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AGENDA
Maplewood City Council
7:00 P.M., Monday, September 27, 1982
Municipal Administration Building
Meeting 82-26

(A) CALL TO ORDER

(B) ROLL CALL

(C) APPROVAL OF MINUTES

(D) APPROVAL OF AGENDA

(E) CONSENT AGENDA

All matters listed under the Consent Agenda are considered to be routine by the City Council and will be enacted by one motion in the form listed below. There will be no separate discussion on these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

1. Accounts Payable
2. Audit Contract for 1982
3. Transfer - Debt Service
4. Time Extension - Gonzalez Addition
5. Gambling License - Hill-Murray

(EA) APPOINTMENTS & MISCELLANEOUS ITEMS

1. Park & Recreation Commission
2. Bob Menge - Ramsey Ramble

(F) PUBLIC HEARINGS

1. Special Use Permit: Beaver Lake Mobile Home Park (7:00) _____
2. Rezoning: Carlton St. (West Side) (7:15) _____
3. Rezoning: Carlton St. (East Side) (7:15) _____
4. Street Vacation: Edgehill Road (Rawlings) (7:30) _____
5. Variance & Special Exception: Bennington Woods (7:45) _____

(G) AWARD OF BIDS

(H) UNFINISHED BUSINESS

1. Permit Fees _____

(I) NEW BUSINESS

1. Special Exception: Maplewood Mall (Sbarro's) _____
2. Community Design Review Board Evaluation _____
3. Billboard Ordinance _____
4. Sewer Rates - Jon Belisle _____
5. Uniform Fire Code _____
6. Refuse Hauler's Ordinance _____

(J) VISITOR PRESENTATION

(K) COUNCIL PRESENTATIONS

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

(M) ADJOURNMENT

CHECK*	A M O U N T	C L A I M A N T	P U R P O S E
000896	1,839.99	GREAT WEST LIFE ASSURNGE	CONTRIBUTIONS, INSURAN
000897	2,345.55	GREAT WEST LIFE ASSURNGE	A/R - INS CONTINUANCE AND-HEALTH INS PAYABL AND-LIFE INS DED PAYA AND-CONTRIBUTIONS, INS
000898	4,319.03	MN MUTUAL LIFE INS CO	CONTRIBUTIONS, INSURAN
000899	3,518.93	MN MUTUAL LIFE INS CO	A/R - INS CONTINUANCE AND-HEALTH INS PAYABL AND-LIFE INS DED PAYA AND-DENTAL INS PAYABL AND-CONTRIBUTIONS, INS
000900	500.00	RICHARD KNUTSON INC	CONT PBL - RET PCT Construction Contract
000901	751.22	POSTMASTER	POSTAGE
000902	214.00	MINN STATE TREASURER	STATE D/L FEES PAYABL
000903	6,540.75	MINN STATE TREASURER	MV LICENSE FEES PAYAB
000904	65.50	RAMSEY CO CLERK OF DIST	CNTY D/L FEES PAYABL
000905	4,568.20	MINN STATE TREASURER	MV LICENSE FEES PAYAB
000906	75.00	MINN STATE TREASURER	STATE D/L FEES PAYABL
000907	50.00	ACCOUNTING-ENERGY CST	TRAVEL + TRAINING
000908	123.00	ANOKA RAMSEY COMMUNITY	TRAVEL + TRAINING
000909	2,716.83	MINN STATE TREASURER	MV LICENSE FEES PAYAB
000910	301.00	MINN STATE TREASURER	STATE D/L FEES PAYABL
000911	189.00	MINN STATE TREASURER	STATE D/L FEES PAYABL
000912	4,680.25	MINN STATE TREASURER	MV LICENSE FEES PAYAB
000913	1,891.62	MN STATE TREASURER-PERA	CONTRIBUTIONS, PERA
000914	3,964.75	MN STATE TREASURER-PERA	P.E.R.A. DED PAYABLE AND-CONTRIBUTIONS, PE
000915	8,595.60	MN STATE TREASURER-PERA	P.E.R.A. DED PAYABLE AND-CONTRIBUTIONS, PE
000916	3,435.00	MINN STATE TREASURER	MV LICENSE FEES PAYAB

CHECK*	A M O U N T	C L A I M A N T	P U R P O S E
000917	318.00	MINN STATE TREASURER	STATE D/L FEES PAYAB
000918	175.00	INTL CITY MGMT ASSOC	TRAVEL + TRAINING
000919	2,258.00	NORDSTROM RISK MGMT INC	INSURANCE
000920	57.80	KEVIN HALWEG	TRAVEL + TRAINING
000921	799.82	CONN GENERAL LIFE INS CO	CONTRIBUTIONS, INSURA
000922	377.97	CONN GENERAL LIFE INS CO	A/R - INS CONTINUANC AND-CONTRIBUTIONS, IN
000923	74.00	RAMSEY CO CLERK OF DIST	CNTY D/L FEES PAYABI
000924	2,868.47	MINN STATE TREASURER	MV LICENSE FEES PAYAI
000925	122.00	MINN STATE TREASURER	STATE D/L FEES PAYABI
000926	236.00	MINN STATE TREASURER	STATE D/L FEES PAYABI
000927	3,275.00	MINN STATE TREASURER	MV LICENSE FEES PAYAI
000928	90.00	RADISSON	TRAVEL + TRAINING
000929	264.66	ICMA RETIREMENT CORP	DEFERRED COMP PAYABLE AND-DEFERRED COMPENSA
000930	15,837.50	MAPLEWOOD STATE BANK	FED INCOME TAX PAYABL
000931	9,294.20	STATE OF MN	STATE INCOME TAX PAYA
000932	200.00	MN STATE RETIREMENT SYST	DEFERRED COMP PAYABLE
000933	297.43	AFSCME LOCAL 2725	UNION DUES PAYABLE AND-FAIR SHARE FEES P
000934	24.00	METRO SUPERVISORY ASSOC	UNION DUES PAYABLE
000935	277.00	MN MUTUAL LIFE INS CO	DEFERRED COMP PAYABLE
000936	145.00	ROSEMARY KANE	WAGE DEDUCTIONS PAYAB
000937	608.50	MN TEAMSTERS LOCAL 320	UNION DUES PAYABLE
000938	10,967.00	CITY + CTY CREDIT UNION	CREDIT UNION DED PAYA
000939	96,790.15	MINN STATE TREASURER	MV LICENSE FEES PAYABI
000940	183.00	MINN STATE TREASURER	STATE D/L FEES PAYABI
45	196,225.72	NECESSARY EXPENDITURES SINCE LAST COUNCIL MEETING	

CHECK*	A M O U N T	C L A I M A N T	P U R P O S E
014257	126.66	ACE HARDWARE	MAINTENANCE MATERIALS
014258	160.13	ACRO-MINNESOTA INC	SUPPLIES, OFFICE
014259	961.40	ARNALS AUTO SERVICE	REP. + MAINT., VEHICLE
014260	43.63	AUTOMATIC VOTING MACHINE	SUPPLIES, EQUIPMENT
014261	100.05	BATTERY + TIRE WHSE INC	SUPPLIES, VEHICLE
014262	113.40	BERG-TORSETH INC	SUPPLIES, VEHICLE
014263	2,557.91	BOARD OF WATER COMM	OUTSIDE ENGINEERING F
014264	52.17	BRISSMAN-KENNEDY INC	SUPPLIES, JANITORIAL
014265	3.95	CAPITOL RUBBER STAMP CO	SUPPLIES, EQUIPMENT
014266	34.20	CHIPPEWA SPRINGS CO	FEEES, SERVICE
014267	76.49	CLUTCH + TRANSMISSION	Water Cooler SUPPLIES, VEHICLE
014268	122.92	COPY EQUIPMENT	SUPPLIES, EQUIPMENT AND-SUPPLIES, OFFICE
014269	* 4.86	COUNTRY CLUB MARKET INC	SUPPLIES, PROGRAM
014270	87.29	DALCO CORP	SUPPLIES, JANITORIAL
014271	360.00	PAT DALEY	FEEES, SERVICE
014272	12.95	KATHLEEN DOHERTY	Plumbing Inspector SUPPLIES, OFFICE
014273	45,540.00	EAST CO LINE FIRE DEPT	FEEES, SERVICE
014274	19.50	EAST SIDE GTC	Fire Protection SMALL TOOLS
014275	44.90	ERICKSON PETROLEUM CORP	SUPPLIES, RANGE
014276	8.00	BARRY EVANS	TRAVEL + TRAINING
014277	79.83	FARMERS UNION COOP OIL	CHEMICALS
014278	1.55	FIRE SAFETY PRODUCTS INC	SUPPLIES, VEHICLE
014279	108.27	GENERATOR SPECIALTY CO	SUPPLIES, VEHICLE
014280	187.46	GENUINE PARTS CO	SUPPLIES, VEHICLE
014281	52,858.75	GLADSTONE FIRE DEPT	FEEES, SERVICE Fire Protection

CHECK*	A M O U N T	C L A I M A N T	P U R P O S E
014282	25.20	GOPHER BEARING CO	SUPPLIES, VEHICLE
014283	93.08	DUANE GRACE	FEEES, SERVICE
014284	28.98	JANET GREW	Temp. Inspector TRAVEL + TRAINING
014285	256.80	G+K SERVICES	UNIFORMS + CLOTHING
014286	76.80	G+K SERVICES	UNIFORMS + CLOTHING
014287	176.94	HALLING BROS	SUPPLIES, VEHICLE
014288	10.16	HILLCREST GLASS CO	SUPPLIES, JANITORIAL
014289	3.00	HOWIES LOCK + KEY SERVIC	SUPPLIES, OFFICE
014290	59.32	IRVING MILLER CO	SUPPLIES, VEHICLE
014291 *	20.40	JOLLY TYME FAVORS	SUPPLIES, PROGRAM
014292	12.00	JOURNAL OF CIVIL DEFENSE	SUBSCRIPTIONS+MEMBERS
014293	225.45	KNOX LUMBER COMPANY	MAINTENANCE MATERIALS
014294	122.96	LOCAL CO INC	SUPPLIES, VEHICLE
014295	289.50	LAKE SANITATION	FEEES, SERVICE
014296	19,326.25	LEAGUE OF MINNESOTA	Rubbish Removal DUE TO OTHER GOVT UNI
014297	19.05	LEES AUTO SUPPLY	Workers Comp. premium SUPPLIES, VEHICLE
014298 *	88.06	LUGER LUMBER	SUPPLIES, PROGRAM AND-MAINTENANCE MATER
014299	114.74	MACQUEEN EQUIPMENT INC	SUPPLIES, VEHICLE
014300	5.72	MANDO PHOTO	FEEES, SERVICE
014301 *	16.68	MAPLEWOOD BAKERY	Film Processing SUPPLIES, PROGRAM
014302 *	333.52	MAPLEWOOD REVIEW	SUBSCRIPTIONS+MEMBERS AND-PUBLISHING AND-FEEES, SERVICE
014303	1,352.59	MCCANN INDUSTRIES INC	Cities 25th Aniv. Cel FEEES, SERVICE
014304	470.60	MERIT CHEVROLET CO	Police Chief analysis SUPPLIES, VEHICLE AND-REP. + MAINT., VE

CHECK*	A M O U N T	C L A I M A N T	P U R P O S E
014305	461.40	METROPOLITAN INSPETION	FEEs, SERVICE
014306	15.00	MIDWAY TRACTOR	Electrical Inspection
014307	1,207.98	MN DEPARTMENT PUBLIC	RENTAL, EQUIPMENT
014308	75.00	MN M F O A	RENTAL, EQUIPMENT
014309	86.03	MINNESOTA TORO	TRAVEL + TRAINING
014310	1,437.37	MIRACLE EQUIPMENT CO	MAINTENANCE MATERIALS
014311	75.00	MOGREN BROS LANDSCAPING	MAINTENANCE MATERIALS
014312	1,527.04	CITY OF NORTH ST PAUL	MAINTENANCE MATERIALS
014313	13.12	NORTH ST PAUL PLBG+HTG	UTILITIES
014314	1,309.05	NORTHERN STATES POWER CO	MAINTENANCE MATERIALS
014315	7.80	NORTHERN STATES POWER CO	UTILITIES
014316	202.25	NORTHWESTERN BELL TEL CO	UTILITIES
014317	31.60	NORTHWESTERN BELL TEL CO	TELEPHONE
014318	617.30	NORTHWESTERN BELL TEL CO	TELEPHONE
014319	96.06	OFFICE ELECTRONICS INC	TELEPHONE
014320	47.50	OSWALD FIRE HOSE	SUPPLIES, OFFICE
014321	30.06	PARK MACHINE INC	SUPPLIES, EQUIPMENT
014322	34,101.25	PARKSIDE FIRE DEPT	SUPPLIES, VEHICLE
014323	2,075.00	PETERSON, BELL + CONVERSE	FEEs, SERVICE
014324	195.00	POWER BRAKE EQUIP CO	Fire Protection
014325	130.50	RAMSEY CLINIC ASSOC P A	FEEs, SERVICE -Sept.
014326	242.20	RAMSEY COUNTY TREASURER	Prosecuting Attorney
014327	43.35	CHARLES REED PRINTING CO	SUPPLIES, VEHICLE
014328	45.07	REEDS SALES + SERVICE	FEEs, SERVICE
014329	91.10	RUGGED RENTAL RUGS	Physical
			RENTAL, EQUIPMENT
			AND-FEEs, SERVICE
			Data Processing
			SUPPLIES, PROGRAM
			SUPPLIES, VEHICLE
			FEEs, SERVICE
			Rug Cleaning

CHECK#	A M O U N T	C L A I M A N T	P U R P O S E
014330	72.50	RYCO SUPPLY CO	SUPPLIES, JANITORIAL
014331	9.04	S + T OFFICE PRODUCTS	SUPPLIES, OFFICE
014332	164.94	SEARS ROEBUCK + CO	SMALL TOOLS
014333	38,381.46	SHORT-ELLIOTT-HENDRICKSN	OUTSIDE ENGINEERING
014334	1,000.00	CITY OF ST PAUL	A/R MISCELLANEOUS
014335	78.12	SUPERAMERICA	3 M Fire Run SUPPLIES, OFFICE AND-FUEL + OIL
014336	76.50	TABULATING SERV BUREAU	FEES, SERVICE
014337	87.85	H R TOLL CO	Data Processing SUPPLIES, VEHICLE
014338	25.98	TOLZ, KING, DUVALL	OUTSIDE ENGINEERING
014339	24.50	HERB TOUSLEY FORD INC	REP. + MAINT., VEHICLE
014340	* 941.83	TRIARCO ARTS + CRAFTS	SUPPLIES, PROGRAM
014341	54.54	TWIN CITY JANITOR SUPPLY	SUPPLIES, VEHICLE
014342	139.30	TWIN CITY NURSERY	OTHER CONSTRUCTION CO
014343	392.70	TWIN CITY TESTING	OUTSIDE ENGINEERING
014344	1,502.86	UNIFORMS UNLIMITED	UNIFORMS + CLOTHING AND-SUPPLIES, VEHICLE
014345	141.40	UNIFORMS UNLIMITED	UNIFORMS + CLOTHING
014346	100.50	VIRTUE PRINTING CO	SUPPLIES, OFFICE
014347	105.84	WARNERS TRUEVALUE HDW	SUPPLIES, EQUIPMENT AND-MAINTENANCE MATER AND-SUPPLIES, VEHICLE AND-SUPPLIES, JANITOR
014348	32.20	WEBER + TROSETH INC	REP. + MAINT., VEHICLE
014349	73.57	WESTINGHOUSE ELECTRIC	MAINTENANCE MATERIALS
014350	* 14.94	WHITE BEAR OFFICE PROD	SUPPLIES, PROGRAM
014351	301.54	XEROX CORPORATION	DUPLICATING COSTS
014352	* 271.87	MICHELLE ANDERSON	WAGES, P/T + TEMP.

CHECK*	A M O U N T	C L A I M A N T	P U R P O S E
014353	* 21.70	MARILYN JOYCE GALBRAITH	WAGES, P/T + TEMP.
014354	* 15.80	THERESA A JENTS	WAGES, P/T + TEMP.
014355	* 88.00	CAROL LOEFFLER	WAGES, P/T + TEMP.
014356	* 216.00	ROBERTA OLSON	WAGES, P/T + TEMP.
014357	30.00	PAUL PETERSON	WAGES, P/T + TEMP.
014358	12.48	ALBERT RASCHKE	TRAVEL + TRAINING
014359	144.00	JEFFERY RASCHKE	WAGES, P/T + TEMP.
014360	* 303.59	BRIAN SHERBURNE	WAGES, P/T + TEMP. AND-TRAVEL + TRAINING
014361	* 13.78	MARTIN SPANNBAUER	TRAVEL + TRAINING
014362	* 184.00	PATRICK JAMES TOWNLEY	WAGES, P/T + TEMP.
014363	* 3.00	IONE ASCHENBRENER	R E F U N D
014364	* 30.00	DOUGLAS BERENDS	R E F U N D
014365	* 11.00	SALLY FITZGERALD	R E F U N D
014366	* 3.00	VIV FORSBERG	R E F U N D
014367	* 15.50	MARILYN GALBRAITH	R E F U N D
014368	* 3.00	CEIL R JENSEN	R E F U N D
014369	* 21.84	CAROL LOEFFLER	TRAVEL + TRAINING
014370	* 11.00	CHERYL MINCHER	R E F U N D
014371	* 21.06	VAL MEYER	TRAVEL + TRAINING
014372	* 21.06	KATHY NELSON	TRAVEL + TRAINING
014373	* 22.36	DOUG OLSON	TRAVEL + TRAINING
014374	* 3.00	LENNORE RASSETT	R E F U N D
014375	* 3.00	PEG SCHWEIZER	R E F U N D
014376	* 11.00	LEE TUCCI	R E F U N D
014377	* 4.00	LORAIN WESTERN	R E F U N D

CHECK*	A M O U N T	C L A I M A N T	P U R P O S E
014378	25.00	HELEN KAY STEFAN	FEEES, SERVICE
122	216,189.25	CHECKS WRITTEN	Art Work
TOTAL OF	167 CHECKS TOTAL	412,414.97	

* INDICATES ITEMS FINANCED BY RECREATIONAL FEES

CERTIFICATION REGISTER

CHECK DATE 09-10-82

CHECK	NAME			GROSS PAY	NET PAY
04926	BEHM	LOIS	N	586.62	407.44
04927	EVANS	BARRY	R	1,817.54	1,110.21
04928	PELOQUIN	ALFRED	J	747.23	193.39
04929	SCHLEICHER	JOHN	F	102.00	102.00
04930	GUDE	LARRY	J	191.54	145.44
04931	DOHERTY	KATHLEEN	M	305.00	217.56
04932	ZUERCHER	JOHN	L	115.39	115.13
04933	FAUST	DANIEL	F	1,446.46	950.94
04934	HAGEN	ARLINE	J	888.92	404.43
04935	MATHEYS	ALANA	K	677.54	473.93
04936	VIGOREN	DELORES	A	586.62	399.79
04937	AURELIUS	LUCILLE	E	1,350.46	705.29
04938	SELVOG	BETTY	D	711.23	463.70
04939	GREEN	PHYLLIS	C	738.92	511.71
04940	VIETOR	LORRAINE	S	561.69	386.08
04941	HENSLEY	PATRICIA	A	238.80	182.02
04942	FREDERICKSON	RITA	M	22.00	22.00
04943	STOTTLEMYER	EDITH	G	63.00	63.00
04944	BASTYR	DEBORAH	A	532.16	261.39
04945	COLLINS	KENNETH	V	1,527.19	227.28
04946	HAGEN	THOMAS	L	1,424.31	331.08
04947	OMATH	JOY	E	553.39	381.01
04948	RICHIE	CAROL	L	501.23	334.48
04949	SVENDSEN	JOANNE	M	718.83	467.90
04950	ARNOLD	DAVID	L	1,308.64	500.74

CERTIFICATION REGISTER

CHECK DATE 09-10-82

CHECK	NAME			GROSS PAY	NET PAY
04951	ATCHISON	JOHN	H	1,036.15	678.37
04952	BOWMAN	RICK	A	629.54	432.80
04953	CAHANES	ANTHONY	G	1,216.15	139.72
04954	CLAUSON	DALE	K	1,036.15	156.73
04955	DREGER	RICHARD	G	1,473.34	828.72
04956	GREEN	NORMAN	L	1,207.38	657.26
04957	HALWEG	KEVIN	R	1,056.00	531.15
04958	HEINZ	STEPHEN	J	774.46	490.21
04959	HERBERT	MICHAEL	J	1,016.77	582.84
04960	JAQUITH	DANIEL	R	774.46	489.46
04961	KORTUS	DONALD	V	629.15	426.28
04962	LANG	RICHARD	J	1,056.00	561.94
04963	MGNULTY	JOHN	J	1,206.92	196.58
04964	MEEHAN, JR	JAMES	E	1,034.78	524.95
04965	METTLER	DANIEL	B	1,036.61	665.26
04966	MOESCHTER	RICHARD	M	1,016.77	133.83
04967	MORELLI	RAYMOND	J	1,016.77	671.99
04968	PELTIER	WILLIAM	F	1,170.35	665.67
04969	SKALMAN	DONALD	W	1,016.77	165.46
04970	SMITH	SCOTT	A	241.20	241.20
04971	STAFNE	GREGORY	L	1,016.77	628.42
04972	STILL	VERNON	T	997.38	576.91
04973	STOCKTON	DARRELL	T	997.38	640.81
04974	ZAPPA	JOSEPH	A	1,208.77	744.03
04975	BECKER	RONALD	D	1,065.23	210.23

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CHECK	NAME			GROSS PAY	NET PAY
04976	GUSICK	DENNIS	S	1,327.56	852.48
04977	GRAF	DAVID	M	1,065.23	510.12
04978	LEE	ROGER	W	1,104.00	625.47
04979	MELANDER	JON	A	1,065.23	20.57
04980	NELSON	CAROL	M	1,226.67	898.97
04981	RAZSKAZOFF	DALE	E	1,084.61	121.59
04982	RYAN	MICHAEL	P	1,065.23	470.11
04983	VORWERK	ROBERT	E	1,172.04	276.99
04984	YOUNGREN	JAMES	G	1,045.84	621.06
04985	EMBERTSON	JAMES	M	944.31	631.56
04986	SCHADT	ALFRED	C	1,127.54	685.12
04987	FLAUGHER	JAYME	L	677.54	445.27
04988	FULLER	JAMES	D	586.62	428.16
04989	NELSON	KAREN	A	645.23	408.46
04990	NELSON	ROBERT	D	1,220.47	660.40
04991	RABINE	JANET	L	549.69	380.43
04992	WILLIAMS	DUANE	J	1,055.54	472.42
04993	BARTA	MARIE	L	495.69	326.84
04994	HAIDER	KENNETH	G	1,391.08	229.34
04995	WEGWERTH	JUDITH	A	505.42	360.99
04996	CASS	WILLIAM	C	1,157.08	573.03
04997	FREBERG	RONALD	L	824.00	485.54
04998	HELEY	RONALD	J	824.00	538.88
04999	HOCHBAN	JOSEPH	H	827.15	549.51
05000	KANE	MICHAEL	R	824.00	370.60

CERTIFICATION REGISTER

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CHECK	NAME			GROSS PAY	NET PAY
05001	KLAUSING	HENRY	F	846.05	462.99
05002	MEYER	GERALD	H	844.16	450.55
05003	PRETTNER	JOSEPH	B	1,088.00	698.95
05004	REINERT	EDWARD	A	824.00	538.88
05005	TEVLIN, JR	HARRY	J	837.86	526.18
05006	ELIAS	JAMES	G	1,110.54	669.44
05007	GEISLER	WALTER	M	952.61	573.20
05008	GESSELE	JAMES	T	893.54	603.03
05009	PECK	DENNIS	L	981.69	485.20
05010	PILLATZKE	DAVID	J	1,157.08	792.12
05011	WYMAN	JAMES	N	932.13	629.58
05012	LUTZ	DAVID	P	562.62	384.18
05013	BREHEIM	ROGER	W	769.60	490.07
05014	EDSON	DAVID	B	903.00	603.87
05015	MULWEE	GEORGE	W	798.46	509.09
05016	NADEAU	EDWARD	A	879.66	592.27
05017	NUTESON	LAVERNE	S	1,088.00	482.40
05018	OWEN	GERALD	C	840.00	500.86
05019	MACDONALD	JOHN	E	908.80	459.78
05020	MULVANEY	DENNIS	M	878.40	553.95
05021	BRENNER	LOIS	J	677.54	262.02
05022	KRUMMEL	BARBARA	A	295.75	143.71
05023	ODEGARD	ROBERT	D	1,364.77	842.83
05024	STAPLES	PAULINE	M	1,056.92	686.35
05025	BURKE	MYLES	R	824.00	460.82

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CHECK	NAME			GROSS PAY	NET PAY
05026	GERMAIN	DAVID	A	824.00	535.20
05027	GUSINDA	MELVIN	J	1,098.20	620.57
05028	HELEY	ROLAND	B	824.00	548.63
05029	LEMON	JEFFREY	S	113.40	113.40
05030	MARUSKA	MARK	A	862.63	562.21
05031	PARENTEAU	THOMAS	J	256.00	256.00
05032	RASCHKE	ALBERT	F	291.10	259.96
05033	SANDQUIST	THOMAS	J	57.00	57.00
04923	SANTA	REED	E	824.00	472.81
05034	TAUBMAN	DOUGLAS	J	804.00	517.20
05035	WARD	ROY	G	328.62	253.25
05036	GREW	JANET	M	684.92	448.59
05037	SOUTTER	CHRISTINE		684.92	470.04
05038	CHLEBECK	JUDY	M	711.23	300.63
05039	OLSON	GEOFFREY	W	1,340.31	822.75
05040	EKSTRAND	THOMAS	G	914.42	563.85
05041	JOHNSON	RANDALL	L	940.19	601.69
05042	OSTROM	MARJORIE		1,133.54	716.30
05043	WENGER	ROBERT	J	857.54	497.58
CHECK REGISTER TOTALS				102,324.93	55,362.65
04925	Tuchner	Michele	A	694.62	354.46
05044	Cusick	Dennis	S	24,101.22	22,279.06
CHECK REGISTER TOTALS				127,120.77	77,996.17

MEMORANDUM

TO: City Manager
FROM: Finance Director *W. O. Aust*
RE: Annual Audit - 1982
DATE: September 20, 1982

Action by Council:
Endorsed.....
Modified.....
Rejected.....
Date.....

DeLaHunt, Voto & Company, our present auditing firm, has presented for approval and execution the attached agreement for auditing services for the City's Fiscal year ending December 31, 1982. The proposed agreement reflects a 9.8% increase in hourly rates. However, this firm has agreed to limit the total cost of the audit to \$20,900 which is only 5% more than last year.

DeLaHunt, Voto & Company has provided Maplewood with satisfactory auditing services since 1967. The firm is experienced in municipal audits and presently has approximately fifteen other governmental bodies as clients including the cities of White Bear Lake, South St. Paul, Stillwater, New Brighton, Shoreview, Oakdale, Woodbury and Cottage Grove.

Therefore, it is recommended that staff be authorized to execute an agreement with DeLaHunt, Voto & Company for the 1982 audit.

DFF:lnb

Birch Lake Professional Building • 1310 E. Hwy. 96 • White Bear Lake, MN 55110 • Phone 426-3263

August 12, 1982

RONALD J. DELAHUNT, RETIRED

ROBERT J. VOTO, CPA
TIMOTHY E. REARDON, CPA
ROBERT G. TAUTGES, CPA

Mr. Dan Faust,
Finance Director
City of Maplewood
1380 Frost Avenue
Maplewood, Minnesota 55109

Dear Dan:

Enclosed are two copies of our standard Agreement for Auditing/Accounting Services for 1982/1983. This contract is similar to last years contract except for rate changes necessitated by general economic factors.

