STATE OF MINNESOTA
BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING,
LANDSCAPE ARCHITECTURE, GEOSCIENCE AND INTERIOR DESIGN

In the Matter of
Alan Kretman, Unlicensed

CEASE AND DESIST ORDER
AND
NOTICE OF RIGHT TO HEARING

Board File No: 2009-0002

TO: Mr. Alan Kretman
ProTerra Design Associates Inc.
11995 County Road 11 Suite 220
Burnsville, Minnesota 55337

ALLEGATIONS

The Complaint Committee of the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") alleges as follows:

1. A complaint concerning Alan Kretman ("Respondent") has been received and reviewed by the Board's Complaint Committee.

2. Respondent was first licensed as a Landscape Architect in the State of Minnesota on September 24, 1981.

3. Respondent is currently licensed as a Landscape Architect by the Board. Respondent's Landscape Architect license expires on June 30, 2012.

4. Respondent is not currently and never has been licensed by the Board as a professional engineer in the State of Minnesota.

5. Respondent practiced professional engineering without a professional engineer license by signing civil engineering drawings for the 3R's Child Development Center and the Elm Creek

Trail Business Park, both located in Brooklyn Park, Minnesota. At the times relevant to the factual allegations herein, Respondent described himself as a Director of ProTerra Design Associates, Inc. ("PDA") and used this title when he corresponded with officials of the City of Brooklyn Park, Minnesota on behalf of PDA.

3R's Child Development Center

a. On the C4.1 drawing dated April 1, 2008, Respondent, using his Landscape Architect license #15144, signed and certified a drawing for the 3R's Child Development Center, located in Brooklyn Park, Minnesota. A true and correct copy of this C4.1 drawing for the 3R's Child Development Center, located in Brooklyn Park, Minnesota, dated April 1, 2008 is attached as Exhibit A.

b. On the C4.1 drawing (Exhibit A) Respondent, using his Landscape Architect's license #15144, signed and certified for the 3R's Child Development Center, located in Brooklyn Park, Minnesota, states: "PRELIMINARY FOR REVIEW ONLY." The C4.1 drawing could be used for construction by removing the "PRELIMINARY FOR REVIEW ONLY."

c. On the C4.1 drawing (Exhibit A) Respondent, using his Landscape Architect's license #15144, signed and certified for the 3R's Child Development Center, located in Brooklyn Park, Minnesota, specified the sewer line with length, size, and slope. Specifying the sewer line with length, size, and slope, involves engineering analysis and design which is the practice of professional engineering as defined by Minnesota Statutes section 326.02, subdivision 3 (2010). Exhibit A contains

highlights of these five (5) areas on the C.4.1 drawing that are specific to the practice of professional engineering. They are labeled as 3.b.1 through 3.b.5:

3.b.1 250 LF 8" PVC, 0.40%

3.b.2 180 LF 8" PVC, 0.40%

3.b.3 430 LF

3.b.4 51 LF 8" PVC,0.40%

3.b.5 35 LF 12" RCP.

d. On the C6.1 drawing dated April 1, 2008, Respondent, using his Landscape Architect license #15144, signed and certified a drawing for the 3R's Child Development Center, located in Brooklyn Park, Minnesota. A true and correct copy of this C6.1 drawing for the 3R's Child Development Center, located in Brooklyn Park, Minnesota, dated April 1, 2008 is attached as Exhibit B.

e. On the C6.1 drawing (Exhibit B) Respondent, using his Landscape Architect's license #15144, signed and certified for the 3R's Child Development Center, located in Brooklyn Park, Minnesota, specified the 'Storm Drain Bedding and Foundation', the 'Sanitary Sewer Manhole', and the 'Class 'B' Sanitary Sewer Pipe Bedding and Foundation'. The details in those three sections of the drawing are engineering specific. Respondent has provided specific design engineering information which is the practice of professional engineering as defined by Minnesota Statutes section 326.02, subdivision 3 (2010). Exhibit B contains highlights of these three (3) areas on the C.6.1 drawing that are specific to the practice of professional engineering. They are labeled as 4.a.1 through 4.a.3:

4.a.1 Storm Draining Bedding and Foundation

4.a.2 Sanitary Sewer Manhole

4.a.3 Class 'B' Sanitary Sewer Pipe Bedding and Foundation

f. In a letter dated June 16, 2008 from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, to the Respondent, Gary Brown stated: "Several of my staff members have been reviewing PDA's preliminary design of 3R's Child Development Center to be located on 85th Ave. N., east of city hall. On the front page (C0.1) of the Development Center plans (revised 4-01-08) there is no Civil Engineer listed even though the Landscape Architect and the Surveyor are listed as designers. Plan sheets C4.1 (Utility plan) and C6.1 & C6.2 (Civil Details) were signed by you as a Landscape Architect." A true and correct copy of the June 16, 2008 letter from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, to the Respondent, is attached as Exhibit E.

g. In a letter dated June 24, 2008 to Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, Respondent stated: "You have read the drawings correctly; there is no Civil Engineer on this project at this time. I have legally prepared all the drawings under my Landscape Architect's license from the State of Minnesota." A true and correct copy of the June 24, 2008 letter to Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, signed by Respondent, is attached as Exhibit F.

h. In a letter dated January 8, 2009 from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, Gary Brown stated: "The 3R's application was for a CUP to allow construction of a 15,000 sq. ft. Day Care and all site improvements. Those plans were submitted for Planning approval and Mr. Kretman was advised that the building permit would not be issued until and unless a civil engineer submitted the plans with an approved signature and registration." A true and correct copy of the letter dated January 8, 2009 from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, is attached as Exhibit H.

Elm Creek Trail Business Park

i. On the C4.1 drawing, dated July 11, 2008, Respondent, using his Landscape Architect license #15144, signed and certified a drawing for the Elm Creek Trail Business Park, located in Brooklyn Park, Minnesota. Specifying the materials on the C4.1 drawings, is the practice of professional engineering as defined by Minnesota Statutes section 326.02, subdivision 3 (2010). A true and correct copy of this C4.1 drawing for the Elm Creek Trail Business Park, located in Brooklyn Park, Minnesota, dated July 11, 2008 is attached as Exhibit C.

j. On the C6.1 drawing, dated July 11, 2008, Respondent, using his Landscape Architect license #15144, signed and certified a drawing for the Elm Creek Trail Business Park, located in Brooklyn Park, Minnesota. A true and correct copy of this C6.1 drawing for the Elm Creek Trail Business Park, located in Brooklyn Park, Minnesota, dated July 11, 2008 is attached as Exhibit D.

k. On the C6.1 drawing (Exhibit D), dated July 11, 2008, Respondent, using his Landscape Architect license #15144, signed and certified a drawing for the Elm Creek Trail Business Park, located in Brooklyn Park, Minnesota, and specified the 'Storm Drain Bedding and Foundation', the 'Sanitary Sewer Manhole', and the 'Class 'B' Sanitary Sewer Pipe Bedding and Foundation'. The details in those three sections of the drawing are engineering specific. The Respondent has provided specific design engineering information which is the practice of professional engineering as defined by Minnesota Statutes section 326.02, subdivision 3 (2010). Exhibit D contains highlights of these three (3) areas on the C.6.1 drawing that are specific to the practice of professional engineering. They are labeled as 10.a.1 through 10.a.3:

10.a.1 Storm Draining Bedding and Foundation

10.a.2 Sanitary Sewer Manhole

10.a.3 Class 'B' Sanitary Sewer Pipe Bedding and Foundation

l. In a letter dated August 4, 2008 from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, Gary Brown stated: "Mr. Alan Kretman has recently (last week), submitted Preliminary Plans (dated June 11, 2008) for the Elm Creek Trail Business Park (enclosed). He has again signed these preliminary plans that a civil engineer should have prepared, sheets C4.1 Preliminary Utility Plan, sheets C6.1, C6.2, Civil Details, ..." A true and copy of the August 4, 2008 letter from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, is attached as Exhibit G.

m. In a letter dated January 8, 2009 from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, Gary Brown stated: "On August 4, 2008, I submitted additional information regarding a second submittal that Mr. Kretman made to the City of Brooklyn Park regarding the Elm Creek Trail Business Park. In the case of the Elm Creek Trail Business Park preliminary plans, they were submitted for conceptual plan approval only. Those plans were recommended for approval by the City's Planning Commission even though they were inconsistent with the City's staging plan. On November 24, 2008, the City Council voted to deny the Elm Creek Trail Business Park concept plan." A true and correct copy of the letter dated January 8, 2009 from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, is attached as Exhibit H.

n. In this same letter dated January 8, 2009 (Exhibit H) from Gary Brown, Director of Engineering and Building Inspections, City of Brooklyn Park, Minnesota, Gary Brown stated: "I have also enclosed a recent complaint that the owners have filed against the City for denying the approval of the project. As you can see in the complaint on page 5, paragraph 14, indicates that the City refused to accept the submittal by Mr. Kretman because the information was incomplete....In paragraph 22, of the complaint, the City Council voted to deny the concept plan #08-123 for the following reasons:

1. The application is premature for the following reasons:

   A. Roadway improvements are not in place or planned to serve the

type of development proposed.

B. Brooklyn Park public utilities are not readily available to serve the site.

C. There are currently approximately 400 acres of vacant land with City services available for office development.

D. The current market does not warrant deviating from the staging plan without specific user identified.

E. The Comprehensive Plan does not call for utilities to be staged into this area at this time.

F. The zoning of the property does not allow for the development as proposed.

G. The civil plans have not been designed by an engineer licensed in the State of Minnesota. "

6. The following order is in the public interest.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Minnesota Statutes section 326.111, subdivision 3 (2010), that Respondent Alan Kretman shall **CEASE AND DESIST** from practicing professional engineering in Minnesota until such time as he becomes licensed as a Professional Engineer in the State of Minnesota.

NOTICE OF RIGHT TO HEARING

Pursuant to Minnesota Statutes section 326.111, subdivision 3 (2010), Respondent may request a hearing in this matter. Such request must be in writing and served upon the Board within thirty days

after service of this Order, whereupon a hearing will be held within thirty days after receipt of the request unless Respondent and the Complaint Committee agree that the hearing be scheduled after the thirty-day period. In accordance with Minnesota Statutes section 326.111, subdivision 3 (2010), if no hearing is requested by Respondent within thirty days of service of this Order, this Order will become final and will remain in effect until it is modified or vacated by the Board.

In the event a hearing is scheduled in this matter, it will be held before an administrative law judge of the Office of Administrative Hearings for the State of Minnesota, 600 North Robert Street, Saint Paul, Minnesota, 55101, Telephone: (651) 361-7900. All parties have the right to represent themselves or be represented throughout the proceedings herein by legal counsel or a person of their choice if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted pursuant to the contested case procedures as prescribed in Minnesota Statutes section 14.57 (2010) to Minnesota Statutes section 14.69 (2010), as amended, and the Rules of the Office of Administrative Hearings, Minnesota Rules Chapter 1400.5010 through Minnesota Rules Chapter 1400.8401 (2009). FAILURE TO ATTEND THE HEARING IN THIS MATTER MAY RESULT IN THE ALLEGATIONS OF THIS ORDER BEING TAKEN AS TRUE AND DEEMED PROVED WITHOUT FURTHER EVIDENCE, THE PROCEEDING BEING DETERMINED AGAINST THE PARTY FAILING TO ATTEND. Questions concerning this Order may be directed to Assistant Attorney General Michele Owen, 1800 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, Telephone: (651) 757-1322.

Copies of the above-cited statutes and procedural rules are available on-line at www.revisor.leg.state.mn.us or may be purchased from the Department of Administration, Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, telephone: (651) 297-3000.

IF YOU NEED A REASONABLE ACCOMMODATION for a disability in order to participate in

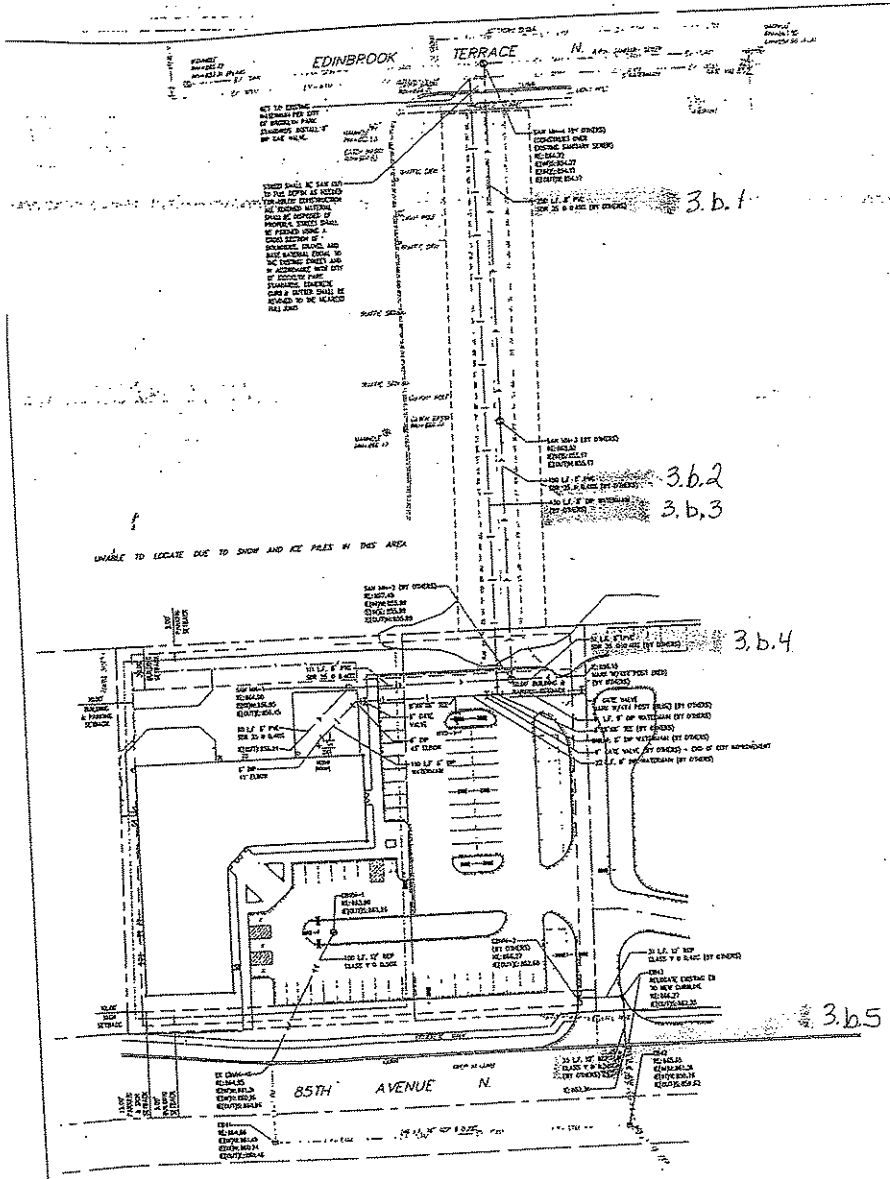
the hearing process, such an accommodation can be made available upon advance request so that the hearing is accessible. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, including a foreign language interpreter, the Board office must be promptly notified. To arrange an accommodation or an interpreter, you may contact Doreen Frost, Executive Director of the Board, Suite 160, 85 East Seventh Place, St. Paul, Minnesota 55101, or you may call: Voice (651) 296-2388 or TDD (651) 297-5353.

Dated: 10-16, 2010

STATE OF MINNESOTA
BOARD OF ARCHITECTURE,
ENGINEERING, LAND SURVEYING,
LANDSCAPE ARCHITECTURE,
GEOSCIENCE AND INTERIOR DESIGN

Billie Lawton

Billie Lawton, Public Member
Committee Chair



NOTE:
[illegible]

NOTE:
[illegible]

NOTE:
[illegible]

NOTE:
[illegible]

NOTE:
[illegible]

GENERAL NOT

[illegible]

UTILITY NOTES

[illegible]

MATERIALS

[illegible]

CONSTRUCTION SEQUENCE

1. [illegible]
2. INSTALL ROCK CONSTRUCTION ENTRANCE (SEE DETAIL).
3. [illegible]
4. BEGIN SITE EXCAVATION.
5. [illegible]
6. BEGIN UTILITY CONSTRUCTION.
7. COMPLETE SITE EXCAVATION.
8. COMPLETE UTILITY CONSTRUCTION.
9. [illegible]

LEGEND

EXISTING	PROPOSED
SANITARY SEWER MANHOLE	SANITARY SEWER MANHOLE
HYDRANT	HYDRANT
GATE VALVE	GATE VALVE
POWER POLE	TEE
TELEPHONE BOX	BEND
STORM SEWER MANHOLE	STORM SEWER MANHOLE
STORM SEWER CATCH BASIN	STORM SEWER CATCH BASIN
FLARED END SECTION	STORM SEWER MH
SANITARY SEWER LINE	FLARED END SECTION
WATER LINE	FLARED END SECTION W/ RIPRAP
STORM SEWER LINE	SANITARY SEWER LINE
2' CONTOUR	WATER LINE
10' CONTOUR	STORM SEWER LINE
	2' CONTOUR
	10' CONTOUR

PRELIMINARY
FOR REVIEW ONLY

0' 20' 40' 80' 120'

PREPARED FOR:

DINGMAN
CONSTRUCTION &
DEVELOPMENT
11030 DOUGLAS DRIVE
CHAMPLIN, MN 55316
PH: 763.323.1727
FX: 763.323.2997

REGISTRATION:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Registered Landscape Architect under the laws of the State of Minnesota.

Alan A. Kretman
ALAN A. KRETMAN
04.01.08
15344

PREPARED BY:

PDA

REVISIONS:

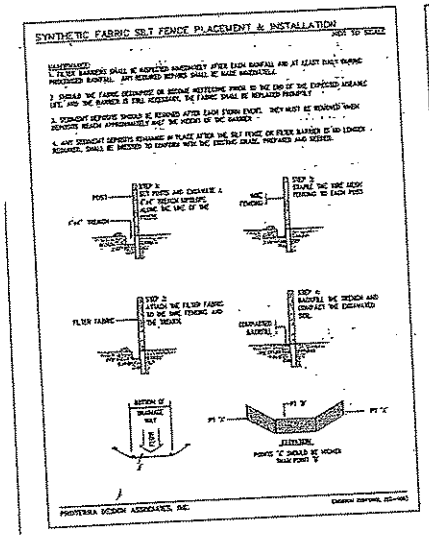
NO.	DATE	DESC.
1	04.01.08	CITY SUBMITTAL

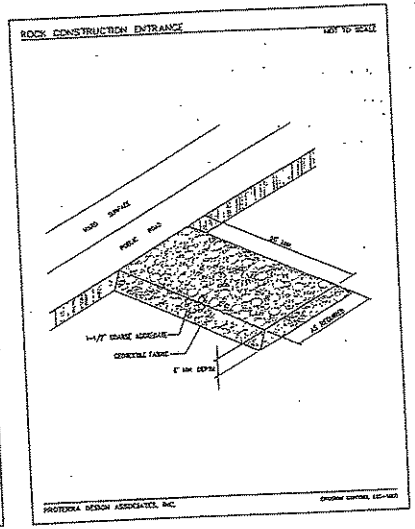
Project Name and Address:
3R'S CHILD
DEVELOPMENT CENTER
4900 85TH AVENUE NORTH
BROOKLYN PARK, MINNESOTA
Sheet Title:
PRELIMINARY UTILITY PLAN

Project No:	08001
Drawn By:	MLS
Checked By:	AAK
Date:	03.14.08

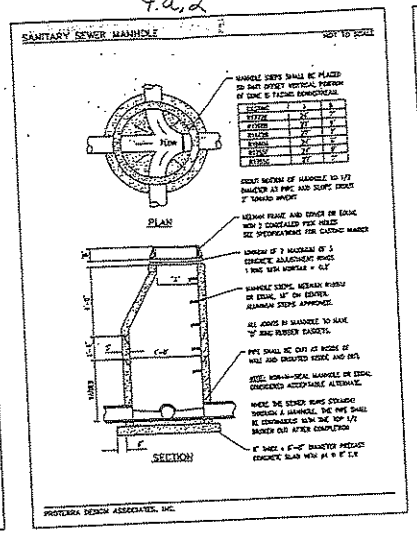
NORTH

EXHIBIT A

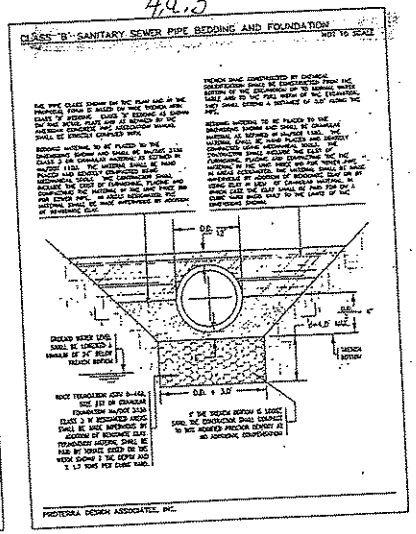


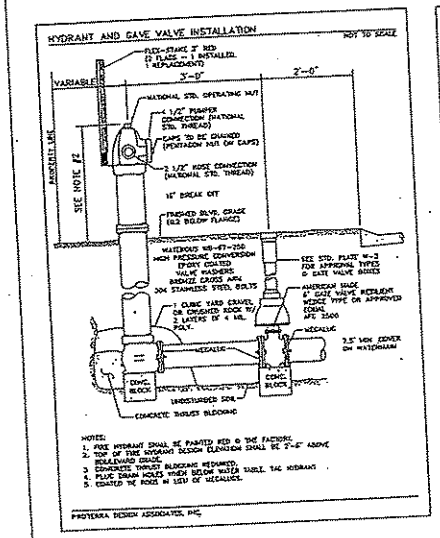


4.a.2

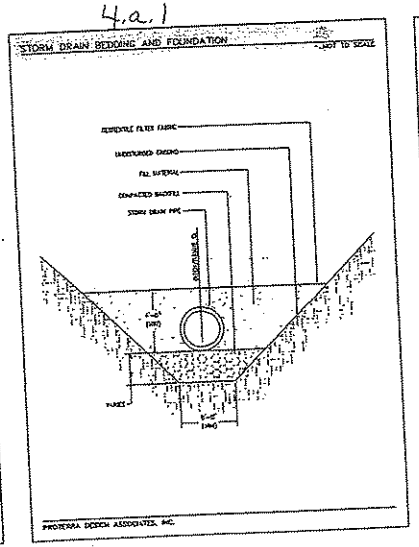


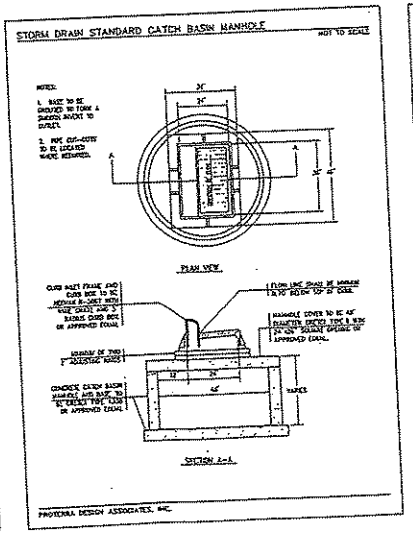
4.a.3





4.a.1





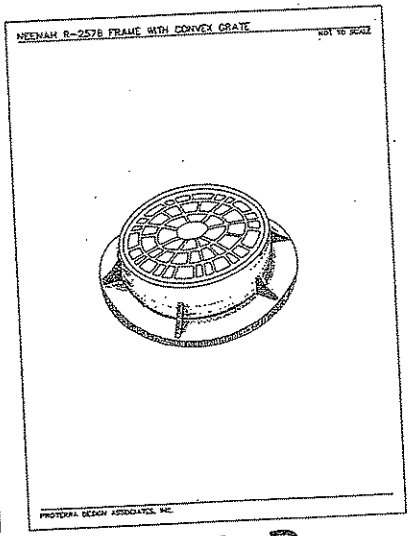


EXHIBIT B

PREPARED FOR:

DINGMAN CONSTRUCTION & DEVELOPMENT
11630 DOUGLAS DRIVE
CHAMPLIN, MN 55316
PH: 763.323.3727
FX: 763.323.2997

REGISTRATION:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Registered Landscape Architect under the laws of the state of Minnesota.

ALAN A. KRETMAN
04.01.08
15144

PREPARED BY:

PDA
PLANNING DEVELOPMENT DESIGN ASSOCIATES, INC.
PH: 612.721.5151
FX: 612.721.0610
E-MAIL: info@pdaassociates.com
1900 DODSON BLVD., SUITE 110
DONDALE, MN 55427

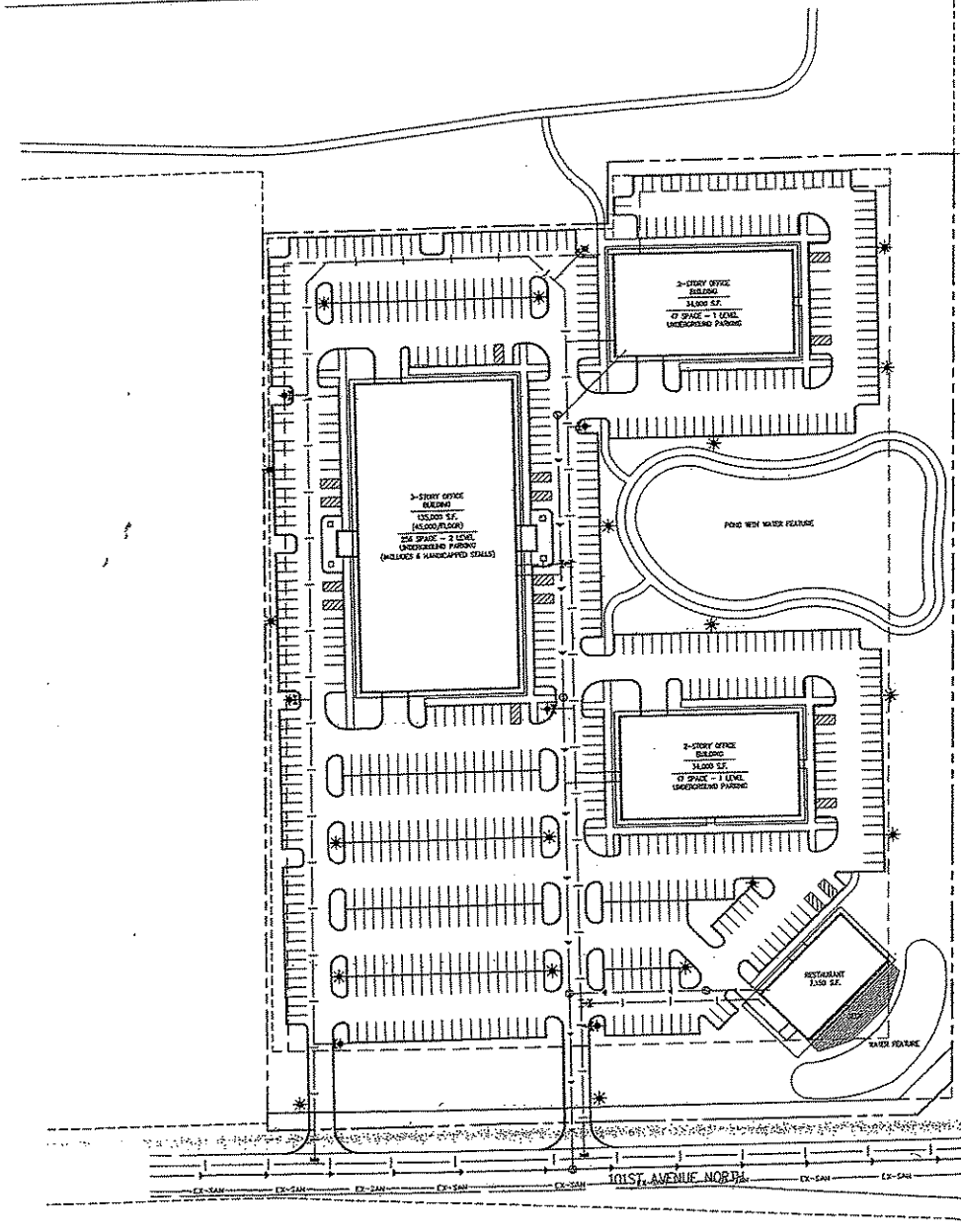
REVISIONS:

No.	Date	Description
1	04.01.08	CITY SUBMITTAL

BRS CHILD DEVELOPMENT CENTER
4900 85TH AVENUE NORTH
BROOKLYN PARK, MINNESOTA

CIVIL DETAILS

Project No:	08001
Drawn By:	MLS
Checked By:	AAK
Date:	03.14.08
Sheet:	C6.1



City Utilities do NOT exist

EXHIBIT C

NOTE:
ALL PROPOSED STREET CONSTRUCTION SHALL BE COMPLETED USING APPROVED MATERIALS, METHODS OF PLACEMENT AND TESTING AS REQUIRED BY ALL GOVERNING SPECIFICATIONS OF THE CITY OF BROOKLYN PARK AND THE STATE OF MINNESOTA DEPARTMENT OF TRANSPORTATION.

NOTE:
CONTRACTOR TO GIVE 48 HR NOTICE TO ALL RESIDENTS AFFECTED BY TEMPORARY WATER SERVICE INTERRUPTION.

METHODS TO BE USED ON ALL WYE FITTINGS.

NOTE:
PROGRAME SEWER WHEN CENTER IS LESS THAN 6'. SANITARY MANHOLES SHALL RECEIVE EXTERNAL CHEMICAL SEALS AS PER THE CITY OF BROOKLYN PARK SPECIFICATIONS.

NOTE:
ALL STORM SEWER OUTLETS SHALL HAVE THE LAST 3 JOINTS TIED WHICH SHALL BE INCIDENTAL TO THE UNIT PRICE.

NOTE:
UTILITY SERVICES SHALL HAVE A MINIMUM 5 FEET OF SEPARATION.

GENERAL NOTES

1. CONTRACTOR SHALL CONTACT "GOPHER STATE ONE CALL", TWO BUSINESS DAYS PRIOR TO CONSTRUCTION, FOR UTILITY LOCATIONS. TWIN CITIES AREA: 651.454.0002 & WWW.GOPHERSTATEONECALL.ORG
2. THE SHOWN LOCATION OF EXISTING UNDERGROUND UTILITIES IS AN APPROXIMATE LOCATION ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED. THE EXACT LOCATION OF ALL UTILITIES MUST BE VERIFIED PRIOR TO COMMENCING WORK. CONTRACTOR SHALL FIELD VERIFY THE LOCATIONS AND ELEVATIONS OF EXISTING UTILITIES AND TOPOGRAPHIC FEATURES PRIOR TO START OF SITE CONSTRUCTION. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE PROJECT ENGINEER OF ANY DISCREPANCIES OR VARIATIONS FROM PLAN.
3. THE CONTRACTOR AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE FAILURE OF THE CONTRACTOR TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.
4. EXISTING SITE INFORMATION PROVIDED BY HENNEPIN COUNTY. EXISTING TOPOGRAPHIC INFORMATION PROVIDED BY USGS MAP, INC. PROVIDING DESIGN ASSOCIATES, INC. SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF INFORMATION PROVIDED BY HENNEPIN COUNTY OR THE USGS CONCERNING EXISTING INFORMATION.

