Manager

STATE OF MINNESOTA
COUNTY OF CLAY

On this ____ day of March, 2023, before me, a Notary Public in and for said County and State, personally appeared Dan Mahli, known to me to be the City Manager. Respectively, described in and who executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of City of Moorhead.

SEAL

Notary Public, Clay County, MN



City Council Communication

March 13, 2023

SUBJECT:

Second Reading of Ordinance 2023-02: An Ordinance to Amend Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code

RECOMMENDATION:

Approve Second Reading & Title & Summary of Ordinance 2023-2: An Ordinance to Amend Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code.

BACKGROUND/KEY POINTS:

This item is in regards to MinnKota Recycling's request to no longer allow glass in single stream recycling containers in Moorhead and Fargo. The reasons to no longer accept glass include:

- Economic feasibility of recycling glass
- Worker safety related to glass recycling processes
- Contaminating other recyclable materials by glass
- Diminishment and marketability of other material when glass is in the single recycling stream

Moorhead residents are still able to bring glass to drop sites at Woodlawn Park, the Public Works Maintenance Shop, and Clay County Resource Recovery Center. This change would be effectively immediately.

In addition, staff has been asked to present a proposal to only accept lawn waste in compostable bags, paper bags or reusable containers, effectively prohibiting the use of clear bags. The benefits of prohibiting clear plastic bags include less litter created from bags blowing in and from the compost site, minimizing maintenance costs of processing equipment, and eliminating contamination in finished compost. This change would be effective September 1, 2023. The first reading of ordinance passed on February 27, 2023.

FINANCIAL CONSIDERATIONS:

Not Applicable

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager
Steve Iverson, Public Works Director

Attachments:

ORDINANCE 2023-02

AN ORDINANCE TO UPDATE REGULATIONS RELATING TO RECYCLABLE MATERIALS AND YARD WASTE

3-4-9: RECYCLABLE MATERIAL:

A. Purpose: The purpose of this section is to reduce the amount of waste generated in the City by voluntarily disposing of recyclable materials either through no-sort recycling methods or through separation of recyclable materials.

B. No-Sort Recycling: Single dwelling housing and multi-dwelling housing units are authorized to participate in no-sort recycling unless otherwise authorized by the Public Works Director. The City will provide totes to all single dwelling homes and containers or dumpsters for multiple dwelling homes. Damaged totes, containers, and dumpsters will be replaced by the City in a timely manner. Recyclables must fit inside the recycling container; additional recyclables will not be picked up by the City. The resident can either wait until the next curb-side collection or drop-off recyclables at one of the City's recycling drop-off locations

C. Commingled: Residents of single dwellings, multi-dwellings, or other buildings as authorized by the Director of Public Works, may participate in the City's plan of no-sort recycling. The City Council will by resolution designate following recyclable materials which may be commingled from the normal garbage, rubbish and waste material collection if the materials have not been contaminated (a detailed recyclables list and a copy of the resolution is located on the City of Moorhead website):

- 1. Newspaper: Includes inserts, shoppers, or other publications printed on newspaper stock.
- 2. Magazines: Glossy publications less than one inch (1") thick.
- 3. Rinsed clear and colored glass bottles, jugs, or jars; glass does not need to be separated from color.
- 4. Aluminum, tin and steel cans.
- 5. #1-7 plastics without rings, caps or lids.
- 6. Flattened corrugated cardboard.

3-4-11: YARD WASTE:

A. Purpose: The purpose of this section is to reduce the amount of waste generated in the City by a separate collection of yard waste.