Upon the approval of this agreement by your Council and execution, please return one copy to our office and retain the other copy for your files. Your early consideration of this contract will assist us in preparing our 1982/1983 audit schedule and will be greatly appreciated. If you have any questions, please don't hesitate to call.

Very truly yours,

DE LA HUNT VOTO & CO., LTD.


Robert J. Voto, CPA

RJV/11k

enc/2

cc: Correspondence File

AGREEMENT FOR AUDITING/ACCOUNTING SERVICES

This agreement by and between the CITY OF MAPLEWOOD, MINNESOTA hereinafter referred to as the "City", and the accounting firm of DE LA HUNT VOTO & CO., LTD., hereinafter referred to as the "Auditors", WITNESSETH:

In consideration of their mutual covenants and agreements as hereinafter set forth, the parties hereto contract and agree as follows:

I.

The Auditors agree to perform an audit of the financial statements and transactions of the City for the year ended December 31, 1982. Such audit and examination shall be made in accordance with generally accepted auditing standards and the minimum audit procedures prescribed by the Minnesota State Auditor pursuant to the provisions of M.S.A., Chapter 6. Such audit and examination will include tests of the accounting records and such other audit procedures as are considered necessary to enable the Auditors to render an opinion on the fairness of the City's financial statements. It is not contemplated that the audit will be a detailed examination of all transactions nor that the audit will necessarily discover mis-conduct, should any exist. The Auditors will, however, promptly inform the City of any findings which appear unusual or abnormal.

II.

The Auditor's report and management comments shall be addressed to the City Council. Such management comments shall contain specific disclosure and recommendations with regard to the following:

- (a) Non-conformity with policy and procedures prescribed by Council Action, State Statutes, and/or Federal Rules and Regulations.
- (b) Non-conformity to generally accepted governmental accounting principles.

- (c) Defects in accounting policies and procedures that make accounting and/or auditing time consuming and/or inefficient.
- (d) Any failure of the accounting department to prepare and distribute financial reports required or needed for administrative purpose.
- (e) Any other information deemed appropriate of City Council consideration.

III.

The 1982 Annual Financial Report of the City shall be prepared in accordance with generally accepted accounting principles and the "Minimum Reporting Requirements - City Financial Reporting" prepared and issued by the Office of the Minnesota State Auditor. Should the City require assistance in preparing and compiling its financial data and records to meet these requirements, the Auditors agree to assist the City as required and as determined jointly by the Auditors and City Administration. Fees for such services (if required) shall be billed on the basis of the hourly rates contained herein, but shall be billed separate from audit fees.

IV.

The City herewith engages the Auditors for the work hereinbefore specified and agrees to pay the Auditors on the basis of:

Partner	\$60.00 @ Hour
Audit Supervisor/Manager	\$48.00 @ Hour
Staff Auditors:	
Senior	\$34.00 @ Hour
Semi-Senior	\$26.00 @ Hour
Junior	\$22.00 @ Hour
Intern	\$18.00 @ Hour
Statistical Typists and Report Processors	\$15.00 @ Hour
Charge per Copy of Financial Statements	\$15.00 @ Copy

V.

The Auditors shall provide the City with detailed statements as to the classifications and hours worked. Payments of the Auditor's fees shall be made by the City within thirty days after submittal of an itemized claim correctly showing the amount due the Auditors.

Claims for payment will be submitted for payment upon completion of the interim audit; upon completion of the final field work; and upon completion of the entire audit and submittal of the Annual Financial Report and the Auditor's Management Comments and Recommendations thereon.

VI.

If any circumstances disclosed by the audit and examination call for a more detailed investigation than would be necessary under ordinary circumstances, such circumstances will be called to the attention of the City authorities before proceeding further with such investigation. If authorized to proceed further with an investigation in this area, compensation for these additional services shall be at the regular rates designated in this agreement.

IN WITNESS WHEREOF, the City and the Auditors have executed this agreement the day and year written below.

DE LA HUNT VOTO & CO., LTD.
Certified Public Accountants

By Robert J. Voto
Robert J. Voto, President

Date: 8/12/02

CITY OF MAPLEWOOD, MINNESOTA

By _____
Mayor

Date: _____

By _____
Manager

Date: _____

MEMORANDUM

Action by Council:

Endorsed _____
Modified _____
Rejected _____
Date _____

TO: City Manager
FROM: Finance Director *W. Oaust*
RE: Financial Transfers Related to 1982 Bond Issue
DATE: September 21, 1982

PROPOSAL

It is proposed that \$349,000 of surplus balances in three construction accounts be transferred to the debt service account for the 1979 temporary improvement bonds.

BACKGROUND

On May 20th the Council approved the financial plan related to the 1982 Temporary Improvement Bonds. Part of this plan involved the use of surplus balances in construction accounts to finance the retirement of the 1979 Temporary Improvement Bonds. Proceeds were received last month from the 1982 bond issue. The financial transfers related to this bond issue are now needed.

The following surpluses exist in three construction accounts which were financed by the 1979 Temporary Improvement Bonds:

\$ 18,000	Project 75-06, Howard-Larpenteur Storm Sewer
110,000	Project 77-09, Gervais Ave. - Germain to White Bear Ave.
<u>221,000</u>	Project 79-01, Cope Avenue
\$349,000	Total

These surplus amounts should be transferred to the debt service account for the 1979 Temporary Improvement Bonds as originally planned.

RECOMMENDATION

It is recommended that the Council authorize the above transfers.

DFF:lnb

MEMORANDUM

TO: City Manager
 FROM: Associate Planner - Johnson
 SUBJECT: Time Extension
 APPLICANT/OWNER: Rodolfo Gonzalez
 PROJECT: Gonzalez Addition
 DATE: September 10, 1982

Action by Council:

Endorsed _____

Modified _____

Rejected _____

Date _____

Request

Approval of a one-year time extension for the Gonzalez Addition preliminary plat, to create five single-dwelling lots.

Status

The applicant anticipates approval of the plat from the Ramsey County surveyor's office within the month. Application for final plat will then be applied for.

Recommendation

Approval of a one-year time extension for the Gonzalez Addition preliminary plat on the basis that progress is being made toward application for final plat.

BACKGROUND

Code Requirements

Section 1005 (3) of the Platting Code states that preliminary approval shall be authorized for a period of one year, after that time "the City may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application, unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application."

Past Actions

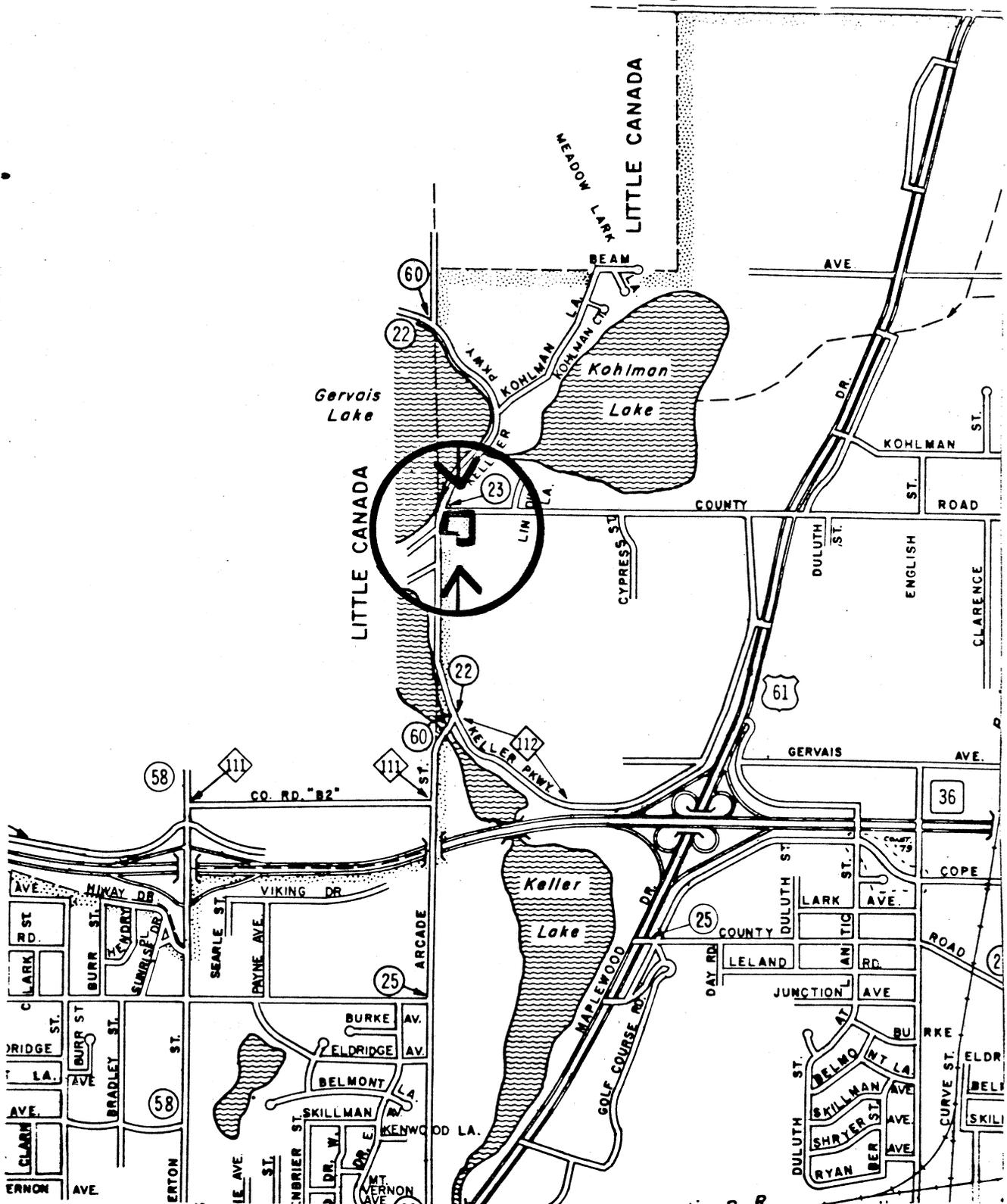
8-6-81: Council approved the Gonzalez Addition preliminary plat, subject to the following conditions:

1. Payment of deferred assessments of \$1,312.50 for Sanitary Sewer and \$630.15 for street improvement on County Road C;
2. An erosion control and grading plan shall be prepared with the advice of the Soil Conservation Service and submitted for Staff approval prior to final plat approval.

mb

Enclosures:

1. Location Map
2. Property Line Map
3. Preliminary Plat
4. Applicant's Letter of Request

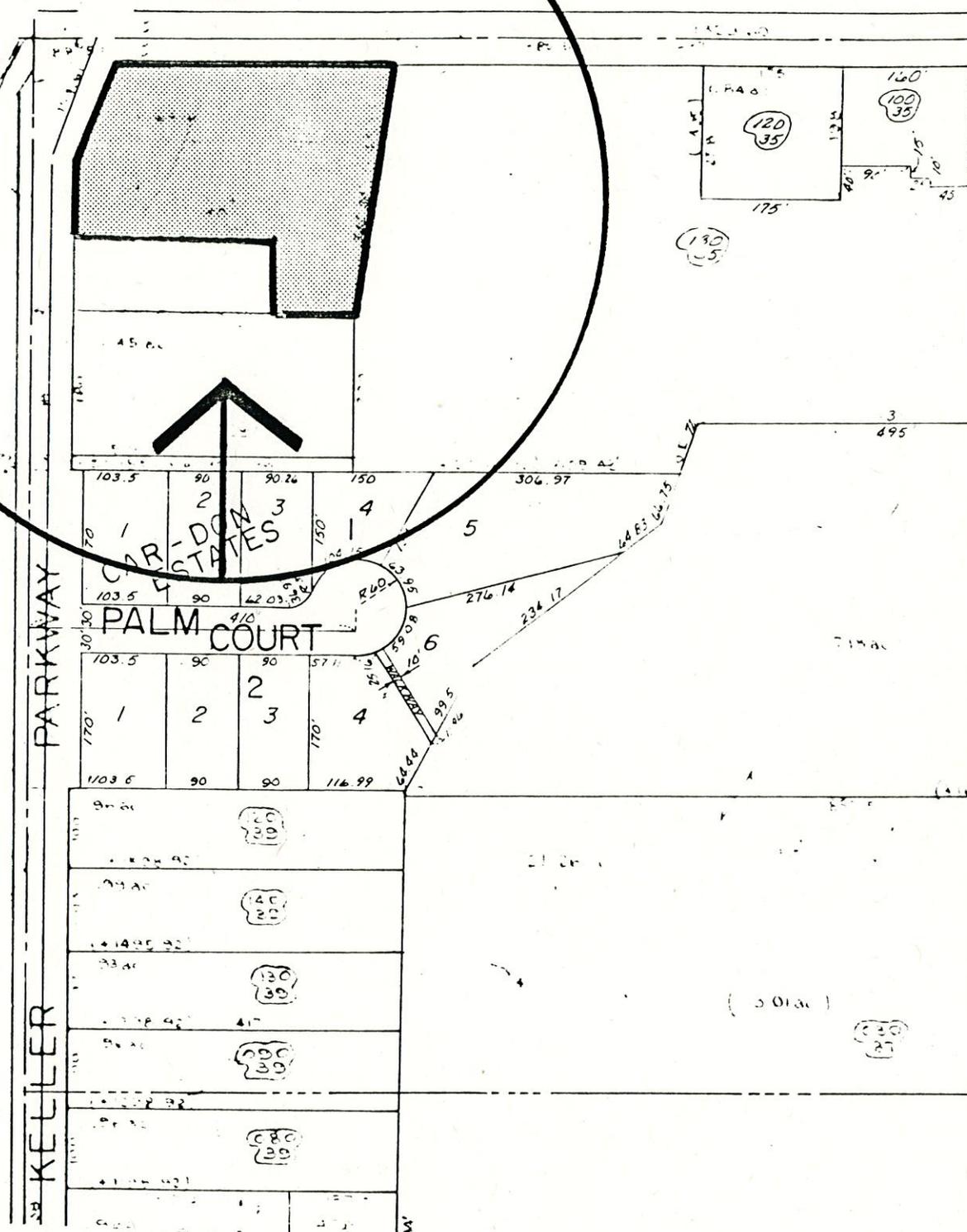
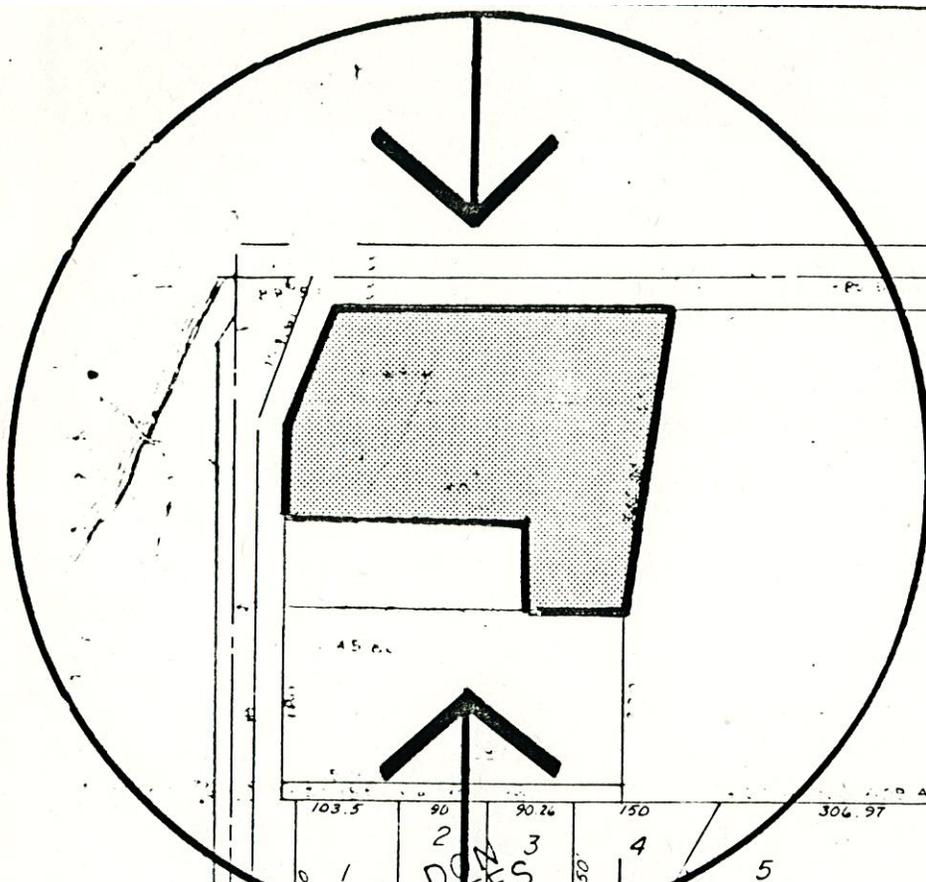


PETITIONER Rodolfo Gonzalez

REQUEST Preliminary Plat

1. Location Map

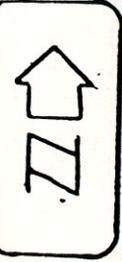




PETITIONER Rodolfo Gonzalez

REQUEST Preliminary Plat

2. Property Line Map



St. Paul, September 7, 1982.-

City of Maplewood
Community Development Dept.
Att.: Mr. R. Johnson

With reference to a proposed subdivision at my property located at 2626 Keller Pkway., I wish to inform you that we are proceeding ahead and expect to have final approval from the Ramsey County Surveyor's office in two weeks.

Thanking you for your attention to this matter, I remain,

Yours truly,



R.Gonzalez
2626 Keller Pkway.
St. Paul, Mn.

CITY OF MAPLEWOOD

Application for Gambling License

Application is hereby made under Maplewood Municipal Code Chapter 822 which reads in part:

SECTION 1. Chapter 822 of the Maplewood Code is hereby adopted governing licensing and regulating of gambling as approved by the State Legislature and is to read as follows:

"822.010. PROVISIONS OF STATE LAW ADOPTED. The provisions of Minnesota Statutes, Chapter 349, and Laws of Minnesota, 1978, Chapter 507, relating to the definition of terms, licensing and restrictions of gambling are adopted and made a part of this Ordinance as if set out in full."

"822.020. LICENSING REQUIREMENTS. No person shall directly or indirectly operate a gambling device or conduct a raffle without a license to do so as provided in this Ordinance."

"822.030. PERSONS ELIGIBLE FOR A LICENSE. A license shall be issued only to fraternal, religious, and veterans' organizations, or any corporation, trust, or association organized for exclusively scientific, literary, charitable, educational or artistic purposes, or any club which is organized and operated exclusively for pleasure or recreation as distinct from profit making purposes. Such organization must have been in existence for at least three (3) years in the City of Maplewood, and shall have at least thirty (30) active members."

for a gambling license.

- 1. Name of Organization: Hill Murray High School Mothers and Fathers Club
- 2. Address of Organization: 2625 East Larpenteur Avenue
- 3. Date of Application: September 13, 1982
- 4. Date of first meeting that has regularly continued to date in Maplewood:
Organized September, 1970.
- 5. List Officers of Organization:

<u>TITLE</u>	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
--------------	-------------	----------------	----------------

(list attached)

Application for Gambling License

6. Type of Permit

Temporary Single Occasion.
Date November 7, 1982

Annual

Paddle Wheel

Raffle

Tipboard

7. Profits to be used for:

Assist the Mothers and Fathers Clubs in their efforts to further the educational, extra-curricular, religious and athletic interests of the students of Hill-Murray High School.

8. Gambling Manager

Name James M. Johnson

Address 1567 North Hinton Trail

Phone # 735-6687

Date of Birth 4-1-45

(Bond for Gambling Manager must be attached).

9. Premises upon which gambling will be conducted:

Address: 2625 E. Larpenteur Avenue

10. Total prizes to be offered. (Explain).

1. 1982 Chevrolet Chevette
2. Quasar Color Television
3. Amana Micro-Wave Oven

11. Bank that will carry gambling account:

Name Maplewood State Bank

Address 2866 White Bear Avenue

Authorized Account

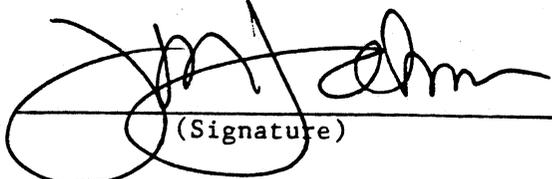
Signatures Mr. Wally Wessels and/or Mrs. Ruth McCarthy (Parent Club Presidents)

12. Meeting date at which organization authorized this application

September 8, 1982

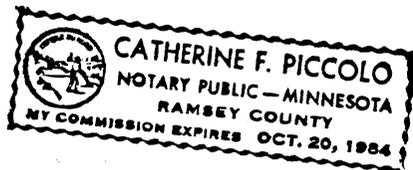
Application for Gambling License

I hereby certify that all statements herein are true and correct to the best of my knowledge, that this application is in accordance with applicable ordinances and statutes and that I am authorized to make application in behalf of this eligible organization.

NAME 
(Signature)
DATE Sept. 13, 1982

Subscribed and Sworn before me this
13th day of September, 1982

Catherine F. Piccolo
Notary Public





MIDWAY NATIONAL AGENCY, INC.

1578 University Ave. St. Paul, Minnesota 55104

September 10, 1982

To Whom It May Concern:

Re: St. Paul Priory, Sisters of the Orders of St. Benedict,
Archdiocese of St. Paul - Minneapolis, Hill-Murray High
School, Policy #SP DO 22 01 79 3

Gentlemen:

The above named insureds, under the captioned School Package Policy, carries a \$10,000 Blanket Fidelity Coverage, Insuring Agreement 1C on all it's employees. The term of the present policy is from 7/24/82 to 7/24/83. A copy of the applicable endorsement is attached.

Very truly yours,


Carl A. Bennetsen
General Manager

cc: INA Insurance Company
Attn: Nancy Langhoff



(612) 646-2357

BOARD MEMBERS 1982-83

David Thurston, Chairman	2853 North Second Street North St. Paul, MN 55109	482-9277	777-9192
Dan Bernish, Vice-Chairman	1963 Birch Street White Bear Lake, MN 55110	221-4371	429-2592
Philip McCauley	1808 Kennard Street St. Paul, MN 55109	733-1715	777-5308
Joseph Stejskal	2561 East Poplar Avenue North St. Paul, MN 55109	733-6023	777-3453
Clyde Klosner	6288 - 43rd Street North St. Paul, MN 55109	777-6801	777-6801
Robert Sevenich	12 Oakhill Court White Bear Lake, MN 55110	733-5652	426-4696
Sister Duane Moes, O.S.B.	2675 East Larpenteur Ave. St. Paul, MN 55109	777-8181	777-8181
Sister Marie Fujan, O.S.B.	2600 East Larpenteur Ave. St. Paul, MN 55109	647-5180	777-5462
Walter Wessels	2448 E. Ripley Avenue North St. Paul, MN 55109	772-2585	770-0926
Ruth McCarthy	96 Hickory Street Mahtomedi, MN 55115		426-2487
Yvonne McComber, Recording Sec.	3431 Emerald Drive White Bear Lake, MN 55110	777-1376	777-1800

Robert D. Burke **Catholic Education Center
328 West Sixth Street
St. Paul, MN 55102**

Frank Asenbrenner, Principal **2625 E. Larpenteur Ave.
St. Paul, MN 55109** **777-1376**

James Rohlik, Assistant Principal

Brother Francis Carr, Assistant Principal & Athletic Director

James Johnson, Assistant Principal & Director of Development & Student Affairs

Sister Pat Collins, Assistant Principal & Director of Guidance

Kevin Mackin, Faculty Senate

Catherine Piccolo, Business Office

Student Council Representative **c/o Terry Brown**

MEMORANDUM

Action by Council

To: Barry Evans, City Manager
From: Robert D. Odegard, Director of Community Services
Subj: Appointment of Park and Recreation Commissioner
Date: September 15, 1982

RO

Referred _____
Received _____
Referred _____
Date _____

With the resignation of Marvin Mahre in July of 1982 from the Park and Recreation Commission, we proceeded with the usual method for replacement of a member of the commission.

Four candidates replied to the notice of the vacancy and each one was invited to the September 13th meeting for an interview. The following persons were interviewed by the Park and Recreation Commission:

- Janice L. Feist - 2725 E. Conway Avenue
- Rita Janisch - 2673 Upper Afton Road
- Larry Morgan - 2434 Nemitz
- Marvin Sigmundik - 1697 E. County Road C

The Park and Recreation Commission recommends to the Maplewood City Council that effective September 27, 1982, Rita Janisch, 2673 Upper Afton Road, be appointed to the Park and Recreation Commission for the term expiring December 31, 1983.

MEMORANDUM

To: Barry Evans, City Manager
From: Robert D. Odegard, Director of Community Services *BC*
Subj: Jim's Prairie as Part of the Minnesota Natural Heritage Register
Date: September 15, 1982

Enclosed is a copy of a Memorandum of Understanding for inclusion of portions of Jim's Prairie, City of Maplewood, on the Minnesota Natural Heritage Register.

Mr. Keith Wendt, Plant Ecologist for the Natural Heritage Program, together with Maplewood naturalist staff, reviewed on site Jim's Prairie. At the August 9, 1982, Park and Recreation Commission meeting, Mr. Wendt presented a project evaluation (copy enclosed) of the site and a discussion of the Natural Heritage Program which is under the Department of Natural Resources for the State of Minnesota. Upon conclusion of lengthy discussion of the benefits to the City of being a part of the Natural Heritage Program, the Park and Recreation Commission requested that a Memorandum of Understanding be prepared by Minnesota Natural Heritage Register. The Memorandum (copy enclosed) was further discussed at the September 13th meeting of the Park and Recreation Commission.

It is the Park and Recreation Commission's recommendation that the City of Maplewood enter into a Memorandum of Understanding for inclusion of portions of Jim's Prairie, City of Maplewood, on the Minnesota Natural Heritage Register and that the memorandum be signed by the proper authorities for the City.

It is the Commission's observation that the City of Maplewood is not committed to any special requirements, but yet gains the management expertise of the staff on the Natural Heritage Program. In the early discussion, the Commission felt strongly about opening this area to the general public and this feeling is reflected in the first paragraph under Public Use on page 2 which indicates that the specific location of Jim's Prairie will not be included in their published materials.

Enc. (2)

Memorandum of Understanding
for inclusion of portions of
Jim's Prairie, City of Maplewood
on the
Minnesota Natural Heritage Register

Lands selected for the Minnesota Natural Heritage Register are representative of Minnesota's original landscape, and contain outstanding ecological features such as unique plant communities, rare plant and animal species, and significant geologic sites. These lands are vital to the development and maintenance of a statewide system of scientific and natural areas, which provide unequalled opportunities for scientific research and natural history education.

The intent of this memorandum is to promote voluntary cooperation between Maplewood and DNR's Natural Heritage Program for the purpose of recognizing the statewide significance of the area known as Jim's Prairie and to insure its perpetuation through appropriate management actions. Through this agreement the City of Maplewood agrees to accord Jim's Prairie recognition as a prairie of statewide significance and, to the best of the city's ability, to manage the site in a consistent manner. To this effect the Natural Heritage Program will provide technical assistance in developing more detailed management plans and in implementing those management actions. The Heritage Program will also assist in future monitoring of Jim's Prairie to determine any management problems and considerations.

Natural Feature of Interest

Jim's Prairie is a 3 acre remnant of the black-soil prairie that was originally distributed throughout east central Minnesota in a matrix pattern with oak savanna and deciduous forest. Today only fragments of native prairie remain in this part of the state and this plant community is considered threatened by the Natural Heritage Program. Currently there are only 11 prairies remaining in east central Minnesota that are of natural area quality totaling approximately 324 acres. While Jim's Prairie is small, the prairie community appears intact with no evidence of degradation due to grazing, plowing, or mowing. The Natural Heritage Program considers Jim's Prairie a significant natural area and recommends its preservation.