UTILITY NOTES

1. CONSTRUCTION ENTRANCES SHALL BE SURFACED WITH 1-1/2" – 3" CLASS AGGREGATE ACROSS FULL WIDTH, FROM ENTRANCE POINT TO FIFTY FEET WITHIN PROPERTY LINE. REFER TO ROCK CONSTRUCTION ENTRANCE DETAIL FOR INSTALLATION PROCEDURES.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL HORIZONTAL AND VERTICAL STAKING, ONCE THE ALIGNMENT HAS BEEN ESTABLISHED IN THE FIELD BY THE SURVEYOR AND SHALL BEAR ALL COST FOR THE RE-ESTABLISHMENT OF SAME.
3. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ANY AND ALL APPLICABLE TESTING FOR SOIL DENSITIES & UTILITY TESTING AS PER THE GOVERNING AGENCIES TO MEET OR EXCEED THE REQUIRED GUIDELINES FOR TESTING, WITH NO ADDITIONAL COMPENSATION MADE.
4. ALL EXCESS MATERIAL, DETRIMENTAL SURFACING, CONCRETE PIERS, ANY ABANDONED UTILITY POLES, AND OTHER UNSUITABLE MATERIALS INCLUDING CLEARED & GRUBBED MATERIALS, SHALL BECOME THE PROPERTY OF THE CONTRACTOR AND SHALL BE DISPOSED OF OFF THE CONSTRUCTION SITE WITH NO COMPENSATION FOR REMOVAL, UNLESS OTHERWISE SPECIFIED.
5. PROPOSED SPOT ELEVATIONS AND CONTOURS ARE TO TOP OF GRADE, PAVEMENT OR GUTTER LINE, UNLESS OTHERWISE SPECIFIED.
6. CONTRACTOR SHALL INSTALL, INSPECT, MAINTAIN AND REMOVE THE NECESSARY SIGNAGE FOR LANE CLOSURES. ALL TRAFFIC CONTROL DEVICES AND SIGNING SHALL CONFORM TO MMUTC AND/OR THE CITY OF BROOKLYN PARK TEMPORARY TRAFFIC CONTROL GUIDELINES.
7. CONTRACTOR SHALL NOTIFY MCGOE, HENNEPIN COUNTY AND THE CITY OF BROOKLYN PARK, PUBLIC WORKS DEPARTMENT, 48 HOURS IN ADVANCE OF WORKING WITHIN THE RIGHT OF WAY, MNDOT, HENNEPIN COUNTY AND THE CITY OF BROOKLYN PARK INSPECTORS MUST OBSERVE ALL WORK COMPLETED, INCLUDING THE REMOVAL OF EXISTING CURB & GUTTER, REMOVAL AND REPLACEMENT OF FIRE HYDRANT, EXTENSION OF SERVICES, PLACEMENT OF STORM DRAIN, CONNECTIONS TO EXISTING UTILITY LINES, BACKFILLING AND REPLACEMENT OF BITUMINOUS PAVEMENT AND/OR CONCRETE CURB AND GUTTER.
8. ALL CONSTRUCTION MUST COMPLY WITH CITY ENGINEERS ASSOCIATION OF MINNESOTA (CEAM).
9. CARE MUST BE TAKEN DURING CONSTRUCTION AND EXCAVATION TO PROTECT ANY SURVEY MONUMENTS AND/OR PROPERTY CORNERS.
10. CONTRACTOR SHALL BE SOLELY RESPONSIBLE TO REPAIR ANY AND ALL DAMAGE TO EXISTING SIDEWALKS, RETAINING WALLS AND EXISTING SITE FEATURES DUE TO CONSTRUCTION ACTIVITIES.
11. CONTRACTOR SHALL MAINTAIN A MINIMUM OF 8.0 FEET COVER OVER TOP OF ALL PROPOSED WATERMAIN.

MATERIALS

SAN MAIN (0-16')	8" PVC SDR 35
SAN SERVICE	8" PVC SDR 35
WATERMAIN	8" DUCTILE IRON PIPE SCHEDULE 52 (8 FT BURY)
WATERMAIN FITTINGS	DUCTILE IRON
HYDRANT LEADS	6" DUCTILE IRON PIPE SCHEDULE 52
HYDRANT	
WATER SERVICES	8" DUCTILE IRON PIPE SCHEDULE 52

CONSTRUCTION SEQUENCE

1. CONTRACTOR SHALL VERIFY THE RECEIPT OF THE NPDES PERMIT FROM THE MPCA PRIOR TO ANY SITE DISTURBANCE.
2. INSTALL ROCK CONSTRUCTION ENTRANCE (SEE DETAIL).
3. INSTALL PERIMETER SILT FENCE AND OTHER EROSION CONTROL MEASURES. CONTRACTOR SHALL HAVE ALL EROSION CONTROL MEASURES INSPECTED BY THE CITY ENGINEER PRIOR TO ANY GRADING ACTIVITIES.
4. BEGIN SITE EARTHWORK.
5. PERMANENT TURF ESTABLISHED OF DISTURBED SOILS ON DISTRIBUTED AND SIDE SLOPES IN ACCORDANCE WITH WATERSHED STANDARDS.
6. BEGIN UTILITY CONSTRUCTION.
7. COMPLETE SITE EARTHWORK.
8. COMPLETE UTILITY CONSTRUCTION.
9. REMOVE ALL SILT DEPOSITS FROM SITE AND REMOVE PERIMETER SILT FENCING AND CHECK DAMS UPON FINAL ACCEPTANCE OF THE PROJECT.

LEGEND

EXISTING	PROPOSED
= SANITARY SEWER MANHOLE	= SANITARY SEWER MANHOLE
= HYDRANT	= HYDRANT
= GATE VALVE	= GATE VALVE
= POWER POLE	= BOX
= TELEPHONE BOX	= BOND
= STORM SEWER MANHOLE	= STORM SEWER MANHOLE
= STORM SEWER CATCH BASIN	= STORM SEWER CATCH BASIN
	= STORM SEWER WYE
= FLARED END SECTION	= FLARED END SECTION
	= FLARED END SECTION W/ REPRAP
—EX-SAN— = SANITARY SEWER LINE	= SANITARY SEWER LINE
—EX-WAT— = WATER LINE	= WATER LINE
—EX STM— = STORM SEWER LINE	= STORM SEWER LINE
= 2' CONTOUR	= 2' CONTOUR
= 10' CONTOUR	= 10' CONTOUR

PRELIMINARY FOR REVIEW ONLY

0' 30' 60' 120' 180'

KEVIN THURKS
5717 113TH AVE N
CHAMPLIN, MN 55316
612.308.4106

REGISTRATION:
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Registered Landscape Architect under the laws of the state of Minnesota.

Alan A. Kroehnert
Registration Number
07.11.08
Date
15144
Reg. No.

PREPARED BY:

PDA
PLANNING • CIVIL ENGINEERING • PROJECT MANAGEMENT • LANDSCAPE ARCHITECTURE
PH: 651.739.9131
FX: 651.653.0406
E-MAIL: pda@pdainc.net
7500 HUDSON BLVD., SUITE 110
OAKDALE, MN 55128

REVISIONS:

No.	Date	Sheet

Project Name and Address:
ELM CREEK TRADE BUSINESS PARK
10157 AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA
Sheet Title:
PRELIMINARY UTILITY PLAN

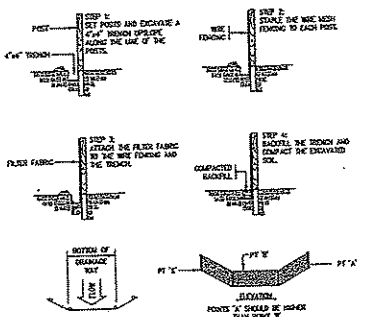
Project No.: 08022
Drawn By: MLS
Checked By: AAK
Date: 07.11.08

C4.1

SYNTHETIC FABRIC SILT FENCE PLACEMENT & INSTALLATION

NOT TO SCALE

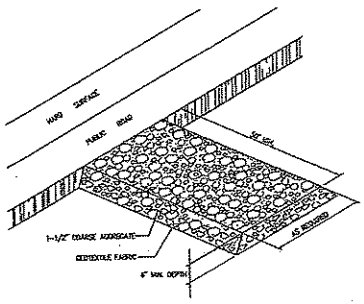
MAINTENANCE:
1. FILTER BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
2. SHOULD THE FABRIC DECOMPOSE OR BECOME INEFFECTIVE PRIOR TO THE END OF THE EXPECTED USEABLE LIFE AND THE BARRIER IS STILL NECESSARY, THE FABRIC SHALL BE REPLACED PROMPTLY.
3. SEDIMENT DEPOSITS SHOULD BE REMOVED AFTER EACH STORM EVENT. THEY MUST BE REMOVED WHEN DEPOSITS REACH APPROXIMATELY HALF THE HEIGHT OF THE BARRIER.
4. ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE SILT FENCE OR FILTER BARRIER IS NO LONGER REQUIRED, SHALL BE GRADED TO CONFORM WITH THE EXISTING GRADE, PREPARED AND SEEDED.



PROTERRA DESIGN ASSOCIATES, INC.

ROCK CONSTRUCTION ENTRANCE

NOT TO SCALE

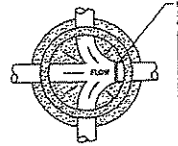


PROTERRA DESIGN ASSOCIATES, INC.

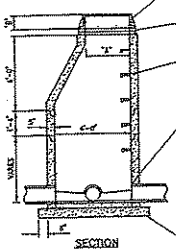
10.a.2

SANITARY SEWER MANHOLE

NOT TO SCALE



PLAN



SECTION

MANHOLE STEPS SHALL BE PLACED SO THAT OFFSET VERTICAL PORTION OF RUNG IS FACING DOWNSTREAM.

CASTING	A	B
R1772B	24"	7"
R1792B	22"	5"
R1642B	22"	5"
R1942B	24"	5"
R1772C	24"	5"
R1772E	27"	5"

CIRCUIT BOTTOM OF MANHOLE TO 1/2 DIAMETER AT PIPE AND SLOPE GROUT 2" TOWARD INVERT.

MEDIAN FRAME AND COVER OR EQUAL, WITH 2 CONCEALED PICK HOLES. SEE SPECIFICATIONS FOR CASTING MARKER.

MINIMUM OF 2 MAXIMUM OF 5 CONCRETE ADJUSTMENT RINGS. 1 RING WITH MORTAR = 0.2'

MANHOLE STEPS, MEDIAN RUNGS OR EQUAL, 16" ON CENTER. ALUMINUM STEPS APPROVED.

ALL JOINTS IN MANHOLE TO HAVE "O" RING RUBBER GASKETS.

PIPE SHALL BE CUT AT INSIDE OF WALL AND GROUTED INSIDE AND OUT.

NOTE: KOR-N-SEAL MANHOLE OR EQUAL CONSIDERED ACCEPTABLE ALTERNATE.

WHERE THE SEWER RUNS STRAIGHT THROUGH A MANHOLE, THE PIPE SHALL BE CONTINUOUS WITH THE TOP 1/2 SEWER CUT AFTER CONNECTION.

8" THICK x 6'-0" DIAMETER PRECAST CONCRETE SLAB MIN. 4 x 8" E.W.

PROTERRA DESIGN ASSOCIATES, INC.

10.a.3

CLASS 'B' SANITARY SEWER PIPE BEDDING AND FOUNDATION

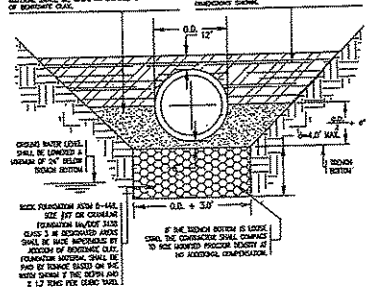
NOT TO SCALE

THE PIPE GLASS SHOWN ON THE PLAN AND IN THE PROFILE FORM IS BASED ON MIN. INDICATED WITH CLASS 'B' BEDDING. CLASS 'B' BEDDING AS SHOWN ON THE INSTAL PLAN AND AS DEFINED BY THE AMERICAN CONCRETE PIPE ASSOCIATION MANUAL SHALL BE STRICTLY COMPLIED WITH.

BEDDING MATERIAL TO BE PLACED TO THE DIMENSIONS SHOWN AND SHALL BE MN/DOT 3138 CLASS 3 OR GRANULAR MATERIAL AS DEFINED IN MN/DOT 3138. THE MATERIAL SHALL BE HAND-PLACED AND SOMEWHAT COMPACTED USING MECHANICAL TOOLS. THE CONTRACTOR SHALL INCLUDE THE COST OF FURNISHING, PLACING AND COMPACTING THE MATERIAL IN THE UNIT PRICE BID FOR SEWER PIPE. IN AREAS DOMINATED THE MATERIAL SHALL BE MADE IMPERVIOUS BY ADDITION OF BENTONITE CLAY.

TRENCH SHALL CONSTRUCTED BY CHANNEL SUBDIVISION SHALL BE CONSTRUCTED FROM THE BOTTOM OF THE EXCAVATION UP TO NORMAL WATER TABLE AND TO THE FULL WIDTH OF THE EXCAVATION. THEY SHALL EXTEND A DISTANCE OF 1.0' ALONG THE PIPE.

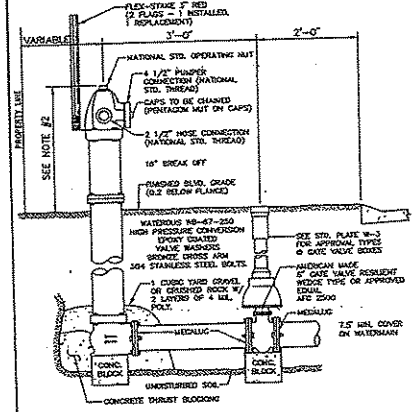
BEDDING MATERIAL TO BE PLACED TO THE DIMENSIONS SHOWN AND SHALL BE GRANULAR MATERIAL AS DEFINED IN MN/DOT 3138. THE MATERIAL SHALL BE HAND PLACED AND SOMEWHAT COMPACTED USING MECHANICAL TOOLS. THE CONTRACTOR SHALL INCLUDE THE COST OF FURNISHING, PLACING AND COMPACTING THE MATERIAL IN THE UNIT PRICE BID FOR SEWER PIPE. IN AREAS DOMINATED BY THE MATERIAL SHALL BE MADE IMPERVIOUS BY ADDITION OF BENTONITE CLAY OR BY SUBSTITUTING IN LIEU OF GRANULAR MATERIAL, IN WHICH CASE THE CLAY SHALL BE PAID FOR SEA A SEPARATE PAY ITEM ONLY TO THE LIMITS OF THE IMPERVIOUS CHANNEL.



PROTERRA DESIGN ASSOCIATES, INC.

HYDRANT AND GAVE VALVE INSTALLATION

NOT TO SCALE



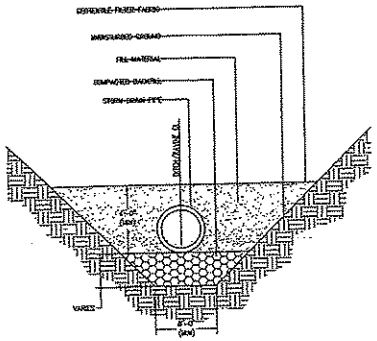
NOTES:
1. FIRE HYDRANT SHALL BE PAINTED RED @ THE FACTORY.
2. TOP OF FIRE HYDRANT DESIGN ELEVATION SHALL BE 2'-6" ABOVE BOULEVARD GRADE.
3. CONCRETE THRUST BLOCKING REQUIRED.
4. PLUG DRAIN HOLES WHEN BELOW WATER TABLE. TAG HYDRANT
5. COATED TIE RODS IN LIEU OF MEGALUGS.

PROTERRA DESIGN ASSOCIATES, INC.

10.a.1

STORM DRAIN BEDDING AND FOUNDATION

NOT TO SCALE

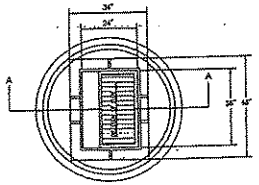


PROTERRA DESIGN ASSOCIATES, INC.

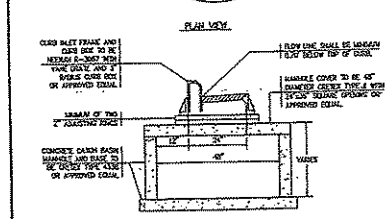
STORM DRAIN STANDARD CATCH BASIN MANHOLE

NOT TO SCALE

NOTES:
1. BASE TO BE GROUTED TO FORM A SMOOTH INVERT TO OUTLET.
2. PIPE CUT-OUTS TO BE LOCATED WHERE REQUIRED.



PLAN VIEW



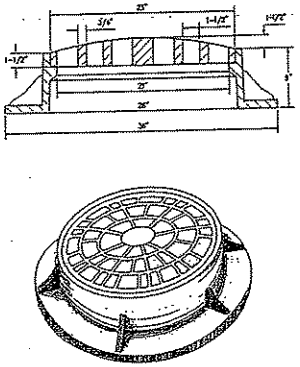
SECTION A-A

PROTERRA DESIGN ASSOCIATES, INC.

VARIOUS — STORM DRAIN (CONT'D)

NEENAH R-2578 FRAME WITH CONVEX GRATE

NOT TO SCALE



PROTERRA DESIGN ASSOCIATES, INC.

EXHIBIT D

PREPARED FOR:

KEVIN THURS
5717 113TH AVE N
CHAMPLIN, MN 55316
612.308.4106

REGISTRATION:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Landscape Architect under the laws the state of Minnesota

Alan A Koehnen

Alan A. Koehnen

07.11.08

15144

PREPARED BY:

PDA

REVISIONS:

Project Name and Address:
ELM CREEK STRATE
TRUSTS NEESSPARK
BOLST AVENUE NORTH & MN STATE HWY 169
BLK. BOLSTON PARK, MINNESOTA

SITE CONSTRUCTION DETAILS

C6

RECEIVED
JUN 18 2008

brooklyn park engineering

BROOKLYN PARK

5200 85th Ave. N., Brooklyn Park, MN 55443-4301 • Phone 763-424-8000 • Fax 763-493-8391
TDD 763-493-8392

Gary E. Brown, P.E.
Director of Engineering & Building Inspections

June 16, 2008

Alan Kretman
Proterra Design Associates
7200 Hudson Blvd.
Suite 110
Oakdale, MN 55128

Dear Alan:

Several of my staff members have been reviewing PDA's preliminary design of 3R'S Child Development Center to be located on 85th Ave. N., east of city hall. On the front page (C0.1) of the Development Center plans (revised 4-01-08) there is no Civil Engineer listed even though the Landscape Architect and the Surveyor are listed as designers. Plan sheets C4.1 (Utility plan) and C6.1 & C6.2 (Civil Details) were signed by you as a Landscape Architect. Furthermore, plan sheet C5.1 (Preliminary Plat) was also signed by you even though I am assuming that Greg Prasch of Lot Surveys performed the work.

As you know, signing plans that were not prepared by you is a violation of state statute 326.03 LICENSE OR CERTIFICATE REQUIRED, Subdivision 1. By no later than June 23, 2008, please submit new drawings to the city of Brooklyn Park with the above referenced pages signed by the parties that have actually prepared the documents and provide the city with the name of the civil engineer who is responsible for the design. That person should be listed along with the other designers on plan sheet C0.1.

Sincerely

Gary E. Brown

Gary E. Brown P. E.
Director of Engineering and Building Inspections

Cindy Sherman, Director of Planning, City of Brooklyn Park
Dale Dingman, Dingman Constr. & Dev., 11030 Douglass Dr., Champlin MN 55316
Jason Letourneau, Letourneau Design Assoc., 8001 5th St., Spring Lake Park, MN 55432
Greg Prasch, Lot Surveys Co. Inc., 7601 73rd Ave. N., Brooklyn Park, MN 55428
Doreen Frost, Executive Director of Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience & Interior Design, 85 E. 7th Place, Suite 160, St. Paul, MN 55101-2113
Enclosed: Plan sheets C0.1, C4.1, C5.1, C6.1, & C6.2

EXHIBIT E
Pg. 1

3R's CHILD DEVELOPMENT CENTER

BROOKLYN PARK, MINNESOTA

DRAWING INDEX

C0.1	COVER SHEET
A1	3D ARCHITECTURAL PERSPECTIVE
A2	ARCHITECTURAL FLOOR PLAN
A3	ROOF PLAN
A4	BUILDING ELEVATIONS
-	CERTIFICATE OF SURVEY
C1.1	EXISTING CONDITIONS/REMOVALS PLAN
C2.1	SITE LAYOUT PLAN
C3.1	GRADING, DRAINAGE & EROSION CONTROL PLAN
C4.1	UTILITY PLAN
C5.1	PRELIMINARY PLAT
C6.1	CIVIL DETAILS
C6.2	CIVIL DETAILS
C6.3	CIVIL DETAILS
L1.1	LANDSCAPE PLAN
L1.2	LIGHTING PLAN
L2.1	LANDSCAPE DETAILS

CITY

CITY OF BROOKLYN PARK
5200 85TH AVENUE NORTH
BROOKLYN PARK, MN 55443
PH: 763.493.8004 FAX: 763.493.8101

OWNER/DEVELOPER

DINGMAN CONSTRUCTION & DEVELOPMENT
DALE DINGMAN
11000 DOUGLAS DRIVE
CHAMPLIN, MN 55316
PH: 763.323.1722 FAX: 763.323.2597

DAYCARE/SCHOOL

3R'S CHILD DEVELOPMENT CENTER
MARNELLE SPEARS
4500 85TH AVENUE NORTH
BROOKLYN PARK, MN 55443
PH: 763.315.3320 FAX: 763.315.3090

LANDSCAPE ARCHITECT

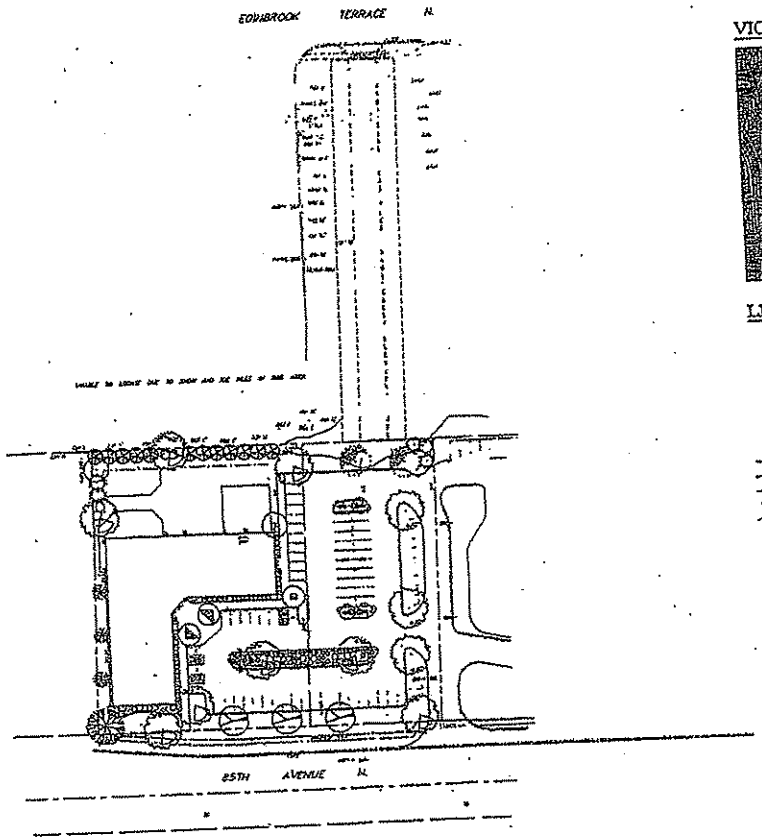
PROTERRA DESIGN ASSOCIATES, INC.
ALAN A. WRETMAN
7200 HUDSON BLVD., SUITE 110
OAKDALE, MN 55128
PH: 651.738.8151 FAX: 651.738.0846

SURVEYOR

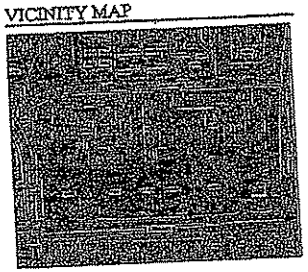
LDT SURVEYS CO., INC.
GREG P. RASCH
7550 AVENUE NORTH
BROOKLYN PARK, MN 55428
PH: 763.566.3190 FAX: 763.566.5132

LEGAL DESCRIPTION

LOT 2, BLOCK 1, DNA BADDOKS ADDITION
HENNEPIN COUNTY, MINNESOTA
AND
THE EAST 125.5 FEET OF THE WEST 1/2 OF THE EGERTS 1/4 OF THE SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 118 NORTH, RANGE 21 WEST, HENNEPIN COUNTY, MINNESOTA



VICINITY MAP



LEGEND

EXISTING	PROPOSED
POWER POLE	BOUNDARY MONUMENT
SEPTIC	MONUMENT
MONUMENT	SANITARY SEWER MANHOLE
STORM SEWER MANHOLE	CATCH BASIN
CATCH BASIN	DETECTABLE WARNING
DENOTES GATE VALVE	DELINEATOR BUFFER VALVE
DENOTES TELEPHONE BOX	DENOTES WATER LINE
DENOTES WATER LINE	DENOTES SANITARY SEWER LINE
DENOTES SANITARY SEWER LINE	DENOTES STORM SEWER LINE
DENOTES STORM SEWER LINE	PROPOSED 5' CONTOUR
EXISTING 5' CONTOUR	PROPOSED 10' CONTOUR
EXISTING 10' CONTOUR	

PREPARED FOR:
DINGMAN CONSTRUCTION & DEVELOPMENT
11000 DOUGLAS DRIVE
CHAMPLIN, MN 55316
PH: 763.323.1722
FAX: 763.323.2597

REGISTRATION:
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Registered Landscape Architect under the laws of the State of Minnesota.
ALAN A. WRETMAN
DATE
REG. NO.

PREPARED BY:
PDA
PROFESSIONAL DESIGN ASSOCIATES, INC.
7200 HUDSON BLVD., SUITE 110
OAKDALE, MN 55128
651.738.8151 FAX 651.738.0846

REVISIONS:

1	03.14.06	ADMINISTRATIVE

3R'S CHILD DEVELOPMENT CENTER
4500 85TH AVENUE NORTH
BROOKLYN PARK, MINNESOTA
COVER SHEET

PROJECT NO.	05001
DRAWN BY	MLS
CHECKED BY	AAK
DATE	03.14.06
SHEET	C0.1

EXHIBIT E, Pg. 2

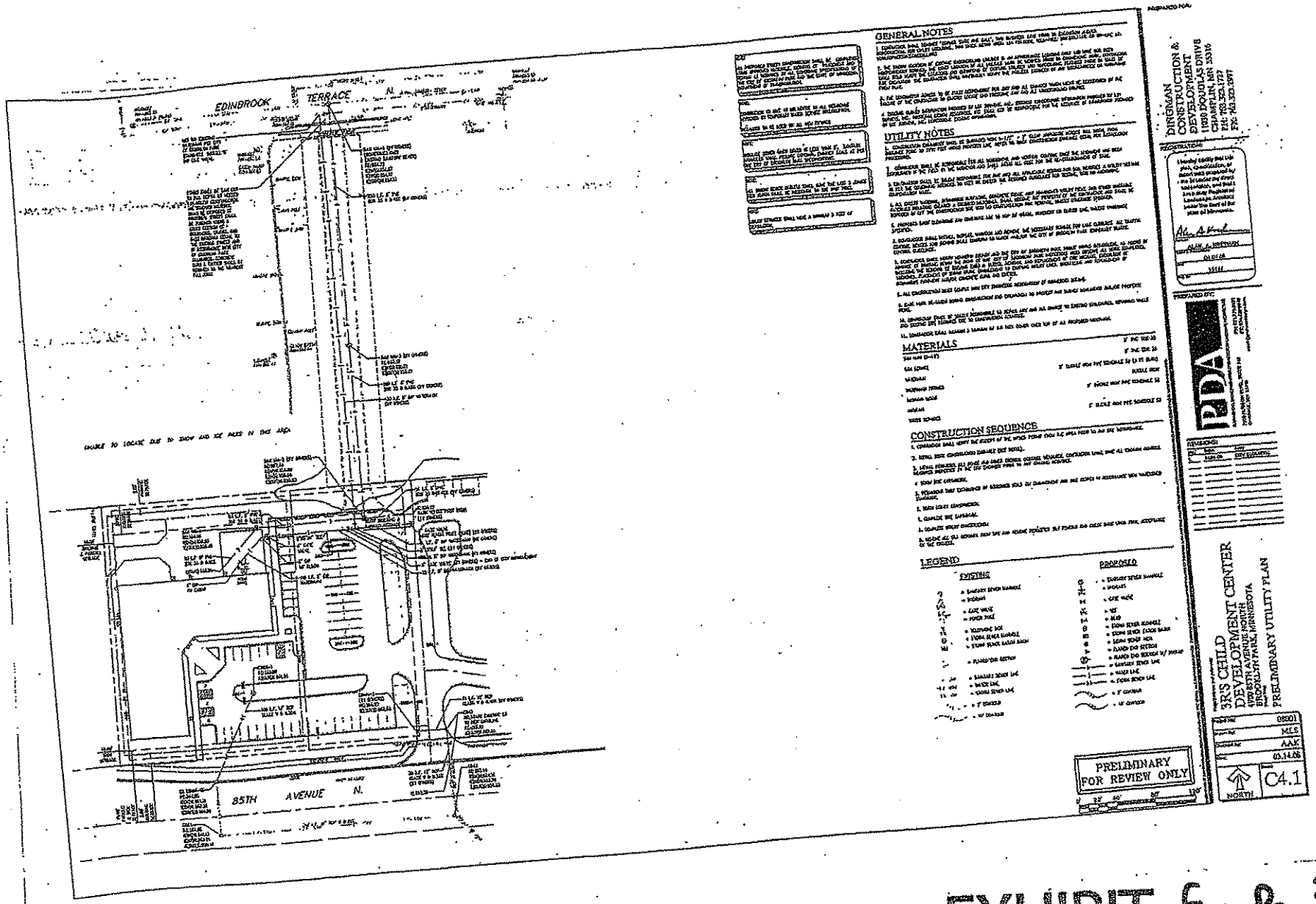


EXHIBIT E, Pg. 3

PRELIMINARY PLAT FOR GENORE ADDITION

EDINBROOK TERRACE N.

NORTHBROOK CHURCH ADDITION

BROOKS ADD.

