

ELKO NEW MARKET - PLANNING COMMISSION MEETING

PC Members: Brad Smith, Nicole Kruckman, Thomas Humphrey, Melissa Hanson, Todd Priebe and Harry Anderson
City Staff: City Planner Bob Kirmis, Community Development Specialist Renee Christianson and City Engineer Rich Revering



AGENDA

TUESDAY, JUNE 25, 2019 @ 7:00 PM
COUNCIL CHAMBERS – NEW MARKET AREA HALL
601 MAIN STREET, PO BOX 99, ELKO NEW MARKET, MN 55020

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF AGENDA**
Consider Approval of the Agenda
- 4. PUBLIC COMMENT** (public opportunity to comment on items not listed on the agenda)
- 5. ANNOUNCEMENTS**
 - A. None
- 6. APPROVAL OF MINUTES**
Consider Approval of the following:
 - A. May 28, 2019 Minutes
- 7. PUBLIC HEARINGS**
 - A. None
- 8. GENERAL BUSINESS**
 - A. Draft Zoning Ordinance Amendment – Landscaping & Setback Requirements in the R4 Zoning District
 - B. Concept Plan Review – 68-Unit Apartment Development, Global Properties, applicant
 - C. 2040 Comprehensive Land Use Plan
- 9. MISCELLANEOUS**
 - A. Community Development Updates & Reports
 - B. Planning Commission Questions & Comments
- 10. ADJOURNMENT**

BOARD NOTICE:

TO DETERMINE IF A QUORUM WILL BE PRESENT, PLEASE CONTACT ELKO NEW MARKET AREA HALL AT 952-461-2777
IF YOU ARE UNABLE TO ATTEND

PUBLIC NOTICE:

ANYONE SPEAKING TO THE BOARD SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD

**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
MAY 28, 2019
5:00 PM**

1. CALL TO ORDER

Chairman Smith called the meeting of the Elko New Market Planning Commission to order at 7:00 p.m.

Commission members present: Smith, Kruckman, Hanson, Humphrey, Priebe and Ex-officio member Anderson

Members absent and excused: None

Staff Present: Community Development Specialist Christianson, Community Development Intern Sevensing, and City Engineer Rich Revering.

2. PLEDGE OF ALLEGIANCE

Chairman Smith led the Planning Commission in the Pledge of Allegiance.

3. APPROVAL OF AGENDA

A motion was made by Humphrey and seconded by Kruckman to approve the agenda as submitted. Motion carried: (5-0).

4. PUBLIC COMMENT

There was no public comment.

5. ANNOUNCEMENTS

There were no announcements.

6. APPROVAL OF MINUTES

A. It was moved by Hanson and seconded by Kruckman to approve the minutes of March 26, 2019 with one correction.

B. It was moved by Hanson and seconded by Humphrey to approve the minutes of April 22, 2019 with one correction.

7. PUBLIC HEARINGS

A. Request for Rezoning, Preliminary and Final Plat Approval of Sylvester's Meadows – Bernard Mahowald, Applicant

Christianson presented her staff report containing information regarding the request for rezoning and plat approval of Sylvester Meadows along with a Powerpoint presentation. She provided a background, noting that the property is currently located inside the city limits and that the developer is currently requesting approval of a nine-lot residential subdivision. She explained that Mr. Mahowald was also the developer of the Farm developments (1st, 2nd and 3rd Additions) which were platted between 2001 and 2005. She noted that the Mahowald family also owns one additional 40-acre tract of land along Webster Street.

Christianson displayed the current plat proposal overlaid on an aerial photograph. She reviewed the following items:

- 2030 Comprehensive Land Use Plan, which guides the property to Low Density Residential.
- Current Urban Reserve zoning of property, noting that R1 zoning is being proposed for only the portion to be platted into lots, with the remainder to remain zoned Urban Reserve.
- Criteria for rezoning, noting that the request meets the criteria stated in the zoning ordinance for rezoning.
- Minimum lot size requirement of 12,000 square feet for R1 district, and noting that proposed lots range from approx. 16,000 to 30,000 square feet, with average 20,429 square feet.
- Setback requirements.
- Easement requirements, noting that additional drainage and utility easements are being recommended for Lots 1, 2 and 9.
- Tree inventory requirements, noting that the developer needs to submit a tree inventory.
- Proposed sewer and water utility plan, noting that a sanitary sewer lift station is needed to service the development. Staff recommends stand-by generator.
- Current flow of stormwater from the site, and proposal to treat stormwater in an existing pond with minor modifications to the pond.
- Wetland on south side of proposed lots and wetland buffer requirements.
- DNR wetlands (none) and a 500-year flood plain covering wetland area on south side of property.
- Street which is proposed at 28' in width in a 50' right-of-way.
- Sidewalk and trail requirements.
- City Park and Trail Plan, which depicts a trail corridor along the south side of the proposed lots. She noted that the Parks Commission has reviewed the request and has recommended the following:
 - Land be dedicated within the development for park purposes, to be dedicated in the northwest corner of the property.
 - Future trail system in proposed park land which would connect existing Mahowald Park to proposed street.
- School district boundaries.

Christianson noted that a letter opposing the development had been submitted which will be read into the record during the public hearing. She also advised the Commission that

because city staff had knowledge of social media discussion regarding the proposed project, City Engineer Rich Revering has been asked to give a presentation to the Commission regarding area drainage issues.

Mr. Revering provided a detailed presentation outlining the approximate 253-acre drainage area that drains into the wetland on the south side of the proposed lots. He noted that the entire drainage area is currently drained by one 15" clay tile pipe that dates back to 1937 or before. He also noted that, should the pipe become plugged, the low portion of the drainage area would likely fill to a depth of 7' to 8' deep. Mr. Revering noted that based on requests from the Chlan family, City staff has televised the 15" pipe, jetted portions of the pipe, and cleared debris from the inlet in an effort to make sure the pipe is still flowing/functioning.

He also noted that historic plat maps show a water body in the area south of the proposed lots, and labeled as "Lake Vermillion". He stated that it was his belief that the tile system which drained the basin was installed sometime around 1937. In the early 1980's a ditch appears which further drains the basin area, and a lift station was also installed which pumps stormwater from the Chlan farm into the ditch and tile system.

He reviewed state climatology information, which indicates that over the past twenty to thirty years, rains have become more frequent and with larger amounts, and that trends show an increase in rainfall. He stated that it would take five days to drain a 1" rainfall through the existing 15" pipe. It is his belief that the pipe is too small for what it is being asked to do.

He concluded by stating that he could not identify any action items to solve any perceived drainage issues on the Chlan property that would be the responsibility of the City, and he did not know if permits could be obtained (from the Army Corp of Engineers) to increase the size of the drainage pipe.

Chairman Smith opened the public hearing at 7:45 p.m.

Christianson read into the record a letter dated May 23, 2019 submitted by Lampe Law Office, LLP which provided notice of objection to the proposed development on behalf of Mr. Dan Chlan.

Applicant Bernard Mahowald addressed the Commission, and introduced his engineer Greg Halling, and his brother Mike Mahowald and sister Barb Mahowald. He stated that while growing up on the farm the drainage area in question was a lake. He also spoke about a knoll area which is referred to as "Indian Hill", as Native American's camped there in early years. He stated that the area where the lots are proposed is high land, but not farmable. He stated that the runoff from his proposed 5-acre development is minuscule and he requested that Mr. Chlan remove objection to his proposed nine-lot development.

City Engineer Revering further described proposed stormwater management plan, noting that the proposal meets current local, state, and federal regulations.

Tim Kniefel, 1010 Theresa Marie Drive in Elko New Market, asked why additional lots were being proposed when there were still vacant lots within the Farm developments. Mr. Mahowald stated that eleven single-family lots and approximately seven townhome lots remained available within the Farm.

Andy Konczak, 3150 Aaron Drive in Elko New Market, asked Mr. Mahowald why he wanted to create the proposed lots. Mr. Mahowald stated that the piece of ground is not farmable and it will make beautiful lots overlooking the wildlife area. He also noted that they are selling out of the lots in the existing development. Mr. Konczak stated that there is a lot of water in the area currently.

Barbara Mahowald, 5601 West 133rd Street in Savage, asked for clarification regarding the proposed stormwater plan, and the effects of the development on area drainage. City Engineer Revering reviewed the stormwater plan.

Cindy Schultz Wade, 1157 Dorthy Lane in Elko New Market, stated that Mr. Chlan has no intention of adding value to his property by creating a lake or a wetland. His only intention is to keep farming and feed his cows. He has no intention of selling; his property is for his livestock, his family, his livelihood. She supports Mr. Chlan in this regard. Mr. Mahowald stated that this area was a lake and he feels it should be converted back into a lake.

Britt Bowe, 1441 Overlook Drive, stated that eleven months ago she received a brochure about the Farm, which did not depict any lots proposed in this area. She was led to believe that the entire area would always be a “preserve” area and no homes would be built in the proposed area. Commissioner Humphrey questioned Mrs. Bowe as to who was conveying this information, and whether they may have spoken out of turn.

Lance Heisler with Lampe Law Group, 105 East 5th Street in Northfield, representing Dan Chlan and Mary DeGross, addressed to Commission. He stated that he is working with Justin Klabo, a Water Resource Engineer, to complete a thorough, independent hydrology study of this area to better understand the factors involved in the drainage issue. He stated that Degross and Chlan have farmed their land for many years and they now have more than forty acres that is unfarmable. He also stated that he is working with an attorney representing the City regarding the matter.

He suggested that the Planning Commission postpone the action on the item until they get more information from the hydrology study. He stated that perhaps there was a solution that was practical, economically feasible, and would allow Degross and Chlan to keep farming.

Commissioner Humphrey asked Mr. Mahowald how he feels about a possible delay in action on the item; and if he would face any hardship if there was a deferred action. Mr. Mahowald stated that he doesn't see any reason to delay action on the request.

Commissioner Hanson stated that she would like to receive all of the information including what Mr. Chlan may bring to the table through his engineer, before she makes a recommendation.

Greg Halling, Halling Engineering, 3727 East 255th Street in Webster, asked City Engineer Revering how much expense the City has incurred in reviewing the drainage issues in response to Mr. Chlan's concerns. Revering stated that he does not have an estimated total amount, but the City has spent a significant amount of time over the past eight-to-ten years. Halling stated that he has met all City requirements in terms of stormwater.

Nadia Khalil, 1435 Overlook Drive in Elko New Market, stated she feels that she was misled because she did not know development was planned for the area. She also stated that there are vacant lots that have not yet been sold so she doesn't understand why the lots are being proposed at this time.

Rick Greuel, 1435 Overlook Drive in Elko New Market, stated that up to seven homes will be directly affected by the proposed development and that he doesn't see the value in the development.

The public hearing was closed at 8:43 p.m.

Following discussion by the Planning Commission, it was moved by Humphrey and seconded by Hanson to continue the request for rezoning and preliminary plat approval of Sylvester Meadows, noting the following:

- 1) Staff is directed to extend the City's statutory review period for an additional 60-days for a total of 120-days.
- 2) Lance Heisler with Lampe Law Group shall be given until July 8, 2019 to submit an independent hydrology study for consideration by the City in conjunction with the current request.
- 3) The applicant shall redraw the plat to address the park dedication as requested by the Parks Commission.
- 4) The applicant shall address the conditions contained in the May 28, 2019 staff report to the Planning Commission in future submittals.

Motion carried: (5-0)

8. GENERAL BUSINESS

A. Concept Plan Review and Annexation Petition for Residential Development – John Wichmann & Steve Soltau

Christianson advised the Commission that the City has received a petition for annexation of approximately 36 acres of land located along the east side of Xerxes Avenue and directly south of Pete's Hill Park. The applicant, Elko 34, LLC, is requesting the annexation in order to develop the property into a 46 lot residential development on urban services.