Management Guidelines

Both historically and currently, the occurrence of fire plays an important role in maintaining prairies. In the absence of fire, woody plants increase in abundance and may eventually convert prairie to shrub or forest land. Fire also serves to recycle nutrients previously bound up in stems from previous years that accumulate near the ground. The release of these

nutrients is noticeable by the increased growth and vigor of the prairie plants following fire. In view of the importance of fire to the prairie community it is important to attempt to design a fire management plan for Jim's Prairie. This plan needs to consider the feasibility of burning the prairie as well as the frequency and timing appropriate for the area.

Because of the small size of Jim's Prairie, it might be necessary to implement other control techniques to limit the spread of woody vegetation, particularly aspen. Manually cutting saplings and selectively treating stumps with an appropriate herbicide may be advisable at some point in time.

In keeping with the natural area quality of Jim's Prairie, the introduction or removal of plant or animal species will be prohibited without careful review by city officials and consultation with the Heritage Program. Such actions can reduce the scientific value of the prairie by artificially extending distributions of introduced plants or reducing former plant populations to the point where they are no longer viable.

Other management considerations include the designation of a buffer area around Jim's Prairie. A buffer will minimize the impacts of adjacent land use upon the prairie and also will allow for the opportunity for limited expansion of the prairie.

Public Use

The small size of Jim's Prairie limits the amount and degree of public use that can be accommodated without harmful effects on the vegetation or soils. For this reason the Heritage Program will not include the specific location of Jim's Prairie in any of their published materials. Interested people will be asked to contact the appropriate managing agency within the City of Maplewood.

The agreement does not change the existing authority or management responsibility of the City of Maplewood with respect to Jim's Prairie. Cooperation between the City of Maplewood and the Natural Heritage Program to protect and enhance Jim's Prairie is based on the mutual recognition of its importance and public value.

for the City of Maplewood

for the Natural Heritage Program

Date

Barbara Coffin, Coordinator
Natural Heritage Program

Date

Roger Holmes, Act. Director
Div. of Fish and Wildlife

Date

NATURAL HERITAGE PROGRAM
PROJECT EVALUATION

NAME OF PROJECT: Jim's Prairie COUNTY: Ramsey
LANDSCAPE REGION: Southern Oak Barrens DNR QUAD CODE: S18b
LEGAL DESCRIPTION: T29N R22W SW, NW, SE $\frac{1}{4}$ Sec 24
PRESENT STATUS: Recommended registered area (Natural Heritage Program)
APPROX. ACREAGE: 3 OWNERSHIP: City of Maplewood

=====

ECOLOGICAL SIGNIFICANCE OF PROJECT AREA

Jim's Prairie is a small but fine example of wet-mesic to wet black-soil prairie. In the presettlement landscape, black-soil prairies in E. central Minnesota occurred in patches in a matrix of oak savanna, and deciduous forest. Historically the frequency of fires played a significant role in determining the prevalence and distribution of plant community types here. Oak savanna and maple-basswood ("Big Woods") were the dominant vegetation types. Much of the black-soil prairie was restricted to the deep soils on the nearly level outwash plains and terraces. Today, only a few fragments of native prairie remain in E.C. Minnesota. The Natural Heritage Program considers the E.C. black-soil prairie to be a threatened plant community in Minnesota. Remaining examples of these prairies are given high priority for preservation. Jim's Prairie is a 3-acre level tract of native prairie on silt loam soils surrounded by irregularly sloping morainic hills. The prairie is bordered on the east by an esker, portions of which are colonized by bur oaks. Although Jim's Prairie is only 3 acres, it contains over 150 species of native plants. The prairie community appears intact and there is no evidence of degradation due to plowing, grazing, or mowing. A native prairie plant of state-wide concern, cowbane (Oxypolis rigidior), is found here, and is the only known occurrence for Ramsey County. Jim's Prairie is surrounded by abandoned land, mostly old field, and is well buffered from adverse impact. Future protection of this unique prairie will require maintaining an adequate buffer zone. The esker bordering the east side and portions of the old field to the south and west would serve this purpose. The adjacent old field community contains occasional native grasses and forbs making the potential for restoration possible. Maintenance of Jim's Prairie will also require periodic burning to control the encroaching of shrubs and trees; invasion of trembling aspen is noticeable on the west and southern parts of the tract.

The Natural Heritage Program considers Jim's Prairie a significant natural area and recommends its preservation. There is only one other occurrence of black-soil prairie known for Ramsey County, where nearly all land is urbanized or under cultivation. In E.-Central Minnesota, there are 11 known black-soil prairies of natural area quality, totaling 324 acres. The proximity of Jim's Prairie to the Twin Cities makes this area ideal for educational uses, and adds to its value for preservation. The Maplewood Nature Center currently uses the prairie for natural history instruction.

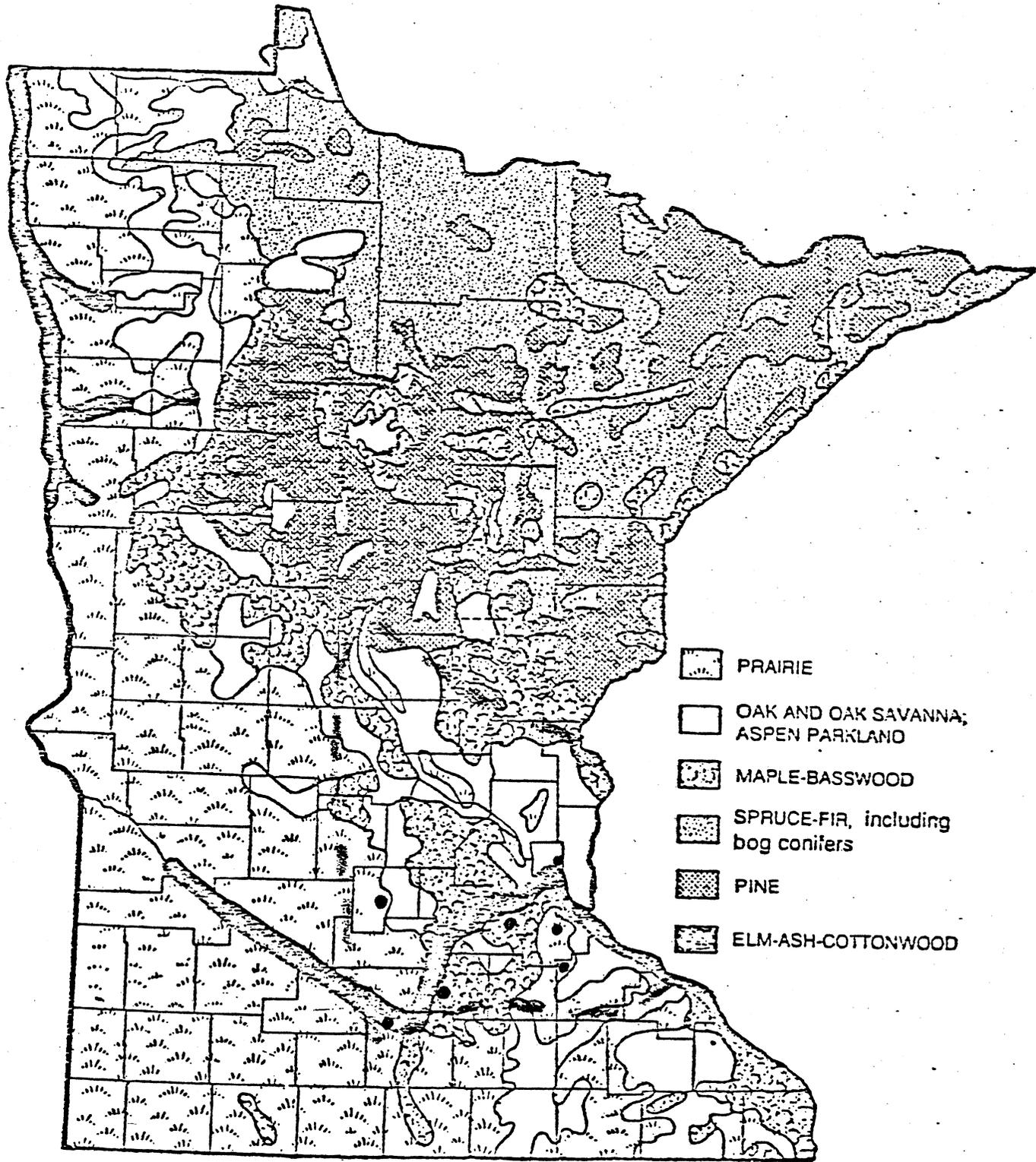
Overall Element Rank

Black-Soil Prairie (E.C. MN): B3 = State threatened

Element Occurrence Rank

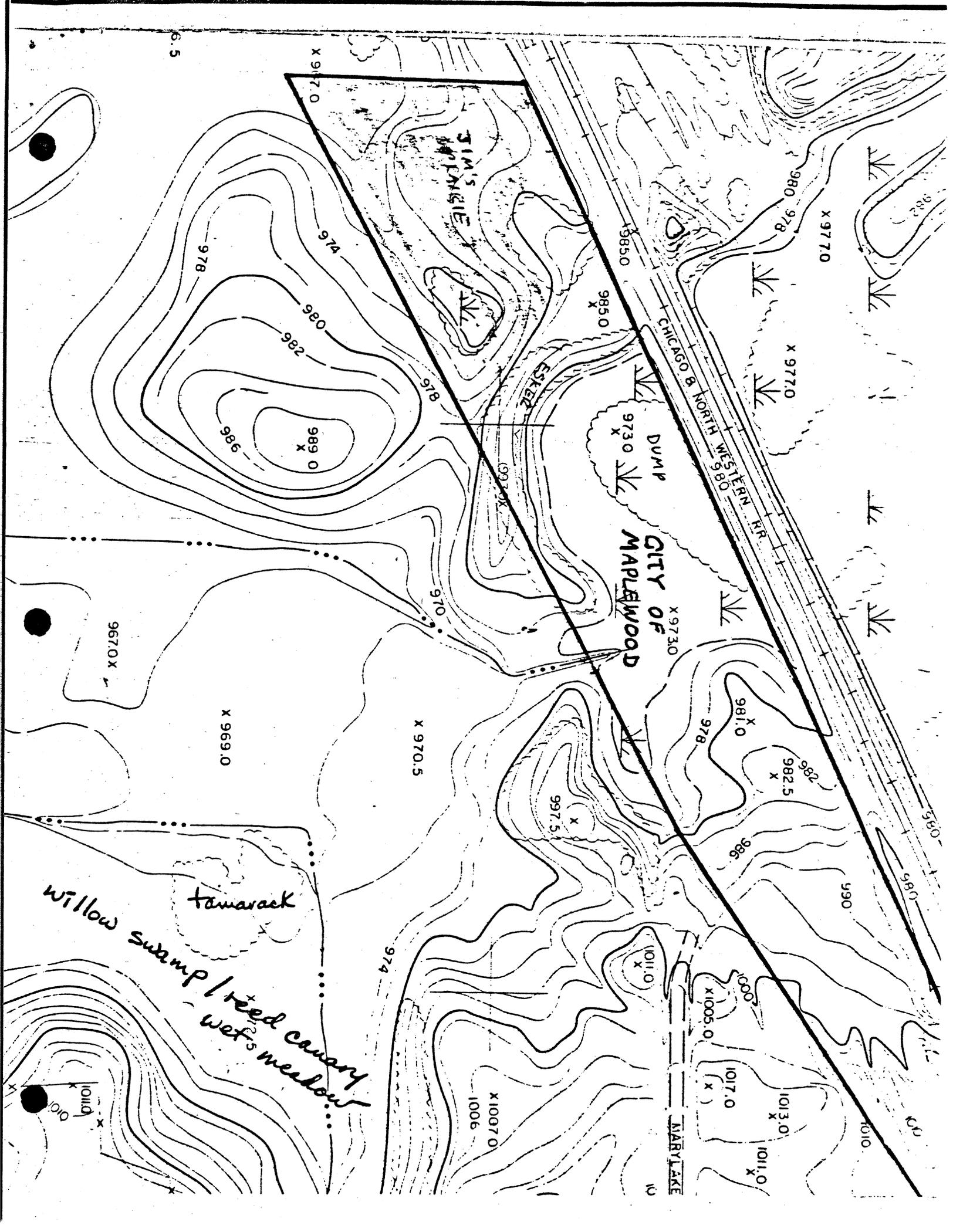
Jim's Prairie: B-C, Natural areas which due to slight man-induced disturbances or their small size are not considered outstanding natural areas (rank - A). However these areas still maintain their ecological integrity and are representative of the presettlement landscape. These tracts are especially valuable to local communities as education sites.

BLACK-SOIL PRAIRIE (E-Central MN)



III. Presettlement vegetation types in Minnesota. (Adapted by Patricia Burwell from an unpublished map drawn by F. J. Marschner in 1930 for the United States Department of Agriculture, Washington, D.C.)

• Known occurrences of black-soil prairie
(natural area quality, rank B-C to A)



6.5

X 917.0

STIM'S
MARIYLAKE

CHICAGO & NORTH WESTERN RR

DUMP
CITY OF
MAPLEWOOD

MARIYLAKE

tamarack

Willow Swamp / Reed canopy
wet's meadow

978

974

982

986

989.0
X

978

970

967.0 X

X 969.0

X 970.5

997.5
X

981.0
X

982.5
X

986

990

974

1011.0
X

1000
X

1005.0
X

1017.0
X

1013.0
X

1011.0
X

1007.0

1006

1010

X 977.0

X 977.0

X 973.0

973.0
X

985.0
X

985.0

980 978

982

980

980

1010

MEMORANDUM

TO: City Manager
 FROM: Associate Planner--Randall Johnson
 SUBJECT: Special Use Permit--Revision
 APPLICANT: Stephen Taylor (Contract Purchaser)
 OWNERS: Robert Berglund and Perry Shortridge
 PROJECT: Beaver Lake Estates--Mobile Home Park
 DATE: August 27, 1982

Action by Council:
 Endorsed _____
 Modified _____
 Rejected _____
 Date _____

Request

Revise the special use permit for the Beaver Lake Estates mobile home park to increase the number of home sites from 250 to 254.

Proposal

1. See the applicant's letter of request.
2. Map two shows the location of the proposed home sites within the mobile home park.
3. Map three shows the size of each proposed site.

CONCLUSION

Analysis

This request is consistent with Land Use Plan density requirements and Housing Plan policies to encourage housing opportunities for low to moderate income persons.

As long as the park population remains less than 541 persons, the present on-site storm shelter facility is adequate. The basement of the office building has a storm shelter capacity of 433 persons or ninety percent of the park's proposed population of 483 persons. The Director of Emergency Preparedness recommends that a shelter(s) with a capacity for 80 percent of a park's population is adequate to meet the intent of state law.

Further, a study recently completed by the City of Blaine found that fifteen to twenty percent of park residents are not at home during the hours of 5 to 7 p.m., the hours of peak storm frequency.

Recommendation

Revise the Beaver Lake Estates special use permit to allow the number of home sites to increase from 250 to 254, subject to the following conditions:

1. The Beaver Lake Estates special use permit shall be subject to City Council review in five years.
2. Access to the home site in proposed Addition II (Map thrēe) shall be from Antelope Way, a private drive within the mobile home park.
3. The total population of the mobile home park shall not exceed 541 persons, unless additional shelter capacity is provided.
4. The 1300 square foot basement of the office building shall be used as a storm shelter and posted as such.

BACKGROUND

Site Description

Size: 40 acres

Existing Land Use: Mobile home park, with 250 home sites and an office building with a 1300 square foot basement/storm shelter.

Surrounding Land Uses

- North: Undeveloped land, planned and zoned for Business-Warehouse use
- Northwest: Bulk storage facility (fertilizer)
- East: Undeveloped land, planned for open space and medium density residential. This area is part of the Maple Greens planned unit development.
- South: Maryland Avenue. Across Maryland Avenue, undeveloped land, planned for residential medium density use. The Beaver Lake Hills development has been approved for this site.
- West: Undeveloped land, planned for medium density residential use and the realignment of McKnight Road.

Past Actions

6-6-68: Council approved a special use permit for this mobile home park, subject to Council approval of the final site plans.

7-31-69: Council approved the final site plans for the entire mobile home park and authorized the issuance of building permits for Phase I, consisting of 133 home sites, subject to:

1. Forty feet of right-of-way shall be dedicated along the south side of the entire property;
2. The area designated as McKnight Road realignment and Marylake Road shall be excluded from the overall plan approval and Phase I construction. Further a quit claim deed to these areas described shall be submitted to the Village.
3. Construction of the Phase I shall commence prior to July 10, 1970;
4. All sign location and design shall be subject to staff approval;
5. A landscaping plan, including execution, shall be submitted and approved by Village staff prior to occupancy of any mobile home space;
6. Approval of mobile home storage is permitted on the area designated as McKnight Road realignment. Such approval of storage shall be approved for a time not to exceed November 1, 1969;
7. All drainage and utility service plans must be approved by Village staff;
8. The conditions checked in red on attached staff report shall also be Council imposed conditions in approval of the overall plan and Phase I construction. (No such report is in the file.)

6-4-70: Council denied a new and used mobile home sales license for this site on the basis that "this is a residential area." The property owners contested this action and took the issue to court. A court date for October 5, 1970 was set. There is no record of a decision.

4-21-71: Council approved Phase II of the development, consisting of 122 home sites, subject to all applicable conditions for Phase I.

DEPARTMENT CONSIDERATIONS

Planning

1. Land Use Plan Designation: Rm - Residential Medium Density
2. Permitted Density: 22 persons/net acre
3. Proposed Density: 15.9 persons/net acre or 635 persons
4. Zoning: Farm Residential
5. Compliance with Land Use Laws:
 - a. Ordinance:
 1. Section 911.010(7) states that a special use permit may be required for mobile home parks.
 2. Section 911.050 states that: "1) The City Council, in granting a special use permit, may attach to the permit such conditions and guarantees as may be necessary to the protection of the public, the rights of others and the City. 2) All special use permits which do not have a specific termination date or provision for a periodic review, shall be reviewed within one (1) year of the date of passage and publication of this Ordinance and every five (5) years thereafter.

The Council may, upon such review, determine that new conditions shall be imposed and that, if reasonable under the circumstances, a termination date for said special use permit may be established and further that where the use should not involve the construction of any special building or structure of a monetary value in excess of Five thousand and no/100 (\$5,000.00) Dollars, that the special use permit may be terminated."

- b. Statutory:

Section 327B of State Statute was amended in 1982 to require mobile home parks to provide for the shelter of safe evacuation of park residents in times of severe weather.

6. Housing:

Page C-32--Maplewood's goal for 1980-1983 is to provide 73 new or 95 existing housing opportunities for low to moderate income persons. The proposed four mobile home sites would be the first new construction to count toward this goal:

Public Works

1. Sewer and water are available.
2. A deed has been drafted and submitted to the property owner for signature to obtain a roadway easement over the northwest corner of the site for the future Marylake Road.

Public Safety--Emergency Preparedness

1. No local, state or federal specifications appear to exist for storm shelter capacity for mobile home parks.
2. The Director of Emergency Preparedness suggests that on-site shelter should be provided and designed to handle eighty percent of a park's planned population. This suggestion is based upon a City of Blaine study of mobile home park residents that found fifteen to twenty percent of the residents generally are not at home during the peak storm event hours of 5 to 7 p.m.
3. The Emergency Preparedness Director also suggests three square feet per person as a design standard for short term severe weather shelters. The City of Blaine uses four square feet, but a mix of adults and children is not assumed. (Three square feet equates to a square with 21 inches on a side, which is adequate room for sitting and standing.)
4. At three square feet per person, the existing office building basement capacity is 433 persons or ninety percent of the park population. The maximum park population could be 541 persons without providing additional storm shelter area. The present population is 474 persons. The highest population since 1977 was 517 persons, since then a larger adults-only area was established.
5. The City of Blaine is involved in a pilot project for the construction of storm shelters with Community Development Block Grant monies. A shelter for 126 persons costs about \$17,000.

Other Agencies

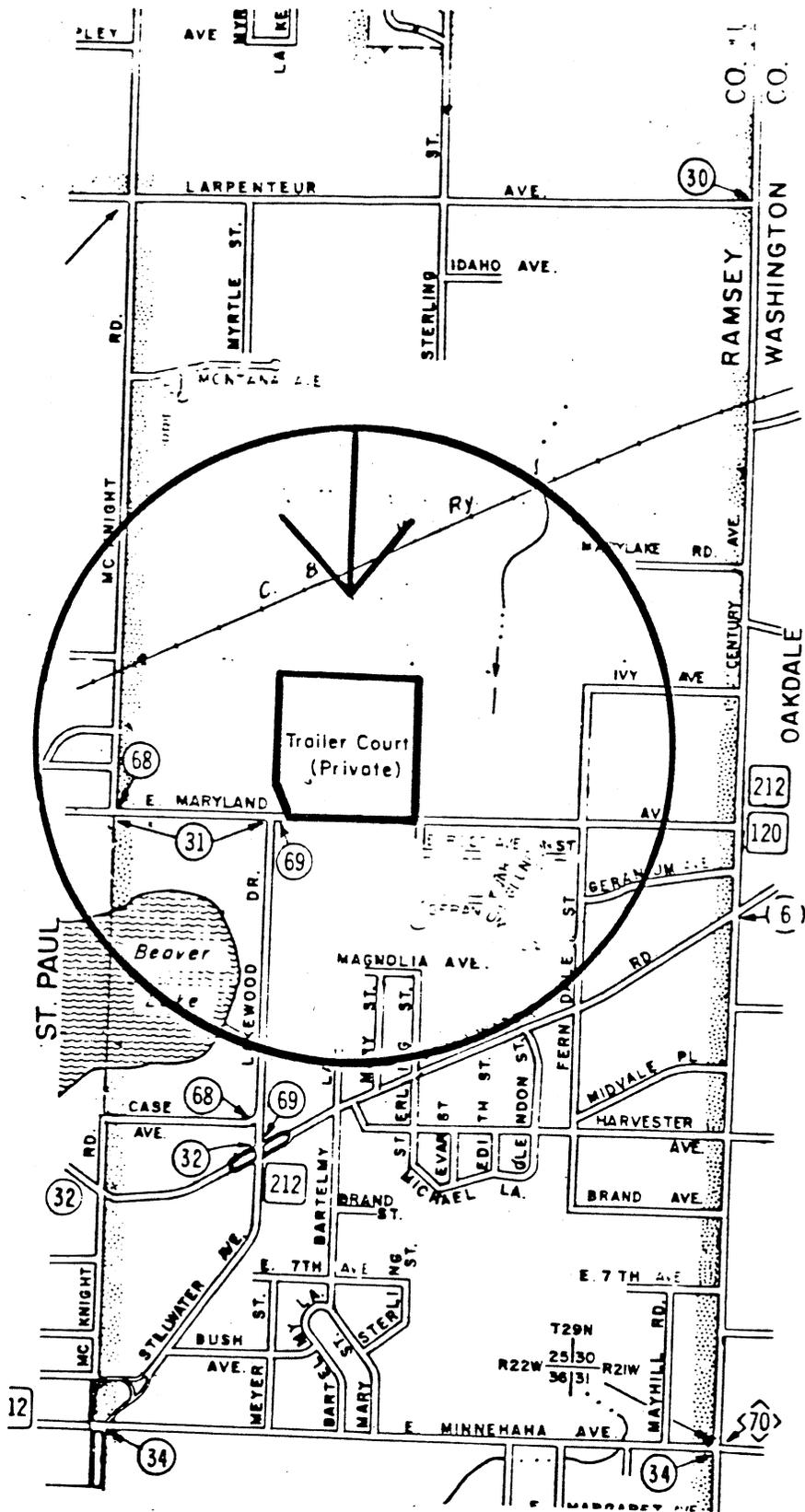
Ramsey County Highway Department

1. The realignment of McKnight Road will cross the southwest corner of this site, as illustrated on Map two. A deed for a roadway easement over this property has been prepared and given to the applicant for signature.
2. An eight foot wide bike path is included within the proposed right-of-way.

jw

Enclosure

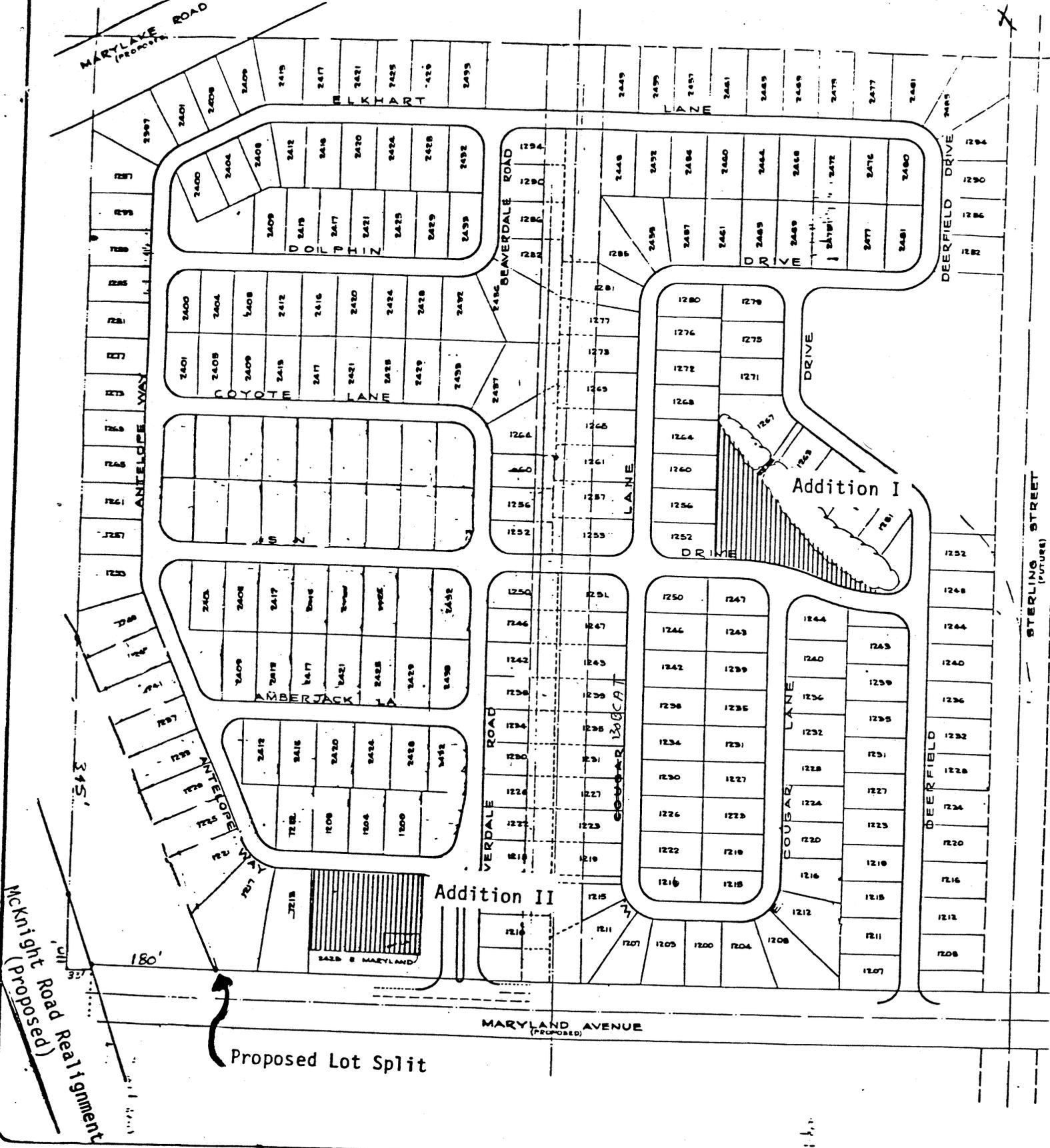
1. Location Map
2. Site Plan--Entire Site
3. Site Plan--Proposed Additions
4. Applicant-s Letter of Request