LOT 1
BLOCK 1
2.00 AC.

85TH AVENUE N.

GENERAL NOTES

SITE DATA

OWNER/DEVELOPER

DAYCARE/SCHOOL

LANDSCAPE ARCHITECT

ARCHITECT

SURVEYOR

LEGAL DESCRIPTION

PRELIMINARY FOR REVIEW ONLY

PREPARED FOR:

DINGMAN CONSTRUCTION & DEVELOPMENT
11100 DOUGLAS DRIVE
CHAMPLIN, MN 55316
PH: 763-323-1722
FAX: 763-323-2997

REGISTRATION:

PREPARED BY:

PDA

3R'S CHILD DEVELOPMENT CENTER
49TH AVENUE NORTH
BROOKLYN PARK, MINNESOTA

PRELIMINARY PLAT

PROJECT NO.	08001
DRAWN BY	MLS
CHECKED BY	AAK
DATE	03.14.08

NORTH

SHEET C5.1

EXHIBIT E, Pg. 4

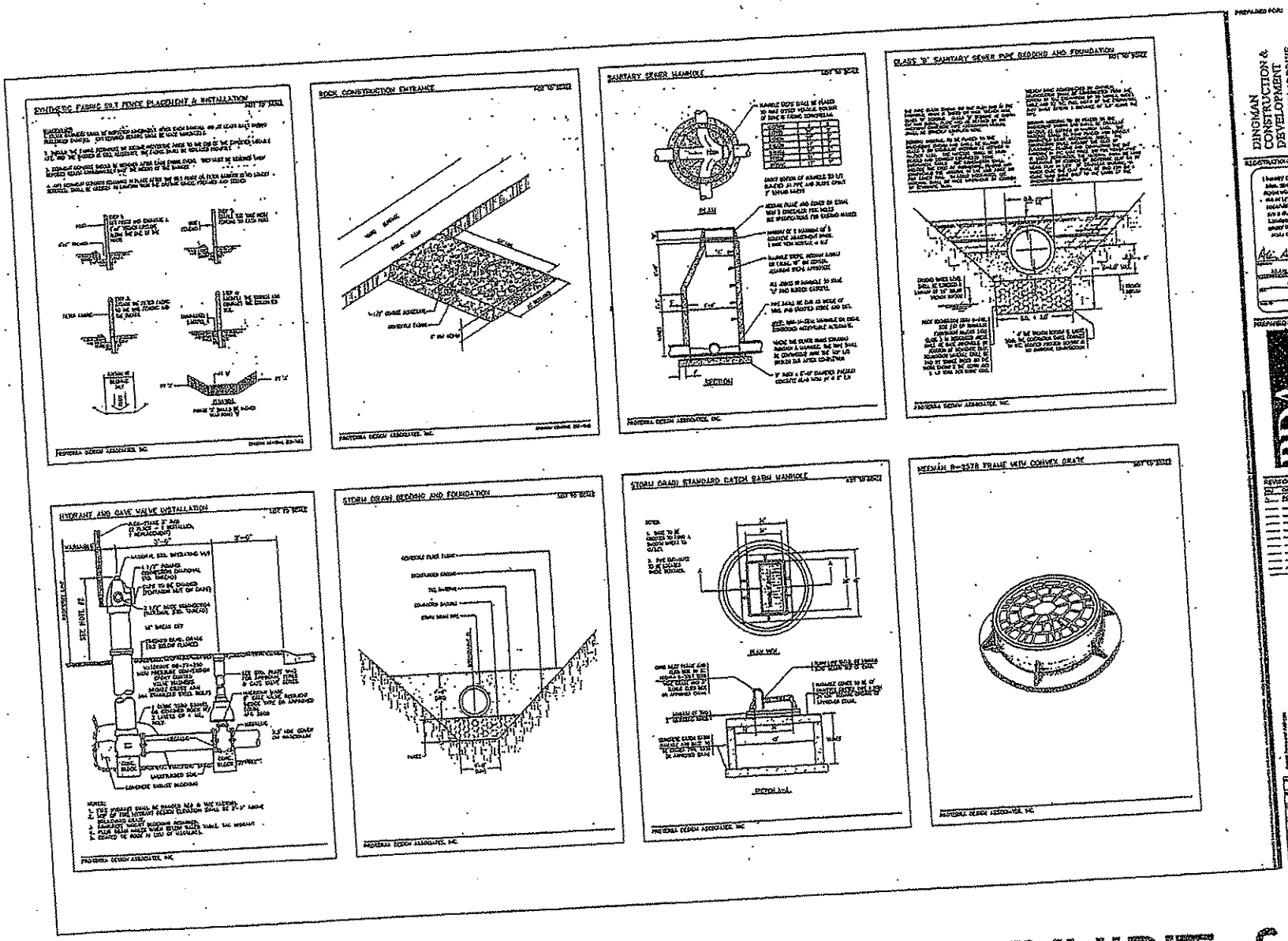


EXHIBIT E, Pg. 5

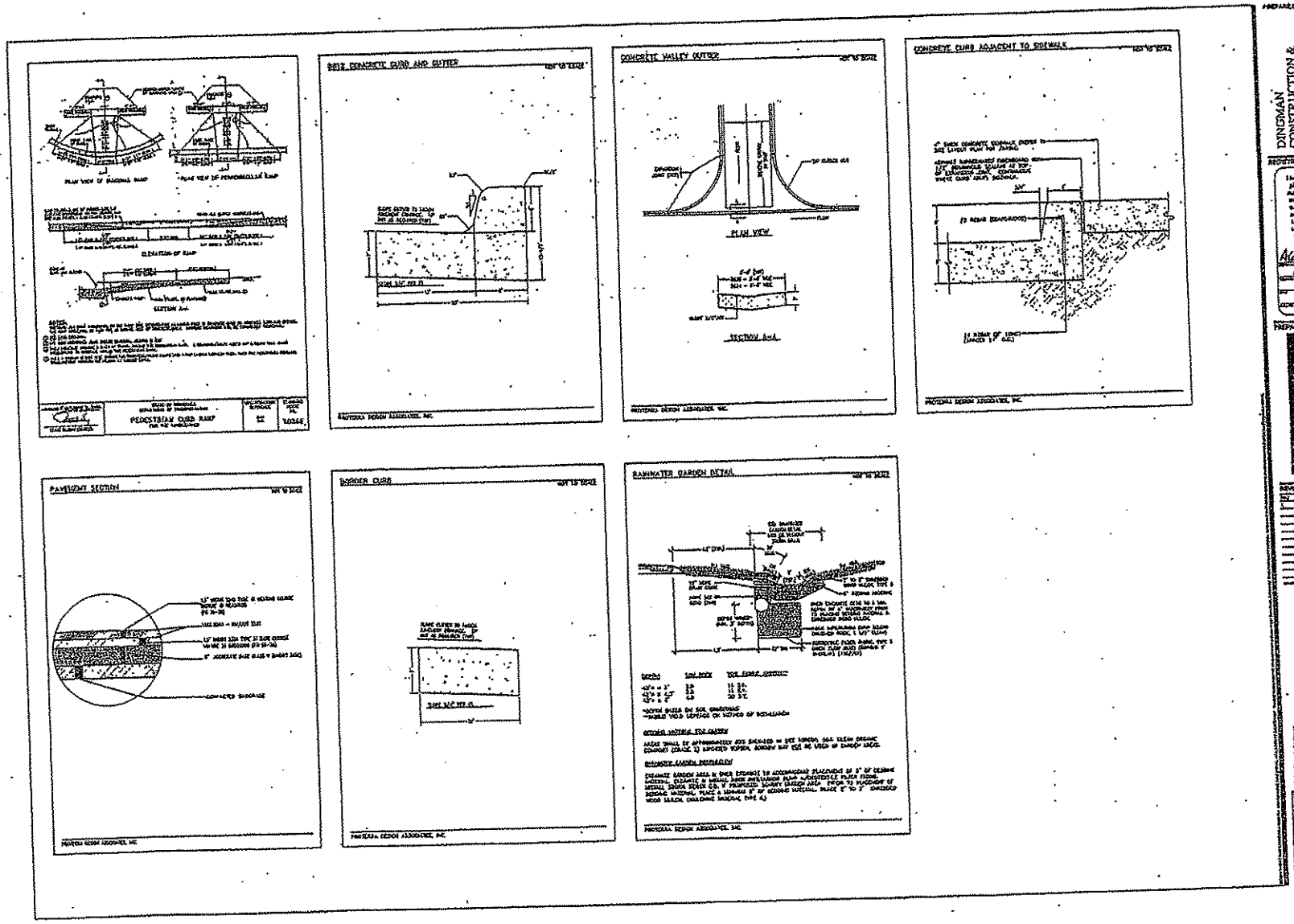


EXHIBIT E, Pg. 6

PDA ProTerra Design Associates, Inc.

PLANNING
CIVIL ENGINEERING
PROJECT MANAGEMENT
LANDSCAPE ARCHITECTURE

RECEIVED JUN 26 2008

June 24, 2008

Gary E. Brown, PE
City of Brooklyn Park
5200 85th Avenue North
Brooklyn Park, MN 55443

RE: 3R's Child Development Center – 85th Avenue North, Brooklyn Park, MN
PDA Comm. 08006

Dear Gary,

Thank you for sending your letter of June 16, 2008, to me regarding this project. I have always respected your opinion and expertise in regards to civil engineering for the City of Brooklyn Park.

I also have respected the MN State Board of AELSLAGID over the years by calling them on a consistent basis whenever I was concerned about potential interpretation issues in the State Statutes. That is why Doreen and I know each other. I have called frequently enough to establish this fact. Because I have taken a very conscientious position and called the Board whenever I had an interpretation question, Doreen has also suggested to me that I apply to be considered for appointment to the State Board. She knows that I want to make sure that I and others are doing everything correctly.

You have read the drawings correctly; there is no Civil Engineer on this project at this time. I have legally prepared all of the drawings under my Landscape Architect's license from the State of Minnesota. Therefore, I am not in violation of MN State Statute 326.03 LICENSE OR CERTIFICATE REQUIRED. We will not be resubmitting the drawings at this time because we just received the Geotechnical Report and are updating the drawings to include that background information.

I am basing my ability to do all of the drawings that I completed on a specific conversation that I had in the spring of 2001 at the state capitol with Doreen Frost, Executive Director of the State Board and with State Board members Robert Smith and the late Greg Kopischke. We were there for a ceremony for new licensees. An employee of mine who worked under me as an EIT had passed his PE exam and I was there to show my support for him.

Doreen, Bob, Greg and I discussed the practice of Landscape Architecture and the type of work that RLA's are allowed to do in the State of Minnesota. The three of them were in concurrence and specifically stated that I could do the type of work that I am doing now. That is when I started broadening the scope of design work that I do. They cited a portion of MN State Statute 326.02 LICENSURE OR CERTIFICATION, Subd.4 **Practice of Landscape Architecture**, which states the following:

> "Any person shall be deemed to be practicing landscape architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service in connection with the development of land

7200 Hudson Blvd. Suite 110 OAKDALE, MINNESOTA 55128
PHONE (651) 739-8131 FAX (651) 739-0846
www.proterradesign.com

EXHIBIT F, Pg. 1

> areas where the dominant purpose of the service is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, blight and hazards. ***This practice shall include the location and arrangement of tangible objects and features incidental and necessary to the purposes outlined*** (emphasis added) but shall not include the design of structures or facilities with separate and self-contained purposes as ordinarily included in the practice of engineering or architecture or the preparation of boundary surveys or final land plats, as ordinarily included in the practice of land surveying".

The premise for their position was that utilities are ***"tangible objects and features incidental and necessary to the purposes outlined."*** As for signing preliminary plats, I have been doing this for a long time. The practice at all of the engineering firms that I have worked at throughout my career has been that either Landscape Architects or Civil Engineers can sign a preliminary plat, but not surveys or final plats, which is specifically excluded in MN State Statute 326.02, Subd.4.

Doreen also stated to me that if any public official or design professional questioned these interpretations, that she would assist me in clarifying what is allowed under state statutes. She has also told me that City Engineers have the right to state their own position on this interpretation issue. That is why I have respected your position in a professional manner, promised you and will follow through with turning over the portion of the work that you would like to have done by a PE for completion of our Construction Documents.

I also appreciate your comment that I should have gotten the interpretation issued documented in writing. I am hoping with your support we can have the State Board clarify this so that this type of issue will not happen again. As always, I will follow the guidance of the State Board on this issue.

Again, I want to thank you for putting your concerns in writing and addressing this in a professional manner. It was enjoyable talking with you.

Sincerely,
ProTerra Design Associates, Inc.

Alan A Kretman

Alan A. Kretman, RLA
Director, Planning & Landscape Architecture

Copy: Doreen Frost – MN State Board of AELSLAGID
Cindy Sherman - Director of Planning, City of Brooklyn Park
Dale Dingman - Dingman Construction and Development
Jason Letourneau – Letourneau Design Associates
Greg Prasch - Lot Surveys Company
File: 08006

7200 Hudson Blvd. Suite 110 OAKDALE, MINNESOTA 55128
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EXHIBIT F
pg. 2

BROOKLYN PARK

RECEIVED
AUG - 6 2008 AUG - 6 2008

brooklyn park engineering

5200 85th Ave. N., Brooklyn Park, MN 55443-4301 • Phone 763-424-8000 • Fax 763-493-8391
TDD 763-493-8392

Gary E. Brown, P.E.
Director of Engineering & Building Inspections

August 4, 2008

Doreen Frost
Executive Director
Board of Architecture, Engineering, Land Surveying, Landscape Architecture,
Geoscience & Interior Design
85 E. 7th Place, Suite 160
St. Paul, MN 55101-2113

Re: Mr. Alan Kretman's Elm Creek Trail Business Park Preliminary Plans

Dear Doreen:

On June 26, 2008 I filed a formal complaint against Mr. Alan Kretman, Registered Landscape Architect # 15144, regarding his signing the plan and plat for a submittal for 3R Development. After being told that the City will not accept engineering plans submitted by Mr. Kretman, the Project Architect attempted to submit plans to be reviewed by our Building Plan Reviewers without a civil engineer and those plans were not accepted by the City. This may cause the owner significant time delays.

Mr. Alan Kretman has recently (last week), submitted Preliminary Plans (dated June 11, 2008) for the Elm Creek Trail Business Park (enclosed). He has again signed these preliminary plans that a civil engineer should have prepared, sheets C4.1 Preliminary Utility Plan, sheets C6.1, C6.2, Civil Details, as well as signing a preliminary plat sheet C5.1, that if anyone, a land surveyor should have signed.

In this particular case Mr. Kretman shows city water and sewer out in the street and there is none there. In fact, it may be several years before city water is in this street as it will require constructing under a four lane trunk highway (169). There is a 30 foot deep Metropolitan Council Interceptor sanitary sewer in place, that he shows on the plan, but this sewer can not be connected to in this location. The City of Brooklyn Park does not have any sanitary sewer or water located west of TH 169 in the entire city.

Furthermore, Mr. Kretman does not show any storm sewer on his plans, but shows a large pond which does not exist today and is less than 100 feet from what he shows on the plan as two stories of underground parking (in sandy soils). The water table in this area is approximately 15 feet below the surface.

EXHIBIT G, Pg. 1

This set of plans is not feasible to construct and it is extremely unfortunate that he is leading people to believe that it is feasible by signing these plans. Mr. Kretman must be brought into our Board and prohibited from continuing this unlicensed work.

Sincerely

Gary E. Brown

Gary E. Brown P. E.
Director of Engineering and Building Inspections

Cc: Jamie Verbrugge, City Manager
Cindy Sherman, Director of Planning
Kevin Larson, P. E. Assistant City Engineer (responsible for civil engineering plan reviews)

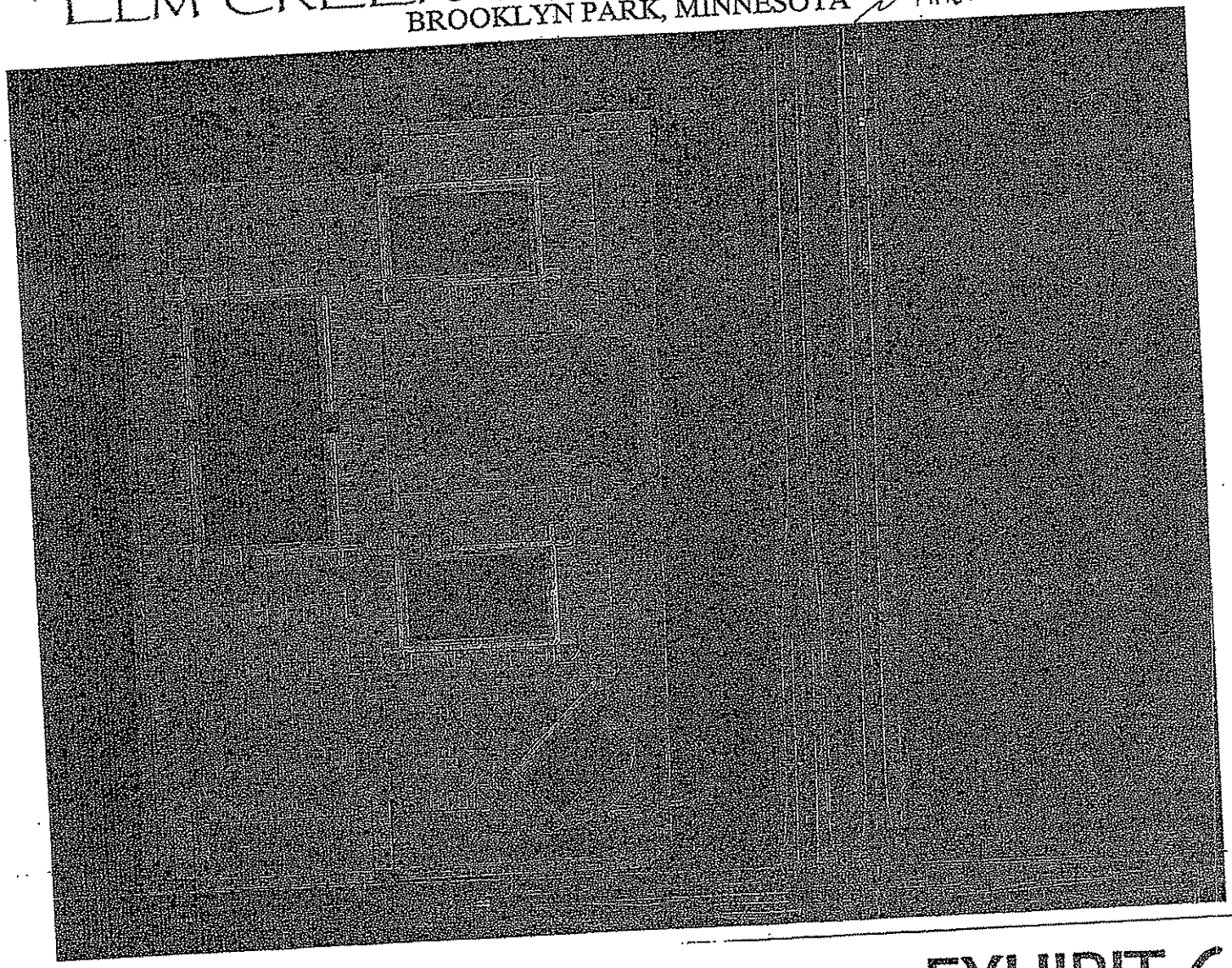
Attachment: Elm Creek Trail Business Park Preliminary Plans

EXHIBIT G, Pg 2

ELM CREEK TRAIL BUSINESS PARK

BROOKLYN PARK, MINNESOTA

TH 169



PRELIMINARY
FOR REVIEW ONLY

0' 30' 60' 120' 180'

PREPARED FOR:

KEVIN THELEN
5777 115TH AVE N
CRAMPTON, MN 55316
612.308.4106

REGISTRATION

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Registered Landscape Architect under the laws of the state of Minnesota.

Signature: Alan A. Knoll
Date: 07.11.08
Reg. No. 13144

PREPARED BY:

PDA
PROFESSIONAL DESIGN ASSOCIATES
PROFESSIONAL DESIGN ASSOCIATES
www.pdaassociates.com

REVISIONS:

No.	Date	Date

Project Name and Address:
ELM CREEK TRAILS
BUSINESS PARK
10357 AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA

Sheet Title:
CONCEPTUAL MASTER PLAN

Project No.	05023
Drawn By:	MLS
Checked By:	AAK
Date:	07.11.08
Sheet No.	M1.1

EXHIBIT G, Pg. 3

ELM CREEK TRAILS BUSINESS PARK

BROOKLYN PARK, MINNESOTA

DRAWING INDEX

	COVER SHEET
D0.1	CONCEPTUAL MASTER PLAN
M1.1	EXISTING CONDITIONS PLAN
C1.1	PRELIMINARY SITE LAYOUT PLAN
C2.1	PRELIMINARY SITE LAYOUT PLAN WITH AERIAL PHOTO
C2.2	PRELIMINARY GRADING & EROSION CONTROL PLAN
C3.1	PRELIMINARY UTILITY PLAN
C4.1	PRELIMINARY PLAT
C5.1	SITE CONSTRUCTION DETAILS
C6.1	SITE CONSTRUCTION DETAILS
C6.2	PRELIMINARY SITE LANDSCAPE PLAN
L1.1	PRELIMINARY FOUNDATION LANDSCAPE PLAN
L1.2	PRELIMINARY FOUNDATION LANDSCAPE PLAN
L1.3	LANDSCAPE DETAILS
L2.1	

CITY

CITY OF BROOKLYN PARK
5200 85TH AVENUE NORTH
BROOKLYN PARK, MN 55443
PH: 763.493.8114 FX: 763.493.8331

OWNERS

KEVIN THURS
5717 115TH AVE N
CHAMPLIN, MN 55316

RA SIMONS ETAL
RA SIMONS
5800 101ST AVE N
BROOKLYN PARK, MN 55443

SANDRA B SIMONS
5804 101ST AVE N
BROOKLYN PARK, MN 55443

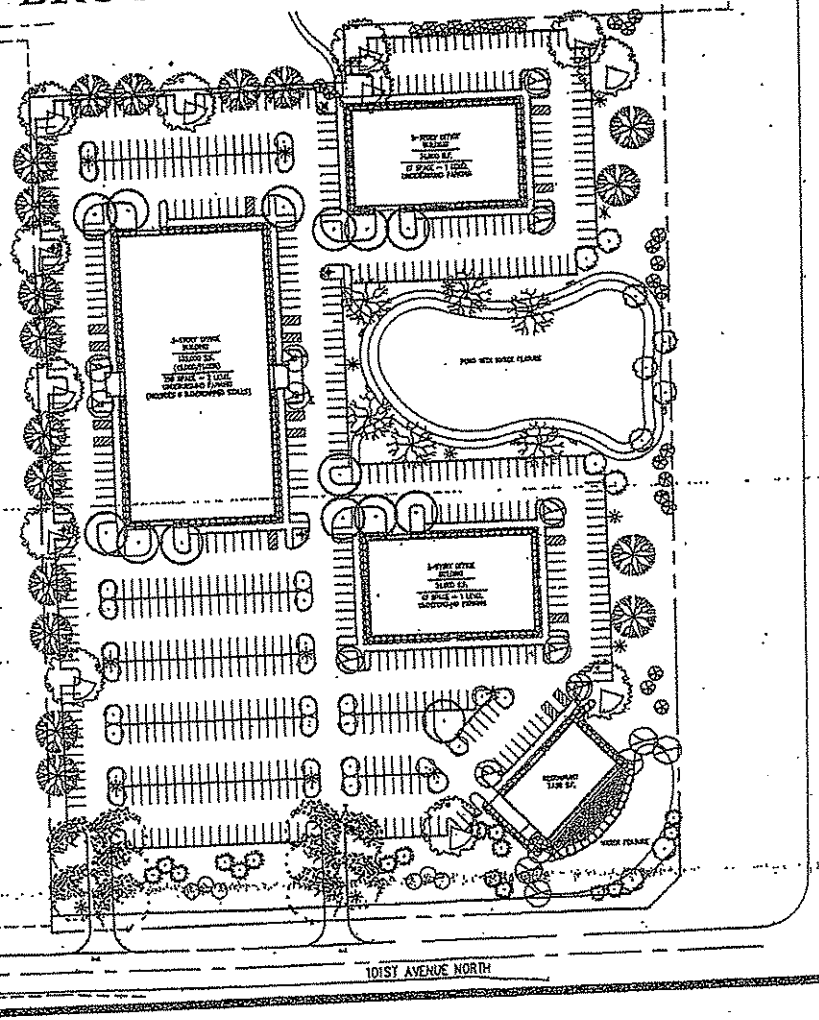
SERVERT GOERSCH
5802 101ST AVE N
BROOKLYN PARK, MN 55443

PLANNER/LANDSCAPE ARCHITECT

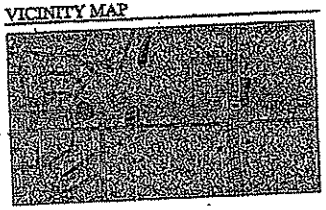
PROTERRA DESIGN ASSOCIATES, INC.
ALAN KRETMAN
7200 HUDSON BLVD., SUITE 110
OAKDALE, MN 55128
PH: 651.739.6131 FX: 651.739.0946

LEGAL DESCRIPTION

THAT PART OF WEST ½ OF EAST ½ OF SOUTHEAST ¼ OF SOUTHWEST ¼ LYING SOUTH OF NORTH 340 FEET THEREOF AND LYING NORTH OF SOUTH 300 FEET THEREOF ALSO THAT PART OF SOUTH 300 FEET OF SAID WEST ½ SECTION 06 RANGE 119 TOWNSHIP 21 (PID 06-119-21-34-0007)
AND
SOUTH 300 FEET OF EAST 123 FEET OF WEST ½ OF EAST ½ OF SOUTHEAST ¼ OF SOUTHWEST ¼ SECTION 06 RANGE 119 TOWNSHIP 21 EXCEPT ROAD (PID 06-119-21-34-0002)
AND
WEST 144 FEET OF SOUTH 300 FEET OF WEST ½ OF EAST ½ OF SOUTHEAST ¼ OF SOUTHWEST ¼ SECTION 06 RANGE 119 TOWNSHIP 21 EXCEPT ROAD (PID 06-119-21-34-0003)
AND
THAT PART OF THE EAST ½ OF THE WEST ½ OF THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 6 TOWNSHIP 119 RANGE 21 LYING SOUTH OF THE NORTH 400 FEET THEREOF EXCEPT THE SOUTH 175 FEET OF THE WEST 100 FEET (PID 06-119-21-34-0005)



VICINITY MAP



LEGEND

EXISTING	PROPOSED
POWER POLE	SANITARY SEWER MANHOLE
SIGNS	HYDRANT
HYDRANT	STORM SEWER MANHOLE
STORM SEWER MANHOLE	CATCH BASIN
CATCH BASIN	DECIDUOUS TREE
DECIDUOUS TREE	CONIFER TREE
CONIFER TREE	DECIDUOUS TREE LINE
DECIDUOUS TREE LINE	CONIFER TREE LINE
CONIFER TREE LINE	DECIDUOUS STORM SEWER LINE
DECIDUOUS STORM SEWER LINE	PROPOSED 10' CONTOUR
EXISTING 10' CONTOUR	PROPOSED 1' CONTOUR
EXISTING 1' CONTOUR	

PREPARED FOR:
KEVIN THURS
5717 115TH AVE N
CHAMPLIN, MN 55316
612.308.4106

ADMINISTRATION:
I hereby certify that this plan, specifications, or report was prepared by me or under my direct supervision, and that I am a duly Registered Landscape Architect under the laws of the state of Minnesota.
Alan A Kretman
Alan A. Kretman
07.11.09
10944

PREPARED BY:
PDA
Planning Design Development, Inc.
7200 Hudson Blvd., Suite 110
Oakdale, MN 55128
PH: 651.739.6131
FX: 651.739.0946
e-mail: pda@pdaplanning.com

REVISIONS:

Date	Description

Project Name and Address:
ELM CREEK TRAIL BUSINESS PARK
101ST AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA

Sheet Title:
COVER SHEET

Date: 07.11
Drawn: AJ
Sheet: C0.