B. Definition: Yard waste for purposes of this section shall include grass clippings, leaves and garden waste.

C. Collection Of Yard Waste: Yard waste will be collected and placed out for collection as provided by resolution of the City Council. ~~on the same day as regularly scheduled garbage collection provided that yard waste is to be put into clear plastic compostable bags or non-disposable containers appropriately marked as yard waste.~~

D. Rates: Any additional fee or rate, if any, for garbage collection for persons who participate in the collection of yard waste under this section shall be set by resolution of the City Council. (Ord. 2017-08, 7-10-2017)

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

MICHELLE (SHELLY) A. CARLSON, Mayor

CHRISTINA RUST, City Clerk

First Reading: 02/27/2023
E-Post Date: 03/02/2023
Second Reading: 03/13/2023
Publication: xx/xx/xxxx

RESOLUTION

Resolution to Approve Title & Summary of Ordinance 2023-02

WHEREAS, the City Council of the City of Moorhead did pass Ordinance 2023-02: An Ordinance to Amend Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code

WHEREAS, a title and summary for publication of the above Ordinance was submitted to the City Council for its review in accordance with Section 3.07 of the Moorhead City Charter; and

WHEREAS, the City Council has reviewed the Title and Summary for said Ordinance for approval and has determined that the Title and Summary informs the public of the intent and effect of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota that the Title and Summary for Ordinance 2023-02: An Ordinance to Amend Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code is hereby approved. A copy of said Title and Summary was before the City Council and is now of record and on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED by the City Council of the City of Moorhead, Minnesota that the City Clerk is hereby authorized and directed to publish said Title and Summary in accordance with Section 3.08 of the Moorhead City Charter.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

TITLE AND SUMMARY OF ORDINANCE 2023-02

The following Ordinance is hereby published by Title and Summary:

1. Title of Ordinance

Ordinance 2023-02: An Ordinance to Amend Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code

2. Summary of Ordinance

An Ordinance which Amends Section 3-4-9.C Recyclable Material and Section 3-4-11.C Yard Waste of the Moorhead City Code

3. Availability of Ordinance

A complete, printed copy of this Ordinance is available for inspection by any person during regular business hours in the Office of the City Clerk, Third Floor, City Hall, 500 Center Avenue, Moorhead, MN.

The Ordinance was passed by the City Council of the City of Moorhead this 13th day of, March, 2023.

First Reading: 02/27/2023
E-Post: 03/02/2023
Second Reading: 03/13/2023
Publication: 03/16/2023

RESOLUTION

Resolution to Designate Recyclable Materials in “No Sort” Recycling

WHEREAS, City Code Section 3-4-9.C: Recyclable Materials allows the Council to designate recyclable materials which may be commingled from the normal garbage collection if the materials have not been contaminated; and

WHEREAS, the City’s recycling service provider has requested glass be removed from the acceptable material list;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota, the acceptable list of recyclables includes:

1. Newspaper: Includes inserts, shoppers, or other publications printed on newspaper stock.
2. Magazines: Glossy publications less than one inch (1") thick.
3. Aluminum, tin and steel cans.
4. #1-7 plastics without rings, caps or lids.
5. Flattened corrugated cardboard.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

RESOLUTION

Resolution to Designate Acceptable Containers for Yard Waste Collection

WHEREAS, City Code Section 3-4-11.C: Yard Waste allows the Council to designate acceptable containers for yard waste collection; and

WHEREAS, the Public Works Department will continue to provide curbside pickup of yard waste with costs included in the monthly rate for solid waste; and

WHEREAS, the City Council desires to only permit compostable bags, paper yard waste bags or reusable containers;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota, the acceptable list of yard waste containers includes:

1. Biodegradable Products Institute certified compostable bags.
2. Paper yard waste bags.
3. Reusable containers.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

First Reading of Ordinance 2023-04: An Ordinance to Amend Section 6-2B Control of Invasive Species Tree Pests

RECOMMENDATION:

To approve Ordinance 2023-04: An Ordinance to Amend Section 6-2B Control of Invasive Species Tree Pests

BACKGROUND/KEY POINTS:

Larvae believed to be Emerald Ash Borer (EAB) was discovered in Moorhead by Forestry staff doing routine pruning on February 10, 2023. Subsequent samples and testing by the Minnesota Department of Agriculture (MDA) resulted in an emergency quarantine of the western portion of Clay County, from State Highway 9 west to the North Dakota border, which limits the movement of firewood and ash material out of the area effective March 2, 2023.