Map 1

LOCATION MAP





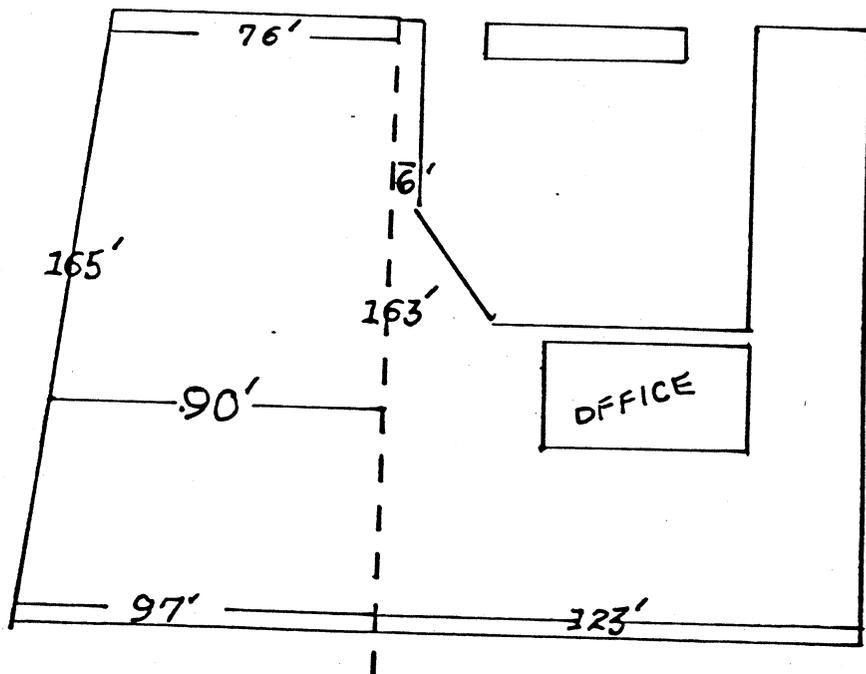
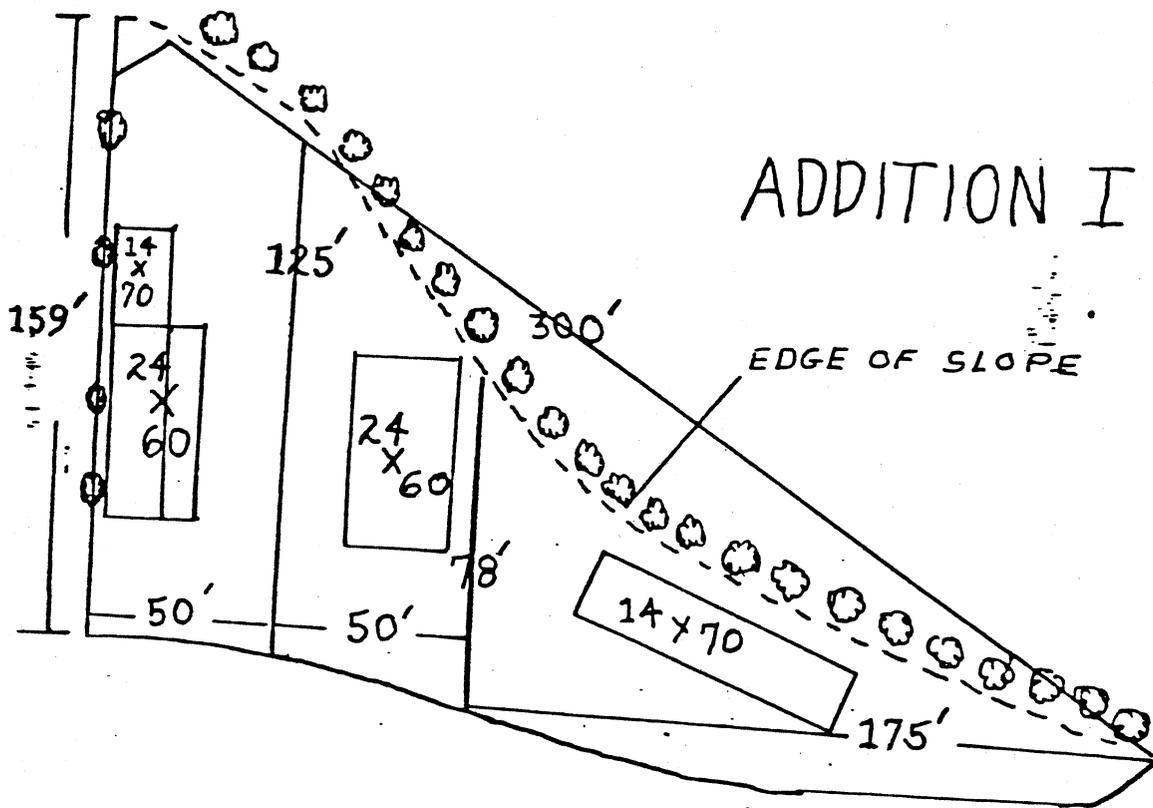
Map 2

BEAVER LAKE ESTATES
 MAPLEWOOD, MINNESOTA



Proposed Additions





Map 3

SITE PLAN
Additions I & II

1" = 50'





Beaver Lake Estates

2425 E. Maryland Ave. • St. Paul, Minnesota 55119 • Area Code 612-777-1341

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June 22, 1982

Mr. Geoff Olson
Director of Community Development
Maplewood
1380 Frost Avenue
Maplewood, Minnesota 55109

Dear Mr. Olson:

Beaver Lake Estates mobile home community located at 2425 Maryland Avenue is presently operating on a special use permit with 250 home sites.

We are requesting permission to increase the number of home sites by four (4). Addition one, consisting of three (3) lots is in open site central to our adult only area. The site attracts children away from their planned play area.

Addition two, consisting of one (1) lot is adjacent to our office and laundry building and will be used for the Resident Manager's home.

Enclosed are the twelve set of plans describing our proposal per your request.

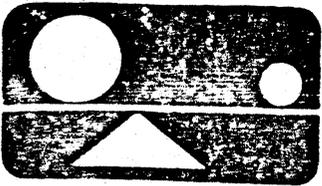
Respectfully submitted,

BEAVER LAKE ESTATES

Stephen M. Taylor, 825-2425
Managing Partner

SMT/lkr

Enclosure



received
9-7-82

S. M. TAYLOR COMPANY

312 SONS OF NORWAY BUILDING • 1455 WEST LAKE STREET
MINNEAPOLIS, MINNESOTA 55408 • PHONE (612) 825-2425

September 1, 1982

Mr. Larry Cude
Director of Emergency Preparedness
City of Maplewood
1380 Frost Avenue
Maplewood, Minnesota 55109

Dear Mr. Cude:

This letter is to confirm that the basement of the existing laundry-office building will be made available to Beaver Lake Estates residents in times of severe weather conditions in compliance with recently passed state statutes regulating the operation of mobile home parks.

The residents shall be conspicuously notified of the plan.

The area will be used for no other specific purpose other than to accomodate existing permanent improvements.

I understand that this plan meets with your approval.

Respectfully submitted,

Stephen M. Taylor
Beaver Lake Estates
Partner

SMT/1kr

cc: Gary Pearson

SEP 7 1982

MEMORANDUM

Action by Council:

TO: City Manager
 FROM: Director of Community Development
 SUBJECT: Rezoning
 LOCATION: Carlton Street
 APPLICANT: City of Maplewood
 OWNERS: Dorothy Arbore (2534 Minnehaha)
 Thomas Honsa (2546 Minnehaha)
 Otto and Jacqueline Bonestroo (Tax Parcel #040-01)
 DATE: August 12, 1982

Endorsed _____
 Modified _____
 Rejected _____
 Date _____

SUMMARY OF THE PROPOSAL

Request

The City is proposing to rezone this site from M-1, light manufacturing to R-3, Multiple Dwellings.

Proposed Use

No specific development is proposed for this site.

CONCLUSION

Analysis

This rezoning is part of the downzoning program initiated by the City Council on June 28. The purpose is to bring the zoning of properties into conformance with the Comprehensive Plan.

Recommendation

Approval of the enclosed resolution rezoning the site from M-1 to R-3.

BACKGROUND

Site Description

Acreage: 5.2 acres

Existing land use: Undeveloped

Surrounding Land Uses

Northerly: Single dwellings

Easterly: Carlton Street and the Carlton Racquetball Club

Southerly and Westerly: 3-M Company

DEPARTMENTAL CONSIDERATIONS

Planning

Land Use Plan designation: RH, residential high density

Zoning: - M-1

ADMINISTRATIVE

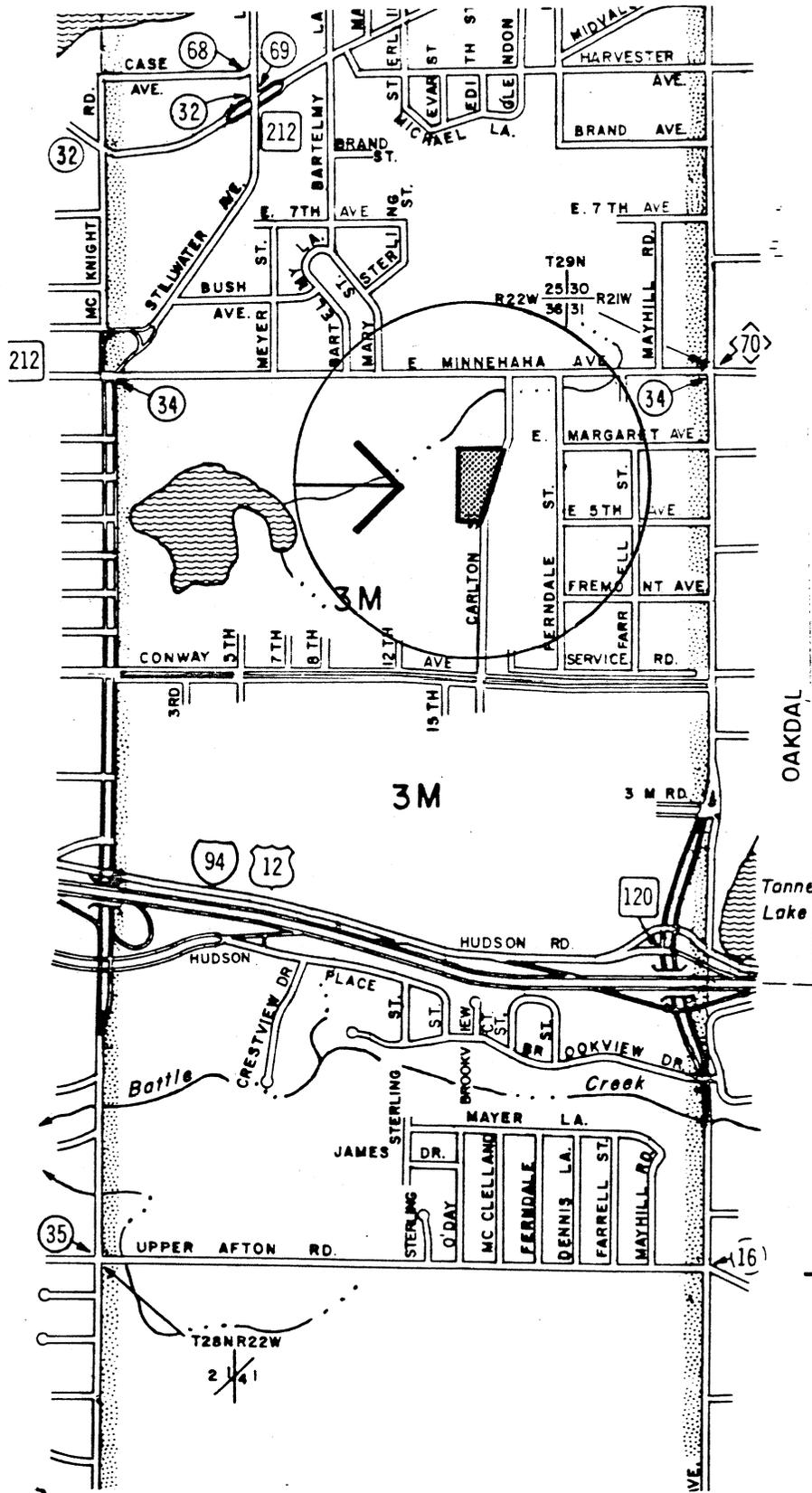
Procedure

1. Planning Commission recommendation
2. City Council--1st reading
3. City Council--2nd reading and adoption

mb

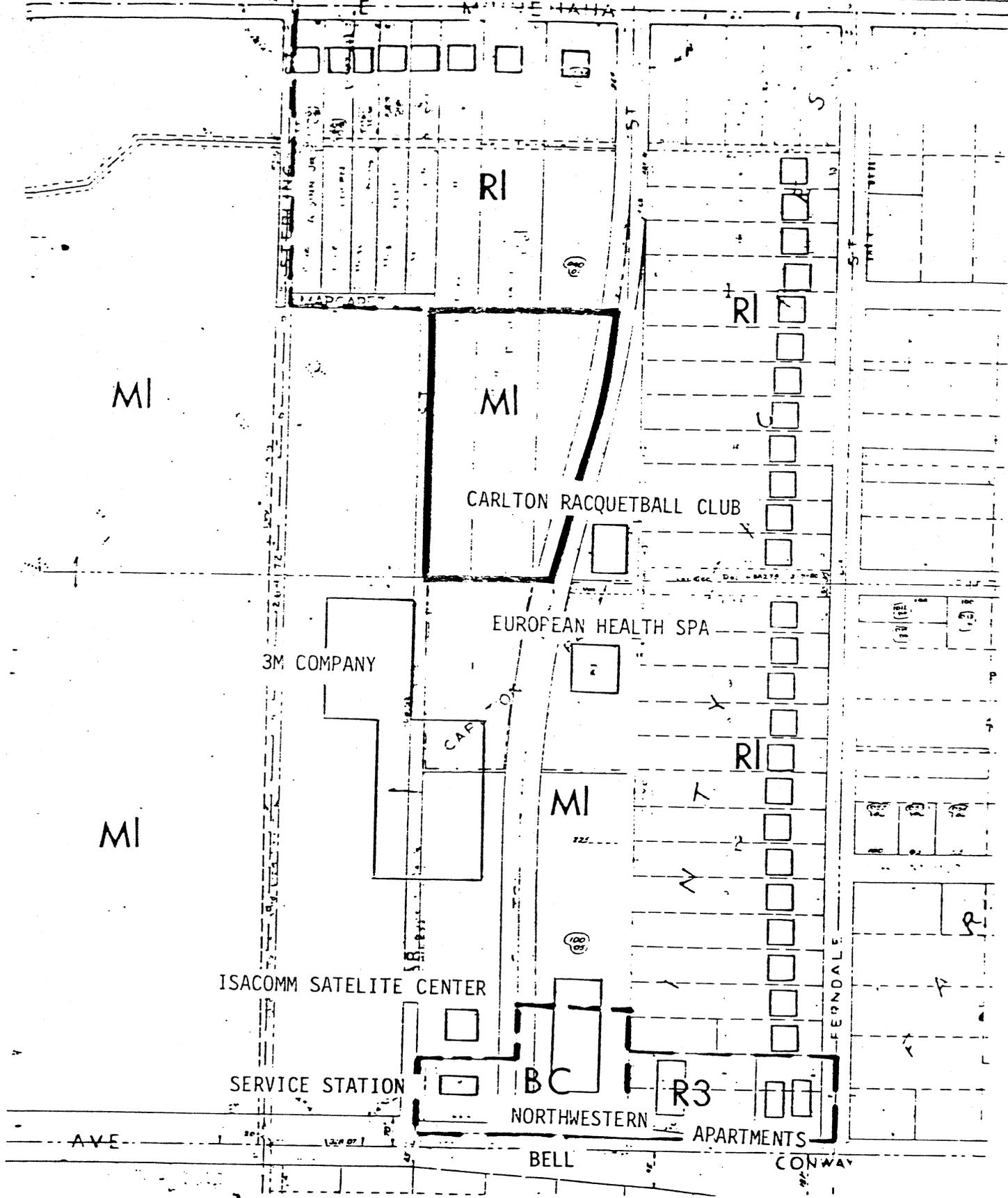
Enclosures:

1. Location Map
2. Property Line Map
3. Beaver Lake Land Use Plan

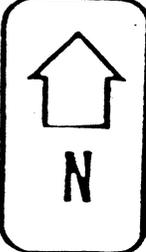


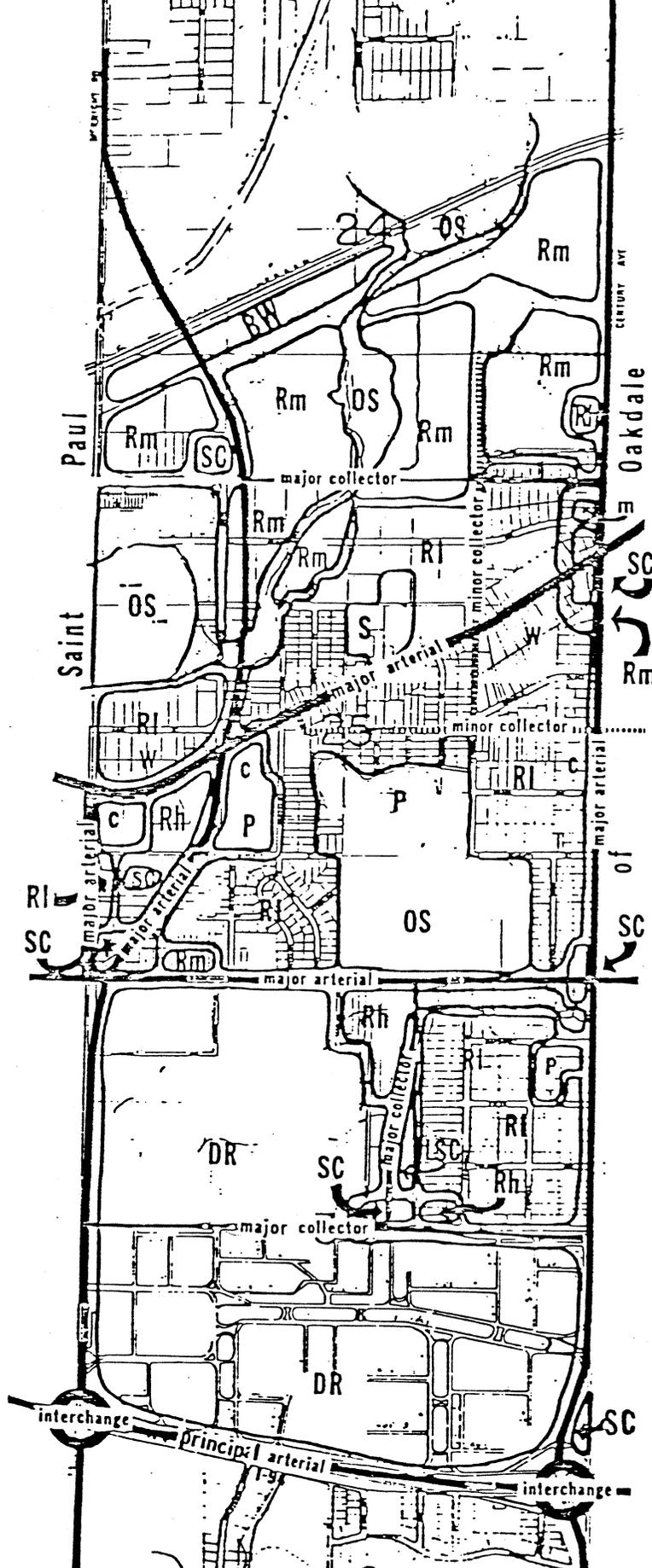
LOCATION MAP





PROPERTY LINE MAP





Beaver Lake
NEIGHBORHOOD LAND USE PLAN

RESOLUTION NO. _____

COUNTY OF RAMSEY
CITY OF MAPLEWOOD

RESOLUTION MAKING FINDINGS OF FACT AND APPROVAL OF A ZONE CHANGE

WHEREAS, a rezoning procedure has been initiated by the City of Maplewood for zone change from M-1 to R-3 for the following described property:

The west 830 feet of the south half of the northwest quarter of the northeast quarter of Section 36, Township 29, Range 22, lying west of the centerline of Carlton Street.

WHEREAS, the procedural history of this rezoning procedure is as follows:

1. That a rezoning procedure has been initiated by the City of Maplewood pursuant to Chapter 915 of the Maplewood Code;
2. That said rezoning procedure was referred to and reviewed by the Maplewood City Planning Commission on the 16th day of August, 1982, at which time said Planning Commission recommended to the City Council that said rezoning procedure be approved;
3. That the Maplewood City Council held a public hearing to consider the rezoning procedure, notice thereof having been published and mailed pursuant to law; and
4. That all persons present at said hearing were given an opportunity to be heard and/or present written statements, and the Council considered reports and recommendations of the City Staff and Planning Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MAPLEWOOD, RAMSEY COUNTY, MINNESOTA that the above-described rezoning be granted on the basis of the following finding of fact:

The rezoning would be consistent with the City Comprehensive Plan.

Adopted this _____ day of _____, 198__.

Mayor

Manager

ATTEST:

City Clerk

MEMORANDUM

Action by Council:

Endorsed _____
Modified _____
Rejected _____
Date _____

TO: City Manager
FROM: Director of Community Development
SUBJECT: Rezoning
LOCATION: 500-600 Carlton Street
APPLICANT: City of Maplewood
OWNERS: Otto Bonestroo, Edward Bifulk, Northwestern Bell Telephone
DATE: August 12, 1982

SUMMARY OF THE PROPOSAL

Request

The City is proposing to rezone this site from M-1, light manufacturing to BC (M), Business Commercial Modified.

Proposed Use

No specific development is proposed for this land.

CONCLUSION

Analysis

This rezoning is part of the City-wide downzoning program initiated by the City Council on June 28. The purpose is to bring the zoning of properties into conformance with the Comprehensive Plan.

The BC (M) zone is designed as a buffer to residential areas and is now used on the south side of Beam Avenue. The BC (M) zone is recommended since it allows recreational uses, such as the spa and racquetball club, while prohibiting car lots and drive-in restaurants that are allowed in the BC zone. Office uses, such as Northwestern Bell are also allowed. Council, however, has placed a moratorium on restaurant and recreational uses in a BC (M) zone. If Council eventually prohibits recreational uses in a BC (M) zone, the spa and racquetball club would be non-conforming uses if rezoned to BC (M).

Recommendation

Approval of the enclosed resolution rezoning the site to BC (M).

BACKGROUND

Site Description

Acreage: 9.7 acres

- Existing land uses: Carlton Racquetball Club (600 Carlton Street), European Health Spa (586 Carlton Street), and Northwestern Bell Telephone (500 Carlton Street).

Surrounding Land Uses

Northerly and Easterly: Single dwellings

Southerly: Conway Avenue and 3-M Company

Westerly: Carlton Street

DEPARTMENTAL CONSIDERATIONS

Planning

Land Use Plan designation: LSC, limited service commercial

The limited commercial center classification refers to commercial facilities on a neighborhood scale. Heavy industrial uses, department stores, motels, auto accessory stores, etc. would be prohibited, while other land uses of a medium intensity nature would be permitted subject to meeting certain performance standards.

Zoning: M-1 and BC.

ADMINISTRATIVE

Procedure

1. Planning Commission recommendation
2. City Council--1st reading
3. City Council--2nd reading and adoption

Enclosures

1. Resolution
2. Location Map
3. Property Line Map
4. Beaver Lake Land Use Plan
5. BC (M) Zoning Uses

RESOLUTION NO. _____
COUNTY OF RAMSEY
CITY OF MAPLEWOOD

RESOLUTION MAKING FINDINGS OF FACT AND APPROVAL OF A ZONE CHANGE

WHEREAS, a rezoning procedure has been initiated by the City Council of Maplewood for a zone change from M-1 and BC to BC (M) for the following-described property:

That part of the west half of the northeast quarter of Section 36, Township 29, Range 22 that is east of the centerline of Carlton Street and west of the west line of blocks one and two, Minty Acres.

Such above property being also known and numbered as Numbers 500, 586 and 600 Carlton Street, Maplewood, Ramsey County, Minnesota;

WHEREAS, the procedural history of this rezoning procedure is as follows:

1. That a rezoning procedure has been initiated by the City Council pursuant to Chapter 915 of the Maplewood Code;
2. That said rezoning procedure was referred to and reviewed by the Maplewood City Planning Commission on the 16th day of August, 1982, at which time said Planning Commission recommended to the City Council that said rezone procedure be approved;
3. That the Maplewood City Council held a public hearing to consider the rezoning procedure, notice thereof having been published and mailed pursuant to law; and
4. That all persons present at said hearing were given an opportunity to be heard and/or present written statements, and the Council considered reports and recommendations of the City Staff and Planning Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MAPLEWOOD, RAMSEY COUNTY, MINNESOTA that the above-described rezoning be granted on the basis of the following findings of fact:

1. The proposed rezoning would be consistent with the Comprehensive Plan.
2. The present zone is not consistent with the Comprehensive Plan.

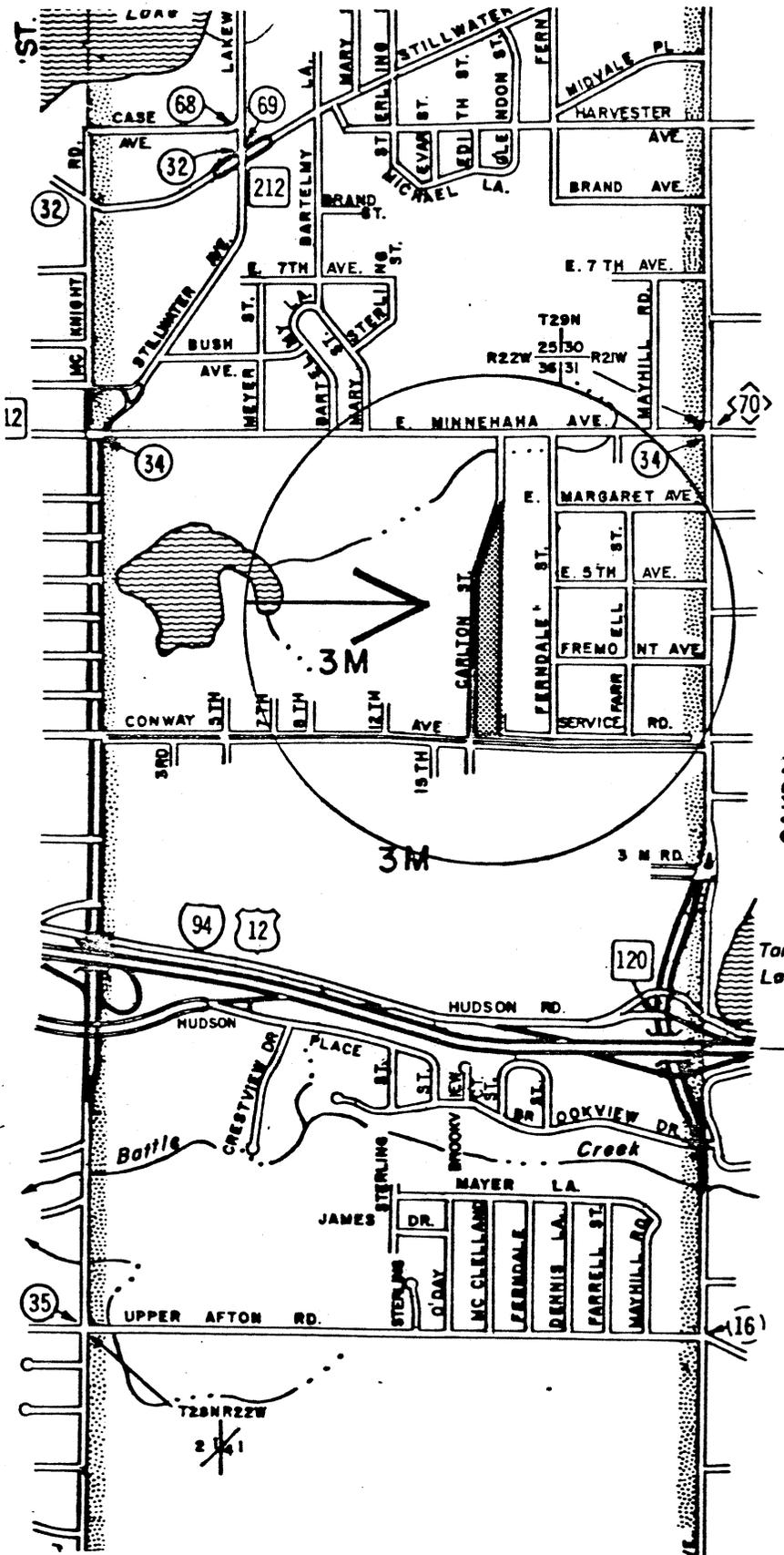
Adopted this _____ day of _____, 198__.