EXHIBIT G, Pg. 4

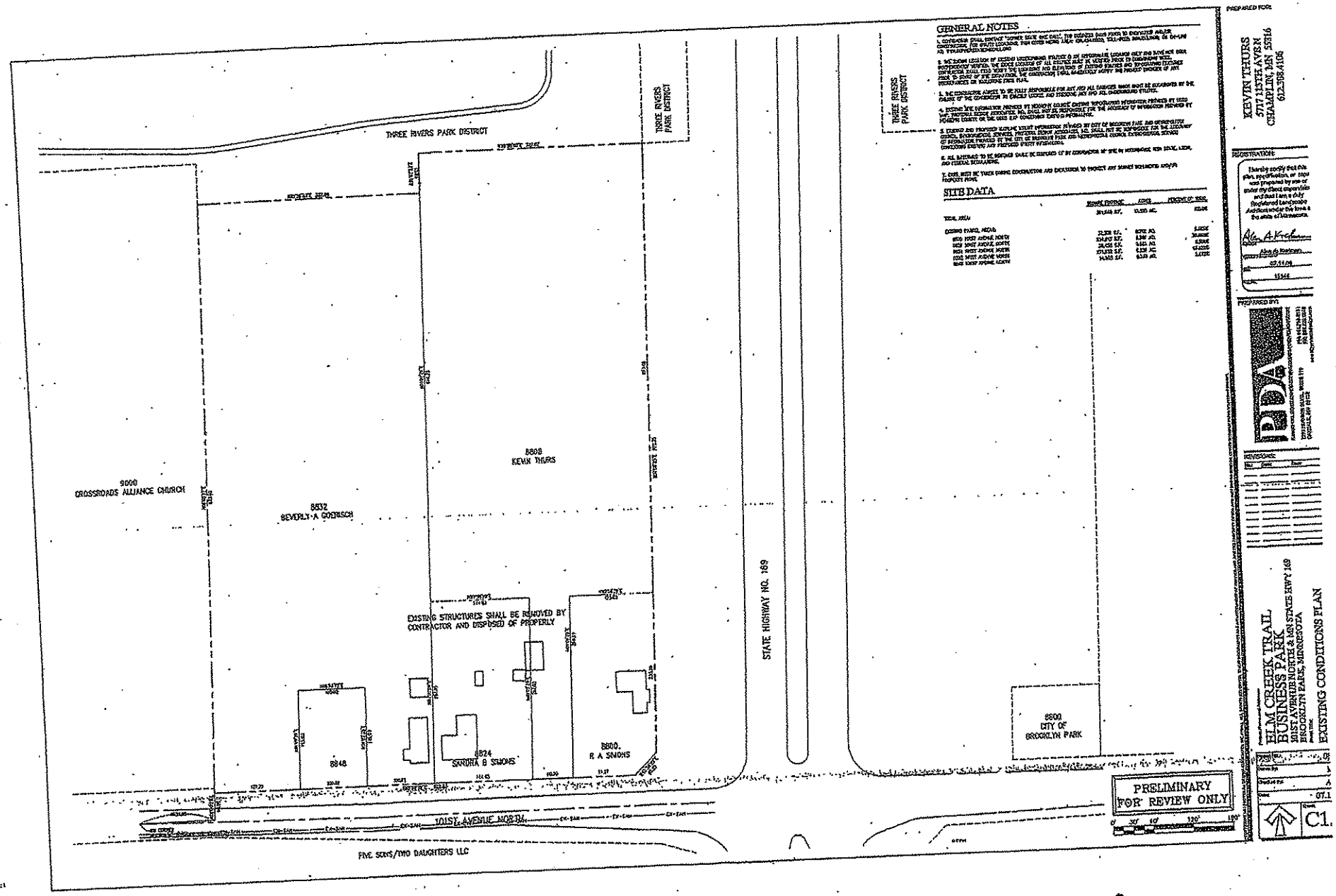
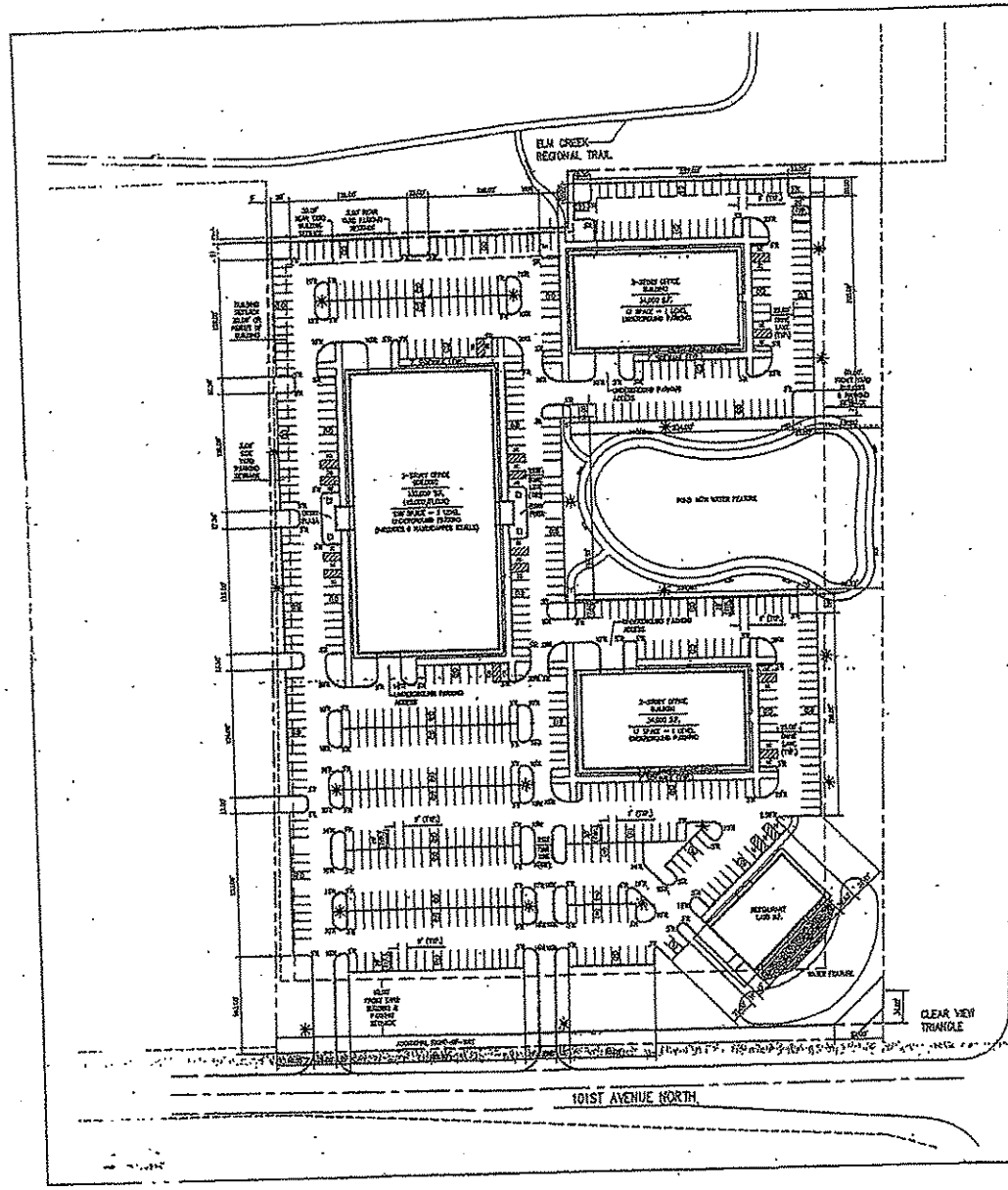


EXHIBIT G, Pg.5



GENERAL NOTES

SITE DATA

OWNERS

PLANNER/LANDSCAPE ARCHITECT

LEGAL DESCRIPTION

PREPARED FOR:

KEVIN THURS
5717 113TH AVE N
CHAMPLIN, MN 55316
612.308.4306

CERTIFICATION:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Landscape Architect under the laws of the state of Minnesota.

Date: 07.11.09

License No. 13144

PREPARED BY:

PDA

REVISIONS:

No.	Date	Item

ELM CREEK TRAIL BUSINESS PARK
101ST AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA

PRELIMINARY SITE LAYOUT PLAN

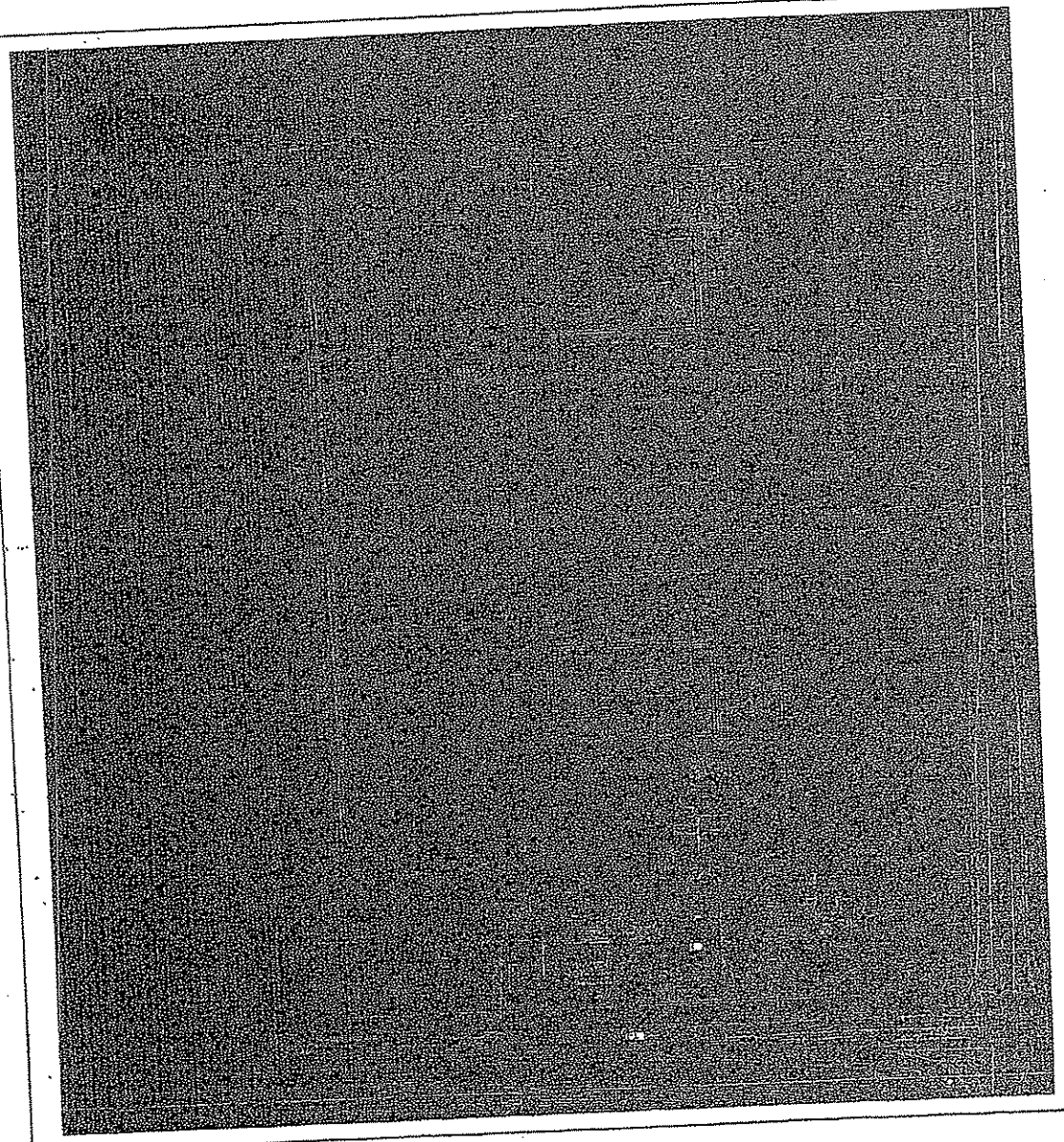
Drawn by: N

Checked by: A

Date: 07.11

C2.

EXHIBIT G, Pg.6



GENERAL NOTES

SEE SHEET C2.1 FOR SITE PLAN NOTES

PRELIMINARY
FOR REVIEW ONLY

0' 30' 60' 120' 180'

KEVIN THURS
5747 111TH AVEN
CEMMELLIN, MN 55316
612.308.4196

REGISTRATION

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Landscape Architect under the laws of the state of Minnesota.

Alan A Kestler

Alan A. Kestler

07.17.09

15144

PREPARED BY:

PDA

REVISIONS:

No.	Date	Item

Project Name and Address

ELM CREEK TRAIL
BUSINESS PARK

101ST AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA

Sheet Title

PRELIMINARY SITE LAYOUT PLAN

Drawn By:

Checked By:

Date: 07.1

C2

EXHIBIT G, Pg. 7

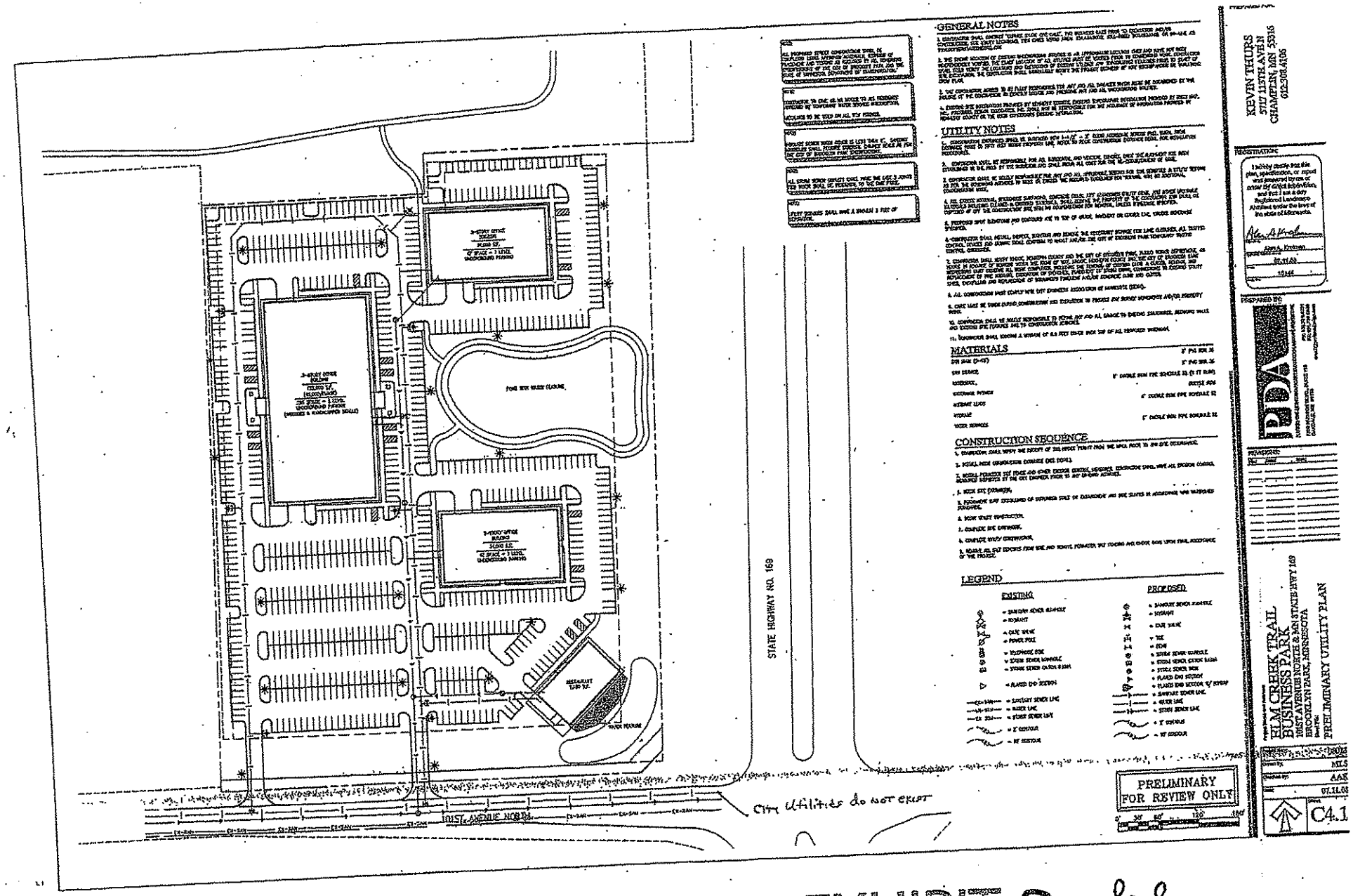


EXHIBIT G, Pg. 8

PRELIMINARY PLAT FOR
ELM CREEK TRAIL

THREE RIVERS PARK DISTRICT

THREE RIVERS PARK DISTRICT

9000
CROSSROADS ALLIANCE CHURCH

BEVERLY A GOERISCH

5808
KEVIN THURS

5848

5824
SANDRA B SIMONS

5800
R A SIMONS

STATE HIGHWAY NO. 169

101ST AVENUE NORTH

FIVE SONS/TWO DAUGHTERS LLC

PRELIMINARY
FOR REVIEW ONLY

0' 30' 60' 120' 180'

GENERAL NOTES

1. CONTRACTOR SHALL CONTACT "GOPHER STATE ONE CALL", AND BUSINESS DAYS PRIOR TO EXCAVATION AND/OR CONSTRUCTION FOR UTILITY LOCATIONS. THIS INCLUDES AREAS EXCAVATED, PRE-FILED, BURIED PIPE, OR ON-LINE AS INTERCONNECTION/INSTALLATION.

2. USE SHOWN LOCATIONS OF EXISTING UNDERGROUND UTILITIES IS AN APPROXIMATE LOCATION ONLY AND MUST BOTH BOTH INDEPENDENT VERIFY THE EXACT LOCATION OF ALL UTILITIES PRIOR TO BEGINNING WORK. CONTRACTOR SHALL TAKE ALL PRECAUTIONS AND ASSUME ALL RESPONSIBILITY FOR PROTECTING UTILITIES AND PROPERTY FROM DAMAGE. IF ANY UTILITIES ARE DAMAGED, THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE OWNER/ENGINEER OF ANY DISCREPANCY OR DAMAGE FROM WORK.

3. THE PARTICULAR AREAS TO BE FULLY CONSIDERED FOR USE AND ALL PROPER WORK MUST BE DESIGNATED BY THE OWNER OF THE CONTRACTOR IN EXACT DETAIL AND PROVIDE THE AND ALL PROCEEDING WORKS.

4. SURVEY SURVEY INFORMATION PROVIDED BY HENNEPIN COUNTY (SHOWN PROCEEDING INFORMATION PROVIDED BY THE PROVIDED SURVEY ACCURATE ALL SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF INFORMATION PROVIDED BY HENNEPIN COUNTY OR THEIR CONSULTANT SURVEY INFORMATION.

5. EXISTING AND PROPOSED BUILDING STREET INFORMATION PROVIDED BY CITY OF BROOKLYN PARK AND INFORMATION SOURCE, CONFIDENTIAL PROVIDED PROPOSED BUILDING INFORMATION, WE SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF INFORMATION PROVIDED BY THE CITY OF BROOKLYN PARK AND INFRASTRUCTURE SOURCE, CONFIDENTIAL, SURVEY, CONSULTANT SOURCE AND PROVIDED SIMILAR STREET INFORMATION.

6. ACTUAL WORK PROVIDED BY HENNEPIN COUNTY, PROVIDED WORK SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF INFORMATION PROVIDED BY HENNEPIN COUNTY CONCERNING EXISTING INFORMATION.

7. ALL BUILDING TO THE OWNERSHIP SHALL BE PROVIDED OF BY CONTRACTOR OF STATE OF MINNESOTA, NEW STATE, LOCAL AND FEDERAL REGULATIONS.

8. ALL CONSTRUCTION SHALL CONFORM TO THE LATEST EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION".

9. ONCE SHALL BE TAKEN DURING CONSTRUCTION AND EXCAVATION TO PROVIDE DAY SURVEY MONUMENTS AND/OR PROPERTY POINTS.

10. SHOULD HENNEPIN COUNTY AND BROOKLYN PARK DURING WORK PERMIT APPLICATION FOR WORK WORK PLANS, IN ADDITION FOR TO REVIEW, OR INSTALLATION OF SEDIMENT CONTROL AND OVER INSTALLATION OF SEDIMENT OR OVER WORK WORK THE TITLE BLOCK.

11. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL MAINTENANCE AND NATURAL CONTROL TASK, BE ACCURATE FOR ANY DISTURBANCE IN THE FIELD BY THE SURVEYOR. THE TITLE AND SECTIONAL DATA PROVIDED TO REPLACE THE PARK SITE SURVEY CORNER, WILL BE THE RESPONSIBILITY OF THE CONTRACTOR.

12. ALL SIGNS AND SIGNAGE SHALL BE REMOVED BUT TAKEN OTHERWISE WRITTEN.

13. ALL PROPOSED TO FACE OF NEW MAKE OTHERWISE SPECIFIED.

14. NOTICE OVERHEAD SHALL PROVIDE, MADE SOLID PROPOSED.

15. BASELINE FOR SITE LAYOUT IS THE SOUTH PROPERTY LINE, THE BASE POINT FOR THE SITE LAYOUT IS THE SOUTHWEST PROPERTY CORNER.

16. CONTACT A CIVIL, MAKE A SURVEY PLANNING, STUDY AND PROVIDE EVIDENCE UNDER IT'S OWNERS.

SITE DATA

GROSS SITE AREA:	18,000 S.F.	0.34 AC.
RIGHT-OF-WAY TO BE DEDICATED:	3,900 S.F.	0.09 AC.
NET SITE AREA:		0.25 AC.
PARCEL AREAS:		
LOT 1	11,000 S.F.	0.25 AC.
LOT 2	11,000 S.F.	0.25 AC.
LOT 3	11,000 S.F.	0.25 AC.
LOT 4	11,000 S.F.	0.25 AC.
OUTLOT A	3,000 S.F.	0.07 AC.
TOTAL PARCEL AREAS:		

OWNERS

KEVIN THURS
5808 101ST AVE N
BROOKLYN PARK, MN 55443

BEVERLY GOERISCH
9000 CROSSROADS BLVD
BROOKLYN PARK, MN 55443

SANDRA B SIMONS
5824 101ST AVE N
BROOKLYN PARK, MN 55443

R A SIMONS
5800 101ST AVE N
BROOKLYN PARK, MN 55443

PLANNER/LANDSCAPE ARCHITECT

PROVIDED HERE PROVIDED INC. PLAN SECTION
7500 SUPERIOR BLVD., SUITE 170 EDINA, MN 55439
PH: 952.835.2000 FX: 952.835.2010

LEGAL DESCRIPTION

THAT PART OF THE WEST 1/2 OF EAST 1/2 OF WEST 1/2 OF SOUTHWEST 1/4 OF SOUTHWEST 1/4 LYING SOUTH OF NORTH 340 FEET EXCEPT AND LYING NORTH OF SOUTH 300 FEET THEREOF ALSO THAT PART OF SOUTH 300 FEET OF EAST 1/2 OF WEST 1/2 OF SOUTHWEST 1/4 SECTION 08 EXCEPT THE SOUTH 33 FEET THEREOF AS PER (11-17-21-34-4-19)

THE SOUTH 300 FEET OF EAST 132 FEET OF WEST 1/2 OF EAST 1/2 OF SOUTHWEST 1/4 OF SOUTHWEST 1/4 SECTION 08 EXCEPT THE SOUTH 33 FEET THEREOF AS PER (11-17-21-34-4-19)

THE WEST 198 FEET OF SOUTH 300 FEET OF WEST 1/2 OF EAST 1/2 OF SOUTHWEST 1/4 OF SOUTHWEST 1/4 SECTION 08 EXCEPT THE SOUTH 33 FEET THEREOF AS PER (11-17-21-34-4-19)

THAT PART OF THE EAST 1/2 OF EAST 1/2 OF WEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 08 TOWNSHIP 118 RANGE 21 LYING EAST OF THE WEST 300 FEET THEREOF EXCEPT THE NORTH 340 FEET OF THE EAST 132 FEET (11-17-21-34-4-19)

PREPARED FOR:

KEVIN THURS
5717 115TH AVE N
CHAMPLIN, MN 55316
612.310.4106

PREPARED BY:

PDA

PREPARED BY:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Landscape Architect under the laws of the state of Minnesota.

Alan A Kroll
07-11-08
15144

REVISIONS:

No.	Date	Mark

ELM CREEK TRAIL
BUSINESS PARK
101ST AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA

PRELIMINARY PLAT

Drawn by:	MLS
Checked by:	AAK
Date:	07.11.08

CS.1

EXHIBIT G, Pg. 9

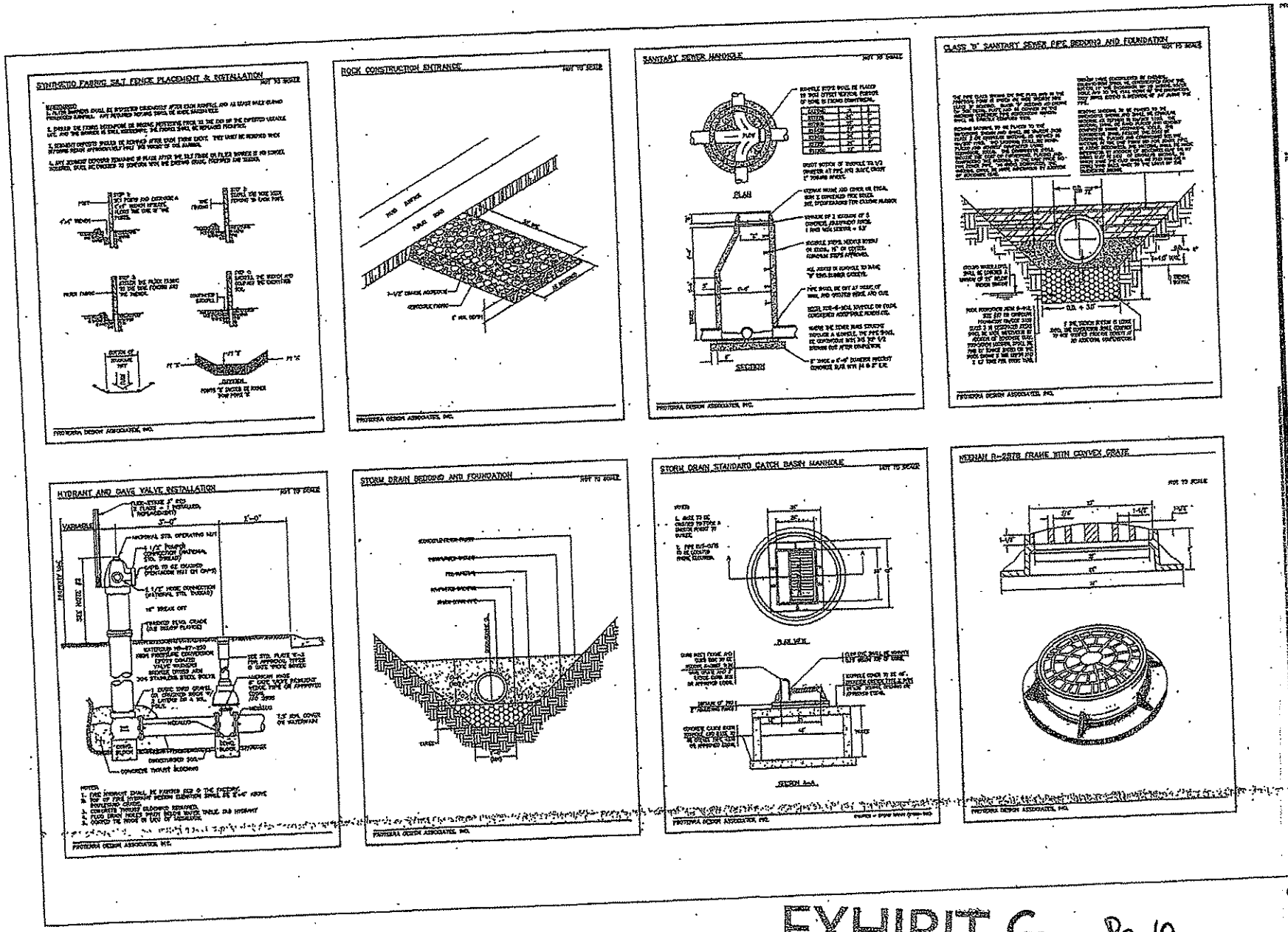
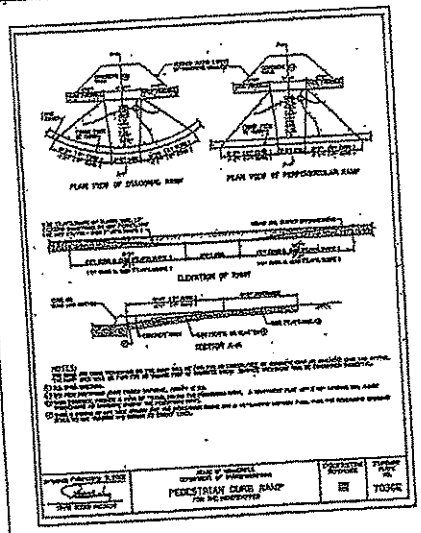
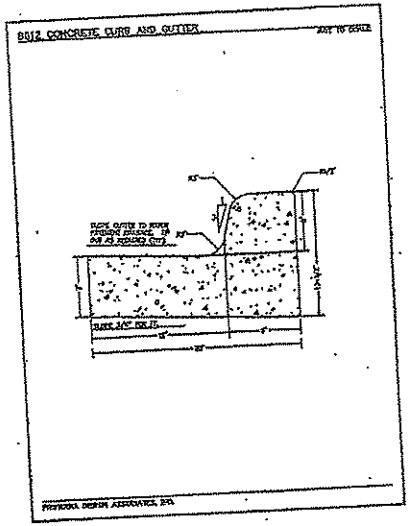
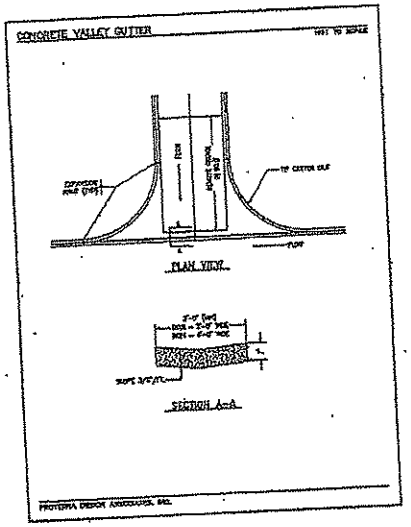
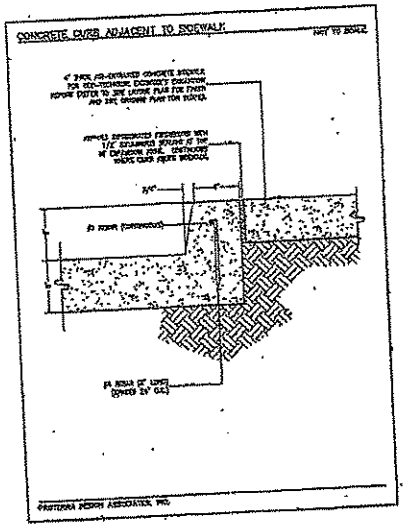


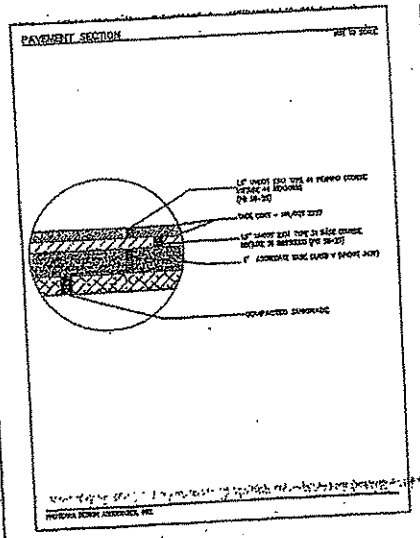
EXHIBIT G, Pg. 10

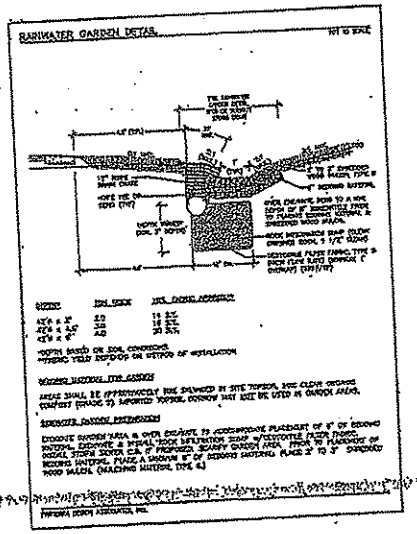












PREPARED FOR

KEVIN THURS
5717 135TH AVE N
CHAMPLIN, MN 55316
612.308.4196

REGISTRATION

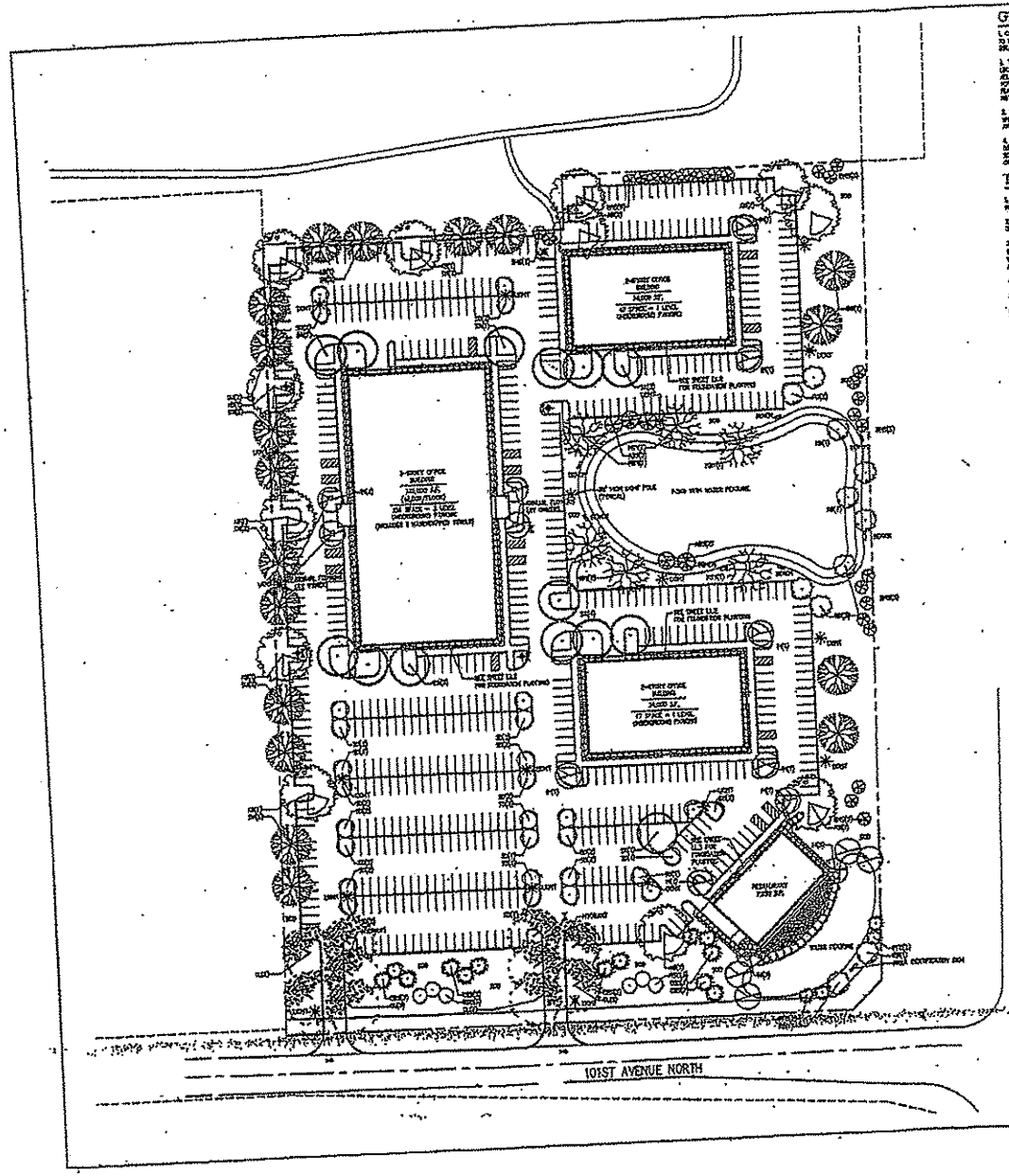
PREPARED BY

REVISIONS

ELM CREEK TRAIL
BUSINESS PARK
10151 AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA

C6.2

EXHIBIT G, Pg. 11



GENERAL NOTES

1. CONTRACTOR SHALL VERIFY "BEFORE STAKE ONE ONLY", THE BUILDING PADS PRIOR TO BEGINNING ANY CONSTRUCTION, THE ENGINEER MUST BE NOTIFIED IMMEDIATELY IF DISCREPANCIES EXIST.