The Forestry Division of Public Works intends to implement their Emerald Ash Borer Management Plan to contain and slow the spread of the disease. The plan effectively removes smaller, less valuable ash trees and chemically treats those larger than 11" in diameter. This plan is the most cost effective and environmentally conscious way to preserve ash trees in the urban forest and has been successfully utilized in other communities.

These ordinance amendments would provide the City the authority to implement their Emerald Ash Borer program, similar to the one in place to address Dutch Elm Disease and address any future pests deemed a regulated invasive species by the Minnesota Department of Agriculture.

FINANCIAL CONSIDERATIONS:

Not Applicable

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager

Steve Iverson, Public Works Director

Nichole Parr, Administrative Assistant

Attachments: Draft Ordinance

ORDINANCE 2023-04

An Ordinance to Amend Section 6-2B Control of Invasive Species Tree Pests

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOORHEAD AS FOLLOWS:

ARTICLE B. CONTROL OF INVASIVE SPECIES TREE PESTS DUTCH ELM DISEASE CONTROL

SECTION:

6-2B-1: Declaration Of Policy **NUISANCE DECLARED**

6-2B-2: Dutch Elm Disease Program **NUISANCE PROHIBITED**

6-2B-3: Declaration Of Nuisance And Abatement **INSPECTION AND INVESTIGATION; RIGHT TO ENTER**

6-2B-4: Inspection And Investigation **ABATEMENT ON PUBLIC PROPERTY**

6-2B-5: Abatement Policies **ABATEMENT ON PRIVATE PROPERTY**

6-2B-6: Prohibited Acts

6-2B-7: Penalty

6-2B-1: DECLARATION OF POLICY: NUISANCE DECLARED

The council has determined that the health of the elm trees within the municipal limits is threatened by a fatal disease known as the Dutch elm disease. It has further determined that the loss of elm trees growing on public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the council to control and prevent the spread of this disease and this article is enacted for that purpose. (Ord. 427, 2-10-1969)

To protect, preserve and conserve the value of public and private lands, and to promote the general welfare of the public and this community, it is necessary to protect, control and abate trees that create a public hazard. The following examples are public nuisances whenever they may be found within the city:

- (a) Any living or standing tree or part thereof infected to any degree or infested with any Minnesota Department of Agriculture regulated invasive species pest; or
- (b) Any dead tree or part thereof, including logs, branches, stumps, firewood or other tree material from which the infected and-or infested part has not been removed and burned or sprayed with an effective pesticide

6-2B-2: DUTCH ELM DISEASE PROGRAM: NUISANCE PROHIBITED:

It is the intention of the council to conduct a program of plant pest control pursuant to the authority granted by Minnesota statutes, section 18G.13 48.022, as such statute may be from time to time amended, supplemented or replaced. This program is directed specifically at the control and elimination of plant pests that infest trees within the City Dutch elm disease fungus and elm bark beetles and is undertaken at the recommendation of the commissioner of agriculture. The city manager shall act as coordinator between the commissioner of agriculture and the council in the conduct of this program. (Ord. 427, 2-10-1969)

It is unlawful for any person to permit any public nuisance as defined in section 6-2B-1 to remain on any premises owned or controlled by said person within the city. Such nuisance may be abated in the manner described in the chapter.

6-2B-3: DECLARATION OF NUISANCE AND ABATEMENT:

~~—A. Nuisances Declared: The following things are public nuisances whenever they may be found within the city:~~

~~—1. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus Ceratoystis Ulmi (Buisman) Moreau or which harbors any of the elm bark beetles Scolytus Multistriatus (Eichh.) or Hylumgopinus Rufipes (Marsh).~~

~~—2. Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material, from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide.~~

~~—B. Abatement: It is unlawful for any person to permit any public nuisance as defined in subsection A to remain on any premises owned or controlled by that person within the City. Such nuisances may be abated in the manner prescribed by this Article.~~

6-2B-4 3: INSPECTION AND INVESTIGATION; RIGHT TO ENTER:

A. Annual Inspection: All premises and places within the City shall be inspected by authorized City personnel as often as practicable, but in no event less than once each year, to determine whether any condition described in Section 6-2B-3A exists thereon. All reported incidents of infestation ~~by Dutch Elm fungus or elm bark beetles~~ by an invasive species tree pest shall be promptly investigated.