Mayor

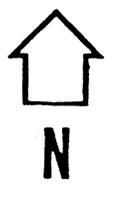
Manager

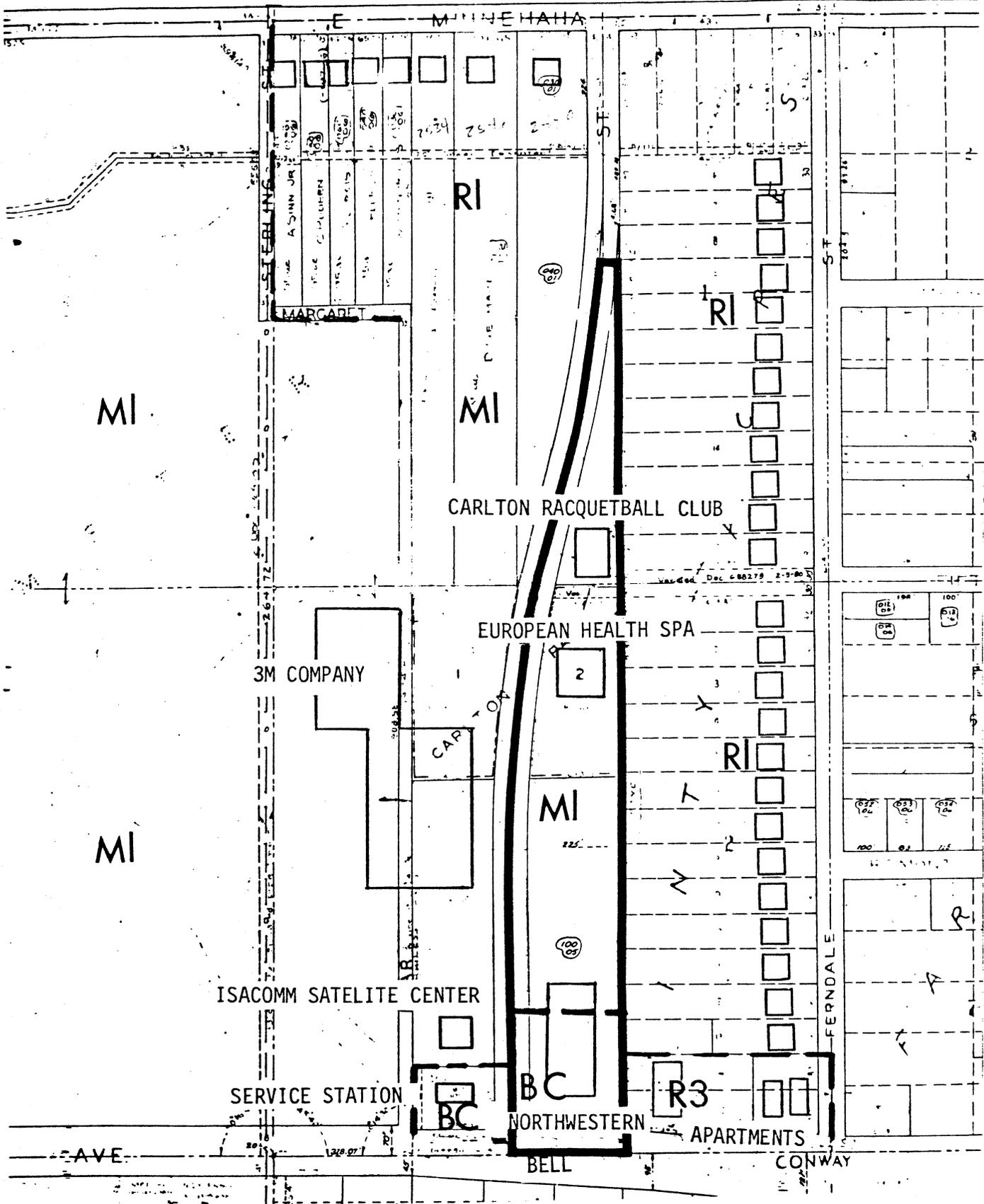
ATTEST:

City Clerk



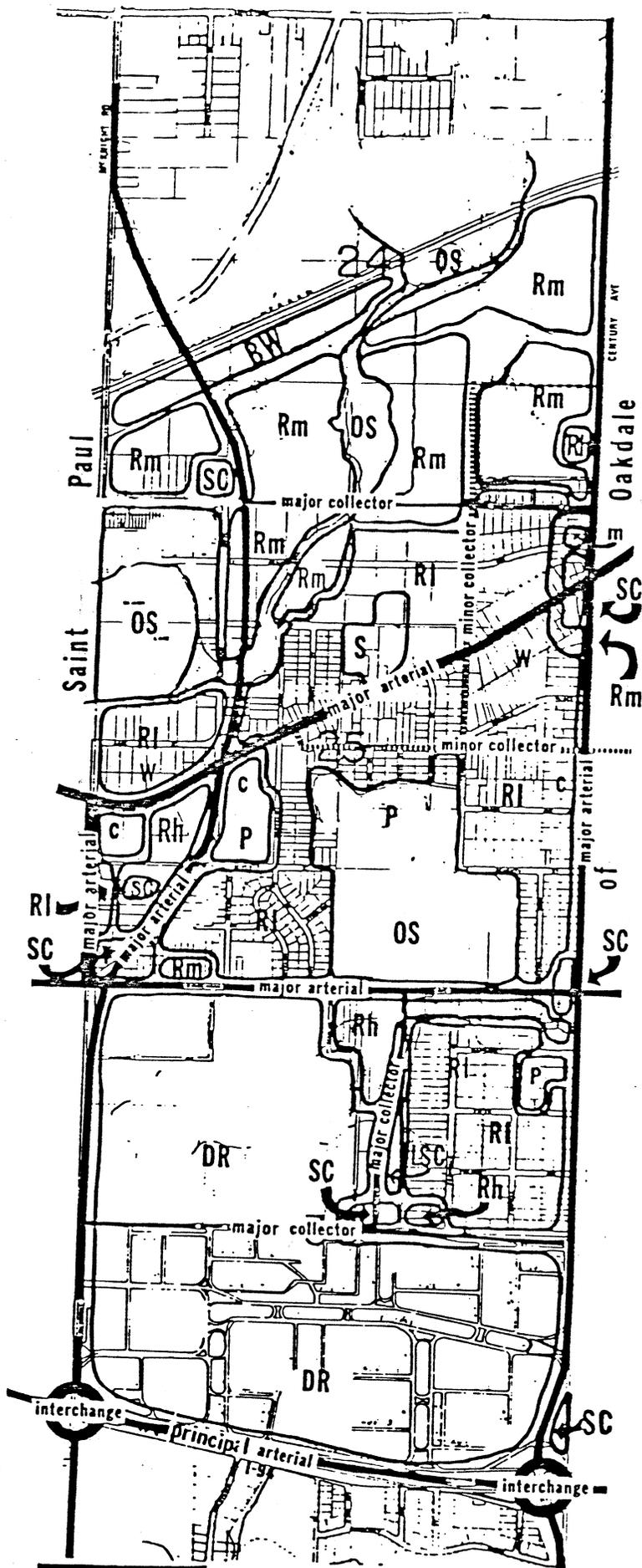
LOCATION MAP





PROPERTY LINE MAP





Beaver Lake
NEIGHBORHOOD LAND USE PLAN

AN ORDINANCE AMENDING CHAPTER 907 OF THE
MUNICIPAL CODE ESTABLISHING A BUSINESS AND
COMMERCIAL (MODIFIED) BC (M) COMMERCIAL
DISTRICT

THE COUNCIL OF THE CITY OF MAPLEWOOD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 907.050 is added to the Maplewood Municipal Code Chapter 907.

907.050. BC (M) COMMERCIAL DISTRICT. In a BC (M) Commercial District the following regulations shall apply:

1. USE REGULATIONS. A building may be erected or used, and a lot may be used or occupied, for any of the following purposes, and no other:
 - (a) Retail Store; professional and administrative offices; bank or savings and loan; personal service, craftsmen's shop, mortuary;
 - (b) Hotel, motel;
 - (c) Theater, walk in;
 - (d) Job printing shop;
 - (e) Bakery or candy shop producing goods for on-premise retail sale;
 - (f) Any use of the same general character as any of the above permitted uses as determined by the City Council provided that no use which is noxious or hazardous shall be permitted.
2. The following uses when authorized by the lawful governing body by means of a special use permit:
 - (a) All uses permitted in R-3 Residence Districts, except the construction of dwelling houses permitted in 904, R-1 and 905, R-2;
 - (b) Laundromat or similar automatic self-service laundry;
 - (c) Restaurant;
 - (d) Place of amusement, recreation, or assembly other than a theater.
3. Prohibited uses:
 - (a) Drive-in theaters, drive-in restaurants;
 - (b) Commercial or fee parking lots where such use is the only use of a given parcel or where such use provides for general rather than specific use parking.

8-16-82

E. Rezoning: 500--600 Carlton Street (east side)

Secretary Olson said this is a proposed rezone from M-1 to BC (M).

Chairman Prew asked if there was anyone present who wished to comment on the proposed zone change.

Commissioner Sletten moved the Planning Commission recommend to the City Council approval of the resolution rezoning the site to BC (M), Business Commercial (Modified).

Commissioner Barrett seconded Ayes--Commissioners Barrett, Fischer, Hejny, Howard, Kishel, Prew, Sletten, Whitcomb

MEMORANDUM

F-4

TO: City Manager
FROM: Associate Planner--Johnson
SUBJECT: Street Vacation
LOCATION: Edgehill Road, West of White Bear Avenue
APPLICANT: Dr. Charles Rawlings
DATE: August 17, 1982

Action by Council:

Endorsed _____

Modified _____

Rejected _____

Date _____

SUMMARY OF THE PROPOSAL

Vacate Edgehill Road, lying west of White Bear Avenue. The applicant's office building is presently constructed on a portion of this right-of-way, causing title problems (map three).

CONCLUSION

Analysis

There is no public need to retain this right-of-way.

Recommendation

Approval of the attached resolution, vacating Edgehill Road, lying west of White Bear Avenue, subject to retention of the east 27 feet for the future expansion of White Bear Avenue, on the basis that improvement of the right-of-way would serve no public purpose.

BACKGROUND

Description of the right-of-way

1. An unimproved thirty-foot wide by 160-foot long street right-of-way. The north thirty feet of the right-of-way was vacated by a district court action in 1909.
2. The applicant's office building encroaches nearly to the southern boundary of the right-of-way (map three).

Surrounding Land Uses

North: Office building

East: White Bear Avenue, across White Bear Avenue, an unimproved thirty-foot wide portion of Edgell Road and commercial businesses.

South: Property owned by the applicant which is crossed by County Ditch 18.

West: Outlot A (map three) of the proposed Maple Ridge Mall plat, to be dedicated to Ramsey County for County Ditch 18 and undeveloped land planned, for open space.

Past Actions

7-5-73: Council conditionally approved building and site plans for Mr. Gerry Mogren to construct the office building which presently encroaches upon the subject right-of way. The property survey and City property line maps failed to show the existence of this right-of-way.

DEPARTMENTAL CONSIDERATIONS

Planning

1. Land Use Plan Designation: SC-Service Commercial
2. Zoning: BC - Business Commercial
3. Compliance with Land Use Laws: Section 412.851 of State Statutes allows a City to vacate any interest in property, when the Council makes a finding "that it appears to be in the public interest to do so."

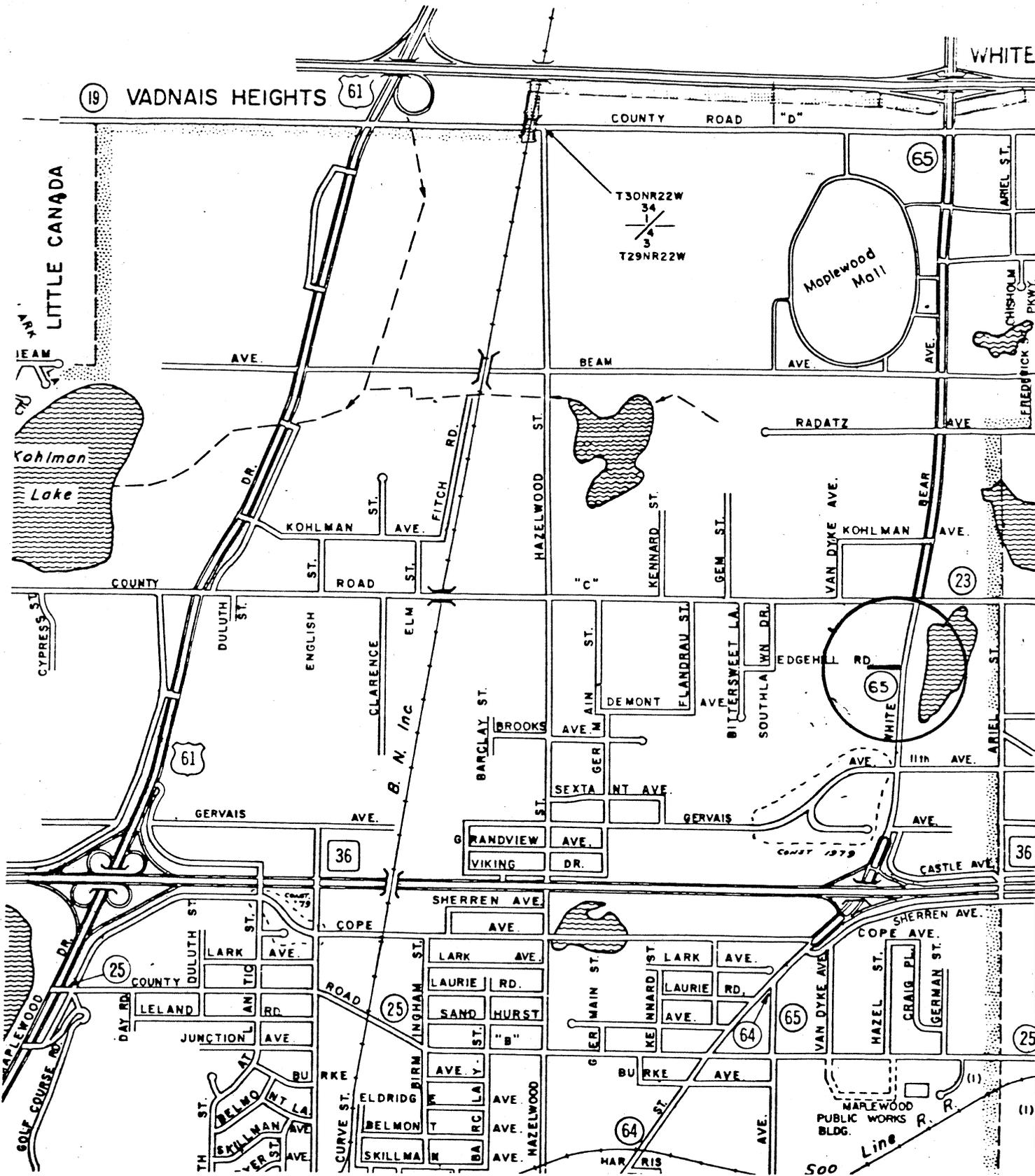
Public Works/County Highway Department

The easterly 27 feet of Edgell Road should be retained for the planned future expansion of White Bear Avenue to a 120-foot wide right-of-way. White Bear Avenue presently has a 66-foot right-of-way.

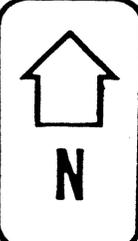
mb

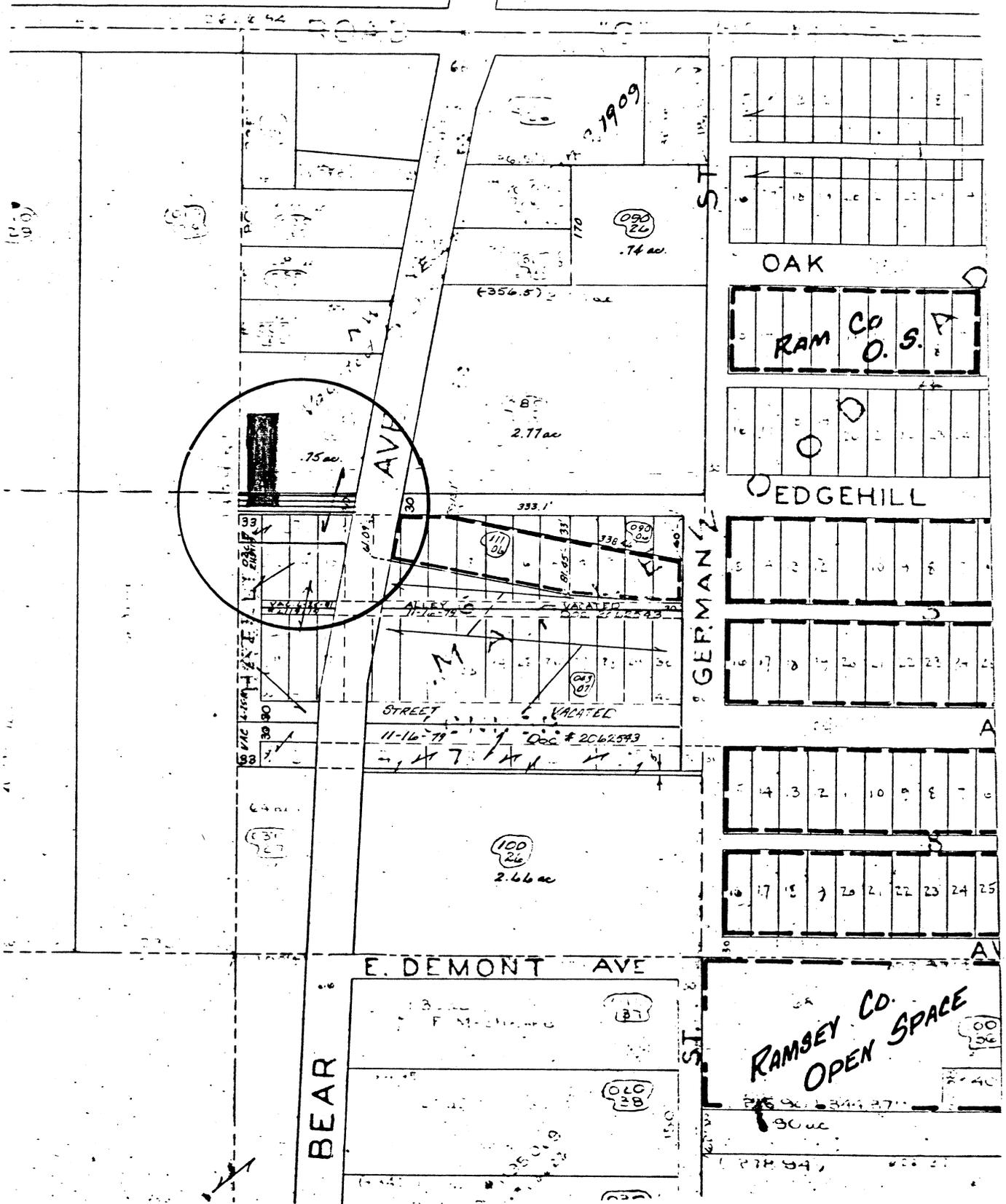
Enclosures:

1. Location Map
2. Property Line Map
3. Petition
4. Resolution



LOCATION MAP





PROPERTY LINE MAP



Office Building

563.04

OUTLOT A (To be dedicated to Ramsey County Open Space)

County Ditch 18

485.70

WESTERLY EXTENSION OF S. LINE OF N. 20.00 FEET OF BLOCK 6, MAPLEWOOD ADD. TO NORTH ST. PAUL

PROPOSED MAPLE RIDGE MALL

WHITE BEAR AVENUE

48.88
30
DRAINAGE AND UTILITY
609.98
EASEMENT
30
658.86

W LINE OF E. 396.5 FT. OF NW 1/4 OF NW 1/4

W LINE OF E. 230 FT. OF NW 1/4 OF NW 1/4
E LINE OF W. 166.5 FT. OF E. 396.5 FT. OF NW 1/4 OF NW 1/4

2

W. LINE OF NE 1/4 OF NW 1/4

149.47

127.32
173.70

170.52

6.38

528.24

SITE PLAN

MAP 3



Unimproved Edgehill Road right-of-way



Drainage Easement to be dedicated



N

PUBLIC VACATION PETITION

We, the undersigned, being a majority of the owners of land abutting on the (street), (alley), or (public easement) described as: That part of Edgehill Road lying Southerly of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, Township 29, Range 22, lying Westerly of the Westerly right-of-way line of White Bear Avenue and Northerly of Lots 13, 14 and 15, Block 6, Maplewood Addition.

do hereby petition the City Council of Maplewood, Minnesota, to vacate the above described area

<u>Signature</u>	<u>Name</u> (Please print or type)	<u>Abstractor's List No.</u>
------------------	---------------------------------------	------------------------------

<u>Charles C. Rawlings</u>	<u>Charles C. Rawlings</u>	
<u>Peggy L. Rawlings</u>	<u>Peggy L. Rawlings</u>	
<u>Richard A. Hastings</u>	<u>RICHARD A. HASTINGS</u>	
<u>Robyn Marie Hastings</u>	<u>Robyn Marie Hastings</u>	
<u>Dyane F. Nelson</u>	<u>DYANE F. NELSON</u>	
<u>Margaret R. Nelson</u>	<u>Margaret R. Nelson</u>	
<u>Delano J. A. Dunn</u>	<u>Delano J. A. Dunn</u>	
<u>Cynthia L. Dunn</u>	<u>Cynthia L. Dunn</u>	
<u>Frank J. Gumbold</u>	<u>FRANK J. GUMBOLD</u>	
<u>Betty L. Gumbold</u>	<u>BETTY L. GUMBOLD</u>	
<u>James D. Kurn</u>	<u>JAMES D. KURN</u>	
<u>Shirley D. Kurn</u>	<u>SHIRLEY D. KURN</u>	

RESOLUTION NO. _____
COUNTY OF RAMSEY
CITY OF MAPLEWOOD

RESOLUTION MAKING FINDINGS OF FACT AND APPROVING VACATION
OF PUBLIC INTEREST IN REAL PROPERTY

WHEREAS, Dr. Charles Rawlings has initiated these proceedings to vacate the public interest in the following-described real property:

Except the east 27 feet, that part of Edgehill Road, lying westerly of White Bear Avenue in the NE 1/4 of the NW 1/4 of Section 11, Township 29, Range 22.

WHEREAS, the procedural history of the vacation application is as follows:

1. That an application for vacation was initiated by Dr. Charles Rawlings on 20th day of July, 1982;
2. That a majority of the owners of property abutting said street have signed a petition for the above-described vacation;
3. That said vacation has been referred to and reviewed by the Maplewood Planning Commission on the 20th day of September, 1982 and referred back to the Maplewood City Council with the recommendation of approval;
4. That pursuant to the provisions of Minnesota Statutes, Section 412.851 a public hearing was held on the _____ day of _____, 19____ preceded by two-weeks published and posted notice at which meeting the City Council heard all who expressed a desire to be heard on the matter, considered the Planning Commission recommendation and Staff reports.

WHEREAS, upon vacation of the above-described street public interest in the property will accrue to the following-described abutting properties:

Lots 13-16, Block 6, Maplewood Addition

NOW, THEREFORE, BE IT RESOLVED, that the Maplewood City Council finds that it is in the public interest to grant the above-described vacation because improvement of the right-of-way would serve no public purpose.

BE IT FURTHER RESOLVED, that the City Clerk be and hereby is directed to prepare a notice of completion of the proceedings pursuant to the provisions of Minnesota Statutes, Section 412.851 and shall cause the same to be presented to the County Auditor for entry in his transfer records and that the same shall be thereafter filed with the Ramsey County Recorder, subject to the retention of:

The east 27 feet of right-of-way for the future expansion of White Bear Avenue.

ADOPTED THIS _____ day of _____, 19____.

ATTEST:

Mayor

Manager

City Clerk

MEMORANDUM

Action by Council:

Enforced _____
Modified _____
Rejected _____
Date _____

TO: City Manager
FROM: Thomas Ekstrand - Associate Planner
SUBJECT: Special Exception and Parking Variance
LOCATION: Larpenteur Avenue, West of Parkway Drive
APPLICANT/OWNER: WoodMark, Inc.
PROJECT: Bennington Woods
DATE: September 13, 1982

SUMMARY OF THE PROPOSAL

Request

Approval of a special exception to construct 56 condominium units. The applicant also is requesting approval of a variance for 9 by 18-foot parking spaces. Code requires 10 by 20-foot spaces.

Proposal

1. Refer to the enclosed site plan and letter dated August 16, 1982. Please note, however, that the applicant has applied for a special exception and not the planned unit development as mentioned in the letter.
2. Fourteen one-bedroom units and 42 two-bedroom units are proposed.

CONCLUSION

Issues

Staff does not find any hardship which is unique to this property. The question to be asked, therefore, is whether ten-foot by twenty-foot stalls are needed, especially with the number of small cars increasing. Refer to the enclosed parking stall survey of metropolitan communities closest to Maplewood in population. The majority of those cities surveyed require a width of at least nine feet and a minimum depth of twenty feet.

Alternatives:

- I. Approve nine by twenty-foot stalls for the project.
As indicated on the survey, nine-foot wide spaces are most often required by other cities. This stall width is also most often requested by developers when preparing their site plans.
- II. Deny the variance and require ten by twenty-foot stalls
This alternative would result in a slight loss of lawn area, but would not hamper the site plan.

Recommendation

- I. Approval of a special exception for the Bennington Woods Condominiums on the basis that the proposal is consistent with the Comprehensive Land Use Plan.
- II. Approval of a parking stall width variance of one foot to permit the parking spaces to measure nine feet wide. Approval is on the basis that:
 1. The majority of metropolitan communities closest to Maplewood in population require nine-foot wide stalls.
 2. Nine-foot wide stalls would increase landscaping area on the site.
 3. Cars are smaller and no longer need ten-foot wide parking spaces.

Deny the variance for eighteen-foot deep stalls, on the basis that:

If the variance is approved, Staff recommends that Council initiate a code amendment allowing nine-foot wide stalls so that future developers will not have to apply for a variance.