2. THE SHOWN LOCATION OF EXISTING UNDERGROUND UTILITIES IS AN APPROXIMATE LOCATION ONLY AND THAT NOT MORE THAN THE ENGINEER MUST BE NOTIFIED IMMEDIATELY IF DISCREPANCIES EXIST.

3. THE CONTRACTOR SHALL TO BE FULLY RESPONSIBLE FOR ANY AND ALL ACTIVITIES WHICH MUST BE SCHEDULED BY THE OWNER OF THE EMPLOYEES TO ENSURE LEGAL AND PROPER USE AND USE FOR UNDERGROUND UTILITIES.

4. EXISTING SITE INFORMATION PROVIDED BY HENNEPIN COUNTY EXISTING INFORMATION INFORMATION PROVIDED BY SOUR LAKE, INC., PROVIDED SOURCE ASSUMED, THE ENGINEER NOR AN RESPONSIBLE FOR THE ACCURACY OF INFORMATION PROVIDED BY HENNEPIN COUNTY OR THE LAKE UNDERGROUND SOURCE INFORMATION.

LANDSCAPE NOTES

1. NOTE: TO CHECKS, DRAWING & DETAILS CHECKS, PLAN FOR LOCATION AND INSTALLATION OF SHOWN OPTIONS, SHOULDER AND INTERCHANGE.

2. PRIOR TO SITE WORK, INSTALLING WITHOUT CHECKS, BLANKET, SEEDING APPLICATION OF SOIL AND INSTALLATION OF TREES AND SHRUBS.

3. ALL SIT OR SPECIFIED SUPPLY CHECKS OR INCLUDED BY CONTRACTOR THAT WILL NOT BE WITHIN SHALL BE REPORTED TO THE ENGINEER PRIOR TO THE START OF CONSTRUCTION. THE NEED BLANKET OVER INSTALLATION THEN THEN TO BE UNDER INCLUDED THE AND THE FOR INSTALLATION PLANTS AND TO BE CHECKED AND VERIFIED FOR SIZE.

4. LANDSCAPE SEEDING TO BE 6" MINIMUM.

5. REFER TO SHEET L1.1 FOR PLANTING AND SEEDING DETAILS AND SPECIFICATIONS.

6. UNDER PLANTING BEDS TO BE SPECIFIED PLANTED WITHIN 6" TOP SOIL IN BED WITHIN PLANTS.

7. IF CONTRACTOR COMPLETED SEEDING, MEANING PLAN AND MEANING, SCHEDULE, THE PLAN FINAL PLAN, PROCEDURE MUST BEGINNING, MEANING.

8. ALL AREAS DISTURBED FROM CONSTRUCTION ACTIVITIES SHALL BE RESTORED TO PRESENT CONDITIONS.

9. A SPECIFIED-WIDE STRIP OF SOD SHALL BE PLACED AROUND ALL BASE OF SIGNS OR ALL SIGNED AREAS.

10. ALL TREE AREAS TO BE CHECKED WITH STREET AND MUSH FOOD EQUIPMENT REFERENCE TO PROTECTED.

11. ALL PLANTING BEDS TO HAVE MULCH OR MEANING SPECIFIED SUPPLIED CONTRACTOR TO PROVIDE.

12. IF SOILS TO BE REMOVED SEEDED, AND REMOVED BEDS LARGE REPLACEMENT TO SHOWN NO. 1.1.1.

13. ALL PLANTS TO INCORPORATE WITH WEED BARRIER BEFORE MULCHING OR PLACE SOIL ON MEANING, REMOVED BEDING REMOVED, THAT ARE NOT WITH CORRECT SIZE OF MEANING, REMOVED BEDING REMOVED, SHOWN SIZE - SEE DETAILS/NOTE.

14. ALL SHOWN PERMANENT TURF ESTABLISHMENT IS REQUIRED AND REMOVED BEDS WITHIN REFERENCE TO SHOWN NO. 1.1.1. NOTE: IF PLANTING WITH SHOWN SIZE OF DIMENSIONS, REMOVED BEDS OF THE SHOWN BEDS REMOVED MEANING, SIZE OF DIMENSIONS, REMOVED BEDS OF THE SHOWN STANDARD PLANTING SHALL REMOVE SIZE - SEE DETAILS/NOTE.

15. ALL PLANTING TOP SURFACE SHALL BE PLANTED BEDS WITH A DIMENSIONS SHOWN AND A STRIPS SHOWN WITHIN THE ROW OF SHOWN PLANTING BEDS, AND SHOWN WITH WEED BARRIER BEDS, AND A PLANTING BEDS FOR ROW OF SHOWN PLANTING, ALL PLANTING AREA BEDS SHALL BE MULCHED.

LANDSCAPE MATERIAL SCHEDULE

SYMBOL	QTY		SIZE/CONDITION	COMMENTS
OVERSTORY DECIDUOUS TREES				
AG	19	AUTUMN BLAZE MAPLE ACER X FREMANII 'AUTUMNBLAZE'	2-1/2" B & B	FULL CROWN STRAIGHT LEADER
AB	11	RED SUNSET MAPLE ACER RUBRUM 'RED SUNSET'	2-1/2" B & B	FULL CROWN NOT 1 DOMINANT
BS	17	PAPERBARK BIRCH BETULA PAPYRIFERA 'PAPER'	6" B & B	FULL CROWN STRAIGHT LEADER
GK	19	IMPERIAL LOCUST GLEDITSIA TRIACANTHOS INERMIS 'IMPERIAL'	2-1/2" B & B	FULL CROWN STRAIGHT LEADER
SA	11	GREEN MOUNTAIN SUGAR MAPLE ACER SACCHARUM 'GREEN MOUNTAIN'	2-1/2" B & B	FULL CROWN STRAIGHT LEADER
QL	19	SWAMP WHITE OAK QUERCUS BICOLOR	2-1/2" B & B	FULL CROWN STRAIGHT LEADER
HOY	6	HACKBERRY CELTIS OCCIDENTALIS	2-1/2" B & B	FULL CROWN STRAIGHT LEADER
ORNAMENTAL DECIDUOUS TREES				
AUS	5	AUTUMN BRILLIANCE SERVICEBERRY AMELANCHIER X GRANDIFLORA 'AUTUMN BRILLIANCE'	10'-12' B & B	SPECIMEN
PPC	4	PRAIRIE FIRE FLOWERING CRAB MALUS 'PRAIRIE FIRE'	2" B & B	SPECIMEN
RSC	6	RED SPLENDOR FLOWERING CRAB MALUS 'RED SPLENDOR'	2" B & B	SPECIMEN
SSC	13	SPRING SNOW FLOWERING CRAB MALUS 'SPRING SNOW'	2" B & B	SPECIMEN
DECIDUOUS SHRUBS				
DD	63	BLACK CHOKEBERRY ARONIA MELANOCARPA	18"-24" POTTED	MIN. 5 CANES
AO	33	ANNABELLE HYDRANGEA HYDRANGEA ARBORESCENS 'ANNABELLE'	18"-24" POTTED	MIN. 5 CANES
CHZ	13	DWARF WINGED EUONYMUS EUONYMUS ALATUS COMPACTUS	18"-24" POTTED	MIN. 5 CANES
HI	44	PANICULE HYDRANGEA HYDRANGEA PANICULATA 'GRANDIFLORA'	18"-24" POTTED	MIN. 5 CANES
DRL	37	DWARF KOREAN LILAC SYRINGA MEYERI 'PALIBIN'	18"-24" POTTED	MIN. 5 CANES
RR	94	ALPINE SPIREA ANNE SPIRAEA BUMALDA	18"-24" POTTED	MIN. 5 CANES
GFS	92	GOLDFLAME SPIREA SPIRAEA X BUMALDA 'GOLDFLAME'	18"-24" POTTED	MIN. 5 CANES
CLY	11	VIBURNUM DILATUM COMPACTA VIBURNUM DILATUM COMPACTA	18"-24" POTTED	MIN. 5 CANES
MV	47	MEADOW ROSE VIBURNUM ROSEUM 'MEADOW'	24" POTTED	MIN. 5 CANES
EVERGREEN TREES				
BHS	27	BLACK HILLS SPRUCE PICEA GLAUCA DENSATA	10-12 FEET SPACED	FULL FORM TO GRADE
CSP	13	COLORADO SPRUCE PICEA PUNGENS	14-17 FEET SPACED	FULL FORM TO GRADE
EVERGREEN SHRUBS				
BJ	65	BUFFALO JUNIPER JUNIPERUS SABINA 'BUFFALO'	#5 CONT.	15" - 18" SPRDD
PERENNIALS				
BCS	27	BLACK EYED SUSAN RUDBECKIA COLDSTONE	#1 CONT.	SPACE 2' O.C.
IB	27	BUTTER & BLUE INDIAN ASTER ASTER DUMOSUS	6" POT	SPACE 2' O.C.
PDA	12	PURPLE CONE FLOWER ECHINACEA PURPUREA 'DUCHE'	6" POT	SPACE 2' O.C.
PC	8	PURPLE CONEFLOWER ECHINACEA PURPUREA (PLAN)	#1 CONT.	SPACE 2' O.C.
PHD	111	PAPPON NO DWARF PENNISETUM TAMPON NO	#1 CONT.	SPACE 2' O.C.
SSD	121	PICEA SUPERIOR DWARF NORTHWINDS 'SUPERIOR'	#5 CONT.	SPACE 2' O.C.
VS	28	VERONICA SPICATA VERONICA SPICATA	6" POT	SPACE 2' O.C.
GRASSES				
LB	21	LITTLE BLUESTEM SCHIZACHYRIUM SCOPARIUM	6" POT	SPACE 18" O.C.

PRELIMINARY FOR REVIEW ONLY

0 30' 60' 120' 180'

PREPARED FOR:

KEVIN THURS
5717 113TH AVE N
CHAMPLIN, MN 55316
612.708.4106

REGISTRATION:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Landscape Architect under the laws of the state of Minnesota.

Alan A Kroeker

Alan A Kroeker

07.11.09

12344

PREPARED BY:

PDA

PLANNING DEVELOPMENT ASSOCIATES, INC.
7500 MEDICINE LAKE ROAD, SUITE 110
GOLDEN VALLEY, MINNESOTA 55427

PH: 763.797.1187
FX: 763.797.1189
www.pdaplanning.com

REVISIONS

No.	Date	Item

ELM CREEK TRAIL
BUSINESS PARK
101ST AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA

PRELIMINARY LANDSCAPE PLAN

PROJECT NO.	08023
DRAWN BY	MLS
CHECKED BY	AAK
DATE	07.11.09
SHEET	L1.1

EXHIBIT G, Pg. 12

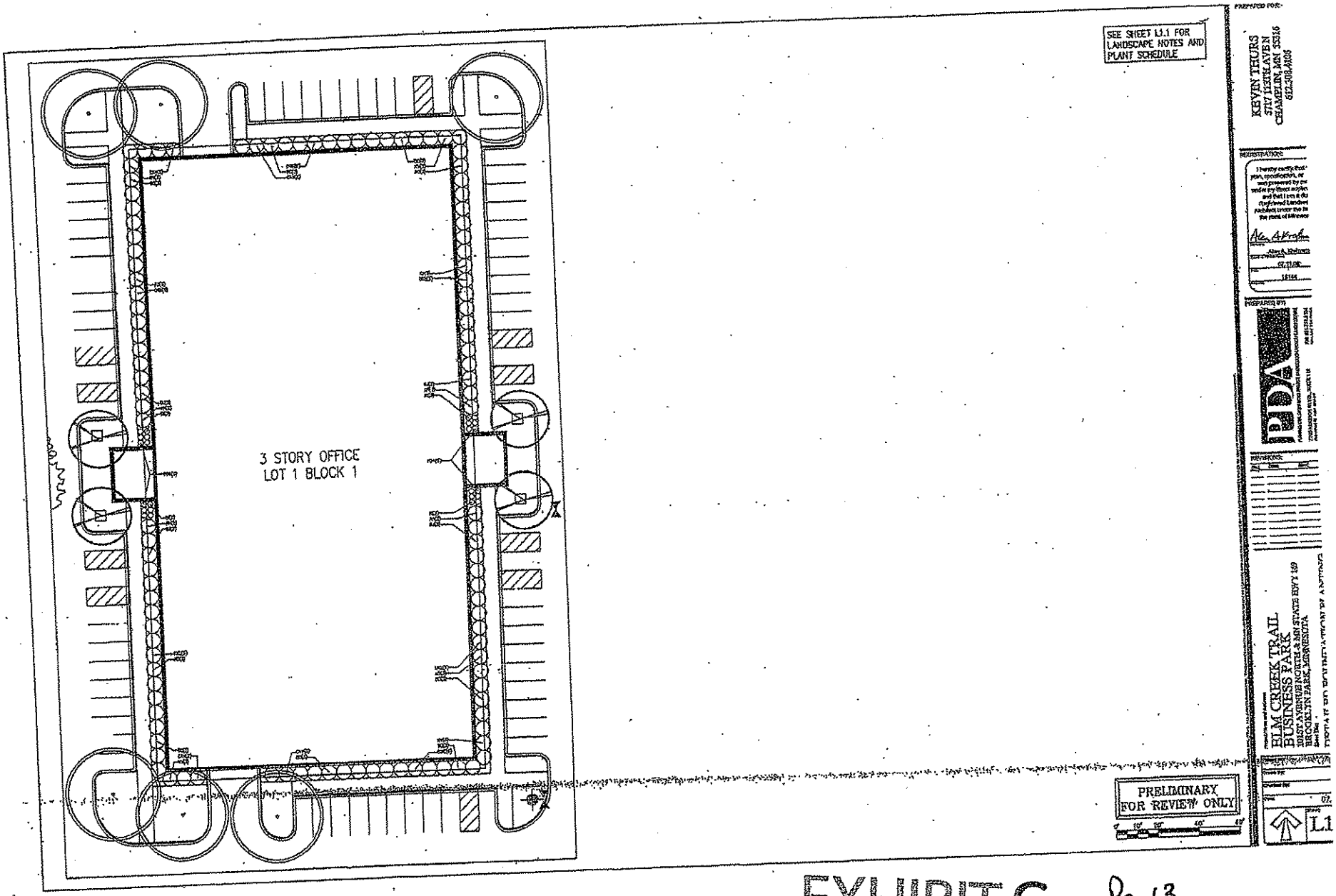


EXHIBIT G, Pg. 13

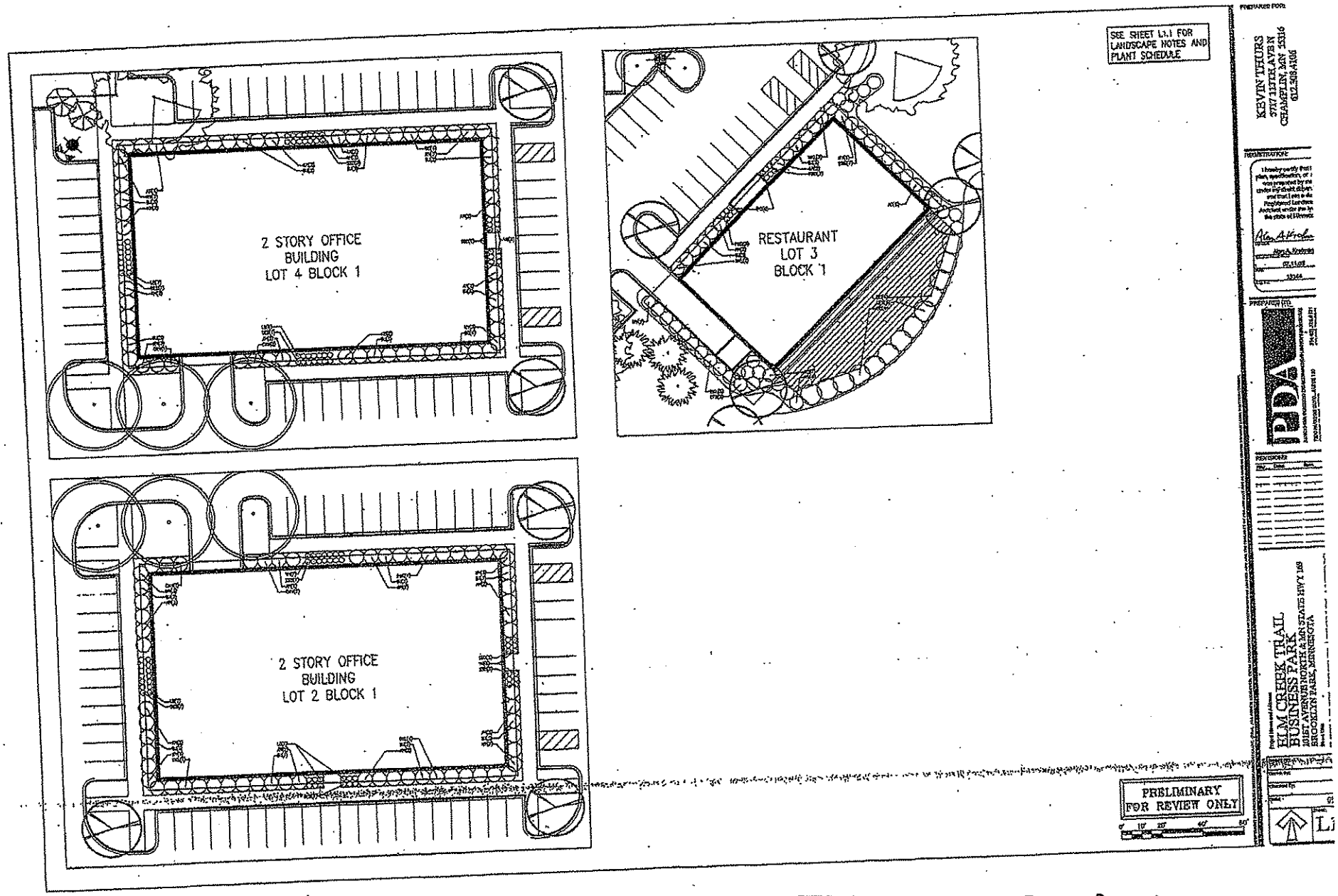


EXHIBIT G, Pg. 14

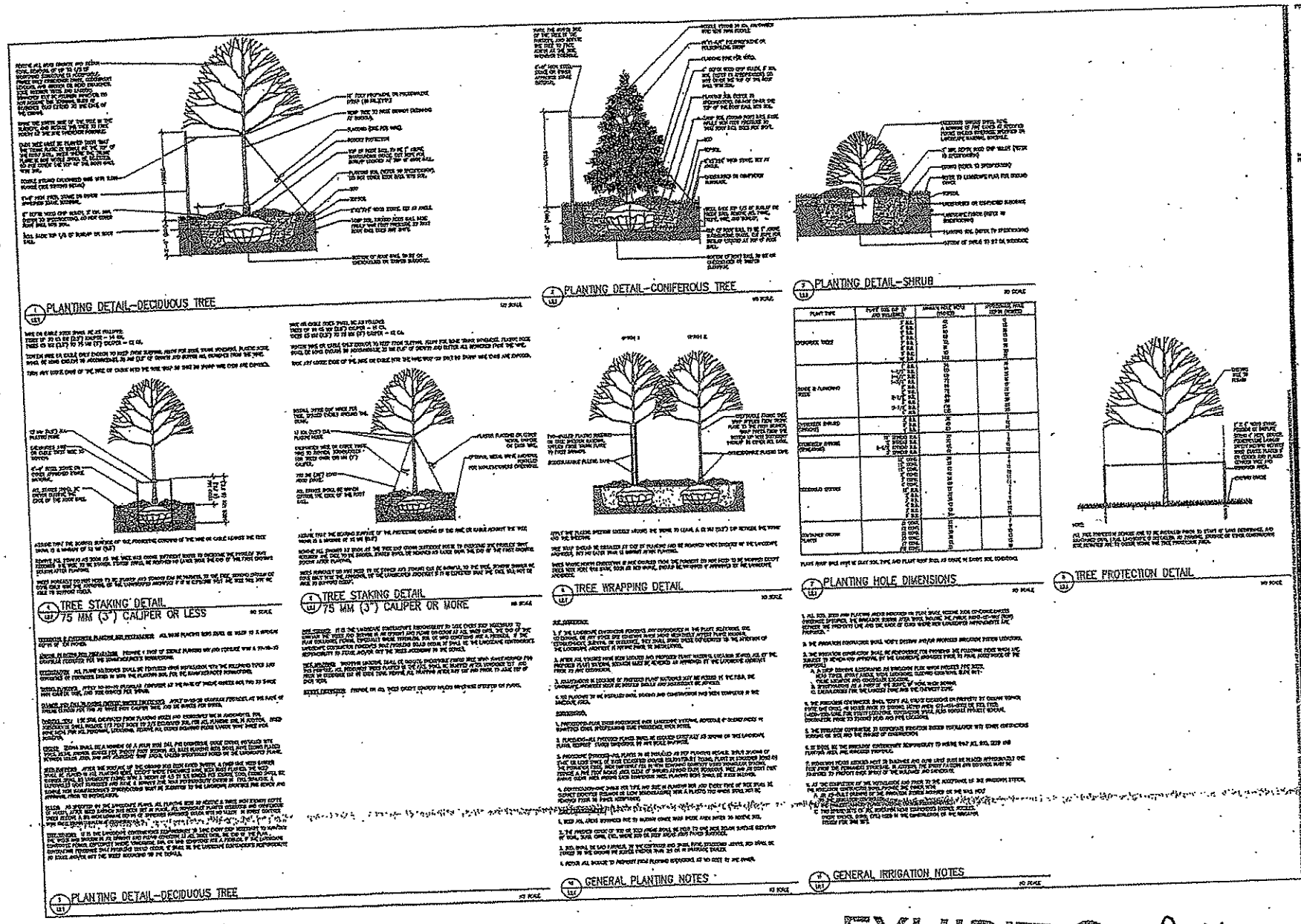


EXHIBIT G, Pg. 15

BROOKLYN PARK

5200 85th Ave. N., Brooklyn Park, MN 55443-4301 • Phone 763-424-8000 • Fax 763-493-8391
TDD 763-493-8392

Gary E. Brown, P.E.
Director of Engineering & Building Inspections

JAN - 9 2009 brooklyn park engineering

JAN 0 9 2009

January 8, 2009

Lynette DuFresne, Investigator
Minnesota Board of Architecture, Engineering, Land Surveying,
Landscape Architecture, Geoscience & Interior Design
85 East 7th Place, Suite 160
St. Paul, MN. 55101

Subject: Alan Kretman, Landscape Architect, #15144, File Number 2009-0002

Dear Ms. DuFresne:

This letter is in response to your letter of December 22, 2008, asking for additional information regarding the above mentioned complaint. On June 23rd, I submitted a complaint regarding Mr. Kretman in his submittal of 3R's Child Development Center located on 85th Avenue just east of City Hall. The 3R's application was for a CUP to allow construction of a 15,000 sq. ft. Day Care and all site improvements. Those plans were submitted for Planning approval and Mr. Kretman was advised that the building permit would not be issued until and unless a civil engineer submitted the plans with an approved signature and registration. That particular project is now under construction and a civil engineer did sign the set of plans that were approved.

On August 4, 2008, I submitted additional information regarding a second submittal that Mr. Kretman made to the City of Brooklyn Park regarding the Elm Creek Trail Business Park. In the case of the Elm Creek Trail Business Park preliminary plans, they were submitted for conceptual plan approval only. Those plans were recommended for approval by the City's Planning Commission even though they were inconsistent with the City's staging plan. On November 24, 2008, the City Council voted to deny the Elm Creek Trail Business Park concept plan. I have attached the City's agenda item as well as approved minutes referencing that action. As you can see by the City Council agenda item, the Elm Creek Trail Business Park was a concept plan. Typically, in a concept plan we would like to see some sort of an idea of the location of water and sanitary sewer connections and how the developer is proposing to handle their storm water, especially since in this case, a pond with a water feature was being proposed immediately adjacent to the two level underground parking facility. Also, how is the developer planning on handling the infiltration/seepage that will likely occur from an adjacent pond getting into two floors of underground parking constructed in sandy soils. In addition, two 34,000 square foot buildings were being proposed and underground parking is also proposed for both of these sites. 101st Avenue is the roadway that this proposed development is located on and it is an unimproved road with recycled asphalt being used as a surface. It is important to note that the City was very concerned as to

whether or not this project was economically feasible at this time, since the owners of the property definitely wanted to develop their property in the most cost effective manner possible.

I have also enclosed a recent complaint that the owners have filed against the City for denying the approval of the project. As you can see in the complaint on page 5, paragraph 14, indicates that the City refused to accept the submittal by Mr. Kretman because the information was incomplete. The owners and Mr. Kretman insisted on having the Planning Commission review their concept plan despite the lack of information referenced above, needed to make a recommendation. Specifically on items such as where the water and sanitary sewer and storm sewer utilities were going to come from. Please note that the enclosed colored aerial shows the nearest City water 1 mile to the east, City storm sewer over 3,000 feet to the west. The City can construct a line to connect to the Met Council Interceptor sewer, but there is not an existing City sewer within 1 mile of the property. In paragraph 22, of the complaint, the City Council voted to deny the concept plan #08-123 for the following reasons:

1. The application is premature for the following reasons:
   - A. Roadway improvements are not in place or planned to serve the type of development proposed.
   - B. Brooklyn Park public utilities are not readily available to serve the site.
   - C. There are currently approximately 400 acres of vacant land with City services available for office development.
   - D. The current market does not warrant deviating from the staging plan without specific user identified.
   - E. The Comprehensive Plan does not call for utilities to be staged into this area at this time.
   - F. The zoning of the property does not allow for the development as proposed.
   - G. The civil plans have not been designed by an engineer licensed in the State of Minnesota.

Mr. Kretman has provided advice to the property owners that has given them a false sense of the ability to develop their property. Again, it is my belief that the development would not have progressed had a licensed Professional Engineer been consulted.

I have enclosed overall utility plans (on aerials) showing the proposed development and the available water and sanitary sewer to the site.

No other City approvals have been given.

The applicant did not, nor did his consulting firm, present any documentation that other professionals had worked on the plans.

At this point in time, plans have not been amended to include requested changes.

EXHIBIT H - Pg. 2

The only disclaimer on the plans is that they are stamped "preliminary for review only." There is no disclaimer "not for construction." Assistant City Engineer, Kevin Larson, reviewed the plans. Kevin is also a Professional Engineer in the State of Minnesota. His direct dial number is (763) 493-8114, and his address is the same as our City Hall address. It should be noted that Mr. Kretman asked to see the sanitary sewer plans for the Met Council's Interceptor sewer even though he was told by Kevin that a direct connection is not permitted for services. Cindy Sherman, the Planning Director, also reviewed the plans. Her direct dial number is (763) 493-8051.

Sincerely,

Gary E. Brown

Gary E. Brown, P.E.
Director of Engineering and Building Inspections

GEB/md

Enclosures:
City Council Agenda Item 6.3, Elm Creek Business Park, November 24, 2008
Minutes of City Council Meeting, November 24, 2008
Summons by Mr. Kretman's Clients
2 Aerial Maps Showing City Utilities

cc: Cindy Sherman, Planning Director
Kevin Larson, Assistant City Engineer
Jamie Verbrugge, City Manager

EXHIBIT H - Pg 3

City of Brooklyn Park **Planning Staff Report**			
Agenda Item No:	6.3	**Meeting Date:**	November 24, 2008
Agenda Section:	Land Use Action	**Originating Department:**	Planning Division
Resolution:	N/A		
Ordinance:	N/A	**Prepared By:**	Cindy Sherman
No. of Attachments:	5	**Presented By:**	Cindy Sherman
Item:	Elm Creek Business Park Concept Plan		

City Managers Recommendation: MOTION _____ SECOND _____ TO WAIVE THE READING AND ADOPT RESOLUTION 2008-_____ TO (APPROVE OR DENY) THE ELM CREEK TRAIL BUSINESS PARK CONCEPT PLAN, SUBJECT TO CONDITIONS IN THE RESOLUTION.