Christianson noted that the City has been reviewing various concept plans for the property for approximately three years. There are new investors in the ownership group who now wish to move the project forward. She introduced Steve Soltau who is representing Elko 34, LLC. Christianson explained that feedback has been received from the City Engineer and

Public Works Director. She provided a Powerpoint presentation and described the following:

- Neighborhood conditions and surrounding uses
- Street conditions of Xerxes Avenue, Beard Avenue and 273rd Street East
- 2030 Comprehensive Plan which guides the property to Low Density Residential
- Proposed Planned Unit Development (PUD) zoning of the property, and the reason that PUD zoning is being requested
- Lot size standards and setback requirements, and the developer's request for a 25' front setback.
- Utility issues, including issues related to sanitary sewer, water, and stormwater
- Landscaping and tree preservation requirements
- Wetlands on the property and proposed 7,100 square foot wetland impact
- Sidewalk and trail requirements, and the Park Commission's desire for a trail connection from the development to Pete's Hill Park.
- Issues related to park dedication requirements, which are currently being considered by the Park's Commission.

Christianson explained that the City does not typically annex property without a recommendation from the Planning Commission, and that annexation are typically only considered when a development proposal has been received.

New Market Township Board member and Ex-officio member Anderson stated that he did not see anything concerning to the Township with the conceptual layout. He did, however, ask about the maintenance of Beard Avenue adjacent to the development. Christianson stated that the City currently maintains Beard Avenue and has annexed to the centerline of the road. If the property were to be annexed, the City would own the entire road right-of-way for much of Beard Avenue.

Planning Commission feedback was requested on the following items:

- Does the Planning Commission support annexation of the property for the proposed development?
- Does the Planning Commission support the twin homes in the proposed locations?
- Does the Planning Commission support PUD zoning in this location and for the proposed development?
- Does the Planning Commission support the proposed 25' front setback?

Following discussion, it was moved by Humphrey and seconded by Hanson, to recommend to the City Council that the property be annexed into the City of Elko New Market based on the submitted concept development plan, and noting the following items:

- 1) The proposed use of the property meets the intent of the guided land use for the area which guides the property to low density residential. The development does not exceed the guided density range 2 to 5 units per acre.

- 2) Development of the property as shown on the concept plan dated 4/25/19 would require approval of Planned Unit Development (PUD) zoning.
- 3) A deviation from the lot size and width requirements is being proposed for eight of the proposed 23 single-family lots. Attempt should be made to meet the minimum lot size requirements.
- 4) The developer shall indicate how the development will meet the intended goals of the PUD by incorporating improved design elements that exceed the city's standards.
- 5) A 20' wide landscape buffer must be provided for lots abutting Xerxes Trail and 273rd Street East.
- 6) A tree inventory meeting the requirements of Section 12-9-9 of the City's Subdivision Ordinance must be completed and must identify the location of all significant trees on the property. 40% of the significant trees must be protected as part of the development.
- 7) The City will require that water be looped through the development and connect to the Windrose development. Future plan submittals should indicate the proposed connection to the Windrose development. 12" watermain will be required in 273rd Street East.
- 8) A stormwater plan meeting the requirements of Chapter 11 of the Zoning Ordinance and the City's Surface Water Management Plan must be submitted and approved by the City Engineer.
- 9) A (wetland) MnRAM report is required, to determine the quality of the wetlands on the site. Vegetative buffers are required adjacent to delineated wetlands, and buffer widths are based on the quality of the wetland.
- 10) Support for the concept plan dated 4/25/19 is subject to approval of a wetland replacement plan application. An application for wetland mitigation will need to be submitted and approved by the City in order to mitigate any wetlands on the property.
- 11) Additional right-of-way will need to be dedicated along Xerxes Trail, Beard Avenue, and 273rd Street East.
- 12) 273rd Street East adjacent to the proposed development must be improved to city standards. The street section/design shall match the existing street section on Xerxes Trail, with curbing on the north side of the street, and a rural section on the south side of the street.
- 13) A sidewalk must be added on the north side of proposed "Road C". A sidewalk may be required on proposed "Road B" (cul-de-sac).
- 14) A 10' wide trail that meets the intent of the City's Park & Trail Plan should be incorporated into the development plans. The trail should connect from Pete's Hill Park on the north side of the development, and continue through the development in a southeasterly fashion, possibly connecting to proposed "Road A or C".
- 15) Park land dedication is recommended on the north side of the proposed development, adjacent to Pete's Hill Park and surrounding the north wetland area. Additional input will be sought from the Parks Commission regarding park dedication.
- 16) Additional evaluation is needed regarding proposed single family lots #22 & 23, in terms of sanitary sewer and water service, and driveway access onto a major city collector street. These lots may not be buildable lots.
- 17) The existing well on the property must be properly sealed and the septic system must be properly abandoned. Demolition permits are required for removal/demolition of any existing structures.

- 18) The proposed monument sign must be located on a private lot, with an easement granted for monument sign purposes.
- 19) The proposed outlots depicted between single-family homes and twin homes must be incorporated into private lots. The proposed outlots must be removed from the development plan.

Motion carried: (5-0)

B. Concept Plan Review of 68-Unit Apartment Development – Global Properties

Sevening presented her concept plan staff report, along with a Powerpoint presentation for a proposed 68-unit apartment complex to be constructed in two buildings. She provided some history regarding the property, noting that the property was previously owned by the City who recently sold the property to Global Properties.

She reviewed the following items related to the proposed development:

- 2030 Comprehensive Plan, which guides the property to Residential Mixed Use
- 2040 Draft Comprehensive Plan guidance, which guides the property to High Density Residential
- Current zoning of the property of High Density Residential
- Minimum lot criteria and required setbacks
- Proposed setback variances which would be required to accommodate the development as currently proposed
- Additional building height being request which would require a conditional use permit
- Utility issues, including how the property would be served with sanitary sewer, water, and stormwater
- Wetland issues
- Tree inventory requirements
- Lighting plan requirements
- Parking requirements for apartments, and the parking being proposed by the applicant.
- Property access issues from James Parkway and the private development to the east, noting that the c
- Snow storage requirements
- Sidewalks, trail, and park requirements
- Requirements for open space within the site
- Police and Fire Department input regarding the concept plan, including a recommendation of a hard surface gravel base on the west side of the property
- The existence of a gas line easement within the site

Sevening summarized the proposed deviations from the City Code as shown on the current concept plan. She also reviewed the specific criteria that must be satisfied for variance and

conditional use permit requests. She asked the Planning Commission to provide feedback on the concept plan and the proposed deviations from the City Code.

Larry Gensmer, representing Global Properties, was present at the meeting and indicated that they would try to amend the concept plan to eliminate the need for most of the variances. He did state that they would continue to apply for a conditional use permit for the deviation from the building height requirement. He also discussed the large gas line easement which impedes the use of the site.

Chairman Smith asked Gensmer if he anticipated any problems with connecting the proposed apartment development to the existing townhome development. He stated that he will be suggesting an “emergency only” access through the two developments, and hopes that the homeowners association will consent to the cross access.

Chairman Smith and Commissioner Hanson asked what the target market and rents would be. Mr. Gensmer indicated that they are currently proposing a workforce housing project, and they may be applying for tax credits, tax abatement, and/or conduit financing.

The Planning Commission generally supporting the concept plan with the changes as described by Mr. Gensmer.

9. MISCELLANEOUS

Upon recommendation of the Chair, all miscellaneous items were deferred to the June Planning Commission meeting.

10. ADJOURNMENT

A motion was made by Hanson and seconded by Humphrey to adjourn the meeting at 10:15 p.m. Motion carried: (5-0).

Submitted by:



Renee Christianson
Community Development Specialist



601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

MEMORANDUM

TO: PLANNING COMMISSION
FROM: HALEY SEVENING, COMMUNITY DEVELOPMENT INTERN
RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
RE: ZONING ORDINANCE AMENDMENTS – R-4 HIGH DENSITY RESIDENTIAL
DISTRICT AND LANDSCAPING REQUIREMENTS
DATE: JUNE 25, 2019

Background / History

Recently, Staff received its first ever concept plan for a development on an R-4 zoned property. While reviewing the concept plan, Staff felt that certain standards that apply to the R-4 High Density Residential District were unsupportive of the purpose of the R-4 district, which is to create areas for multi-family use at higher densities.

In an effort to better support high-density affordable housing development, Staff would like to begin a discussion with the Planning Commission regarding the reduction of two standards, setbacks and landscaping, that apply to the R-4 High Density Residential District in the City's Zoning Ordinance. Specifically, Staff would like to amend the underlined portions of the following sections, which date back to December of 2006, when Elko and New Market merged.

Section 11-25D-9 (C)(1) - R-4 High Density Residential District

C. Setbacks:

- 1. Front: Thirty feet (30') from public right-of-way. Thirty feet (30') from back of curb line of private drives, guest parking areas.*

Section 11-10-3 (B)(1) - Landscaping Requirements

B. R-3 Medium Density Residential And R-4 High Density Residential Districts:

- 1. At least fifty percent (50%) of the total site area shall be landscaped. For purposes of this subsection, landscaping shall also include prairies, wetlands, woodlands, ponds, pervious play areas, outdoor tennis courts, and outdoor swimming pools.*

Research

Staff researched setback and landscaping requirements in high density residential districts in 10 other area cities. Of the researched cities, only three (Lakeville, Prior Lake, and Savage) had an internal building setback requirement and only two (Farmington and Shakopee) had a site area landscape requirement. In

addition, those that did have similar requirements were less severe as compared to Elko New Market. Table 1 outlines the findings.

Table 1: Area Cities - Setback and Landscape Requirements Comparison

	Elko New Market	Farmington	Lakeville	Prior Lake	Savage	Shakopee
Internal Building Setback Requirement	30'	None	15'	15'	25'	None
Site Area Landscape Requirement	50%	20%	None	None	None	15%

Note: Apple Valley, Belle Plaine, Jordan, Lonsdale, and New Prague had no similar requirements.

Staff also researched the setback and landscaping requirements in each of Elko New Market’s residential, business, industrial, and institutional districts. The internal building setback and site area landscape requirements in each district are presented in Table 2.

Table 2: Elko New Market – Setback and Landscape Requirements Comparison

Internal Building Setback Requirement – from Private Drives (from Private Parking Areas)	
25' (15')	R-3
30' (30')	R-4
N/A	R-1, R-2, R-5, all Business & Industrial Districts, INS
Site Area Landscape Requirement	
20%	R-5
25%	B-1, B-5, I-1
30%	B-4, B-6, B-7, I-2, INS
50%	R-3, R-4
N/A	R-1, R-2, B-2, B-3

Staff Recommendation

It is Staff’s recommendation that the R-4 High Density Residential District front setback requirement (Section 11-25D-9 (C)(1)) be amended to match Elko New Market’s R-3 district setbacks and read as follows:

C. Setbacks:

1. *Front: Thirty feet (30') from public right-of-way. Twenty five feet (25') from back of curb line of private drives. Fifteen feet (15') from private parking areas.*

In addition, Staff recommend that the R-3 and R-4 Landscaping Requirements (Section 11-10-3 (B)(1)) be reduced to align more closely with requirements in other Elko New Market districts. The proposed amendment would read as follows:

B. R-3 Medium Density Residential And R-4 High Density Residential Districts:

1. At least **thirty percent (30%)** of the total site area shall be landscaped. For purposes of this subsection, landscaping shall also include prairies, wetlands, woodlands, ponds, pervious play areas, outdoor tennis courts, and outdoor swimming pools.

Although many of the cities researched have no internal building setback or landscaping requirement, Staff do not recommend eliminating the requirements completely. With no maximum impervious surface or lot coverage requirements, both contribute to the aesthetics of the property and ensure that proposed developments provide adequate greenspace while better supporting high-density affordable housing developments.

Attached for reference are the R-4 High Density Residential District and Landscaping Requirements sections from the Zoning Ordinance. Both include the proposed ordinance amendments as stated above.

At this time, the information provided is for informational purposes only. Staff is seeking preliminary feedback from the Planning Commission on whether these proposed amendments are supported. If supported by the Planning Commission, Staff will prepare a public hearing to be held by the Planning Commission at the July 30th meeting.

