



BELLE PLAINE PLANNING & ZONING COMMISSION
NOTICE OF REGULAR MEETING AND AGENDA
CITY HALL, 218 NORTH MERIDIAN STREET
PLEASE USE THE NORTH ENTRANCE

MONDAY, JANUARY 14, 2019
6:30 P.M.

PLEDGE OF ALLIEGENCE

6:30
P.M.

1. CALL TO ORDER.

1.1. Roll Call.

2. APPROVAL OF AGENDA.

3. APPROVAL OF MINUTES.

3.1. Regular Session Minutes of December 10, 2018.

6:35
P.M.

4. RECOGNITION OF INVOLVED CITIZENS.

*Persons may make statements to the Planning Commission pertaining to items **not** on the agenda. Maximum of three (3) minutes per speaker. No official action will be taken.*

5. PUBLIC HEARINGS.

5.1. Ordinance 19-01, Rooftop Solar Energy Systems. The Planning Commission will hear public comment on proposed Ordinance 19-01, which, if approved, will amend Section 1107.18, Subd. 12(5)(A)(ix) of the City Code Pertaining to Rooftop Solar Energy Systems. If approved the ordinance would allow solar energy systems on flat roofs to exceed maximum building height by six feet and accommodate non-flush mounting provided maximum height limit is not exceeded.

Resolution PZ 19-001, Recommending Approval of Ordinance 19-01, An Ordinance Amending Section 1107.18, Subd. 12(5)(A)(ix) of the City Code Pertaining to Rooftop Accessory Solar Energy Systems.

6. BUSINESS.

- 6.1. Resolution 19-004 – Recommend Conditional Approval of Concept Plan for Jane Properties.
- 6.2. Resolution 19-002 – Resolution Recommending Approval of Ordinance 19-02 Pertaining To Outdoor Sidewalk Cafes.
- 6.3. Resolution 19-003 – Resolution Recommending Approval of Ordinance 19-03 Pertaining to Nuisances.
- 6.4. Code Enforcement Policy.
- 6.5. 2018 Annual Report to Council & 2019 Goals.

7. ADMINISTRATIVE REPORTS.

- 7.1. Commissioner Comments.
- 7.2. Director's Report.
- 7.3. Upcoming Meetings.
 - 1. Next Regular Meeting, 6:30 p.m., Monday February 11, 2019.

8. ADJOURNMENT.

There may be a quorum of the Belle Plaine City Council present at the meeting.

**BELLE PLAINE PLANNING & ZONING COMMISSION
REGULAR MEETING
DECEMBER 10, 2018**

PLEDGE OF ALLEGIANCE

Chairman Carter led those present in the Pledge of Allegiance.

1. CALL TO ORDER. 1.1. Roll Call.

The Planning and Zoning Commissioner met in Regular Session on Monday, December 10, 2018 at City Hall, 218 North Meridian Street, Belle Plaine, MN. Chair Ashby Carter called the meeting to order at 6:30 PM with Commissioners Omni Kiecker, Ashton Pankonin and Ashley Cauley present. Commissioner Ryan Herrmann was not present.

Also present were Council Liaison Paul Chard and Community Development Director Smith Strack.

2. APPROVAL OF THE AGENDA.

MOTION by Commissioner Pankonin, second by Commissioner Kiecker, to approve the agenda as presented. ALL VOTED AYE. MOTION CARRIED.

3. APPROVAL OF MINUTES. 3.1. Regular Session Minutes of November 13, 2018.

MOTION by Commissioner Kiecker, second by Commissioner Cauley, to approve the November 13, 2018 minutes as presented. ALL VOTED AYE. MOTION CARRIED.

4. RECOGNITION OF INVOLVED CITIZENS.

*Persons may make statements to the Planning Commission pertaining to items **not** on the agenda. Maximum of three (3) minutes per speaker. No official action will be taken.*

No one spoke during the public forum.

5. PUBLIC HEARINGS.

5.1. Destination Belle Plaine 2040: Comprehensive Plan Update. The Planning Commission will consider public comment on *Destination Belle Plaine 2040* the City's 2040 comprehensive plan update.

Chair Carter introduced the agenda item.

Community Development Director Smith Strack explained that in June 2018, the Planning Commission held a hearing on the *Destination Belle Plaine 2040* the City's 2040 comprehensive plan update. Following the hearing the plan was released to affected jurisdictions for review and comment. The plan was related to: adjacent townships (Belle Plaine, Blakeley, Faxon, San Francisco, St. Lawrence); Carver, Scott, and Sibley counties, ISD 716, Carver and Scott County Watershed Management Organizations; Scott County (Three Rivers) Parks, MnDOT, and MnDNR. The draft update was also submitted to the Metropolitan Council for preliminary review. The Metro Council and Scott County WMO submitted comments which have been addressed and are reflected in the final 2040 update. The Scott County WMO is recommending approval of the revised surface water management plan, comments from TCMC pertaining to aggregate resources, commercial and industrial acreage demand, housing priorities, and transportation forecasts have been incorporated in the final revision.

The final draft plan is provided for public input and consideration/recommendation by the Planning Commission. *Destination 2040* addresses: social and physical resources, community health/wellness/resilience, land use, housing, transportation, parks/trails/recreation, water resources,

economic competitiveness, and plan implementation. The plan includes background and policy narratives, maps, and visuals and collectively presents a vision for future growth and development.

Community Development Director Smith Strack provided a PowerPoint presentation of the highlights of the Destination 2040 Comprehensive Plan Update. The vision statement reads: Belle Plaine will be a perpetually sustainable, complete and livable City for all peoples, seasons and generations. Community Development Director Smith Strack's overview included major themes and plan elements. A new chapter for the 2040 Comp Plan Update includes Community Health, Wellness and Resilience. Maps included in the Plan Update were displayed and Community Development Director Smith Strack explained the proposed changes. Two areas that will require future discussion are amending the Zoning Ordinance to be consistent with the Land Use Map and review of the R-7, High Density Residential District standards.

Community Development Director Smith Strack reported that no oral or written comments pertaining to the plan have been received as of December 10, 2018.

Chair Carter opened the public hearing at 6:49 p.m. and asked for public comment. There was no response.

MOTION by Commissioner Pankonin, second by Commissioner Cauley, to close the public hearing at 6:50 p.m. ALL VOTED AYE. MOTION CARRIED.

Commissioner Kiecker inquired as to how the mining operations will affect potential growth areas for that area. Community Development Director Smith Strack explained that mining projects are largely a result of the demand for materials for the reconstruction of State Highway 21 and the interchange and frontage road project at State Highway 41 and TH169. If mining operations cease for a period of one year, the Interim Use Permit will be rescinded and restoration of the land would commence.

5.4.1. Resolution PZ 18-023, Resolution Recommending the City Council Approve Destination Belle Plaine 2040, the City of Belle Plaine 2040 Comprehensive Plan Update and Authorize Submission to the Metropolitan Council for Official Review.

MOTION by Commissioner Pankonin, second by Commissioner Kiecker, to approve Resolution PZ 18-023, Recommending the City Council Approve Destination Belle Plaine 2040, the City of Belle Plaine 2040 Comprehensive Plan Update and Authorize Submission to the Metropolitan Council for Official Review. ALL VOTED AYE. MOTION CARRIED.

6. BUSINESS.

6.1. Discussion: Solar Energy Systems Code Review.

Chair Carter introduced the agenda item.

Community Development Director Smith Strack explained the Commission indicated a willingness to investigate updating certain standards pertaining to rooftop accessory solar installations. Specifically, the Commission discussed clarifying standards pertaining to solar installations on flat roofs. The review followed suggestions to remove barriers to solar production as identified by SolSmart program reviewers. SolSmart is a national designation program designed to recognize communities that have taken key steps to address local barriers to solar energy. The City recently received a 'bronze' designation from SolSmart. Included with Community Development Director Smith Strack's memo was information pertaining to rooftop solar installations provided by SolSmart and sourced in: a model solar resource guide developed for the State of Georgia and a renewable energy ordinance framework developed by the Delaware Valley Regional Planning Agency. Specific standards for updating pertain to height and flush mount of roof top applications.

Commissioner Pankonin inquired as to whether roof top panels are allowed to extend above the parapet. Community Development Director Smith Strack replied yes, in residential and commercial districts. Chair Carter inquired as to how the proposed standards will affect the design standards of the historic downtown preservation district. Community Development Director Smith Strack explained the proposed standards regarding roofs did not move forward. The 2040 Comp Plan Update favors sustainability and stewardship, and solar energy aligns with that theme. She believes there will be no large demand for solar panels on flat roofs. Commissioner Kiecker inquired about glare regulations and Community Development Director Smith Strack replied that glare must be minimized for roof top applications and would fall under code enforcement. Solar energy standards align with the GreenStep Program. Commissioner Pankonin commented on the unfavorable aesthetics of the downtown business district if roof top solar panels are installed.

MOTION by Commissioner Cauley, second by Commissioner Kiecker, to call for a public hearing for consideration of amending the Zoning Ordinance pertaining to solar energy. ALL VOTED AYE. MOTION CARRIED.

6.2. 2018 Annual Report to Council & 2019 Goals.

Chair Carter introduced the agenda item.

Community Development Director Smith Strack explained the Planning Commission annually reflects on previous activities and creates a designated work plan/goal list. The draft 2018 annual report was provided to the Commissioners. The report addresses Planning Commissioner functions, work completed in 2018, and a starting point for discussion of 2019 goals.

Council Liaison Chard referenced a recent article in the StarTribune newspaper that indicated Belle Plaine as having the lowest tax increase for 2019 in Scott County and 13th lowest in the seven-county metropolitan area. Community Development Director Smith Strack reported the EDA also discussed 2019 goals and will be conducting a workshop to discuss ways to enhance commercial and residential growth. Council Liaison Chard and Commissioner Kiecker commented on the importance of increasing and maintaining the City's population and to provide a favorable environment that will entice residents to remain living in the community.

Chair Carter suggested a sub-panel of the Planning Commission to present the issues to the City Council. Council Liaison Chard believes it is pertinent to review ordinances and remove impediments to development. He stressed implementing policies and procedures that will assist with lowering costs for developers so that more growth can occur. Chair Carter opined the Planning Commission has limited scope. Commissioner Cauley opined the City needs more housing diversity and that a drawback is that the same style home built 20 years is still being built today. She recommended adding a goal to educate and better understand diversity and learn why housing developers have not carried through with initial plans. Commissioner Kiecker concurred with Commissioner Cauley. Community Development Director Smith Strack explained that in the past, one or two members of the Planning Commission presented the accomplishments and goals to the City Council. Chair Carter agrees with the proposed goals and he and Commissioner Pankonin indicated an interest to do the presentation at the City Council.

7. ADMINISTRATIVE REPORTS.

7.1. Commissioner Comments.

Commissioner Pankonin preferred the term workforce instead of low income when referring to housing.

7.2. Director's Report.

Community Development Director Smith Strack provided highlights of the Director's Report.

7.3. Upcoming Meetings.

1. Next Regular Meeting, 6:30 p.m., Monday January 7, 2019.

7.4. Expiring Commissioner Term – Omni Kiecker.

Commissioner Kiecker expressed interest in seeking re-appointment.

8. ADJOURNMENT.

MOTION by Commissioner Pankonin, second by Commissioner Cauley, to adjourn the meeting at 7:38 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Bonnie Vinkemeier and Patricia Krings
Acting Recording Secretary



MEMORANDUM

DATE: January 14, 2019
TO: Chairperson Carter, Members of the Planning Commission, and Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
RE: Agenda Item 5.1: Public Hearing – Ordinance 19-01: Rooftop Solar Energy System Standards

REQUEST: Hold public hearing and make a recommendation to City Council pertaining to Ordinance 19-01 adjusting standards for rooftop solar installations on flat roofs

GENERAL INFORMATION

The Commission has reviewed standards pertaining to rooftop accessory solar installations pursuant to a recommendation from SolSmart (a national designation program designed to recognize communities that have taken key steps to address local barriers to solar energy) reviewers. Specifically, the Commission discussed clarifying standards pertaining to solar installations on flat roofs.

Ordinance 19-01 is presented for public hearing. The draft ordinance amends Chapter 1107.18, Subd. 12(5)(A)(ix) of the Code which provides for rooftop SES. Changes as identified in **bold, underscore** text face in the attached Ordinance.

Proposed changes are as follows:

ix. Rooftop solar energy systems:

1. Shall not cover greater than eighty (80) percent of each side of the roof to which they are affixed.
2. Shall not exceed the maximum height allowed in the applicable zoning district, **except that rooftop solar energy systems installed on flat roofs may exceed the district height limit by six (6) feet.**
3. Shall not extend beyond the exterior perimeter of the building on which the system is mounted or affixed, except that exterior piping is allowed to extend beyond the perimeter of the building on an interior side yard exposure.
4. Shall be flush mounted parallel to the roofline, **except that rooftop solar energy systems installed on flat roofs may be tilted, provided the district height limit as provided under Section 1107.18, Subd. 12(5)(A)(ix)(2), as may be amended, is maintained.**
5. Shall not extend above the peak or ridge of the roof.
6. In residential districts, solar arrays shall be setback a minimum of six inches from every roof edge, peak, ridge, and valley.

A public hearing has been scheduled with notice printed and posted. No comments for or against the Ordinance have been received at this time.

ACTION:

The Planning Commission is to hold the public hearing. Following the hearing and discussion the Commission is to make a recommendation on the Ordinance to the City Council. Attached Resolution 19-001 is provided for action.

CITY OF BELLE PLAINE
ORDINANCE 19-01

AN ORDINANCE AMENDING SECTION 1107.18, SUBDIVISION 12(5)(A)(ix) OF THE CITY CODE
PERTAINING TO ROOFTOP ACCESSORY SOLAR ENERGY SYSTEMS

THE CITY COUNCIL OF THE CITY OF BELLE PLAINE ORDAINS:

Section 1. Section 1107.18, Subd. 12(5)(A)(ix) of the City Code is hereby amended as follows:

ix. Rooftop solar energy systems:

1. Shall not cover greater than eighty (80) percent of each side of the roof to which they are affixed.
2. Shall not exceed the maximum height allowed in the applicable zoning district, **except that rooftop solar energy systems installed on flat roofs may exceed the district height limit by six (6) feet.**
3. Shall not extend beyond the exterior perimeter of the building on which the system is mounted or affixed, except that exterior piping is allowed to extend beyond the perimeter of the building on an interior side yard exposure.
4. Shall be flush mounted parallel to the roofline, **except that rooftop solar energy systems installed on flat roofs may be tilted, provided the district height limit as provided under Section 1107.18, Subd. 12(5)(A)(ix)(2), as may be amended, is maintained.**
5. Shall not extend above the peak or ridge of the roof.
6. In residential districts, solar arrays shall be setback a minimum of six inches from every roof edge, peak, ridge, and valley.

Section 2. This Ordinance shall become effective upon publication in the official newspaper of the City.

Passed and duly adopted by the City Council of the City of Belle Plaine this ____ day of _____, 2019.

BY: _____
Christopher G. Meyer, Mayor

ATTEST:

Dawn Meyer, City Administrator

Published in the Herald on _____, 2019.

**BELLE PLAINE PLANNING COMMISSION
RESOLUTION PZ-19-001**

**RECOMMENDING APPROVAL OF ORDINANCE 19-01, AN ORDINANCE AMENDING SECTION
1107.18, SUBDIVISION 12(5)(A)(ix) OF THE CITY CODE PERTAINING TO ROOFTOP
ACCESSORY SOLAR ENERGY SYSTEMS**

WHEREAS, the City has received a bronze designation from national designation program designed to recognize communities that have taken key steps to address local barriers to solar energy; and,

WHEREAS, the City's solar energy system regulations were reviewed to determine potential barriers to solar energy production, including certain standards pertaining to rooftop accessory solar installation on flat roofs; and,

WHEREAS, the Planning Commission reviewed rooftop accessory solar standards for flat roofs and finds adjustment of certain standards will enhance potential for rooftop solar installation on flat roofs; and,

WHEREAS, the Planning Commission has reviewed a draft a code revision; and,

WHEREAS, the Planning Commission conducted a public hearing on January 14, 2018 following duly published notice to accept public comment on proposed Ordinance 19-01, An Ordinance Amending Section 1107.18, Subd. 12(5)(A)(ix) of the City Code Pertaining to Rooftop Accessory Solar Energy Systems; and,

WHEREAS, the Planning Commission following the public hearing discussed Ordinance 19-01.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council approve Ordinance 19-01, An Ordinance Amending Section 1107.18, Subd. 12(5)(A)(ix) of the City Code Pertaining to Rooftop Accessory Solar Energy Systems.

The adoption of the foregoing resolution was duly moved by Commissioner _____, and seconded by Commissioner _____, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: _____.

and the following voted against the same: _____.

Whereupon said resolution was declared duly passed and adopted. Dated this 14th day of January, 2019.

Ashby Carter
Chairperson

Cynthia Smith Strack
Community Development Director

January 14, 2019

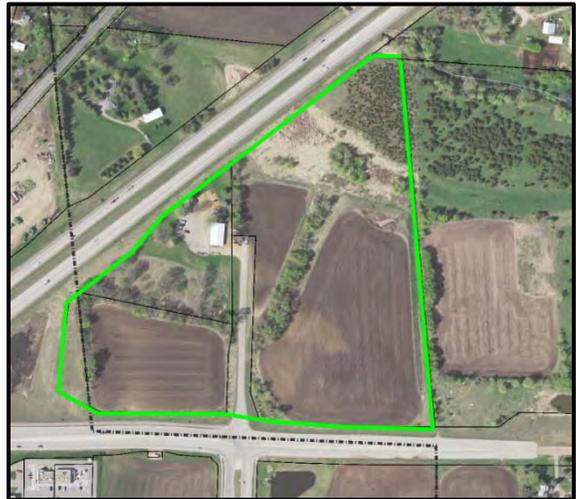
TO: Chairperson Carter
Planning Commission Members
Administrator Meyer

FROM: Cynthia Smith Strack, Community Development Director on behalf of Project Review Team

SUBJECT: Resolution 19 – 004: A Resolution Conditionally Approving A Concept Plat For Jane Properties

The purpose of this memo is to provide the Commission with information regarding a concept plat entitled “Jane Properties Subdivision”. Shaun Johnson, President of Jane Properties LLC proposes the creation of three platted nonresidential lots and two outlots on property located north of CSAH 64/Main and Hickory Boulevard.