Planning Commission Recommendation: The Planning Commission voted 5-2 to recommend approval of the concept plan subject to the conditions outlined in the attached resolution.

Overview:

The property owners located at the Northwest corner of 101st Ave. N and Highway 169 have submitted a concept plan for their property. The plan as submitted includes three office buildings and a restaurant site.

The property is currently zoned R-1, Urban Reserve. The ordinance states:

(A) *Purpose*. The "R-1" Urban Reserve District is intended to provide the following:

(1) A district which allows for the orderly phasing and development of land until city services, including sanitary sewer, storm sewer, and water, are extended into the area in compliance with the Comprehensive Plan.

(2) A district for uses that typically require significant amounts of open land area such as athletic and cultural facilities, country clubs, government buildings, educational uses, and land reclamation.

(3) A district which allows for short-term agriculture uses and very low density residential uses and those accessory uses customarily incidental to them.

The current comprehensive plan that governs the property is the *2004 Update to the Northern Brooklyn Park Master Plan*. This plan includes a staging plan for extension of utilities. This property is located in Stage 5 which is planned to be the last area of the city to receive public utility service.

Since 1963 the City has had a growth management policy to moderate the pace of growth and allow roads, utilities, and other services to be in place ahead of development. Growth is planned in accordance with the land use plan, the staging plan and the capital improvements plan. The comprehensive plan allows for flexibility in

EXHIBIT H- Pg.4

the staged growth plan by requiring a comprehensive plan amendment when a development proposal meets the City's intention.

Concept Plan:

The applicants have submitted a concept plan to receive comments on the proposal and to begin discussions regarding the rezoning and comprehensive plan amendment that are necessary for development to occur.

Staff received plans on July 30 and provided the applicants with a list of issues/concerns. We met with the applicants to review the comments and proposed revisions. The engineer was to submit the revisions on October 27. We did not receive the revised plans on that date so we have based our review on the original submittal and offer the following comments.

1. The concept plan does not include how utilities will be extended, constructed, and financed to serve the site. Water is currently located at the intersection of Oak Grove Parkway and West Broadway. The sanitary sewer located under 101st Avenue is the Elm Creek Interceptor which is up to 30' deep and can not provide direct service. The plan does not address the lateral system needed to serve the site.

2. Parking on the site needs to be provided for the intended uses shown and are based on gross square footage. The plan shows parking for storerooms/warehousing but the buildings are identified as office. Additionally, the numbers do not add up or calculate correctly.

3. Soil borings will be necessary to determine if underground parking is feasible based on the anticipated water table.

4. Based on new policies in effect regarding ground water protection, the city is not supportive of large open water features.

5. Information regarding the preliminary designs of the buildings is required.

6. Projects of this size require a traffic study and one will be required for the project to move beyond a concept. A traffic study will examine the necessary improvements to the existing roadway system in order to accommodate the proposed uses.

7. From air photos, it appears that there may be a wetland at the northern portion of the site. A wetland delineation report is required and should be completed early on to determine the impact on the site.

8. The site is located adjacent to the North Hennepin Regional Trail Corridor (sometimes referred to as the Elm Creek or Rush Creek Trails). Three Rivers Park District has indicated that spurs to the trail must be public and spaced far apart. The access shown appears to be private. Any access will have to be approved by the Park District.

9. The site is subject to park dedication at the time of development. In this case land dedication will be required. The business land dedication rate is 5 percent of the site. The required dedication will be a strip of land adjacent to the existing corridor equal to 5 percent of the land area, excluding wetlands.

EXHIBIT H- Pg.5

10. The site is currently zoned R-1, Urban Reserve District. This zoning allows for the orderly phasing and development of land until city services are extended into the area in compliance with the Comprehensive Plan. The land would need to be rezoned to allow development to occur.

11. This proposal is not consistent with the staging plan within the Comprehensive Plan. In order to deviate from the phasing plan a comprehensive plan amendment will be necessary.

Staff is aware that many of the comments have been addressed by the applicant's engineer although not submitted. As with other concept plans we provide general comments as to the uses and site layout. The bigger discussion items related to this concept plan are whether or not the land is ready for rezoning and if a comprehensive plan amendment is appropriate.

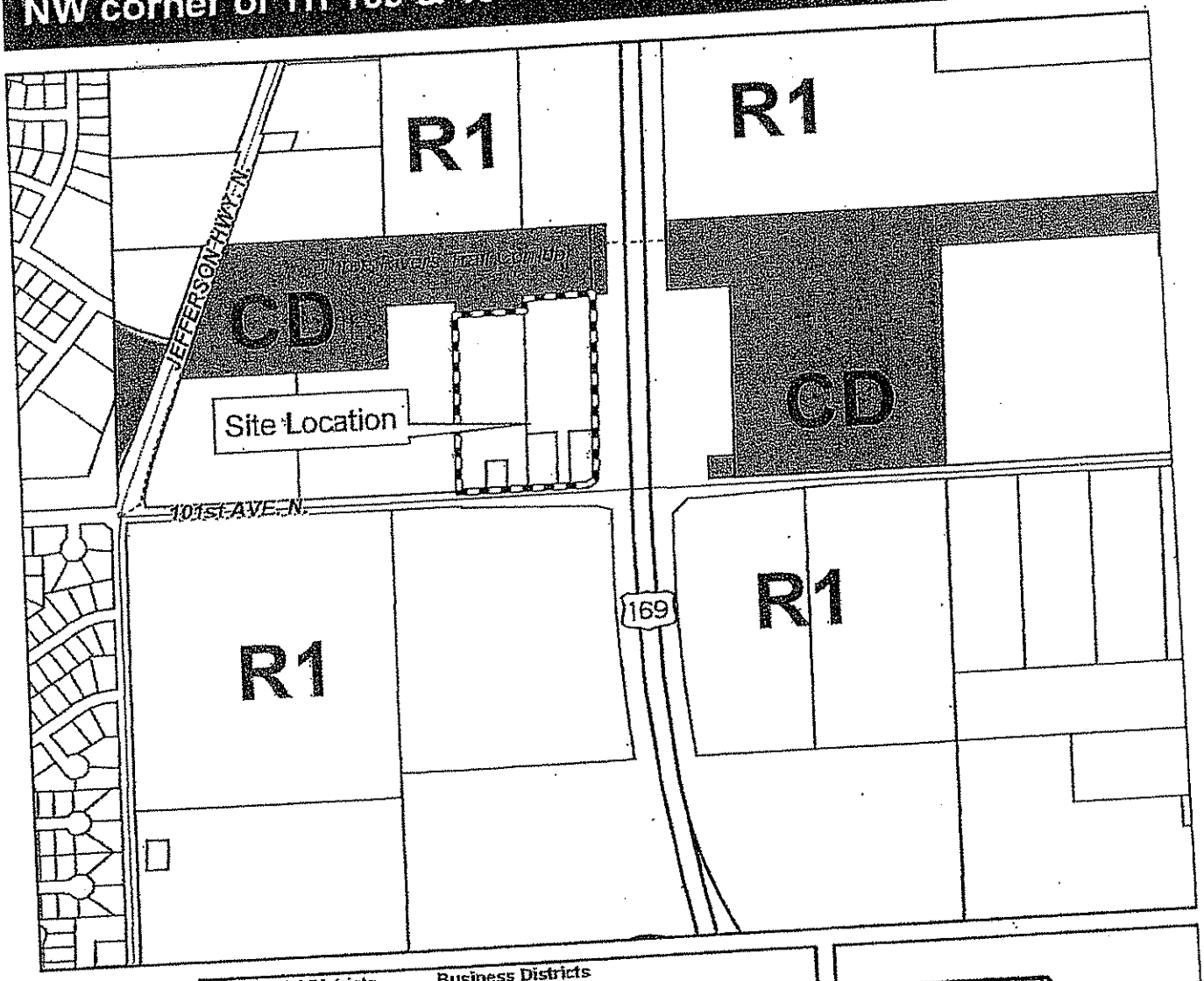
Attachments:

6.3 LOCATION MAP
6.3 RESOLUTIONS (2)
6.3 PLANS
6.3 UNAPPROVED PLANNING COMMISSION MINUTES

EXHIBIT H- Pg. 6

LOCATION MAP

Concept Plan #08-123 Elm Creek Business Park
NW corner of TH 169 & 101st Ave. N.



BROOKLYN PARK

N

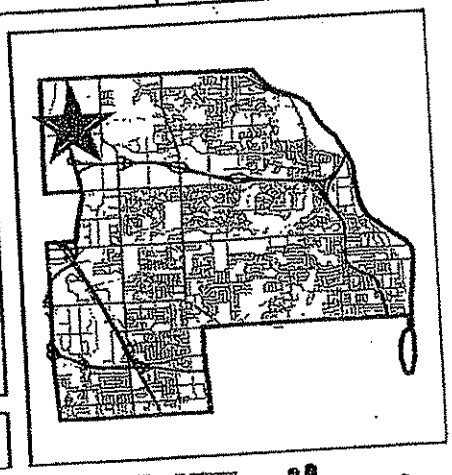
290 Feet

Residential Districts
- R1 - Urban Reserve
- R2 - Single Family Estate
- R2B - Single Family (85')
- R3 - Single Family (80')
- R3A - Single Family (75')
- R4 - Single and Two Family
- R4A - Townhouse
- R4B - Detached Townhouse
- R5 - Multiple Family
- R6 - Multiple Family
- R7 - Multiple Family

Overlay Districts
- HO - Highway Overlay

Business Districts
- B1 - Office Park
- B2 - Neighborhood Retail
- B3 - General Business
- B4 - Vehicle Sales & Showroom
- BP - Business Park
- I - General Industrial

Special Districts
- PCDD - Planned Community Development District
- PUD - Planned Unit Development
- TC - Town Center
- CD - Concervancy District
- PI - Public Institution
- VR - Village Redevelopment



This is an area identification map showing the property proposed for development and area zoning classifications. Map Date November 16, 2008.

EXHIBIT H- Pg. 7

RESOLUTION #2008-___

RESOLUTION TO APPROVE CONCEPT PLAN #08-123
ELM CREEK TRAILS BUSINESS PARK
LOCATED AT THE NORTHWEST CORNER OF 101ST AVE. NORTH AND HIGHWAY 169

PLANNING COMMISSION FILE #08-123

WHEREAS, an application was submitted for a Concept Plan in the R-1, Urban Reserve District as described in Section 152.031 of City Code on property legally described as:

INSERT LEGAL

WHEREAS, the property owners have submitted an application for concept review; and

WHERAS, the property is zoned R-1, Urban Reserve district; and

WHEREAS, the property is not scheduled for public utilities in at least the next 5 years; and

WHEREAS, the applicants have indicated their desire to develop outside of the city's staging plan; and

WHEREAS, City may consider modifying the staging of utilities if there is a compelling reason to do so; and

WHEREAS, the concept plan outlines a general site layout with a mix of office buildings and a restaurant site which are desirable uses.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK that the concept plan for Elm Creek Trials Business Park be APPROVED subject to the following conditions:

1. A plan for how utilities will be extended, constructed, and financed to serve the site shall be submitted.
2. Parking on the site needs to meet the ordinance for the intended uses.

EXHIBIT H- Pg. 8

3. Soil borings will be necessary to determine if underground parking is feasible based on the anticipated water table. The amount of development will be impacted if underground parking is not feasible.

4. Storm water management must meet city/watershed regulation.

5. Information regarding the preliminary designs of the buildings is required.

6. A traffic study will be required for the project to move beyond a concept. A traffic study will examine the necessary improvements to the existing roadway system in order to accommodate the proposed uses.

7. A wetland delineation report is required and shall be completed prior to the next stage of development.

8. Any trail access will have to be approved by the Three Rivers Park District.

9. Park dedication is subject to the approval of the Parks Advisory Commission and staff will recommend a 5% land dedication, excluding wetlands adjacent to the trail corridor.

10. Future applications will include a rezoning of the property.

11. A comprehensive plan amendment must be approved to deviate from the city staging plan.

12. The City shall require a signed letter of intent with a specific user in order for the concept plan to move forward to development plan.

RESOLUTION #2008-___

RESOLUTION TO DENY CONCEPT PLAN #08-123
ELM CREEK TRAILS BUSINESS PARK
LOCATED AT THE NORTHWEST CORNER OF 101ST AVE. NORTH AND HIGHWAY 169

PLANNING COMMISSION FILE #08-123

WHEREAS, an application was submitted for a Concept Plan in the R-1, Urban Reserve District as described in Section 152.031 of City Code on property legally described as:

INSERT LEGAL

WHEREAS, the property owners have submitted an application for concept review; and

WHERAS, the property is zoned R-1, Urban Reserve district; and

WHEREAS, the property is not scheduled for public utilities in at least the next 5 years; and

WHEREAS, the applicants have indicated their desire to develop outside of the city's staging plan; and

WHEREAS, City may consider modifying the staging of utilities if there is a compelling reason to do so.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK that the concept plan for Elm Creek Trials Business Park be DENIED based on the following findings:

1. The application is premature for the following reasons:
   a. Roadway improvements are not in place or planned to serve the type of development proposed.
   b. Public Utilities are not readily available to serve the site.
   c. There are currently approximately 400 acres of vacant land with city services available for office development.
   d. The current market does not warrant deviating from the staging plan without a specific user identified.

EXHIBIT H - Pg.10

ELM CREEK TRAILS BUSINESS PARK

BROOKLYN PARK, MINNESOTA

DRAWING INDEX

CITY

CITY OF BROOKLYN PARK
5104 85TH AVENUE NORTH
BROOKLYN PARK, MN 55443
PHO 763.493.8111 FAX 763.493.8521

OWNERS

KEVIN THURS
5707 115TH AVE N
CHAMPLIN, MN 55316

RA SIMONS ETAL
RA SIMONS
8600 101ST AVE N
BROOKLYN PARK, MN 55445

SANDRA R SIMONS
8604 101ST AVE N
BROOKLYN PARK, MN 55443

BEVERLY GORDISH
8608 101ST AVE N
BROOKLYN PARK, MN 55443

PLANNER/LANDSCAPE ARCHITECT

PROTERRA DESIGN & ASSOCIATES, INC.
ALAN WHETHAM
7500 HUDSON BLVD., SUITE 110
OAKDALE, MN 55128
PHO 651.704.8531 FAX 651.702.0648

LEGAL DESCRIPTION

THAT PART OF WEST ½ OF EAST ½ OF SOUTHEAST ¼ OF SOUTHWEST ¼ LYING SOUTH OF NORTH 300 FEET THEREOF AND LYING NORTH OF SOUTH 300 FEET OF SAID WEST ½ THEREOF ALSO THAT PART OF SOUTH 300 FEET OF SAID WEST ½ SECTION 8 RANGE 118 TOWNSHIP 31 (PID 06-118-21-31-0002)

AND

SOUTH 300 FEET OF EAST 133 FEET OF WEST ½ OF EAST ½ OF SOUTHEAST ¼ OF SOUTHEAST ¼ SECTION 08 RANGE 118 TOWNSHIP 31 EXCEPT ROAD (PID 06-118-21-31-0002)

AND

WEST 167 FEET OF SOUTH 300 FEET OF WEST ½ OF EAST ½ OF SOUTHEAST ¼ OF SOUTHWEST ¼ SECTION 08 RANGE 118 TOWNSHIP 31 EXCEPT ROAD (PID 06-118-21-31-0002)

AND

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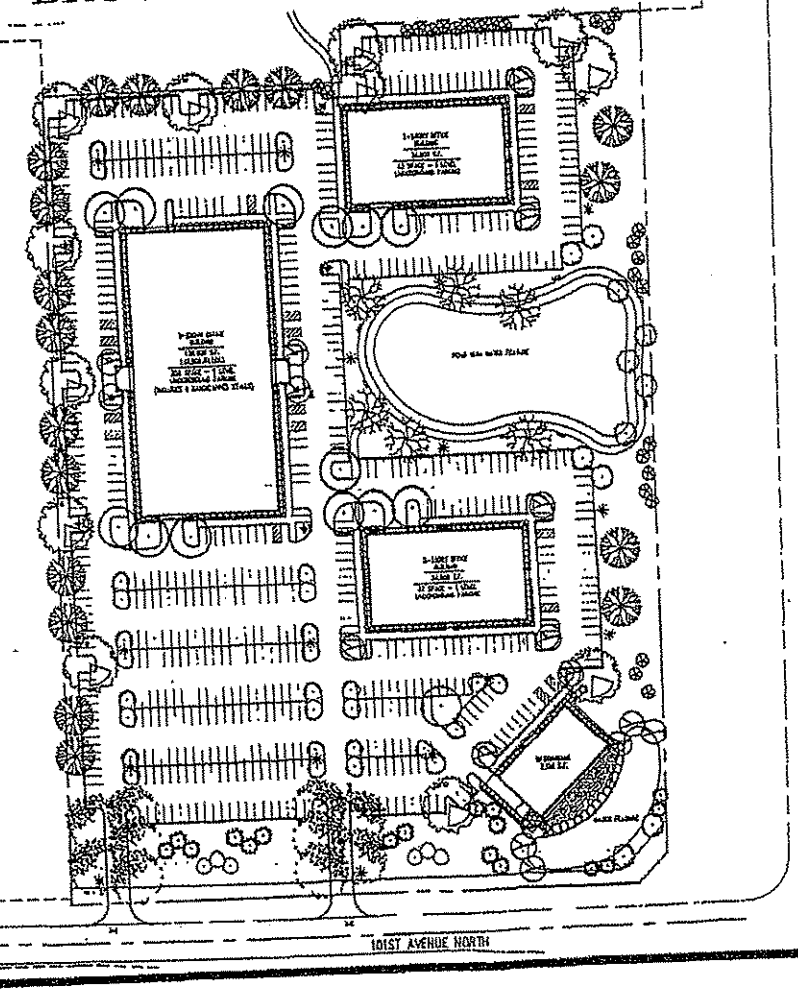
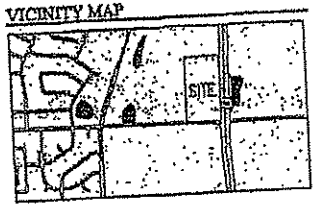


VICINITY MAP



LEGEND

EXISTING

PROPOSED

EXHIBIT H
Pg. 11

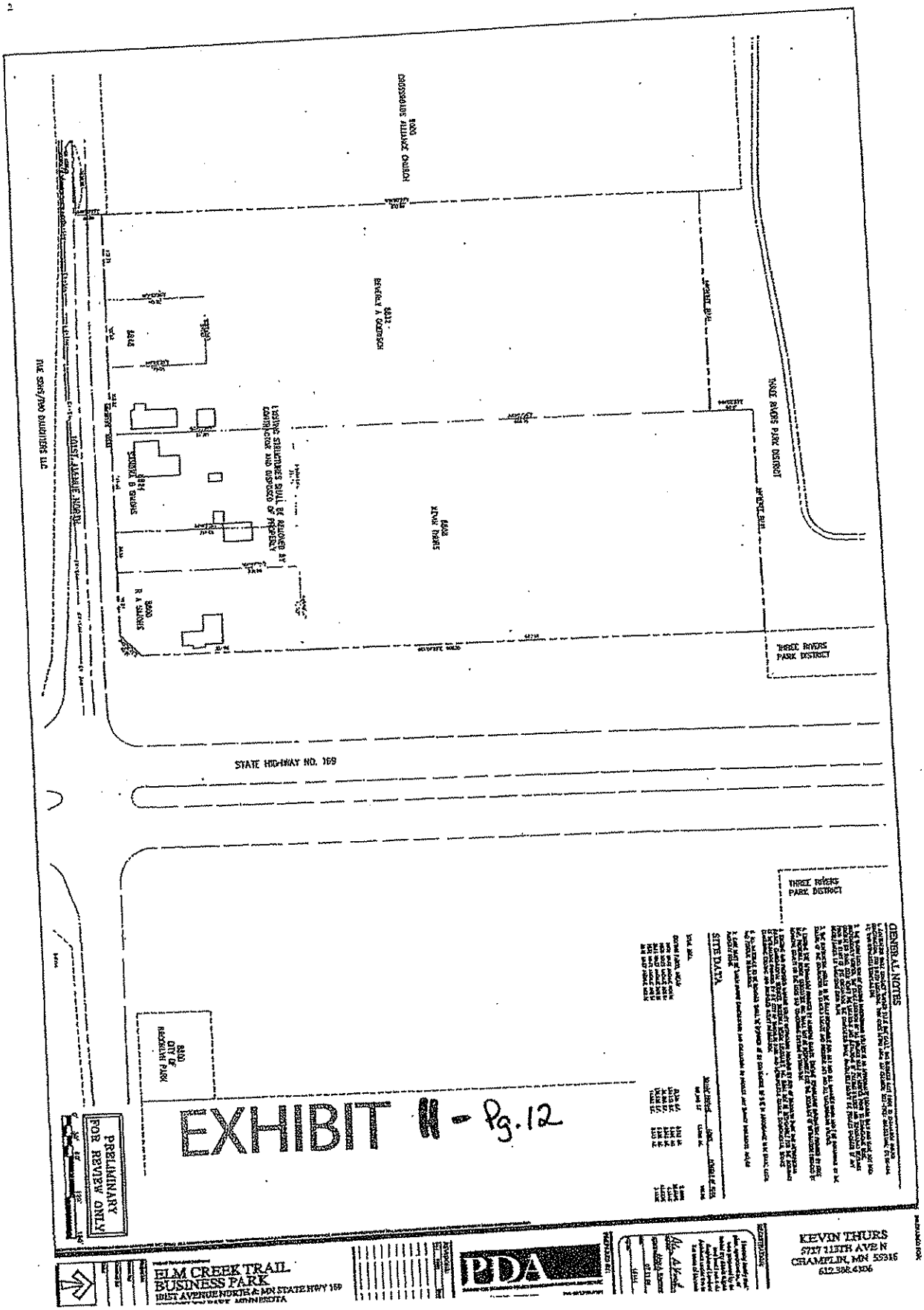
PREPARED FOR:
KEVIN THURS
5707 115TH AVE N
CHAMPLIN, MN 55316
612.308.4106

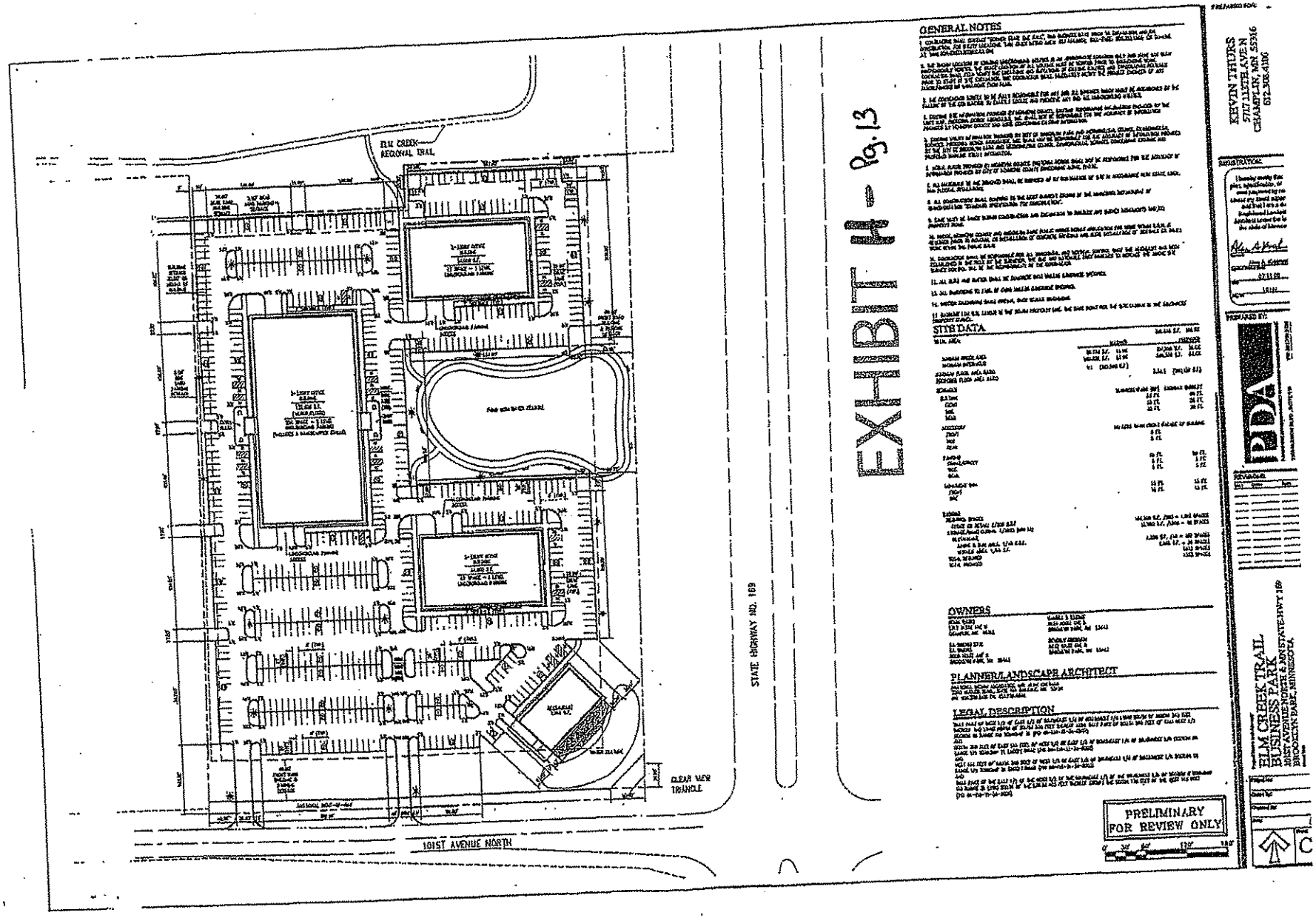
REGISTRATION

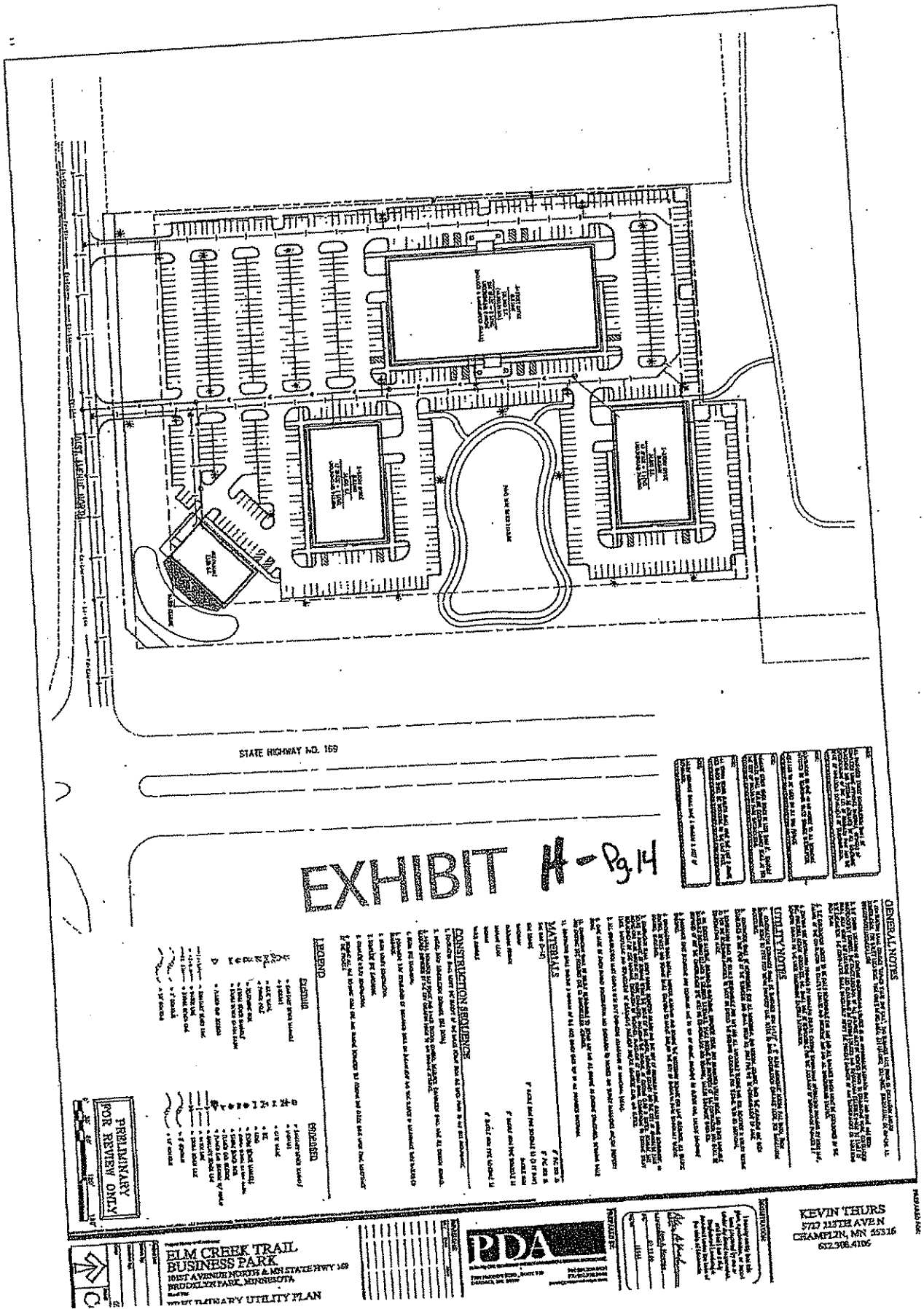
PREPARED BY:
PDA

REVISIONS:

ELM CREEK TRAIL
BUSINESS PARK
101ST AVENUE NORTH & MN STATE HWY 169
BROOKLYN PARK, MINNESOTA


STATE HIGHWAY NO. 169
THREE RIVERS PARK DISTRICT
THREE RIVERS PARK DISTRICT
GENERAL NOTES
SITE DATA
EXHIBIT H - Pg. 12
PRELIMINARY FOR REVIEW ONLY
ELM CREEK TRAIL BUSINESS PARK
PDA
KEVIN THURS
5717 113TH AVE N
CHAMPLIN, MN 55316
612.388.4106