B. Entry on Private Premises: Authorized City personnel, ~~upon providing proper identification to and securing the consent of the owner or other lawful occupant of the premises, or by lawful search warrant,~~ may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this Article; provided that prior to commencing performance of any other of such duties, an authorized City Employee or agent shall endeavor to provide verbal notice to an occupant of the subject premises of his identity and the purpose of his entry onto the premises.

C. Diagnosis: If conditions indicating Dutch Elm infestation are found, appropriate specimens or samples shall either immediately be sent to the Commissioner of Agriculture for analysis, or shall be analyzed in accordance with such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in Section 6-2B-5B, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

C. It is unlawful to prevent, delay or interfere with a tree inspector while they are engaged in the performance of duties imposed by this article.

D. Upon finding conditions indicating an invasive species tree pest infection and-or infestation, appropriate specimens or samples shall be taken for verification purposes.

6-2B-54: ABATEMENT POLICIES ON PUBLIC PROPERTY:

A. Procedures Available: In abating the nuisances defined in Section 6-2B-3A, authorized City personnel shall cause the infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease fungus and elm bark beetles. Such abatement procedures shall be

~~carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.~~

A In abating the nuisances defined in section 6-2B-1, the infected or infested tree or wood shall be removed and burned or otherwise effectively treated to destroy and prevent as full as possible the spread of the invasive species tree pest. Such abatement procedures shall be carried out in accordance with current technical and expert methods and plans as may be designated by the commissioner of agriculture of the state of Minnesota or by the commissioner of natural resources of the State of Minnesota. Specifications for tree removal and disposal methods consistent therewith shall be established by the Director, City Forester, or other appropriate designee.

~~—B. Removal of Infected Trees and Wood:~~

~~— 1. Whenever the City finds with reasonable certainty that the infestation defined in Section 6-2B-3A exists in any tree or wood in any public or private place in the City, the following procedures shall be followed:~~

~~— a. If authorized City personnel find that the danger of infestation of other elm trees is not imminent because of elm dormancy, a written report of the findings in this regard shall be filed with the Council which shall proceed by 1) abating the nuisance as a public improvement under Minnesota Statutes, chapter 429, as such chapter may be from time to time amended, supplemented or replaced, or 2) abating the nuisance as provided in paragraph 2 of this subsection.~~

~~— b. If authorized City personnel find that danger of infestation of other elm trees is imminent, the abutting property owner shall be notified by the City by certified mail that the nuisance will be abated within a specified time, not less than five (5) days from the date of mailing of such notice. The authorized City personnel shall immediately report such action to the City Manager, and after the expiration of the time limited by the notice the City may abate the nuisance.~~

~~— 2. Upon receipt of the report required by paragraph 1a above, the Council shall, by resolution, order the nuisance abated. Before action is taken on such resolution, the Council shall publish in its official newspaper notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of abatement, and the proposed basis of assessment costs, if any. At such hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work.~~

~~— 3. On or before September 1 of each year the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Article. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, section 429.101, as such statute may be from time to time amended, supplemented or replaced, and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.~~

~~—C. Spraying Elm Trees:~~

~~— 1. Whenever any elm tree or elm wood within the City is determined to be infected with Dutch Elm fungus, all nearby high value elm trees may be sprayed with an effective elm bark beetle destroying concentrate. Spraying activities authorized by this subsection shall be conducted in~~

~~accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and the Commissioner's agent whenever possible.~~

~~— 2. The notice provisions of Section 6-2B-5B apply to spraying operations conducted under this subsection.~~

6-2B-5: ABATEMENT POLICIES ON PRIVATE PROPERTY.