Concept plan review is required to insure that all applicants are informed of the procedural requirements and minimum standards for subdivisions, and the requirements or limitations imposed by other ordinances or plans, prior to the development of a preliminary plat. Concept plan review does not constitute plat review or approval nor does it insure consistency with design or improvement standards. Concept plan approval does not obligate the City to approve a preliminary and final plat.



LAND USE REVIEW

Jane Properties Subdivision is a conventional plat subdividing approximately 32 acres of property recently annexed to the City from Belle Plaine Township.

Consistency with Comprehensive Plan

The proposed concept plat technically required to be consistent with the 2030 Comprehensive Plan. As Commissioners are aware, the 2040 Comprehensive Plan has been submitted for formal decennial review by the Metropolitan Council. As such the concept is review under both the 2030 Comprehensive Plan and *Destination 2040*, the City's 2040 Comprehensive Plan.

The proposed plat appears to be largely consistent with housing, economic development, land use, public utility, and water management goals, objectives, and policies contained in the 2030 Comprehensive Plan and *Destination 2040* and associated system plans.

The concept plat as submitted is inconsistent with transportation standards and planned roadways as contained in the 2030 Comprehensive Plan and *Destination 2040*.

The subject site was recently annexed and is guided toward commercial (2030 plan) and commercial/industrial mixed use (*Destination 2040*). The 2040 planned land use map is attached. The property is to be assigned a zoning classification in conjunction with consideration of the preliminary plat. Zoning designation I-C Industrial Commercial is contemplated (zoning district standards attached). Public utilities are within or adjacent to the property with improvements and extension required.

Financial Impact

Private financing of the development is proposed. Development fees apply as defined in the 2019 fee schedule. Development costs, applicable fees, financial guarantees, and other applicable information will be memorialized in a development agreement filed in conjunction with the final plat and recorded against all resulting parcels.

Resource Preservation

The subject parcel contains a significant wetland which has been delineated. In addition, a wetland quality analysis has been completed. The analysis results in required establishment of a wetland buffer with an average width of 35' and a minimum width of 24 feet. Code also prescribes a minimum (new) building setback of 75' from the seasonal high water level of any/all wetland(s).

The City's policy is to encourage wetland avoidance for all new development and prevent land disturbing activities negatively impacting wetlands. City code requires wetlands (to the extent possible) be retained in their natural state to serve as natural water ecosystems and wildlife habitat. The rules and regulations applicable to wetlands set forth by the Minnesota Wetland Conservation Act and Minnesota Clean Water Act apply.

Tree and woodland preservation standards may or may not impact the subdivision. A preliminary grading plan will be submitted with the preliminary plat. When subdividing land, developers may remove up to twenty-five (25) percent of the trees for rights-of-way and streets and an additional twenty-five (25) percent of the existing trees for grading. Any additional trees removed are required to be replaced on a 1:1 ratio.

Transportation

- In 2009 Scott County, Belle Plaine and St. Lawrence Townships, and the City of Belle Plaine completed a corridor preservation study for a future principal arterial (County 2040 Comprehensive Plan designation) CSAH connection between existing CSAH 64 & 66. A "Principal Arterial" is the highest functional classification a roadway can be given and assigns preeminent emphasis on mobility of thru traffic leading to strict limits on intersection points and emphasis on limiting congestion and background traffic. Attached please find a summary of the corridor study. Local street network connectivity to the limited access arterial is required under the corridor preservation study and reflected in the City's Comprehensive Plan. Section 1205.02 of the City Code requires continuation of major streets to serve property contiguous to a subdivision. The concept plat does not provide for local street connectivity or continuity and is therefore inconsistent with the Comprehensive Plan, associated transportation plans/studies, and the subdivision code. Potential remedies to inconsistencies with the Comprehensive Plan and City Code include:
 1. The review team recommends a condition of plat approval be dedication right of way easement to the east (preferred) or northeast property line with the actual build-out of an improved roadway tied to platting of lots. This provides for local street connectivity from 'Point A' i.e. the existing public street to 'Point B' the future limited access principal arterial. A connection to the east versus north is preferred by staff as it is not only more direct and cost effective but avoids wetland impact and potential creation of double frontage future lots adjacent to TH 169 (see attached figure). The concept plat suggests vacation of a portion of the existing public street. Vacation should not be considered if extension of the street to the northeast portion of the lot is envisioned.
 2. As an alternative to the review team's recommendation, the City Attorney notes plat approval could be conditioned on surveying and execution of an ROW easement which would be escrowed now and recorded at the time outlot A or B is developed. The Property Owner would need to survey and execute the agreement prior to recording of the final plat. The escrowed easement could be held by the City or a third party (e.g. title company) and coupled with corresponding language in the subdivision development agreement. To avoid

potential conveyance without the City's knowledge the development agreement could require the City consent to conveyance of an outlot. A modest financial guarantee such as a letter of credit could defer any incidental costs of this approach.

3. A third option is to move away from existing city policy, county policy, and past practices pertaining to establishment of local street networks. This would be accomplished through consideration of a comprehensive plan amendment and variance to required subdivision code standards. Scott County and MnDOT must be notified of requests for comprehensive plan amendment and variances.

It is appropriate for the Planning Commission to provide a recommended approach to local street network establishment in the form of a condition of concept plat approval.

- The concept plat has been submitted to Scott County transportation for concept comment. Initial comments indicate a right turn lane will need to be added to CSAH 64 and adequate right of way dedicated to accommodate the potential establishment of alternative traffic controls such as a traffic circle or signal at the intersection of CSAH 64/Main and Hickory. Recognition of Scott County recommendations are a suggested condition of concept plan approval.
- A turnaround sufficient to accommodate snow plows and emergency vehicles will be needed at the junction of proposed public streets (Hickory Blvd & Hickory Blvd east segment).

Pedestrians/Bicyclists

Existing trail (gold line) and sidewalk (blue line) are illustrated in the attached map. Trail exists within the CSAH 64/Main boulevard abutting the plat west of Hickory Boulevard. CSAH 64/Main Street has a functional classification of 'collector' within the 2030 and 2040 Comprehensive Plans. Sect 1205.08, subd. 2 of the city code requires installation of sidewalk (or trail) adjacent to collector streets.

In addition, the Park Board may recommend and/or the City Council may require installation of sidewalk adjacent to other streets if deemed desirable.

Bike and pedestrian facilities are not specifically addressed in the concept plan.

Lots/Blocks

Lot orientation and block standards appear consistent with subdivision standards. Staff notes outlots are not eligible for building permits and must be platted prior to development.

Consistency with Zoning District Lot Performance Standards

Minimum performance standards pertaining to minimum district size, minimum district frontage, minimum lot size, minimum lot width, and minimum lot frontage appear to be achieved.

Open Space, Parkland Dedication

Fee in lieu of park land dedication is proposed. The 2019 fee schedule sets the payment calculation for commercial and industrial property at ten (10) percent of the estimated market value at the time of platting. The EMV of the combined parcels subject to concept plat has been requested and will be provided when available. The Park Board will be discussing this item at a meeting January 22nd.

Utilities

Municipal drinking water and sanitary sewer infrastructure must be extended throughout the plat. The preliminary utility plan will be addressed when a preliminary utility design is submitted with the preplat. Under code, looping of water main and extension of utilities to the edges of property to facilitate future development are required. Under existing policy, the City Engineer is required to design public improvements. Municipal infrastructure must be contained in dedicated easements.

Environmental

The project is not large enough to necessitate formal environmental review under state thresholds.

Stormwater/Grading/Drainage

Stormwater management, grading, and erosion control to be reviewed at the preliminary plat stage of development review. Additional information will be needed at that time which sufficient documents post-development stormwater rate, volume, and concentration will not exceed pre-development levels.

Other

The plat includes an exception for property in the far northwest portion of the subject property due to uncertainty pertaining to ownership.

REVIEW TEAM RECOMMENDATION

Approval subject to the following conditions:

1. Concept plat approval is limited to major development issues and not intended as or construed to be a complete review of all required improvements, design standards, and legal aspects of a plat. Approval is not intended as or construed to constitute: preliminary or final plat approval; approval of construction plans; a development contract; or any other required approval or acceptance of Jane Properties Subdivision.
2. Concept plan approval does not obligate the City to approve a preliminary or final plat.
3. Concept plan approval pertains specifically to "Jane Properties Subdivision" a conventional subdivision consisting of three commercial/industrial lots in two blocks and two outlots.
4. Outlots are not eligible for building permits. Outlots must be platted prior to development.
5. Assignment of an appropriate zoning classification (I/C Industrial Commercial District).
6. Submittal of additional information pertaining to wetlands and woodlands sufficient to ensure compliance with code standards.
7. Dedication right of way easement to the east of "Hickory Boulevard" to the easternmost property line.
8. Recognition of comments from Scott County transportation.
9. A turnaround sufficient to accommodate snow plows and emergency vehicles to be provided at the junction of proposed public streets within the plat.
10. Review of proposed park dedication by the Park Board and acceptance by the City Council.
11. Review and approval of proposed improvements, stormwater management, grading, and erosion control measures.
12. Establishment of clear title.
13. The concept plat for Jane Properties Subdivision, all correspondence, all reports, and all conditions and restrictions placed upon the concept and phasing plans by the Belle Plaine Planning Commission shall be made a part of this Resolution.
14. The Applicant shall submit applications for preliminary plat review/approval and final plat review/approval, The Applicant shall submit construction plans for approval, pay all necessary fees/costs, and enter into a development agreement at the time of final plat approval.

ACTION

Resolution 19-004 is attached for consideration following discussion.

ATTACHMENTS

The following items are attached:

- Application and concept plat – with and without aerial
- Planned Land Use Map *Destination 2040*
- I/C Industrial Commercial zoning district standards
- CSAH 64/66 Corridor Study
- Figure illustrating local street network concept
- Figure illustrating existing sidewalks/trails
- Resolution 19-004

Annex	CUP	Home Occ.	Interim Use	Move Building	Non - Conform	Plan Consid.	PUD	Variance
Driveway	Land Excavation		Land Fill	Rental		ROW	Sign	



City of Belle Plaine
 218 N. Meridian Street
 P.O. Box 129
 Belle Plaine, MN 56011

Community Development Department
 Phone: 952-873-5553
 Fax: 952-873-5509
 www.belleplainemn.com

Fee: \$ 250

PLANNING CONSIDERATION APPLICATION

PROPERTY	Address: 10950 225th Street West	Belle Plaine, MN	P.I.N: 209050030
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Lot Number:	Block Number:	Subdivision: Part of the SW 1/4-NW 1/4, Section 5-113-24
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Zoning:

APPLICANT	<input type="checkbox"/> Owner	Name: Jane Properties, LLC	Phone: 952-894-9078
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Mailing Address: 900 West 128th Street, Suite 205, Burnsville, MN 55337	Cell: 612-366-4247
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E-mail: Shaun@JWAsphalt.com	Fax: 952-894-6888
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OWNER	Name: Jeffrey and Roxanne Swedlund	Phone: 612-816-7288
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Mailing Address: 28268 State Highway 25, Belle Plaine, MN 56011	Cell: 612-816-7288
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E-mail: Roxanne.Swedlund@Gmail.com	Fax:
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APPLICATION TYPE: *(Check all that apply)*

<input type="checkbox"/> Concept Plan-Subdivision	\$250	<input type="checkbox"/> Site Plan	\$300	<input type="checkbox"/> Minor Subdivision	\$250
<input type="checkbox"/> Prelim. Plat Approval	\$300+\$5/lot	<input type="checkbox"/> Rezoning	\$300	<input type="checkbox"/> Alley/Street Vacation	\$500
<input type="checkbox"/> Final Plat Approval	\$200	<input type="checkbox"/> Comp Plan Amend	\$500 to \$1,000	<input type="checkbox"/> Easement Vacation	\$500
<input type="checkbox"/> Other <i>(bdg. materials, landscape, lighting, parking & misc. plans)</i>					

Improvement Description:
 Concept plan for possible new subdivision.

Attached to this application and made a part thereof, are:

<input type="checkbox"/> Concept Plan	<input type="checkbox"/> Preliminary Plat	<input type="checkbox"/> Final Plat	<input type="checkbox"/> Sketch of Improvement Layout
<input type="checkbox"/> Plans & Specifications	<input type="checkbox"/> Photographs	<input type="checkbox"/> Other: _____	

I certify that I am the applicant named herein; that I have familiarized myself with the rules and regulations with respect to preparing and filing this application that the foregoing statements and answers herein contained and the information on the attached maps or site plans and any other documents submitted herewith are in all respects true and accurate to the best of my knowledge and behalf.

APPLICANT SIGNATURE: *Shaun J. [Signature]* **DATE:** 12/18/18

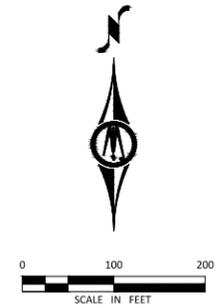
OWNER(S) SIGNATURE: *Roxanne Swedlund [Signature]* **DATE:** 12/18/18

OFFICE USE ONLY

Date Received:	Form of Payment:	Transaction Number:
Application Fee:	Date:	Collected By:

Reviewed by Community Development Director	<input type="checkbox"/> Application Complete	Date:
Reviewed by Planning Commission	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:
Reviewed by City Council	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:

JANE PROPERTIES SUBDIVISION



LEGEND

- MONUMENT FOUND
- ◆ BENCH MARK
- ⊕ ANCHOR
- ⊠ CATCH BASIN
- ⊕ HYDRANT
- ⊕ LIGHT POLE
- ⊕ SANITARY MANHOLE
- ⊕ STORM MANHOLE
- ⊕ TRAFFIC SIGN
- ⊕ COMMUNICATION PEDESTAL
- ⊕ UTILITY POLE
- EU — ELECTRIC UNDERGROUND
- G — GAS LINE
- CU — COMMUNICATION UNDERGROUND
- FO — FIBER OPTIC UNDERGROUND
- OU — UTILITY OVERHEAD
- I — WATER SYSTEM
- >> — STORM SEWER
- > — SANITARY SEWER
- INTERMEDIATE CONTOURS
- INDEX CONTOURS
- X- EXISTING FENCE LINE

Horizontal Datum: Scott County Coordinate System
NAD83, 2011 Adjustment

VERTICAL BENCHMARKS - NAVD88	
Elevation	Description
857.96	TOP NUT HYDRANT ON SOUTHWEST SIDE OF THE INTERSECTION OF HICKORY BLVD AND 225 TH STREET WEST

LEGAL DESCRIPTION

The Southwest Quarter of the Northwest Quarter of Section 5, Township 113, Range 24, Scott County, Minnesota, lying South of State Highway No. 169, excepting therefrom the following described property:

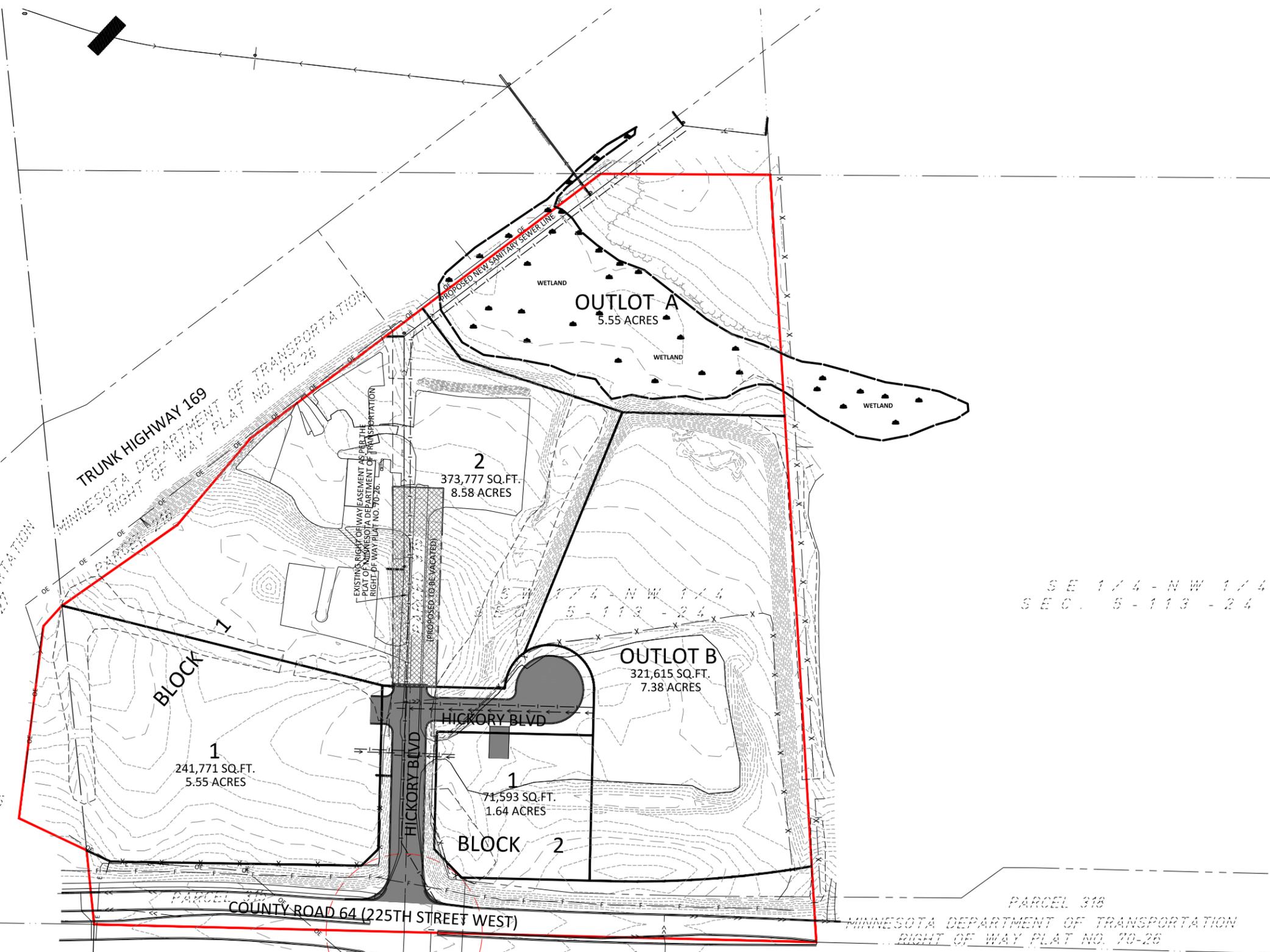
Beginning at the point of intersection of the West line of Section Five, Township One Hundred Thirteen North, Range Twenty-four West and the Southerly right-of-way line of U.S. Highway No. 169, said point being 616.5 feet North of the West Quarter corner of said Section Five; thence North 58 degrees 35 minutes East along the Southerly line of said highway a distance 747.8 feet; thence South 5 degrees 29 minutes West a distance 638.9 feet; thence North 70 degrees 30 minutes West a distance of 612.00 feet to the West line of said Section 5; thence North along the West line of said Section 5 a distance of 41.9 feet to the place of beginning, Scott County, Minnesota.