BACKGROUND

Site Description

1. Site Size: 5.59 acres
2. Existing Land Use: Maple Hills Golf Course driving range--

-Surrounding Land Uses

Northerly: Maple Hills Golf Course

Southerly: Larpenteur Avenue. South of Larpenteur Avenue are single and double dwellings in St. Paul.

Easterly: Maple Hills Golf Course and a single dwelling

Westerly: Mount Zion Cemetery

Past Actions

May 9, 1974: The City Council approved a special exception permit and a building height variance to allow apartments to be constructed on the subject site.

December 19, 1974: The City Council approved site and building plans for a 138 unit apartment complex which encompassed the site.

May 1, 1975: The City Council authorized staff to enter into a contract for deed to purchase a portion of the golf course to retain for permanent open space (never materialized).

April 8, 1980: The Maplewood Housing and Redevelopment Authority passed a motion in favor of conceptual support for a proposed housing project consisting of forty units of elderly housing and thirty units of family housing.

September 7, 1982: The Community Design Review Board approved plans for Bennington Woods with sixteen conditions. The Board also recommended approval of a variance to allow nine by twenty-foot parking stalls.

Parking Related:

October 4, 1979: Council denied Gerry Mogren's appeal of the Design Review Board's requirement for 10 by 20 foot parking stalls at his office building at 2580 White Bear Avenue.

June 18, 1981: Council denied Otto Bonestroo's request for the parking stalls at the Carlton Racquetball Club to measure 8.66 feet in width, and required him to provide these stalls at a width of ten feet.

DEPARTMENT CONSIDERATIONS

Planning

1. Land Use Plan Designation: Rh, High Density Residential
2. The Rh classification is designated for such housing types as apartments, two-family homes, townhouses, nursing homes, dormitories, or elderly housing. The maximum population density is 34 people per net acre.
3. The density proposed is 22.3 persons per acre.
4. Zoning: BC, Business Commercial
5. Section 907.010 (2.a.) of the Zoning Code allows multiple dwellings upon the approval of a special exception by the City Council.
6. State law requires that the following findings be made before a variance can be granted:
 - a. Strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.
 - b. The variance would be in keeping with the spirit and intent of the ordinance.

"Undue hardship" as used in connection with the granting of a variance, means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls. The plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality.

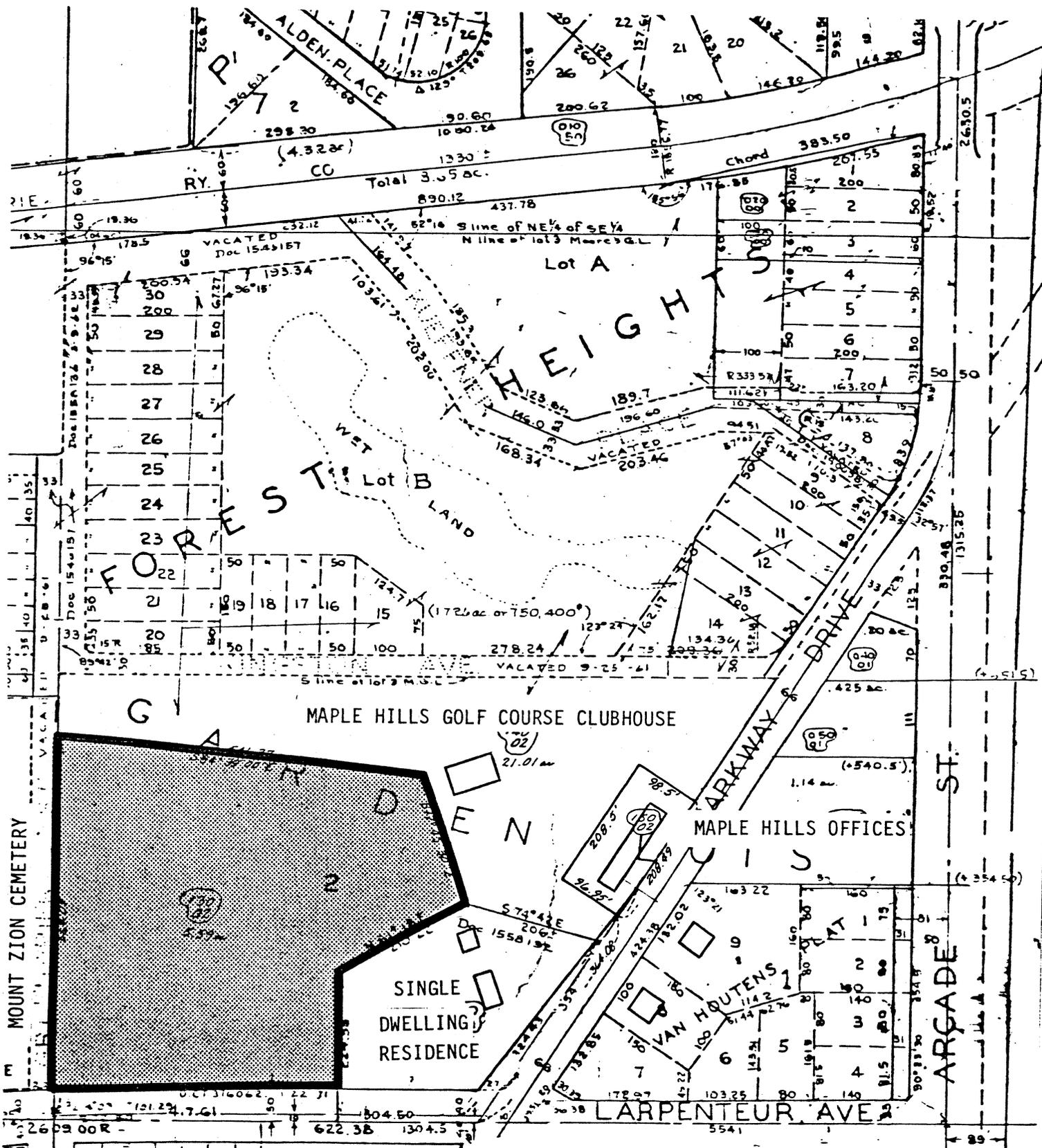
Public Works

Sanitary sewer and water are available.

mb

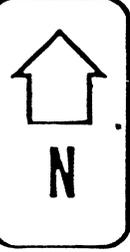
Enclosures:

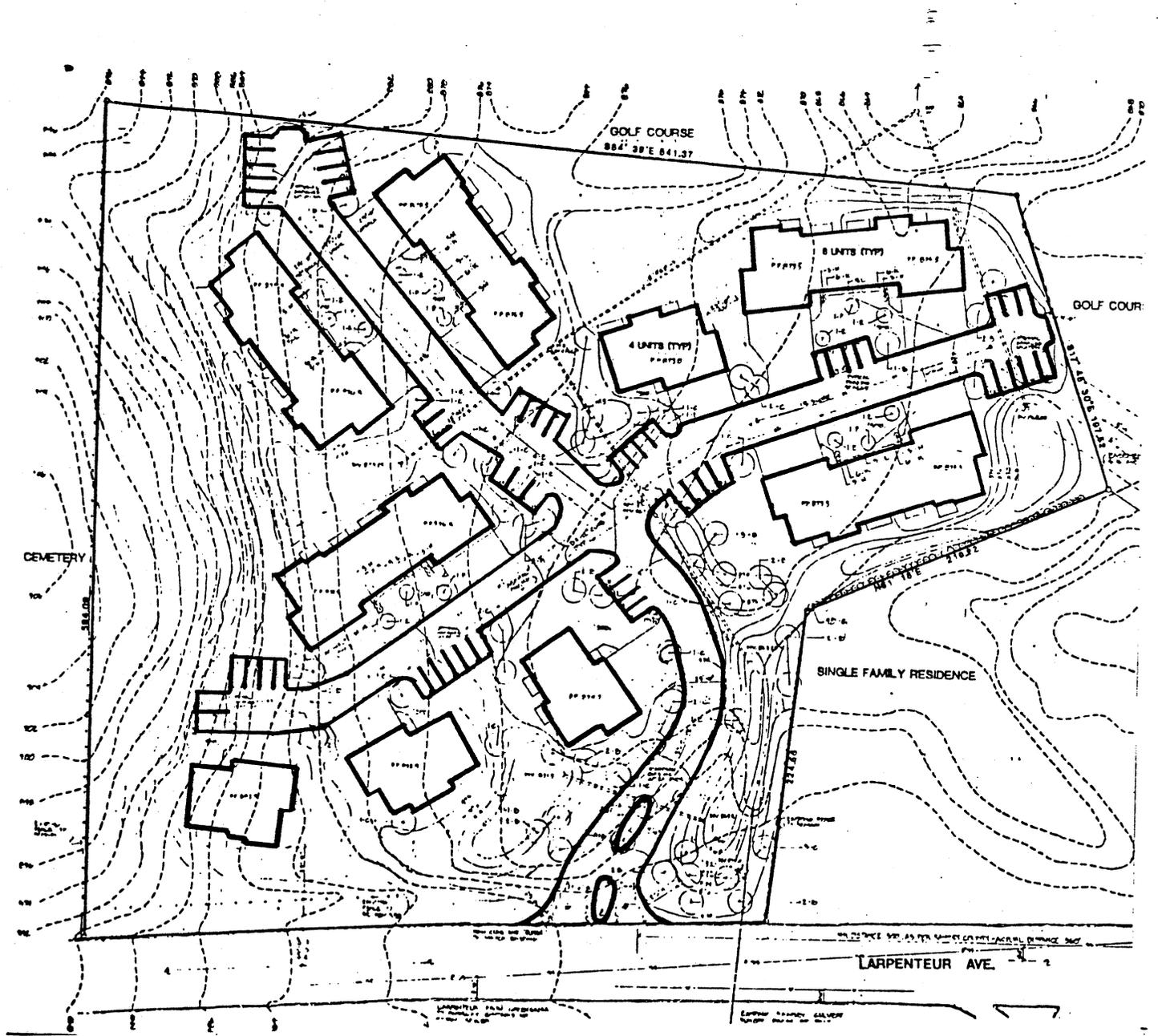
1. Location Map
2. Property Line Map
3. Site Plan date stamped 8-16-82
4. Applicant's letter dated 8-16-82
5. Parking Stall Survey
6. Resolution



JUNE 2 1961 W.H.R. SCALE 1"=200'

PROPERTY LINE MAP





AUG 16 1982

SITE PLAN





WOODMARK, INC.
1707 Cope Avenue
St. Paul, MN 55109
612-770-9100

August 16, 1982

Mr. Geoffrey Olson
City of Maplewood
1380 Front Avenue
Maplewood, MN 55109

Dear Sir:

RE: Bennington Woods

Enclosed are ten copies of the Site Plan for our proposed Bennington Woods housing development and our Community Design Review Board Application. We have also submitted applications to Washington-Ramsey Metro Watershed District and to Ramsey County for access control to County roads.

The proposed project is a planned unit development consisting of 56 units in condominium style ownership situated in 4-four plex buildings and 5-eight plex buildings. The architectural style is colonial with a considerable amount of concern given to authenticity. We feel the buildings and site plan will give the attractive feel of a village of Early American buildings. We have strived to meet all known City of Maplewood design and zoning requirements in the planning of this project.

The roads for the project will be private drives with public sewer and water. Storm water is being handled by retention ponds on the site with the water being discharged into a retention pond located north of the site on the golf course via a private storm sewer line.

We have installed "D 4-12" curbing throughout the site as indicated on the site plan with the exception of the entrance drive and the area around the catch basin. In these areas, a standard curb and gutter will be used.

We are requesting, with this application, specific approval of a change in the size of the parking stalls from 10 x 20 feet to 9 x 18 feet. We feel this size is more appropriate in residential areas and is compatible with the general reduction in size of the automobile over the past few years.

As your review progresses, please communicate directly with this office or those members of our design team as appropriate.

Sincerely,

David C. Briggs

Enclosures

SURVEY OF METROPOLITAN COMMUNITIES
CLOSEST TO MAPLEWOOD IN POPULATION
6-11-81

<u>CITY</u>	<u>PARKING STALL DIMENSION FOR 90 DEGREE PARKING*</u>	<u>DIAGONAL PARKING AT 60 DEGREES</u>
St. Louis Park	9 x 20	
Minnetonka	8.5 x 20	
Richfield	9 x 20	
Coon Rapids	10 x 20	
Roseville	9 x 18	
Burnsville	9 x 20	
Plymouth	9 x 18.5	9 x 22
Brooklyn Center	8.6 x 19.5	9 x 20
Fridley	10 x 20	
Blaine	9 x 20	
Crystal	9.5 x 20	
New Hope	9 x 20	
Golden Valley	9 x 20	
White Bear Lake	9 x 19	
Apple Valley	10 x 20	
South St. Paul	9 x 20	
Eagan	10 x 20	
Maple Grove	9 x 20	
Columbia Heights	9 x 20	

All dimensions are in feet. Width dimensions are measured perpendicular to parking stall stripes.

* Most of the surveyed communities used this dimension for diagonal as well right angle parking.

Of the 19 cities surveyed, four (21%) had a minimum width requirement of 10 feet, twelve (63%) required at least 9 feet of width, two (11%) were under 9 feet, and one (5%) was at 9.5 feet.

COUNTY OF RAMSEY
CITY OF MAPLEWOOD

RESOLUTION MAKING FINDINGS OF FACT AND
APPROVAL OF A VARIANCE

WHEREAS, a variance request has been initiated by WoodMark, Inc. for 9 by 18 foot parking stalls for the following described property:

That part of Lot 2, Moore's Garden Lots according to the plat thereof on file and of record in the office of the Register of Deeds in and for Ramsey County, Minnesota described as beginning at the southwest corner thereof; thence on an assumed bearing of east along the South line of said Lot 2 a distance of 417.61 feet; thence North 0° 00' a distance of 224.55 feet; thence north 61° 18' E. 210.22 feet; thence North 17° 45' 50" West 197.52 feet; thence North 84° 39' West 541.37 feet more or less to a point on the West line of said Lot 2 distant 564.09 feet North from the Southwest corner of said lot 2; thence Southerly along said West line to the point of beginning.

Together with an easement for ingress and egress over and across that part of said Lot 2 described as commencing at the Southwest corner thereof; thence on an assumed bearing of East along the South line of said Lot 2 a distance of 417.61 feet; thence north 0°00' a distance of 224.55 feet; thence North 61° 18' East 210.22 feet to the point of beginning of the easement to be described; thence north 17° 45' 50" West 38.18 feet; thence South 74° 42' East to the Southeasterly line of said Lot 2; thence Southwesterly along said Southeasterly line to its intersection with a line that bears south 74° 42' east from the point of beginning; thence North 74° 42' West to the point of beginning.

WHEREAS, the procedural history of this variance request is as follows:

1. That a variance request has been initiated by WoodMark, Inc., pursuant to Chapters 912 and 1000 of the Maplewood Code and Section 462.357 (g) of State Statute.
2. That said variance request was referred to and reviewed by the Maplewood Community Design Review Board on the 7th day of September, 1982, at which time said Board recommended to the City Council said variance be approved for 9 by 20 foot stalls.
3. That the Maplewood City Council held a public hearing to consider the variance request, notice thereof having been published and mailed pursuant to law; and
4. That all persons present at said hearing were given an opportunity to be heard and/or present written statements, and the Council considered reports and recommendations of the City Staff and Board.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MAPLEWOOD, RAMSEY COUNTY, MINNESOTA that the above-described variance be granted for 9 by 20 foot stalls on the basis of the following findings of fact:

1. The majority of metropolitan communities closest to Maplewood in population require nine-foot wide stalls.
2. Nine-foot wide stalls would increase landscaping area on the site.
3. Cars are smaller and no longer need ten-foot wide parking spaces.

Adopted this _____ day of _____, 1982.

Mayor

Manager

Attest:

City Clerk

I-1

MEMORANDUM

TO: City Manager
FROM: Associate Planner--Ekstrand
SUBJECT: Special Exception
LOCATION: Maplewood Mall
APPLICANT: Franchise Contracting and Equipment
OWNER: Homart Development
PROJECT: Sbarro, The Italian Eatery
DATE: September 16, 1982

SUMMARY OF THE PROPOSAL

Request

Approval to operate a game room in conjunction with a restaurant.

Proposal

1. Fifteen games are proposed.
2. The proposed entertainment area would have adult supervision. Tokens could be purchased on the premises to be used for the games.
3. Refer to the enclosed floor plans.

CONCLUSION

Analysis

Staff's only concern is this facility has the potential for becoming a hang out for teenagers and adolescents if supervision becomes lax. There should be periodic review of this facility, therefore, to determine if there are any problems.

Recommendation

Approval of a special exception for a game room in the proposed Sbarro Restaurant since the use does not appear that it would be objectionable to adjacent businesses. Approval is subject to:

1. The applicant shall provide written approval from Homart Development.
2. All required licenses for operation shall be obtained from the City.
3. This permit may be renewed after one year of operation provided there have been no problems caused by the facility.

BACKGROUND

Site Description

1. Floor area: 1,715 square feet
2. Existing use: vacant. Formerly "The Parlor"
- 3. Location: Maplewood Mall--first floor

Past Actions

- 5-1-75: The City Council approved a special exception for Aladdin's Castle inside the Mall.
- 2-1-79: Council approved a special exception permitting Aladdin's Castle to expand their amusement center.
- 7-2-81: Council approved a special exception for the Pizza Time Theatre in the Mall. The Pizza Time Theatre, a similar facility offering amusement as part of a restaurant, was never developed in the Mall.
- 11-5-81: Council approved a special exception for the Circus to locate in the Mall.

DEPARTMENT CONSIDERATIONS

Planning

1. Land Use Plan designation: DC, Diversified Center
2. Zoning: BC, Business Commercial
3. Section 907.010 (2.c.) of the Zoning Ordinance requires that places of amusement may only be permitted when authorized by the lawful governing body as a special exception.

City Clerk

All necessary licenses for food handling and game machines must be obtained.

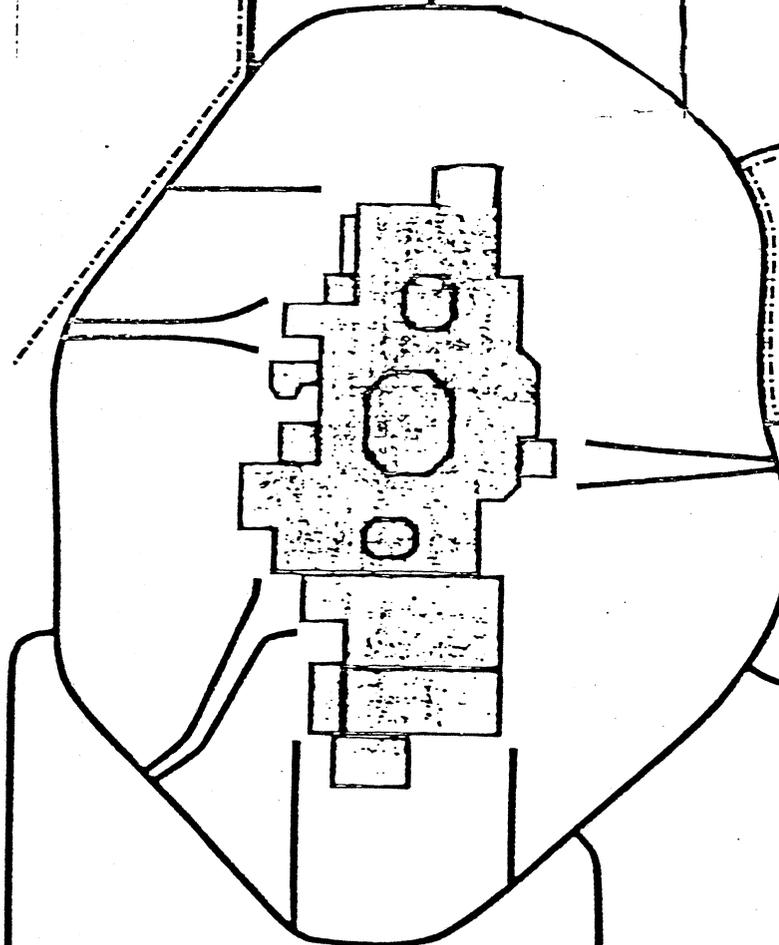
jc
enclosures:

1. Location Map
2. Maplewood Mall Map
3. Floor Plan dated 8-30-82

694

PROPOSED OFF ACCESS

Parcel A



Parcel B

12" WATERMAIN

8" SANITARY SEWER

EXISTING UTILITIES SHOWN ON STREETS

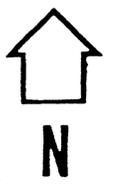
BEAR AVENUE

BEAM AVENUE

el G

WHITE

MAPLEWOOD MALL



MEMORANDUM

I-2

Action by Council:

TO: Mayor and City Council
FROM: Community Design Review Board
SUBJECT: Community Design Review Board Self-Evaluation
DATE: September 2, 1982

Endorsed _____
Modified _____
Rejected _____
Date _____

The Maplewood Community Design Review Board serves the City of Maplewood by reviewing and recommending (or not recommending) for approval the following:

- Sign plans
- Ordinance revisions
- Sign variances
- Building plans
- Landscaping layouts

Between January 1980 and July 1982 the Community Design Review Board has reviewed 106 cases. During those meetings nineteen sign plans, seven ordinance revisions, six sign variances, fifty-eight building plans and sixteen landscape layouts have come before the Community Design Review Board.

During the review process the Community Design Review Board performs a dual function--the first is to represent or safeguard the City and its citizens, and the second is to act as the first step of an appeal process for the applicants.

The Community Design Review Board represents the City by allowing citizen input into the review process. Neighbors are certainly aware of the special problems that a development may have or cause. By providing for the possibility of citizen input, additional understanding is gained by the City's representatives, the applicant, and the citizens themselves. Citizens attended 16% of the meetings between January 1980 and July 1982. There is also the possibility of applicant concessions in order to provide better neighborhood relations. At 7% of the meetings between January 1980 and July 1982, citizens effected a change in the final recommendations. The Community Design Review Board can also represent the citizens of the City by placing additional conditions in the recommendations of a proposed development without citizen input. Between January 1980 and July 1982 this happened in 5% of the reviews.

The Community Design Review Board also acts as a method of appeal for applicants who feel unreasonable staff conditions have been listed in their recommendations. Between January 1980 and July 1982, 1% of the Board's motions were less restrictive than the Staff's recommendation.

The decisions of the Board may be appealed to the City Council by the applicant. Between January 1980 and July 1982 4% of the reviews were appealed. The appeal process resulted in three changes by the City Council.

In conclusion, the Community Design Review Board approved a majority of the recommendations of the Staff. However, in the remaining cases, either the neighbors, the developer, or the Board was not satisfied with either the proposal or the Staff's recommendations. For those cases, some function of government must be available to the citizens and to the developer. Some method of getting interested parties together in order to review, communicate, and negotiate must be provided. At the present time the Community Design Review Board serves this function.

MEMORANDUM

I-3

TO: City Manager
FROM: Director of Community Development
SUBJECT: Ordinance Amendment--Billboards
DATE: September 20, 1982

Action by Council:
Endorsed _____
Modified _____
Rejected _____
Date _____

Alternative II in the enclosed memo has been revised to include Councilmember Bastian's suggestions.

jc
cc: Julianne Bye
Naegele Outdoor Advertising

MEMORANDUM

TO: City Manager
FROM: Thomas Ekstrand--Associate Planner
SUBJECT: Ordinance Amendment: Billboards
DATE: July 6, 1982

Request

The City Council, on April 15, 1982, requested that staff prepare an ordinance amendment to ban new construction of billboards and to require the removal of all existing billboards within ten years.

Alternatives (from most to least prohibitive)

Alternative I (see enclosed ordinance)--Prohibit the display of commercial messages visible from a public street on billboards.

Alternative II (see enclosed ordinance)--Increase the restrictions governing billboards.

Alternative III--Take no action, thereby maintaining the existing ordinance.

Comments

Alternative I accomplishes the intent of Council's request, while complying with a recent Supreme Court decision concerning banning of billboards. (Refer to the enclosed "Zoning and Planning Law Report" on the Metromedia, Inc. v. City of San Diego decision.) This alternative prohibits commercial messages on new billboards visible from a public street. New billboards may continue to be built for noncommercial messages, subject to the standards of the sign ordinance.

Existing billboards are allowed to continue advertising commercial messages for ten years. The sign must then be limited to noncommercial messages or the sign must be removed within 120 days.

Alternative II would allow billboards, but would tighten up standards by:

1. Only allowing them in SC, Shopping Center; BC, Business Commercial; M-1, Light Manufacturing and M-2 Heavy Manufacturing zones.
2. Increasing minimum spacing requirements between billboards from 500 to 1200 feet.
3. Reducing the maximum sign area permitted from 850 square feet to 300 square feet.
4. Requiring all disturbed ground beneath the sign to be restored.

5. Establishing a height limit.
6. Eliminating the exemption that nonconforming billboards now have from the removal requirements that all other signs have. Under the current ordinance, all nonconforming signs, except billboards, must be removed ten years after installation or four years after notification of nonconformity, whichever is longer.

Alternative II was previously considered by the Council on August 6, 1981. No action was taken on this proposal, since a moratorium was declared.

Alternative III would result in no change. If the existing code remained in effect, the following problems would continue:

1. The potential would remain for a proliferation of billboards, due to the 500 foot minimum spacing requirement. Refer to the map indicating the number of possible sign locations under the current ordinance.
2. The existing code allows billboards to be 850 square feet in area. This seems too large for a suburban city.
3. Billboards are allowed on land zoned BC (M) under the current ordinance. The only areas zoned BC (M) in the City are the south side of Beam Avenue and Don John's property on Stillwater Avenue. These zones are intended to buffer adjacent single dwellings. Billboards should not be allowed.
4. There is no height limitation.
5. The City cannot require the removal of nonconforming billboards.

Maplewood's requirements are more lenient than those of many cities in the metro area of similar population. (See the enclosed survey results.)

Recommendation

- I. Staff recommends alternative I or II, depending on Council's preference. Alternative III is not recommended, on the basis that:
 - A. The potential would remain for a proliferation of billboards.
 - B. Billboards could continue to be excessively large.
 - C. Ground restoration is not required.
 - D. Billboards are permitted in BC (M) districts.
 - E. There are no height limits.
 - F. The City cannot require the removal of nonconforming billboards.

Note: Alternative I requires a majority vote, since it does not regulate by zoning district. Alternative II requires at least four votes, since it does regulate by zoning district. Alternative III requires no action.

- II. Since the moratorium ends on August 20, Council should extend it if they wish to study the billboard issue beyond this date.

REFERENCE INFORMATION

Existing Code

Refer to the existing billboard ordinance enclosed (Alternative III).

Past Actions

7-14-77: The current Sign Ordinance was adopted. The City had previously prohibited billboards.

12-20-79: Council passed a moratorium on the erection of billboards until such time as the Sign Ordinance has been fully reviewed.

4-2-81: Council tabled action on an amendment to the billboard ordinance that would have primarily increased the spacing requirement between billboards and reduced the maximum size permitted from 850 square feet to 300 square feet. Council also moved to remove the moratorium on the construction of billboards.

8-6-81: Council considered the same billboard amendment and tabled action until August 20, 1981.

8-20-81: Council placed a moratorium on the issuance of billboard sign permits for a period not to exceed one year or until an ordinance is presented.

9-3-81: Council tabled action on revising the fee schedule for billboards until an ordinance amendment for billboard signs is presented.

4-15-82: Council moved that staff prepare an ordinance to ban the new construction of billboards and to place a ten year amortization on existing billboards.

7-13-82: The Community Design Review Board recommended approval of Alternative II.

Procedures

1. Recommendation from the Community Design Review Board
2. City Council--public hearing and first reading of the proposed amendment.
3. City Council--second reading of the proposed amendment.

