



**PLANNING COMMISSION  
REGULAR MEETING  
ANOKA CITY HALL  
Wednesday, March 2, 2016  
7:00 P.M.**

**AGENDA**

**1. Call to Order.**

**2. Approval of Minutes:**

- a. Approval of February 2, 2016 Work Session Minutes
- b. Approval of February 16, 2016 Regular Meeting Minutes

**3. New Business:**

- a. None

**4. Old Business:**

- a. A2016-1  
Conditional Use Permit  
1030 McKinley Street

**5. Public Hearings on Applications:**

- b. A2016-2  
Variance  
1803 1<sup>st</sup> Avenue

**6. Miscellaneous:**

- a. Upcoming meetings:  
Work Session - Tuesday, March 15 at 6:00 pm  
Joint Meeting with Park Board – Tuesday, March 15 at 7:00 PM  
Regular Meeting - Tuesday, April 5 at 7:00pm

**7. Adjourn.**



Auxiliary aids for handicapped persons are available upon request at least 96 hours in advance. Please call the City Manager's office at (763) 576-2710 to make arrangements.

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NOT APPROVED  
ANOKA PLANNING COMMISSION  
REGULAR MEETING  
ANOKA CITY HALL  
TUESDAY, February 2, 2016  
7:00 P.M.

CALL TO ORDER:

The regular meeting of the Anoka Planning Commission was called to order at 7:00 p.m.

ROLL CALL:

Planning Commissioners present: Chair Don Kjonaas, Peter Rech, Karna Brewer, Sandy Herrala, Borgie Bonthuis, and James Cook.

Planning Commissioners absent: Manley Brahs

Staff present: Associate Planner Darnell

APPROVAL OF MINUTES:

- a. Approval of January 5, 2016 Work Session Minutes

**MOTION WAS MADE BY COMMISSIONER BONTHUIS, SECONDED BY COMMISSIONER RECH, TO APPROVE THE WORK SESSION MINUTES OF JANUARY 5, 2016**

6 ayes – 0 nays. Motion carried.

- b. Approval of January 5, 2016 Regular Meeting Minutes

Commissioner Brewer referred to page 3 of the minutes and stated the voters in precinct eight should vote at Wilson School, not Lincoln Elementary School. She also stated these are the same places people will vote at for the special election for District 35 on Tuesday, February 9, 2016.

**MOTION WAS MADE BY COMMISSIONER BREWER, SECONDED BY COMMISSIONER BONTHUIS, TO APPROVE THE REGULAR MEETING MINUTES OF JANUARY 5, 2016 AS REVISED**

6 ayes – 0 nays. Motion carried.

- c. Approval of January 19, 2016 Work Session Minutes

**MOTION WAS MADE BY COMMISSIONER BREWER, TO APPROVE THE WORK SESSION MINUTES OF JANUARY 19, 2016**

6 ayes – 0 nays. Motion carried.

NEW BUSINESS:

None.

OLD BUSINESS:

None.

PUBLIC HEARINGS ON NEW APPLICATIONS:

**a. A2016-1 Conditional Use Permit, 1030 McKinley Street**

Associate Planner Darnell reported the applicant, Peak Physique, owned by Tim Moes, is requesting a conditional use permit to operate a personal training studio at 1030 McKinley Street, Suite 1036. The property is located in the M-1 Light Industrial zoning district. A conditional use permit is required because the proposed use is not specifically listed as a permitted use in the M-1 zoning district. Retail and service establishments providing goods and services that are complimentary to the principal uses in the district are allowed as a conditional use permit in the M-1 zoning district.

Associate Planner Darnell reported the applicant is proposing for the business to operate primarily during the hours of 5:00 a.m. and 9:00 a.m. and 4:00 p.m. and 8:00 p.m., which is outside the normal business hours for most other uses in the immediate area. The personal training services provided by this business could also be utilized by employees in the surrounding area and Staff believes that the proposed personal training studio use would be considered complimentary to the principal uses in the district.

Associate Planner Darnell reported Staff analyzed the general requirements for this conditional use permit and reported on the findings as it relates to this application:

1. There are no proposed changes to the building or parking lots on the property.
2. The property is not abutting a residential use, so no additional landscaping is needed.
3. The applicant will be required to follow all city, county, state and federal laws.

4. The applicant will be required to abide by the sign regulations in the M-1 Light Industrial zoning district.
5. The building area of Suite 1036 that will be used for gym space is 4,500 square feet, which would require 45 parking spaces. There is also 800 square feet of office space, which would require 3 additional parking spaces for a total of 48 spaces. The existing parking facilities on the property will be used to accommodate this parking. Due to some discussion on the potential split of the lot at 1030 McKinley Street, Staff analyzed the parking facilities located near the eastern building, which is where the personal training studio will be located. With 38 stalls on the north side of the building and an additional 20 stalls along the south property line, it provides a total of 58 spaces.
6. There are no changes needed for the drive aisles and circular patterns on the site.
7. The site is paved and landscaped to control dust and erosion. It has maintained vegetation, as was required in the 1995 site plan approval.
8. The application does not include any outdoor storage, sales, or services areas.
9. The existing lighting on the property will be maintained and the proposed use will not result in any changes to lighting on the property.
10. The property adequately manages storm water runoff. The proposed use will not require any changes.
11. The existing buildings on the site were constructed as they were approved during the site plan approval in 1995. No changes are proposed to the building as part of this application. The proposed use will be utilizing the existing space in the building without make any interior modifications, which would allow for the leasable space to be easily converted back to office and warehouse space in the future.
12. The utilities serving the site are accurate.

Staff recommends approval with the following conditions:

1. The personal training studio will operate in Suite 1036, which is located in the existing building on the east side of the property.
2. Any new signage must comply with the standards of the M-1 Light Industrial District.
3. All parking stalls shall be maintained according to the original approved site plan and standards set forth in the City Code. All vehicles on the lot shall be located in a designated parking stall.
4. If the fourth suite in the eastern building is leased out in the future, the property owners will allow the City to determine whether the proof of parking area will need to be utilized or whether the site can accommodate all of the users through joint parking.

Chair Kjonaas asked if the property is required to have showers and changing rooms since it is referred to as a gym. Associate Planner Darnell said it was not required.

Commissioner Rech asked about the required 48 parking spots and what would happen if one of the other suites got a new tenant that required additional parking spots. Associate Planner Darnell stated this can only be analyzed on what is being proposed and Staff would look at it if it

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came up. The owner of the building is aware of the parking assigned to this proposed applicant and what might be required in the future if new tenants required additional parking spots.

Commissioner Cook asked if this application has been submitted to the Architectural Review Board and if it conforms to the bylaws. Associate Planner Darnell stated it was not submitted to the architectural review board because it was not changing any of the architectural features of the site itself. Commissioner Cook requested Associate Planner Darnell make sure the bylaws are being followed and that the use is allowed in the industrial park.

Commissioner Brewer stated there is a limited amount of space for industrial parks and the businesses that go in there should be supportive of that intended use. A percentage needs to be established for industrial parks that shows what businesses are actually using it for an industrial purpose before other businesses are allowed to be in there.

Commissioner Cook stated if this is allowed there will be more applicants requesting this for things that were never the intent of the industrial park. He suggested taking a look at the covenant to make sure it is included as an intended use.

Chair Kjonaas stated he agrees with Commissioner Brewer and Commissioner Cook, but does not know if they have the right to tell the property owner what he can do with his property if it is done within the guidelines of the City ordinances.

Commissioner Cook requested a statement from the Industrial Park Review Board to make sure this follows all the covenants for the intended use of the industrial park.

Commissioner Rech asked how long the space was empty before the applicant applied for it. Associate Planner Darnell did not know. Commissioner Rech stated the space would no longer be vacant and would bring customers into the area.

Associate Planner Darnell stated the owner was very motivated to get the applicant into the space. In order for the conditional use permit to be approved, it is up to the Planning Commission to determine if the service the applicant is proposing is complimentary to the principle uses in the M-1 zoning district.

Commissioner Herrala asked if there is any concern with the other tenant occasionally using a forklift at the site and if it would be a safety issue with the applicant's potential customers. Associate Planner Darnell stated it could be an issue as they drive along the side of the building.

Commissioner Cook stated the space is a nice small start-up space for a machine shop, has more of an employment base per square foot than a gym would, and would be a good thing for the community. A gym could be put anywhere.

Chair Kjonaas opened the public hearing at 7:26 p.m.

The applicant, Mr. Tim Moes, 1204 Tenth Avenue NE, Sauk Rapids, stated the space does not have a loading dock, and cannot be utilized by heavy machinery and equipment that may be needed in an industrial park. Their gym is continuing to grow and will start with four to five employees.

Commissioner Cook stated the intent of the allowable retail and service establishments providing goods and services complimentary to the principal uses in the district referred to businesses like an industrial supply company.

Commissioner Herrala asked the applicant why he wants this location. Mr. Moes replied they are looking to branch out in the area and it fits their needs very well. They like the location, space, and population they are coming in to.

Commissioner Herrala asked about the number of clients they would have. Mr. Moes replied they average 22 to 23 clients working with them at any given time. It is not a big gym operation; it is personal training studio.

Commissioner Brewer asked if there was a plan to have showers, a changing room, and if there were secure place for people to store belonging. Mr. Moes said there are two bathrooms, but not a locker room with showers. There are cubbies and lockers available for people to store their items.

Commissioner Brewer asked about the hours of operation. Mr. Moes responded the majority of the workouts will be within the times of 5:00 a.m. to 9:00 a.m. and 4:00 p.m. to 8:00 p.m. During the day, the manager and receptionist will be in the facility working.

Commissioner Rech asked about the applicant's business in St. Cloud. Mr. Moes stated it has been going for two and a half years and similar in size. It is in an industrial area and was required to go through the same process of approval.

Chair Kjonaas closed the public hearing at 7:35 p.m.

**COMMISSIONER COOK MADE A MOTION TO DENY THE APPLICATION BECAUSE IT DOES NOT MEET THE INTENDED USE OF THE INDUSTRIAL PARK.**

Associate Planner Darnell stated Staff could further investigate what the covenant says about the intended use and bring it back to the Planning Commission for consideration at the next meeting.

Chair Kjonaas suggested tabling the application to give the applicant and City Staff time to meet with the board to find out if the intended use is in compliance.

**COMMISSIONER COOK WITHDREW HIS MOTION.**

**MOTION WAS MADE BY COMMISSIONER BONTHUIS, SECONDED BY COMMISSIONER RECH, TO POSTPONE THE APPLICATION A2016-1 CONDITIONAL USE PERMIT, 1030 MCKINLEY STREET, SUBJECT TO MORE INFORMATION FROM THE ARCHITECTURAL REVIEW BOARD OF THE INDUSTRIAL PARK.**

Associate Planner Darnell stated Staff will investigate the covenants of the industrial park to determine whether this use is allowed there and determine if the Architectural Review Board requires approval of the use.

Mr. David Bonthuis, 712 River Lane, Anoka, asked who controls the final question and can the City Council over rule what the covenant state. Associate Planner Darnell stated he believes the covenants would be stricter that what City Council can overrule.

Commissioner Bonthuis suggested getting an attorney ruling on it so that it will be known for future applications.

Mr. Moes asked if the owner would know if the intended use was allowed. Commissioner Cook stated he does not know the owner.

6 ayes – 0 nays. Motion carried.

MISCELLANEOUS:

Next work session will be Tuesday, February 16, 2016 at 5:30 p.m.

Next regular meeting will be either be Tuesday, March 1, 2016 or Wednesday, March 2, 2016 at 7:00 p.m. Staff will follow up with final date and time.

Commissioner Brewer reminded voters of the different places to vote:

Voters in precinct one, two, and three: Greenhaven Golf Course Club.