AND

That part of the Southeast Quarter of the Northeast Quarter of Section 6, Township 113, Range 24, Scott County, Minnesota, lying southeasterly of the Southeasterly right-of-way line of State Trunk Highway No. 169, excepting therefrom the following described property:

SE 1/4 - NW 1/4
SEC. 5 - 113 - 24

That part of the Southeast Quarter of the Northeast Quarter of Section 6, Township 113 North, Range 24 West, shown as Parcel 315 on Minnesota Department of Transportation Right of Way Plat Number 70-27 as the same is on file and of record in the office of the County Recorder in and for Scott County, Minnesota.



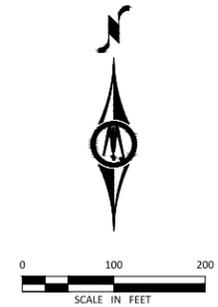
SE 1/4 - NW 1/4
SEC. 5 - 113 - 24

DIVERSIFIED
BUSINESS PARK
FOURTH ADD.

BUESGENS COMMERCIAL CENTER

BOLTON & MENK	CONCEPT PLAN BELLE PLAINE, MINNESOTA	PART OF THE SW 1/4 - NW 1/4, SECTION 5 & 6, TOWNSHIP 113 NORTH RANGE 24 WEST
	1960 PREMIER DRIVE MANKATO, MINNESOTA 56001 (507) 625-4171	FOR: JW ASPHALT

JANE PROPERTIES SUBDIVISION



LEGEND

●	MONUMENT FOUND	— EU —	ELECTRIC UNDERGROUND
◆	BENCH MARK	— G —	GAS LINE
⊙	ANCHOR	— CU —	COMMUNICATION UNDERGROUND
⊠	CATCH BASIN	— FO —	FIBER OPTIC UNDERGROUND
⊕	HYDRANT	— OU —	UTILITY OVERHEAD
⊛	LIGHT POLE	— I —	WATER SYSTEM
⊗	SANITARY MANHOLE	— >> —	STORM SEWER
⊖	STORM MANHOLE	— > —	SANITARY SEWER
⊞	TRAFFIC SIGN	---	INTERMEDIATE CONTOURS
⊠	COMMUNICATION PEDESTAL	---	INDEX CONTOURS
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Horizontal Datum: Scott County Coordinate System
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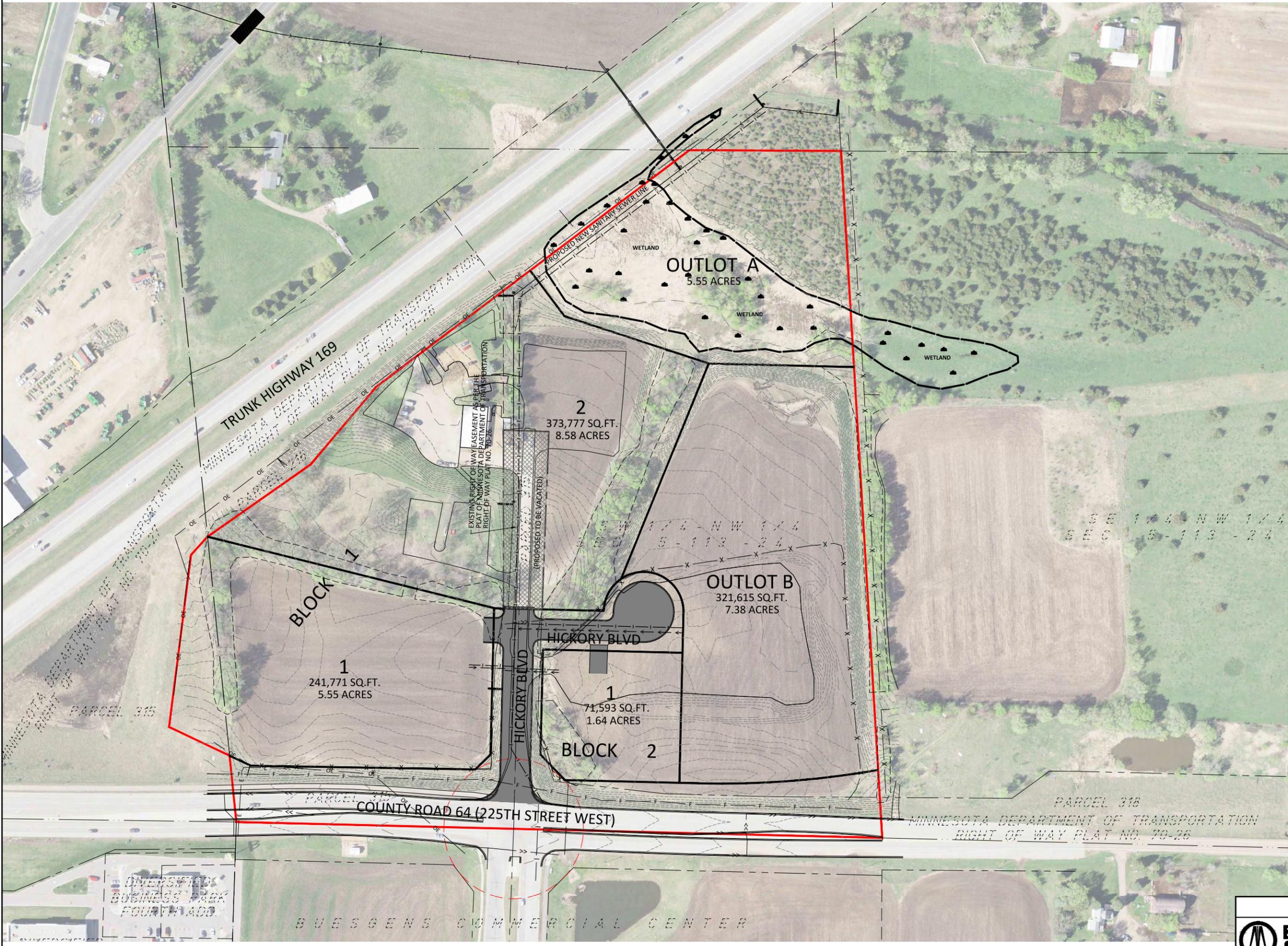
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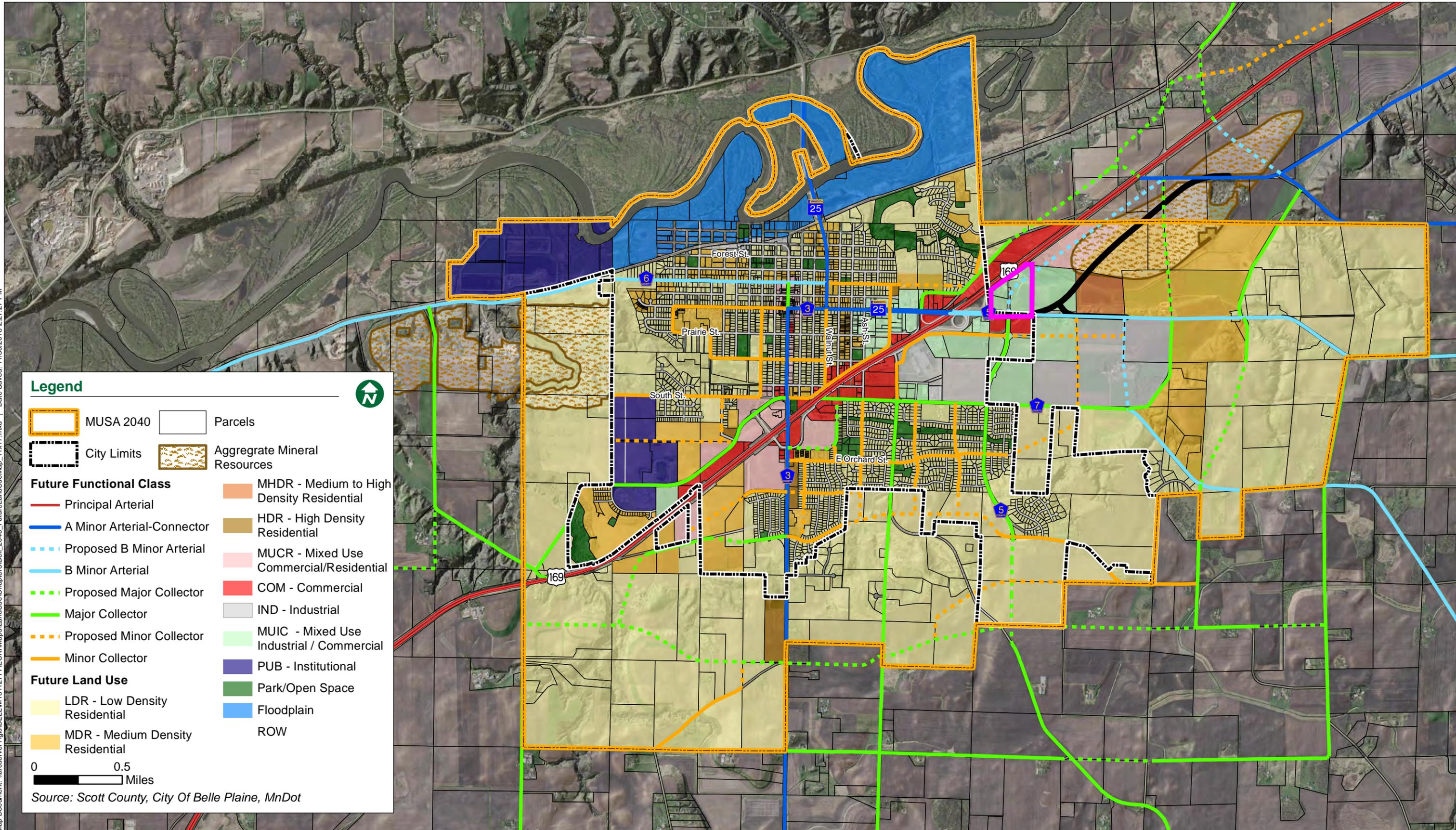
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That part of the Southeast Quarter of the Northeast Quarter of Section 6, Township 113, Range 24, Scott County, Minnesota, lying southeasterly of the Southeasterly right-of-way line of State Trunk Highway No. 169, excepting therefrom the following described property:

That part of the Southeast Quarter of the Northeast Quarter of Section 6, Township 113 North, Range 24 West, shown as Parcel 315 on Minnesota Department of Transportation Right of Way Plat Number 70-27 as the same is on file and of record in the office of the County Recorder in and for Scott County, Minnesota.



BOLTON & MENK 1960 PREMIER DRIVE MANKATO, MINNESOTA 56001 (507) 625-4171	CONCEPT PLAN BELLE PLAINE, MINNESOTA	PART OF THE SW 1/4 - NW1/4, SECTION 5 & 6, TOWNSHIP 113 NORTH RANGE 24 WEST
	FOR: JW ASPHALT	JOB NUMBER: M36.117409 FIELD BOOK: DRAWN BY: NPM 11.0 - 5 & 6, T113N R24W



Legend

 MUSA 2040	 Parcels
 City Limits	 Aggregate Mineral Resources

Future Functional Class

 Principal Arterial	 MHDR - Medium to High Density Residential
 A Minor Arterial-Connector	 HDR - High Density Residential
 Proposed B Minor Arterial	 MUCR - Mixed Use Commercial/Residential
 B Minor Arterial	 COM - Commercial
 Proposed Major Collector	 IND - Industrial
 Major Collector	 MUIC - Mixed Use Industrial / Commercial
 Proposed Minor Collector	 PUB - Institutional
 Minor Collector	 Park/Open Space

Future Land Use

 LDR - Low Density Residential	 Floodplain
 MDR - Medium Density Residential	 ROW

0 0.5 Miles

Source: Scott County, City Of Belle Plaine, MnDot

Map Document: \\arcserver1\gis\BELL\15112777\ESRI\Maps\LandUse\Chapter3\Bell_2040_FutureLandUseMap_11x17.mxd | Date Saved: 11/30/2018 2:27:27 PM

SECTION 1105.13 INDUSTRIAL/COMMERCIAL DISTRICT.

1105.13 SUBD. 1. PURPOSE.

It is the purpose of the I/C District to allow for development of areas where there is a transition in use occurring, but sites are not available which would allow for compliance with other district requirements. Industrial or commercial development will be allowed only as a conditional permitted use to (1) ease land use transition, (2) control development so that it is compatible with surrounding property, and (3) establish dimensional requirements on an individual basis.

1105.13 SUBD. 2. PERMITTED USES.

There are no permitted principal uses in the I/C District.

1105.13 SUBD 3. CONDITIONAL USES. Building or land may be used for the following if granted a Conditional Use Permit based upon procedures set forth in and regulated by Sections 1103.08 and 1106.05 of this Ordinance, and provided further that any objectionable features normally associated with the uses, such as those deemed to be hazardous, offensive or objectionable by reason of order, dust cinders, gas fumes, noise, vibration, refuse matter or water-carried waste, shall be ameliorated, controlled or eliminated through design, mechanical devices, screen planting and/or walls or other measures. Any use not listed shall be reviewed by the Zoning Administrator and shall follow standards as set forth in this Section.

1. Trade and services, including any retail store, personal service or business service establishments, subject to all regulations and such permits and licenses as may be required by law, including the following and other similar uses.
2. Animal hospitals.
3. Automobile or trailer sales and service establishments.
4. Building material and hardware, retail sales/repairs
5. Business and professional offices.
6. Cultural, entertainment and recreational establishments.
7. General merchandising, apparel and accessories and establishments.
8. Car wash operations, including automated lanes.
9. Catering establishments.
10. Churches and houses of worship and related facilities.
11. Convenience goods and food shops, subject to a maximum of five thousand (5,000) square feet of sales area.
12. Drive-in or drive-up restaurants.
13. Banking facilities.
14. Hotels, motels and bed and breakfast inns.
15. Manufacturing or assembly of a wide variety of products that produces no exterior noise; glare; fumes; obnoxious products; by-products or wastes; in excess of Minnesota Pollution Control Agency standards, or creates other objectionable impact on the environment including the generation of large volumes of traffic.

16. Motor vehicle body shops.
17. Post offices and other public service operations.
18. Publishing, job printing, and blue printing.
19. Nurseries, garden supply centers.
20. Restaurants.
21. Services stations, automobile repair shops.
22. Theaters.
23. Warehousing, Storage and Wholesaling: The storage, handling, assembly and distribution of goods and materials for retail, wholesale or on-site use. This does not include truck terminals, which are not allowed in this District.
24. Daycare Nursery Facilities.
25. Scrap Recycling Facilities.
26. Indoor firing range, as a principal or accessory use, subject to the standards contained in Section 1103.08, Subd. 5(B)(9), as may be amended (located under the heading of specific standards for conditional uses in the Highway Commercial District).

(Ord. 17-02, Section 1105.13, Adopted March 20, 2017.)

1105.13 SUBD. 4. ACCESSORY USES.

Any accessory use, building or structure customarily incidental to a permitted principal use and located on the same lot as the permitted principal use.

1. Off-street parking and loading as regulated by Sections 1107.12 and 1107.13 of this Ordinance.
2. Semi truck and trailer parking.

1105.13 SUBD. 5. LOT REQUIREMENTS AND SETBACKS.

The following minimum requirements, exceptions and modifications set forth in this Ordinance.

1. Lot Area: Twenty Thousand (20,000) square feet.
2. Lot Width: One Hundred (100) feet.
3. Setbacks:
 - a. Front Yard: Thirty-five (35) feet.
 - b. Side Yard: Twenty (20) feet.
 1. Interior Lot:
 - a. Twenty (20) feet.
 - b. Fifty-five (55) feet abutting a Residential District.
 2. Corner Lot: Thirty (30) feet.
 - c. Rear Yard:
 1. Twenty-five (25) feet.
 2. Fifty-five (55) feet abutting a Residential District.

- d. Where railroad loading facilities exist or are to be provided, the rear and side yards may be modified through a variance.

1105.13 SUBD. 6. MAXIMUM BUILDING HEIGHT:

The maximum building height shall be thirty-five (35) feet.

1105.13 SUBD. 7. MAXIMUM SITE COVERAGE.

The maximum site coverage shall be eighty-five (85) percent and shall be calculated to include building footprints; parking areas; driveways; loading, storage and trash areas and other areas covered by an impervious surface.

1105.13 SUBD. 8. MINIMUM DISTRICT SIZE.

The minimum district size shall be five (5) acres, with a minimum frontage of three hundred (300) feet.