- A. Whenever a nuisance, as defined in section 6-2B-1, is found to exist within any developed portion or utilized portions of any parcel or within 100 feet of such developed/utilized areas of any property that may lie within non-maintained naturally wooded areas on private property, the owner or person in control of such property shall be notified in writing, or by mail or personal delivery, that such conditions exist. The notice shall also state that if such nuisance is not abated by the owner or person in control of such property within the timeline specifically outlined in the written notice based on time of year and type of tree to be removed in the manner prescribed by the city, by and through its public works department, may enter upon the premises and abate the nuisance.
- B. If the owner or person in control of any private premises upon which such a nuisance exists does not abate or eliminate the same within the timeline specifically outlined in the written notice based on time of year and type of tree to be removed the city of Moorhead, its officers, employees and agents shall proceed to have such nuisance properly abated or eliminated.

6-2B-6: PROHIBITED ACTS:

- ~~A. Transporting Elm Wood. It is unlawful for any person to have or transport within the City any bark-bearing elm wood without having obtained a permit from the City. The City shall grant such permits only when the purposes of this Article will be served thereby.~~
- A. Selling, storing, and transporting infested nuisance wood, as defined in 6-2B-1, is unlawful for any person within the city without having obtained a permit from the Public Works Director, City Forester, or other appropriate designee. A permit shall be granted only when the purposes of this chapter shall not be impaired or adversely effected.
- B. Interference: It is unlawful for any person to prevent, delay or interfere with any authorized City personnel while they are engaged in the performance of duties imposed by this Article.

6-2B-7: PENALTY:

Any persons violating Section [6-2B-6](#) shall, upon conviction, be penalized in accordance with the provisions of Section [1-4-2](#) of this Code. (Ord. 427, 2-10-69)

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson
Mayor

Christina Rust
City Clerk

First Reading: 3/13/2023
E-Post:
Second Reading:
Publication:



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Approve Budget Adjustment #23-013 to cover costs of treatment and containing the spread of Emerald Ash Borer (EAB)

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to approve Budget Adjustment #23-013 to use fund balance from the general fund as needed to cover non-budgeted costs associated with treatment and containing the spread of Emerald Ash Borer

BACKGROUND/KEY POINTS:

Larvae believed to be Emerald Ash Borer (EAB) was discovered in Moorhead by Forestry staff doing routine pruning on February 10, 2023. Subsequent samples and testing by the Minnesota Department of Agriculture (MDA) resulted in an emergency quarantine of the western portion of Clay County, from State Highway 9 west to the North Dakota border, which limits the movement of firewood and ash material out of the area effective March 2, 2023.

The Forestry Division of Public Works intends to implement their Emerald Ash Borer Management Plan to contain and slow the spread of the disease. The plan effectively removes smaller, less valuable ash trees and chemically treats those larger than 11" in diameter. This plan is the most cost effective and environmentally conscious way to preserve ash trees in the urban forest and has been successfully utilized in other communities.

To implement the plan, the Forestry Division will incur several costs not included in their 2023 operating budget including; two additional seasonal employees to perform the injections, tree injection kits, the chemical treatment, trees to replace those removed, and possibly contractor assistance with Dutch Elm Disease (DED) removal and/or scheduled pruning if the EAB infestation is more widespread than currently known.

FINANCIAL CONSIDERATIONS:

Budget Adjustment #23-013

Fund Name	Account Description	Expenditure	Funding Source
General Fund	From Reserves		\$218,450
Forestry	Temporary Wages	\$22,000	
Forestry	Operating Supplies	\$74,575	
Forestry	Trees	\$21,875	
Forestry	Improvements Other than bldgs.	\$50,000	
Forestry	Improvements Other than Buildings	\$50,000	
	Total	\$218,450	\$218,450



City Council Communication

March 13, 2023

Voting Requirements: Majority of Council

Submitted By:

Dan Mahli, City Manager

Steve Iverson, Public Works Director

Nichole Parr, Administrative Assistant

Attachments:

RESOLUTION

Resolution to Approve Budget Adjustment #23-013 to cover costs of treatment and containing the spread of Emerald Ash Borer (EAB)

WHEREAS the presence of the Minnesota Department Agriculture regulated invasive pest known as Emerald Ash Borer (EAB) has been confirmed in Moorhead; and

WHEREAS, the City Forester has a removal and treatment plan to slow and control the spread of EAB; and

WHEREAS, the costs of implementing the plan are not included in the 2023 operating budget, and are estimated to be up to \$218,450.00

WHEREAS, budget adjustment #23-013 is required to use \$218,450 of fund balance from the General Fund to complete this work.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota, that the City Council does hereby approve budget adjustment #23-013 to cover the non-budgeted costs of treatment and containing the spread of Emerald Ash Borer (EAB).