Voters in precinct four: Zion Lutheran Church

Voters in precinct five: Lincoln School

Voters in precinct six: City Hall

Voters in precinct seven: Anoka Covenant Church

Voters in precinct eight: Wilson Elementary School

ADJOURNMENT:

**MOTION WAS MADE BY COMMISSIONER COOK, SECONDED BY COMMISSIONER BREWER, TO ADJOURN THE MEETING.**

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6 ayes – 0 nays. Motion carried.

Time of adjournment: 7:47 p.m.

Submitted by Chuck Darnell, Associate Planner



**PLANNING COMMISSION  
WORK SESSION  
ANOKA CITY HALL COMMITTEE ROOM  
Tuesday, February 16, 2016  
5:30 P.M.**

**CALL TO ORDER:**

The Work Session of the Anoka Planning Commission was called to order at 5:30 p.m.

**ROLL CALL:**

Commissioners present: Chair Don Kjonaas, Borgie Bonthuis, Karna Brewer, Manley Brahs, Sandy Herrala, Peter Rech and James Cook.

Commissioners absent: None.

Staff present: Chuck Darnell, Associate Planner and Clark Palmer, Associate Planner.

**DISCUSSION ITEMS:**

**1. Sign Ordinance Review and Updates**

Associate Planner Darnell introduced the topic reviewing and identifying potential updates to the sign ordinance, which was one of the goals for the Planning Commission in 2016. This review would also include reviewing all other sections of the zoning ordinance that relate to signs. Associate Planner Darnell stated that the Planning Commission had discussed this topic a few years ago, and identified some areas of the sign ordinance that may need to be investigated or updated. Staff requested that the Planning Commission discuss the areas of the sign ordinance that may need to be investigated further, and provide guidance for staff on areas of the ordinance that should be focused on.

Commissioner Brewer stated that during the previous discussion there had been questions about how billboards, illuminated, and changing electronic signs should be regulated. Commissioner Rech stated that there were definitions on electronic variable message signs and flashing signs, which could be considered to be flashing electronic signs. Staff stated that these definitions would be further investigated to determine if updates were needed.

Commissioner Brewer asked about the electronic sign that the City manages on Main Street on the north side of the Rum River bridge. Staff stated that there was language in the code

that allowed for public signs to be exempt from the requirements of the sign ordinance. Commissioner Cook stated that the definition of governmental sign could be expanded to include any sign that is used to share necessary public information or is used for a public purpose.

Commissioner Herrala asked if there was literature or studies on how signage could distract drivers, and stated that the Planning Commission should consider literature from subject matter experts when considering any changes to sign regulations.

Commissioner Cook stated that LED signs should be further defined and regulated in the ordinance because they are a new technology that did not exist the last time that the sign ordinance was updated. The Commissioners had a discussion on LED lighting and light intensity.

Commissioner Rech noted that all light intensity is measured in foot candles, and that type of measurement could be used to regulate sign light intensity. Commissioner Brahs noted that we already regulate light intensity on other types of development and commercial properties, and that some of that language could be used specifically for signs.

Commissioner Herrala stated that some signage exists in the City that does not blend in well with the architectural quality or character of the building that it is located on. Staff noted that the City did have language on regulating the design of signage in the Main Street districts to be integrated with the architectural character of the building on which it is being placed. However, that language is somewhat vague and further regulations could be investigated.

Commissioner Brewer stated that signage should be included as a requirement during the site plan review process.

Commissioner Bonthuis asked whether temporary signs, like banners, should have time limits. Staff stated that some temporary signs do have time limits, but others do not. Staff suggested that all of the types of temporary signs that are currently listed in the sign ordinance be reviewed and updated, and that time limits be considered for each type of temporary sign. Commissioner Herrala asked whether existing banners would have to comply if a time period was adopted. Staff stated that those existing banners would likely be grandfathered in, but that any existing banner that was not permitted would have to apply for permits and follow current regulations.

Commissioner Brewer asked that the time limit on temporary election signs be changed from specific dates to just regulating based on the number of days before and after an election, to allow for signage to be regulated during special election periods. Commissioner Rech stated that temporary real estate signs should also be investigated, including size, location, and time

limits on how long they can be erected.

Staff stated that they would be investigating sign ordinance in other communities before drafting any recommended changes to Anoka's code. Commissioner Bonthuis stated that staff should look at other communities with historic areas such as Stillwater or Excelsior.

Chair Kjonaas asked about signs in residential districts, particularly along Highway 10 if an overlay sign district were ever adopted. Staff stated that signs in residential districts are regulated differently, but that staff would focus on residential areas when considering the regulations in a Highway 10 overlay district. Chair Kjonaas also asked whether we could regulate the density of signs along the highway. Commissioner Brewer then asked whether a no sign area could be established, and referenced a past effort in the beautification of highways. Staff stated that they would investigate those questions. Commissioner Herrala stated again that any changes that are proposed should be based on literature or studies related to signage and driver safety.

Chair Kjonaas stated that the city needed to balance business interests and the city's interests in regulating signs. Associate Planner Darnell stated that staff would be reaching out to the Anoka Area Chamber of Commerce and the Anoka Business and Landowners Association to gather their input on potential changes to the sign ordinance. Associate Planner Palmer also noted that freedom of speech should be considered when considering any changes to sign regulations.

Commissioner Rech asked whether the City could require that signage be removed from a property when a tenant vacates the property. Staff stated that they would investigate that further. Commissioner Cook suggested that a sunset clause or some other language be used that would require the property owner to remove signage at some point after a building becomes vacant.

Staff stated that they would begin research and outreach, and would bring more detailed recommendations on potential sign ordinance changes back to the Planning Commission at a future work session meeting.

### **3. Other Staff Updates**

Associate Planner Darnell reminded the Commissioners about upcoming meetings.

Time of adjournment 6: 25 p.m.

Submitted by: Chuck Darnell, Associate Planner

# STAFF REPORT



Application A2016-1  
Conditional Use Permit  
1030 McKinley Street  
Applicant: Peak Physique  
March 2, 2016

## **BACKGROUND**

The applicant, Peak Physique which is a business owned by Tim Moes, is requesting a conditional use permit to operate a personal training studio at 1030 McKinley Street. The personal training studio would be operated in Suite 1036, which is located within an existing building on the property at 1030 McKinley Street.

The property is located in the M-1 Light Industrial zoning district. A conditional use permit is required because the proposed use is not specifically listed as a permitted use in the M-1 zoning district. However, retail and service establishments providing goods and services that are complimentary to the principal uses in the district are allowed as a conditional use in the M-1 zoning district. The applicant is proposing for the business to operate primarily during the hours of 5 AM – 9 AM and 4 PM – 8 PM, which is outside of the normal business hours for most other uses in the immediate area. The personal training services provided by this business could also be utilized by employees in the surrounding area. For these reasons, staff believes that the proposed personal training studio use would be considered complimentary to the principal uses in the district.

The Planning Commission considered this application and held a public hearing during their regular meeting on February 2, 2016. At that meeting, the Planning Commission decided to postpone their recommendation in order for staff to complete further research on the covenants and restrictions associated with the property, as well as to determine whether the Anoka Enterprise Park Architectural Review Board should have a role in reviewing or approving the establishment of this use on an Anoka Enterprise Park property.

### **Included for Review:**

- 1) Declaration of Covenants, Conditions, and Restrictions for Anoka Enterprise Park (Pertinent sections highlighted)
- 2) Warranty Deed for Property at 1030 McKinley Street (Pertinent sections highlighted)
- 3) Site location map
- 4) Site plan from the 1995 site plan approval
- 5) Site plan showing proposed parking and building use
- 6) Proposed interior floor plan, provided by applicant
- 7) Site photos, dated 1/7/2016 and taken by staff

## **PROPERTY RESTRICTIONS AND ARCHITECTURAL REVIEW BOARD ANALYSIS**

Staff has completed additional research on the covenants and restrictions on the property at 1030 McKinley Street, as well as determined whether the Anoka Enterprise Park Architectural Review

Board should have a role in reviewing or approving the establishment of this use in an Anoka Enterprise Park property.

All property in the Anoka Enterprise Park is subject to the Declaration of Covenants, Conditions and Restrictions dated May 15, 1995 and filed with Anoka County as document number 11660504. This Declaration of Covenants, Conditions and Restrictions does restrict some uses. The language on restricted uses is included in Section 2, and reads as follows:

2.2 Use. No Lot may be used for the following purposes: auto salvage yard; used material yard; exposed sales or storage; any use that would create an excessive amount of sewage or runoff, or quality of sewage or runoff that would cause a disposal problem; unscreened outdoor storage of material; or the manufacture, storage or sale of explosives or similar dangerous products.

The use that is being proposed with this conditional use permit application, which is an establishment providing services, is not specifically listed as a restricted use in the Declaration of Covenants, Conditions and Restrictions. However, the warranty deed for the property at 1030 McKinley Street does include more restrictive language on uses, which is as follows:

The property is intended to be used for office, warehouse, manufacturing, and distribution purposes. No part of the property shall be used for an “adult use” business, as defined in Chapter 36 of the Anoka City Code. No part of the property shall be used for a retail or service business without prior written approval of the City of Anoka”

Based on this language, the proposed use is not restricted by the Anoka Enterprise Park covenants but the warranty deed would restrict the use unless the City of Anoka provides written approval. Anoka City Code allows for “Retail and service establishments providing goods and services that are complimentary to the principal uses in the district” as a conditional use in the zoning district in which the property in question is located. This language in the City Code is consistent with the language in the warranty deed and the requirement of “written approval of the City of Anoka” to use the property for retail or service business. The granting of a conditional use permit would serve as this written approval, and the proposed use would be allowed upon written approval from the City of Anoka.

The Anoka Enterprise Park Architectural Review Board is defined as the board that is created in Section 3 of the Declaration of Covenants, Conditions and Restrictions. Section 3 also includes language on the roles of the Architectural Review Board. The primary role of the Architectural Review Board is to review construction and alteration of improvements on property in the Anoka Enterprise Park. Specifically, Section 3.2 (a) states:

... no Improvement and no alteration which is visible from a Street or an abutting Lot shall be constructed, erected or maintained on a Lot unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of

the Improvement or alteration shall have been approved in writing by the Architectural Review Board.

The Declaration of Covenants, Conditions and Restrictions does not allow for the Architectural Review Board to review or regulate uses of property in the Anoka Enterprise Park. The conditional use permit application as proposed would not include any exterior changes to the building or suite, so nothing would be changed on the property that would be visible from a street or an abutting lot. For those reasons, the Architectural Review Board would not have a role in reviewing or approving this planning application.

### **CONDITIONAL USE PERMIT ANALYSIS**

The conditional use permit analysis below is the same analysis that was included in the staff report for the February 2, 2016 regular Planning Commission meeting:

Anoka City Code Chapter 74, Article IV, Division 2, Section 74-114 requires the Planning Commission to consider to what extent the applicant's plan minimizes possible adverse effects of the proposed conditional use, what modifications to the plan and what conditions of approval could further minimize the adverse effects of the proposed use.

The following development standards are general requirements for all conditional use permits:

1. The land area and setback requirements of the property containing such a use or activity meet the minimum standards established for the district.

**Finding:** The application as proposed would not require any changes to the existing building or parking lots on the property. The existing building and parking facilities were constructed in their current locations as they were approved during site plan approval in 1995. The current location of the buildings and parking lot meet all land area and setback requirements in the M-1 Light Industrial zoning district.

2. When abutting a residential use, the property shall be screened and landscaped.

**Finding:** The subject property is not abutting a residential use, and is surrounded on all sides by other properties that are zoned M-1 Light Industrial. The uses of the surrounding properties are all industrial except the property to the south and over the railroad tracks, which is the Anoka Technical College campus.

3. Where applicable, all city, county, state and federal laws, regulations and ordinances shall be complied with and all necessary permits secured.