1105.13 SUBD. 9. INDUSTRIAL/COMMERCIAL DESIGN STANDARDS.

Industrial/commercial design standards are set forth and regulated in Section 1107.22.

(Ord. 11-13, Section 1105.13, Subd. 3, Adopted November 21, 2011.)

(Ord. 14-05, Section 1105.13, Subd. 3, Adopted May 19, 2014.)

(Ord. 17-02, Section 1105.13, Subd. 3, Adopted March 20, 2017.)



CH 66/CH 64 Corridor Preservation Study

Study Year:
2009

Study Area:
Extension of CH 8
between CH 66 and
CH 64

Partners:

- City of Belle Plaine
- Belle Plaine Township
- St. Lawrence Township
- Scott County

Related Studies:

- CH 8 Corridor Preservation Study (2005)

Need:

The County Highway (CH) 66/CH 64 Corridor Preservation Study need is based on Scott County's vision for the future arterial system. With the new interchange at Trunk Highway (TH) 169/CH 64 the City will continue to see development pressure in this area.

Purpose:

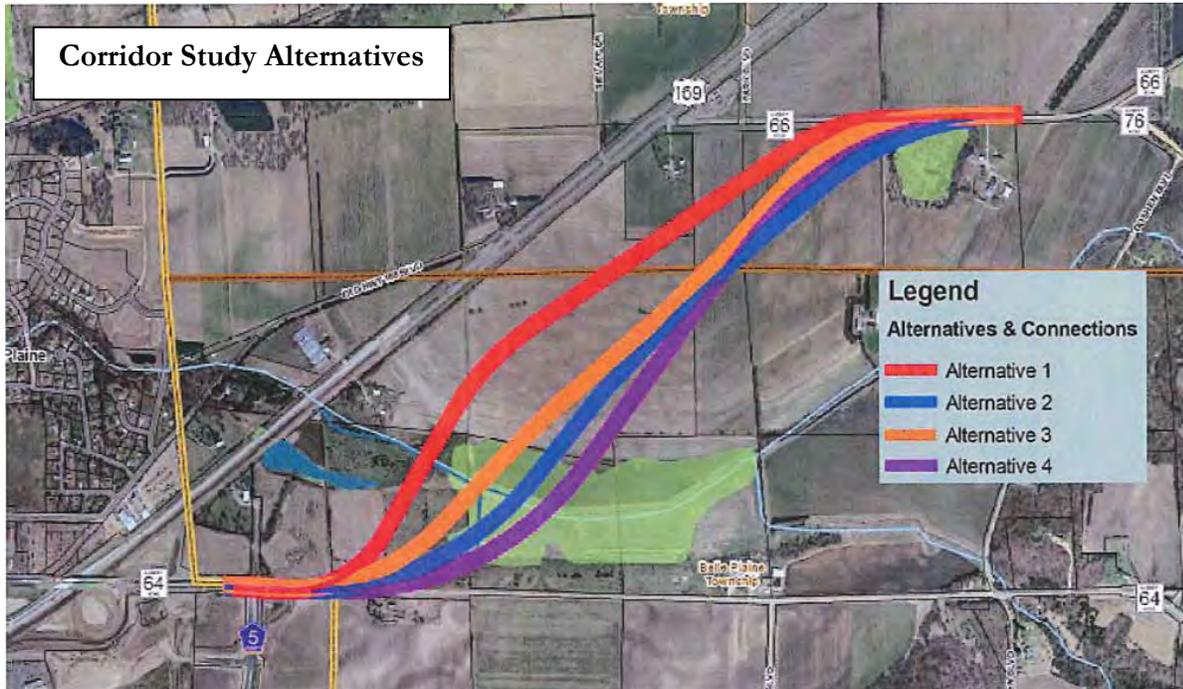
The study was initiated to take a more focused look at this corridor, which was a part of the CH 8 Corridor Preservation Study adopted in 2005. The CH 66/CH 64 study focused on roadway alignments, long-term connection of CH 64 to the corridor, and other intersection locations. The communities have collaborated to refine the corridor so it can be used in the future, as a guide for development to assure that the needs of the roadway system will be met.

Key Policy Recommendations:

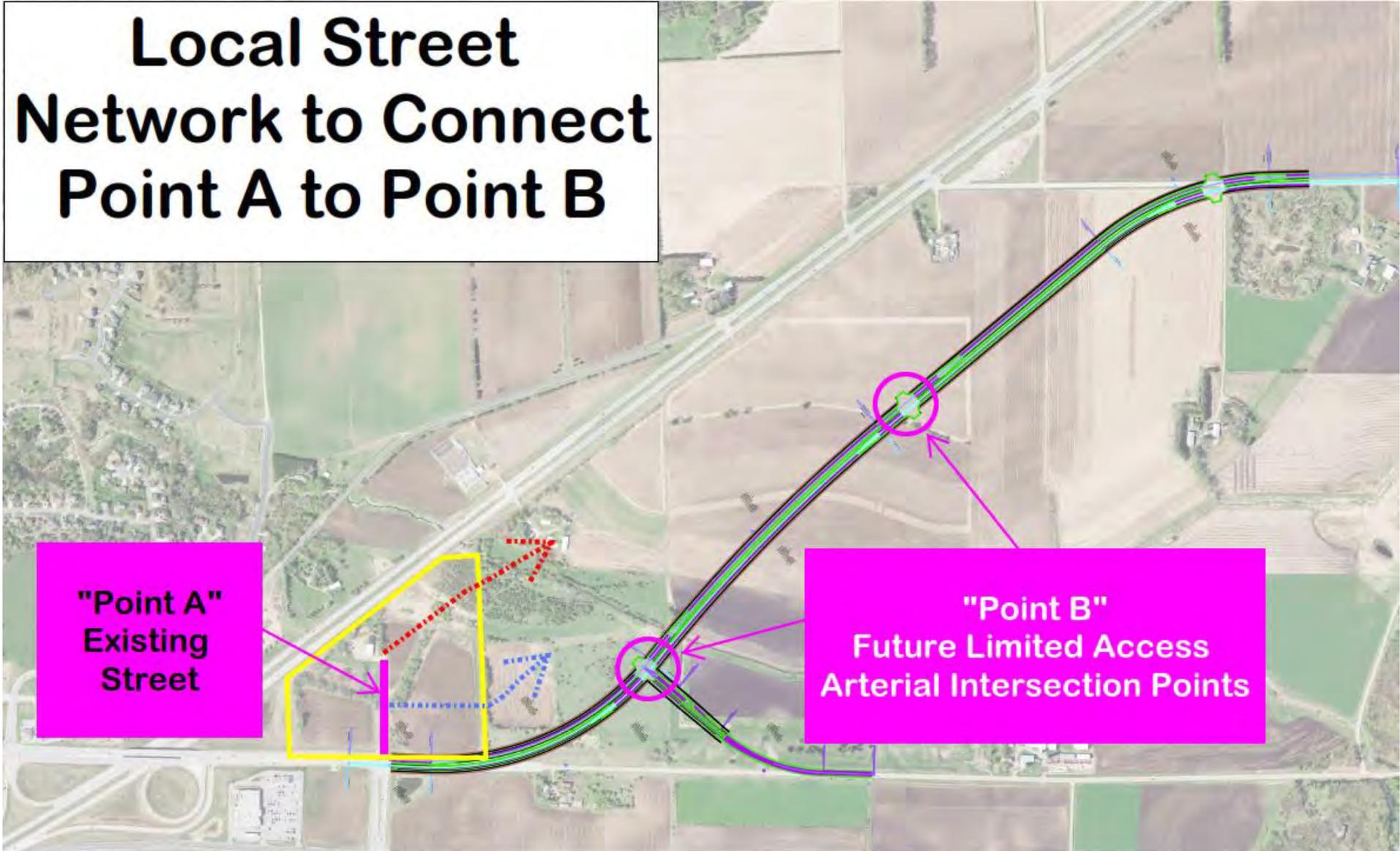
- Preserve right-of-way for the corridor and construct the road with development occurring along Alternative 3.
- Alternative 3 best balanced several evaluation criteria, including minimizing wetland impacts, preserving the marsh soil area for future wetland banking and restoration opportunities.
- Alternative 3 will provide a safe minor arterial roadway that will meet design standards and safety considerations.
- Provide a full access intersection with CH 64 without maximum roadway banking (super-elevation).
- A local internal frontage road is required to be constructed between TH 169 and Alternative 3 to serve local traffic and provide local interconnectivity between property.
- Provide a building envelope width between the corridor and TH 169 at a 1/4 mile wide. A 1/4 mile building envelope accommodates potential future "big-box" commercial development. A 1/4 mile building envelope would also facilitate the ability to achieve an internal frontage road through the development between TH 169 and the new corridor.
- Full access at 1/2 mile spacing on the corridor.



CH 66/CH 64 Corridor Preservation Study



Local Street Network to Connect Point A to Point B



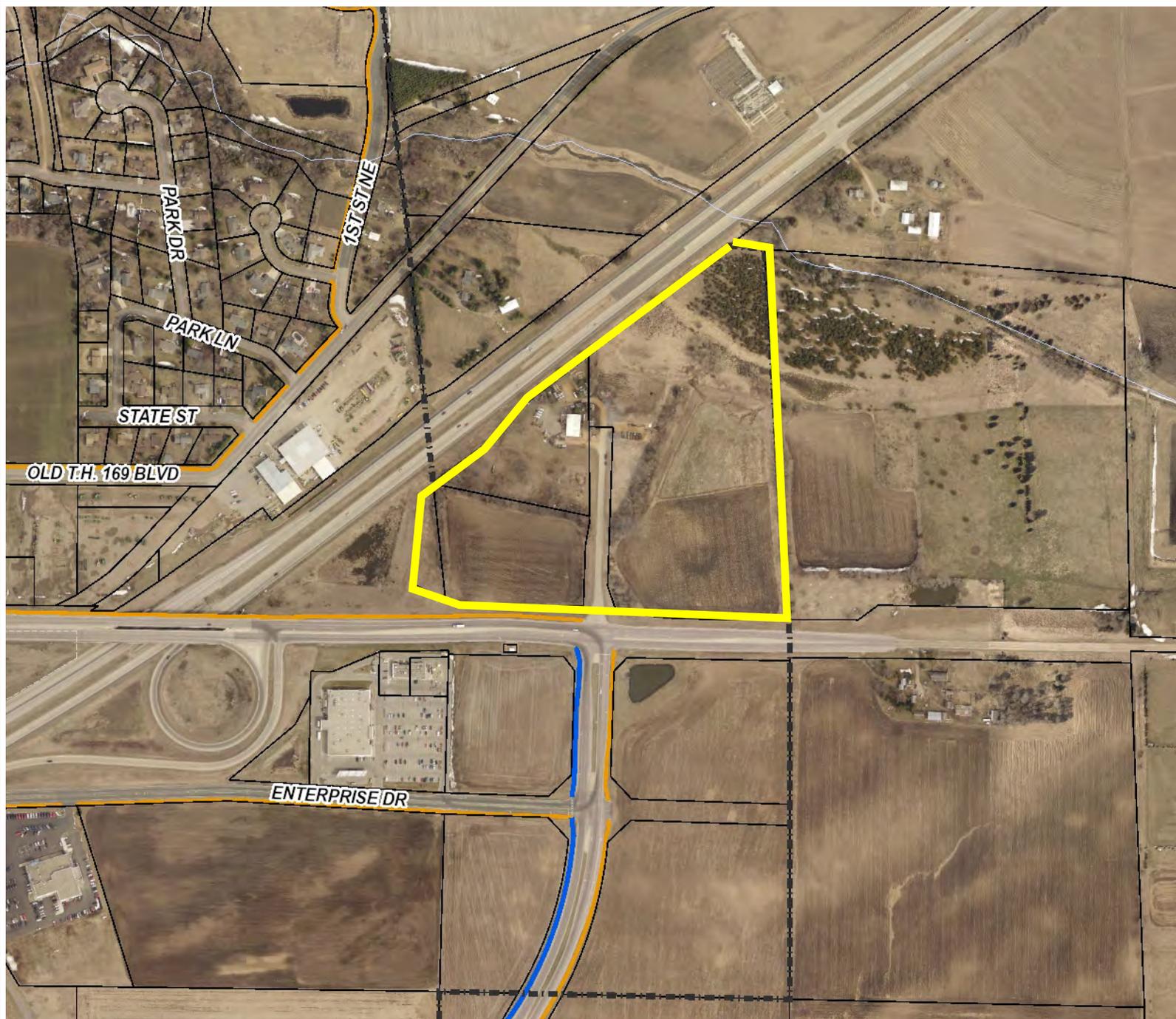
"Point A"
Existing
Street

"Point B"
Future Limited Access
Arterial Intersection Points



Legend

- City Limits
- Parcels (12/1/2018)
- Lot Lines
- Minnesota River
- Protected Waters**
- Public Water Basin
- Public Water Wetland
- Protected Waters - Watercourse
- Existing Sidewalks
- Existing Trails
- Boundary
- Footprint
- Image**
- Red: Red
- Green: Green
- Blue: Blue



Existing sidewalk and trail IW Asphalt



Disclaimer:

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of Belle Plaine is not responsible for any inaccuracies herein contained.

0 527 Feet

**BELLE PLAINE PLANNING COMMISSION
RESOLUTION PZ 19-004**

**A RESOLUTION RECOMMENDING CONDITIONAL APPROVAL OF A
CONCEPT PLAN FOR JANE PROPERTIES SUBDIVISION**

PID: 209050030, 209050020, and 209060220

Legal: Attached

WHEREAS, Jane Properties, LLC, the Fee Owner of the aforementioned property, requests concept plan approval for a conventional commercial/industrial subdivision; and,

WHEREAS, the subject property was annexed to the City in October of 2018; and,

WHEREAS, the subject property is planned for mixed commercial and industrial use and will be assigned a zoning classification in conjunction with preliminary plat submittal; and,

WHEREAS, the Applicant represents, and the City accepts as a good faith representation:

1. The concept plan for *Jane Properties Subdivision*, attached as Exhibit A, illustrates a conventional plat of three non-residential lots and two outlots.
2. Jane Properties Subdivision will include public street and utility extension and be a fully improved development.
3. Improvements will be privately financed. The City Engineer's office shall design improvements as per City policy.
4. Fee in lieu of parkland dedication is proposed.

WHEREAS, The Planning Commission has reviewed the concept plan and finds:

1. The subject property is planned for mixed commercial and industrial development.
2. The subject property was recently annexed to the City and must be assigned a zoning classification. I/C Industrial Commercial District is the intended zoning classification, consistent with planned use.
3. Fee in lieu of parkland dedication is proposed and will be reviewed by the Park Board.
4. Improvements are to be privately financed by Jane Properties, LLC. Payment of trunk, administrative, and miscellaneous development fees apply.
5. Ingress/egress to the subdivision will be via Hickory Boulevard.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council approve a concept plan for Jane Properties Subdivision, subject to the following conditions:

1. Concept plat approval is limited to major development issues and not intended as or construed to be a complete review of all required improvements, design standards, and legal aspects of a plat. Approval is not intended as or construed to constitute: preliminary or final plat approval; approval of construction plans; a development contract; or any other required approval or acceptance of Jane Properties Subdivision.
2. Concept plan approval does not obligate the City to approve a preliminary or final plat.
3. Concept plan approval pertains specifically to "Jane Properties Subdivision" a conventional subdivision consisting of three commercial/industrial lots in two blocks and two outlots.

4. Outlots are not eligible for building permits. Outlots must be platted prior to development.
5. Assignment of an appropriate zoning classification (I/C Industrial Commercial District).
6. Submittal of additional information pertaining to wetlands and woodlands sufficient to ensure compliance with code standards.
7. Dedication right of way easement to the east of "Hickory Boulevard" to the easternmost property line.
8. Recognition of comments from Scott County transportation.
9. A turnaround sufficient to accommodate snow plows and emergency vehicles to be provided at the junction of proposed public streets within the plat.
10. Review of proposed park dedication by the Park Board and acceptance by the City Council.
11. Review and approval of proposed improvements, stormwater management, grading, and erosion control measures.
12. Establishment of clear title.
13. The concept plat for Jane Properties Subdivision, all correspondence, all reports, and all conditions and restrictions placed upon the concept and phasing plans by the Belle Plaine Planning Commission shall be made a part of this Resolution.
14. The Applicant shall submit applications for preliminary plat review/approval and final plat review/approval, The Applicant shall submit construction plans for approval, pay all necessary fees/costs, and enter into a development agreement at the time of final plat approval.

The adoption of the foregoing resolution was duly moved by Commissioner _____ and seconded by Commissioner _____, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: _____.

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted. Dated this 14th day of January, 2019.

Ashby Carter
Planning Commission Chairperson

Cynthia Smith Strack
Community Development Director

LEGAL DESCRIPTION

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MEMORANDUM

DATE: January 14, 2019
TO: Chairperson Carter, Members of the Planning Commission, and Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
RE: Agenda Item 6.2: Ordinance 19-02: Outdoor Sidewalk Cafes

REQUEST: Recommendation to City Council – Ordinance 19-02 An Ordinance Amending Chapter Three of the City Code by Adding Section 316 Pertaining to Outdoor Sidewalk Cafes.

GENERAL INFORMATION

Colt Oldenburg has a contract for purchase of property at 116 Main Street West. Oldenburg has inquired as to whether or not the City would allow a sidewalk café in front of the building which he proposes to use as a brewpub. Oldenburg has provided images (attached) of sidewalk cafes in Hopkins which are similar to what he envisions. The sidewalk cafes are located in the public sidewalk and the sidewalk is re-routed into parking spots in the street.

The request has been considered by several committees and the Council discussed the concept at a work session January 7, 2019. The City Council referred the matter to the Planning Commission (legislative capacity) for a recommendation on code language. Following is discussion context and then recommendations from various committees.