Attachments:

R-4 High Density Residential District (Section 11-25D) with Proposed Amendment
Landscaping Requirements (Section 11-10) with Proposed Amendment

ARTICLE D. R-4 HIGH DENSITY RESIDENTIAL DISTRICT

11-25D-1: PURPOSE:

11-25D-2: PERMITTED USES:

11-25D-3: PERMITTED ACCESSORY USES:

11-25D-4: CONDITIONAL USES:

11-25D-5: INTERIM USES:

11-25D-6: USES BY ADMINISTRATIVE PERMIT:

11-25D-7: COMMON AREAS:

11-25D-8: DESIGN AND CONSTRUCTION STANDARDS:

11-25D-9: LOT AREA, WIDTH AND SETBACK REQUIREMENTS:

11-25D-10: BUILDING HEIGHT:

11-25D-1: PURPOSE:

The purpose of the R-4 High Density Residential District is to create, preserve and enhance areas for multi-family use at higher densities for both permanent and transient families. The district shall be applied in areas served by public utilities, with good accessibility to thoroughfares, public community centers, libraries, shopping, and where such development is consistent with the Comprehensive Plan and planning policies. (Ord. 5, 12-14-2006; amd. Ord. 80, 11-17-2011)

11-25D-2: PERMITTED USES:

Subject to applicable provisions of this title, the following are permitted uses in the R-4 District:

Apartments containing more than eight (8) attached units.

Parks, play fields, recreational uses and directly related buildings and structures.

Residential programs as regulated by State Statute.

Townhouses and condominiums containing more than eight (8) attached units. (Ord. 181, 12-20-2018)

11-25D-3: PERMITTED ACCESSORY USES:

Subject to applicable provisions of this title, the following are permitted accessory uses in the R-4 District:

Accessory structures as regulated by chapter 6 of this title.

Boarding or renting of rooms to not more than two (2) individuals per dwelling unit.

Daycare facilities (in home) as regulated by State Statute.

Ground source heat pump systems as regulated by chapter 14 of this title.

Keeping of animals subject to title 6, chapter 4 of this Code or as may be amended.

Off street parking as regulated by chapter 9 of this title.

Permitted home occupations as regulated by section 11-5-17 of this title.

Play and recreational facilities accessory to an existing permitted use.

Roof mounted wind energy systems which extend not more than six feet (6') above the highest point of the roof as regulated by chapter 14 of this title.

Secondary or accessory use antennas as regulated by chapter 13 of this title.

Solar energy systems as regulated by chapter 14 of this title. (Ord. 5, 12-14-2006; amd. Ord. 80, 11-17-2011; Ord. 85, 12-1-2011)

11-25D-4: CONDITIONAL USES:

Subject to applicable provisions of this title, the following are conditional uses in an R-4 District and require a conditional use permit based upon procedures set forth in and regulated by section 11-3-2 of this title:

Commercial outdoor recreation; provided, that:

- A. The use will not negatively impact neighboring farming operations or residential uses.
- B. The potential traffic generated by such use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
- C. Adequate improved off street parking is provided.

Daycare facilities as regulated by section 11-5-14 of this title.

Essential services involving transmission pipelines and transmission or substation lines in excess of thirty five (35) kilovolts and up to one hundred (100) kilovolts; provided, that the applicable provisions of section 11-4-5 of this title are determined to be satisfied.

Manufactured home parks; provided, that:

- A. The minimum area required for a manufactured home park designation shall be twenty (20) acres.
- B. The following minimum lot requirements within the manufactured home park are:
 1. Minimum lot area: Ten thousand five hundred (10,500) square feet.
 2. Minimum lot width: Eighty five feet (85').
 3. Maximum impervious surface: Thirty five percent (35%).
- C. The following principal structure setbacks are satisfactorily met:
 1. Front yard: Thirty feet (30').
 2. Side yard: Ten feet (10').
 3. Side yard street: Thirty feet (30').
 4. Rear yard: Twenty five feet (25').
 5. Rear yard abutting street: Thirty feet (30').

D. Accessory buildings, uses and equipment shall comply with the applicable provisions of chapter 6 of this title.

E. The total ground floor area of all residential buildings shall not exceed a lot coverage of thirty percent (30%).

F. All residences are limited to a maximum height of one story or twenty five feet (25').

G. The public improvements within manufactured home parks are developed in accordance with the City subdivision ordinance, which include:

1. Street and storm sewer improvements.
2. Sanitary sewer improvements.
3. Water improvements.
4. Public utilities (telephone, cable, electric and/or gas service).

Personal wireless service antennas not located on a public structure, or existing tower; provided, that the applicable provisions of chapter 13 of this title are determined to be satisfied.

Satellite TVROs greater than one meter (1 m) in diameter as regulated by chapter 13 of this title. (Ord. 5, 12-14-2006; amd. Ord. 80, 11-17-2011; Ord. 179, 10-25-2018)

11-25D-5: INTERIM USES:

Subject to applicable provisions of this title, the following are interim uses in an R-4 District and require an interim use permit based upon procedures set forth in section 11-3-3 of this title:

Interim home occupations as regulated by section 11-5-17 of this title.

Mining, sand and gravel extraction, and land reclamation and alteration; provided, that the use will be in compliance with the provisions hereof or other applicable provisions of this Code. (Ord. 5, 12-14-2006; amd. Ord. 80, 11-17-2011)

11-25D-6: USES BY ADMINISTRATIVE PERMIT:

Subject to applicable provisions of this title, the following uses are allowed by administrative permit in an R-4 District based upon procedures set forth in and regulated by section 11-3-4 of this title:

Essential services, except transmission pipelines and transmission or substation lines in excess of thirty five (35) kilovolts and up to one hundred (100) kilovolts, as regulated by section 11-4-5 of this title.

Model homes as regulated by section 11-5-10 of this title.

Personal wireless service antennas located upon a structure as regulated by chapter 13 of this title. (Ord. 5, 12-14-2006; amd. Ord. 80, 11-17-2011)

11-25D-7: COMMON AREAS:

The following minimum requirements shall be observed in the R-4 District governing common areas:

A. Ownership: All common areas within an R-4 development including, but not limited to, open space, wetlands, greenways, drainage ponds, driveways, private drives, parking areas, play areas, etc., shall be owned in one of the following manners:

1. Condominium ownership pursuant to Minnesota Statutes section 515A.1-106, as may be amended from time to time.
2. Townhome subdivision common areas shall be owned by the owners of each unit lot, with each owner of a unit having an equal and undivided interest in the common area.

B. Homeowners' Association: A homeowners' association shall be established for all townhome developments within the R-4 District, subject to review and approval of the City Attorney, and shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common when there is more than one individual property owner having interest within the development. (Ord. 181, 12-20-2018)

11-25D-8: DESIGN AND CONSTRUCTION STANDARDS:

A. Unit Width: The minimum width of a dwelling unit within the R-4 District shall be twenty five feet (25').

B. Decks Or Porches: Provision shall be made for possible decks, porches or additions as part of the initial dwelling unit building plans. The unit lot shall be configured and sized to include decks or porches.

C. Minimum Overhang: In the case of a gable roof, a minimum twelve inch (12") roof overhang or soffit shall be required for all residential structures.

D. Exterior Building Finish: The exterior of townhome dwelling units shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure facing the public right-of-way to create an architecturally balanced appearance. A minimum of twenty five percent (25%) of the area of all building facades of a structure shall have an exterior finish of brick, stucco and/or natural or artificial stone.

E. Garages: Each dwelling unit shall include an attached garage that shall comply with the following minimum size standards:

1. For dwellings with basements: Four hundred forty (440) square feet.
2. For dwellings without basements: Five hundred forty (540) square feet.
3. Garage width: Twenty feet (20').

F. Exterior Storage: Exterior storage shall be allowed only in designated areas which are screened in accordance with section 11-5-6 of this title and under the ownership of the property owners' association subject to other applicable provisions of this title.

G. Utilities:

1. Underground Or Exterior Service: All utilities serving an R-4 subdivision, including telephone, electricity, gas and telecable, shall be installed underground. Exterior utility meters and/or fixtures shall be located in interior side or rear yards when possible and shall be screened from view of adjacent properties and the public right-of-way.

2. Public Utility Service: Separate public utility services shall be provided to each unit unless exempted by the City Engineer.
3. Water Connection: Individual unit shutoff valves shall be provided.
4. Sewer Connection: Where more than one unit is served by a sanitary sewer service, all maintenance and cleaning shall be the responsibility of the property owners' association or owners.

H. Streets: All streets shall be public and shall comply with the design standards and specifications as governed by the City subdivision ordinance.

I. Drives:

1. Dead end private driveways shall serve a maximum of two (2) structures or four (4) units per side.
2. Private drives shall be under the ownership and control of the property owners' association who shall be responsible for the maintenance, repair, and replacement of surfacing. Said association shall maintain a capital improvement program for the driveways under its ownership.
3. Provisions for adequate turnaround shall be made at the terminus of all private drives.
4. Private drives shall include plans and areas for snow storage.
5. Private drives shall be a minimum of twenty eight feet (28') in width.

J. Guest Parking: At minimum, one-half (1/2) of guest parking spaces per unit shall be provided in an off street parking lot or private drive. The design of the off street parking lot shall conform to requirements of chapter 9 of this title.

K. Landscaping And Screening: Detailed landscaping and screening plans shall be provided and implemented pursuant to section 11-5-4 and chapter 10 of this title.

L. Lighting: Detailed lighting plans shall be provided and implemented pursuant to section 11-4-7 of this title.

M. Open Space And Recreational Uses: In addition to the park dedication requirements stipulated by the City subdivision ordinance, a minimum of ten percent (10%) of the gross development project area shall be in usable open space and recreational use for the project residents. Such areas shall be specifically designed for both the active and passive use by the project residents and may include swimming pools, trails, nature areas, tot lots, exercise equipment, saunas, etc. Said areas and facilities shall be private, except in those cases where the City agrees to assume responsibility for all or a portion of the recreational space. In those cases where private ownership is maintained, the land and facilities shall be subject to the requirements set forth in a planned unit development agreement. (Ord. 5, 12-14-2006; amd. Ord. 80, 11-17-2011)

11-25D-9: LOT AREA, WIDTH AND SETBACK REQUIREMENTS:

The following minimum requirements shall be observed in an R-4 District subject to additional requirements, exceptions and modifications set forth in this title:

A. Lot Area:

1. Minimum base lot area: Fifteen thousand (15,000) square feet.
2. Minimum unit lot area: Sufficient area to include the living area, garages, decks, patios, or porches of the individual dwelling unit.

B. Lot Width:

1. Base lot: One hundred feet (100').
2. Unit lot: Minimum of twenty five feet (25') in width and of sufficient area to include the living area, garages, decks, patios, or porches of the individual dwelling unit.

C. Setbacks:

~~1. Front: Thirty feet (30') from public right-of-way. Thirty feet (30') from back of curb line of private drives, guest parking areas.~~

1. Front: Thirty feet (30') from public right-of-way. Twenty five feet (25') from back of curb line of private drives. Fifteen feet (15') from private parking areas.

2. Side: Thirty feet (30'). Thirty feet (30') from side/corner.

3. Rear: Thirty feet (30').

4. Rear yard abutting street: Thirty feet (30').

5. Major collector or arterial street: Fifty feet (50').

6. Wetland: Forty feet (40') from delineated edge.

7. Setback between buildings: For lots with more than one principal structure on a base lot, the setback between buildings shall be a minimum of twenty feet (20'). (Ord. 181, 12-20-2018)

11-25D-10: BUILDING HEIGHT:

Structures shall not exceed thirty five feet (35') in height, except as provided in section 11-5-2 of this title. (Ord. 5, 12-14-2006; amd. Ord. 80, 11-17-2011)

Chapter 10. LANDSCAPING REQUIREMENTS

11-10-1: INTENT AND PURPOSE:

11-10-2: GENERAL REQUIREMENTS AND RESTRICTIONS:

11-10-3: RESIDENTIAL DISTRICT REQUIREMENTS:

11-10-4: BUSINESS DISTRICT REQUIREMENTS:

11-10-5: INDUSTRIAL DISTRICT REQUIREMENTS:

11-10-6: INS INSTITUTIONAL DISTRICT REQUIREMENTS:

11-10-1: INTENT AND PURPOSE:

A. The purpose of this chapter is to establish standards for the installation of landscaping as may be required by other provisions of this title and to protect the health, safety, and general welfare of the city.