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk

RESOLUTION

Resolution to Approve the Consumption of Beer on the Premises of the Moorhead Youth Hockey Arena on April 7 & 8, 2023

WHEREAS, the Moorhead Youth Hockey Association has submitted a request to the City of Moorhead to allow the consumption of beer on the premises of the Moorhead Youth Hockey Arena (707 Main Avenue SE) during an event held from Friday, April 7, 2023 at 5:00 pm until April 8, 2023 at 11:00 pm; and

WHEREAS, the Moorhead Police Department must be notified of the approximate time consumption will start and allow admittance into the arena of a police officer during the event so the conditions of this permission may be monitored; and

WHEREAS, the Moorhead Police Department may revoke the permission on behalf of the City if any condition the permission is being violated.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota does hereby approve the consumption of beer to the Moorhead Youth Hockey Association, contingent upon the following:

- Proof that Moorhead Youth Hockey Association has insurance.
- The insurance should name the City of Moorhead as an additionally insured.
- Moorhead Youth Hockey Association would specifically agree to defend and indemnify the City of Moorhead against any and all claims arising out of or associated with the consumption of alcohol on the premises.
- Only beer would be allowed to be consumed.
- No sale of beer.
- No kegs of beer.
- No one under 21 would be in the arena during the period of consumption.
- No consumption of beer until all skating is completed, no skating after consumption starts.
- Consumption should be modest in amount.
- Open containers must remain within the building, with no open container allowed outside the building.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Approve Budget Adjustment #23-012 for the preparation of a City Debt Model

RECOMMENDATION:

The Mayor and City Council are asked to consider a resolution to approve Budget Adjustment #23-012 for the use of Special Assessment Debt Service Funds for the preparation of a City Debt Model.

BACKGROUND/KEY POINTS:

The purpose of preparing a City Debt Model is to create a financial management tool that will be used to analyze cash flow of special assessment debt, manage debt capacity, and monitor the annual tax levy requirement for the debt.

FINANCIAL CONSIDERATIONS:

The quote received from Baker Tilly to complete this work would be invoiced using hourly rates, with a total fee not to exceed \$25,000. There are cash reserves in the Special Assessment Debt Service Fund that can be used for this project.

Budget Adjustment #23-012

Fund Name	Account Description	Expenditure	Funding Source
Special Assessment Debt Service	From Reserves		\$25,000
Special Assessment Debt Service	Professional Services	\$25,000	
	Total	\$25,000	\$25,000

Voting Requirements: 3/4 of Council (6)

Submitted By:

Dan Mahli, City Manager
Jenica Flanagan, Finance Director

Attachments:

RESOLUTION

Resolution to Approve Budget Adjustment #23-012 for the preparation of a City Debt Model

WHEREAS, the City of Moorhead desires to create a financial management tool to monitor special assessment debt, including the annual tax levy requirement; and

WHEREAS, the cost to complete the project will be a total fee not to exceed \$25,000; and

WHEREAS, budget adjustment #23-012 is required to use up to \$25,000 in reserves from the Special Assessment Debt Service fund to complete the project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead that the City Council does hereby approve budget adjustment #23-012 to use up to \$25,000 from the Special Assessment Debt Service fund to complete the project.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk



City Council Communication

March 13, 2023

SUBJECT:

Resolution to Authorize Purchase of a 35-Foot Heavy Duty Diesel BRT-style Transit Bus from New Flyer Industries

RECOMMENDATION:

The Mayor and City Council are asked to consider authorizing the purchase of one replacement 35-Foot Heavy Duty Diesel BRT-style Transit Buses from New Flyer Industries for delivery in 2024. The total cost is not to exceed \$565,000, which includes \$8,000 in contingencies for change orders and payment to sub-vendors for related costs, such as decals and set-up.