Context

- Studies and actual occurrences of sidewalk cafes in other communities demonstrate they can: attract pedestrians and increase lingering, foster a spirit/culture of creativity/art/destination, positively impact the urban landscape and maximize use of space/re-envision space, and encourage walking/activity in the Downtown, and make businesses appear more active
- Discussion of sidewalk cafes has been limited to the Downtown – Central Business District.
- Main Street East and Meridian Street South are under county jurisdiction; therefore, use of paved portion of the right of way is likely not available for sidewalk re-route. Main Street West and Meridian Street North are local roadways.
- Staff has conducted a literature survey of several communities and reached out to other cities in Scott County. Most cities allow sidewalk cafes in some form, none specifically allow re-route of sidewalk into the boulevard but several commented they would consider.
- Hopkins and Wayzata allow re-route of sidewalks into the boulevard but limit occurrences of sidewalk cafes to restaurants and brew pubs in an effort to limit the quantity of cafes. Sample language is attached and potentially applicable standards are highlighted.
- The Design Committee reviewed several images of sidewalk cafes and commented on preferences. Visuals and summary comments are attached.

Recommendations from other Committees

1. The Public Works Committee found the concept worthy of consideration provided it was seasonal/temporary (e.g. April – Oct) and that the nature of cafes was high quality. A not-insignificant plan/permit fee was thought to have potential to limit numbers of cafes and increase quality of cafes.
2. The Public Safety Committee found the concept worthy of consideration.

3. The EDA provided input on:
 - a. Temporary, seasonal use of parking spaces within the Downtown for reroute of sidewalk or occupation by sidewalk café. The EDA notes parking has been the topic of discussion in the past but ultimately feel the sense of place/interest effects of sidewalk cafes outweigh concerns regarding loss of parking. The EDA recommends permit applicants be required to inform abutting property owners of their planned sidewalk café and that the sidewalk café be limited to the width of the applicable business lot.
 - b. If all businesses should be eligible for a café (fairness issue) or if only certain classes of businesses like restaurants and brewpubs (Hopkins, Wayzata standards) should be eligible for a sidewalk café to limit the potential number of sidewalk cafes. The EDA recommends any business be allowed to apply for a sidewalk café provided the bar for entry was set higher. Use of street/parking is limited for roads under County jurisdiction.
 - c. Burden of new potential regulations on businesses that have in the past put tables/chairs in the sidewalk. The EDA recommends if tables/chairs leave adequate space for pedestrians (e.g. meet ADA code requirement) and the tables/chairs are able to be moved inside when the businesses are closed that they may be allowed without being considered a sidewalk café, but subject to Chapter 605.03 of the code pertaining to obstruction of right of way.
4. The Design Committee commented on potential design requirements as follows:
 - a. Re-route of sidewalk into parking spaces should look appealing to and safe for pedestrian use; meet applicable codes.
 - b. Sidewalk cafes occupying the entire sidewalk should be fenced/contained so as to provide physical separation for diners/pedestrians and increase curiosity what was 'going on'.
 - c. Fencing has to be high quality, sturdy, semi-permanent, and intended for outdoor use, no wood fencing, no solid fencing, no plastic/webbing/rope, no advertising on fence
 - d. Lighting shouldn't be required or prohibited.
 - e. Landscape plantings should be required and attached to fence vs. placed on the ground.
 - f. Canopies/umbrellas for protection from sun/rain shouldn't be required or prohibited. Advertising on umbrellas should not be allowed.
 - g. No signage allowed except for table-top and/or sandwich boards.
 - h. Furniture must be designed for outdoor use, able to withstand high wind/rain/sun, sturdy, higher quality.
 - i. Trash handling is important. Trash receptacles, regular cleaning, and pick up garbage within/around café should be required.

The City Council agreed to consider language providing for outdoor sidewalk cafes at the January 7, 2019 work session. Staff has drafted Ordinance 19-02 for consideration/comment. The Ordinance has been presented to department heads, the City Administrator, and the City Attorney for review.

The draft language included in Ordinance 19-02:

1. Requires a license for outdoor sidewalk cafes. The license is reviewed/approved administratively unless required conditions are not met.
2. Exempts placement of tables and chairs in the sidewalk providing: a minimum five-foot clear zone is provided for pedestrians; tables/chairs are able to be moved indoors after hours; and, the Public Works Superintendent approves of the placement.
3. Requires a site plan be submitted and that immediately adjacent property owners be notified of the intended sidewalk café.
4. Requires proof of insurance be submitted.
5. Conditions applicable to: (a) the site; (b) café design; and, (c) site/café management apply.
6. Outdoor sidewalk cafes are limited to the Central Business District adjacent to Main & Meridian.

ACTION:

The Planning Commission is to make a recommendation on Ordinance 19-02 to the City Council. Attached Resolution 19-002 is provided for consideration.

**CITY OF BELLE PLAINE
ORDINANCE 19-02**

**AN ORDINANCE AMENDING CHAPTER THREE OF THE CITY CODE BY ADDING SECTION 316
PERTAINING TO OUTDOOR SIDEWALK CAFES**

THE CITY COUNCIL OF THE CITY OF BELLE PLAINE ORDAINS:

Section 1. Chapter Three of the City Code pertaining to Business and Licenses is hereby amended as follows:

SECTION 316.00 OUTDOOR SIDEWALK CAFES.

- 316.01 Findings
- 316.02 License Required
- 316.03 Exemption
- 316.04 Application
- 316.05 Fee
- 316.06 Conditions of Approval
- 316.07 License Revocation
- 316.08 Penalty

316.01 FINDINGS.

The City Council finds outdoor Sidewalk Café seating for businesses provides multiple benefits to the City.

- A. Outdoor seating can attract the attention of pedestrians and increases their stay thereby promoting the adjacent business and increasing other businesses' visibility when customers choose to be seated outside.
- B. Outdoor seating can foster a creative and innovative spirit that furthers the identity of the Downtown as a destination.
- C. Aesthetically pleasing and nontraditional settings of Sidewalk Cafes provide additional options where pedestrians can relax, enjoy, and interact with others.
- D. By repurposing city on-street parking spaces into outdoor seating the urban landscape is renewed in an innovation fashion and viewshed are enhanced.
- E. Outdoor seating encourages more pedestrian activity by livening up the street, creating more things to look at, and making the businesses appear more active.

316.02 LICENSE REQUIRED.

An outdoor Sidewalk Café permit is required to operate an outdoor sidewalk café in the public right-of-way. Licenses issued under this section shall expire on December 31 of each year.

316.03 EXEMPTION. Placement of tables/chairs in a public sidewalk which (a) maintain a clear pedestrian passageway of not less than five (5) feet in width, (b) are capable of being moved indoors each evening, and (c) have been authorized by the Public Works Superintendent are exempt from this standard.

316.04 APPLICATION.

- A. Application Form. An application for a license shall be made with the City Administrator's Office on a form which has been approved by the City.
- B. Insurance Requirement. The Applicant shall submit proof of a public liability insurance policy covering all operations of the applicant under this article, during the full term of the license for the sum of \$300,000 combined single limit coverage. The City shall be named as an additional insured. Such policy shall provide that it may not be cancelled by the insurer except after 30 days written notice to the city, and if such insurance is cancelled and the licensee fails to replace it within another policy that conforms to the provisions of this article, the license shall be automatically suspended until the liability insurance is replaced. All applicants for a license must file with the city a certificate of workers' compensation insurance if such insurance is required by state law.
- C. Site Plan Required. A plan, drawn to scale, which illustrates the locations and dimensions of the proposed sidewalk café, adjoining buildings, sidewalk, proposed landscaping, and all obstructions within the vicinity shall be submitted with the application form.
- D. Notification of Adjacent Property Owners Required. The Applicant shall notify businesses immediately adjacent to the proposed Outdoor Sidewalk Café area. Notifications shall include a site plan for the café and the anticipated duration of the outdoor sidewalk café.
- E. The License application shall be reviewed administratively subject to the conditions of this Chapter. Any significant changes to the conditions will require review and approval by the City Council. The License is subject to any required inspections and final approval shall be by the Public Works Superintendent.

316.05 FEE.

The annual fee for the license shall be set by City Council resolution.

316.06 CONDITIONS OF APPROVAL.

- A. Site Specific Requirements.
 - 1. Sidewalk Cafes may be considered within the Central Business District adjacent to Main and Meridian Streets.
 - 2. Sidewalk Café area shall be limited to the public right of way abutting the frontage of the business to which it is attached.
 - 3. Sidewalk Café must be located at least 20 feet from any fire hydrants.
 - 4. Sidewalk Café must not block sight lines at intersections as determined by the City Engineer and/or Public Works Superintendent.
 - 5. The City maintains the right to review and make final determination as to the location of each Sidewalk Café based on the unique circumstances related to each business.
- B. Design Specifications.
 - 1. If the operating business serves alcoholic beverages, a decorative barrier or railing between 32 and 42 inches in height is required around the sidewalk café area. The barrier shall be comprised of high quality, durable materials suitable for outdoor use such as powder coated

decorative aluminum fencing/railing, be sturdy and weather resistant, and be consistent with the quality of design and color palette of structures in the vicinity of the café.

2. Lighting, if proposed, must be illustrated on the site plan, be directed downward, and be compatible with the surrounding area.
3. Annual/perennial flowers/landscaping attached to a barrier or railing shall be used to enhance the streetscape aesthetics.
4. Canopies/umbrellas may be used for weather protection.
5. Sidewalk Café area must meet ADA (American Disability Act) requirements.
6. Design consideration must include architect and characteristic of area.
7. No commercial signage may be placed on the sidewalk café area, except for on table tops. Sandwich board signs may be allowed provided they are removed from the café each evening.
8. There shall be a minimum clear passage zone for pedestrians of at least five feet shall be maintained at all times.
9. Umbrellas extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum head clearance of seven feet.
10. If a temporary walkway structure that bumps out into the roadway is used:
 - a. The structure shall be constructed of metal or composite material or other weather resistant, long lasting, high quality material.
 - b. Maximum width shall not exceed eight feet
 - c. Maximum length shall not exceed 40 feet, or the length of the frontage of the business to which it is attached, whichever is smaller.
 - d. Decorative barriers between 36 inches and 42 inches in height are required separating the pedestrian walkway from the roadway.
 - e. Reflective bollards or strips must be located at either end of any portion of the structure located within the roadway.
 - f. Directional signage shall be used to assist pedestrians in utilizing the walkway.
 - g. Surface of structure must be leveled with sidewalk surface up to one fourth (1/4) of an inch clearance.
 - h. No more than a half (1/2) inch gap between the structure and the curb is permitted.
 - i. Structure may not impede water flow and drainage.

C. Management Specifications.

1. The furniture associated with the Sidewalk Café shall be moveable, washable, constructed of metal or composite or other high quality material, and maintained in a safe and sanitary condition.

2. The Sidewalk Café area shall be controlled and monitored continuously during the hours of operation and unruly patrons shall be removed immediately.
3. Patrons shall not leave the premises with a drink nor can drinks be taken onto a public sidewalk that is outside of the Sidewalk Café area.
4. The Sidewalk Café area must be included in the required liquor liability insurance for the premises.
5. Hours of operation of the Sidewalk Café shall be limited to between 10:00 a.m. and 11 p.m. from April 15 thru October 15.
6. Permittee shall not allow smoking within the Sidewalk Café area.
7. Alcoholic beverages may only be brought into the Sidewalk Café area by a server.
8. Permittee shall pick up litter within 50 feet of the Sidewalk Café area on a daily basis. Appropriate receptacles for rubbish, garbage, etc. must be provided.
9. The Sidewalk Café area must be free of debris, litter, and soil surrounding and underneath any structure or platform.
10. No electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices shall be allowed in the Sidewalk Café area.

316.07 LICENSE REVOCATION.

Failure to comply with any provision of this article may result in the revocation of the license by the City Council, following a public hearing. Written notice of the public hearing shall be mailed at least 10 days prior to the hearing to the current holder of the license. Such notice should outline the violation(s) considered by the city to be grounds for revocation and inform the license holder of the opportunity to be heard at the public hearing.

316.08 PENALTY.

In addition to the revocation or suspension of the license, any person violating any of the provisions of this Section shall be guilty of a misdemeanor.

Section 2. This Ordinance shall become effective upon publication in the official newspaper of the City.

Passed and duly adopted by the City Council of the City of Belle Plaine this ____ day of _____, 2019.

BY: _____
Christopher G. Meyer, Mayor

ATTEST:

Dawn Meyer, City Administrator

Published in the Herald on _____, 2019.

**BELLE PLAINE PLANNING COMMISSION
RESOLUTION PZ-19-002**

**RECOMMENDING APPROVAL OF ORDINANCE 19-02, AN ORDINANCE AMENDING
CHAPTER THREE OF THE CITY CODE BY ADDING SECTION 316 PERTAINING
TO OUTDOOR SIDEWALK CAFES**

WHEREAS, City staff has drafted and amendment to the City Code pertaining to licensing of outdoor sidewalk cafes pursuant to a request for review and discussion by the Public Works Committee, the Public Safety Committee, the Design Committee, and the Economic Development Authority; and,

WHEREAS, the City Council reviewed the concept of outdoor sidewalk cafes at a work session on January 7, 2019 and referred to matter the Planning Commission for review of a code amendment; and,

WHEREAS, the Planning Commission reviewed and discussed Ordinance 19-02, An Ordinance Amending Chapter Three of the City Code by Adding Section 316 Pertaining to Outdoor Sidewalk Cafes at a regular meeting on January 14, 2019.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council approve Ordinance 19-02, An Ordinance Amending Chapter Three of the City Code by Adding Section 316 Pertaining to Outdoor Sidewalk Cafes.

The adoption of the foregoing resolution was duly moved by Commissioner _____, and seconded by Commissioner _____, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: _____.

and the following voted against the same: _____.

Whereupon said resolution was declared duly passed and adopted. Dated this 14th day of January, 2019.

Ashby Carter
Chairperson

Cynthia Smith Strack
Community Development Director



MEMORANDUM

DATE: January 14, 2019
TO: Chairperson Carter, Members of the Planning Commission, and Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
RE: Agenda Item 6.3: Ordinance 19-03: Nuisance Code Update

REQUEST: Recommendation to City Council – Ordinance 19-03 An Ordinance Repealing and Replacing Chapter 400 of the City Code Pertaining To Nuisances, Offenses, and Restrictions.

GENERAL INFORMATION

City staff, the City Attorney, and the City Council have reviewed the attached code amendment pertaining to nuisances. The Planning Commission previously reviewed the draft language and developed language pertaining to native landscapes which has been inserted into the proposed code amendment. Please find attached Ordinance 19-03, An Ordinance Repealing and Replacing Chapter 400 of the City Code Pertaining to Nuisances, Offenses, and Restrictions.

The draft language includes:

1. A definition for a 'public nuisance'.
2. A list of public nuisances affecting health:
 - Rotting vegetation or animal material.
 - Stagnant water pooling.
 - Accumulations of junk/rubbish
 - Pollution from sewage, industrial waste
 - Dense smoke, dust, noxious fumes, gas, soot, etc.
 - Diseased animals at-large.
 - Noxious weeds and rank growth of vegetation (with exceptions).
 - Outdoor wood burning furnaces used for heating principal or accessory dwellings.
 - Diseased, unsound, or structurally deficient trees.
 - Transporting of diseased wood without permission from City.
 - Uncontrolled erosion, sedimentation, tracking of material, etc.
 - Selling food items without proper license/permit.
3. A list of public nuisances affecting peace and safety:
 - Obstructions of intersections, ROW, sidewalks.
 - Accumulation of rain, ice, snow on sidewalks or the same on buildings which could fall onto sidewalks.
 - Dangerous, unguarded machinery in public places or situated on private property so as to constitute an 'attractive nuisance'.
 - Inappropriate collection or distribution of wastewater.
 - Uncovered wells, holes, and excavations.
 - Obstruction of waterways, stormwater collection systems, etc.
 - Littering.
 - Placing snow, garbage, leaves, grass clippings, etc. in the public ROW.

- Altering drainage of public streets, alleys, sidewalks without a permit.
 - Storing or accumulating explosives, inflammable liquids, and other dangerous substances or materials in a matter or an amount not provided by law or code.
 - Repairing vehicles in public streets or alleys, except emergency repairs.
 - Unauthorized signs.
4. A list of light nuisances:
- Glare.
 - Light intensity exceeding certain levels.
5. A list of public nuisances affecting welfare and the visual environment:
- Junk, unlicensed, inoperable motor or recreational vehicles.
 - Outside storage in excess of that allowed under Section 1107.08 of the Code.
 - Parking on grass or dirt surfaces.
 - Grass, weeds more than eight inches tall, exceptions for native plantings, rural roadway sections, bluffs, shoreland, rivers, ravines, natural parks/preserves, wetland/wetland buffers, etc.
6. A process for abatement of nuisances:
- Certain nuisances (as noted in nuisance lists) are subject to immediate abatement.
 - Enforcement is performed by: Community Development Dept (lead), City Administrator, Public Works Superintendent, Police Chief, etc.
 - Process (if not subject to immediate abatement): Goal is voluntary compliance within specified period. Inspection, documentation, decision of whether or not a nuisance is present; contact property owner; send letter – abatement notice; re-inspection; enforcement hierarchy. Process for hearing if dispute presence of nuisance.
7. Enforcement tools:
- Stop work orders.
 - Abatement.
 - Civil remedy.
 - Criminal citation.
 - Injunctive relief.

The City Council following review of the draft in work session on December 17, 2018 referred the Ordinance to the Planning Commission for recommendation.

ACTION:

The Planning Commission is make a recommendation on Ordinance 19-03 to the City Council. Attached Resolution 19-003 is provided for action.

**CITY OF BELLE PLAINE
ORDINANCE 19-03**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 400 OF THE CITY CODE
PERTAINING TO NUISANCES, OFFENSES, AND RESTRICTIONS**

THE CITY COUNCIL OF THE CITY OF BELLE PLAINE ORDAINS:

**Section 1. Chapter 400 of the City Code is hereby repealed in its entirety
and replaced with the following:**

SECTION 400.00 NUISANCES, OFFENSES, AND RESTRICTIONS.