B. The quality and specifications identified in this chapter are intended to guide landscaping within residential, business, industrial and institutional zoning districts.

C. All landscaping shall be designed to add visual beauty to the property. The quantity and quality of the design shall be compatible with each zoning district and the intended use of the property. (Ord. 5, 12-14-2006)

11-10-2: GENERAL REQUIREMENTS AND RESTRICTIONS:

A. Deposit Of Materials On Public Ways Prohibited: Landscaping rocks, black dirt, soil, other landscaping material, etc., shall not be dumped on city streets or drainage easements on a temporary or permanent basis.

B. Planting In City Right Of Way Prohibited: Trees, shrubs, and any other obstructions that are deemed inappropriate by the city are not permitted within the street right of way. If trees, shrubs, or other obstructions are installed within the street right of way, the city shall enter the lot, remove the obstruction, and assess the cost to the property taxes.

C. Erosion Control: Erosion control shall be required within all zoning districts and shall comply with chapter 11 of this title.

D. Tree And Woodland Preservation: For all new developments, tree and woodland preservation shall comply with section 11-11-9 of this title.

E. Utilities To Be Located: Prior to the commencement of any digging, grading or planting, all underground utilities shall be located. The contractor is responsible for all damage, repairs and delay of service as a result of damage to aboveground or belowground utilities.

F. Minimum Nursery Stock Sizes: For all new developments, remodeling or construction of new expansions within multi-family, commercial, industrial or institutional zoning districts, the following minimum nursery stock sizes shall be required at the time of planting and apply to all zoning districts. All measurements shall conform to the standards set forth in the current edition of the "USA Standards Of Nursery Stock". Larger plants may be used or specified at any time. Tree trunk diameter shall be measured six inches (6") to eight inches (8") above the ground level.

Evergreen shrubs	24 inches in diameter
Evergreen trees	6 feet tall
Large shrubs	36 inches tall
Medium shrubs	24 inches tall
Ornamental trees	1 1/2 inches in diameter
Overstory trees	2 1/2 inches in diameter
Small shrubs	12 inches tall
Upright evergreen shrubs	3 feet tall

G. Planting Schedules: All plants to be installed shall be identified and approved by the city prior to installation. Plants shall be identified by a planting schedule which includes:

1. Quality to be installed.
2. Common name.
3. Botanical name.
4. Plant size.
5. Root type (B&B, container, bare root).

H. Plant Location: No plants except flowers, ground covers, or vines shall be placed within two feet (2') of any building, driveway or parking area unless specifically noted on the landscape plan.

I. Staking Of Trees: The property owner is responsible for keeping trees in a vertical position. When staking or guying is required, it shall occur so as not to create any hazards or unsightly obstacles. All wires shall be encased in hose to prevent tree damage.

J. Plant Hardiness: All plants specified and installed shall be nursery grown and identified as hardy plants which are appropriate for all seasonal conditions. Plants shall be sound, healthy, vigorous, and free of disease, insect eggs and larvae. (Ord. 5, 12-14-2006)

11-10-3: RESIDENTIAL DISTRICT REQUIREMENTS:

A. R-1 Suburban Single-Family And R-2 Urban Residential (Small Lot) Districts:

1. Security: Before a building permit is issued for a new single-family home, a cash escrow or irrevocable letter of credit shall be furnished to the city to guarantee compliance with the landscaping and erosion control requirements of the lot in an amount set by the city council under its fee schedule. All front yards, boulevards and side yards shall have sod properly installed within sixty (60) days after the home is constructed upon the lot unless it is after September 1 and before May 15. The letter of credit shall be in a form and from a bank acceptable to the city administrator.
2. Failure To Install Required Landscaping: If the items mentioned in subsection A1 of this section are not completed in a timely manner, the city shall enter the lot, perform the work and apply the cash escrow or draw on the letter of credit toward any cost or expense incurred by the city for completion of the work. Upon satisfactory completion of the sodding or landscaping, the cash escrow, without interest, less any draw made by the city, shall be returned to the person who deposited the funds with the city or, in the case of a letter of credit, the remaining amounts on the letter of credit shall be released. (Ord. 123, 10-8-2015)
3. Topsoil And Sodding/Hydroseeding In New Subdivisions:

- a. The property owner shall spread a minimum of four inches (4") of topsoil over the boulevard, front, back and side yards. All boulevard, front and side yard areas shall be sodded except those areas that are landscaped. Rear yards shall be seeded (established), hydroseeded (established) or sodded.
- b. Homes that receive a temporary certificate of occupancy between May 15 and September 1 shall have all landscaping in place sixty (60) days from the date the temporary certificate of occupancy is received. Homes that receive a temporary certificate of occupancy after September 1 and before May 15 shall have sixty (60) days from May 15 to complete the landscaping.
- c. The distance from building siding, untreated wood, to the top of the sod shall be a minimum of six inches (6") to satisfy building code requirements.

4. Trees Required For New Subdivisions And Existing Lots: In new subdivisions or existing lots, trees shall be planted. Permitted tree species and placement shall be in accordance with details on file with the building official. All required trees shall be planted by the property owner in accordance with the requirements in this chapter. The following tree specifications shall apply to each lot:

- a. Number And Location: Two (2) trees shall be required per lot. Required trees shall be planted in the front yard, outside of any easement dedication and a distance of at least ten feet (10') from the front property line, and five feet (5') from any side property line.
- b. Caliper: A minimum of two and one-half inches (2 1/2") in trunk diameter, measured six inches (6") to eight inches (8") above the ground level. (Ord. 5, 12-14-2006)
- c. Planting In Easements; Clear View Triangle: No required tree shall be planted inside of any drainage or utility easement or within a fifty foot (50') clear view triangle on corner lots. The clear view triangle is as set out in section 11-4-16 of this title. (Ord. 5, 12-14-2006; amd. 2011 Code)
- d. Type: Trees shall consist of nursery stock and be no less than the following sizes and species:

- (1) Deciduous trees: No less than two and one-half inches (2 1/2") in diameter.
- (2) Coniferous trees: No less than six feet (6') high.
- (3) Trees shall include those species shown on the following table:

Deciduous trees:

Sugar maple	Acer saccharum
Birch species	Betula spp.
Common hackberry	Celtis occidentalis
Gingko (male only)	Gingko biloba
Thornless common honeylocust	Gleditsia triacanthos var. inermis
Kentucky coffeetree	Gymnocladus dioica
Oak species (all)	Quercus spp.
American linden, basswood	Tilia americana

Coniferous trees:

Fir species (all)	Abies spp.
European larch	Larix decidua
Tamarack	Larix laricina
Black Hills spruce	Picea glauca densata
Colorado green spruce	Picea pungens
Austrian pine	Pinus nigra
Eastern white pine	Pinus strobus

Cedar species (all)
Eastern/Canada hemlock

Thuja spp.
Tsuga canadensis

5. Other Tree Species; Prohibited Trees: Other species of trees may be approved by the building official or zoning administrator. Ornamental trees or trees which can cause a public nuisance, such as cotton producing trees, or can be a public hazard, such as bug infestation or weak bark, are prohibited. Trees which shall not be planted to comply with the subdivision requirements are as follows:

Prohibited trees:

Amur maple	Acer ginnala
Box elder	Acer negundo
Norway maple	Acer platanoides
Silver maple	Acer saccharinum
Northern or western catalpa	Catalpa speciosa
Russian olive	Elaeagnus angustifolia
Ash species (all)	Fraxinus
Ginkgo (female only)	Ginkgo biloba
Common or white mulberry	Morus alba
Colorado blue spruce	Picea pungens glauca
Poplar species (all)	Populus spp.
Black locust	Robinia pseudoacacia
Babylon weeping willow	Salix babylonica
Siberian elm	Ulmus pumila

(Ord. 45, 9-24-2009)

B. R-3 Medium Density Residential And R-4 High Density Residential Districts:

~~1. At least fifty percent (50%) of the total site area shall be landscaped. For purposes of this subsection, landscaping shall also include prairies, wetlands, woodlands, ponds, pervious play areas, outdoor tennis courts, and outdoor swimming pools.~~

1. At least thirty percent (30%) of the total site area shall be landscaped. For purposes of this subsection, landscaping shall also include prairies, wetlands, woodlands, ponds, pervious play areas, outdoor tennis courts, and outdoor swimming pools.

2. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.

3. A landscape plan identifying all areas to be sodded and landscaped shall be clearly shown. Foundation planting plans are also required to be at a readable scale. Detailed enlargements may be required if necessary. A planting schedule shall be required. The landscape plan shall describe or diagram the type of edging and mulch cover to be used. The landscape plan shall identify any unique features or special areas of the site which would require special attention, i.e., steep slopes, erosion control matting, retaining walls, natural areas, or wildflower seeding.

4. All properties shall provide inground irrigation systems to all landscaped areas. (Ord. 5, 12-14-2006)

C. R-5 Downtown Residential Districts:

1. At least twenty percent (20%) of the total site area shall be landscaped. For purposes of this subsection, landscaping shall also include wetlands, ponds, pervious play areas, outdoor tennis courts, and outdoor swimming pools.
2. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
3. A landscape plan identifying all areas to be sodded and landscaped shall be clearly shown. Foundation planting plans are also required to be at a readable scale. Detailed enlargements may be required if necessary. A planting schedule shall be required. The landscape plan shall describe or diagram the type of edging and mulch cover to be used. The landscape plan shall identify any unique features or special areas of the site which would require special attention, i.e., steep slopes, erosion control matting, retaining walls, natural areas, or wildflower seeding. (Ord. 5, 12-14-2006; amd. 2011 Code)

11-10-4: BUSINESS DISTRICT REQUIREMENTS:

A. B-1 neighborhood business districts:

1. At least twenty five percent (25%) of the land area shall be sodded and landscaped with approved ground cover, shrubbery and trees.
2. A minimum landscaped buffer area thirty feet (30') in width shall separate any parking, driveway, or structure from a lot line common with any residential district.
3. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
4. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
5. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.

B. B-2 downtown business districts:

1. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
2. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
3. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.

C. B-3 original townsite districts:

1. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
2. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
3. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty

period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.

D. B-4 highway business districts:

1. At least thirty percent (30%) of the land area shall be sodded and landscaped with approved ground cover, shrubbery and trees.
2. At least three percent (3%) of the total land area within the parking and driveway areas of a site shall be landscaped. This area is counted as part of the overall required green area.
3. A minimum landscaped buffer area thirty feet (30') in width shall separate any parking, driveway, or structure from a lot line common with any residential district.
4. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
5. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
6. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.

E. B-5 general business districts:

1. At least twenty five percent (25%) of the land area shall be sodded and landscaped with approved ground cover, shrubbery and trees.
2. At least three percent (3%) of the total land area within the parking and driveway areas of a site shall be landscaped. This area is counted as part of the overall required green area.
3. A minimum landscaped buffer area thirty feet (30') in width shall separate any parking, driveway, or structure from a lot line common with any residential district.
4. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
5. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
6. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.

F. B-6 business warehousing districts:

1. At least thirty percent (30%) of the land area shall be sodded and landscaped with approved ground cover, shrubbery and trees.
2. At least eight percent (8%) of the total land area within the parking and driveway areas of a site shall be landscaped. This area is counted as part of the overall required green area.
3. At least fifty percent (50%) of the total building perimeter shall be sodded or landscaped with approved ground cover, shrubbery and trees.
4. A minimum landscape buffer area twenty feet (20') in width shall separate any parking, driveway or structure from a lot line common with any residential district.
5. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.

6. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
7. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.

G. B-7 business campus districts:

1. At least thirty percent (30%) of the land area shall be sodded and landscaped with approved ground cover, shrubbery and trees.
2. At least eight percent (8%) of the total land area within the parking and driveway areas of a site shall be landscaped. This area is counted as part of the overall required green area.
3. At least fifty percent (50%) of the total building perimeter shall be sodded or landscaped with approved ground cover, shrubbery and trees.
4. A minimum landscape buffer area twenty feet (20') in width shall separate any parking, driveway or structure from a lot line common with any residential district.
5. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
6. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
7. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting. (Ord. 5, 12-14-2006)

11-10-5: INDUSTRIAL DISTRICT REQUIREMENTS:

A. I-1 limited industrial districts:

1. At least twenty five percent (25%) of the land area shall be sodded and landscaped with approved ground cover, shrubbery and trees.
2. At least three percent (3%) of the total land area within the parking and driveway areas of a site shall be landscaped. This area is counted as part of the overall required green area.
3. At least fifty percent (50%) of the total building perimeter shall be sodded or landscaped with approved ground cover, shrubbery and trees.
4. A minimum landscape buffer area twenty feet (20') in width shall separate any parking, driveway or structure from a lot line common with any residential district.
5. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
6. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
7. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.

B. I-2 general industrial districts:

1. At least thirty percent (30%) of the land area shall be sodded and landscaped with approved ground cover, shrubbery and trees.
2. At least eight percent (8%) of the total land area within the parking and driveway areas of a site shall be landscaped. This area is counted as part of the overall required green area.
3. A minimum landscaped buffer area thirty feet (30') in width shall separate any parking, driveway, or structure from a lot line common with any residential district.
4. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
5. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
6. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting. (Ord. 5, 12-14-2006)

11-10-6: INS INSTITUTIONAL DISTRICT REQUIREMENTS:

- A. At least thirty percent (30%) of the land area shall be sodded and landscaped with approved ground cover, shrubbery and trees.
- B. At least eight percent (8%) of the total land area within the parking and driveway areas of a site shall be landscaped. This area is counted as part of the overall required green area.
- C. At least fifty percent (50%) of the total building perimeter shall be sodded or landscaped with approved ground cover, shrubbery and trees.
- D. A minimum landscape buffer area twenty feet (20') in width shall separate any parking, driveway or structure from a lot line common with any residential district.
- E. All properties abutting residential districts shall provide inground irrigation systems to all landscaped areas.
- F. All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.
- G. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting. (Ord. 5, 12-14-2006)



601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

MEMORANDUM

TO: PLANNING COMMISSION
CC: LARRY GENSMER
FROM: HALEY SEVENING, COMMUNITY DEVELOPMENT INTERN
RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
RE: PRELIMINARY CONCEPT PLAN REVIEW FOR PROPOSED MULTI-FAMILY
RESIDENTIAL DEVELOPMENT CONTAINING 68 UNITS ON
APPROXIMATELY 3.2 ACRES.
DATE: JUNE 25, 2019

PLANNING COMMISSION MEETING:	JULY 30 (TENTATIVE)
CITY COUNCIL MEETING:	AUGUST 22 (TENTATIVE)
60-DAY REVIEW DEADLINE:	NA
120-DAY REVIEW DEADLINE	NA

Background / History

Larry Gensmer of Global Properties, LLC has approached the City regarding possible development of two parcels located within the City limits. The proposed development is located on the south side of James Parkway just west of the Dakota Acres and Dakota Acres 1st Addition developments. Originally, the City acquired the undeveloped portions of the property from the original Dakota Acres developer who defaulted on assessments in 2006. The City has since sold a portion of the property to Syndicated Properties for townhome development (Dakota Acres 1st Addition) and the remaining portion to Global Properties.

One condition of the purchase agreement with Global Properties was that they provide reasonable assurance that they will be able to use the property for their intended use. Global Properties was planning to construct apartment buildings on the property. To provide the reasonable assurances, they requested that the City rezone the property to R-4 High Density Residential as a condition of the sale. The R-4 zoning district allows apartments containing more than eight (8) attached units as a permitted use. The rezoning was completed in October of 2018.

Submitted for review by the City were two sheets (concept plan and building elevation) prepared by RHA and a rendering of comparable building design. The intent of the project is to direct the units for work force housing needs. The development is planned to be constructed in two phases:

- Phase 1: 28 unit building (3 one bedroom units and 25 two bedroom units)
- Phase 2: 40 unit building (8 one bedroom units and 32 two bedroom units)

At this time Mr. Gensmer is seeking preliminary feedback from the City regarding the proposed development, the need for a conditional use permit, and a number of variances.

Neighborhood Conditions

- To the south of the subject property is a vacant lot, and commercial development beyond the vacant lot.
- To the east of the subject property are multi-family townhome units, and detached single family homes beyond the townhomes.
- To the north of the subject property is undeveloped land and one rural residential property. These properties are located outside of the City limits but within the City's planned growth area.
- To the west of the subject property is a rural residential property and vacant farmland beyond that. These properties are located outside of the City limits but within the City's planned growth area.



Development of the property as R-4 High Density Residential is generally compatible with the surrounding land uses.

Legal Description

The subject property is two parcels totaling 3.19 acres. The PID #'s are 230270260 and 230270252. The property legal descriptions are:

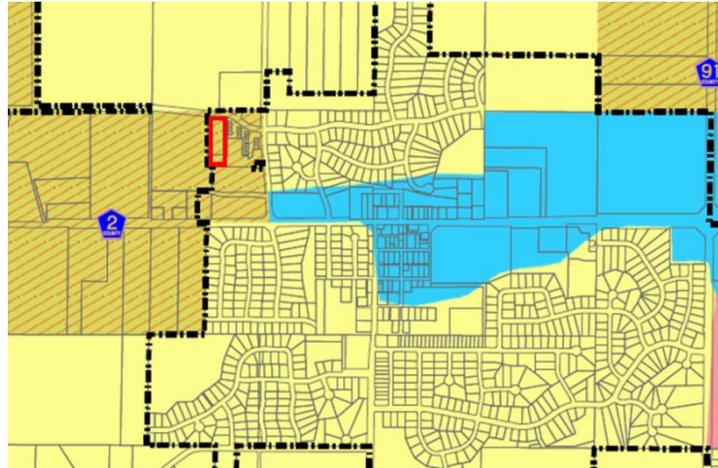
- Outlot D, Dakota Acres, according to the recorded plat thereof, Scott County, Minnesota
AND
- Outlot C, Dakota Acres, according to the recorded plat thereof, Scott County, Minnesota,
EXCEPT that part lying easterly of the east line of Outlot D, said Dakota Acres, and its southerly extension.

Comprehensive Land Use Plan

The City's 2030 comprehensive land use plan guides the property to a "Residential Mixed Use" land use designation. The comprehensive plan contains the following language regarding Residential Mixed Use:

This "Residential Mixed Use" development pattern is based on the Low Density Residential District. However, this District is characterized by a greater proportion of non-single family detached homes at higher densities than the Low Density Residential District. This District is intended to provide an opportunity to create population centers and to accommodate the demand for lifecycle and affordable housing located near activity areas and transportation corridors. The dominant housing form will be single family detached homes (75%). Single family attached homes and multi-family residences are expected to represent 25% of the housing opportunities within the development, and may include townhomes, apartments, and senior residential facilities. Single family attached dwellings will be allowed as permitted uses. Dwellings containing over 4 units should be allowed as conditional uses and may be mixed with detached homes in Planned Unit Developments. Commercial uses will be allowed in a Planned Unit Development if the use provides a service to the neighborhood, or creates a buffer between a residential area or

public space and a road or more intensive use. Support facilities that are compatible with neighborhoods and accessory uses are allowed within this District. The guided density in this land use designation is 8 units per net acre, with a range between 5 and 15 units per net acres.



2030 Comprehensive Land Use Map

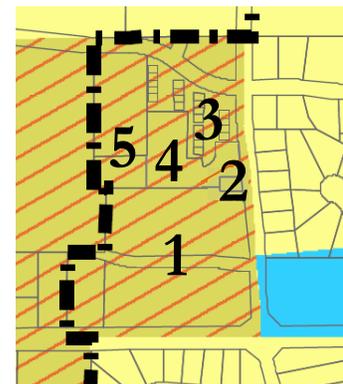
The proposed use of the property for multi-family residential units meets the intent of the guided land use for the area, but has a higher density than intended by the Plan. The Comprehensive Plan calls out a preferred residential density range for the entire Residential Mixed Use area of 5 to 15 units per net acre. The proposed development of 68 units on 3.19 acres is 21.3 units per net acre. If remaining land guided to Residential Mixed Use develops at lower densities it may help balance the overall density issue.

There is some interpretation needed by the Planning Commission and City Council in regards to the overall density issue. A) Is the City to make a more conservative interpretation and not allow developments that exceed the stated guided density of 15 units per net acre?; or B) Is the City to allow flexibility with the notion that other areas within the Residential Mixed Use category have or may develop at densities of less than 5 units per acre, and therefore balance the density issue in the overall land use category?

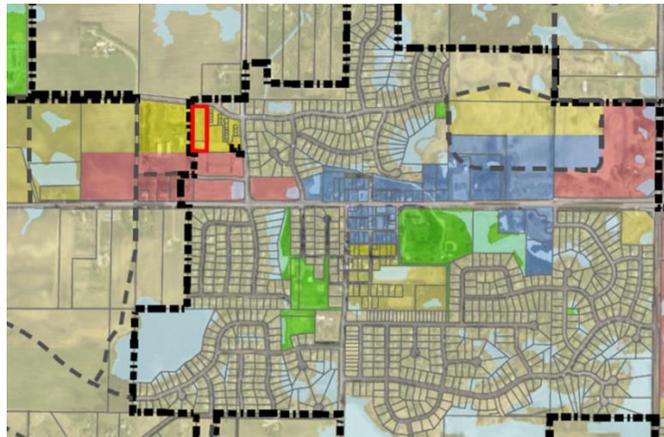
In order to meet the Residential Mixed Use’s intent of providing an opportunity to create population centers and to accommodate the demand for lifecycle and affordable housing located near activity areas and transportation corridors, Staff’s opinion is that interpretation B should be utilized when considering density. Specifically, Staff would recommend that the proposed development be allowed at the higher density level based on the fact that approved developments within the Residential Mixed Use category around the Dakota Acres area have or will developed at a low enough density that the overall density balances out.

Staff calculated the overall density in the Residential Mixed Use category around the Dakota Acres area to be 9.4 units per acre. The 9.4 units per acre falls within the 5 to 15 units per net acre density range intended for the Residential Mixed Use area and was calculated as follows:

Development/Property	Units	Acres	Units/Acre
1. Old Town Firehouse	32	8.94	3.58
2. Northern Natural Gas	0	0.17	0.00
3. Dakota Acres	21	1.45	14.5
4. Dakota Acres 1 st Addn	28	2.10	13.3
5. Dakota Acres Apartments	68	3.19	21.3
TOTAL	149	15.85	9.4



The draft 2040 Comprehensive Land Use Plan has the property re-guided to a High Density Residential land use designation, which has a preferred density of 10 to 30 units per acre.



Draft (2040) Comprehensive Land Use Map

Zoning

The property is currently located inside the City limits and is zoned R-4. The purpose of the R-4 district, as stated in the Zoning Ordinance, is as follows:

The purpose of the R-4 High Density Residential District is to create, preserve and enhance areas for multi-family use at higher densities for both permanent and transient families. The district shall be applied in areas served by public utilities, with good accessibility to thoroughfares, public community centers, libraries, shopping, and where such development is consistent with the Comprehensive Plan and planning policies.

Apartments containing more than eight (8) attached units is a permitted use in the R-4 zoning district.

Lot Size / Width

The total property is 3.19 acres / 139,087 square feet, and measures approximately 232' wide by approximately 595' deep. Based on the R-4 zoning district standards the minimum lot size is 15,000 square feet and a minimum lot width of 100'. The property will meet the minimum lot size requirements in the R-4 zoning district.