Enclosures

1. Proposed billboard ordinance (Alternative I)
2. Revised billboard ordinance (Alternative II)
3. Current billboard ordinance (Alternative III)
4. Zoning and Law Report
5. Existing billboard map
6. Map--number of possible billboard locations under current Ordinance.
7. Map--Number of possible billboard locations under proposed Alternative II
8. Billboard survey
9. Naegele's Proposal

ALTERNATIVE I

ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 819 TO THE MAPLEWOOD MUNICIPAL CODE CONCERNING OFF-PREMISES COMMERCIAL ADVERTISING SIGNS

THE CITY COUNCIL OF THE CITY OF MAPLEWOOD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The Maplewood City Code is amended to add Chapter 819:

819 COMMERCIAL ADVERTISING ON BILLBOARDS

819.010 DEFINITIONS

1. Sign: refers to any structure, device, advertisement, advertising device, or visual representation intended to advertise, identify, or communicate information, to attract the attention of the public for any purpose and without prejudice to the generality of the foregoing includes any symbols, letters, figures, illustration, or forms painted or otherwise affixed to a building or structure, and any beacon or seachlight intended to attract the attention of the public for any purpose and also any structure or device the prime purpose of which is to border, illuminate, animate, or project a visual representation, provided, however, that this definition shall not be held to include official notices issued by any Court or public office or officer in the performance of a public or official duty, and traffic control signs as defined in the "Motor Vehicle Act". For the purpose of removal, signs shall also include all sign structures.
2. Premises: means the contiguous land in the same ownership which is not divided by any public highway, street or alley or right-of-way therefor.

819.020 OFFENSES

1. It shall be unlawful to maintain upon any sign constructed on or after the effective date of this ordinance, any commercial message except a message which advertises a product, service, activity, event, person, institution or business located on the premises where the sign is located or the sale or rental of such premises.
2. Ten years after the effective date of this ordinance, it shall be unlawful to maintain upon any sign constructed before the effective date of this ordinance, any commercial message except a message which advertises a product, service, activity, event, person, institution or business located on the premises where the sign is located or the sale or rental of such premises.

3. After the effective date of this ordinance, it shall be in violation hereof to maintain any structure formerly used as a sign and not in use for any other purpose for more than 120 days after its use for a sign has ceased.

819.030 EXCEPTIONS

This ordinance does not apply to:

1. Any sign which is not visible to motorists or pedestrians on any public highway, street or alley.
2. Any temporary sign, as defined in the City Sign Ordinance (Chapter 818).
3. Signs providing directions to local businesses.

Section 2. This ordinance shall take effect upon its passage and publication.

Passed by the City Council of
the City of Maplewood, Minnesota
this ____ day of _____, 1982

Mayor

Attest:

Clerk

Ayes--
Nays--

ALTERNATIVE II

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 818 OF THE
MAPLEWOOD CODE RELATING TO SIGNS

THE COUNCIL OF THE CITY OF MAPLEWOOD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The following portions of Chapter 818 of the Maplewood Code are hereby amended to read as follows: (Additions are underlined and deletions are crossed out):

818.020 DEFINITIONS

- g. ~~Billboard: refers to a nonaccessory~~ an off-premises sign erected for the purpose of advertising a product, event, person, institution, activity, business, service, or subject not entirely-related-to located on the premises on which said sign is located.
- s. ~~Non-Accessory-Sign-(Off-Premises):--refers-to-a-sign-which-directs attention-to-a-business,-commodity,-service,-or-entertainment,-not exclusively-related-to-the-premises-at-which-the-sign-is-located,-or-to a-business,-commodity,-service-or-entertainment-which-is-conducted, sold-or-offered-elsewhere-than-on-the-premises-at-which-the-sign-is located.~~

818.140. BILLBOARDS

1. Location:

~~Poster-panels-or-bulletins-are-subject-to-review,-except-for-copy,-by-the Community-Design-Review-Board-and-may-be-located-on-Industrial,-Manufacturing,-Commercial-or-Retail-Zone-Districts-subject-to-restrictions-set out-in-this-ordinance.~~

- a. Billboards may only be located in the following zoning districts:

SC, Shopping Center, BC, Business Commercial, M-1, Light Manufacturing and M-2, Heavy Manufacturing zones.

- b. Billboards shall not be permitted on a building

2. Spacing:

~~No-billboard-sign-may-be-located-closer-to-any-other-such-advertising devices-on-the-same-side-of-the-street-or-highway-facing-traffic-heading in-the-same-direction-than-five-hundred-(500)-feet-on-any-city-street, primary-highway,-interstate-or-fully-controlled-freeway-within-the-in-corporated-City,-provided,-however,-this-provision-does-not-prevent erection-of-double-faced,-back-to-back,-or-V-type-signs-with-a-maximum-of one-(1)-sign-per-facing.~~

~~3. -- The above spacing does not apply to structures separated by buildings or other obstructions in such a manner that only one (1) sign facing located within the above spacing distance is visible from the highway or street at any one time.~~

a. Billboards shall not be located closer than:

(1) 2300 feet to another billboard on the same side of the same street.

(2) 100 feet to a commercial, industrial or institutional building, or an on-premises sign, unless the City Council approves a special use permit.

(3) 200 feet to a residential district or 1000 feet to a residence.

(4) 300 feet to any part of an interchange or intersection of two public roads.

b. A billboard shall not be erected or maintained in such a place or manner as to obscure or otherwise physically interfere with an official traffic control device or a railroad safety signal or sign, or to obstruct or physically interfere with the drivers' view of approaching, merging, or intersecting traffic for a distance of 500 feet.

c. No billboard shall be erected or maintained in or within 500 feet of local parks, historic sites, and public picnic or rest areas; provided that, an advertising device may be permitted within 500 feet of a park, site or area on commercially zoned property, with the approval of a special use permit.

3. Size:

The maximum area of a sign face shall not exceed eight-hundred-fifty-(850) 450 square feet, including border and trim, but excluding base and apron supports and other structural members. The maximum size limitation stated in this paragraph shall apply to each side of a sign structure. and-signs Signs may be placed back-to-back or in a V-type construction arrangement if there are no more than two sign faces. A billboard may only display one message at a time on any sign face.

4. Height:

The maximum height for billboards shall be 35 feet.

5. Lighting:

a. Billboards will shall not be illuminated with flashing light or lights, except those giving public service information such as, but not limited to, time, date, temperature, weather or news.

b. Billboard lighting will shall be effectively shielded so as not to impair the vision of any operator of a motor vehicle.

c. Billboard lighting must shall not interfere with the effectiveness of or obscure any official traffic sign, device or signal.

d. Billboards shall not use lights between midnight and 6:00 a.m.

6. Fees and Permits:

- a. The fee schedule as set forth in this ordinance ~~will~~ shall apply equally to billboard signs.
- b. Annual permit renewals will be required from the Director of Community Development. Permit renewals will not be accepted more than sixty (60) calendar days prior to expiration of permit. All permits will expire on June 30 of each year.
- c. The annual fee for such renewals will be on the same basis and schedule as prescribed for the original permit.
- d. A penalty of two (\$2.00) Dollars will be charged upon failure to pay the annual permit fee for renewal on or before July 1 of each year.
- e. The administrator may revoke the permit granted herein, for cause upon thirty (30) days written notice of such hearing to the permittee. Such notice and hearing are subject to the procedure as outlined in Section 818.040 Subsection 9 of this ordinance.

7. Nonconforming Signs:

Any billboard sign existing at the time of the enactment of this ordinance and not conforming to its provisions, shall be regarded as legal nonconforming signs which may be continued, if properly repaired and maintained as provided in this ordinance and continue to be in conformance with other ordinances of this municipality.

Nonconforming signs which are structurally altered, relocated, or replaced shall comply immediately with all provisions of this code.

6. Ground Restoration

Any ground area disturbed, due to the construction or removal of a billboard, shall be restored to its original condition.

7. Any previously adopted requirements that conflict with this ordinance shall be null and void.

Section 2. This ordinance shall take effect after its passage and publication.

Passed by the City Council of the City of Maplewood, Minnesota, this _____ day of _____, 1982.

Attest:

Clerk

Mayor

Ayes--
Nays--

ALTERNATIVE III

Section 14. 818.140. BILLBOARDS.

1. Location:

Poster panels or bulletins are subject to review, except for copy, by the Community Design Review Board and may be located on Industrial, Manufacturing, Commercial or Retail Zone Districts subject to restrictions set out in this ordinance. Billboards shall not be permitted on a building.

2. Spacing:

No billboard sign may be located closer to any other such advertising devices on the same side of the street or highway facing traffic heading in the same direction than five hundred (500) feet on any city street, primary highway, interstate or fully controlled freeway within the incorporated City, provided, however, this provision does not prevent erection of doublefaced, back-to-back, or V-type signs with a maximum of one (1) sign per facing.

3. The above spacing does not apply to structures separated by buildings or other obstructions in such a manner that only one (1) sign facing located within the above spacing distance is visible from the highway or street at any one time.

4. Size:

The maximum area of a sign face shall not exceed eight hundred fifty (850) square feet, including border and trim, but excluding base and apron supports and other structural members. The maximum size limitation stated in this paragraph shall apply to each side of a sign structure and signs may be placed back-to-back, or in a V-type construction.

5. Lighting:

- a. Billboards will not be illuminated with flashing light or lights except those giving public service information such as, but not limited to time, date, temperature, weather or news.
- b. Billboard lighting will be effectively shielded so as not to impair the vision of any operator of a motor vehicle.
- c. Billboard lighting must not interfere with the effectiveness of or obscure any official traffic sign, device or signal.

6. Fees and Permits:

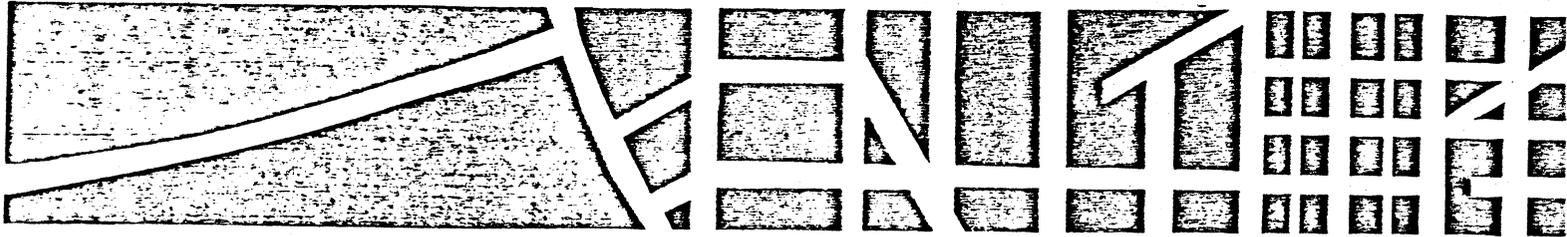
- a. The fee schedule as set forth in this ordinance will apply equally to billboard signs.
- b. Annual permit renewals will be required. Permit renewals will not be accepted more than sixty (60) calendar days prior to expiration of permit. All permits will expire on June 30th of each year.
- c. The annual fee for such renewals will be on the same basis and schedule as prescribed for the original permit.
- d. A penalty of Two (\$2.00) Dollars will be charged upon failure to pay the annual permit fee for renewal on or before July 1 of each year.
- e. The administrator may revoke the permit granted herein, for cause upon thirty (30) days written notice of such hearing to the permittee. Such notice and hearing are subject to the procedure as outlined in Section 818.040, Subsection 9 of this ordinance.

7. Non-conforming Signs:

Any billboard sign existing at the time of the enactment of this ordinance and not conforming to its provisions, shall be regarded as legal non-conforming signs which may be continued, if properly repaired and maintained as provided in this ordinance and continue to be in conformance with other ordinances of this municipality.

Non-conforming signs which are structurally altered, relocated, or replaced shall comply immediately with all provisions of this code.

ZONING AND PLANNING LAW REPORT



Vol. 4, No. 8

September, 1981

THE METROMEDIA OPPORTUNITY

by Clan Crawford, Jr.

Clan Crawford, Jr. practices law in Ann Arbor, Michigan, where he has served on the city council, zoning board of appeals and historic district commission. He is the author of a number of books and numerous articles on various aspects of zoning and has lectured extensively on the subject.

- Supreme Court's Metromedia Decision Supports Control of Signs and Billboards
- Model Sign Control Ordinance Offered
- First Amendment Considerations

(On July 2, 1981, the U.S. Supreme Court handed down a momentous decision in the case of Metromedia, Inc. v. City of San Diego. This constitutes the first time that the high Court has ever given full consideration to the legality of general billboard and sign regulation. Because the Court invalidated San Diego's ordinance, it has been widely assumed that the decision represented a victory for billboard interests and a setback to public efforts to control community aesthetics. In the following article, author Crawford argues that the Metromedia decision actually advances the opportunity for controlling billboard blight and presents a model ordinance which he feels comports with the constitutional requirements demanded by the Supreme Court. Crawford highlights the salient points of the Metromedia decision by discussing how the proposed ordinance would deal with the particular objections and requirements enunciated by the Supreme Court in its judgment of San Diego's ordinance.)

Introduction

The recent decision of the U.S. Supreme Court in *Metromedia, Inc. v. City of San Diego*, 453 U.S. —, 101 S. Ct. 2882, 69 L. Ed. 2d 800, 49 U.S.L.W. 4925 (July 2, 1981), *rev'g*, 26 Cal. 3d 848, 164 Cal. Rptr. 510, 610 P.2d 407 (1980), has been grossly mis-

reported in the lay press. This is probably the result of the unusual alignment of opinions and views taken by the various Supreme Court Justices in that case. According to the general press, San Diego "lost" because its ordinance was held invalid. In fact, however, San Diego, along with a lot of other municipali-

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ties, may have won big, because it appears that the Court has now solidified enough questionable law to provide an adequate legal basis for some highly restrictive sign legislation.

The confusion stems from the fact that there were five separate opinions and no one majority opinion, and in the way they lined up. The White group, in an opinion written by Justice White and signed also by Justices Stewart, Marshall and Powell, made a number of rulings, discussed below, which are highly favorable to sign regulations, but held the ordinance invalid because these Justices regarded it as discriminating unlawfully against signs with noncommercial messages and among different types of noncommercial messages. In particular, they objected to the fact that the ordinance permitted commercial signs in places where noncommercial signs were barred. 101 S. Ct. at —, 69 L. Ed. 2d at 818–20, 49 U.S.L.W. at 4931–32.

Justice Brennan, joined by Justice Blackmun, agreed that the ordinance was invalid, but for very different reasons, described more fully below. 101 S. Ct. at —, 69 L. Ed. 2d at 824–35, 49 U.S.L.W. at 4934–39. Thus, six Justices voted to invalidate the ordinance. The other three—Chief Justice Burger, 101 S. Ct. at —, 69 L. Ed. 2d at 845–54, 49 U.S.L.W. at 4939–42; Justice Rehnquist, 101 S. Ct. at —, 69 L. Ed. 2d at 854–55, 49 U.S.L.W. at 4942–43; and Justice Stevens, 101 S. Ct. at —, 69 L. Ed. 2d at 835–45, 49 U.S.L.W. at 4943–47—voted to uphold the ordinance in separate opinions, but their views were closely aligned with those of the White group except on the discrimination issue which proved critical to the result. As a result, had the San Diego ordinance been worded a bit differently, it appears that it would have been upheld by a 7–2 vote.

The Metromedia Opportunity

Justice Brennan noted that the opinion of the White group concluded that San Diego could, without violating the First Amendment, ban all billboards containing commercial speech messages and complained that they were “thereby sending the message to municipalities that bifurcated billboard regulations prohibiting commercial messages but allowing non-commercial messages would pass constitutional muster.” 101 S. Ct. at —, 69 L. Ed. 2d at 824, 49 U.S.L.W. at 4934.

This aspect of the plurality’s decision, as accurately perceived by Justice Brennan, is THE METROMEDIA OPPORTUNITY.

A Model Ordinance

Let us have a look at a model. The following ordinance was prepared, after the *Metromedia* decision,

for use by Michigan municipalities, but it would probably be equally suitable in many other states:

AN ORDINANCE TO REGULATE THE USE OF SIGNS AND PROVIDE FOR REMOVAL OF OBSOLETE STRUCTURES.

The City (Township) of _____ ordains:

Section 1. Findings. It is hereby determined that the number of signs in the City (Township) is excessive and is unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City (Township) is marred by the excessive number of signs. It is also determined that the number of distracting signs ought to be reduced in order to reduce the aforementioned effects, and that the signs of least value to people within the City (Township) are those which carry commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located or the sale or rental of such premises. It is also determined that the regulations contained in this Ordinance are the minimum amount of regulation necessary to achieve its purposes.

Section 2. Definitions. As used in the ordinance:

(A) SIGN means any structure or wall or other object used for the display of any message.

(B) PREMISE means the contiguous land in the same ownership which is not divided by any public highway, street or alley or right-of-way therefor.

Section 3. Offenses. After the 90th day after this Ordinance takes effect it shall be a violation hereof to maintain upon any sign any commercial message except one which advertises some product, service, activity, event, person, institution or business located on the premises where the sign is located or the sale or rental of such premises. It shall be a violation hereof to maintain any structure formerly used as a sign and not in use for any other purpose for more than 120 days after its use for a sign has ceased.

Section 4. Exceptions. This ordinance does not apply to any sign which is not visible to motorists or pedestrians on any public highway, street or alley, nor to any specific information panel for the direction of motorists which may be located, under authority of any statute, on any highway property of the State of Michigan. This ordinance does not regulate the size, lighting or spacing of signs.

Section 5. Penalty-Effective Date. Whoever violates this Ordinance shall, upon conviction thereof, be punished by a fine of not more than \$100 or imprison-

ment in the County Jail for not more than 30 days, or both, for each offense. Each and every day on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. This Ordinance shall take effect on (no sooner than the 31st day after first publication).

Section 6. Severability. This Ordinance, and the various parts, sections and clauses hereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid, the remainder shall remain in full force and effect.

Analysis of Model Ordinance Under Metromedia Criteria

The first thing that should be noted about this ordinance is that it neither prohibits the future erection of new signs nor forbids the continued use of existing signs. It does not control signs at all, just the messages thereon. The astute will at once recognize that this technique is intended to sidestep a lot of the grounds on which sign regulations have been held invalid where they required the removal of existing signs or prevented the erection of new ones.

Now let us go through the ordinance one section at a time to consider the legal issues presented and test them against the *Metromedia* opinions.

Traffic Hazards and Aesthetics as Police Power Justifications

The legislative findings in the first section are intended to provide the rationale for the exercise of the police power. As experienced zoning lawyers are aware, the U.S. Supreme Court has laid down a general limitation on zoning power which would presumably be applicable to sign laws such as the model. In *Nectow v. Cambridge*, 277 U.S. 183, 188, 48 S. Ct. 447, 72 L. Ed. 842 (1927), where a zoning ordinance was held invalid as applied to a particular tract, the Court stated that “[s]uch restriction cannot be imposed if it does not bear a substantial relation to the public health, safety, and morals, or general welfare.”

The City of San Diego asserted in *Metromedia* that traffic safety and aesthetics provided the substantial relation. The White group opined that either was sufficient, quoting from the decision of the Supreme Court of California below, 26 Cal. 3d at 859, 164 Cal. Rptr. at 515, to the effect that “as a matter of law . . . an ordinance which eliminates billboards designed to be viewed from the streets and highways reasonably relates to traffic safety” and that “billboards are intended to, and undoubtedly do, divert a

driver's attention from the roadway.” 101 S. Ct. at —, 69 L. Ed. 2d at 815, 49 U.S.L.W. at 4930.

The three dissenters concurred: Stevens, 101 S. Ct. at —, 69 L. Ed. 2d at 836, 49 U.S.L.W. at 4943; Burger, 101 S. Ct. at —, 69 L. Ed. 2d at 848, 49 U.S.L.W. at 4940; and Rehnquist, 101 S. Ct. at —, 69 L. Ed. 2d at 854, 49 U.S.L.W. at 4943. Even Brennan and Blackmun went along with the idea, but unlike the rest of the Court, they would not accept the city's determination that the ordinance would promote traffic safety or was necessary for aesthetic reasons. They took the position that the city should have and failed to produce convincing evidence in support of its position, 101 S. Ct. at —, 69 L. Ed. at 827–31, 49 U.S.L.W. at 4935–37.

This urging by Brennan and Blackmun that a city should be required to prove that its ordinance advances traffic safety and aesthetics is the main distinguishing feature of their opinion. A number of billboard regulation cases have turned upon surveys presented by well-heeled billboard companies which purport to show that billboards do not create any traffic hazard. In the realm of aesthetics, it is rather easy to point to other eyesores in most communities and argue that since the municipality has done nothing to eliminate them, it is merely picking on the billboard companies in an arbitrary fashion. Fortunately, none of the other Justices went along with Brennan and Blackmun on this vital point and, in the long run, this fact may turn out to be the most important aspect of *Metromedia*.

This authority should be useful in excluding testimony of surveys purporting to show that billboards create no dangers. If necessary, it may be opportune for the municipal attorney to ask the witness whether billboards are designed to attract attention and whether accident avoidance requires both drivers and pedestrians to pay close attention to what they are doing.

Is Aesthetics Alone a Sufficient Justification?

Hopefully, the foregoing may find broad utility in convincing some of our reluctant state courts to hold that police power regulations may be based upon aesthetic considerations alone. In the *Metromedia* decision below, the Supreme Court of California so held, 26 Cal. 3d 848, 164 Cal. Rptr. 510, 516–19, 610 P.2d 407, 413–16, reversing its own prior holding in *Varney & Green v. Williams*, 155 Cal. 318, 100 P. 867 (1909). However, we still have many states like Michigan. In *Wolverine Sign Works v. Bloomfield Hills*, 279 Mich. 205, 208, 271 N.W. 823 (1937), appears the following: “Aesthetics may be an incident but cannot be the moving factor.” This statement has been often repeated, not only in sign

control cases, but in others as well. The most recent Michigan sign case is *Central Advertising v. Ann Arbor*, 391 Mich. 533, 213 N.W.2d 27 (1974).

A number of other important courts have now held that aesthetics, alone, is enough. *Suffolk Outdoor Advertising Co. v. Hulse*, 43 N.Y.2d 483, 402 N.Y.S.2d 368, 363 N.E.2d 263 (1977), *appeal dismissed*, 439 U.S. 809 (1978), *John Donnelly & Sons v. Outdoor Advertising Bd.*, 369 Mass. 206, 339 N.E.2d (1975), and *Oregon City v. Hartke*, 240 Ore. 35, 400 P.2d 225 (1965), are examples. Readers may also wish to examine articles by Bufford, "Beyond the Eye of the Beholder: A New Majority of Jurisdictions Authorize Aesthetic Regulation," 48 UMKC L. Rev. 125 (1980) and Polisky, "Regulation of Signs and Billboards," appearing in *ZONING AND PLANNING LAW REPORT*, Vol. 1, No. 7 (May 1978). Polisky also discusses, in considerable detail, cases having to do with political and "For Sale" signs.

Ordinance Definitions

The definitions in Section 2 of the model ordinance require little discussion. The definition of "sign" is more limited than we see in most sign control ordinances, but should be adequate for the kind of regulation involved. The definition of "premises" is intended to prevent the owner of a store or gas station from buying the property across the street to give him the right to put up an "on-premises" sign.

Distinction Between On- and Off-Premises Signs

Section 3 of the model contains the operative regulatory wording. It raises several questions. The first is the validity of making a distinction between on-premises and off-premises signs. It has often been argued that if a sign advertising a gas station is allowed on the premises of a gas station, a sign advertising some brand of beer or chewing gum should also be allowed at the same place. The argument was made and discussed in *Metromedia*. It was rejected explicitly by five Justices—The White group, 101 S. Ct. at —, 69 L. Ed. 2d at 809–10, 49 U.S.L.W. at 4927–28, and Justice Stevens, 101 S. Ct. at —, 69 L. Ed. 2d at 836, 49 U.S.L.W. at 4943—and was rejected implicitly by the other two dissenters. Brennan and Blackmun did not commit themselves.

Putting Sign Companies Out of Business

It may be asserted that the ordinance is invalid because it will put sign companies out of business. In *Metromedia*, the parties stipulated that the San Diego ordinance, if enforced, would "eliminate the outdoor advertising business in the City of San Diego." 101 S. Ct. at —, 69 L. Ed. 2d at 808, 49 U.S.L.W. at 4927. The White group mentioned that the ordinance had

been attacked on this ground, but did not hold it invalid for this reason. 101 S. Ct. at —, 69 L. Ed. 2d at 812, 49 U.S.L.W. at 4929. Brennan and Blackmun similarly allowed that "a city may totally ban them if it can show that a sufficiently substantial governmental interest is directly furthered by the total ban, and that any more narrowly drawn restriction, i.e., anything less than a total ban, would promote less well the achievement of that goal." 101 S. Ct. at —, 69 L. Ed. 2d at 827, 49 U.S.L.W. at 4935. The other Justices voted to uphold the ordinance. Thus, none of the Justices apparently regards an ordinance invalid just because it happens to put somebody out of business. Evidently the entire Court is mindful of the large number of fireworks stands, gambling establishments and houses of ill repute that have been put out of business by police power regulations.

Distinction Between Commercial and Noncommercial Signs

In *Metromedia*, Justice Brennan expressed doubt that an ordinance banning commercial but permitting noncommercial billboards would be constitutional, but seemed to base his doubts on the grounds that local officials would have censorship powers in determining which messages are commercial and which are not, a First Amendment rather than an Equal Protection question. 101 S. Ct. at —, 69 L. Ed. 2d at 831–35, 49 U.S.L.W. at 4937–39. The model ordinance, hopefully, avoids this difficulty, since it calls for no permit and does not give any local official power to make such a decision, although obviously, the local attorney, in determining whether to take enforcement proceedings, must make a preliminary determination. However, this is no more than he must do when deciding whether to prosecute any alleged violation of any ordinance, and the courts, of course, stand ready to correct any errors he may make.

Justice Brennan, joined by Justice Blackmun, in their concurring opinion in *Metromedia* set forth the following examples to show the difficulty involved. 1. "Visit Joe's Ice Cream Shoppe." 2. "Joe's Ice Cream Shoppe uses only the highest quality dairy products." 3. "Because Joe thinks that dairy products are good for you, please shop at Joe's Shoppe." 4. "Joe says to support dairy price supports: they mean lower prices for you at his Shoppe." They cite some other examples, showing, among other things, that how we regard a message may depend upon whose sign is involved. 101 S. Ct. at —, 69 L. Ed. 2d at 834, 49 U.S.L.W. at 4938.

Obviously, somebody has to make a determination as to whether to permit a given message to be placed upon a sign, but it appears to be legally much safer to let the owner make the decision in the first instance,

and the municipal attorney may then decide whether to try to convince the courts that the message is commercial.

Overbreadth Challenges

In *Metromedia*, Justice White cites *Central Hudson v. Public Service Comm'n*, 447 U.S. 557, 563-66, 100 S. Ct. 2343, 65 L. Ed. 2d 341 (1980), as establishing the following four-part rule against overbroad restrictions on commercial free speech. "(1) The First Amendment protects commercial speech only if that speech concerns lawful activity and is not misleading. A restriction on otherwise protected commercial speech is valid only if it (2) seeks to implement a substantial governmental interest, (3) directly advances that interest, and (4) reaches no farther than necessary to accomplish the given objective." 101 S. Ct. at —, 69 L. Ed. 2d at 814-15, 49 U.S.L.W. at 4930. White and his followers concluded that the San Diego ordinance met the test, 101 S. Ct. at —, 69 L. Ed. 2d at 818, 49 U.S.L.W. at 4931. Justice Stevens also concurred, 101 S. Ct. at —, 69 L. Ed. 2d at 835-36, 49 U.S.L.W. at 4943, as, presumably, did the other two dissenters.