**Finding:** The applicant will be required to follow all city, county, state and federal laws. It is not foreseen that any regulations or ordinances will not be complied with by the proposed operation of the business at this property.

4. Signs shall not adversely impact adjoining or surrounding residential uses.

**Finding:** The applicant will be required to abide by the sign regulations in the M-1 Light Industrial zoning district. Signs in the M-1 Light Industrial zoning district are regulated by Anoka City Code Chapter 74, Article VIII, Section 74-453. Any proposed business or nameplate sign will require a sign permit.

5. Adequate off-street parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses.

**Finding:** The proposed use of a personal training studio would be considered a sporting or health club. Anoka City Code Chapter 74, Article IX, Division 2, Section 74-522 (x) requires that these types of uses provide one parking space for each 100 square feet of building area. The building area of Suite 1036 that will be used for gym space is 4,500 square feet, which would require 45 parking spaces for the proposed personal training studio. There is also 800 square feet of office space, which would require 3 additional parking spaces for a total of 48 parking spaces.

The existing parking facilities on the property will be used to accommodate this parking. The property does contain two separate buildings with their own parking facilities in the front and rear. During the original site plan review, there was some discussion on the potential split of the lot at 1030 McKinley Street to have each of the two buildings on their own individual lot. For that reason, staff has analyzed the parking facilities located only near the eastern building, which the personal training studio will be located in, to determine whether the required parking could be met only on that side of the existing lot. Thirty-eight stalls are located in the parking lot on the north side of the building, and an additional 20 parking stalls are located along the south property line. This provides a total of 58 parking spaces.

The parking facilities on the east side of the property also must provide adequate off-street parking for the other tenants in the building. There are currently two other tenants in the building, and both spaces include office and warehouse space. The parking ratio requirements for buildings in the M-1 zoning district require that 5 parking spaces be provided for each of the other suites (3 parking spaces for the office space, and 2 spaces for the warehouse space). The fourth suite in the building is not leasable, and is used by the property owner for storage. Therefore, the 58 total parking spaces on the property could accommodate the 48 required parking spaces for the personal training studio, while still providing the required 10 spaces for the two other leasable suites.

If the property owner were to decide to lease that fourth suite in the future and additional parking was needed, the owner of the property could utilize a proof of parking space that was identified and provided on the site plan that was approved in 1995. This proof of parking space is located on the north side of the property, near the entry onto McKinley Street, and would provide for 10 additional parking spaces.

The proposed use would not require any changes to the existing circulation pattern of the site. There is an existing 28' drive aisle that is used to access the property from McKinley Street, as well as to access the parking facilities that exist on the property. This drive aisle would remain in place and is wide enough to accommodate two-way traffic on the site. The existing parking facilities meet the standards for parking spaces, and are located as they were approved during the site plan approval process in 1995.

6. The road servicing the use or activity must be of sufficient design to accommodate the proposed use or activity, and such use or activity shall not generate such additional extra traffic as to create a nuisance or hazard to existing traffic or surrounding land use.

**Finding:** The property is served by McKinley Street, and is close to the intersection of Thurston Avenue and McKinley Street. Internal circulation of the property would not be impacted by the proposed addition. Staff believes the proposed use will not generate such additional extra traffic as to create a nuisance or hazard to existing traffic or surrounding land uses.

7. All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced or grassed to control dust and erosion.

**Finding:** The site is paved and landscaped to control dust and erosion. The site has maintained vegetated areas on the north, east, and south property lines, as was required in the 1995 site plan approval.

8. All open and outdoor storage, sales and service areas shall be screened from view from public streets and from abutting residential uses or districts.

**Finding:** The application as proposed does not include any outdoor storage, sales, or service areas.

9. All lighting shall be designed to prevent any direct source of light being visible from adjacent residential areas or from the public streets.

**Finding:** The existing lighting on the property will be maintained, and the proposed use will not result in any changes to lighting on the property.

10. The use or activity shall be properly drained to control surface water runoff.

**Finding:** The property adequately manages storm water runoff with improvements that were required and completed as part of site plan approval in 1995. The proposed use will not require any changes to grading or the management of surface water runoff.

11. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.

**Finding:** The existing buildings on the site were constructed as they were approved during the site plan approval in 1995. No changes are proposed to the building as part of this application. The proposed use will be utilizing the existing space in the building without making any interior modifications, which would allow for the leasable space to be easily converted back to office and warehouse space in the future if needed.

12. The proposed water, sewer and other utilities shall be capable of accommodating the proposed use.

**Finding:** The utilities serving the site are adequate.

### **RECOMMENDATION**

Staff has determined that the Anoka Enterprise Park Architectural Review Board does not have a role in reviewing or approving this planning application because the proposed use does not include any exterior changes to the building or the suite. Therefore, this application was not brought before that board for review. The use that is being proposed is not restricted based on the Declaration of Covenants, Conditions and Restrictions, but that the warranty deed for the property does restrict the use unless the City provides written approval of the use.

Staff recommends approval the conditional use permit at 1030 McKinley Street, which would satisfy the requirement of written approval of this type of use in the property's warranty deed, with the following conditions:

- 1) The personal training studio will operate in Suite 1036, which is located in the existing building on the east side of the property.
- 2) Any new signage must comply with the standards of M-1 Light Industrial District.
- 3) All parking stalls shall be maintained according to the originally approved site plan and standards set forth in the City Code. All vehicles on the lot shall be located in a designated parking stall.

- 4) If the fourth suite in the eastern building is leased out in the future, the property owner will allow the City to determine whether the proof of parking area will need to be utilized or whether the site can accommodate all of the users through joint parking.

**COMMISSION ACTION**

The Planning Commission may recommend approval with conditions, recommend denial and state reasons for denial, or postpone the item for further information.

Chuck Darnell  
Associate Planner



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ANOKA ENTERPRISE PARK**

This Declaration is made May 15, 1995 by the City of Anoka, a Minnesota municipal corporation (the "Declarant").

WHEREAS, Declarant is the owner of real property in Anoka County, Minnesota, legally described on Exhibit A attached to this Declaration and Declarant desires to submit said real property and all Improvements on it (collectively called the "property") to the provisions of this Declaration; and

WHEREAS, Declarant has established an area within the corporate limits of the City of Anoka, known as the Anoka Enterprise Park, which area is identified on Exhibit B attached to this Declaration, and Declarant has the option of adding or allowing to be added to the provisions of this Declaration all or part of the real property in the Anoka Enterprise Park (the "Additional Property"); and

WHEREAS, Declarant desires to declare and establish covenants, conditions and restrictions which will benefit and burden the property for the purpose of facilitating development of the Property and for the purpose of protecting and preserving the value and desirability of the Property.

THEREFORE, Declarant declares that the Property and any Additional Property added to the provisions of this Declaration shall be owned, used, occupied and conveyed subject to the covenants, conditions and restrictions set forth in this Declaration, all of which shall be binding on all Persons owning or acquiring any right, title or interest in the Property and their heirs, personal representatives, successors and assigns.

**SECTION 1  
DEFINITIONS**

1.1 "Additional Property" shall mean the real property in the Anoka Enterprise Park area identified on Exhibit B (except the real property described on Exhibit A), including all Improvements located on the real property now or in the future, and all easements and rights appurtenant to it, which real property Declarant has the right to add or allow to be added to the provisions of this Declaration.

1.2 "Architectural Review Board" shall mean the board established pursuant to Section 3 of this Declaration.

1.3 "Declarant" shall mean the City of Anoka.

1.4 "Improvements" shall mean all structures and other construction on a Lot or Parcel for a use permitted by the zoning ordinances of the City of Anoka, including, but not limited to buildings, outbuildings, parking areas, loading areas, outside platforms and docks, driveways, walkways, fences, lawns, landscaping, signs, retaining walls, screening walls, decks, railroad tracks, poles, berms and swales, and exterior lighting.

1.5 "Lot" shall mean a portion of the Property identified as a Lot on a subdivision plat prepared in accordance with Minnesota Statutes, Chapter 505 and filed for record in the office of the Anoka County Recorder or Anoka County Registrar of Titles.

1.6 "Occupant" shall mean any Person, other than an Owner, in possession of a Lot or Parcel.

1.7 "Owner" shall mean the record owner of a Lot or Parcel, whether one or more Persons, but excluding contract for deed vendors, mortgagees and other secured parties. The term "Owner" includes without limitation contract for deed vendees and holders of a life estate.

1.8 "Parcel" shall mean a tract of land separately described and identified as a "Parcel" on Exhibit A or in a Supplemental Declaration of Covenants, Conditions and Restrictions permitted by Section 4 of this Agreement. The covenants, conditions and restrictions in this Declaration which apply to each Lot shall also apply to each Parcel.

1.9 "Person" shall mean a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.

1.10 "Property" shall mean all of the real property submitted to the provisions of this Declaration, including all Improvements located on the Real Property now or in the future. The Property as of the date of this Declaration is legally described on Exhibit A.

1.11 "Street" shall mean a portion of the Property dedicated to the public in and shown as a street on a subdivision plat prepared in accordance with Minnesota Statutes Chapter 505 and filed for record in the office of the Anoka County Recorder or Anoka County Registrar of Titles.

**SECTION 2**  
**STANDARDS FOR CONSTRUCTION AND MAINTENANCE**

2.1 Minimum Standards. The Minimum Standards for the construction, alteration and maintenance of Improvements on the Property shall be those set forth by the City of Anoka and any other governmental agency which may have jurisdiction over the Property. All Improvements on the Property shall conform to the then existing building codes in effect for the City of Anoka and shall be in compliance with all laws, rules and regulations of any governmental body that may be applicable, including without limitation environmental laws and regulations. Where the following restrictive covenants are more stringent than the zoning ordinances, or other laws and regulations, of the City of Anoka or any other applicable government agency, the restrictive covenants contained in this Declaration shall govern and become the minimum standards by which the Improvements and maintenance of them shall be controlled.

2.2 Use. No Lot may be used for the following purposes: auto salvage yard; used material yard; exposed open sales or storage; any use that would create an excessive amount of sewage or runoff, or quality of sewage or runoff that would cause a disposal problem; unscreened outdoor storage of material; or the manufacture, storage or sale of explosives or similar dangerous products.

2.3 Building Quality and Materials. Each building located on a Lot shall be built in a good and workmanlike manner with high quality, first class building materials. The design and location of buildings constructed on a Lot shall be attractive and shall compliment existing structures and the surrounding natural features and topography with respect to height, design, finish, color, size and location.

Load bearing structural components shall be steel or structural concrete; provided that materials of greater strength may be used if expressly allowed by the Architectural Review Board.

Architecturally and aesthetically suitable building materials shall be applied to or used on all sides of all buildings which are visible from streets or from the front of abutting Lots. Exterior walls of iron, steel, aluminum, other metal, asbestos or wood will be permitted only with the specific written approval of the Architectural Review Board. Exterior walls of masonry, concrete and glass are encouraged. Colors shall be harmonious and compatible with colors of the natural surroundings and other adjacent buildings.

All exterior wall finishes on any building shall be any one or a combination of the following:

- a. face brick;
- b. natural stone;
- c. specially designed precast concrete units, if the surfaces have been integrally treated with an applied decorative material or texture;
- d. decorative concrete block, if used with brick, stone, or glass and approved by the Architectural Review Board;
- e. architectural metal accent panels, generally with a value greater than precast concrete units, and as specifically approved by the Architectural Review Board;
- f. other materials as approved by the Architectural Review Board and in conformance with existing design and character of the Property.

2.4 Maintenance. Each Owner and Occupant of a Lot shall fully and properly maintain and repair the exterior of any structure located on such Lot in such a manner as to enhance the overall appearance of the Property. The exteriors of all buildings and the parking, driving and loading areas shall be kept and maintained in a good state of repair at all times and be adequately painted or otherwise finished in accordance with the guidelines established by the Architectural Review Board.