ELM CREEK REGIONAL TRAIL
STATE HIGHWAY NO. 169
101ST AVENUE NORTH
CLEAR VIEW TRIANGLE
EXHIBIT H - Pg. 13
GENERAL NOTES
SITE DATA
OWNERS
PLANNER/LANDSCAPE ARCHITECT
LEGAL DESCRIPTION
PRELIMINARY FOR REVIEW ONLY
KEVIN THURS
5717 LUCE AVE N
CRYSTAL, MN 55316
612.308.4106
ELM CREEK TRAIL BUSINESS PARK
WEST ASPIRE HOMES & ADVISTATE-HWY 169
BROOKLYN PARK, MINNESOTA
PDA


STATE HIGHWAY NO. 169
EXHIBIT A - Pg. 14
GENERAL NOTES
UTILITY NOTES
CONSTRUCTION SEQUENCE
MATERIALS
LEGEND
PRELIMINARY
FOR REVIEW ONLY
ELM CREEK TRAIL
BUSINESS PARK
PRELIMINARY UTILITY PLAN
PDA
KEVIN THURS
5717 113TH AVE N
CHAMPLIN, MN 55316
612.306.4106

PRELIMINARY PLAT FOR ELM CREEK TRAIL

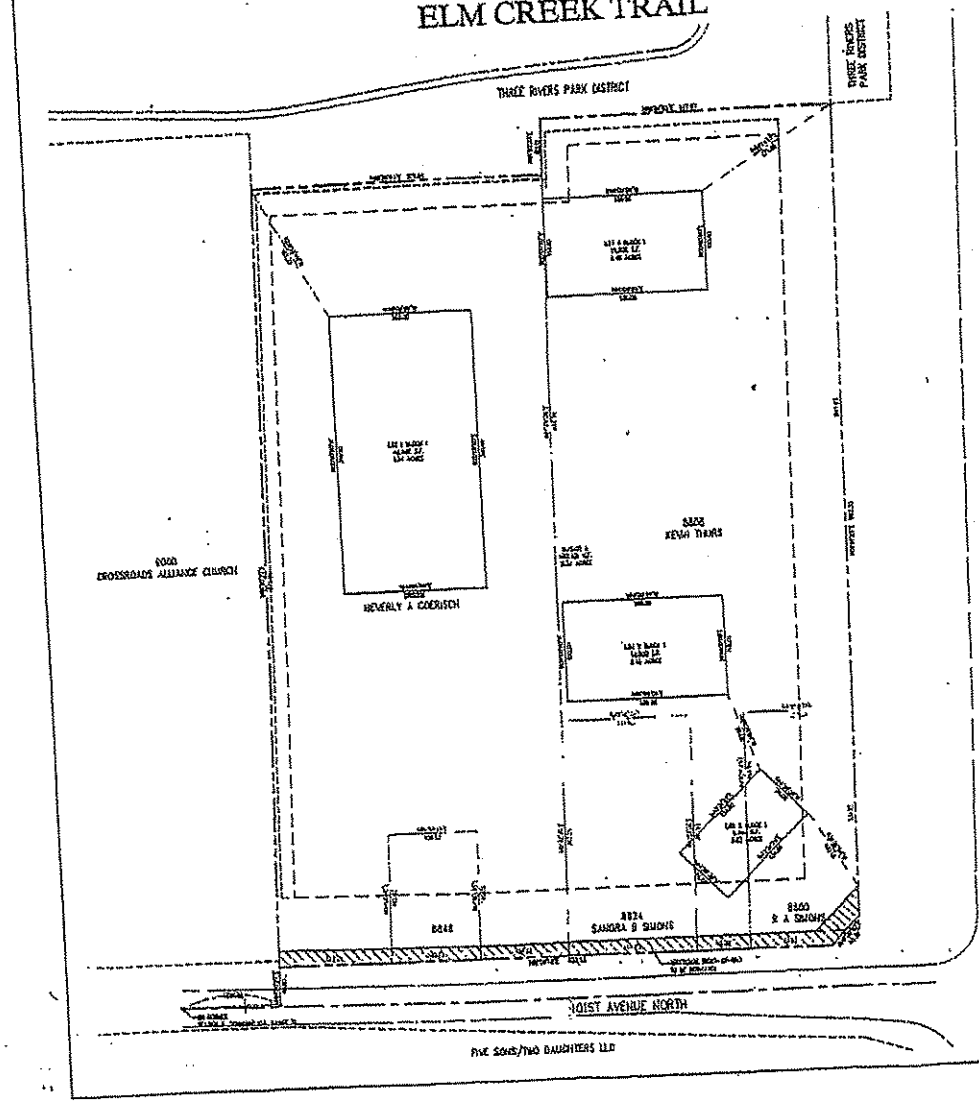


EXHIBIT H - 8.15

GENERAL NOTES

SITE DATA

OWNERS

PLANNER/LANDSCAPE ARCHITECT

LEGAL DESCRIPTION

PRELIMINARY FOR REVIEW ONLY

PREPARED FOR:
KEVIN THURS
5771 LISBE AVE N
CHANHASSEN, MN 55316
612-368-4106

PREPARED BY:
PDA

ELM CREEK TRAIL BUSINESS PARK
WEST AVENUE NORTH & MN STATE HWY 169
CITY OF CHANHASSEN, MINNESOTA
PRELIMINARY PLAT

C3.

REGULAR BROOKLYN PARK CITY COUNCIL MEETING

Monday, November 24, 2008
7:00 p.m.

Brooklyn Park Council Chambers
5200 85th Avenue North

CALL TO ORDER - Mayor Lampi

PRESENT: Mayor Steve Lampi; Council Members Rich Gates, Terry Gearin, Jeff Lunde, Mark Mata, Jeanette Meyer, and Mike Trepanier; City Manager Jamie Verbrugge; City Attorney Jim Thomson; Community Development Director Robert Schreier; Finance Director Cory Kampf, City Engineer Gary Brown and City Clerk Devin Montero.

ABSENT: None.

Mayor Lampi opened the meeting with the Pledge of Allegiance.

Open Forum:

1) Billy Bishop-Comparisons of other cities with crime statistics and the need for more police officers
2) Jim Dietel-Concerns with safety and taxes.

3A. MOTION GEARIN, SECOND MEYER TO APPROVE THE AGENDA AS SUBMITTED BY THE CITY CLERK WITH ITEMS 4.4 AND 4.7 PULLED FROM THE CONSENT AGENDA FOR SEPARATE CONSIDERATION. MOTION PASSED UNANIMOUSLY.

4.0 MOTION MEYER, SECOND GATES TO APPROVE THE FOLLOWING ADMINISTRATIVE CONSENT ITEM: (Items #4.4 and 4.7 were removed for separate consideration.

4.1 TO RELEASE THE ENGINEERING ESCROW ($364.48) FOR SATISFACTORY COMPLETION OF THE "NOBLE PARKWAY MOBIL" CONDITIONAL USE PERMIT PROJECT #08-102 LOCATED AT 9500 NOBLE PARKWAY N FOR NOBLE PARKWAY MOBIL.

4.1 TO RELEASE THE CASH BOND ($4,300) AND RELEASE THE ENGINEERING ESCROW ($4,000) FOR SATISFACTORY COMPLETION OF THE "CLEAN AIR PRODUCTS" PROJECT #08-002 LOCATED AT 8605 WYOMING AVENUE N FOR SHAW CONSTRUCTION.

4.1 TO RELEASE THE CASH BOND ($5,000) AND RELEASE THE ENGINEERING ESCROW ($2,000) FOR SATISFACTORY COMPLETION OF THE "TOPLINE FEDERAL CREDIT UNION" PROJECT #06-132 LOCATED AT 9790 SCHREIBER TERRACE N FOR GREINER CONSTRUCTION.

4.1 TO RELEASE THE ON-SITE SUBDIVISION PERFORMANCE BOND #105020647 BY TRAVELERS CASUALTY & SURETY COMPANY OF AMERICA

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($227,800) AND REDUCE CASH BOND FROM $11,900 TO $5,000 AND REDUCE THE ENGINEERING ESCROW FROM $15,839.03 TO $1,000 FOR SATISFACTORY PROGRESS OF THE "TCF NATIONAL BANK" PROJECT #06-146, LOCATED AT 8057 BROOKLYN BLVD. FOR TCF NATIONAL BANK.

4.2 TO WAIVE THE READING AND ADOPT RESOLUTION #2008-209 APPROVING FINAL PLAT OF "NORTHWIND PLAZA" AT THE NORTHEAST CORNER OF BROOKLYN BOULEVARD AND WEST BROADWAY.

4.3 TO APPROVE A VEHICLE LEASING LICENSE FOR PUBLIC STORAGE AT 7800 73RD AVENUE NORTH.

4.5 TO WAIVE THE READING AND ADOPT RESOLUTION #2008-210 APPROVING A TIME EXTENSION FOR CONDITIONAL USE PERMIT #07-118 FOR A 91,000-SQUARE-FOOT MULTI-TENANT RETAIL BUILDING AT THE NORTHWEST CORNER OF HIGHWAY 610 AND ZANE AVENUE NORTH.

4.6 TO EXTEND TINA CARSTEN'S APPOINTMENT OF COMMISSIONER TO THE SHINGLE CREEK AND WEST MISSISSIPPI WATERSHED COMMISSIONS TO JANUARY 31, 2009.

4.8 TO SET A PUBLIC HEARING ON DECEMBER 15, 2008 TO CONSIDER THE ISSUANCE OF AN ON-SALE INTOXICATING LIQUOR LICENSE FOR KALILA II, INC., DBA VICTORY GRILL AT 9690 COLORADO LANE NORTH.

MOTION PASSED UNANIMOUSLY.

4.4 Council Member Mata stated that the parking lot reconstruction was unwarranted should not be paved and would not support the motion.

4.4 MOTION MEYER, SECOND GEARIN TO WAIVE THE READING AND ADOPT RESOLUTION #2008-211 TO APPROVE CHANGE ORDER NO. 1 FOR GREENHAVEN PARK PARKING LOT RECONSTRUCTION FOR MN ROADWAYS CO. MOTION PASSED. (6 TO 1) MATA VOTED NO.

4.7 Council Member Trepanier stated that he would abstain from voting on the motion because he was an association member.

4.7 MOTION GEARIN, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2008-212 TO ACCEPT THE FOUNDERS PARK TRAIL EASEMENT FROM THE WOODLAND VILLAS ASSOCIATION. MOTION PASSED. TREPANIER ABSTAINED.

5.1 Betty Peterson, Licensing, briefed Council on the renewal of the currency exchange license for Minnesota Currency Exchange Corporation at 7646 Brooklyn Boulevard North.

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5.1 Mayor Lampi opened the public hearing to consider the renewal of the currency exchange license for Minnesota Currency Exchange Corporation at 7646 Brooklyn Boulevard North. No one addressed the Council.

5.1 Mayor Lampi closed the public hearing and return the item to the table for consideration.

5.1 MOTION MEYER, SECOND TREPANIER TO RECOMMEND THE RENEWAL OF THE CURRENCY EXCHANGE LICENSE FOR MINNESOTA CURRENCY EXCHANGE CORPORATION AT 7646 BROOKLYN BOULEVARD NORTH TO THE COMMISSIONER OF COMMERCE. MOTION PASSED UNANIMOUSLY.

5.2 Betty Peterson, Licensing, briefed Council on the renewal of the currency exchange license for New Unbank Company LLP at 6319 Zane Avenue North.

5.2 Mayor Lampi opened the public hearing to consider the renewal of the currency exchange license for New Unbank Company LLP at 6319 Zane Avenue North.

5.2 Mayor Lampi closed the public hearing and return the item to the table for consideration.

5.2 MOTION MEYER, SECOND GATES TO RECOMMEND THE RENEWAL OF THE CURRENCY EXCHANGE LICENSE FOR NEW UNBANK COMPANY LLP AT 6319 ZANE AVENUE NORTH TO THE COMMISSIONER OF COMMERCE. MOTION PASSED UNANIMOUSLY.

6.1 Cindy Sherman, Planning Director, briefed Council on the Exclusive Event Center conditional use permit to allow an event center of approximately 1,100 sq. ft in the Brookdale Crossing mall at 2857 Brookdale Drive.

6.1 MOTION MEYER, SECOND GEARIN TO WAIVE THE READING AND ADOPT RESOLUTION #2008-213 FOR CONDITIONAL USE PERMIT (#08-121) FOR AN EVENT CENTER AT 2857 BROOKDALE DRIVE WITH THE ADDITON OF GENERAL CONDITION 1.07 THAT THE OCCUPANCY MAXIMUM IS SET BY CITY FIRE CHIEF. MOTION PASSED UNANIMOUSLY.

6.2 Cindy Sherman, Planning Director, briefed Council on the Gateway Addition preliminary and final plat to subdivide approximately 91.32 acres into two outlots southeast of Jefferson Highway and future TH 610.

6.2 MOTION TREPANIER, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2008-214 APPROVING PRELIMINARY AND FINAL PLAT #07-130 OF "GATEWAY ADDITION" SUBDIVIDING 91.32 ACRES INTO TWO OUTLOTS SOUTHEAST OF JEFFERSON HIGHWAY AND FUTURE TRUNK HIGHWAY 610. MOTION PASSED UNANIMOUSLY.

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6.3 Cindy Sherman, Planning Director, briefed Council on the Elm Creek Business Park Concept Plan.

Discussions were held on: Plan conflicting with the Comprehensive Plan; getting sewer and water to the site; obtaining water from Maple Grove; city philosophy when phasing plan was instituted; issues with developing outside city's staging; development along Highway 169 important; type of buildings being recommended; without concept plan the developers can't advertise it; church property developed into senior housing and not taxable; and concerns with churches taking away private development.

City Attorney Thomson stated that the taxability of the development could only be determined when it came forward. He stated that the action before council was just creating two lots and the tax consequences was not a legitimate reason for making a decision.

Other discussions: Approving concept plan and excluding the preliminary plan; standards in the concept plan and development being different; having a back up if the Target development doesn't happen; opportunities missed on other developments due to waiting for the Target developments; T.H. 610 completion needed; greater expectations for that staging area; church property; units per acre proposed; changing the density to medium; and a reason for having a staging plan.

City Attorney Thomson stated Council could change the density any time in the future with direction but the action before council was to approve a lot split and not an appropriate time to change the density and was for a future council decision.

He stated the property was zone R1 and would not be rezoned to MX until public services were extended that site; council still had time to change the density if the council wanted to do that in the future for the land. He stated that because the property was zoned R1 a religious institution was a permitted use in the R1 zoning district and was possible after the lot was created and conveyed to the church they might want to use it as a church use until the time it developed and would be an allowable use.

6.3 MOTION TREPANIER, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2008-215 TO DENY THE ELM CREEK TRAIL BUSINESS PARK CONCEPT PLAN, SUBJECT TO CONDITIONS IN THE RESOLUTION. MOTION PASSED ON A ROLL CALL VOTE: YES: LUNDE, LAMPI, MEYER, GATES, TREPANIER; NO: GEARIN, MATA.

8.1 Jamie Verbrugge, City Manager, briefed Council on the 2009 budget with more options related to the requested increases, existing operations and possible reduction on the overall levy impact.

At 9:08 p.m. City Attorney Thomson departed.

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Discussions were held on: Properties increasing and decreasing in value; how many properties used in data were foreclosures; how park and recreation programs would be analyzed for program success; goal should be zero increase; and 2% impact on taxes.

Council Member Meyer stated the D.A.R.E. program should be in the budget reduction and was not an effective program. She stated it was unfair to ask tax payers to pay for it.

8.1 MOTION TREPANIER, SECOND LAMPI THAT STAFF IMPLEMENT THE CITY MANAGERS RECOMMENDED BUDGET ADJUSTMENTS FOR INCLUSION IN THE 2009 BUDGET AND THAT STAFF BE DIRECTED TO PREPARE FOR THE TRUTH IN TAXATION HEARIN ON DECEMBER 1, 2008 WITH THESE FIGURES.MOTION PASSED. (5 TO 2) LUNDE AND MATA VOTED NO.

ADJOURNMENT - With consensus of the Council, Mayor Lampi adjourned the meeting at 9:55 p.m.

STEVE LAMPI, MAYOR

DEVIN MONTERO, CITY CLERK

EXHIBIT H - Pg.20

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COPY

STATE OF MINNESOTA

HENNEPIN COUNTY

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Court File No.

Beverly Goerisch, Donald Goerisch,
Bernadine Simons, Sandra Simons, and
Kevin Thurs, jointly
d/b/a Elm Creek Business Park,

Plaintiffs-Petitioners

SUMMONS

v.

City of Brooklyn Park, a Minnesota
Municipal corporation

Defendant-Respondent.

The State of Minnesota to the Above-Named Defendant:

You are hereby summoned and required to serve upon plaintiff's attorney an answer to the complaint which is herewith served upon you within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so judgment by default will be taken against you for the relief demanded in the complaint.

This action involves, affects, or brings in questions real property situated in the County of Hennepin, State of Minnesota, described as follows:

The object of this action are parcels described as follows:

Parcel one owned by Sandra B Simmons, legally described as follows:

West 144 feet of the South 300 feet of West Half of the East Half of the Southeast Quarter of the Southwest Quarter in Section 6, Township 119, Range 21;

Parcel two owned by Kevin A Thurs, legally described as follows:

Par 1

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The West half of the Southeast Quarter of the Southwest Quarter, of Section 6, Township 119, Range 21, excepting road, and except the North 340 feet thereof, and except the West 144 feet of the South 300 feet of said West half of the East half of the Southeast Quarter of the Southwest Quarter; and except the South 300 feet of the East 132 feet of said West half of the East half of the Southeast Quarter of the Southwest Quarter as measured along the East and South lines thereof.

Par 2
The West 9.0 feet of the following described tract: Commencing at the Southeast corner of the West half of the East half of the Southeast Quarter of the Southwest Quarter of Section 6, Township 119, Range 21; West 132 feet parallel with South line of said tract: thence South 300 feet parallel with East line of said tract; thence East 132 feet along the South line of said tract to point of beginning, except road.

Parcel three owned by Beverly Goerisch legally described as follows:

The East Half of the West Half of the Southeast Quarter of the Southwest Quarter except the South 178 feet of the West 100 feet of the East 200 feet thereof, and except the North 400 feet thereof, Section 6, Township 119, Range 21.

Parcel four owned by Beverly Goerisch legally described as follows:

The South 178.00 feet of the West 100.00 of the East 200.00 feet of the East Half of the West half of the Southeast Quarter of the Southwest Quarter of Section 6, Township 119, Range 21.

Parcel five owned by Bernadine Simons legally described as follows:

That part of the following described tract lying East of the West 9.0 feet thereof, Commencing at the Southeast corner of the West Half of the East Half of the Southeast Quarter of the Southwest Quarter in Section 6, Township 119, Range 21, thence North 300 feet along the East line of said West Half of the East Half of the Southeast Quarter of the Southwest Quarter, thence West 132 feet parallel with South line of said tract, thence South 300 feet parallel with East line with said tract, thence East 132 feet along the south line of said tract to point of beginning, excepting road, except that part lying Southeasterly of the following described line:
Beginning at a point on a line run parallel with and distant 33 feet North of the South line of said Section 6, distant 100 feet Westerly of its intersection with a line run parallel with and distant 184 feet Westerly of Line A, described below; thence run Northeasterly to a point on said 184 foot parallel line, distant 100 feet Northerly of said intersection and there terminating Line A. Beginning at a point in the South line of said Section 6, distant 2542.9 feet East of the Southwest corner thereof; thence run Northerly at an angle of 88 degrees 52 minutes 30 seconds with said South section line (measured from East to North) for 200 feet and there terminating.

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Subject to a limitation for the right of access from the above described premises to Trunk Highway No. 52, as acquired by the State in deed Doc No 832151

Dated: December 23, 2008

Dan Biersdorf
Attorney # 8187
E. Kelly Keady
Attorney # 233729
BIERSDORF & ASSOCIATES, P.A.
33 S Sixth St., Ste 4100
Minneapolis, MN 55402
(612) 339-7242
Attorneys for Plaintiff

ACKNOWLEDGMENT

The party above-named represented by the undersigned, hereby acknowledges that sanctions may be imposed pursuant to Minn. Stat. §549.211

E. Kelly Keady

EXHIBIT H- Pg. 23

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STATE OF MINNESOTA

HENNEPIN COUNTY

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Court File No.

Beverly Goerisch, Donald Goerisch,
Bernadine Simons, Sandra Simons, and
Kevin Thurs, jointly
d/b/a Elm Creek Business Park,

Plaintiffs-Petitioners

v.

City of Brooklyn Park, a Minnesota
Municipal corporation

Defendant-Respondent.

COMPLAINT AND PETITION FOR WRIT OF MANDAMUS

Plaintiffs-Petitioners Beverly Goerisch, Donald Goerisch, Bernadine Simons, Sandra Simons, and Kevin Thurs jointly d/b/a, Elm Creek Business Park for their verified complaint and petition for writ of mandamus (the "Complaint"), states and alleges as follows:

PARTIES

1. Plaintiffs-petitioners Beverly Goerisch, Donald Goerisch, Bernadine Simons, Sandra Simons, and Kevin Thurs are all individuals residing in Hennepin County, Minnesota and jointly doing business as Elm Creek Business Park ("Elm Creek"), a Minnesota partnership engaged in the business of developing land. Elm Creek's principal office is located at 8832 101st Avenue North, Brooklyn Park Minnesota 55445.

2. Defendant-respondent City of Brooklyn Park (the "City") is a Minnesota municipal corporation located in Hennepin County, Minnesota.

EXHIBIT H— pg. 24

JURISDICTION AND VENUE

3. Plaintiffs-petitioners Beverly Goerisch, Donald Goerisch, Bernadine Simons, Sandra Simons, Robert Simons, and Kevin Thurs individually own the parcels in the approximately fourteen acre Elm Creek Business Park located within the City and described in Exhibit A, which is attached and incorporated into this Complaint (the "Property"). Additionally, relief is requested under Minn. Stat. Ch. 586, Mandamus and under Minn. R. Civ. P. 65, Injunctions. The presence of the City and the Subject Property in Hennepin County confer jurisdiction on this court to decide the dispute.

FACTUAL BACKGROUND

4. Plaintiffs-petitioners Beverly Goerisch, Donald Goerisch, Bernadine Simons, Sandra Simons, and Kevin Thurs are the fee owners of certain real property ("Property") located in the city of Brooklyn Park County of Hennepin, State of Minnesota, comprised of five tax parcels and legally described as follows:

Parcel one owned by Sandra B Simmons, legally described as follows:

West 144 feet of the South 300 feet of West Half of the East Half of the Southeast Quarter of the Southwest Quarter in Section 6, Township 119, Range 21;

Parcel two owned by Kevin A Thurs, legally described as follows:

Par 1
The West half of the Southeast Quarter of the Southwest Quarter, of Section 6, Township 119, Range 21, excepting road, and except the North 340 feet thereof, and except the West 144 feet of the South 300 feet of said West half of the East half of the Southeast Quarter of the Southwest Quarter; and except the South 300 feet of the East 132 feet of said West half of the East half of the Southeast Quarter of the Southwest Quarter as measured along the East and South lines thereof.

Par 2
The West 9.0 feet of the following described tract: Commencing at the Southeast corner of the West half of the East half of the Southeast Quarter of the Southwest Quarter of Section 6, Township 119, Range 21; West 132 feet parallel with South line of said tract:

EXHIBIT H - Pg. 25

thence South 300 feet parallel with East line of said tract; thence East 132 feet along the South line of said tract to point of beginning, except road.

Parcel three owned by Beverly Goerisch legally described as follows:

The East Half of the West Half of the Southeast Quarter of the Southwest Quarter except the South 178 feet of the West 100 feet of the East 200 feet thereof, and except the North 400 feet thereof, Section 6, Township 119, Range 21.

Parcel four owned by Beverly Goerisch legally described as follows:

The South 178.00 feet of the West 100.00 of the East 200.00 feet of the East Half of the West half of the Southeast Quarter of the Southwest Quarter of Section 6, Township 119, Range 21.

Parcel five owned by Bernadine Simons legally described as follows:

That part of the following described tract lying East of the West 9.0 feet thereof,
Commencing at the Southeast corner of the West Half of the East Half of the Southeast Quarter of the Southwest Quarter in Section 6, Township 119, Range 21, thence North 300 feet along the East line of said West Half of the East Half of the Southeast Quarter of the Southwest Quarter, thence West 132 feet parallel with South line of said tract, thence South 300 feet parallel with East line with said tract, thence East 132 feet along the south line of said tract to point of beginning, excepting road, except that part lying Southeasterly of the following described line:
Beginning at a point on a line run parallel with and distant 33 feet North of the South line of said Section 6, distant 100 feet Westerly of its intersection with a line run parallel with and distant 184 feet Westerly of Line A, described below; thence run Northeasterly to a point on said 184 foot parallel line, distant 100 feet Northerly of said intersection and there terminating Line A. Beginning at a point in the South line of said Section 6, distant 2542.9 feet East of the Southwest corner thereof; thence run Northerly at an angle of 88 degrees 52 minutes 30 seconds with said South section line (measured from East to North) for 200 feet and there terminating.
Subject to a limitation for the right of access from the above described premises to Trunk Highway No. 52, as acquired by the State in deed Doc No 832151

5. The Property is at the Northwest corner of County Road No. 169 and 101st Avenue North and within a half a mile of Jefferson Highway, the intersection of Highways 610 & 169, and the new Target campus. The Property is also within minutes of Interstate Highways 94, 494, and 35W.

EXHIBIT H - Pg. 26

6. The highest and best use of the Property is for mixed use development, office and retail or as an office park.

7. For years Elm Creek has desired to develop the Property consistent with its highest and best use.

8. On October 18, 2007 Elm Creek met with the City's Planning Director, Cindy Sherman ("Sherman"), the City's Traffic Engineer Jeff Holstein, the City's Director of Community Development Robert Schreier and Minnesota Department of Transportation's Rammankutty Cannonkutty. The purpose of the meeting was to discuss what Elm Creek could do with the Property in light of the future Highway 169 interchange planned for that area. At the meeting, Elm Creek was informed by both City and MnDOT officials that the Property would be taken for the interchange. Furthermore, Sherman made it clear to Elm Creek that the City would not let Elm Creek develop the property.

9. Numerous developers have inquired about purchasing the Property for development however they were informed by the City that the Property could not be developed because it was the future site of the Highway 169 interchange.

10. On or about July 31, 2008, Elm Creek submitted to the City its own initial concept plan for development of the Property.

11. On or about August 11, 2008, Sherman sent a letter to Elm Creek detailing comments from the staff review of Elm Creek's initial concept plan.

12. At the end of August, 2008, Elm Creek met with Sherman and informed her that they could address the City Planning staff's comments from the staff review of Elm Creek's initial concept plan.

EXHIBIT H - Pg. 27

13. On or about October 24, 2008, Elm Creek met with Sherman and addressed the City Planning staff's comments from the staff review of Elm Creek's initial concept plan. During this meeting, Sherman indicated to the Elm Creek partners that a formal application form and fee would be waived in their case and the plan would be scheduled for presentation to the planning commission at its meeting on November 12, 2008. During this meeting, Sherman requested that a copy of the presentation materials for the planning commission meeting should be given to her office by Monday, October 27, 2008.

14. On or about October 27, 2008, Elm Creek's planner, Alan Kretman ("Kretman"), delivered the requested materials referenced above to the City's planning office, however the staff refused to accept the materials.

15. On or about November 5, 2008, Sherman sent a letter to Elm Creek stating that she did not receive the requested materials but that she would "schedule the application for review on November 12, 2008 as we discussed and that staff will recommend the project not proceed based on the issues raised in my August 11, 2008 letter."

16. In response to the November 5, 2008 letter, Elm Creek met with Sherman only to discover that the City planning staff was attempting to move the review of the Elm Creek concept plan to January 2009. It was finally agreed that the review would occur at the November 12, 2008 planning commission meeting and that Elm Creek would bring their presentation materials to the meeting.

17. On November 12, 2008 the City's planning commission met to review Elm Creek's initial concept plan. The City's planning commission was asked to approve

EXHIBIT H - Pg. 28

the concept plan or deny it based upon the planning staff's recommendation for the reasons stated in Sherman's August 11, 2008 letter.

18. On November 12, 2008, Elm Creek and its representatives answered the questions and concerns raised by the planning commission including several of those raised in Sherman's August 11, 2008 letter.

19. Over Sherman's lobbying against approval of the plan, the City's planning commission voted to pass a resolution in favor of the Elm Creek development concept plan.

20. On November 24, 2008 the City Council held a public hearing on the Elm Creek development concept plan. Elm Creek brought with it the presentation materials previously discussed with Sherman including the plans which are attached and incorporated into this verified complaint and petition for writ of mandamus as Exhibit B.

21. At the November 24, 2008 City Council hearing, the City made a final decision denying Plaintiff's application.

22. On November 24, 2008 the City Council adopted "Resolution #2008-215 Resolution to Deny Concept Plan #08-123 Elm Creek Trails Business Park Located at the Northwest Corner of 101st Ave. North and Highway 169 ("the Resolution"). A copy of the Resolution is attached and incorporated into this verified complaint and petition for writ of mandamus as Exhibit C. According to the Resolution, the Elm Creek concept plan was denied for the following reasons:

> 1. The application is premature for the following reasons:
> a. Roadway improvements are not in place or planned to serve the type of development proposed.
> b. Brooklyn Park Public Utilities are not readily available to serve the site.

EXHIBIT H- Pg. 29

c. There are currently approximately 400 acres of vacant land with city services available for office development.
d. The current market does not warrant deviating from the staging plan without a specific user identified.
e. The Comprehensive Plan does not call for utilities to be staged into this area at this time.
f. The Zoning of the property does not allow for a development as proposed.
g. The civil plans have not been designed by a engineer licensed in the State of Minnesota.

23. The Resolution is not consistent with other resolutions concerning concept plans including a concept plan the City approved in the same meeting for property located within a mile of the Elm Creek property.

24. The reasons stated in the Resolution were simply a pretext for denying the Elm Creek concept plan.

COUNT I (WRIT OF MANDAMUS)

25. Plaintiffs incorporate by reference paragraphs 1 through 24 into this count.

26. This cause of action is brought pursuant to Minn. Stat. §586.01, et seq., for an order directing the City to approve the concept plan for the Elm Creek development described in Exhibit B.

COUNT II (DECLARATORY JUDGMENT)

27. Plaintiffs restate and realleges Paragraphs 1 through 26 stated herein.

28. The City's actions in failing to approve Plaintiffs' concept plan were not supported by any rational basis related to the promotion of the public health, safety and welfare.

29. Plaintiffs request that the Court declare the City's denial to be without any rational basis and that the same were arbitrary and capricious and further require the city to approve the concept plan for the Elm Creek development described in Exhibit B.

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COUNT III
TAKING

30. Plaintiffs restate and realleges Paragraphs 1 through 29 state herein.

31. As a direct and proximate result of the City's actions, the City has deprived Plaintiffs of economic use of the Property and taken the Property for public use without paying Plaintiffs just compensation therefore, all in violation of Section 7 of Article One of the Constitution of the State of Minnesota and also in violation of the authorized purposes for which the city may exercise its powers as set forth in Minnesota Statutes Chapter 462.