Setbacks

Required setbacks in the R-4 zoning district are as follows:

- Building Setbacks
 1. Front: 30 feet from public right-of-way
30 feet from back of curb line of private drives, guest parking areas
 2. Side: 30 feet
30 feet from side/corner
 3. Rear: 30 feet
- Parking curb cuts from property lines: 5 feet

The submitted concept plan does not meet the required 30' setback from back of curb line of private drives and guest parking areas or (in some places) the 5' parking curb cut setback from property lines. A variance would be required if the setbacks are not met.

Height Requirements

Section 11-25D-10 of the City Code requires that structures shall not exceed 35' in height in the R-4 zoning district. The developer is seeking feedback regarding support for additional height allowance on both buildings. The submitted elevation model depicts a building height of 41' and 4", which would require a conditional use permit. The requirements for a conditional use permit are described in greater detail later in this report.

Miscellaneous Design Information

Section 11-5-1 (4)(a) of the Zoning Ordinance states:

Residential Uses: Except as otherwise specified in R-5 Districts, the primary exterior building facade finishes for residential uses shall consist of materials comparable in grade to the following:

- (1) Brick.
- (2) Concrete composite board.
- (3) Stone (natural or artificial).
- (4) Integral colored split face (rock face) concrete block.
- (5) Wood, natural or composite, provided the surfaces are finished for exterior use, or wood of proven exterior durability is used, such as cedar, redwood or cypress.
- (6) Stucco (natural or artificial)/EIFS (exterior insulated finish system).
- (7) Vinyl, steel, aluminum or fiber cement siding.

Section 11-25D-8 (D) also contains exterior building finish requirements for R-4 zoning districts. Specifically, the City Code says that:

A minimum of twenty five percent (25%) of the area of all building facades of a structure shall have an exterior finish of brick, stucco and/or natural or artificial stone.

It appears that the exterior building finish requirements will be met, but Staff will need additional information to verify that the 25% requirement is being met. Staff notes that the Planning Commission does not review the building designs, but that the above requirements are imposed upon the builder.



Landscaping

Section 11-10-3 (B) of the City Code contains the following landscaping requirements for R-4 zoning districts:

B. R-3 Medium Density Residential And R-4 High Density Residential Districts:

1. *At least fifty percent (50%) of the total site area shall be landscaped. For purposes of this subsection, landscaping shall also include prairies, wetlands, woodlands, ponds, pervious play areas, outdoor tennis courts, and outdoor swimming pools.*
2. *All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded and/or landscaped unless specifically approved as part of the overall landscape plan.*
3. *A landscape plan identifying all areas to be sodded and landscaped shall be clearly shown. Foundation planting plans are also required to be at a readable scale. Detailed enlargements may be required if necessary. A planting schedule shall be required. The landscape plan shall describe or diagram the type of edging and mulch cover to be used. The landscape plan shall identify any unique features or special areas of the site which would require special attention, i.e., steep slopes, erosion control matting, retaining walls, natural areas, or wildflower seeding.*
4. *All properties shall provide inground irrigation systems to all landscaped areas.*

The concept plan proposes 43.6% of the total site area as landscaped green space. A landscape plan needs to be submitted and a variance would be required if 50% of the total site area is not landscaped.

Lighting

A lighting plan must be submitted which complies with Section 11-4-7 of the City Code. Exterior lighting shall not exceed .5 foot-candles at the property line when adjoining residential properties, and 1 foot-candle at the property line when adjoining a similar zone and land use.

Tree Preservation

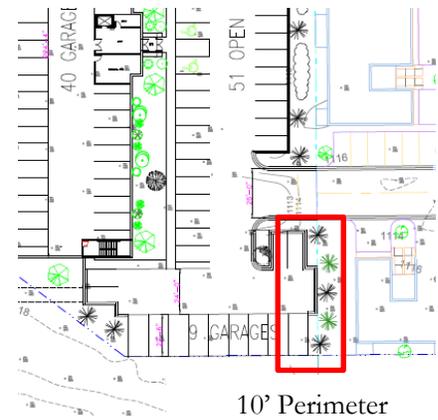
Section 12-9-9 of the City's Subdivision Ordinance contains Tree Preservation and Replacement regulations, and requires that 40% of the significant trees must be protected as part of the development. A significant tree is defined as follows:

- A hardwood deciduous tree 6" or greater in diameter
- A softwood deciduous tree 12" or greater in diameter
- A coniferous tree 36" in height or greater

A tree inventory, prepared by a forester or landscape architect, must be completed which identifies the location of all significant trees on the property. If no significant trees exist on the property a statement from a qualified professional must be submitted indicating such.

Easements

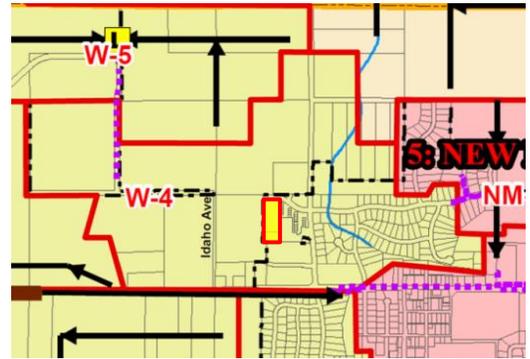
Section 12-9-6 of the Subdivision Ordinance requires that 10' wide perimeter easements and 5' wide interior easements be dedicated along all lot lines. In areas where public infrastructure (sanitary sewer, water, or stormwater lines) is placed, the easement widths must be increased as recommended by the City Engineer and Public Works Director. Additionally, in areas where grading/drainage swales may be needed to accommodate overland flow, additional easement width may be needed to cover the entire width of the swale. The developer has not yet submitted any grading or utility plans so staff is unable to officially comment regarding additional easement widths that may be needed to cover such infrastructure.



10' Perimeter Easement is Required

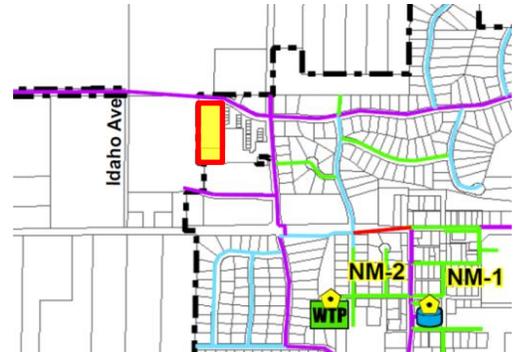
Sanitary Sewer

The developer has not yet submitted any sanitary sewer plans for review so staff comments are limited in nature. Sanitary sewer service is available to the property at James Parkway, where an 8” gravity sanitary sewer line exists. Staff has no concerns with sanitary sewer access into the property. The City’s Sanitary Sewer Plan depicts that sanitary sewer from this property should flow towards the east – into the existing system.



Water

The developer has not yet submitted any water plans for review so staff comments are limited in nature. Water service is available to the property at James Parkway, where a 12” watermain exists. Staff has no concerns with water access into the property.



Stormwater

A stormwater plan has not yet been submitted for review. The subject property lies entirely within the Vermillion Watershed District. The property currently drains east towards the existing stormwater pond located on the north side of James

Parkway. The pond was designed to handle drainage from the site and additional property to the east for the original townhome development. The pond design is considered grandfathered provided that the development of the property is generally consistent with the original development plan from 2006. **The proposed stormwater plan will need to be approved by the City Engineer.**



Wetlands / Floodplain / DNR Protected Waters

A wetland delineation was prepared by the original Dakota Acres developer in 2006. Although the delineation has since expired, there is no indication that wetlands are present on the property. **The City will not require another wetland delineation prior to platting.** There are no FEMA designated floodplains or DNR protected waters on the subject property.

Parking

Section 11-9 of the City Code regulates parking. Parking areas must have a perimeter concrete curb barrier around the entire parking lot and the curb barrier must be set back a minimum of 5’ from any property line (or entirely outside of drainage & utility easement areas). Parking stalls shall be striped with white or yellow paint not less than 4” wide. Park areas shall be surfaced with concrete, bituminous or pavers. Parking stalls shall be a minimum of 9’ x 18’ and drive aisles shall be a minimum of 24’ in width.

Section 11-9-10 of the Zoning Ordinance requires one and one-half (1.5) parking spaces per one bedroom unit and two and one-quarter (2.25) parking spaces per two bedroom unit, in an off street parking lot or private drive area. A minimum of one parking space per unit shall be an enclosed garage space. In addition, guest parking shall be provided at one-half (.5) parking space per unit, in an off street parking lot or private drive area. The parking stalls must be constructed at the time of development.

The proposed development requires a total of 179 parking spaces, of which at least 68 must be enclosed. The breakdown of the requirements for each building is as follows:

- Building 1 (3 one bedroom units and 25 two bedroom units)
 - Total required: 75 spaces
 - 1 Bedroom: 4.5 spaces
 - 2 Bedroom: 56.25 spaces
 - Guest: 14 spaces
 - Enclosed: 28 of the total required
- Building 2 (8 one bedroom units and 32 two bedroom units)
 - Total required: 104 spaces
 - 1 Bedroom: 12 spaces
 - 2 Bedroom: 72 spaces
 - Guest: 20 spaces
 - Enclosed: 40 of the total required

The concept plan submitted depicts a total of 179 spaces, of which 86 are enclosed. **The concept plan meets all parking requirements.**

In addition to the above parking space requirements, section 11-25D-8 (E) contains the garage requirements for R-4 zoning districts as shown below. Staff's opinion is that this section contradicts the regulations stated in Section 11-9-10 (parking) of the Ordinance and believes the below section is intended for a townhome type development. Therefore, staff's opinion is that parking shall be provided which complies with Section 11-9-10 of the Ordinance which requires 179 total parking spaces be provided, 68 of which must be enclosed.

E. Garages: Each dwelling unit shall include an attached garage that shall comply with the following minimum size standards:

1. *For dwellings with basements: Four hundred forty (440) square feet.*
2. *For dwellings without basements: Five hundred forty (540) square feet.*
3. *Garage width: Twenty feet (20').*

Access / Roads / Transportation Issues

The proposed development borders James Parkway on the north side of the development. James Parkway is a Minor Collector Roadway. The purpose of a minor collector is to collect local traffic and convey it to major collectors and minor arterials. Minor collectors serve short trips at relatively low speeds. Their emphasis is focused on access rather than mobility. There is an existing curb cut off of James Parkway, which is intended to serve as access to the proposed development.

It appears that the proposed development will move the existing curb cut further west to align with the enclosed garage of building one. The concept plan also proposes a secondary access on James Parkway which aligns with the parking lot drive aisle. Section 11-9-8 of the City Code states that:

Each property shall be allowed one curb cut access for each one hundred twenty five feet (125') of street frontage, except by conditional use permit.



The property has only 231' of street frontage and would thus require a conditional use permit to accommodate two accesses on James Parkway.

The proposed parking lot / drive aisle extends to the property's easterly property line to connect to Oriole Street in the adjacent townhome development, which is a private drive. The connection will require an agreement with the adjacent homeowners association to ensure cross easements, which allow the connection between the two developments, are in place.

The site plan should include areas identified for snow storage. If the property is to be platted as condominiums, the parking lot area should be under the ownership and control of an association.

Sidewalks & Trails

The City's Subdivision Ordinance requires that concrete sidewalks are constructed on at least one side of all residential streets; the outside edge shall be located one foot from the property line. There are no public streets proposed within the development. The City's Transportation Plan recommends that sidewalks or trails be constructed adjacent to all minor collectors, major collectors, and minor arterial roadways. There is an existing trail along the north side of James Parkway. The City's Park & Trail Plan does not identify any additional trail/sidewalk corridors at the subject property, other than those already existing. No additional trails or sidewalks are required based on City Code.