All Lots shall be kept free of debris of any kind and all landscaping must be kept in good repair. All landscaped areas shall be graded to provide proper site drainage. Landscaped areas shall be maintained in a neat condition, lawns mowed and adequately watered in summer, hedges trimmed, and leaves raked.

2.5 Construction. Construction or alteration of any Improvements on a Lot shall be diligently pursued and shall not remain in partly finished condition any longer than is reasonably necessary for completion of the construction or alteration. The Owner and Occupant of any Lot upon which Improvements are constructed shall at all times keep the Lot and Streets being utilized by such Owner in connection with such construction free from dirt, mud, garbage, trash or other debris which might be occasioned by such construction or alteration.

2.6 Noxious Activities. No trades, services, activities, operation or usage shall be permitted or maintained, nor shall

anything else be done which may be or become a nuisance to the Owners or Occupants or offensive or detrimental to the Property by reasons of (a) unsightliness or (b) the emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid wastes, smoke or noise of a nature and quantity prohibited by the laws of the State of Minnesota and the United States.

2.7 Temporary Structures. No temporary building or other temporary structure shall be permitted on any Lot; provided, however, that trailers, temporary construction buildings and the like shall be permitted for construction purposes during the period of construction or alteration of a permanent building. Such structures shall be placed as inconspicuously as practicable, shall cause no inconvenience to Owners or Occupants of other Lots, and shall be removed not later than 30 days after the date of substantial completion for beneficial occupancy of the building in connection with which the temporary structure was used.

2.8 Mechanical Equipment/Structures. All mechanical equipment shall be located or screened so as not to be visible from streets. Penthouses and mechanical equipment screening shall be aesthetically incorporated into the architectural design of each building and shall be constructed of materials compatible with those of the building. Mechanical equipment located on a roof top may be painted to be compatible with the building, rather than screened, if expressly allowed by the Architectural Review Board. No private water towers, water tanks, tents, elevator housing, equipment, roof signs, towers or gravity flow storage shall be permitted without the written approval of the Architectural Review Board.

2.9 Building Density. Buildings and enclosed structures shall cover not more than 50% of the total area of a Lot. Buildings, enclosures, parking areas, driveways and other surfaced, nonvegetated areas shall not cover, in the aggregate, more than 85% of the area of a Lot.

2.19 Screening of Service Facilities and Storage Areas. Garbage and refuse containers shall be contained within buildings, or shall be concealed by means of shrubbery or screening walls of materials similar to and compatible with that of the buildings. Fuel and other storage tanks shall be integrated with the concept of the building plan, be designed so as not to attract attention, and be inconspicuously located. Unless specifically approved in writing by the Architectural Review Board, no materials, supplies or equipment shall be stored in any area on a Lot except inside a closed building or behind a visual barrier which screens such areas so that they are not visible from the Streets or from the front yard of adjoining Lots.

2.11 Underground Electric. All electrical lines on any Lot (excluding lines in excess of 12 kv) and all telephone lines on any Lot shall be placed underground. Transformer or terminal equipment shall be visually screened from view from Streets and adjacent Lots.

2.12 Parking, Loading and Unloading Areas. No parking shall be permitted on any Street or any place other than parking areas located on a Lot. All parking provided on a Lot must meet the requirements of city codes and ordinances, or the requirements of variances granted by the City. All parking provided on a Lot shall be adequate for the actual use of the Lot. Each Owner and Occupant shall enforce compliance of the foregoing parking restrictions by its employees and visitors.

All driveways and areas for parking, maneuvering, loading and unloading shall be paved with asphalt, concrete or similar material. Loading areas shall not encroach onto front yard setback areas of any Lot.

2.13 Exterior Lighting. All exterior lighting shall be constructed and maintained in accordance with the following standards:

- a. Lighting fixtures shall not be more than 40 feet in height.
- b. Flood lighting of buildings shall be limited to concealed light sources.
- c. Lighting shall be installed and maintained in such a manner as to minimize glare onto adjacent Lots and Streets.

2.14 Landscaping. Not less than 10% of the area of a Lot shall be landscaped by means of a lawn and/or other ground cover, combined with shrubbery, trees and the like, which may be complimented with earth berm, masonry or similar materials, all harmoniously combined with themselves and with other Improvements on the Lot.

### SECTION 3 ARCHITECTURAL CONTROL

3.1 Architectural Review Board. Declarant hereby establishes an Architectural Review Board consisting of five natural persons as members for the purposes set forth in this Declaration. Declarant shall annually call a meeting of all Owners to be held in the month of March at which meeting the

members of the Architectural Review Board shall be elected. Declarant shall give at least 30 days, but not less than 90 days, written notice of each such meeting. At each such meeting, each Owner shall have one vote per each 1/10th of an acre of the Property owned by such Owner; and Declarant shall have one vote per each 1/10th of an acre of the Property owned by it plus one vote per 1/10th of an acre of all Streets in the Property. The presence in person or by proxy of the holders of a majority of the votes shall constitute a quorum at a meeting of the Owners. Cumulative voting shall not be allowed, unless Declarant has less than 50% of the votes, in which case cumulative voting shall be allowed.

The terms of the members shall be one year, beginning on April 1 following their election. If a vacancy occurs in the Architectural Review Board, the remaining members shall elect a replacement who will serve the remainder of the term.

3.2 Restrictions on Construction and Alteration. The following restrictions and requirements shall apply to all construction and alteration of Improvements on the Property:

- a. Except for Improvements constructed by Declarant in consideration of its initial sale or conveyance of a Lot and except as provided by Section 3.3.c., no Improvement and no alteration which is visible from a Street or an abutting Lot shall be constructed, erected or maintained on a Lot unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the Improvement or alteration shall have been approved in writing by the Architectural Review Board.
- b. The criteria for approval shall include and require, at a minimum, the standards set forth in Section 2 of this Declaration.
- c. The restrictions and requirements in this Section 3.2 shall not apply to the construction by the Declarant of streets, utilities, ponds or other amenities or facilities on the Property.

3.3 Review Procedures. The following procedures shall govern requests for construction of Improvements or alterations under this Section:

- a. Detailed plans, specifications and related information regarding any proposed Improvement or alteration, in form and content acceptable to the Architectural Review Board, shall be submitted to the Architectural Review Board at least 30 days prior to the projected

commencement of construction. No Improvements or alterations shall be commenced prior to approval.

- b. The Architectural Review Board shall give the Owner written notice of approval or disapproval. Written notice of disapproval shall indicate reasons for disapproval and shall, if practicable, specify the aspects of the request for construction of improvements or alternations which are not acceptable. If the Architectural Review Board fails to approve or disapprove within 30 days after receipt of said plans and specifications and all other information requested by the Architectural Review Board, then approval will not be required, and this Section shall be deemed to have been fully complied with so long as the Improvements or alterations are done in accordance with the plans, specifications and related information which were submitted.
- c. If no request for approval is submitted, approval is denied, unless (1) the Improvements or alterations are reasonably visible, and (2) no written notice of the violation has been given to the Owner on whose Lot the Improvement or alteration is made by the Architectural Review Board or another Owner, within six months following the date of completion of the Improvement or alterations. Notice may be direct written notice or the commencement of a legal action by the Architectural Review Board or an Owner. The Owner of the Lot on which the Improvement or alteration is made shall have the burden of proof, by clear and convincing evidence, that the Improvement or alterations were completed and reasonably visible for at least six months following completion.

3.4 Remedies for Violations. The Architectural Review Board may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owner causing or permitting the violation all attorneys fees and costs of enforcement, whether or not a legal action is started. Such attorneys fees and costs shall be a lien against the Owner's Lot and a personal obligation of the Owner. In addition, the Architectural Review Board shall have the right to enter the Owner's Lot and to restore any part of the Lot to its prior condition if any Improvements or alterations were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Lot.

3.5 Development Guidelines. The Architectural Review Board may from time to time adopt guidelines for approval and

disapproval of proposed Improvements or alterations and the maintenance of them; and, in the event such guidelines are adopted, shall make them available to all Owners.

**SECTION 4**  
**RIGHTS TO ADD ADDITIONAL PROPERTY**

**4.1 Declarant's Rights to Add Additional Property.**

Declarant hereby expressly reserves the right to add the Additional Property to the Property, by unilateral action, subject to the following conditions:

- a. The right of the Declarant to add the Additional Property to the Property shall terminate ten years after the date of the recording of this Declaration or upon earlier express written withdrawal of such right by Declarant. There are no other limitations on Declarant's rights hereunder, except as may be imposed by law.
- b. Only entire platted Lots, platted outlots and Parcels may be added to the Property.
- c. There are no assurances as to the times at which all or any part of the Additional Property will be added to the Property, the order in which it will be added, the number of parcels per phase nor the size of the parcels. Declarant is under no obligation to add the Additional Property to the Property and the Additional Property may be developed by Declarant or its successors in interest for other purposes, subject only to approval by the appropriate governmental authorities.
- d. All covenants, conditions and restrictions contained in this Declaration affecting the use and occupancy of Lots shall apply to all Lots created on the Additional Property which is added to the Property.
- e. The statements made in subsections c. and d., above, shall not apply to any Additional Property which is not added to the Property.
- f. The addition of Additional Property to the Property shall be evidenced by an instrument, identified as a "Supplemental Declaration of Covenants, Conditions and Restrictions for Anoka Enterprise Park", containing a legal description of the portion of the Additional Property to be added executed by the Declarant and

filed for record with the Anoka County Recorder or Anoka County Registrar of Titles.

4.2 Others Rights to Add Additional Real Estate. All of the owners of a parcel of real property lying within the Anoka Enterprise Park may add all or part of the Additional Property owned by them to the Property subject to the following conditions:

- a. The right of such Owners to add the portions of the Additional Property owned by them to the Property shall terminate one year after the date of recording of this Declaration.
- b. Only entire platted Lots, platted outlots and Parcels may be added to the Property.
- c. All covenants, conditions and restrictions contained in this Declaration affecting use and occupancy of Lots shall apply to all Lots on the portions of the Additional Property added by such owners.
- d. The statements made in subsection c., above, shall not apply to any Additional Property which is not added to the Property.
- e. The addition of Additional Property to the Property shall be evidenced by an instrument, identified as a "Supplemental Declaration of Covenants, Conditions and Restrictions for Anoka Enterprise Park", containing a legal description of the portion of the Additional Property to be added executed by all of the owners of the Additional Property to be added and by the Declarant, and filed for record with the Anoka County Recorder or Anoka County Registrar of Titles.

**SECTION 5  
AMENDMENTS AND TERMINATION**

5.1 Amendments. This Declaration may be amended prior to September 1, 1995 by an instrument in writing executed by the City of Anoka. This Declaration may be amended, modified or terminated by an instrument in writing executed by the holders of 80% of the votes as determined at the next previous election of members of the Architectural Review Board pursuant to Section 3.1 of this Declaration. An instrument executed in accordance with this Section 5.1 shall be effective when filed for record with the Anoka County Recorder or Anoka County Registrar of Titles. No amendment or modification to this Declaration may impose additional restrictions on the Property.

5.2 Termination. The covenants, conditions and restrictions set forth in this Declaration shall run with the land and be binding on all Persons claiming under them for a period of 20 years from the date this Declaration is filed for record in the office of the Anoka County Recorder or Anoka County Registrar of Titles, after which said covenants, conditions and restrictions shall be automatically extended for successive periods of ten years each, unless otherwise earlier terminated pursuant to Section 5.1 of this Declaration.

**SECTION 6  
MISCELLANEOUS**

6.1 Severability. If any term, covenant or provision of this instrument or an exhibit attached to it is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this instrument or exhibits.

6.2 Construction. Where applicable, the masculine gender of any word used in this Declaration shall mean the feminine or neutral gender, or vice versa, and any singular of any word used in this Declaration shall mean the plural, or vice versa.