The model ordinance does not go quite as far as the San Diego measure, since it places no restrictions on signs with noncommercial messages. For this reason, it would seem to meet the *Central Hudson* test. In this regard, anyone claiming that the model ordinance regulations are overbroad and go beyond what is necessary to achieve the twin objectives of traffic safety and aesthetics should be asked to set forth what lesser regulation would do the job.

The Issue of a Total Ban

Since the model ordinance does not totally ban billboards—it permits those with noncommercial messages and those that are on-premises—it ought to evade such rulings as *Wolverine Sign Works v. Bloomfield Hills*, 279 Mich. 205, 271 N.W. 823 (1937), to the effect that statutory authority to regulate billboards does not extend to a total ban. It should also avoid the First Amendment arguments that can be made with respect to any restriction on noncommercial speech, since such utterances enjoy a higher degree of constitutional protection than commercial messages.

Removal Provisions

When it comes to proceedings to require the removal of abandoned sign structures, it is to be expected that the billboard companies will engage in a lot of activity intended to forestall removal efforts in the hope that the ordinance may be overturned or changed to again permit billboards to be used for

commercial messages. These will probably include use for public service messages or for displaying works of art or other uses. However, such tactics cost money, as does the maintenance of sign structures that do not produce revenue. If the ordinance survives judicial scrutiny, it can be hoped that most sign owners will comply eventually with the requirement that obsolete structures be removed. In the meantime, it may be rather costly and unproductive to attempt to enforce the removal provision against determined opposition.

Ordinance Exceptions and Claims of Discrimination

Section 4 of the ordinance, which contains the exceptions, was carefully worded to avoid unlawful discrimination. The first exception, designed to assure the relationship of the regulations to the stated objectives of preventing traffic hazards and improving the appearance of the municipality, merely excepts signs not visible from the public streets. This answers an objection of Justices Brennan and Blackmun in *Metromedia* to the prohibition of signs visible from the "boundary of the premises" in the San Diego ordinance. They noted that traffic couldn't be hurt by signs visible from the boundary but not from the streets. 101 S. Ct. at —, 69 L. Ed. 2d at 828-29, 49 U.S.L.W. at 4935-36.

The exception relating to specific information panels is applicable, of course, only in those states where state authorities have begun a specific information panel program under the Federal Highway Beautification Act, 23 U.S.C. § 131. In such cases, the power of the municipality to regulate signs probably doesn't extend to those erected on state highway land under authority of state law anyway.

The final exception is intended merely to avoid any conflict with state laws, such as Mich. CL. 252.305, Mich. Stats. Anno. 9.391(104), which purport to occupy the whole field of regulation of the size, lighting and spacing of signs, and are intended to bring

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the state into compliance with the Federal Highway Beautification Act.

Compensation for Removal

The ordinance does not provide compensation for removal of signs because it does not require the removal of any signs. The only thing that it requires to be removed is former sign structures that are totally unused. Who has standing to raise the issue unless he has such a structure and wants to prove that it has substantial value, standing there doing nothing?

Nonconforming Signs

The model ordinance likewise does not permit the continuation of nonconforming uses. It is not intended as a zoning ordinance, since it applies equally throughout the community and does not divide the community into different districts with different regulations. It is intended to be adopted under the general laws with respect to municipal police power regulation, not under the zoning enabling act. Land use regulations of this character have been recognized as not subject to the nonconforming use provisions of the zoning enabling acts in two decisions of the Michigan Court of Appeals. *Casco Township v. Brame Trucking Co.*, 34 Mich. App. 466, 191 N.W.2d 506 (1971), involving a soil removal ordinance, and *Renne v. Waterford Township*, 73 Mich. App. 685, 252 N.W.2d 842, *appeal den'd* 400 Mich. 840 (1977), involving an ordinance requirement to discontinue septic tank use and hook up to a new sewer.

Conclusion

The U.S. Supreme Court's decision in *Metromedia* does indeed seem to be a very significant case. Despite the number of opinions and lack of a majority, it appears to clear the air on several of the issues that have raised doubts about the validity of many sign regulations, mostly in favor of the regulators. Furthermore, unlike many recent decisions in the land use control area, it appears to provide us with more answers than new questions.

The *Metromedia* decision doesn't answer all of the questions, of course. There still remain many issues involving on-premises sign regulation, control of non-commercial messages and others. In addition, the decision raises at least one question that is certain to produce a lot of litigation. Which messages are commercial and which are not? Possibly we will end up with a rule that a commercial message is one that appears intended to advertise some commercial activity, with the courts evading the puzzles posed by Justice Brennan by focusing on intent rather than content. This is a familiar concept both in civil and criminal litigation.

In the long run, the impact of *Metromedia* will probably depend upon the extent to which it is followed by the highest courts of the several states. However, its majority rulings seem to be pretty much in step with the leanings of state court decisions in recent years and it will probably serve to popularize these trends.

The model ordinance which I have presented above appears to meet the requirements of all but two of the Justices. Through the adoption of ordinances embodying such precepts, we may hope for better days in the struggle to control billboard blight.

(*Editor's Note:* In conjunction with its decision in *Metromedia, Inc. v. City of San Diego, supra*, the U.S. Supreme Court, on July 2, 1981, summarily disposed of four other pending appeals involving sign or billboard controls. First, the Court denied certiorari in *City of San Diego v. Metromedia, Inc.*, — U.S. —, 101 S. Ct. —, 69 L. Ed. 2d 1004, 49 U.S.L.W. 3979 (No. 80-196), which was the City of San Diego's own appeal from that portion of the judgment of the Supreme Court of California which held that the federal Highway Beautification Act, 23 U.S.C. § 131, preempted the San Diego ordinance, at least to the extent of requiring compensation for the removal of billboards located within 660 feet of federal interstate and primary highways. Second, the Court vacated judgment in the case of *Ryan Outdoor Advertising, Inc. v. City of Salinas*, — U.S. —, 101 S. Ct. —, 69 L. Ed. 2d 999, 49 U.S.L.W. 3978, (No. 80-1797), thereby remanding the case to the Court of Appeal of California, First Appellate District, so that that court might reconsider its earlier unpublished opinion upholding a broad ban on off-site advertising in light of the *Metromedia* decision. Third, the Court denied certiorari in *Department of Transportation of the State of Oklahoma v. Pile*, — U.S. —, 101 S. Ct. —, 69 L. Ed. 2d 1004, 49 U.S.L.W. 3979 (No. 79-1617), thus upholding a determination by the Supreme Court of Oklahoma, 603 P.2d 337 (1979), that a state statute banning billboards should be judicially interpreted as not applying to noncommercial billboards in order to avoid unconstitutionality. Fourth, and finally, the Court summarily affirmed in *Campbell v. John Donnelly & Sons*, — U.S. —, 101 S. Ct. —, 69 L. Ed. 999, 49 U.S.L.W. 3978 (No. 80-1597), thereby upholding the federal Court of Appeals' determination, 639 F.2d 6 (1st Cir. 1980), that Maine's statewide ban on billboards, while valid insofar as commercial messages were concerned, was overbroad and in violation of the First Amendment by reason of its virtual total prohibition of ideological and noncommercial signs in the state.)

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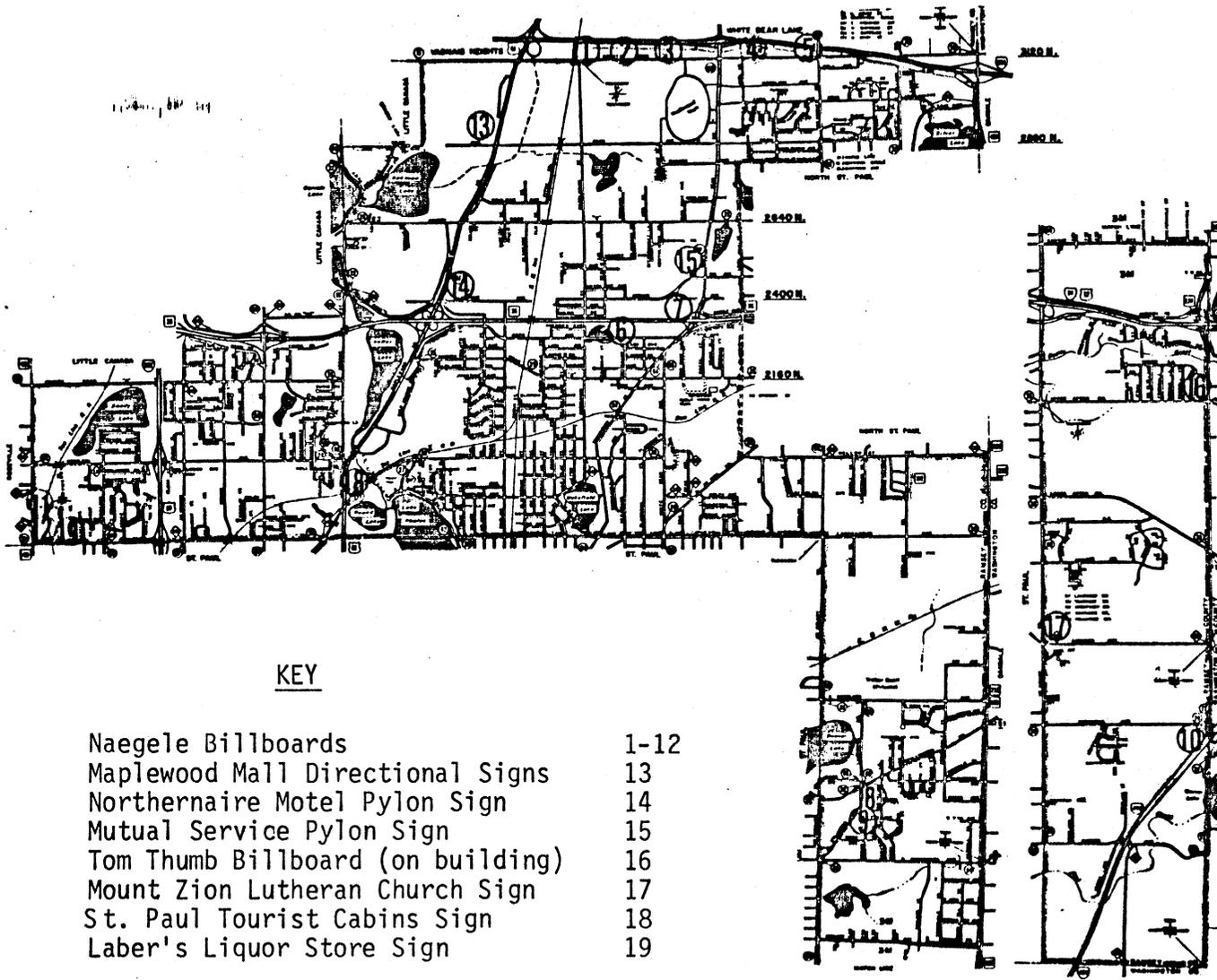
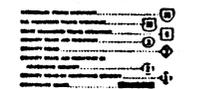
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N

LEGEND

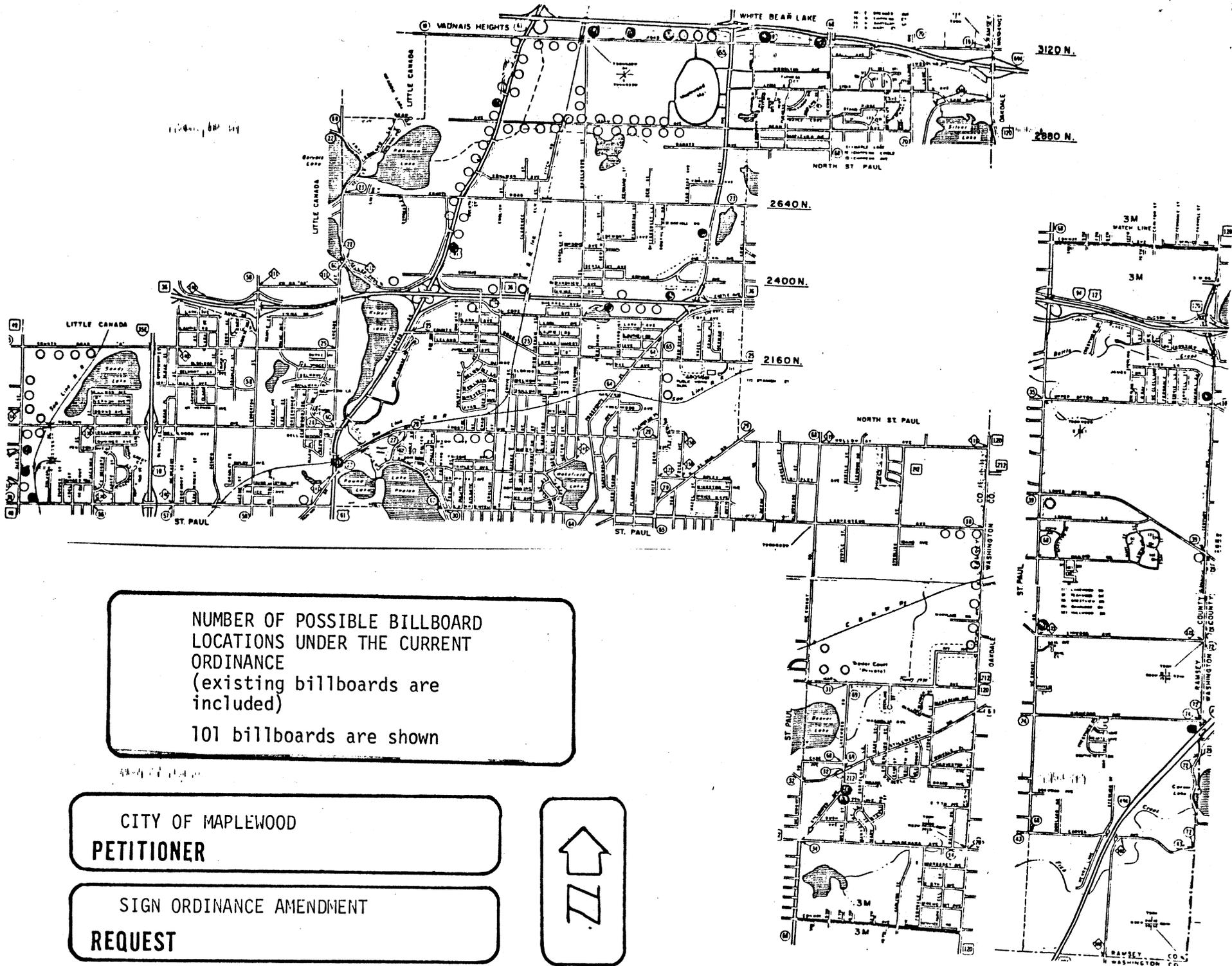


KEY

- | | |
|-----------------------------------|------|
| Naegele Billboards | 1-12 |
| Maplewood Mall Directional Signs | 13 |
| Northernnaire Motel Pylon Sign | 14 |
| Mutual Service Pylon Sign | 15 |
| Tom Thumb Billboard (on building) | 16 |
| Mount Zion Lutheran Church Sign | 17 |
| St. Paul Tourist Cabins Sign | 18 |
| Laber's Liquor Store Sign | 19 |

MAP 1

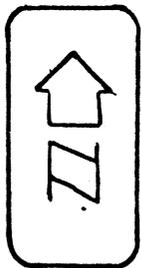
EXISTING BILLBOARDS

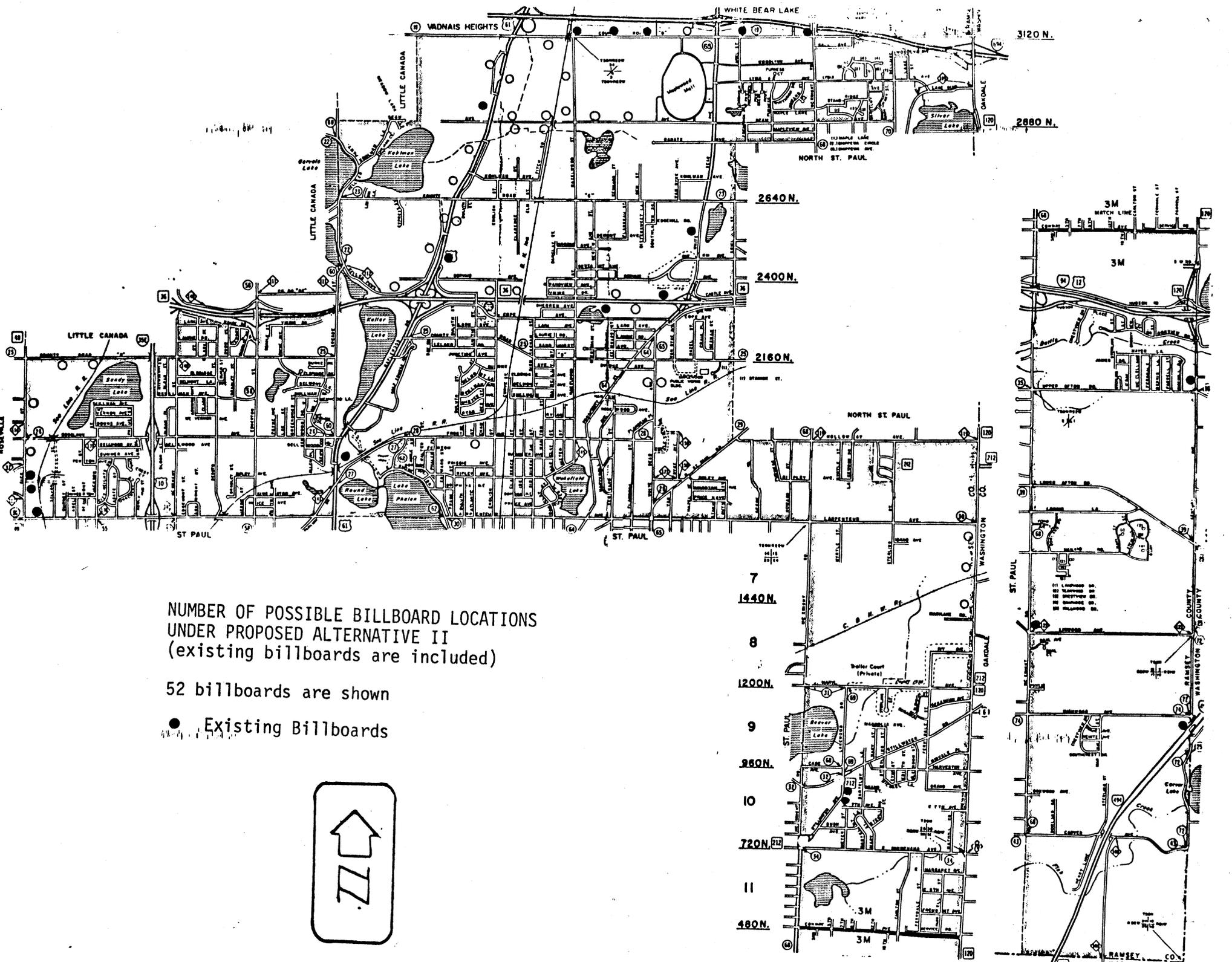


NUMBER OF POSSIBLE BILLBOARD
 LOCATIONS UNDER THE CURRENT
 ORDINANCE
 (existing billboards are
 included)
 101 billboards are shown

CITY OF MAPLEWOOD
 PETITIONER

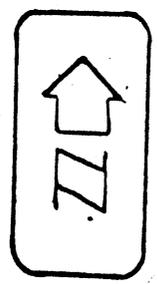
SIGN ORDINANCE AMENDMENT
 REQUEST





NUMBER OF POSSIBLE BILLBOARD LOCATIONS
 UNDER PROPOSED ALTERNATIVE II
 (existing billboards are included)

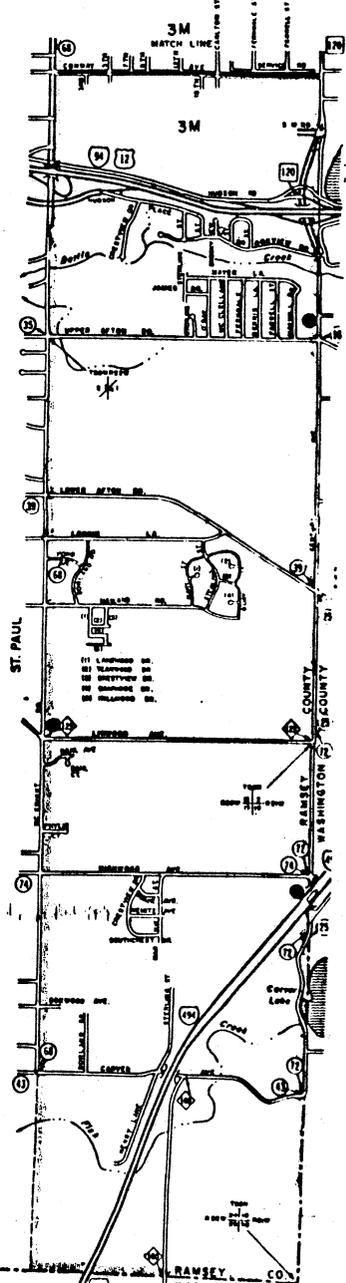
52 billboards are shown
 ● Existing Billboards



7
1440N.
8
1200N.
9
960N.
10
720N.
11
480N.

3120 N.
2880 N.

2640N.
2400N.
2160N.



BILLBOARD SURVEY

Staff surveyed the 18 metropolitan cities that are closest to Maplewood in population, to determine the required separation between billboards. Six of these cities prohibited billboards. The other 12 are ranked below by their answers. The number in paranthesis after each City's name is their 1980 population.

<u>CITY</u>	<u>SEPARATION REQUIRED BETWEEN BILLBOARDS IN FEET</u>
1. Burnsville (35,674)	2,000 - (Presently revising ordinance)
2. Plymouth (31,615)	Separation based on speed limit
	55 MPH 1,500
	35 MPH 1,000
3. White Bear Lake (22,528)	1,000
4. Coon Rapids (35,820)	1,000
5. Fridley (30,228)	1,000
6. New Brighton (23,269)	1,000
MEDIAN = 1,000 feet	
1. Eagen (20,532)	1,000
2. Blaine (28,558)	500
<u>MAPLEWOOD</u> (26,990)	500
3. Crystal (25,543)	*500 on Interstates 400 elsewhere
4. Richfield (37,851)	*500 on Interstates 300 elsewhere
5. Minnetonka (38,683)	*500 on Highways - 1200 on Interstates 200 elsewhere
6. South St. Paul (21,235)	*500 on Interstates *100 on State Highways 0 elsewhere, individually reviewed by special use permit

*State of Minnesota Requirements

The following cities surveyed do not allow any new billboards:

- Maple Grove (20,525)
- New Hope (23,087)
- Brooklyn Center (31,230)
- Golden Valley (22,775)
- Apple Valley (21,818)
- Roseville (35,820)

For further information, the billboard separation requirements for suburban cities adjacent to Maplewood that are not listed above are as follows:

Oakdale	Ordinance under revision.
Woodbury	1,000
(NOTE: only billboards	promoting a business or activity in Woodbury are allowed)
Newport	Moratorium on billboards
Little Canada	Billboards prohibited
Vadnais Heights	1,300
North St. Paul	40

NAEGELE PROPOSAL

*a. Billboards shall not be located closer to any other such billboard on the same side of the street or highway facing traffic heading in the same direction than:

- (1) 1,000 feet on any limited access highway.
- (2) 750 feet on the remaining arteries.
- (3) This spacing does not apply to structures separated by buildings or other obstructions in such a manner that only one sign face located within the above spacing distance is visible from the highway or street at any one time.

*b. Billboards shall not be located within the boundary lines of any railroad right of way.

3. Size:

The maximum size limitation stated in this section shall apply to each side of a sign structure and signs. Signs may be placed back-to-back or in a V-type-construction arrangement if there are no more than two sign faces.

The maximum area of a sign face shall not exceed:

- *a. 750 square feet on limited access highways, including border and trim, but excluding base and apron supports and other structural members.
- *b. 450 square feet on the remaining arteries, including border and trim, but excluding base and apron supports and other structural members.

*4. Height:

The height shall be measured from the grade or the highway, whichever is higher.

The maximum height for billboards shall not exceed:

- a. 40 feet on limited access highways.
- b. 30 feet on the arteries.

*Proposed amendments to Alternative II.

5. Lighting:

- a. Billboards ~~will~~ shall not be illuminated with flashing light or lights, except those giving public service information such as, but not limited to, time, date, temperature, weather or news.
- b. Billboard lighting ~~will~~ shall be effectively shielded so as not to impair the vision of any operator of a motor vehicle.
- c. Billboard lighting ~~must~~ shall not interfere with the effectiveness of or obscure any official traffic sign, device or signal.
- d. Billboards shall not use lights between midnight and 6 a.m.

*6. Specifications:

Where the structural support is visible from the road in which it is intended to be viewed, the billboard shall be constructed on a single pole.

7. Ground Restoration:

Any ground area disturbed, due to the construction or removal of a billboard, shall be restored to its original condition.

*7: 8. Nonconforming Signs:

Any billboard sign existing at the time of the enactment of this ordinance and not conforming to its provisions, shall be regarded as legal nonconforming signs which may be continued, if properly repaired and maintained as provided in this ordinance and continue to be in conformance with other ordinances of this municipality.

Nonconforming signs which are structurally altered, relocated, or replaced shall comply immediately with all provisions of this code.

9. Any previously adopted requirements that conflict with this ordinance shall be null and void.

Section 2. This ordinance shall take effect after its passage and publication.

*Proposed amendments to Alternative II.

Passed by the City Council of the
City of Maplewood, Minnesota, this
_____ day of _____, 1982.

Mayor

Attest:

Clerk

Ayes--
Nays--

8/30/82

To: Barry Gross, City Manager

From:

Mr. & Mrs. Jon Belisle
2594 Brookview Dr.
St. Paul, Minn. 55119

Action by Council

Indorsed _____

Modified _____

Rejected _____

Date _____

Please arrange to have me address
the City Council. I wish to discuss
Maplewood's SEWER CHARGE relative
to storm water overflow of area lakes
and the fact that a portion of Maplewood
lies in a separate watershed district.

Thank you
Jon Belisle

September 8, 1982

MEMORANDUM

Action by Council:

To: City Manager Barry Evans
From: Fire Marshal A. C. Schadt *ACS*
Subject: Ordinance Change - Uniform Fire Code

Entered _____
Modified _____
Revised _____
Date _____

New updated Fire Codes have been published, received by this office and are ready for implementation.

There are two changes that would be necessary from our present Ordinance, that being the date and location of copies for review by the public and other interested parties.

A copy of our present Ordinance is attached for your information and review, with the necessary proposed update changes shown.

If you concur, I would appreciate your handling the above with the City Council.

ACS:js

ORDINANCE NO. 411

AN ORDINANCE AMENDING CHAPTER
1703 OF THE MAPLEWOOD CODE
RELATING TO FIRE PREVENTION CODE

THE COUNCIL OF THE CITY OF MAPLEWOOD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 1703.010 is hereby amended in its entirety to read as follows:

"1703.010. ADOPTION OF UNIFORM FIRE CODE. There is hereby adopted by the City of Maplewood for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Uniform Fire Code, 1979 Edition and the whole thereof, published by International Conference of Building Officers, of which not less than three (3) copies have been received and now are filed in the office of the Clerk of the City and the same are hereby adopted and incorporated as if fully set out at length herein, and from the date on which this ordinance takes effect, the provision thereof shall be controlling within the limits of the City of Maplewood."

1982

Fire Marshal

Section 2. This ordinance shall take effect and be in force from and after passage and publication.

Passed by the Council of the City of
Maplewood this
1981.

Mayor

Ayes -

Nays -

Attest:

City Clerk