BACKGROUND/KEY POINTS:

A 2010 New Flyer 35-Foot bus was totaled in an accident in 2020 prior to the end of its useful life. The City of Moorhead applied for and received Federal grant funds to cover 85% of the replacement cost using a combination of Federal Section 5307 and 5339 grant funds and budgeted replacement for delivery in 2021.

There has been a 20% increase in bus prices post-pandemic. The initial New Flyer proposal was \$595,000 per bus, which exceeds the amount budgeted of \$541,000. The Moorhead Transit Manager and Fargo Assistant Director of Fleet and Facilities worked with New Flyer to remove options and amenities on the bus to reduce the price to \$557,000, and to include up to \$8,000 for contingencies and other vendor costs, such as decals and set-up. The total increase in price to \$565,000 is \$24,000 higher than the budgeted cost. Federal 5307 funds apportioned to Moorhead are available to pay for 85% of the increase in cost through a grant amendment.

New Flyer has provided written assurance that one Moorhead bus, along with nine Fargo buses ordered together by March 30, 2023, could be delivered approximately one year from placement of the order, which would be the first quarter of 2024.

FINANCIAL CONSIDERATIONS:

The replacement bus was included in the City's approved 2021-2025 Capital Improvement Plan and 2021 Mass Transit Budget. The 15% local share match for the bus with increased price is \$84,751. The remaining Federal interest in the bus due to disposal before its useful life is \$63,283 and must be paid to FTA. Proposed funding for the bus consists of:

- \$200,000 Federal 5339 Funds
- 196,566 Federal 5307 Funds
- 116,434 Capital Improvement Funds (CIP)
- 28,000 Insurance Proceeds
- \$541,000 BUDGET 2021



City Council Communication

March 13, 2023

20,400 Federal 5307 Funds for amended price
3,600 Capital Improvement Funds for amended price
\$24,000 PRICE CHANGE

\$565,000 TOTAL COST

The Mass Transit Fund is allocated \$150,000 annually in CIP funds for matching capital grants. The \$3,600 needed for the price increase can be allocated from existing CIP funds in Mass Transit Reserves through an internal budget adjustment.

Voting Requirements: 3/4 of Council (6)

Submitted By:

Dan Mahli, City Manager
Lori Van Beek, Transit Manager

Attachments:

RESOLUTION

Resolution to Authorize Purchase of a 35-Foot Heavy Duty Diesel BRT-style Transit Bus from New Flyer Industries

WHEREAS, the City of Moorhead's Capital Improvement Plan indicates the need to replace one large transit bus that was totaled in an accident in 2020 prior to reaching its maximum life of 500,000 miles or 12 years; and

WHEREAS, the City of Moorhead has applied for Federal Transit Administration capital grants to purchase one 35-foot replacement buses with the 15% local match provided in the 2021 Mass Transit Capital Improvement Plan; and

WHEREAS, in 2020 the City of Moorhead joined a consortium of transit agencies lead by the Duluth Transit Authority to request proposals for transit buses to be purchased over a period of five years; and

WHEREAS, proposals were received and reviewed by the consortium for 35-foot Heavy-Duty Diesel BRT-style Transit Buses from Gillig Corporation, New Flyer Industries, Eldorado and Home Town with award recommended to New Flyer Industries;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moorhead, Minnesota, they do hereby authorize the Mayor and City Manager, to enter into and execute a purchase agreement with New Flyer Industries for one (1) New Flyer 35-Foot Diesel BRT-style Transit Bus at a total cost not to exceed \$565,000.

PASSED: March 13, 2023 by the City Council of the City of Moorhead.

APPROVED BY:

ATTEST:

Michelle (Shelly) A. Carlson, Mayor

Christina Rust, City Clerk