- 400.01 Public Nuisance Defined.
- 400.02 Public Nuisance Affecting Health.
- 400.03 Public Nuisances Affecting Peace and Safety.
- 400.04 Light Nuisances.
- 400.05 Public Nuisances Affecting Welfare and Visual Environment.
- 400.06 Abatement of Public Nuisances.
- 400.07 Enforcement.

400. 01 PUBLIC NUISANCE DEFINED.

It shall be unlawful for any person to maintain a public nuisance by his or her act or failure to perform a legal duty, and for purposes of this Section, a public nuisance shall be defined as any of the following: (1) maintaining or permitting a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or, (2) interfering with, obstructing or rendering dangerous for passage, any street, public right-of-way, or waters used by the public; or, (3) any other act or omission declared by law to be a public nuisance.

400. 02 PUBLIC NUISANCES AFFECTING HEALTH.

The following shall be hereby declared to be nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter. This condition may be subject to immediate abatement as defined in this Section.
- B. All ponds or pools of stagnant water, except private or municipal ponds and the like that are maintained for the purpose of storm water retention or treatment.
- C. Carcasses of animals not buried or destroyed within 24 hours after death. This condition may be subject to immediate abatement as defined in this Section.
- D. Accumulations of litter, offal, dirt, yard cleanings, manure, rubbish, garbage, tin cans, bottles, junk, debris, decayed food or vegetable matter, waste, soil, sand, stones, paper, or other materials which are kept so as to result in offensive odors, unsightly conditions, dangerous conditions, or excessive manifestation of insects or rodents to the discomfort of adjacent property owners or the public, except as expressly authorized by statute or ordinance. This condition may be subject to immediate abatement as defined in this Section.

- E. Garbage cans which are not insect-tight, rodent free, or which are accessible to animals.
- F. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.
- G. Dense smoke, dust, noxious fumes, gas or soot, or cinders, in unreasonable quantities.
- H. All diseased animals running at large. This condition may be subject to immediate abatement as defined in this Section.
- I. Any offensive trade or business as defined by statute for which a license has not been issued by the City of Belle Plaine.
- J. All noxious weeds and/or rank growth of vegetation. This condition may be subject to immediate abatement as defined in this Section.
- K. Throwing, dumping, or depositing on private or public property: dead animals, manure, garbage, waste, decaying matter, ground, sand, stones, ashes, rubbish, tin cans, bottles, paper or other materials of any kind or the dumping of the contents of any cesspool, septic tank, or garbage can except at places authorized by law.
- L. Installing or allowing the installation of any equipment, device, appliance, apparatus, or any part thereof, which is installed, affixed, or situated outdoors or in structures not normally occupied by humans for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system.
- M. Fallen trees, fallen tree limbs, dead trees, and dead tree limbs which in the opinion of the Superintendent of Public Works or Designee constitute a health, safety, or fire hazard or threaten the public welfare.
- N. Trees on public or private property which the Superintendent of Public Works or Designee finds to have structural defects in the roots, trunk, stem, or branches that may cause the tree or a part of the tree to fail, and such failure may cause property damage or personal injury.
- O. Any diseased or unsound trees growing, standing, or stored upon any lot or parcel of land in the City.
- P. Transporting of diseased-bearing wood without having obtained permission from the Superintendent of Public Works or Designee, unless the disease-bearing wood is being transported directly to a sanitary landfill or other lawful place of disposition. This condition may be subject to immediate abatement as defined in this Section.
- Q. Failing to take appropriate measures to contain or allowing any soil or other debris to wash or erode from private property or construction sites onto the public street, drainage system, adjacent property, ponds, wetlands, ravines, or waterways. This condition may be subject to immediate abatement as defined in this Section.
- R. Hazardous buildings as defined by Minnesota Statutes Chapter 463, as may be amended.
- S. Selling of food items without proper licenses/permits. This condition may be subject to immediate abatement as defined in this Section.

400.03 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following shall be declared to be nuisances affecting public peace and safety;

- A. Obstruction of an intersection by trees, hedges, signs, billboards, or other obstructions placed or located within a sight triangle. A sight triangle shall be defined as a triangle formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of thirty (30) feet from their point of intersection. Conformance shall not require the destruction or removal of any building.
- B. Causing or permitting wires or limbs of trees to hang lower than eight (8) feet to the surface of a sidewalk or street or otherwise create a danger to pedestrians or vehicles.
- C. All unnecessary noises and annoying vibrations.
- D. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under any conditions as shall be permitted by this Code or other applicable law. This condition may be subject to immediate abatement as defined in this Section.
- E. Radio or television antennae erected or maintained in a dangerous manner;
- F. Any use of property abutting, on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks. This condition may be subject to immediate abatement as defined in this Section.
- G. All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger the public safety, or not constructed and maintained as provided by ordinance.
- H. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk. This condition may be subject to immediate abatement as defined in this Section.
- I. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way.
- J. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- K. Wastewater cast upon or permitted to run upon streets or other public property. This condition may be subject to immediate abatement as defined in this Section.
- L. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, in a manner conducive to the harboring of insects, rats, mice, snakes, or vermin, or to fire, health or safety hazards from such accumulation, or from the rank growth of vegetation among the items so accumulated.
- M. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any person coming on the premises where it is located.
- N. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials. This condition may be subject to immediate abatement as defined in this Section.
- O. The placing or throwing on any street, sidewalk or other public property of items including, but

not limited to, glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance.

- P. The depositing of garbage or refuse on a public right-of-way or an adjacent private property.
- Q. Placing entrance culverts or doing any act which may alter or affect the drainage of public streets or alleys or the surface or grade of public streets, alleys, or public sidewalks except as provided under a proper and valid permit.
- R. All snow and ice not removed from the public sidewalks within 24 hours after the snow or other precipitation causing the condition has ceased to fall. This condition may be subject to immediate abatement as defined in this Section.
- S. The keeping of horses, cattle, swine, sheep, goats, rabbits, dogs, or other animals or fowl so as to result in offensive odors to the discomfort of adjacent property owners, or allowing any animal or fowl to run at large which means off the premises of the owner and not under control.
- T. All explosives, inflammable liquids, and other dangerous substances or materials stored or accumulated in any matter or in any amount other than that provided by law or code.
- U. Making repairs to motor vehicles or tires in public streets or alleys, excepting only emergency repairs which will not unduly impede or interfere with traffic.
- V. Throwing, placing, depositing, or burning leaves, trash, lawn clippings, seeds, grass, or other material in the streets, alleys, or street gutters.
- W. Erecting, painting, or placing of an unauthorized sign of any type in streets, boulevards, or alleys or on sidewalks except for those authorized under permit or code or placed by governmental jurisdictions.
- X. The deposit of snow or ice, removed from private property, onto a public street, alley, or sidewalk.
- Y. All other conditions, acts, or things which are liable to cause injury to persons or property.

400.04 LIGHT NUISANCES.

The following regulations shall apply to the use of exterior lights and light control devices. Lenses, deflectors, shields, louvers, and prismatic control devices may be used so as to eliminate nuisances lighting. It shall be unlawful and a public nuisance for any person to use exterior lights and light control devices as listed below:

- A. Exterior lighting arranged or designed so as to create direct, uninterrupted, unshielded viewing angles of the illumination source within the principal structure of a contiguous property.
- B. Exterior lighting arranged or designed so as to create direct, uninterrupted, unshielded viewing angles of the illumination source by pedestrian or vehicular traffic in a public right of way.
- D. Any light or combination of lights which cast light on a public street exceeding one (1) foot candle (meter reading) as measured from the center line of said street.
- E. Any light or combination of lights which cast light on residential property exceeding four (4) foot candles (meter reading) as measured from said property.

400.05. PUBLIC NUISANCES AFFECTING WELFARE AND VISUAL ENVIRONMENT.

It shall be unlawful and a public nuisance for any person having control over any property in the City to permit or maintain on such property:

- A. Outside storage of junk vehicles. Except that one (1) vehicle may be stored or parked on the private property of the owner for the purposes of making repairs for a period not to exceed fourteen (14) days. Junk automobiles are defined as any motor vehicle or part of a motor vehicle which is stored in the open that is either: (1) Unusable or inoperable because of lack of or defects in component parts, (2) Unusable or inoperable because of damage from collisions, deterioration, alterations, or other factors, (3) Reasonably beyond repair and, therefore, not intended for future use as a motor vehicle, or (4) being retained on the property for use for salvageable parts.
- B. Outside storage of unlicensed motor vehicles or those with expired license tabs.
- C. Outside storage of discarded or disused machinery or wrecked or inoperable recreational vehicles, boats, recreational equipment, powersport vehicles or equipment, lawn mowers, snow blowers, trailers, and similar items whether items are intact or reduced to portions thereof.
- D. Outside storage, in aggregate, of more than three (3) of the following items on one property at any one time: recreational vehicles (as defined in Section 1107.08 of the Code as may be amended and pertaining to outside, exterior storage), lawn mowers, snow blowers, and similar items.
- E. Outside storage of any other materials or equipment which may cause blight or an unsightly neighborhood condition.
- F. Parking of motor vehicles, sport or recreational vehicles, sport or recreational equipment, trailers, and similar items on or over grass or dirt surfaces.
- G. Any grass or weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land in the City of Belle Plaine to a height greater than eight (8) inches, except as defined below. This condition may be subject to immediate abatement as defined in this Section.
 - 1. Non-noxious weeds and grass in wetland areas, including wetland buffers.
 - 2. Non-noxious weeds, grasses, and herbaceous vegetation that are within fifty (50) feet of designated stormwater ponds (or their required buffers whichever are greater), natural or altered creeks, rivers, streams, bluffs, and ravines.
 - 3. Agricultural fields and crops that are planted, maintained, and harvested according to normal farming practices.
 - 4. Temporary erosion control grasses.
 - 5. Native prairie and/or natural landscapes are subject to the following limitations:
 - A. Native prairie and/or natural landscapes are planned, intentional, maintained, and designated areas where native plants are being or have been planted.
 - B. Native plants are grasses, wildflowers, forbs, ferns, and shrubs that are plant species native to or naturalized to the state of Minnesota, excluding prohibited

exotic species, as defined by Minnesota Statutes Chapter 84D. Native plants do not include weeds.

- C. Native prairie and/or natural landscapes include areas illustrated on official landscape plans which are required under the development review process, as approved by the City.
- D. Native prairie and natural areas within a distinct, defined landscape area on a single or two-family residential parcel are allowed subject to a landscape plan being drafted, submitted, and approved administratively by the City. Said landscape plan shall at a minimum illustrate areas proposed for native plantings and/or natural landscapes, species proposed for planting, proposed maintenance of the area, and proposed planting border/edging. When drafting landscape plans, applicants are encouraged to consult with resource providers, including but not limited to, Scott County Soil and Water Conservation District Representatives and persons with specific, demonstrated knowledge of native plantings and natural landscapes. Said landscape plans are subject to the following limitations:
 - 1. The native plantings and/or natural landscaped areas must be located on private property.
 - 2. Native planting and/or natural landscaped areas shall occupy no more than fifty percent of the pervious surface area of the parcel excluding natural wooded areas, bluffs, wetlands, water bodies, ravines, and rain gardens.
 - 3. Native planting and/or natural landscaped areas shall be set back from property lines by at least five feet. The setback is not required where:
 - a. The defined landscape area abuts a similar private or public landscape area,
 - b. The defined landscape area abuts a wetland, pond, bluff, ravine, or waterway,
 - c. A fully opaque fence at least four feet in height is installed along the lot line adjoining the planned landscape area.
 - 4. Native planting and/or natural landscapes must be maintained so as to not include unintended vegetation.
 - 5. Native planting and/or natural landscapes, after being established, must be maintained at least once per year through mowing or, if appropriate permits are obtained, burning.
 - 6. Native planting and/or natural landscapes shall not include turf-grass lawns left unattended for the purpose of returning to a natural state.
- 6. Grass and non-noxious weed vegetation growing in areas designated by the City as a natural preserve or park.
- 7. Grass, non-noxious weed vegetation and ornamental grasses growing on natural or altered slopes that are steeper than 2:1.
- 8. Rural sections or unmanicured sections of public right-of-way.

400.06 ABATEMENT OF PUBLIC NUISANCES.

Subd. 1. This section shall apply to the abatement of all public nuisances, except that the City may use any other abatement procedure provided by law or pursue immediate abatement as provided herein.

Subd. 2. Enforcement. The following officials are authorized to enforce provisions of this Chapter: the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or their designee.

Subd. 3. Inspections. The City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or their designee shall cause to be inspected all public and private places within the City which might contain a public nuisance as defined in this section as often as practical to determine whether the public nuisances exist.

Subd. 4. Entry on public and private places. If a property owner refuses right of entry, the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or their designee, shall obtain a search warrant or other appropriate court order. In cases of "emergency," defined as conditions or circumstances that pose a threat of harm to persons or property to the extent that abatement is immediately necessary, the court action shall not be required.

Subd. 5. Order to abate.

- A. Upon a determination by the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City that a public nuisance exists on any public or private property designated City representative shall order the public nuisance to be abated in a manner consistent with this code. The affected property owner shall be notified in person or by postal mail that the nuisance must be abated within a reasonable time from the date of the service of the notice.
- B. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises.
- C. The order notice shall state the specific nature of the violation and the requirements for compliance.
- D. The order notice shall inform the property owner that the property owner may, within ten (10) days of the date of the order, request a hearing before the Planning Commission and the order notice shall set forth the procedure by which the hearing may be requested.
- E. The order notice shall further state that failure to abate the nuisance or to request a hearing within the applicable time period will result in issuance of a citation, or other abatement procedure whereby cost of the abatement shall be assessed against the property.

Subd. 6. Upon expiration of the time required by the order notice, the designated City representative may issue a citation, abate, or cause to abate the nuisance, unless a request for hearing has been timely filed.

Subd. 7. Court order. If the Council determines it is in the best interests of the City to immediately abate the nuisance at the City's expense, the Council shall by motion direct City staff to obtain an appropriate court order approving entry onto the property and directing the abatement of the nuisance. The City may ask the court to approve the City's cost of abatement and order that the cost be spread on the property benefitted as an assessment and certified to the County Auditor for collection.

Subd. 8. Immediate abatement. Nothing in this Section shall prevent the City, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety, or from immediately abating any of the conditions described in herein, if the City determines, in its discretion, that the public interest would be served by immediate abatement.

Subd. 9. Hearing.

A. Application and notification. Any property owner who feels aggrieved by any order issued pursuant to this Section by the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City may request a hearing before the City Council. The request shall be filed in writing with the City Administrator within ten (10) days after the date of the service of the notice by a City agent. A notice of the time, place and purpose of the hearing shall be published in the City's official newspaper at least ten days prior to the date of the hearing. A copy of the notice shall be mailed at least ten days before the day of the hearing to the applicant and to each owner of property abutting the subject property.

B. Hearing procedure. Both the property owner and representatives for the City may appear at the hearing and may call the witnesses and present the evidence as deemed to be relevant. Within ten business days after the hearing, the Council shall affirm, repeal or modify the order of the City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City. The Council order shall be accompanied by written findings of fact.

Subd. 10. Record of costs. The City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City shall keep a record of the costs of abatement and shall report to the City Administrator or designee all work done for which assessments are to be made, stating and certifying the description of the land, lots or parcels involved and the amount assessable to each.

Subd. 11. Assessment procedure. On or before November 15 of each year, the City Administrator or designee shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges, or any portion thereof, against the property involved as a special assessment for certification to the County Auditor for collection beginning the following year, along with current taxes. The assessment shall be payable in no more than ten equal annual installments pursuant to M.S. Ch. 429, as it may be amended from time to time.

Subd. 12. Interference prohibited. It is a misdemeanor for any person to prevent, delay or interfere with City Administrator, Police Chief, Superintendent of Public Works, Community Development Director, and/or Building Official or other agent designated by the City while they are engaged in the performance of duty set forth in this Section.

400.07 ENFORCEMENT.

Subd. 1. Failure to remove or correct any nuisance within the time prescribed in the order notice constitutes a violation of this Section. Violations are subject to any combination of the remedies to cure provided for in this Section.

Subd. 2. Stop Work Orders. The City may issue a stop work order(s) to assure compliance with permits and approvals or when a permit or approval is required or as otherwise authorized by

applicable law.

Subd. 3. Abatement. The City may pursue an abatement action concerning nuisance(s) and seek penalties and reimbursement of costs.

Subd. 4. Civil remedies. This Section may be enforced by injunction, action for abatement, or other appropriate civil remedy.

Subd. 5. Criminal penalties. This Section may be enforced through criminal citation. Every person who violates any other provision of this ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$1,000.00 or imprisonment for a term of not to exceed 90 days, or both. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

Section 2. This Ordinance shall become effective upon publication in the official newspaper of the City.

Passed and duly adopted by the City Council of the City of Belle Plaine this 22nd day of January, 2019.

BY: _____
Christopher G. Meyer, Mayor

ATTEST:

Dawn Meyer, City Administrator

Published in the Herald on 01/30/2019.

**BELLE PLAINE PLANNING COMMISSION
RESOLUTION PZ-19-003**

**RECOMMENDING APPROVAL OF ORDINANCE 19-03, AN ORDINANCE REPEALING AND
REPLACING CHAPTER 400 OF THE CITY CODE PERTAINING TO
NUISANCES, OFFENSES, AND RESTRICTIONS**

WHEREAS, City staff has drafted updated nuisance standards pursuant to an effort to strengthen and clarify code enforcement, including nuisance processing; and,

WHEREAS, the proposed amendment to Chapter 400 of the City Code has been reviewed by department heads, the City Administrator, and the City Attorney; and,

WHEREAS, the City Council reviewed the proposed code amendment at a work session on December 17, 2018 wherein the draft was considered complete and referred to the Planning Commission for recommendation; and,

WHEREAS, on January 14, 2019 the Planning Commission reviewed Ordinance 19-03 which proposes to repeal and replace Chapter 400 of the City Code pertaining to nuisances.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council approve Ordinance 19-03, An Ordinance Repealing and Replacing Chapter 400 of the City Code Pertaining to Nuisances, Offenses, and Restrictions.