6.3 Mortgagees. The provisions of this Declaration shall be subordinate to the lien of a first mortgage on any Lot and none of the provisions of this Declaration shall supersede or in any way reduce the security or affect the validity of any such mortgage; provided, however, that if any Lot is sold under a foreclosure of any such mortgage, the purchaser and the purchaser's heirs, successors and assigns shall own such Lot subject to all of the covenants, conditions and restrictions of this Declaration.

6.4 No Assessments. Except as provided in Section 3.4, no assessments may be levied against a Lot by the Architectural Review Board or by the Owners, nor shall the Owners or Lots be obligated to pay any dues in connection with the covenants, conditions and restrictions imposed by this Declaration.

6.5 Special Events. The provisions of this Declaration do not apply to and do not prohibit periodic, nonpermanent business promotions and special sales events conducted on a Lot by the Owner or Occupant.

IN WITNESS WHEREOF the undersigned has executed this instrument the day and year first set forth above.

DECLARANT

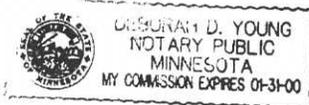
City of Anoka

By Peter M. Beberg  
Peter M. Beberg, Mayor

By Mark Nagel  
Mark Nagel, City Clerk

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF ANOKA        )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 1995, by Peter M. Beberg and Mark Nagel, as Mayor and City Clerk of the City of Anoka, a municipal corporation under the laws of Minnesota, on behalf of the municipal corporation.



Deborah D. Young  
Notary Public

DRAFTED BY:

Jensen, Hicken, Gedde & Scott, P.A.  
300 Anoka Office Center  
2150 Third Avenue  
Anoka, MN 55303-2296

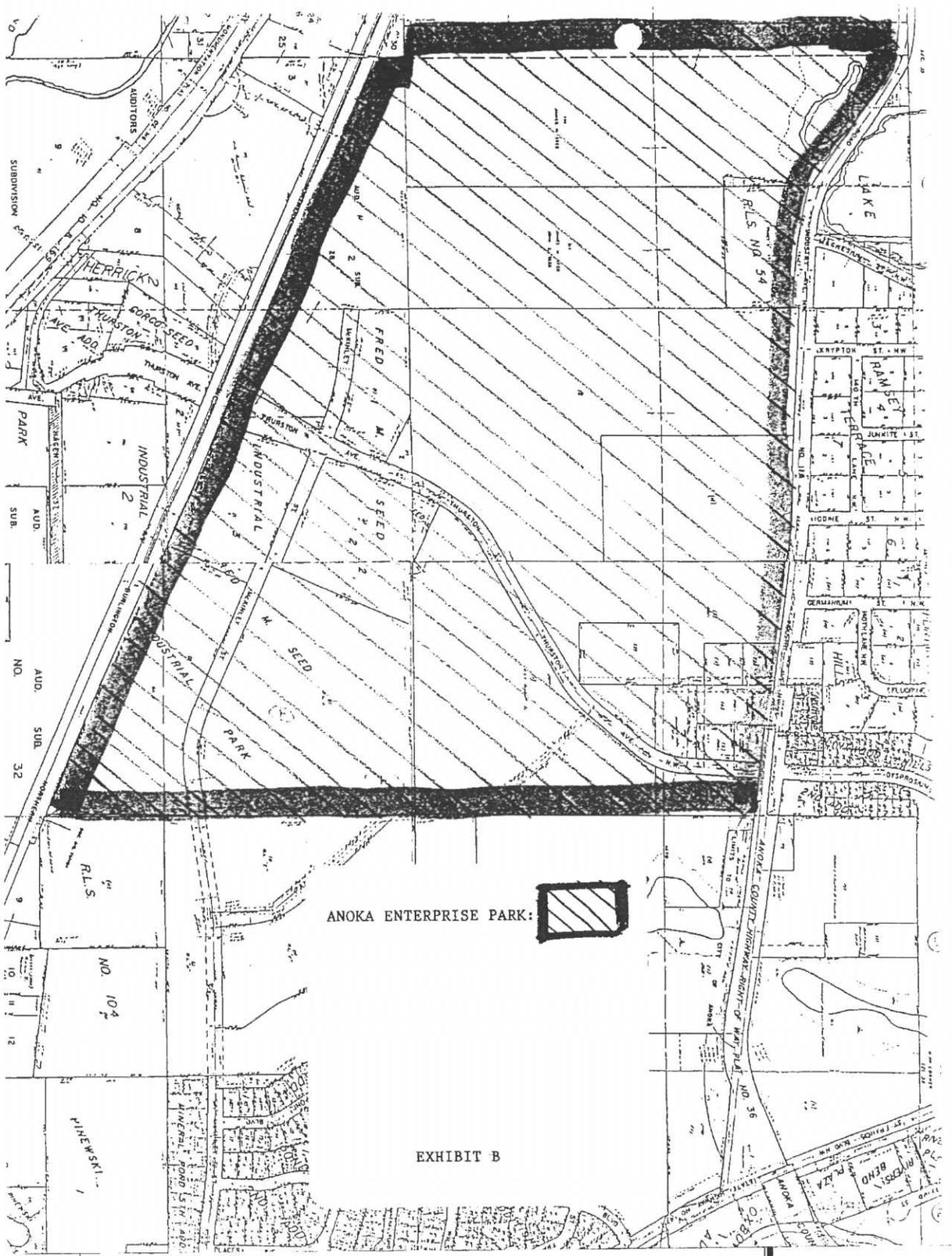
**EXHIBIT A  
PROPERTY**

Lot 1, Block 1;  
Lots 4, 5 and 6, Block 2;  
Outlots A, B and C;  
all in ANOKA ENTERPRISE PARK SECOND ADDITION, Anoka County,  
Minnesota.

AND the following described Parcel:

That part of the Northwest Quarter of the Northwest Quarter,  
Section 36, Township 32, Range 25, Anoka County, Minnesota  
described as follows:

Commencing at the intersection of the West line of said  
Northwest Quarter of Northwest Quarter and the centerline of  
County Road No. 57 as it is now laid out and traveled, said  
point of intersection being 640 feet south of the Northwest  
corner of said Northwest Quarter of Northwest Quarter;  
thence South 85 degrees 02 minutes 10 seconds East (assumed  
bearing of West line of said Northwest Quarter of Northwest  
Quarter is South) on said centerline a distance of 606.66  
feet; thence South 83 degrees 45 minutes 35 seconds East on  
said centerline a distance of 488.82 feet; thence South 1  
degree 14 minutes 25 seconds West a distance of 200 feet to  
the point of beginning of land to be described; thence  
continue South 1 degree 14 minutes 25 seconds West a  
distance of 198 feet; thence West at right angles a distance  
of 220 feet; thence North at right angles a distance of 198  
feet; thence East at right angles a distance of 220 feet to  
the point of beginning.



ANOKA ENTERPRISE PARK:

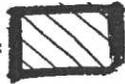


EXHIBIT B

Receipt # <u>21317</u>	<input type="checkbox"/> Certified Copy
Date/Time: <u>5:30-9:15:40</u>	<input type="checkbox"/> Tax Liens/Releases
Doc. Order <u>1</u> of <u>1</u>	<input type="checkbox"/> Multi-Co. Doc. Tax Paid
Checked by: <u>[Signature]</u> Filing Fee: <u>19.50</u>	<input type="checkbox"/> Transfer <input type="checkbox"/> New Desc.
Delinquents <u>-</u> Plus <u>[Signature]</u>	<input type="checkbox"/> Division <input type="checkbox"/> GAC
	<input type="checkbox"/> Status <input type="checkbox"/> Del. Spec.

DOCUMENT NO. 1166504.0 ABSTRACT

**ANOKA COUNTY MINNESOTA**

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON **MAY 30 95**

AT **3:40 PM** AND WAS DULY RECORDED. FEES AND TAXES IN THE AMOUNT OF **\$19.50** PAID.

RECEIPT NO. **95021317**

**EDWARD M. TRESKA**

ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

**JLS**

BY \_\_\_\_\_ DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

Corporation or Partnership to  
Corporation or Partnership

1227018

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed (  ) not required  
 Certificate of Real Estate Value No. \_\_\_\_\_  
June 26, 1996  
*Edward M. Jeska*  
 County Auditor  
 by *Jaren S. Johnson*  
 Deputy

STATE DEED TAX DUE HEREON \$1.65  
 Date: April 15, 1996

(reserved for recording data)

FOR VALUABLE CONSIDERATION, City of Anoka  
 \_\_\_\_\_, a municipal corporation under the laws of  
Minnesota, Grantor, hereby conveys and warrants to Able Property Management, Inc.  
 \_\_\_\_\_, Grantee, a  
 \_\_\_\_\_ corporation under the laws of Minnesota,  
 real property in Anoka County, Minnesota, described as follows:

See legal description attached as Exhibit A.

DIV 35-32-25-42-0015  
 DIV \_\_\_\_\_ 41-0011 R

Total consideration for the transfer of this property is \$500.00 or less.

(if more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

easements of record

Affix Deed Tax Stamp Here

STATE OF MINNESOTA }  
 COUNTY OF ANOKA } ss.

CITY OF ANOKA  
 By *Peter M. Beberg*  
 Its Mayor  
 By *Mark Nagel*  
 Its City Clerk

The foregoing was acknowledged before me this 15th day of April, 1996,  
 by Peter M. Beberg and Mark Nagel,  
 the Mayor and City Clerk  
 of City of Anoka, a municipal corporation  
 under the laws of Minnesota, on behalf of the municipal corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):



*Robert W. Kirchner*  
 SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Able Property Management, Inc.  
 9920 Zilla Street NW  
 Coon Rapids, MN 55433

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Jensen, Hicken & Scott. P.A.  
 2150 Third Avenue, #300  
 Anoka, MN 55303  
 612-421-4110

RETURN TO:  
 LAND TITLE, INC.  
 SUITE 200  
 1000 SILVER LAKE ROAD  
 NEW BRANTON, MN 55112  
 FILE # TTS4766

**EXHIBIT A  
LEGAL DESCRIPTION**

That part of Lots 3 and 4, Block 4, ANOKA ENTERPRISE PARK THIRD ADDITION, Anoka County, Minnesota, which lies easterly of the following described line:

Commencing at the southeast corner of said Lot 4; thence North 67 degrees 00 minutes 39 seconds West, assumed bearing along the south line of said Lot 4, a distance of 475.00 feet to the actual point of beginning of the line to be described; thence North 08 degrees 36 minutes 14 seconds East a distance of 391.30 feet to the north line of said Lot 3 and said line there terminating.

Subject to the Declaration of Covenants, Conditions and Restrictions dated May 15, 1995, and filed May 30, 1995, as Anoka County Recorder Doc. No. 11660504.

Subject to an easement for utility and drainage purposes in favor of the City of Anoka over the westerly 10 feet of the above described-property which is hereby created and reserved by the Grantor.

Subject to an easement for drainage purposes in favor of the City of Anoka, which is hereby created and reserved by the Grantor, over that part of said Lot 4, described as follows:

Beginning at the northeast corner of said Lot 4; thence South 28 degrees 22 minutes 47 seconds West, assumed bearing along the east line of said Lot 4 a distance of 158.00 feet; thence North 67 degrees 00 minutes 39 seconds West a distance of 215.00 feet; thence North 22 degrees 59 minutes 21 seconds East a distance of 139.86 feet to the north line of said Lot 4; thence easterly along the north line of said Lot 4 to the point of beginning.

This conveyance is expressly made subject to the following rights, which are hereby created and reserved by the Grantor:

The Grantor shall have the right to repurchase the property pursuant to the terms and conditions of the Development Agreement between Grantor and Grantee, dated November 8, 1995. Said right to repurchase shall terminate upon the recording of a Certificate of Completion in accordance with the provisions of Section 4.4. of said Development Agreement.