32. Plaintiffs request that the Court declare the City's denial of Plaintiffs' concept plan to be a taking of Plaintiffs' property and order it to commence with eminent domain proceedings to determine just compensation for the taking.

COUNT IV
EQUAL PROTECTION

33. Plaintiffs restate and reallege Paragraphs 1 through 32 stated herein.

34. Pursuant to Article I Sections 2 and 16 of the Minnesota Constitution requires equality of application of the laws and that all similarly circumstanced persons be treated alike.

35. Upon information and belief, the City has allowed other similarly circumstanced property owners and developers develop their property where Plaintiffs have not been allowed to do so.

36. The City's actions in refusing to permit Plaintiffs to develop the Property, results in a denial of Plaintiffs' right to equal protection.

EXHIBIT H - pg.31

37. As a direct and proximate result of the City's actions, Plaintiffs have been damaged in an amount reasonably believed to be in excess of $50,000.

WHEREFORE,

1. Granting Plaintiffs the declaratory relief it seeks in Count I of its Complaint.

2. Granting Plaintiffs the declaratory relief it seeks in Count II of its Complaint.

3. Granting Plaintiffs the declaratory relief it seeks in Count III of its Complaint and declare the City's denial to be a taking of Plaintiffs property and to commence with eminent domain proceedings to determine just compensation for the taking.

4. Granting judgment in favor of Plaintiffs and against Defendant for damages reasonably believe to be in excess of $50,000 for Counts III and IV.

5. Awarding Plaintiffs their reasonable attorneys' fees incurred in pursuing this action.

6. Awarding Plaintiffs their costs and disbursements and prejudgment interest.

7. For such other and further relief as the Court deems just and equitable.

EXHIBIT H- Pg. 32

Dated: December 23, 2008

Dan Biersdorf
Attorney # 8187
E. Kelly Keady
Attorney # 233729
BIERSDORF & ASSOCIATES, P.A.
33 S Sixth St., Ste 4100
Minneapolis, MN 55402
(612) 339-7242
Attorneys for Plaintiffs

ACKNOWLEDGMENT

The parties above-named represented by the undersigned, hereby acknowledges that sanctions may be imposed pursuant to Minn. Stat.§549.211.

E. Kelly Keady

EXHIBIT H- Pg. 33

STATE OF MINNESOTA

HENNEPIN COUNTY

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Beverly Goerisch, Donald Goerisch,
Bernadine Simons, Sandra Simons, and
Kevin Thurs, jointly
d/b/a Elm Creek Business Park,

Plaintiffs-Petitioners

v.

City of Brooklyn Park, a Minnesota
Municipal corporation

Defendant-Respondent.

VERIFICATION

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

Donald Goerisch, being duly sworn, deposes and states that he is a partner in Elm Creek Business Park, and owner of two of the attached parcels as noticed on the Certificate of Title, plaintiffs-petitioner in the above-entitled matter; that he has read and fully understands the allegations of this verified complaint and petition for writ of mandamus, and that the same are true and correct, except as to those matters stated on information and belief, which matters he believes to be true and correct.

Donald Goerisch

Sworn to before me this
23rd day of December, 2008

MARK ALLEN PETERSON
Notary Public
Minnesota
My Commission Expires Jan. 31, 2011

Notary

EXHIBIT H- Pg. 34

(1)

Certificate of Title

Certificate Number: 1003098

Document Number: 3021667

Transfer From Certificate Number: 582066

Originally registered the 3rd day of December, 1917. Book: 51 Page: 16084 Dist. Court No.: 1710

REGISTRATION

State of Minnesota
County of Hennepin } s.s. (06-119-21.34.0003)

This is to certify that

Sandra B. Simons, 8824 101st Avenue North, City of Brooklyn Park, County of Hennepin, State of Minnesota is now the owner of an estate in fee simple

in the following described land situated in the County of Hennepin and State of Minnesota, to wit:

West 144 feet of the South 300 feet of West Half of the East Half of the Southeast Quarter of the Southwest Quarter in Section 6, Township 119, Range 21.

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws of the Constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;
3. Any lease for a period not exceeding three years when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appeal and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. The rights of any person in possession under Minnesota statutes sections 514.01 to 514.17.
8. Any outstanding mechanics lien rights which may exist under Minnesota statutes sections 514.01 to 514.17.

That Sandra B. Simons is 18 years of age or older, unmarried and is under no legal incapacity.

MEMORIALS

Document Number	Document Type	Date of Registration Month Day, Year Time	Amount ($)	Running In Favor of
1246519	Mortgage	Nov 16,1977	20,700.00	Conservative Mortgage Company (an IA corp) 1200 Roanoke Bldg Minneapolis, MN (See Mortgee's Change of Name Doc No 1706700)
1974604	Assignment of Mortgage	Nov 17,1988		Commercial Federal Mortgage Corporation (a NE corp) 2120 S 72nd St Omaha, NE Assigns document no. 1246519
2309261	Assignment of Mortgage	Oct 27,1992		Source One Mortgage Services Corporation (a DE corp) 27555 Farmington Rd. Farmington Hills, MI Assigns document no. 1246519
2879818	Assignment of Mortgage	Jan 16,1998		Chemical Mortgage Company (an OH corp) 200 Old Wilson Bridge Rd. Worthington, OH Assigns document no. 1246519
3065776	Satisfaction of Mortgage	Sep 30,1998		Satisfies document no. 1246519
3108530	Assignment of Mortgage	Jan 13,1999		League Service Corporation City of Bloomington, State of Minnesota Assigns document no(s). 3021666.0
3108531	Assignment of Mortgage	Jan 13,1999		PHH Mortgage Services Corporation 9000 Atrium Way, City of Mt. Laurel, State of New Jersey Assigns document no(s). 3021666.0
3271725	Mortgage	Apr 13,2000	20,000.00	North Memorial Employees Federal Credit Union City of Robbinsdale, State of Minnesota Satisfies document no(s). 3021666.0
3522732	Satisfaction of Mortgage	Mar 29,2002		

EXHIBIT H - Pg. 35

EXHIBIT A

Document Number	Document Type	Date of Registration Month Day, Year Time	Amount ($)	Running In Favor of
3523692	Mortgage	Apr 01,2002	75,000.00	Mortgage Electronic Registration Systems, Inc., (a DE corp), P.O. Box 2026, City of Flint, State of Michigan
3553499	Satisfaction of Mortgage	Jun 03,2002		Satisfies document no(s). 3271725.0
3813470	Mortgage	Aug 15,2003	7,500.00	North Memorial Federal Credit Union, City of Robbinsdale, State of Minnesota
4148037	Mortgage	Aug 15,2005	15,000.00	North Memorial Federal Credit Union, (a MN corp) City of Robbinsdale, State of Minnesota
4344816	Satisfaction of Mortgage	Jan 08,2007		Satisfies document no(s). 3813470.0
4348746	Mortgage	Jan 17,2007	78,000.00	JPMorgan Chase Bank, N.A., 1111 Polaris Parkway, City of Columbus, State of Ohio
4349904	Satisfaction of Mortgage	Jan 22,2007		Satisfies document no(s). 4148037.0
4361473	Satisfaction of Mortgage	Feb 26,2007		Satisfies document no(s). 4348746.0
4361637	Mortgage	Feb 27,2007	196,000.00	Anchor Bank N.A., City of Blaine, State of Minnesota
4361636	Certificate and Request for Notice	Feb 27,2007		Anchor Bank N.A. requests notice re Foreclosure. (See Inst) re Mtge. Doc. No. 4361637
4371742	Mortgage	Mar 29,2007	40,000.00	Anchor Bank N.A. City of Blaine, State of Minnesota
4371743	Certificate and Request for Notice	Mar 29,2007		Anchor Bank N.A. requests notice re Foreclosure (See Inst) Re Mortgage Doc. No. 4371742
4494324	Mortgage	May 06,2008	52,190.00	CIT Small Business Lending Corporation, (a DE corp), 640 Plaza Drive, City of Highlands Ranch, State of Colorado
4494325	Certificate and Request for Notice	May 06,2008		CIT Small Business Lending Corporation requests notice re Foreclosure. (See Inst) Re: Mtge Doc. No 4494324
3021566	Mortgage	May 18,1998	51,000.00	North Memorial Employees Federal Credit Union, City of Robbinsdale, State of Minnesota

ATS Indexes verified through December 11, 2008

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 18th day of May, 1998.

R. Dan Carlson

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

HENNEPIN COUNTY

EXHIBIT H - Pg. 36

Certificate Number: 1003098

Certificate of Title

Certificate Number: 859151

* See Notice of Corrections

Transfer From Certificate Number: 705992

Originally registered the 3rd day of December, 1917. Book: 51 Page: 16084 Dist. Court No.: 1710

REGISTRATION

State of Minnesota
County of Hennepin } s.s.

(06.119.21.34.0007)

This is to certify that

Kevin A. Thurs, 5717 - 113th Avenue North, City of Champlin, State of Minnesota is now the owner of an estate in fee simple

in the following described land situated in the County of Hennepin and State of Minnesota, to wit:

Par 1: The West half of the Southeast quarter of the Southwest quarter of Section 6, Township 119, Range 21, excepting road, and except the North 340 feet thereof, and except the West 144 feet of the South 300 feet of said West half of the East half of the Southeast Quarter of the Southwest Quarter, and except the South 300 feet of the East 132 feet of said West half of the East half of the Southeast Quarter of the Southwest Quarter as measured along the East and South lines thereof.

Par 2: The West 9.0 feet of the following described tract: Commencing at the Southeast corner of the West half of the East half of the Southeast Quarter of the Southwest Quarter of Section 6, Township 119, Range 21; West 132 feet parallel with South line of said tract; thence South 300 feet parallel with East line of said tract; thence East 132 feet along the South line of said tract to point of beginning, except road.

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a lien on the land has not been filed at the date of the certificate of title;
3. Any lease for a period not exceeding three years when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. The rights of any person in possession under Minnesota Statutes sections 514.01 to 514.17.
8. Any outstanding mechanics lien rights which may exist under Minnesota Statutes sections 514.01 to 514.17.

That Kevin A. Thurs is 18 years of age or older, is unmarried, and is under no legal incapacity.

MEMORIALS

Document Number	Document Type	Date of Registration Month Day, Year Time	Amount ($)	Running In Favor of
2841929	Mortgage	Sep 09,1997	51,700.00	Home Federal Savings Bank Corporation Eden Prairie, MN
829871	Easement	Nov 30,1965		Northern States Power Company (a MN corp) Granting a perpetual easement over pt of Par 1.
1649097	Easement	Jun 05,1985		State of Minnesota. Granting all right of access, being the right of ingress to egress from pt of Par 1 to Trunk Highway No. 169. (See Inst)
2841930	Assignment of Mortgage	Sep 09,1997		Residential Funding Corporation Minneapolis, MN Assigns document no. 2841929
3021750	Assignment of Mortgage	Jun 08,1998		Bankers Trust Company, as Trustee Assigns document no. 2841929
3526741	Mortgage	Apr 05,2002	80,000.00	Wells Fargo Bank Minnesota, National Association, City of Brooklyn Park, State of Minnesota

EXHIBIT H - Pg. 37

Document Number	Document Type	Date of Registration Month Day, Year Time	Amount ($)	Running In Favor of
2912376	Correction	Jun 02,2003		The above land description is corrected to read as follows: Par 1: The West half of the East half of the Southeast Quarter of the Southwest Quarter, Section 6, Township 119, Range 21, excepting road, and except the North 340 feet thereof, and except the West 144 feet of the South 300 feet of said West half of the East half of the Southeast Quarter of the Southwest Quarter; and except the South 300 feet of the East 132 feet of said West half of the East half of the Southeast Quarter of the Southwest Quarter as measured along the East and South lines thereof. Par 2: The West 9.0 feet of the following described tract: Commencing at the Southeast corner of the West half of the East half of the Southeast Quarter of the Southwest Quarter in Section 6, Township 119, Range 21; thence North 300 feet along the East line of said West half of the East half of the Southeast Quarter of the Southwest Quarter; thence West 132 feet parallel with South line of said tract; thence South 300 feet parallel with East line of said tract; thence East 132 feet along the South line of said tract to point of beginning, except road. In future certificates issued for the premises place the corrected description in the body of the certificate and omit the memorial of this correction. Note made July 7, 2003 (See Power of Atty Doc. No. 2528747) Satisfies document(s): 2841929.0
3908426	Satisfaction of Mortgage	Jan 21,2004		

ATS Indexes verified through December 11, 2008

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 9th day of September, 1997.

R. Dan Carlson

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

EXHIBIT H - Pg. 38

Certificate Number: 859151

3

Certificate of Title

Certificate Number: 770376

Transfer From Certificate Number: 758349

Originally registered the 3rd day of December, 1917. Book: 51 Page: 16084 Dist. Court No.: 1710

REGISTRATION

State of Minnesota
County of Hennepin } s.s.

(06.119.21.34.0006)

This is to certify that

Beverly A. Glor, 8832 101st Avenue North, City of Brooklyn Park, County of Hennepin, State of Minnesota is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota, to wit:

The East Half of the West Half of the Southeast Quarter of the Southwest Quarter except the South 178 feet of the West 100 feet of the East 200 feet thereof, and except the North 400 feet thereof, Section 6, Township 119, Range 21.

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws or the constitution of the United States which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been held at the date of the certificate of title;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appeal and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under Minnesota statutes sections 514.01 to 514.17.

That Beverly A. Glor is 18 years of age or older, is married, and is under no legal incapacity.

MEMORIALS

Document Number	Document Type	Date of Registration Month Day, Year Time	Amount ($)	Running In Favor of
829728	Easement	Nov 30,1965		Northern States Power Company (a Minn corp) Granting an easement over pt of above land (See Inst)
2168950	Mortgage	Apr 25,1991	15,000.00	Norwest Bank Minnesota, National Association Maple Grove, MN
2649019	Mortgage	Nov 01,1995	25,000.00	Norwest Bank Minnesota, National Association Brooklyn Park, MN
2741264	Satisfaction of Mortgage	Sep 10,1996		Satisfies document no(s). 2168950.0
2741265	Mortgage	Sep 10,1996	65,000.00	NFP Mortgage Corporation Coon Rapids, MN
2741266	Assignment of Mortgage	Sep 10,1996		Norwest Mortgage, Inc. (a CA corp) Minneapolis, MN Assigns document no(s). 2741265.0
2750530	Satisfaction of Mortgage	Oct 09,1996		Satisfies document no(s). 2649019.0
2823190	Judgment	Jul 01,1997	5,351.40	Scott Lawrence Glor
3225428	Mortgage	Nov 18,1999	100,000.00	Norwest Mortgage, Inc. (a CA corp), P.O. Box 5137, City of Des Moines, State of Iowa
3230884	Satisfaction of Mortgage	Dec 03,1999		Satisfies document no(s). 2741265.0
3599435	Satisfaction of Judgment	Sep 10,2002		Satisfies document no(s). 2823190.0
3599436	Mortgage	Sep 10,2002	160,000.00	TCF Mortgage Corporation City of Minneapolis, State of Minnesota Made by Donald G. Goerisch & Beverly A. Goerisch, f/k/a Beverly A. Glor
3623864	Satisfaction of Mortgage	Oct 30,2002		Satisfies document no(s). 3225428.0

EXHIBIT H-16.39

Document Number	Document Type	Date of Registration Month Day, Year Time	Amount ($)	Running In Favor of
3926209	Satisfaction of Mortgage	Mar 01,2004		Satisfies document no(s). 3599436.0
3933651	Mortgage	Mar 17,2004	205,000.00	TCF Mortgage Corporation, (a MN corp) City of Minneapolis, State of Minnesota made by Donald G. Goerisch and Beverly A. Goerisch fka Beverly A. Glor, hus & wf.
4175718	Mortgage	Oct 18,2005	184,000.00	TCF National Bank, City of Minneapolis, State of Minnesota Made by Donald G. Goerisch and Beverly A. Goerisch fka Beverly A. Glor
4257333	Assignment of Mortgage	May 09,2006		Mortgage Electronic Registration Systems, Inc., (a DE corp), PO Box 2026, City of Flint, State of Michigan Assigns document no(s). 3933651.0
4530608	Mortgage	Sep 18,2008	239,000.00	U.S. Bank, National Association, ND 4325 17th Avenue SW, City of Fargo, State of North Dakota made by Donald G Goerisch & Beverly A Goerisch, hus & wf.

ATS Indexes verified through December 11, 2008

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 13th day of December, 1991.

R. Dan Carlson

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

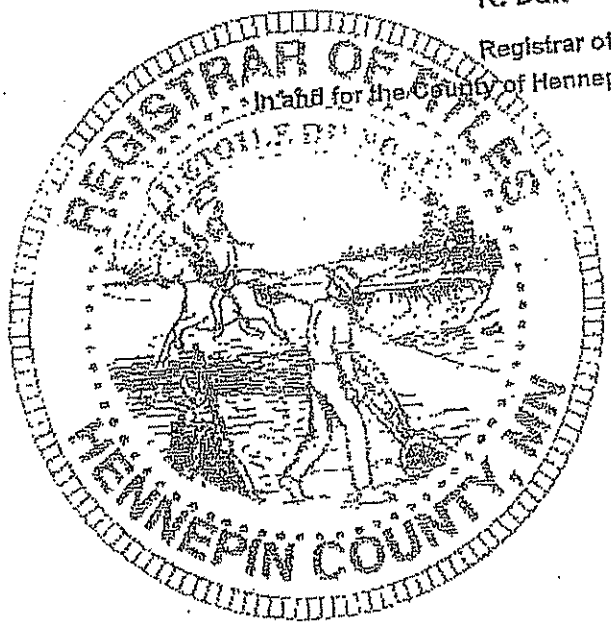

EXHIBIT A - pg. 40

Certificate Number: 770376

(4)

Certificate of Title

Certificate Number: 770375

Transfer From Certificate Number: 717511

Originally registered the 3rd day of December, 1917. Book: 51 Page: 16084 Dist. Court No.: 1710

REGISTRATION

State of Minnesota
County of Hennepin } s.s.

This is to certify that

Beverly A. Glor, 8832 101st Avenue North, City of Brooklyn Park, County of Hennepin, State of Minnesota is now the owner of an estate in fee simple

in the following described land situated in the County of Hennepin and State of Minnesota, to wit:

The South 178.00 feet of the West 100.00 feet of the East 200.00 feet of the East Half of the West Half of the Southeast Quarter of the Southwest Quarter of Section 6, Township 119, Range 21.

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws or the constitution of the United States, which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under Minnesota statutes, sections 514.01 to 514.17.

That Beverly A. Glor is 18 years of age or older, is married, and is under no legal incapacity.

MEMORIALS

ATS indexes verified through December 11, 2008

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 13th day of December, 1991.

R. Dan Carlson

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

(06.19.21.34.0024)

EXHIBIT H - Pg. 41

5

Certificate of Title

Certificate Number: 398532

Transfer From Certificate Number: 391174

Originally registered the 3rd day of December, 1917. Book: 51 Page: 16084 Dist. Court No.: 1710

REGISTRATION

State of Minnesota
County of Hennepin } s.s.

This is to certify that

Raymond A. Simons, City of Brooklyn Park, County of Hennepin, State of Minnesota, and Bernadine H. Simons, City of Brooklyn Park, County of Hennepin, State of Minnesota, as joint tenants are now the owners of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota, to wit:

That part of the following described tract lying East of the West 8 feet thereof:
Commencing at the Southeast corner of the West Half of the East Half of the Southeast Quarter of the Southwest Quarter in Section 6, Township 119, Range 24, thence North 300 feet along the East line of said West Half of the East Half of the Southeast Quarter of the Southwest Quarter, thence West 132 feet parallel with South line of said tract, thence South 300 ft parallel with East line of said tract, thence East 132 feet along the South line of said tract to point of beginning, excepting road, except that part lying Southeasterly of the following described line:
Beginning at a point on a line run parallel with and distant 33 feet North of the South line of said Section 6, distant 100 feet Westerly of its intersection with a line run parallel with and distant 33 feet Westerly of Line A, described below; thence run Northeasterly to a point on said 184 foot parallel line, distant 100 feet Northerly of said intersection and there terminating Line A. Beginning at a point in the South line of said Section 6, distant 2542.9 feet East of the Southwest corner thereof; thence run Northerly at an angle of 88 degrees 52 minutes 30 seconds with said South section line (measured from East to North) for 200 feet and there terminating.
Subject to a limitation fo the right of access from the above described premises to Trunk Highway No. 52, as acquired by the State in deed Doc No 832151.

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. Liens, claims, or rights arising under the laws or the constitution of the United States which the statutes of this state cannot require to appear of record;
2. Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;
3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
4. All rights in public highways upon the land;
5. Such right of appeal or right to appear and contest the application as is allowed by law;
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;
7. Any outstanding mechanics lien rights which may exist under Minnesota statutes sections 514.01 to 514.17.

That Raymond A. Simons is 18 years of age or older, is married to Bernadine H. Simons, and is under no legal incapacity.

That Bernadine H. Simons is 18 years of age or older, is married to Raymond A. Simons, and is under no legal incapacity.

MEMORIALS

Document Number	Document Type	Date of Registration Month Day, Year Time	Amount ($)	Running in Favor of
1645285	Easement	May 14,1985		State of Minnesota. Granting all right of access to Trunk Highway No. 169 from pt of above land and a right to use part of above land for highway purposes, to expire December 1, 1989. (See Inst)

EXHIBIT H - Pg. 42

ATS Indexes verified through December 12, 2008

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 17th day of December, 1965.

Ben K. Allison

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

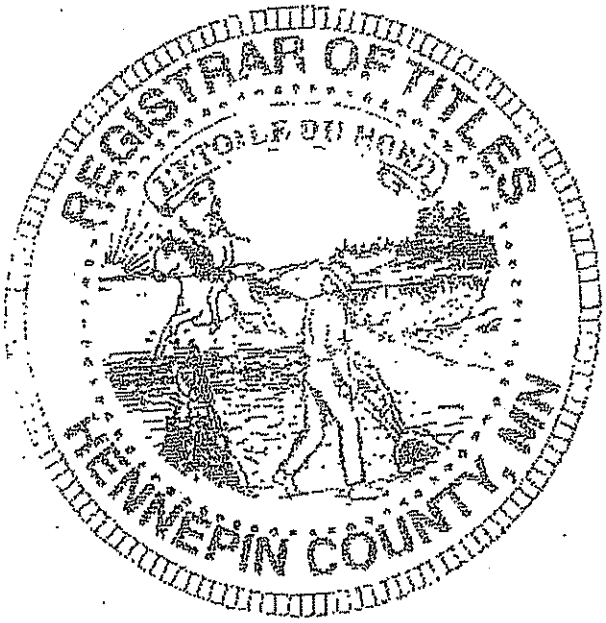

EXHIBIT H - Pg. 43

Certificate Number: 398532

RESOLUTION #2008-215

RESOLUTION TO DENY CONCEPT PLAN #08-123
ELM CREEK TRAILS BUSINESS PARK
LOCATED AT THE NORTHWEST CORNER OF 101ST AVE. NORTH AND HIGHWAY 169

PLANNING COMMISSION FILE #08-123

WHEREAS, an application was submitted for a Concept Plan in the R-1, Urban Reserve District as described in Section 152.031 of City Code on property legally described as:

[SEE ATTACHMENT A]

WHEREAS, the property owners have submitted an application for concept review; and

WHEREAS, the property is zoned R-1, Urban Reserve district; and

WHEREAS, the property is not scheduled for public utilities in at least the next 5 years; and

WHEREAS, the applicants have indicated their desire to develop outside of the city's staging plan; and

WHEREAS, City may consider modifying the staging of utilities if there is a compelling reason to do so.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK that the concept plan for Elm Creek Trials Business Park be DENIED based on the following findings:

1. The application is premature for the following reasons:
   a. Roadway improvements are not in place or planned to serve the type of development proposed.
   b. Brooklyn Park Public Utilities are not readily available to serve the site.
   c. There are currently approximately 400 acres of vacant land with city

EXHIBIT H - Pg. 44

EXHIBIT C

services available for office development.

d. The current market does not warrant deviating from the staging plan without a specific user identified.
e. The Comprehensive Plan does not call for utilities to be staged into this area at this time.
f. The Zoning of the property does not allow for a development as proposed.
g. The civil plans have not been designed by an engineer licensed in the State of Minnesota.

The foregoing resolution was introduced by Council Member Trepanier and duly seconded by Council Member Gates.
The following voted in favor of the resolution: Gates, Lampi, Lunde, Meyer and Trepanier.
The following voted against: Gearin, Mata.
The following was absent: None.
Where upon the resolution was adopted.

ADOPTED: November 24, 2008

STEVE LAMPI, MAYOR

CERTIFICATE

STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF BROOKLYN PARK

I, the undersigned, being the duly qualified City Clerk of the City of Brooklyn Park, Minnesota, hereby certify that the above resolution is a true and correct copy of the resolution as adopted by the City Council of the City of Brooklyn Park on November 24 2008.

WITNESS my hand officially as such Clerk and the corporate seal of the City this 25th day of November 2008.

DEVIN MONTERO, CITY CLERK

(SEAL)

EXHIBIT H- Pg. 45

#2008-215

Attachment A

LEGAL DESCRIPTION

THAT PART OF WEST ½ OF EAST ½ OF SOUTHEAST ¼
OF SOUTHWEST ¼ LYING SOUTH OF NORTH 340 FEET
THEREOF AND LYING NORTH OF SOUTH 300 FEET
THEREOF ALSO THAT PART OF SOUTH 300 FEET OF SAID WEST ½
SECTION 06 RANGE 119 TOWNSHIP 21 (PID 06-119-21-34-0007)
AND
SOUTH 300 FEET OF EAST 123 FEET OF WEST ½ OF EAST ½ OF
SOUTHEAST ¼ OF SOUTHWEST ¼ SECTION 06 RANGE 119
TOWNSHIP 21 EXCEPT ROAD (PID 06-119-21-34-0002)
AND
WEST 144 FEET OF SOUTH 300 FEET OF WEST ½ OF EAST ½
OF SOUTHEAST ¼ OF SOUTHWEST ¼ SECTION 06 RANGE 119
TOWNSHIP 21 EXCEPT ROAD (PID 06-119-21-34-0003)
AND
THAT PART OF THE EAST ½ OF THE WEST ½ OF THE SOUTHEAST
¼ OF THE SOUTHWEST ¼ OF SECTION 6 TOWNSHIP 119 RANGE 21
LYING SOUTH OF THE NORTH 400 FEET THEREOF EXCEPT THE
SOUTH 178 FEET OF THE WEST 100 FEET (PID 06-119-21-34-0006)

EXHIBIT H- Pg. 46

KEY

Blue Storm Sewer
Red Hydrants/Water
Brown Sanitary Sewer
Orange Met Council Interceptor Sewer
Light Blue: Ponds

EXHIBIT H - Pg. 47

Key:
Blue: Storm Sewer
Red: Water
Brown: Sanitary Sewer
Orange: Met Council Interceptor Sewer
Light Blue: Ponds

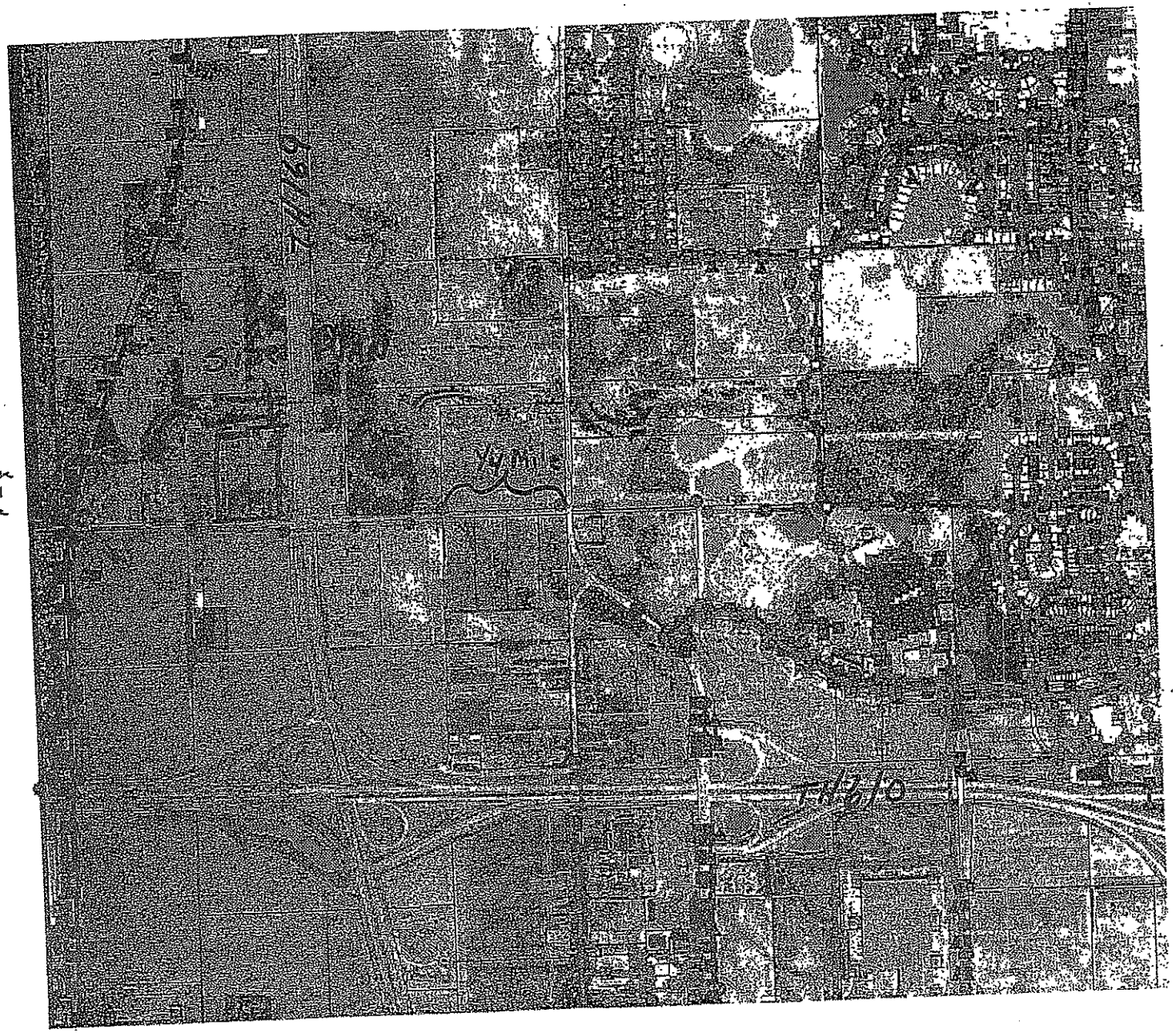

EXHIBIT H-1 pg. 98