The adoption of the foregoing resolution was duly moved by Commissioner _____, and seconded by Commissioner _____, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: _____.

and the following voted against the same: _____.

Whereupon said resolution was declared duly passed and adopted. Dated this 14th day of January, 2019.

Ashby Carter
Chairperson

Cynthia Smith Strack
Community Development Director



MEMORANDUM

DATE: January 14, 2019
TO: Chairperson Carter, Members of the Planning Commission, and Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
RE: Agenda Item 6.4: Code Enforcement Policy.

GENERAL INFORMATION

The City Council reviewed a proposed code enforcement policy at a work session on December 17, 2018 and officially adopted the policy at the January 7, 2019 regular meeting.

Prior to approving the 2018 policy, the City had a code enforcement flowchart but not a formal written policy. As a means of clarifying process, roles/responsibilities, and to clearly communicate with residents, a formal enforcement policy was developed.

The policy continues the reactive approach to enforcement. The policy seeks voluntary compliance as the principal remedy. As presented the policy does not include responding to anonymous or unwritten complaints from the public as staff resources are limited.

The policy prioritizes compliant investigation and creates a framework for the code enforcement process. Remedies to cure violations and enforcement options are set forth within the narrative. The policy provides for enhanced action for repetitive violators and provides an outlet for excessive complaints.

The proposed policy and the existing process flowchart are attached.

ACTION:

This item is for information.

CODE ENFORCEMENT POLICY CITY OF BELLE PLAINE

This Code Enforcement Policy, approved by the Belle Plaine City Council, provides guidelines for enforcement of the Belle Plaine City Code and other regulatory instruments adopted by the City. This document is intended to regulate only those enforcement/compliance processes, and activities specifically initiated by the City pursuant to receipt of a signed complaint and/or enforcement efforts initiated by City staff.

I. CODE ENFORCEMENT PROGRAM PURPOSE

Minnesota Statutes give the City Council the “power to provide for the government and good order of the City, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order and convenience, and the general welfare as it shall deem expedient.”

A. STANDARD ENFORCEMENT POLICY

City of Belle Plaine residents are supported in their efforts to maintain the physical environment of their neighborhoods through standards set in the City Code. To assist in this endeavor, the following code enforcement policy has been established to guide the City and City staff in addressing properties with code violations.

This policy is a guideline and does not bind the City. The City may deviate from the policy at any time if a deviation is deemed appropriate. Staffing levels and other resources may vary and affect the City’s response. Specific facts of a situation may make a different approach appropriate.

B. COMPLAINT PRIORITY CLASSIFICATIONS

City staff inspects every signed complaint it receives. When a violation is confirmed, the appropriate action is taken. Due to staff and time constraints, it is sometimes necessary to prioritize complaints and violations. When this happens, complaints are prioritized as follows:

1. Immediate risk to public health and safety.
2. High rise to health and safety through potential environmental impacts.
3. Work begun or actions taken without the necessary permits.
4. Aesthetics and nuisance violations.

II. DEFINITIONS

“Abatement” – Abatement is the removal or repair of a substandard property condition(s) and/or Code violations. Abatement may be performed by a property owner, agent, contractor, the City, or the City’s designee.

“Business Day” – In the context of this policy a Business Day is considered Monday through Friday, from 8:00 a.m. to 4:30 p.m. on a normally scheduled workday exclusive of holidays. Therefore, the next business day would be the next day that the City is scheduled to be open.

“City Code” – The City Code includes all ordinances passed by the City including those that have not been codified.

“Code Enforcement Agent” – An employee of the City designated as an agent of code enforcement. The term Enforcement Agent includes any City employee with the authority to enforce the City Code and/or their designee.

“Compliance Deadline” – The Compliance Deadline (re-inspection date) is the date compliance is required and listed on the Notice of Violation or Notice Order. If compliance has not occurred by the compliance deadline misdemeanor charges may be initiated, civil remedies may be pursued, and/or an abatement process may be initiated. The Compliance Deadline may be extended at the discretion of the Enforcement Agent.

“Compliance Inspection” – The Compliance Inspection is re-inspection of the property on or after the date established in a violation notice and/or order.

“Extension” – An extension provides additional time for a responsible party to fully remedy an identified code violation. When a legitimate need arises a responsible party may request an extension beyond the initial compliance deadline. Extensions are determined at the sole discretion of the Code Enforcement Agent or other City official handling the matter.

“Immediate Enforcement Violations” – Immediate Enforcement Violations are code violations where immediate action is required to protect the public health, safety or welfare, the issuance of a written notice is considered ineffective in deterring repeat, or future violations. As a result, abatement action, civil remedies, and/or criminal charges may be immediately initiated.

“Initial Property Inspection” – The Initial Property Inspection is the first inspection conducted on a property where a new case is opened. During the Initial Property Inspection, the Code Enforcement Agent documents potential code violations so as to make a determination of whether or not a code violation exists or potentially exists. If the Code Agent determines a violation exists, the Agent will attempt to make direct contact with the responsible party and then establish a compliance deadline, and issue a notice/order.

“Life Safety Hazard” – A Life Safety Hazard is any identified code violation that has the potential to directly, or indirectly, cause bodily harm. Examples of life safety hazards include, but are not limited to: vehicles dangerously positioned on jacks, concrete blocks, wood, or other physical objects; certain types of right-of-way obstructions; dead trees or trees leaning at precarious angles; missing or obscured building addresses; swimming pools which are not properly fenced or secured; broken windows; electrical hazards; unsecured structures; and any other hazardous conditions where there exists a foreseeable danger to the public.

“Misdemeanor Charges” – Misdemeanor charges are citations or formal criminal complaints issued by a Code Enforcement Agent to the responsible party for uncorrected code violations.

“Notice of Violation and/or Compliance Order” – A Notice of Violation and/or Compliance Order is a standard formal notification (written notice) issued by a Code Enforcement Agent advising the responsible party that a violation(s) exists on their property. It also establishes a compliance deadline and provides an opportunity for the responsible party to request a hearing before the Planning Commission in the event the responsible party is aggrieved by the Enforcement Agent’s finding. This written notice is principally designed to encourage timely voluntary compliance.

“Repeat / Recurring Violation” – A Repeat / Recurring Violation is a newly identified code violation on a property involving the same responsible party for the same or substantially the same violation as identified on a previous investigation within the last twelve (12) months.

“Responsible Party” – A Responsible Party is one or all of the following:

1. The listed owner(s) in the Scott County real property information record.
2. All tenants on the property.
3. Any person or entity creating a violation even if they are not the record owner or tenant.
4. For limited liability companies, corporations, or other forms of businesses and corporations, the responsible parties are the principals and offices of the entity.

“Voluntary Compliance” – Voluntary Compliance is achieved when all identified code violations are corrected before the established compliance deadline. Voluntary Compliance is the preferred method of resolving code violations. This allows the Code Enforcement Agent to pass the inspection without the issuance of misdemeanor charges, without seeking civil remedies, without posting of stop work orders, and/or without initiating an abatement process.

III. REACTIVE ENFORCEMENT

The City of Belle Plaine code enforcement policy is complaint-based. The City Code, including but not limited to, zoning standards and other regulatory codes adopted by the City are principally enforced on a complaint basis. This is designed to encourage a resident, business owner, neighborhood association, block watch program, or other community members to actively participate in the enforcement/compliance process. Complaints shall be signed and submitted in written form.

IV. GENERAL PROCEDURES

A. LIFE SAFETY COMPLAINTS

If the alleged violation concerns a potential health or safety hazard to the neighborhood or neighbors, inclusive of open/vacant buildings, fire hazard and/or health hazards, or other health and safety hazards, the City’s goal will be to respond within one (1) business day of receiving the complaint, depending upon staff availability and time constraints.

B. NON-LIFE SAFETY COMPLAINTS

If the alleged violation is not a potential health or safety hazard the City’s goal will be to respond within ten (10) business days of receiving the complaint, depending upon staff availability and time constraints.

C. NOTICE OF VIOLATION / COMPLIANCE NOTICE AND ORDER

Upon the Initial Property Inspection, the responsible party will be notified of any violation(s) discovered during the inspection process through the issuance of a written notice sent through postal mail to the Responsible Party. If the written notice sent through postal mail is returned undeliverable and/or the Responsible Party’s mailing address is not available, the written notice will be posted on the property in a conspicuous location. The Notice Of Violation will specify a compliance deadline and appeal remedies. The Notice Of Violation will also list any observed code violation(s). Failure of the Responsible Party to receive the Notice does not invalidate the enforcement process.

D. REMEDIES TO NON-COMPLIANCE

Any uncorrected code violations remaining after the Compliance Deadline are subject to the initiation of misdemeanor charges, abatement as defined in Section 400 of the City Code, issuance of stop work orders, and/or pursuit of civil remedies.

E. EXTENSIONS

In general, extensions may be authorized by the Code Enforcement Agent for a specified period of time. Responsible Parties who demonstrate to the Code Enforcement Agent the existence of circumstances requiring additional flexibility or deviation from the compliance deadline may be granted an extension for a specified reasonable period of time based upon consideration by the Code Enforcement Agent of the following factors:

1. Resolution of all Life-Safety Hazards – An extension will not be considered, or provided, to any responsible party where, in the opinion of the Code Enforcement Agent, a life-safety hazard exists or where active and verifiable steps to physically mitigate the hazard are not in place.

2. Achievement of Measurable Progress – Upon the Compliance Inspection the property shows significant measurable improvement from the conditions observed during the Initial Property Inspection.
3. Establishment of Direct Communication – The responsible party establishes direct communication with the assigned Code Enforcement Agent prior to the initial compliance deadline. Direct Communication could be face-to-face, e-mail, or direct phone contact.
4. Written and/or Verbal Commitment to Voluntarily Comply – The Responsible Party states their intention to fully remedy all recorded violations on their property. This statement can be made verbally to the Code Enforcement Agent or in writing after establishing direct communication. The timeframes requested will be reviewed by the Code Enforcement Agent.

V. EXCESSIVE COMPLAINTS

The purpose of this section is to address situations where one or more parties inappropriately use the code enforcement system. For example, in situations where what begins as a complaint escalates into multiple complaints between two parties and/or instances where both parties use the complaint process to antagonize each other.

The City has limited resources, in both staffing and funding, to manage complaints and code violations. The City has the right to choose how to best use these resources in a fashion that prudently utilizes taxpayer resources. The purpose of this Complaint Policy is to establish a protocol and standards for City staff to use to determine whether the enforcement tools available to the City are no longer effective. The City does not intend to ignore complaints; staff will continue to take the appropriate enforcement action when a legitimate code violation exists. Depending on the nature of the code violation and the impact the code violation has on the health, welfare and safety of the City and its residents, the City staff will prioritize the list of pending complaints it receives. Staff may choose to limit the amount of follow-up in certain situations.

Staff will use the following guidelines to determine if a complaint is defined as excessive. Excessive complaints are ongoing complaints where all or a majority of the following are present:

1. The alleged violation does not pose an immediate risk to public health and safety, or there is no high risk to health and safety through potential environmental impacts, or alleged violation is a private property dispute (i.e. a dispute that is not related to a Statute or Code).
2. The nature of the complaints move from reporting a legitimate code violation to a frivolous complaint or a complaint deemed to be using the City to harass another party; or
3. City staff find the dispute is the result of a private dispute between property owners and not based on a code violation.

Staff may choose to limit the amount of, or entirely refrain from, follow up when excessive complaints from an individual or property owner are determined to be frivolous or capricious. Staff will consider the following when making a determination whether or not excessive complaints are frivolous or capricious:

1. How much time the City has invested in working with the parties to address the City Code violation.
2. Whether the essential basis of the dispute is civil.

Once a determination is made, staff may consult with the City Attorney to determine the City's legal obligations and options. Staff will investigate any subsequent and unrelated complaints received from the parties and take the appropriate action.

VI. REPEAT / RECURRING VIOLATIONS

Repeat or recurring violations exist when there are repeated violations and the owner has demonstrated an inability or unwillingness to correct or cease the activity giving rise to the violation(s). When repeat or recurring violations exist, City staff may consider alternatives other than voluntary compliance, including consulting with the City Attorney to determine the best course of action, seeking injunctive relief, and/or immediate enforcement of violations.

VII. IMMEDIATE ENFORCEMENT VIOLATIONS

Certain types of illegal activities constitute an imminent public safety and health hazard. In addition, certain types of illegal activities are time-sensitive and/or transient in nature. The following types of illegal activities may result in the initiation of abatement, misdemeanor charges, issuance of stop work orders, or pursuit of civil remedies without the benefit of receiving a written notice.

1. Person(s) found illegally dumping litter, or waste, onto any property, vacant parcels, or City Right of Ways.
2. Transporting of diseased-bearing wood without having obtained permission from the Superintendent of Public Works, unless the disease-bearing wood is being transported directly to a sanitary landfill or other lawful place of disposition.
3. Failing to take appropriate measures to contain or allowing any soil or other debris to wash or erode from private property or construction sites onto the public street, drainage system, adjacent property, ponds, wetlands, ravines, or waterways.
4. Selling of food items without proper licenses/permits.
5. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under any conditions as shall be permitted by this Code or other applicable law.
6. Any use of property abutting, on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks.
7. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
8. Wastewater cast upon or permitted to run upon streets or other public property.
9. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials.
10. All snow and ice not removed from the public sidewalks within 24 hours after the snow or other precipitation causing the condition has ceased to fall.
11. Any grass or weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land in the City of Belle Plaine to a height greater than eight (8) inches, except as allowed under Section 400 of the City Code.
12. Repeat/reoccurring violations.

13. Other Code violations causing an imminent public safety or health hazard, as determined by the City.

VIII. CONDUCT OF CITY COUNCIL AND CITY STAFF IN CODE ENFORCEMENT MATTERS.

A. CITY COUNCIL.

The City Council is responsible for adopting this Code Enforcement Policy which is intended to guide City staff in the performance of its duties.

B. CITY STAFF.

1. City staff shall perform code enforcement in its discretion after considering this policy guidance.
2. City staff shall perform its duties in accordance with the Belle Plaine City Code and other applicable laws.
3. The City Administrator may adopt additional standard operating procedures, as necessary, to implement this policy.
4. Enforcement.
 - A. The form of notice and enforcement action to be pursued, if any, will be determined by the City staff after considering to the extent applicable:
 1. This policy guidance.
 2. Priority status.
 3. Nature of violation(s).
 4. Scope of, and circumstances associated with the violation(s), including facts that may have been identified during an investigation.
 5. Repeat or recurring violations.
 6. Excessive violations.
 7. Number of complaints received.
 8. Such other factors deemed relevant by the City.
 - B. City staff is authorized to use its discretion in enforcement matters or refraining from enforcement, so long as the same is accomplished in a non-discriminatory manner. It is recognized that the City has limited resources in both staffing and funding to manage complaints and violations. The City has the right to choose how best to use its resources. Depending on the nature of the violation and impact on health, welfare and safety, City staff will prioritize the list of pending complaints. Staff may choose to limit the amount of follow up in certain situations. For example, for matters of the lowest priority, staff may refrain from issuing a notice until such time as one or more written complaint(s) have been received.
5. Code enforcement is a product of interdepartmental cooperation as directed by the City Administrator with the Community Development Department as the lead department. Interdepartmental cooperation may include assistance in enforcement or abatement actions. Staff's goal is to provide seamless and coordinated service in all circumstances and to facilitate the resolution of identified violations.



Code Enforcement Complaint Form

Violations of City Code are handled on a complaint only basis. All complaints are kept anonymous and the City will NOT disclose any information regarding who filed the complaint. If you do not provide contact information, the City may not be able to investigate the complaint due to lack of information. Please be as thorough as possible.