This conveyance is expressly made subject to the following restrictions, which are hereby created and reserved by the Grantor:

The property is intended to be used for office, warehouse, manufacturing, and distribution purposes. No part of the property shall be used for an "adult use" business, as defined in Chapter 36 of the Anoka City Code. No part of the property shall be used for a retail or service business without prior written approval of the City of Anoka.

ABSTRACT

Receipt # <u>42491/26.1st</u>	<input type="checkbox"/> Certified Copy
Date/Time: <u>6-26 / 12:30</u>	<input type="checkbox"/> Mions/Releases
Doc. Order <u>1</u> of <u>1</u>	<input type="checkbox"/> Tax Pd
✓ by: Recorder <u>[Signature]</u>	<input type="checkbox"/> New Desc.
Filing Fees: <u>1950</u>	<input checked="" type="checkbox"/> SAC
Date: <u>[Signature]</u> <u>[Signature]</u>	<input type="checkbox"/> Def. Spec.
	<input checked="" type="checkbox"/> Status

DOCUMENT NO. 1227018.0 ABSTRACT

**ANOKA COUNTY MINNESOTA**

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE

FOR RECORD ON **JUN 26 96**

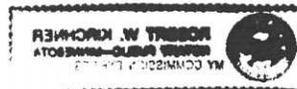
AT **12:30 PM** AND WAS DULY RECORDED.  
FEES AND TAXES IN THE AMOUNT OF **\$26.15** PAID.

RECEIPT NO. **96042491**  
EDWARD M. TRESKA

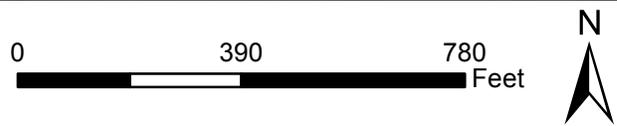
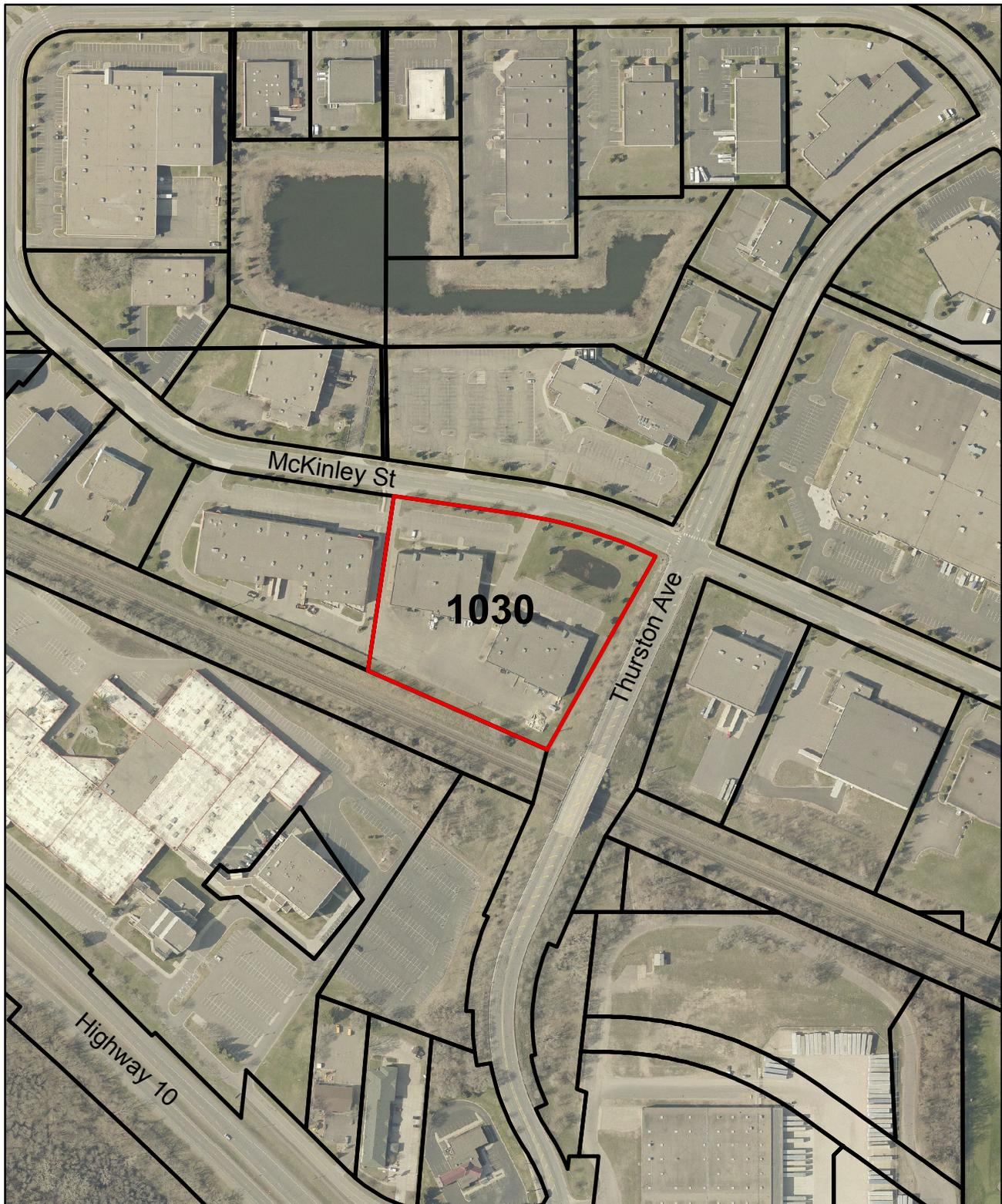
ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

BY DKD  
DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

**APPROVED FOR TRANSFER**  
with without Conditions  
( Circle one )  
City of Anoka  
Date April 15, 1996  
By: Robert Kirchner  
(SEAL)

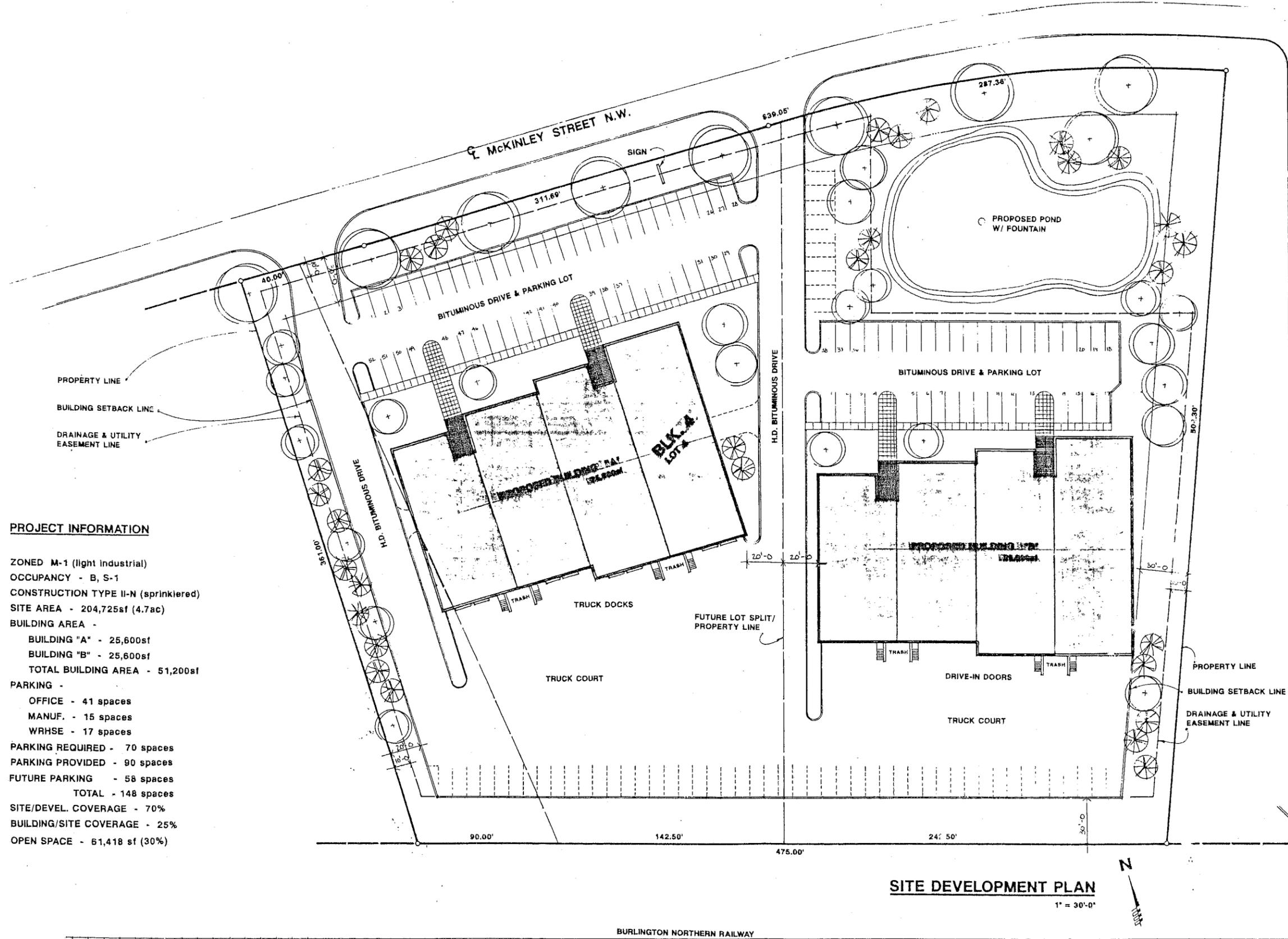


**Site Map**  
**1030 McKinley Street**  
**Conditional Use Permit Application - February 2, 2016**



**PROJECT INFORMATION**

ZONED M-1 (light industrial)  
 OCCUPANCY - B, S-1  
 CONSTRUCTION TYPE II-N (sprinklered)  
 SITE AREA - 204,725sf (4.7ac)  
 BUILDING AREA -  
 BUILDING "A" - 25,600sf  
 BUILDING "B" - 25,600sf  
 TOTAL BUILDING AREA - 51,200sf  
 PARKING -  
 OFFICE - 41 spaces  
 MANUF. - 15 spaces  
 WRHSE - 17 spaces  
 PARKING REQUIRED - 70 spaces  
 PARKING PROVIDED - 90 spaces  
 FUTURE PARKING - 58 spaces  
 TOTAL - 148 spaces  
 SITE/DEVEL. COVERAGE - 70%  
 BUILDING/SITE COVERAGE - 25%  
 OPEN SPACE - 61,418 sf (30%)



**SITE DEVELOPMENT PLAN**

1" = 30'-0"

RECEIVED  
 AUG 18 1995  
 CITY OF ANOKA  
 ANOKA, MINNESOTA

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly registered professional engineer under the laws of the State of Minnesota.