Open Space Requirements

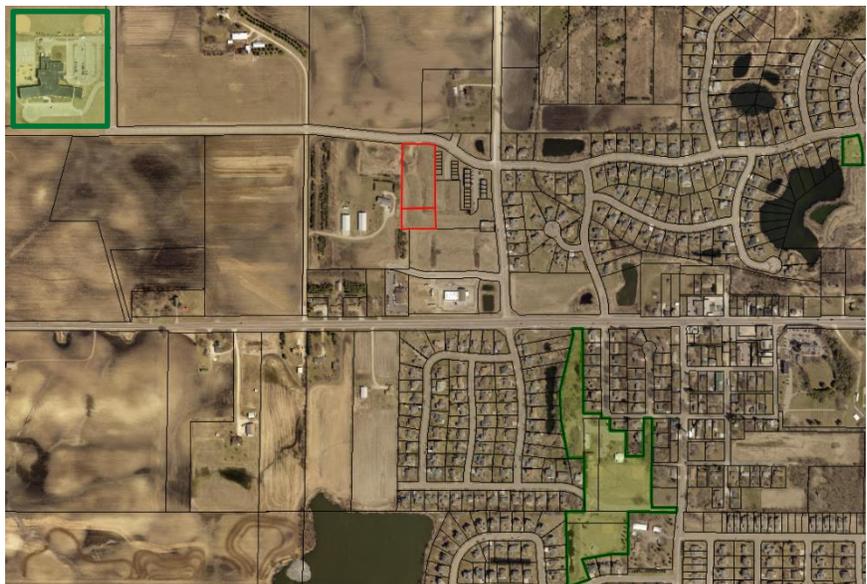
Section 11-25D-8 (M) of the City Code requires that *"In addition to the park dedication requirements stipulated by the city subdivision ordinance, a minimum of ten percent (10%) of the gross development project area shall be in usable open space and recreational use for the project residents. Such areas shall be specifically designed for both the active and passive use by the project residents and may include swimming pools, trails, nature areas, tot lots, exercise equipment, saunas, etc. Said areas and facilities shall be private..."*

Based on the lot size of 3.19 acres (138,956 sq ft), the developer must identify 13,896 sq ft within the development which will fulfill the open space requirement and should identify the proposed recreational facilities.

Parks Related Comments

The City's Subdivision Ordinance requires 10% of the land be dedicated for parks, playgrounds, public open spaces or trails and/or the developer shall make a cash contribution to the City's park and trail fund roughly related to the anticipated effect of the plat on the park and trail system. If no land dedication is required, the park fee is \$2,000 per residential unit.

Input regarding the desire for land versus cash will be sought from the City's Parks Commission. Staff notes that the Parks Commission reviewed a concept plan for an apartment building on this same site on 6/4/16 and recommended cash in lieu of land dedication for the previous proposal.



It is also noted that the closest public park is Wagner Park which is classified as a Community Park. Community Parks serve the City as a whole. Wagner Park is the City’s most developed park. The park is approximately 0.6 miles from the proposed development, and is separated from the proposed development by Co Rd 2, an A minor arterial roadway. There are also park facilities at Whispering Creek Park (0.6 miles) and the nearby elementary school (0.5 miles).

Police Department Comments

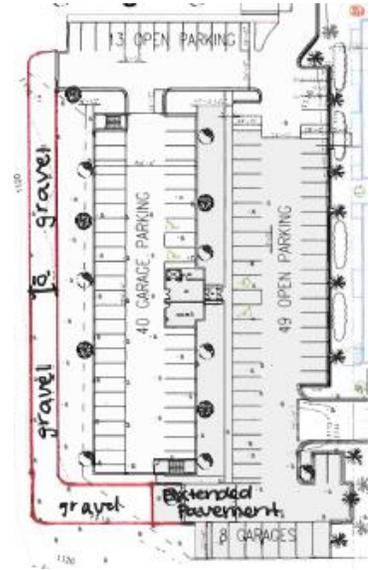
The Police Chief is supportive of the southeastern access via Oriole St. and notes that the parking lot and 1st floor parking garage should be adequately lit.

Fire Department Comments

The Fire Chief recommends that the developer place an eight 8” deep base of heavy gravel under the dirt and grass behind building 2. The Fire Chief suggests that the gravel span the length of the building and be 10’ wide. The placement of gravel behind the building would allow fire trucks to travel over the parking lot curbs and behind the building in order to fight fires. Because of the gas line easement that exists on the property, this recommendation would be subject to approval from the Northern Natural Gas Company.

The Fire Chief also recommends extending the parking surface south of building 2 further west to allow space for fire trucks to turn around. This recommendation is especially important if the developer decides to eliminate the Oriole St. access into the property. Neither recommendation is required under City Code.

In addition, the location of fire hydrants will need to be reviewed once a utility plan has been submitted.



Building Official Comments

Comments from the Building Official have not been solicited at this time.

School District Impacts

The proposed development is in the New Prague School District. According to the New Prague Superintendent of Schools, the City of Elko New Market has an average of .55 students per household within the district. Using this statistic, the proposed development would add an estimated 38 students to the school system once fully developed.

Deviations from City Code

The following table contains a summary of potential deviations from the City Code based on the materials submitted for review:

	Global Properties Request	Process
Density (2030 Comp Plan)	Increase maximum guided density from 15 units per acre to 21.3 units per acre	Land Use Application (Comp Plan Amendment)
Internal Setbacks (Section 11-25D-9 (C))	Allow buildings less than 30’ from parking area & parking curb cuts less than 5’ from property lines	Variance
Building Height (Section 11-25D-10)	Allow buildings to exceed the maximum 35’ height requirement	Conditional Use Permit

Landscaping (Section 11-10-3 (B))	Allow less than 50% of the total lot area to be landscaped	Variance
Access Curb Cuts (Section 11-9-8 (A))	Allow two accesses off of James Parkway	Conditional Use Permit

The density deviation is highlighted in red because depending on the interpretation/recommendation of the Planning Commission and City Council, the Comp Plan Amendment may not be necessary.

Conditional Use Permit Request Needed For Additional Building Height & Access Curb Cuts

As noted earlier in this report, the developer is seeking feedback regarding additional height allowance as permitted through a conditional use permit. The primary reason for the additional height is so that the design / construction can accommodate enclosed garages and windows on the 1st floor parking garage of both buildings.



The proposed concept plan would also require a conditional use permit to allow two accesses into the property off of James Parkway. An additional access would improve site circulation and minimize traffic conflicts within the site.

The Planning Commission and City Council must carefully consider the circumstances and criteria for granting conditional use permits. The City’s Zoning Ordinance states the following:

The purpose of a conditional use permit is to provide the city with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining streets, and all other or further factors as the city shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

Section 11-3-2 (C) of the Zoning Ordinance identifies the following criteria for granting a conditional use permit:

C. Criteria: The planning commission shall consider possible effects of the proposed conditional use. Its judgment shall be based upon, but not limited to, the following factors:

1. *The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan.*
2. *The proposed use is or will be compatible with present and future land uses of the area. The proposed land use*
3. *The proposed use conforms with all performance standards contained in this title.*
4. *The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.*
5. *Traffic generation by the proposed use is within capabilities of streets serving the property.*

In addition, section 11-5-2 (B) outlines additional criteria specifically for an additional height allowance conditional use permit:

B. Additional Height Allowance: Building heights in excess of the standards noted in subsection A of this section may be permitted through a conditional use permit; provided, that:

- 1. The site is capable of accommodating the increased intensity of use.*
- 2. The increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.*
- 3. Public utilities and services including fire protection services are adequate.*
- 4. For each additional ten feet (10') above thirty five feet (35'), front and side yard setback requirements shall be increased by five percent (5%).*
- 5. The provisions of section 11-4-5 of this title are considered and satisfactorily met.*

In granting the conditional use permit, the criteria outlined in Section 11-3-2 (C) would need to be met / justified. The criteria outlined in Section 11-5-2 (B) would also need to be met / justified specifically for an additional height allowance.

Variance Requests Needed for Internal Setbacks & Landscaping

The developer is also seeking feedback regarding reductions in internal setback and landscaping requirements as permitted through a variance. Section 11-3-7 of the City Code contains criteria for granting variances within the City. The purpose of a variance is to provide for deviations from the literal provisions of the Code in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the Code. The criteria, as taken directly from the City Code, are shown below. Any proposed variances would need to be evaluated against the criteria below.

D. Criteria: The board of adjustments and appeals shall not approve any variance request unless they find that failure to grant the variance will result in practical difficulties. The following criteria must also be met:

- 1) That the variance would be consistent with the comprehensive plan.*
- 2) That the variance would be in harmony with the general purpose and intent of this title.*
- 3) That the purpose of the variance is not based exclusively upon economic considerations.*
- 4) That the plight of the landowner is due to circumstances unique to the property not created by the landowner.*
- 5) That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.*
- 6) That the property owner proposes to use the property in a reasonable manner not permitted by this title.*
- 7) That the requested variance is the minimum action required to eliminate the practical difficulty.*
- 8) That the proposed variance does not involve a use that is not allowed within the respective zoning district.*

E. Practical Difficulties Defined: "Practical difficulties", as used in connection with the granting of a variance, means that:

- 1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; and*
- 2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and*
- 3) The variance, if granted, will not alter the essential character of the locality.*

Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

State Law Pertaining to Variance Requests

Minnesota Statute 462.357 Subd. 6 provides a mechanism for cities to grant variance requests when “practical difficulties” have been determined. Under the statutory practical difficulties standard, a landowner

is entitled to a variance if the facts satisfy the three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character.

- 1) Reasonableness. Does the landowner propose to use the property in a reasonable way but cannot do so under the provisions of the ordinance?
- 2) Uniqueness. Is the landowner's problem due to circumstances unique to the property not caused by the landowner? The uniqueness generally relates to the physical characteristics of the piece of property and economic considerations alone cannot create practical difficulties.
- 3) Essential Character. Will the variance, if granted, alter the essential character of the neighborhood? Would the resulting structure be out of scale, out of place, or otherwise inconsistent with the surrounding area?

Staff Recommendation – Conditional Use Permit and Variance Requests

In evaluating the request for **additional height allowance** using the City's criteria for granting a conditional use permit, staff's opinion is that the permit can be justified as follows:

1. **The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan.** The proposed action is consistent with the 2030 Comprehensive Plan and supports the "Residential Character" Housing goal, which calls for safe and aesthetically pleasing housing. Windows in the 1st floor parking garage would be aesthetically pleasing and contribute to the public safety of future residents.
2. **The proposed use is or will be compatible with present and future land uses of the area.** The proposed land use is compatible with the surrounding land uses, which are commercial and high-density residential.
3. **The proposed use conforms with all performance standards contained in this title.** The request for an increase in building height conforms with all applicable performance standards.
4. **The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.** The increase in building height has no impact on the intensity of use of the site and will not impact on the City's service capacity. Existing public services (i.e. fire protection services) can accommodate the increase in height.
5. **Traffic generation by the proposed use is within capabilities of streets serving the property. The increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.** The increase in building height has no impact on the intensity of use of the site and will not generate an increase in traffic or go beyond the capabilities of the streets serving the property.
6. **The site is capable of accommodating the increased intensity of use.** Increasing the height of the building to accommodate an enclosed first floor parking garage has no impact on the number of units being proposed and will have no impact on the intensity of use on the site.
7. **Public utilities and services including fire protection services are adequate.** Utility plans have not yet been received, but will be reviewed to ensure this criterion is met. Fire protection services can accommodate the increase in height.
8. **For each additional ten feet (10') above thirty five feet (35'), front and side yard setback requirements shall be increased by five percent (5%).** The updated concept plan has a front and side yard setback of 31.6', which meets the 5% increase requirement.
9. **The provisions of section 11-4-5 of this title are considered and satisfactorily met.** Utility and construction plans have not yet been received but will be reviewed to ensure this criterion is met.