In order to file a complaint, please fill out 1 through 3 below:

1. Address of Violation:

*Please provide the full address including street direction. Example: 218 Meridian Street North. If you are unsure of the address, please provide an accurate description. *Example: The vacant lot directly north of 218 Meridian Street North.*

2. Description of Alleged Violation:

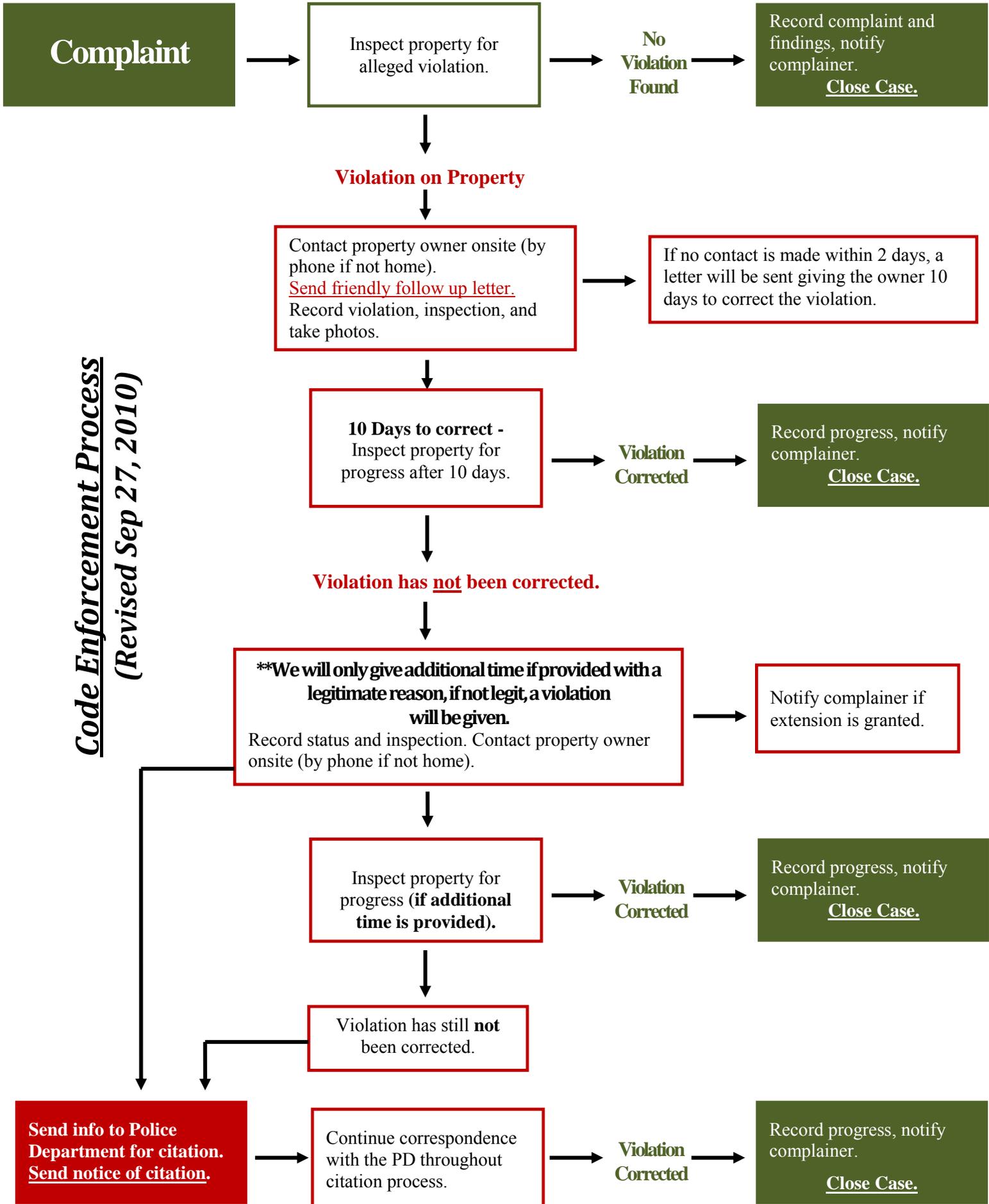
*Please provide a complete description of the alleged violation. *Example: Grass on the property is longer than 12 inches. Red Ford Van in the driveway is unlicensed and no longer operable. There are old appliances, piles of old shingles and bags a trash stacked on the east side of the garage.*

3. Your Contact Information:

First Name: _____ Phone: _____
Email: _____ Would you like confirmation? Yes No

Signature: _____

*Please note, your contact information is confidential and ALL complaints are kept anonymous. We ask for this information only to confirm the details of the complaint with you. The City will NOT disclose where the complaint initiated. We will assume you wish not to be contacted with an update if you do not provide your contact information. Please return completed form to City Hall.





MEMORANDUM

DATE: January 14, 2019
TO: Chairperson Carter, Members of the Planning Commission, and Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
RE: Agenda Item 6.5: Annual Report to City Council

GENERAL INFORMATION

The Planning Commission reviewed a draft report to the City Council at the December meeting. The PC requested an additional goal pertaining to collaborating with elected and appointed officials to advance housing types and options be added. The Commission recommended the report be presented to the City Council during the business portion of meeting of a future Council meeting.

Commissioners Carter and Pankonin will be presenting the report on Tuesday, January 22nd (Monday the 21st is a holiday) as soon after 6:30 as possible. A final copy of the annual report is attached.

ACTION:

This item is for information.

Planning and Zoning Commission

2018 Annual Report



PLANNING AND ZONING COMMISSION ANNUAL REPORT: 2018

As a means of reflection and consideration of goal setting for 2019, the following is a report on Planning and Zoning Commission activity in 2018. This report will also be offered to the City Council for consideration of acceptance.

PURPOSE:

The City of Belle Plaine has established the Planning and Zoning Commission as provided under Minn. Stat. §462.354, Subd. 1(2). The Commission is advisory to the City Council and supported by Community Development Department staff.

With assistance from the Community Development Department, the Commission is responsible for development and administration of the Comprehensive Plan, land use (zoning) standards, platting and subdivision standards, and it functions as the Board of Zoning Appeals and Adjustments (variances, appeals).

The Commission functions in three distinct capacities:

1. Planning capacity: The Commission assists the City Council in establishing a vision for the community and guides the steps necessary to reach that vision (Comprehensive Plan: *Destination 2040*).
2. Legislative capacity: The Commission studies regulations and proposes changes as needed to achieve the vision contained in the Comprehensive Plan.
3. Regulatory capacity: The Commission applies the ordinances and rules to specific situations in fulfillment of the vision encompassed in the Comprehensive Plan.

2018 APPOINTMENTS:

The following appointments to the Planning Commission were effective in 2018:

Ashby Carter (Chair)	Ashley Cauley	Paul Chard (CC Liaison)
Omni Kiecker (Secretary)	Ryan Herrmann	Ashton Pankonin (Vice Chair)
Brittney Cotner (Alternate)	Lee Peterson (Alternate)	Theresa McDaniel (CC Alternate)

The following officers were elected by the Planning Commission in 2018:

Chair:	Ashby Carter
Vice Chair:	Ashton Pankonin
Secretary:	Omni Kiecker

2018 MEETING DATES:

The Belle Plaine Planning Commission volunteers met 12 times in 2018. Regular meetings are held the second Monday of each month at 6:30 p.m. in the Council Chambers at the Belle Plaine City Hall.

CORE INITIATIVES AND STRATEGIC DIRECTIONS:

The Planning and Zoning Commission pursued the following priorities in 2018:

1. Consistent, balanced, and methodical administration of the zoning ordinance in response to property owner requests for: rezoning, variance, conditional use permit, and interim use permit issuance.
2. Consistent, balanced, and methodical administration of the subdivision ordinance in response to property owner/developer requests for plat approval and minor subdivisions.
3. Active participation in *Destination 2040*, an ongoing comprehensive plan update effort.
4. Administration and implementation of the 2030 (current) Comprehensive Plan.
5. Establishment of relevant land use and subdivision regulations that relate to existing conditions and the vision identified within the Comprehensive Plan.
6. Creation of a detailed, accurate, and permanent record for each land use and subdivision request to be retained at City Hall for future reference and/or establishment of a common rationale for reviewing requests and administering applicable ordinances.

PLANNING ACTIVITIES: 2018

Over the past year the Planning and Zoning Commission functioned in its planning capacity when supporting *Destination 2040 Belle Plaine* the City's comprehensive plan update process.

- **January 8, 2018:** The PC reviewed *Destination 2040* planned outcomes pertaining to livability, stewardship, and sustainability.
- **May 14, 2018:** The PC provided input on several items pertaining to the draft Scott County 2040 Comprehensive Plan update.
- **May 14, 2018:** The Commission reviewed a proposed sale (Lot 3, Block 1 Valley Business Park 3rd) of City property to determine consistency with the 2030 Comprehensive Plan.
- **July 11, 2018:** The PC conducted a public hearing on the draft plan update prior to distribution to affected jurisdictions.
- **July 11, 2018:** The Commission reviewed a proposed sale (Lots 1 & 2, Block 1 Valley Business Park 3rd) of City property to determine consistency with the 2030 Comprehensive Plan.

- [December 10, 2018](#): The Commission held a public hearing on the final draft of *Destination 2040*. The Commission recommended the Council approve the draft and submit to the Metropolitan Council for authorization to place the plan into effect.

LEGISLATIVE ACTIVITIES: 2018

The following code updates/amendments/frameworks were developed, processed, and recommended by the Planning Commission in 2018 when functioning in its legislative capacity. Ordinances if generated were heard in public and then forwarded to the Mayor and City Council for consideration of approval. The typical legislative process followed included: issue identification, research, review of intent, review of impact on properties in Belle Plaine, revision/adjustment, and public hearing.

- [January 8, 2018](#): The PC held discussion on potential changes to off-street parking and outdoor storage.
- [February 12, 2018](#): The PC held a public hearing on Ordinance 18-01 pertaining to detached accessory structures. The Commission recommended the Council approve a code amendment to clarify accessory structure standards.
- [February 12, 2018](#): The PC held discussion draft Ordinance 18-03 pertaining to outdoor storage.
- [February 12, 2018](#): The PC held discussion draft Ordinance 18-04 pertaining to off-street parking.
- [February 12, 2018](#): The PC discussed a draft update to the Chapter 400 of the City Code pertaining to nuisances and reviewed draft code enforcement policy.
- [March 12, 2018](#): The Planning Commission held a public hearing to consider Ordinance 18-03 which proposed changes to Section 1107.08 of the code pertaining to outdoor storage. The Commission recommended approval of the draft ordinance.
- [March 12, 2018](#): The Planning Commission held a public hearing to consider Ordinance 18-04 which proposed changes to Section 1107.12 of the code pertaining to off-street parking. The Commission recommended approval of the draft ordinance.
- [March 12, 2018](#): The Planning Commission held a public hearing to consider Ordinance 18-05 which proposed clarification of allowable roofing materials within the Central Business District. The Commission did not recommend approval of the draft ordinance.
- [March 12, 2018](#): The Planning Commission held initial discussion pertaining to natural landscapes.
- [April 9, 2018](#): Guest Alyssa Alness from the Scott County Soil and Water Conservation District presented information to the Commission pertaining to natural landscapes. The Commission recommended the same presentation be given to the Park Board.

- **May 14, 2018:** The PC discussed potential code standards pertaining to natural landscapes.
- **July 9, 2018:** The Commission discussed draft code language pertaining to natural landscapes.
- **August 13, 2018:** The Commission discussed interest in developing a framework for allowance of accessory dwelling units.
- **August 13, 2018:** The Commission discussed approaches to updating commercial & industrial design standards following split recommendation on a variance for exterior materials early in the summer.
- **September 10, 2018:** The Commission developed a potential regulatory framework for amending the City Code to allow accessory dwelling units.
- **October 8, 2018:** The Commission finalized a draft regulatory framework pertaining to accessory dwelling units.
- **October 8, 2018:** The Commission discussed the potential to update the subdivision code pertaining to the allowable timeline for recording a final plat after Council approval. Staff proposed extending the timeline from 90 to 180 days. The Commission called for a public hearing to be held at the November 13th meeting.
- **November 13, 2018:** The Commission held a public hearing on Ordinance 18-06 pertaining to recording deadlines for final plats. The code amendment would allow subdividers 180 days (current standard 90 days) to record final plats after approval. The Commission recommended approval of the code amendment.
- **November 13, 2018:** The Commission reviewed a report from SolSmart referencing potential solar energy code updates that could promote the deployment of solar energy systems. The City recently received a “bronze” designation from SolSmart recognizing efforts to promote solar energy use. The Commission specifically reviewed height and flush mount limitations for SES installed on flat roofs.
- **December 10, 2018:** The Commission considered potential language to provide flexibility for roof mounted solar panels.

REGULATORY ACTIVITIES: 2018

Several land use and subdivision applications were processed by the Planning Commission in 2018 functioning in its regulatory capacity. Public hearings were held and recommendations were made to the City Council. The City Council may rule against a Planning Commission recommendation.

- **March 12, 2018:** The PC held a public hearing to consider a preliminary plat for Provence On The River Second Addition. The Commission recommended conditional approval of the plat to the City Council.

- [March 12, 2018](#): The PC held a public hearing to consider a preliminary plat for Valley Business Park 3rd Addition. The Commission considered preliminary and final plat concurrently and recommended conditional approval of both.
- [March 12, 2018](#): The Planning Commission reviewed and recommended conditional approval of a concept plan for Milton Heights, a residential planned unit development.
- [April 9, 2018](#): The Planning Commission reviewed proposed drainage and utility easement vacations and vacation of a portion of Plateau Lane. The vacation requests related to Provence On The River 2nd Addition.
- [May 14, 2018](#): The PC held a public hearing on a revised preliminary plat for Valley Business Park 3rd Addition. The Commission recommended conditional approval of the revised preliminary plat and concurrent final plat review.
- [June 11, 2018](#): The Planning Commission held a public hearing on a preliminary plat for Emma Krumbee’s Third Addition. The Commission reviewed the final plat concurrent with the preliminary plat and recommended conditional approval of both.
- [June 11, 2018](#): The PC held a public hearing on a request for a conditional use permit to allow conversion of a retail store to an event center. The Commission postponed action on the request following closure of the public hearing.
- [June 11, 2018](#): The Planning Commission held a public hearing on conditional use and variance requests pertaining to an industrial assembly and limited manufacturing/fabrication use at 406 Maple Street South. The Commission recommended the Council conditionally approve a use permit but deny a variance request pertaining to exterior building materials.
- [July 9, 2018](#): The Commission held a public hearing on preliminary plat of Ag Partners Addition. The Commission reviewed the final plat concurrent with the preliminary plat and recommended conditional approval of both.
- [September 10, 2018](#): The Commission provided input on a proposed interim use permit to provide for mining in the orderly annexation area. The input was used to inform review of the request which was acted on by the Belle Plaine Joint Planning Board in October.
- [October 8, 2018](#): The Commission held a public hearing on a request for a non-conformance expansion permit for replacement of an existing detached accessory structure at 600 Prairie Street East. The Commission recommended conditional approval of the request.
- [November 13, 2018](#): The Commission received an update on a proposed interim use permit to allow a mining operation on property within the Belle Plaine orderly annexation area on property owned by Ted and Mary Kornder.

2018 PLANNING GOALS

Goal #1

Complete comprehensive plan update: *Destination 2040*

Goal #2

Pursue land use policies which provide homes in Belle Plaine for persons working in Shakopee

Goal #3

Pursue planned land use policies providing for additional quasi-industrial and industrial uses

Goal #4

Advocate for sustainable land use practices as evidenced by: advancing to GreenStep Cities Step 3, receiving at least a bronze designation from the SolSmart Program, and supporting The Mayor's Monarch Pledge

Goal #5

Collaborate with elected and appointed officials to advance housing types and options

2018 LEGISLATIVE GOALS

Goal #1

Provide for vertical (as opposed to horizontal) expansion throughout commercial/industrial zones and provide for higher clear ceiling heights in industrial zones by amending maximum height standards as appropriate

Goal #2

Clarify code language regarding non-conforming expansion permit issuance criteria

Goal #3

Clarify standards pertaining to outdoor storage and parking pads

Goal #4

Consider amending the code to allow for accessory dwelling units

Goal #5

Review code for housekeeping issues as they become apparent

Goal #6

As time permits review code standards to determine compliance with state/federal rules

2018 REGULATORY GOALS

Goal #1

Review requests for platting, variances, rezoning, text amendment, and conditional use permits in a timely, consistent, and professional manner with the process prescribed by the zoning and/or subdivision ordinance

Goal #2

Implement strategies within the Comprehensive Plan relating to land use and subdivision of property

2019 PLANNING GOALS

Goal #1

Pursue land use policies supporting *Destination 2040* planned outcomes stewardship, sustainability, social equity, livability, and economic prosperity

Goal #2

Update the official zoning map to be consistent with the future land use map in *Destination 2040*

Goal #3

Consider land use policies providing for higher residential densities as a means of addressing housing affordability

Goal #4

Pursue planned land use policies providing for additional quasi-industrial and industrial uses

2019 LEGISLATIVE GOALS

Goal #1

Provide for vertical (as opposed to horizontal) expansion throughout commercial/industrial zones and provide for higher clear ceiling heights in industrial zones by amending maximum height standards as appropriate

Goal #2

Clarify code language regarding non-conforming expansion permit issuance criteria

Goal #3

Clarify standards pertaining to commercial/industrial design

Goal #4

Consider amending the code to allow for accessory dwelling units

Goal #5

Review code for housekeeping issues as they become apparent

Goal #6

As time permits review code standards to determine compliance with state/federal rules

2019 REGULATORY GOALS

Goal #1

Review requests for platting, variances, rezoning, text amendment, and conditional use permits in a timely, consistent, and professional manner with the process prescribed by the zoning and/or subdivision ordinance

Goal #2

Implement strategies within the Comprehensive Plan relating to land use and subdivision of property



MEMORANDUM

DATE: January 14, 2019
TO: Chairperson Carter, Members of the Planning, and Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
RE: Item 7.2 Director's Report

Design Committee

The Design Committee met on December 17th. The DC provided input on design standards for outdoor sidewalk cafes.

Economic Development Authority

The EDA will meet at 5:00 p.m. on January 14th. Agenda items include:

- Review of background information pertaining to residential development opportunities
- Updates – sidewalk cafes and annual report

Other

- Finalize plat details and release plat for recording – Emma Krumbes Third Addition.
- New address assignment Valley Business Park Second Addition.
- Discussion Façade Improvement Loan program with one businesses.
- Negotiation of agreement with Aztron.
- Discussion of RLF loan with one businesses.
- Zoning information to three businesses.
- Verification of property listings with CoStar.
- Follow up housing TIF information to a developer.
- Create summary of residential development opportunities discussed in previous three years, including parcel information, opportunities/challenges, and history. Follow up with property owners/representatives with regard to status of property. Compile report for EDA.
- Draft presentation for workshop on commercial/industrial design standards.
- Draft EDA annual report to Council.
- EDA/Chamber gala planning & meetings – scheduled Feb. 13th.
- Draft sidewalk café code update.
- Draft solar energy systems code update (accessory rooftop, flat roofs).
- Draft Planning Commission annual report to Council.
- Incidental adjustments to *Destination 2040*, public hearing, and prepare unified plan submittal document and deliver to Metro Council for decennial review.
- Joint OAA Board meeting (Belle Plaine Township) December 15th.
- Meeting with Developer and follow up with DLI – building code requirement elevator in three story apartment.
- Code enforcement policy placed into effect; nuisance code update draft anticipated to be placed into effect.
- Code amendment outside storage and off-street parking follow up.
- Informal site plan review – I/C District retail use.
- Attended Chamber Board meeting December 17th.
- Attended SCALE Tech Team meeting December 19th.
- Attended Chamber networking event January 3rd.
- Code compliance issues processed.
- Conduct annual reviews with staff.