McKINLEY STREET BUSINESS CENTER  
 PROPOSED LEASE FACILITY  
 ANOKA, MINNESOTA

Project No. 9508  
 Date: 10 AUG 95  
 Revisions:

Sheet No. A-1

**Jamb architects**  
 4885 white bear parkway, white bear lake, mn 55110  
 (612) 655-1696



= Suite 1036



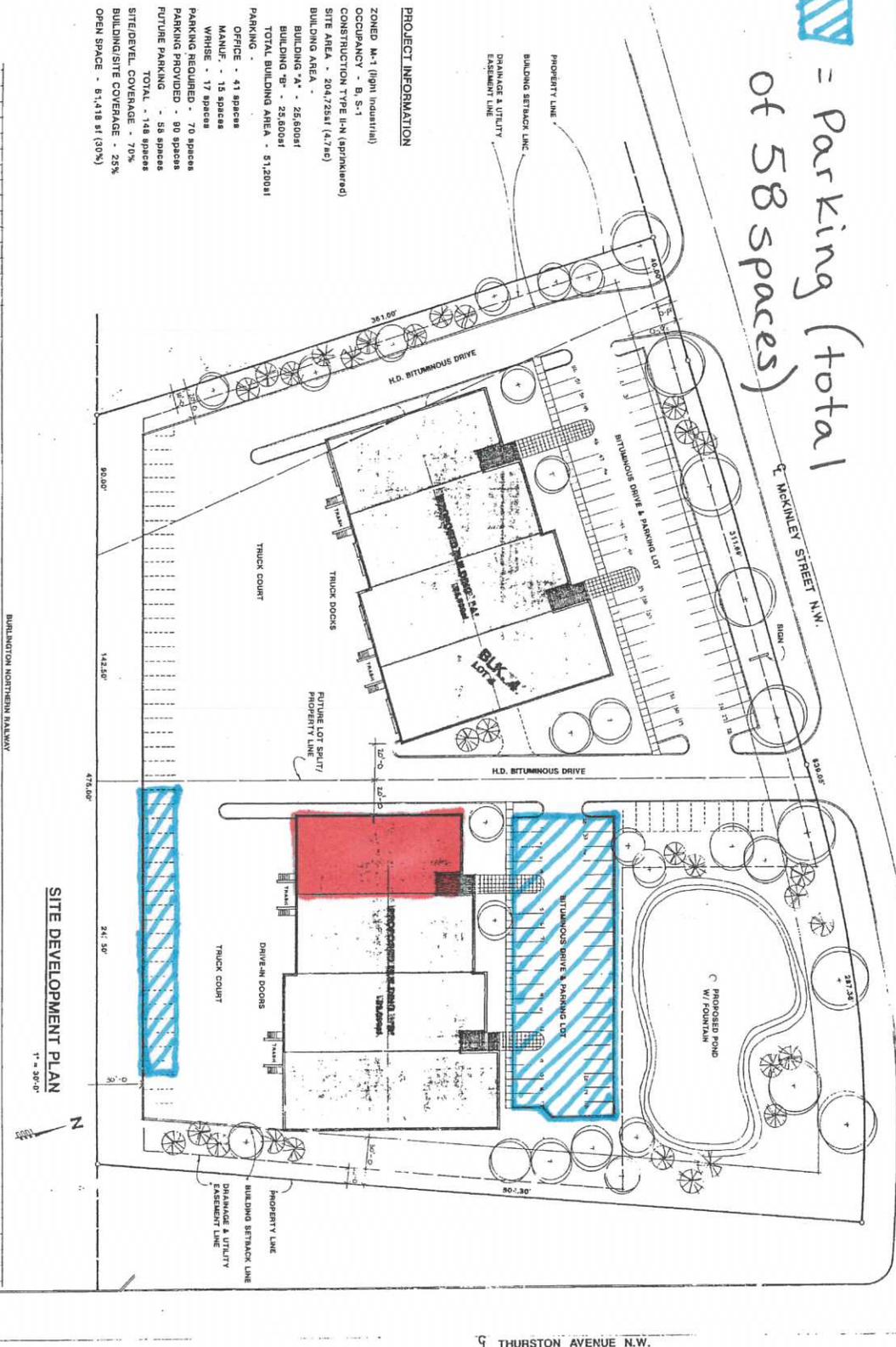
= Parking (total of 58 spaces)

**PROJECT INFORMATION**

ZONED M-1 (Light Industrial)  
 OCCUPANCY - B, S-1  
 CONSTRUCTION TYPE I-I (SPRINKLED)  
 SITE AREA - 204,725sf (4.7ac)  
 BUILDING AREA -  
 BUILDING 'A' - 25,600sf  
 BUILDING 'B' - 25,600sf  
 TOTAL BUILDING AREA - 51,200sf

PARKING -  
 OFFICE - 41 spaces  
 MANUF. - 15 spaces  
 WHISE - 17 spaces  
 PARKING REQUIRED - 70 spaces  
 PARKING PROVIDED - 80 spaces  
 FUTURE PARKING - 58 spaces

TOTAL - 148 spaces  
 SITE/DEVELOPMENT COVERAGE - 70%  
 BUILDING/SITE COVERAGE - 25%  
 OPEN SPACE - 81,418 sf (30%)



SITE DEVELOPMENT PLAN

1" = 300'

RECEIVED  
AUG 18 1995

CITY OF ANOKA  
ANOKA, MINNESOTA

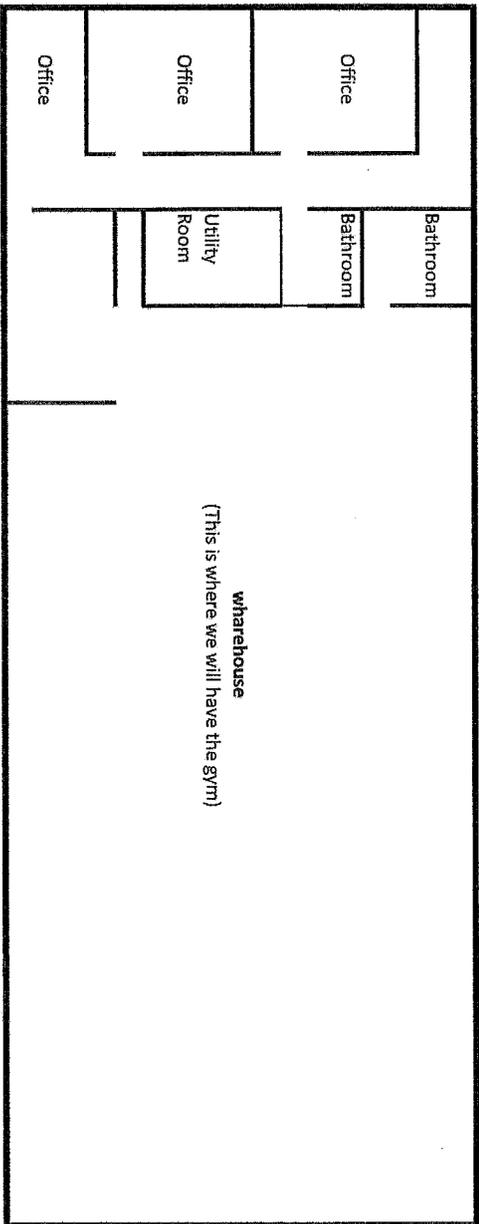
Project No. 9808  
 Date: 10 AUG 93  
 Revision: A-1

McKinley Street Business Center  
 PROPOSED LEASE FACILITY  
 ANOKA, MINNESOTA

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

**Jamb architects**  
 4975 white bear parkway white bear lake, mn 55110  
 (612) 653-1696

1036 McKinley Street Anoka, MN 55303  
5450 Sq. ft.





01/07/2016



1034

1036

087 EB

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01/07/2016

# STAFF REPORT



Application A2016-2  
Impervious Surface Coverage Variance  
Jeremy & Sharon Smith  
1803 1<sup>st</sup> Avenue

## **BACKGROUND**

The applicants, Jeremy and Sharon Smith, are requesting a variance to allow for the construction of a new garage and driveway at 1803 1<sup>st</sup> Avenue that will result in exceeding the maximum impervious surface coverage of their lot. The property is located on a corner lot in the R-4 High Density Residential zoning district. Single family homes are a permitted use in the R-4 zoning district, and garages are permitted as an accessory use as long as they are associated with and located on the same lot as a permitted use.

The applicant has an existing garage on the property that is nonconforming in a number of ways. The garage is 13'x23' (299 sf.), which is smaller than the minimum of 440 sf. required for garages that serve single family dwelling units in the R-4 zoning district. The garage is currently set back only 2 feet from the side property line and 12 feet from the front property line, which fronts onto Madison Street. Both of these existing setbacks are less than the minimum setbacks required in the R-4 zoning district. The garage is also in poor condition and is not usable as a garage for vehicle storage in its current state.

The applicant is proposing to demolish the existing garage and construct a new 24'x32' (768 sf.) garage that would meet the minimum setback requirements. The applicant would also be replacing the existing gravel driveway, which is nonconforming, with a bituminous or concrete driveway to access the new garage. By relocating the garage, expanding the garage, and extending the driveway to access the new garage, the total impervious surface coverage of the lot increases to 40.1%. Therefore, the variance request is to allow the total impervious surface coverage of the lot to be 40.1%.

The following information is relevant to this request:

Lot Size: 8,122 square feet

House Year Built: 1900

House Size: 1,782 sf.

Current Garage Size: 299 sf.

Current Garage Setback from West Property Line: 2 feet

Current Garage Setback from South Property Line (Madison St): 12 feet

Current Garage Setback from North Property Line: 27 feet

Current Impervious Surface Coverage: 28.9%

Proposed Garage Size: 768 sf.  
Proposed Garage Setback from West Property Line: 5 feet  
Proposed Garage Setback from South Property Line (Madison St): 25 feet  
Proposed Garage Setback from North Property Line: 5 feet  
Proposed Impervious Surface Coverage: 40.15%

Enclosed for your review:

- Site Location Map
- Pictures of the Site
- Site Plan (Submitted by Applicant)

### **VARIANCE REVIEW**

In considering a request for a variance, the City must make findings of fact for the following:

- (1) The proposed variance is in harmony with the general purpose and intent of the zoning ordinance.***

The purpose of the R-4 district is to create, preserve and enhance areas for higher densities. However, single family dwellings and any accessory structures associated with them are permitted in the R-4 district. In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. Specifically, the purpose of a front yard setback is to create separation from buildings and the street and from buildings across the street. The front yard and side yard setbacks will be increased to construct the new garage and meet the required setbacks of 25 feet and 5 feet, respectively.

Impervious surface coverage controls are established to provide for orderly development, to control for stormwater runoff, and to allow for rain and water to be managed on site to reduce stormwater runoff and water pollution. The existing impervious surface coverage of the property in question is below the maximum for the zoning district, which is 30%. However, in order to construct a new garage that meets other zoning regulations for size and setbacks, the applicant would have exceeded the 30% maximum. The 30% maximum would have been exceeded even by constructing the smallest possible garage in the same location as the existing garage. Therefore the applicant is requesting the variance to construct a garage that would meet all other zoning regulations, and be of a size that would be suitable for their needs.

The applicant has proposed to relocate the garage to meet setback requirements and to reconstruct the driveway in a building material that is allowed by City Code. The improvements would increase the distance of the garage from the properties across Madison Street, therefore minimizing the visual impacts of having parking located so close to the property lines.

The circumstances mentioned above result in the request being in harmony with the general purpose and intent of the zoning ordinance.

**(2) *The proposed variance is consistent with the comprehensive plan.***

There are various statements and goals in the 2030 Comprehensive Plan that relate to this request.

- Land Use Chapter Goal: *Consider physical development within a community-wide framework which recognizes the unique aspects of the City's setting and ensures top quality design of new construction and development.*
- Land Use Chapter Goal: *Protect and maintain the stability and diversity of the City's neighborhoods.*
- Housing Chapter Goal: *Increase the quality and value of the existing single family housing unit in the City of Anoka.*

The applicant is improving their property by constructing a new garage. In general, the 2030 Comprehensive Plan and City goals are to improve residential properties and reduce blight. Therefore, in general, the granting of variance would be consistent with the 2030 Comprehensive Plan.

**Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute practical difficulties. Findings for a practical difficulty are:**

1. ***That the property owner proposes to use the property in a reasonable manner not permitted by this ordinance.***

The applicant is proposing to replace a 299 sf. garage with a new 768 sf. garage. The minimum garage size required for a single family dwelling unit in the R-4 zoning district is 440 sf. The applicant is requesting a garage that is larger than the minimum garage size. However, the applicant would have needed a variance to exceed impervious surface coverage even if they had constructed a 440 sf. garage. The size of the garage being proposed is reasonable for a standard single family dwelling unit, and would better meet the property owner's needs for vehicle and other equipment storage. Also, the existing garage isn't functional for storing vehicles.