In evaluating the request for an **additional access of James Parkway** using the City's criteria for granting a conditional use permit, staff's opinion is that the permit can be justified as follows:

1. **The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan.** The comprehensive plan notes that the emphasis of minor collectors is focused on access rather than mobility. An additional access off of James Parkway, a minor collector, is consistent with the comprehensive plan.
2. **The proposed use is or will be compatible with present and future land uses of the area.** The additional access has no impact on the sites land use. The proposed development is compatible with present and future land uses, which are commercial and high-density residential.
3. **The proposed use conforms with all performance standards contained in this title.** The request for an additional access conforms with all applicable performance standards.
4. **The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.** The additional access and connecting drive aisle and parking lot will accommodate existing public services and will be privately owned so will not overburden the city's service capacity.
5. **Traffic generation by the proposed use is within capabilities of streets serving the property.** The additional access has no impact on the use of the site and thus will not generate an increase in traffic or go beyond the capabilities of the streets serving the property.

In evaluating the **internal setback** variance request using the “practical difficulties” standards set forth in the law and the City’s criteria for granting a variance, staff’s opinion is that the landscaping variance can be justified, as follows:

1. **The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.** The developer’s request to have shorter internal setbacks is both reasonable and necessary in order to meet the City’s parking requirements and provide a 10’ drainage and utility easement on the easterly property line.
2. **The plight of the landowner is due to circumstances unique to the property not created by the landowner.** The developer’s inability to meet the internal setback requirements is due largely to the gas line easement that exists on the property. The location of the gas line easement on the property was not caused by actions of the applicant.
3. **The variance, if granted, will not alter the essential character of the locality.** The small reduction in internal setbacks will not result in a structure that is out of scale, out of place, or otherwise inconsistent with the surrounding area.
4. **That the variance would be consistent with the comprehensive plan.** Setback requirements are not addressed in the comprehensive plan. However, the plan does encourage the City to support efforts that facilitate affordable rental housing.
5. **That the variance would be in harmony with the general purpose and intent of the Zoning Ordinance.** The purpose of the R-4 High Density Residential District is to create, preserve and enhance areas for multi-family use at higher densities for both permanent and transient families. The variance request is in harmony with the purpose and intent of the R-4 zoning district as it would support multi-family development.
6. **That the purpose of the variance is not based exclusively upon economic considerations.** The purpose of the variance is due largely because of the gas line easement that exists on the property. In order to meet other City requirements (i.e. parking and easements) the reduced internal setbacks are necessary.
7. **That the requested variance is the minimum action required to eliminate the practical difficulty.** Reducing the internal setbacks is the minimum action requirement to eliminate the practical difficulty and meet other City requirements.
8. **That the proposed variance does not involve a use that is not allowed within the respective zoning district.** Apartments containing more than eight (8) attached units is a permitted use in the

R-4 zoning district. The variance request to reduce internal setbacks does not impact/change the proposed use.

In evaluating the **landscape** variance request using the “practical difficulties” standards set forth in the law and the City’s criteria for granting a variance, staff’s opinion is that the landscaping variance can be justified, as follows:

1. **The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.** The developer’s request to landscape less than 50 percent of the site is both reasonable and necessary in order to meet the City’s parking requirements.
2. **The plight of the landowner is due to circumstances unique to the property not created by the landowner.** The variance request is necessary in order to meet the City’s parking requirements. The placement of parking is limited due to the gas line easement that exists on the property. The location of the gas line easement on the property was not caused by actions of the applicant.
3. **The variance, if granted, will not alter the essential character of the locality.** The variance request will reduce the sites landscaped area by 6.4 percent. This small reduction in landscaped area will not result in a structure that is out of scale, out of place, or otherwise inconsistent with the surrounding area.
4. **That the variance would be consistent with the comprehensive plan.** Landscaping and greenspace requirements are not included in the comprehensive plan.
5. **That the variance would be in harmony with the general purpose and intent of the Zoning Ordinance.** The purpose of the R-4 High Density Residential District is to create, preserve and enhance areas for multi-family use at higher densities for both permanent and transient families. The variance request is in harmony with the purpose and intent of the R-4 zoning district as it would support multi-family development.
6. **That the purpose of the variance is not based exclusively upon economic considerations.** The purpose of the variance is due largely by the request of the City to meet the parking requirements.
7. **That the requested variance is the minimum action required to eliminate the practical difficulty.** Allowing less landscaped area is the minimum action required to eliminate the practical difficulty and meet other City requirements.
8. **That the proposed variance does not involve a use that is not allowed within the respective zoning district.** Apartments containing more than eight (8) attached units is a permitted use in the R-4 zoning district. The variance request is to allow for less landscaping and does not impact/change the proposed use.

Overall Staff Recommendation

Staff generally finds the preliminary concept plan layout and proposed land use acceptable for the following reasons:

1. The proposed development generally meets the intent of the 2030 Comprehensive Plan which guides the property to a Residential Mixed Use District.
2. The proposed development meets the intent of the 2040 draft Comprehensive Land Use Plan, which guides the property as High Density Residential and has a preferred density of 10 to 30 units per acre.
3. Apartments containing more than eight (8) units are a permitted use in the R-4 zoning district.
4. The proposed development is compatible with the adjacent land uses.

Staff recommends the following conditions:

1. The requirements of Section 11-4-5 of the City Code pertaining to essential services must be satisfactorily met.
2. Public utilities and services including fire protection services are adequate.
3. Parking shall be provided which complies with Section 11-9-10 of the Zoning Ordinance, requiring 179 total parking spaces, 68 of which must be enclosed. If the project is to be constructed in two phases, the parking requirements for the individual buildings must be constructed at the time of development.
4. Snow storage areas must be identified on the site plan.
5. A landscape plan meeting the requirements of Section 11-10-3 (B) of the Zoning Ordinance needs to be submitted, depicting 50% of the total site area landscaped. An application for variance must be submitted if the requirement is not proposed to be met.
6. A lighting plan meeting the requirements of Section 11-4-7 of the City Code must be submitted.
7. A tree inventory, prepared by a forester or landscape architect, must be submitted which identifies the location of all significant trees on the property. If no significant trees exist on the property a statement from a qualified professional must be submitted indicating such.
8. Perimeter drainage & utility easements must be dedicated on the final plat, along with easements covering the sanitary sewer and water mains serving the development.
9. Grading and utility plans will need to be submitted and approved by the City Engineer and Public Works Director.
10. The connection of the proposed drive aisle to the adjacent townhome development will require an agreement and cross easements with the adjacent homeowners association.
11. The developer must identify 13,896 square feet within the development, and a description of the proposed recreational facilities, which will fulfill the open space requirements of Section 11-25D-8 (M) of the Zoning Ordinance.

Staff notes the following:

1. The concept plan has higher density than intended by the 2030 Comprehensive Plan. An application for a Land Use Permit requesting a Comprehensive Plan Amendment may be required.
2. An application for a conditional use permit would need to be submitted to allow for additional building height and a second access off James Parkway.
3. An application for variance would need to be submitted to allow for shorter internal setbacks and less landscaped area.
4. Additional information will need to be submitted to determine if the buildings meets the requirement that 25% of all building facades have an exterior finish of brick, stucco and/or natural or artificial stone.
5. Further input will be sought from the City's Parks Commission regarding the desire for land versus cash.
6. Building Inspection Department input has not been sought regarding the current concept plan.
7. The development, as proposed, would require preliminary & final plat, variance, and conditional use permit applications.

Attachments:

Location maps

Concept plan prepared by RHA, containing 2 sheets

Building design rendering





APARTMENTS SITE PLAN
 1" = 40' - 0"

SITE AREA = 138,698 SF OR 3.184 ACRES
 BUILDING NO1 AREA = 11,662 SF
 BUILDING NO2 AREA = 14,658.8 SF
 PARKING AND WALKS AREA = 47,900.4 SF
 GARAGE AREA = 4053.25SF
 TOTAL SITE COVERAGE = 78,274.45 OR 56.4%
 GREEN SPACE = 60,423.55 OR 43.6%
 20,400 SF FOR CREDIT FOR ENCLOSED GARAGE UNDER BUILDING

SITE DATA
PARKING
 28 UNIT BUILDING REQUIRED
 PARKING FOR ONE BEDROOM UNITS 1.25 PER UNIT
 PARKING FOR TWO BEDROOM UNITS 2.25 PER UNIT
 1/2 FOR GUEST PARKING
 3- ONE BEDROOM UNITS = 3.75 SPACES
 25- ONEBEDROOM UNITS = 56.25 SPACES
 GUEST PARKING = 14 SPACES
 TOTAL OPEN PROVIDED = 29 SPACES
 OPEN = 29 SPACES
 ENCLOSED = 37 SPACES
 TOTAL REQUIRED = 74 SPACES REQUIRED
 TOTAL PROVIDED = 74 SPACES REQUIRED

40 UNIT BUILDING REQUIRED
 PARKING FOR ONE BEDROOM UNITS 1.5 PER UNIT
 PARKING FOR TWO BEDROOM UNITS 2.25 PER UNIT
 1/2 FOR GUEST PARKING
 8- ONE BEDROOM UNITS = 10 SPACES
 32- ONEBEDROOM UNITS = 72 SPACES
 GUEST PARKING = 20 SPACES
 TOTAL OPEN PROVIDED = 51 SPACES
 OPEN = 51 SPACES
 ENCLOSED = 49 SPACES
 TOTAL REQUIRED = 105 SPACES REQUIRED
 TOTAL PROVIDED = 105 SPACES REQUIRED

- PLANTING LEGEND**
- 25 BLACK HILLS SPURCE 6' B#B
 - 14 WHITE SPINE BIRCH 6'
 - 4 RIVER BIRCH 10' B#B
 - 2 HACKBERRY 3' B#B
 - 18 AUTUM PURPLE ASH 3' B#B
 - 6 PURPLE LEAF PLUM 3 GAL
 - 12 ANTHONY WARERER SPIREA 15"
 - 6 GRO-LAU FRAGRANT SUMAC 15"
 - 6 LITTLE PRINCESS SPIREA 15"
 - 4 ISANTI DOGWOOD 2'
 - 4 SCANDIA JUNIPER 15"
 - 36" HIGH HRDGES

COMM NO _____
 DATE 6/3/19

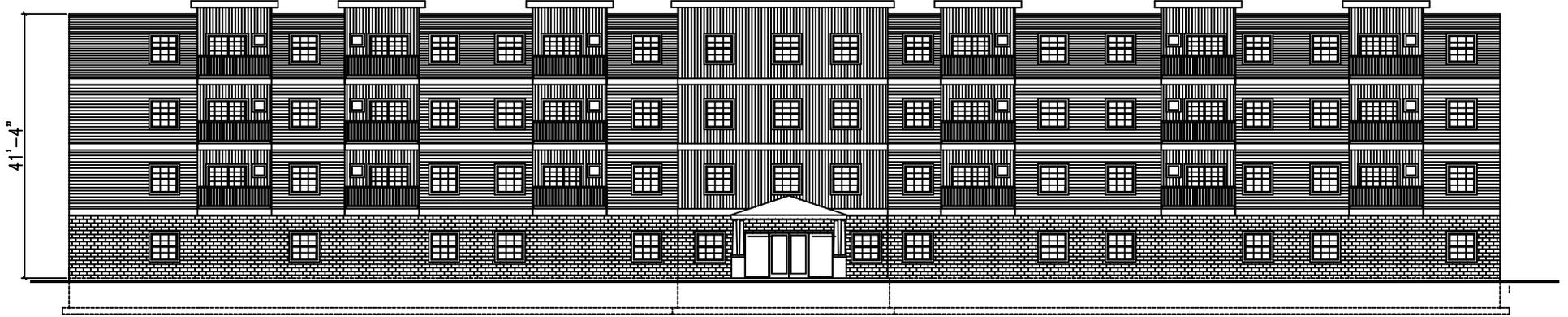
REVISION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR DRAWING WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.
 PROJECT NAME: Dakota Acres Apartments
 ARCHITECT: RHA ARCHITECT'S, INC.
 DATE: _____

PROJECT NAME
DAKOTA ACRES APARTMENTS
 NEW MARKET, MINNESOTA

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