The applicant could replace the garage in the same footprint without the need for a variance. However, this would maintain several nonconformities and would not resolve the issues of vehicle storage that the property owner is encountering with the existing configuration and size of the driveway and garage. The relocation and expansion of the

garage and driveway result in impervious lot coverage that exceeds the maximum in the R-4 district. The 40.1% that is being proposed is higher than the maximum of 30% impervious surface coverage. However, the R-4 district does not specifically regulate what the impervious surface coverage for single family dwellings should be. The 30% maximum is based on the impervious surface coverage for multiple-family dwelling units. The standard impervious surface coverage maximum for single family dwelling units in other districts is 35%, which the proposed plans would still exceed.

The proposed plans do include a 24' wide driveway to access the garage that is also 24' wide, which results in an impervious surface coverage of 40.1%. The applicant could construct a narrower driveway to reduce the impervious surface coverage. If the driveway was reduced to 16' wide, which is the width of the proposed garage door, the impervious surface coverage would be 37.6%. If this variance request was to be approved, staff would recommend that the driveway width be reduced to 16' to reduce the impervious surface coverage.

2. ***That the plight of the landowners is due to physical circumstances unique to the property not created by the landowner.***

The staff report has suggested that increasing the size of the garage and driveway is a reasonable request, therefore this analysis should determine whether the applicant could replace the garage at a smaller size or locate the garage elsewhere on the property. The analysis should determine if the shape of the lot or other unique physical circumstances creates the need for a variance.

As stated above, the applicant would have needed a variance to exceed impervious surface coverage even if they had constructed a 440 sf. garage in the same general location of the existing garage. Therefore, there is no possible way for the property owner to replace the garage and meet other zoning regulations for size and setback with a variance to exceed impervious surface coverage. The expansion of the existing garage in the same location would also have required a variance. The new garage would have expanded the footprint and therefore required front yard and side yard setback variances.

The lot in question is smaller than most lots in the City of Anoka at 8,122 sf. It is also a corner lot and the two property lines fronting the public right-of-way are considered front yards. This results in larger setbacks of 25 feet along those two front yard property lines. This creates a practical difficulty for the property owner in meeting all of the necessary zoning regulations when considering a replacement of the existing garage. When deciding between which variance to request, the applicant decided to pursue the option of exceeding the impervious surface coverage by relocating the garage to meet the setback requirements.

The garage and driveway could be constructed at smaller sizes to reduce the amount that the property would exceed the impervious surface coverage. However, it is impossible to

reconstruct the garage and meet the zoning standards without a variance and the size of the garage being proposed better meets the needs of the property owners.

Given the existing garage size, the existing impervious surface coverage, and the unique size and location of the corner lot, staff believes there are physical circumstances unique to the lot not created by the land owner that result in the need of a variance.

**3. *The proposed variance, if granted, will not alter the essential character of the locality.***

The property is located in a neighborhood with other single family homes in close proximity, even though it is zoned R-4 High Density Residential. The property owners have been making other improvements to the interior of the home, and now want to address the grounds and other structures. The condition and age of the garage makes it look out of place with the other improvements that have occurred on the property. The new garage will be constructed with exterior materials to match the home. Overall the garage will be an improvement to the property and the surrounding neighborhood, and the factors described above should result in a new garage not being drastically different as to alter the essential character of the locality.

**RECOMMENDATION**

Staff believes the request meets the criteria required to grant a variance based on the findings listed above. Staff believes there is a practical difficulty present therefore further supporting granting of the variance based on the findings above. Staff also is supportive of removing the nonconformities associated with the size and location of the existing garage.

Staff recommends approval of the variance with the following conditions:

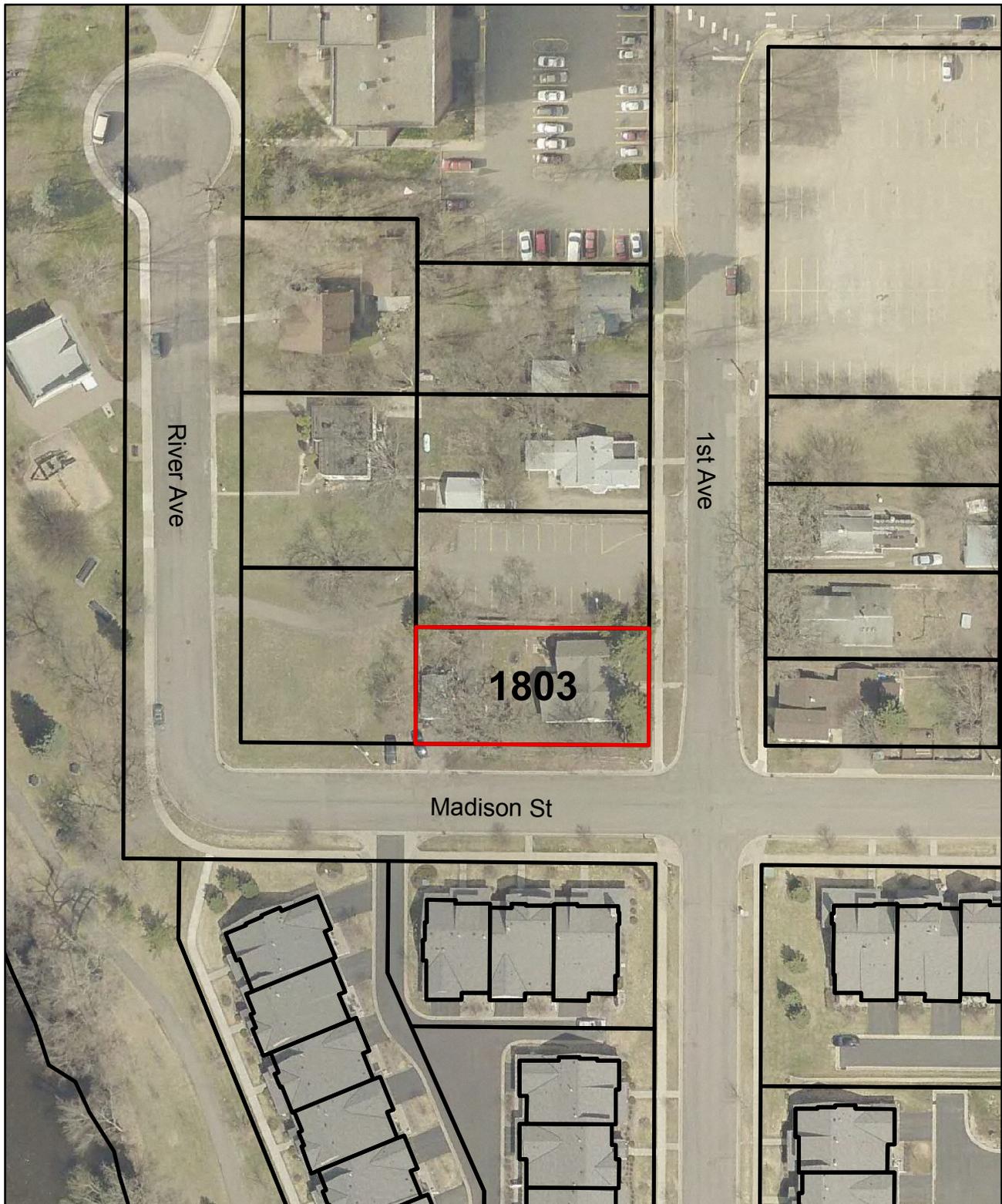
- 1.) The driveway shall be constructed at 16' wide to reduce the impervious surface coverage of the lot to 37.6%.
- 2.) The applicant shall apply for a building permit and driveway permit.
- 3.) The exterior materials of the new garage shall be compatible with the principal building.

**COMMISSION ACTION**

- The Commission may recommend approval of variance with any necessary conditions.
- The Commission may recommend denial of the variance with required findings.
- The Commission may postpone the application with reason.

Chuck Darnell  
Associate Planner

**Site Map**  
**1803 1st Avenue**  
**Variance Application - March 2, 2016**





02/02/2016



02/02/2016



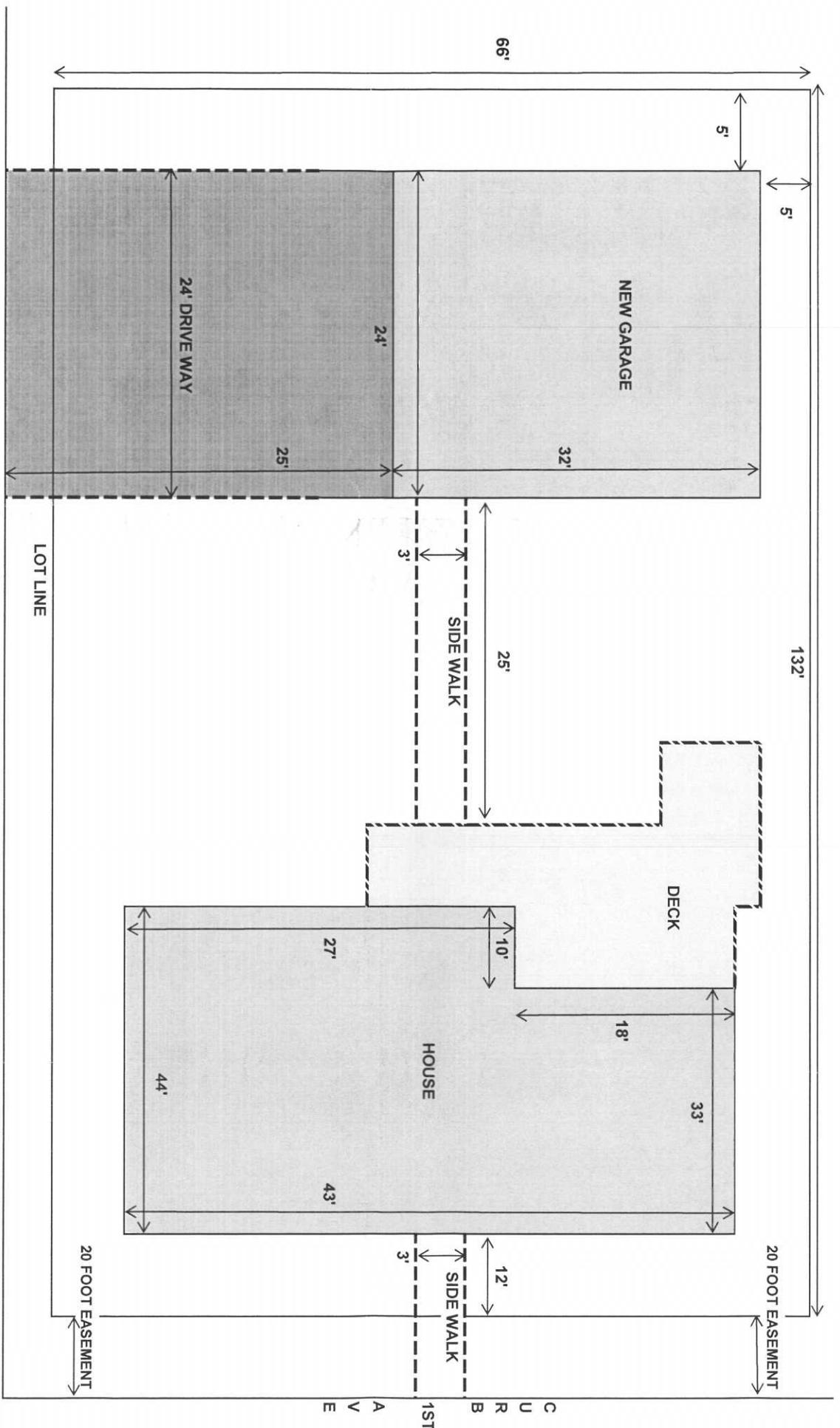
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